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4 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,  
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Kathryn T. Wilson, CCR

Court Reporter

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JUDGE MOSS: Good morning, everyone. I'm known to all of you so I don't need to introduce myself. We are convened this morning for our first prehearing conference in the matter styled Washington Utilities and Transportation Commission against Avista Corporation, doing business as Avista Utilities, No. UE-011595, that being Avista's general rate filing and also encompasses a request for interim rates. We are also convened in our second prehearing conference in the matter of the petition of Avista Corporation, doing business as Avista Utilities for an order finding Avista's deferred power costs were prudently incurred and are recoverable, and that's Docket UE-011514.

We will take appearances, and we do have one prefile petition to intervene in the 595 docket. We will take up the various motions and requests, and we will focus on the process and procedural schedule that we want to follow and then have a few other remarks from everyone. We'll see if the parties have any other business that we need to conduct today.

Since this is the initiation of the general rate filing docket, I'll ask that the appearances be in the full form so that the information will be reflected in the transcript for everyone's use throughout the

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1 case. So we will start with the company; Mr. Meyer?

2 MR. MEYER: Appearing on behalf of petitioner  
3 and applicant, Avista Corporation, David Meyer, general  
4 counsel for Avista Corporation. My address is East  
5 1411 Mission Avenue, Spokane, Washington, 99220. My  
6 phone number is (509) 495-4316. My fax number is (509)  
7 495-4361, and my e-mail address is  
8 dmeyer@avistacorp.com.

9 JUDGE MOSS: Mr. Van Cleve?

10 MR. VAN CLEVE: I'm Brad Van Cleve appearing  
11 on behalf of the Industrial Customers of Northwest  
12 Utilities. I'm with the firm of Davison Van Cleve, PC,  
13 1000 Southwest Broadway, Suite 2460, Portland Oregon,  
14 97205. My telephone number is (503) 241-7242. My fax  
15 number is (503) 241-8160, and my e-mail address is  
16 mail@dvclaw.com.

17 JUDGE MOSS: Mr. ffitch?

18 MR. FFITCH: Good morning, Your Honor and  
19 commissioners. Simon ffitch, assistant attorney  
20 general for public counsel, 900 Fourth Avenue, Suite  
21 2000, Seattle, Washington, 98164. Phone number is  
22 (206) 389-2055. Fax is (206) 389-2058. E-mail is  
23 simonf@atg.wa.gov.

24 JUDGE MOSS: Mr. ffitch, we previously had  
25 Mr. Cromwell's appearance in the prudence matter. Who

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1 will be lead on these?

2 MR. FFITCH: Mr. Cromwell, Your Honor. Thank  
3 you for reminding me. He was unavailable today so I'm  
4 appearing for public counsel, but Mr. Cromwell will be  
5 lead counsel on these matters.

6 JUDGE MOSS: The address information is the  
7 same with the exception being that the e-mail contact  
8 for Mr. Cromwell would be robertc1@atg.wa.gov.

9 MR. FFITCH: And Mr. Cromwell's phone number  
10 is (206) 464-6595. He will be appearing in the Avista  
11 interim and general dockets, the deferred accounting  
12 docket, and the prudence docket for public counsel.

13 JUDGE MOSS: I missed a portion of the open  
14 meeting yesterday and was under the impression that the  
15 deferred accounting docket may have been taken care of?

16 CHAIRWOMAN SHOWALTER: We authorized the  
17 deferred account. There doesn't need to be a hearing  
18 to determine whether they are there.

19 JUDGE MOSS: Is that what we are referring  
20 to, Mr. ffitch, Docket No. UE-011597?

21 MR. FFITCH: That's correct, Your Honor.

22 JUDGE MOSS: As I understand it, that matter  
23 has not been set for hearing. The Commission approved  
24 that deferred accounting yesterday in the open meeting.

25 MR. FFITCH: That's correct. I just wanted

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1 to make sure that Mr. Cromwell's appearance was noted  
2 in all those dockets for completeness.

3 JUDGE MOSS: I want to avoid any confusion  
4 about what we are here for. We're here just in the two  
5 dockets. For staff?

6 MR. TROTTER: My name is Donald T. Trotter  
7 assistant attorney general. With me is Jonathan  
8 Thompson, also an assistant attorney general. Our  
9 address is 1400 South Evergreen Park Drive Southwest,  
10 P.O. Box 40128, Olympia, Washington, 98504-0128. Our  
11 fax number is (360) 586-5522. My telephone is (360)  
12 664-1189. Mr. Thompson is the same prefixes, except  
13 his last four digits are 1125. My e-mail is  
14 dtrotter@wutc.wa.gov, and Mr. Thompson is  
15 jthompso@wutc.wa.gov, appearing for Commission staff.

16 JUDGE MOSS: I'll just note that the  
17 Industrial Customers of Northwest Utilities has  
18 petitioned and had its petition granted for  
19 intervention in No. UE-011514. I also have the  
20 organization's petition to intervene in Docket No.  
21 UE-011595. That was filed some days ago, so I suspect  
22 everyone has had a chance to read it, and let me ask if  
23 there is any objection to the petition to intervene.

24 MR. MEYER: None.

25 JUDGE MOSS: There being no objection, the

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1 petition by the Industrial Customers of Northwest  
2 Utilities in this proceeding is granted.

3 Now, also I'll note that we did invoke the  
4 discovery rule and had some discussion regarding  
5 discovery procedures in the 514 docket, and I believe  
6 the discovery rule was invoked at the Commission's  
7 opening meeting suspending the rate docket, and that is  
8 notated in the suspension order. I believe that I have  
9 that correct.

10 MR. MEYER: You do; although, I have a couple  
11 of discussion points around that if you would like to  
12 take it up now.

13 JUDGE MOSS: I would.

14 MR. MEYER: In part, this may depend upon the  
15 schedule that's ultimately adopted, but in terms of  
16 discovery, for purposes of not only the prudence but  
17 also the interim increase, we would suggest that we  
18 clarify and establish that there be instead of a  
19 three-calendar-day turnaround that there be a  
20 three-business-day turnaround. Although I wasn't here  
21 yesterday, I understand that is the operative rule that  
22 you discussed yesterday, the three-business-day  
23 turnaround.

24 JUDGE MOSS: Let's hear if there is any  
25 discussion on that, but I have once again failed to ask

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1 if there is anyone on the conference bridge line that  
2 wishes to make an appearance. We do have the  
3 appropriate switches today, and I hear no one.

4 MR. CROMWELL: Your Honor, I'm trying to  
5 listen in before I board my plane.

6 JUDGE MOSS: We had noted your appearance in  
7 the proceeding and had a discussion with Mr. ffitich  
8 that you would be the lead, so thank you. Anyone else?

9 Let me ask to hear from other parties  
10 regarding the suggestion that the three-business-day  
11 response period be adopted in lieu of a  
12 three-calendar-day response period for discovery, and,  
13 of course, there is some interplay here. We've adopted  
14 that in the prudence case. I would think it would be  
15 appropriate to adopt it for the purposes of the  
16 interim, and the question is calendar versus business  
17 days. Any discussion on that?

18 MR. TROTTER: Your Honor, it's highly  
19 dependent on the schedule. If the calendar day method  
20 is the best efforts basis, and I think Your Honor gave  
21 an example that if something comes in late on a Friday,  
22 it's not expected to be responded to at 8 a.m. Monday  
23 morning. We try to be responsive. I think all parties  
24 have tried. The problem that we are facing is  
25 numerous, a few holidays coming up plus weekends plus a



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1 schedule that's going to be very aggressive  
2 potentially. So we would like to stick with the three  
3 calendar days on a best efforts basis. There is a  
4 holiday situation. We understand that, but again,  
5 depending upon the schedule that's set, it appears to  
6 be very aggressive, and the discovery process needs to  
7 match that.

8 JUDGE MOSS: Anybody else?

9 MR. FFITCH: We would concur with staff, Your  
10 Honor.

11 JUDGE MOSS: I think having a  
12 three-calendar-day rule as an aspirational goal is  
13 fine. I would not want to be entertaining complaints  
14 about violations of Commission rules if somebody failed  
15 to respond on a Monday to a Friday request, and so  
16 we'll make the rule three business days, but as we  
17 discussed in our prudence prehearing, the expectation  
18 from the Bench is that the parties will endeavor to  
19 respond at the earliest opportunity, and when they have  
20 answers available, not wait until even the third day.

21 I suppose I should note, given the discussion  
22 of holidays, that we did adopt a convention in our  
23 prehearing conference in another matter yesterday that  
24 Christmas Eve and New Year's Eve would not be  
25 considered business days. So we will extend that

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1 special definition for purposes of these proceedings,  
2 but again, those of you who are working on Christmas  
3 Eve and New Year's Eve should go ahead and tend to  
4 discovery just as you would other business.

5 MR. MEYER: I'm not trying to slice this too  
6 thin, but since we are still on a calendar day mode,  
7 can we pretend that December 24th and December 31st  
8 don't exist on the calendar?

9 JUDGE MOSS: I think we'll leave the  
10 aspirational goal in place. For purposes of anyone  
11 coming forward with a complaint that a Commission order  
12 has been violated, we'll stick with the business days.

13 MR. TROTTER: I think people have behaved  
14 reasonably so far, so we are confident it can work.

15 JUDGE MOSS: I appreciate that comment. Are  
16 there other discovery matters you wish to raise,  
17 Mr. Meyer?

18 MR. CROMWELL: I would like to be heard on  
19 one issue. One issue arose that Mr. Meyer and I have  
20 discussed and not been able to agree on. I had asked  
21 that Mr. Fink, who is processing discovery for the  
22 company, add our secretary to the e-mail list so she  
23 could most directly forward those documents into our  
24 server where we file them, and of course, she does the  
25 same with the hard-copy paperwork. Mr. Meyer in

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1 response asked that she execute a confidentiality  
2 agreement. It was my understanding that that was not  
3 common practice, so I guess I place the matter to you  
4 to decide.

5 JUDGE MOSS: Mr. Trotter?

6 MR. TROTTER: I just wanted to comment. We  
7 typically for staff members that do nothing more than  
8 log in data requests, we check them off but do no  
9 analysis, because they have no reason to deal with them  
10 in an appropriate way.

11 MR. MEYER: We are not trying to be  
12 doctrinaire about this, but just in terms of our own  
13 housekeeping, typically, of course, if we have the  
14 protective order certificate signed by various parties  
15 and they become the designated recipient, by signing  
16 that certificate, those people pledge that they will  
17 take adequate precautions within their own shop, with  
18 their own paralegals and secretaries, and that's good  
19 enough.

20 But this is a bit of a horse of a different  
21 color because -- and this is perhaps where the  
22 disagreement lies -- here we are being asked to add yet  
23 another person as the primary recipient, the initial  
24 recipient of confidential information, and so I think  
25 it puts this particular person in a somewhat different

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1 situation. I don't have a problem sending it directly  
2 to Mr. Cromwell, and if he has this person process it  
3 in the ordinary course, that's understandable, but I  
4 think this is a horse of a different color.

5 JUDGE MOSS: Mr. Cromwell, I'm prepared to  
6 rule on this, and I don't really need to hear further  
7 about it. Do you have another point?

8 MR. CROMWELL: I will be out of the state for  
9 the next week or so, and that and just the risk during  
10 what I anticipate will be a rather tight schedule that  
11 something e-mailed to me won't get processed in our  
12 office if I happen to be out ill or down at the  
13 Commission on another matter that this is really  
14 helpful if our secretary has that directly by e-mail  
15 from the company. That's all.

16 (Discussion off the record.)

17 JUDGE MOSS: I don't really see a significant  
18 distinction in terms of ministerial function of the  
19 staff of the attorneys who are responsible for these  
20 documents, and of course, under our ethical  
21 requirements in Washington state for lawyers licensed  
22 to practice in this state, the attorneys are  
23 responsible for supervising their staff and assuring  
24 that they conduct themselves appropriately, and the  
25 confidentiality matter would certainly be an important

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1 one that the attorneys would need to instruct their  
2 staff in proper handling of those documents, and I just  
3 frankly don't want to open the door to having to extend  
4 this principle to paralegals and secretaries and  
5 support staff who typically handle these documents on a  
6 routine basis, and to my knowledge, we've never had a  
7 problem arise from this sort of thing. It does not  
8 seem unreasonable to me that the matter be directed by  
9 e-mail to the support staff person, so we will not  
10 extend the rule to require them to execute the  
11 document.

12 MR. MEYER: Thank you.

13 JUDGE MOSS: Anything else on discovery? The  
14 next matter I have is the question of protective order.  
15 I believe it's already been entered, the protective  
16 order in UE-011514, and let me ask if that is also  
17 required in the 011595 docket?

18 MR. MEYER: Yes.

19 JUDGE MOSS: Would the same form of  
20 protective order be adequate in that case?

21 MR. MEYER: Yes.

22 JUDGE MOSS: Then the Commission will enter a  
23 protective order in the standard form, and just  
24 thinking about the demands on everybody's schedule  
25 today, I don't think that will occur today, or it may

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1 be next week, but the parties may conduct their  
2 discovery if that order was in place. Everyone is  
3 familiar with its terms and of course will be expected  
4 to behave consistently with that. I don't want the  
5 discovery held up.

6 MR. MEYER: May I raise one other very minor  
7 processing point back on discovery, and the only reason  
8 I raise it here is it was raised yesterday, and there  
9 seemed to be some acceptability. Keeping track of  
10 different turnaround deadlines on discovery, keeping  
11 track of the three-day turnaround as opposed to a  
12 10-day turnaround, it might be helpful to designate in  
13 the discovery request itself whether it's a prudent or  
14 interim request requiring a quick turnaround if that  
15 request is P-whatever or I-whatever as opposed to a G,  
16 which is a general. Apparently, that was the process  
17 accepted yesterday, and I just throw it up for  
18 consideration.

19 JUDGE MOSS: Mr. Trotter?

20 MR. TROTTER: Typically, what we do is simply  
21 in the cover letter indicate to what docket they refer,  
22 whether it's related to the general rate case, which  
23 would be on the 10-day rule or the interim or prudence  
24 case and just let it flow from that. If you want a  
25 letter designation, I suppose we can do it. I don't

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1 think it would be necessary.

2 JUDGE MOSS: We will follow that convention.

3 I suppose since the prudence and interim are very  
4 likely to proceed jointly -- we will discuss that in a  
5 moment -- the most appropriate thing perhaps would be  
6 to simply mark the ones for the general case with a G,  
7 and everything also can be regarded as either within  
8 the prudence or the interim matter, and they will  
9 therefore be subject to the three-day turnaround rule;  
10 whereas the ones marked with a G will be subject to the  
11 10-day turnaround rule. Will that work? I see nods of  
12 affirmance.

13 Anything else on discovery, protective order?  
14 Any other preliminary motions -- I do not have any  
15 business along those lines -- before we launch into our  
16 discussion of process and procedural schedule? Turning  
17 to that subject, we had some discussion at our  
18 prehearing conference in the prudence matter about  
19 proceeding jointly in the prudence and the interim  
20 matters, and everybody seemed to think that might be a  
21 good idea, and given the tight schedules that we are  
22 all facing in these dockets as well as others, let me  
23 just ask if proceeding jointly in those two processes  
24 is a matter of proceeding that you would feel  
25 comfortable with.

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1 MR. MEYER: Not only comfortable with but  
2 would strongly recommend.

3 MR. FFITCH: I don't know if Mr. Cromwell is  
4 still on the line, but I don't believe that we have  
5 ever expressed a comfort level with proceeding jointly  
6 on the interim and the prudence case. In fact, it's my  
7 understanding that we argued for a different and a  
8 longer schedule at the last prehearing conference on  
9 the prudence case; i.e., a longer schedule for prudence  
10 than for interim, so we can talk in more detail about  
11 this particular schedule, but in general, we have a  
12 concern about tying the prudence case to an interim  
13 schedule.

14 JUDGE MOSS: Anybody else want to be heard on  
15 the question of whether we should proceed jointly or  
16 separately?

17 MR. VAN CLEVE: Yes, Your Honor. ICNU  
18 doesn't have a problem with proceeding jointly except  
19 for the due date for the staff and intervenor  
20 testimony. Mr. Schoenbeck has expressed a concern that  
21 the two cases involve totally different back sets, and  
22 he thinks the quality of the testimony would be a lot  
23 better if there could be a week between when the  
24 testimony is due on the prudence issue versus the  
25 interim rate issue, but otherwise, we don't have a



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1 problem with proceeding jointly.

2 JUDGE MOSS: In response to that concern by  
3 Mr. Schoenbeck as related by you, Mr. Van Cleve, would  
4 a single due date that's somewhat later work in the  
5 same fashion as a separate due date for the filing?  
6 Would that accommodate the concern?

7 MR. VAN CLEVE: I think that would be  
8 helpful. As I noted yesterday, Mr. Schoenbeck has some  
9 testimony due in Oregon, and one problem I see with the  
10 current proposed schedule is we have four pieces of  
11 testimony due in about 10 days, so if the date could be  
12 delayed for the last two pieces of testimony, that  
13 would be helpful.

14 JUDGE MOSS: But a single date would work?

15 MR. VAN CLEVE: Yes.

16 JUDGE MOSS: Anybody else want to be heard on  
17 the question of joint versus single?

18 MR. TROTTER: The staff does require  
19 additional time for the prudence case. We talked about  
20 a schedule last time of a distribution date around  
21 March 8th for our case. In view of the Commission's  
22 proposed schedule that you handed out today, that does  
23 not appear to be in the cards, but if it is in the  
24 cards, if the Commission would consider that, that is  
25 staff's wish.

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1 I think we can process the interim case more  
2 quickly than that because of the difference in issues,  
3 but staff believes that March 8th, the schedule that we  
4 proposed to you last time, is the one that's  
5 appropriate for the prudence case, and we can handle  
6 the interim rate relief matter more expeditiously than  
7 that.

8 CHAIRWOMAN SHOWALTER: Mr. Trotter, you  
9 handed out a proposed schedule, and the first column on  
10 it says "prudence/interim cases," and if staff  
11 intervenor direct is 2/15, is that what you mean or  
12 not?

13 MR. TROTTER: Turn to Page 2. The third  
14 bullet says, Staff needs more time if even this -- is  
15 proposing assumption on the order is required by April  
16 1. Our proposed schedule last time was staff and  
17 intervenors March 8th, rebuttal the 15th, hearings the  
18 25th through 27th, and briefs April 8th, or if you  
19 don't need briefs, then an order could flow, perhaps,  
20 in mid April.

21 We didn't presuppose when the order would be  
22 issued. That's your issue. But that's what staff felt  
23 it needed to produce an acceptable case. We understand  
24 that may not be doable, so that's why we came up with  
25 this one.

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1           CHAIRWOMAN SHOWALTER: I understand what this  
2 latest draft is now.

3           JUDGE MOSS: I think we will defer a ruling  
4 on whether to proceed jointly or separately because the  
5 matter seems to be tied up in the whole schedule in  
6 question. So perhaps we should complete all of that  
7 discussion first.

8           I do want to note before we go on with this  
9 discussion that as we have our discussion on  
10 scheduling, it's important for everyone to be mindful  
11 that there is a considerable press of business before  
12 the Commission at this time. Not only do we have the  
13 Avista dockets, but we have before us general rate case  
14 and interim rate request by Puget Sound Energy. We  
15 have the Olympic Pipe Line Company rate proceeding  
16 again, both general and interim rates involved there,  
17 various dockets in the telecommunications sector that  
18 are of some significance, a host of other matters that  
19 require the Commission's attention during calendar year  
20 2002 and for the balance of 2001.

21           So we have prepared a proposed schedule with  
22 all of these matters in mind, and I've passed out a  
23 handout that shows some of our thoughts with respect to  
24 the three rate proceedings I mentioned, and also I  
25 passed out before we began today a proposed schedule

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1 both for the interim rate and prudence proceeding and  
2 also for the general rate proceeding that's before us  
3 today.

4           So we would like to have some more discussion  
5 by the parties on the question of scheduling in light  
6 of these documents, and Mr. Trotter has mentioned too  
7 that he did distribute a staff-proposed schedule, so  
8 you have those proposals before you as well. So let's  
9 open the floor for discussion about schedule.  
10 Mr. Meyer?

11           MR. MEYER: Two observations. First of  
12 all -- and I'll leave aside the general rate portion of  
13 the handout, and I assume we are just talking now about  
14 interim rates and prudence -- I'm quite comfortable  
15 with the proposed schedule that you've laid out here.  
16 In terms of the timing, I have a couple of questions  
17 that don't necessarily go to the overall timing but the  
18 need for prehearing briefs, need for oral argument, and  
19 then perhaps a substitution of written briefs after the  
20 hearing, but leaving that aside because that can be  
21 woven into this schedule that you've set forth, we are  
22 comfortable with that.

23           I believe I mentioned at the last prehearing  
24 conference, and I think at the urging of the Bench, if  
25 there was a consolidation of the prudence case with the

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1 interim case, and at that time, it was unsure whether  
2 we would also be dealing with the request for a  
3 temporary accounting mechanism, if you were to  
4 essentially consolidate all three together that if  
5 those three items could be resolved by the first of  
6 April, that would be acceptable to the company. In  
7 fact, I gave you a schedule then that would lead us in  
8 that direction. In fact, I have extra copies of that  
9 now.

10 What we have today in light of yesterday's  
11 discussion is the fact that at least one of those three  
12 issues is no longer set for hearing, so we are dealing  
13 with the prudence and the interim. May I distribute  
14 this? I hate to add more paper to this process. In  
15 part, you will see that this adds an extra week to the  
16 date by which staff and intervenors would file their  
17 direct case, so at least in part, it's responsive to  
18 some concerns already expressed that that first filing  
19 date for staff and intervenors is just too close.

20 CHAIRWOMAN SHOWALTER: What I've noticed is  
21 everyone seems comfortable with squeezing the time the  
22 Commission has to write the orders.

23 JUDGE MOSS: The gained time here would  
24 suggest squeezing a couple of weeks out of that  
25 opportunity.

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1                   MR. MEYER: Frankly, I'm more in favor of  
2 what you initially proposed, but I was just passing  
3 this out as an accomodation to those who argue they  
4 need a little more time to get their staff and  
5 intervenor direct case filed.

6                   JUDGE MOSS: When you say "we" proposed, you  
7 mean the Commission-proposed schedule?

8                   MR. MEYER: Yes.

9                   JUDGE MOSS: You say you are more comfortable  
10 with that than even your own?

11                   MR. MEYER: Yes, I am, with the caveats we  
12 deal with the issue on briefs and oral arguments.

13                   JUDGE MOSS: What are your views on that?

14                   MR. MEYER: I wasn't in attendance yesterday,  
15 but I think there were some similar reservations  
16 expressed by certain parties yesterday at the  
17 prehearing is that I think a posthearing brief may be  
18 more meaningful than a prehearing memorandum or even an  
19 oral argument following right on the heels of the  
20 hearing. Again, it's a preference of the commissioners  
21 and yourself that matters what you would find most  
22 helpful, but it seems to me the time taken to craft a  
23 brief, even though it's fairly short time frame, might  
24 be more useful, but again, it's what you would find  
25 helpful.

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1 CHAIRWOMAN SHOWALTER: We are balancing time  
2 on the far end. Actually, a prehearing brief helps  
3 comprehend the hearing. Posthearing briefs helps  
4 comprehend what you heard, but it moves out the time we  
5 have to deal with the order because we probably wait to  
6 hear different briefs.

7 JUDGE MOSS: If we followed the Commission  
8 proposed schedule and conducted hearings in the  
9 February 25 through March 1 time frame, it appears  
10 under your proposal, Mr. Meyer, that you are looking at  
11 about a 12-day period between the hearing and the  
12 briefs. If we did briefs instead of oral argument, I  
13 assume you would want to move out into the mid March  
14 time frame to do briefs under our schedule.

15 MR. MEYER: Yes. And speaking for myself, I  
16 would shave a few days off the briefing allotted time  
17 as well.

18 CHAIRWOMAN SHOWALTER: Is it possible to  
19 require a posthearing brief one week after the  
20 conclusion of the hearing, because that would move --  
21 with your time table where the hearing actually  
22 coincides with staff's time table for a hearing, it  
23 would require a posthearing brief March 15th, which  
24 would give us two weeks rather than the one week.

25 MR. MEYER: I would be happy to meet that

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1 deadline. Expedited transcripts being what they are, I  
2 would be happy to meet that.

3 JUDGE MOSS: Let's hear from others before we  
4 get too far afield here. We've mentioned several  
5 issues.

6 MR. TROTTER: Your Honor, first all, I think  
7 the oral argument is fine. Later on, expedited  
8 transcript and trying to put a brief together in a  
9 week, I think we would be much better off responding  
10 live to your pointed questions about what the issues  
11 are and how they ought to be resolved.

12 As I indicated prior, and I think I  
13 distributed my schedule at the last prehearing in the  
14 prudence case, Your Honor, and I reiterated it to you  
15 today, a March 8th distribution for the staff case and  
16 other noncompany parties, that's the request, but if  
17 April 1 is the deadline, then we prefer our schedule.  
18 It gives staff a few extra days and gives the company a  
19 few extra days less on rebuttal. The hearing time is  
20 virtually the same as Mr. Meyer handed out and gives  
21 the Commission more time after oral argument to issue  
22 its order, but I need to say that our schedule is  
23 conditioned on the April 1 mandate or perceived  
24 mandate.

25 CHAIRWOMAN SHOWALTER: Mr. Trotter, your



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1 comments regarding the posthearing briefs, we want to  
2 have either pre or post, one or the other. Did your  
3 comments take into account that if you don't do  
4 posthearing briefs you will be doing prehearing briefs?

5 MR. TROTTER: Yes.

6 JUDGE MOSS: Anybody else want to be heard on  
7 these points?

8 MR. FFITCH: Your Honor, we do have a couple  
9 of thoughts. First of all, just for the record, as we  
10 argued in the first prehearing on the prudence case, we  
11 believe the prudence case should be scheduled on a  
12 longer schedule, and we believe that's consistent with  
13 the expectations and indeed the company representations  
14 that led up to the interim relief order in this case.

15 The interim relief surcharge was put in place  
16 for 15 months, in our view, specifically in recognition  
17 of the fact that that would allow a more careful and  
18 deliberate review of prudence. The company is now  
19 proposing a much quicker review of prudence. We  
20 believe that's a change of position and really differs  
21 from the premise of the surcharge status that we have  
22 now. So minimally, we would support staff's position  
23 that a longer schedule would be appropriate for  
24 prudence. We don't believe that the April 1st deadline  
25 for an order on prudence is a real deadline. We know

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1 the company would prefer that. We don't believe that's  
2 a critical deadline.

3           If the Commission does determine that it  
4 needs to work with an April 1st deadline, we are  
5 comfortable with the staff's proposed schedule that was  
6 offered today with staff intervenor direct due on  
7 February 15th and the hearing the week of March 4th  
8 through 8th. There is substantial overlap between that  
9 and the schedule that Mr. Meyer just passed out, but  
10 the staff proposal does allow at least a bit more time  
11 for us to prepare our direct testimony, and that's  
12 preferable.

13           We also prefer posthearing briefs over oral  
14 argument. We don't believe that, particularly given  
15 the expedited schedules we are working with, that sort  
16 of cost benefit calculation for prehearing briefs is  
17 met. We don't believe they are of sufficient value to  
18 warrant the time that would go into them. Posthearing  
19 briefs are much more useful, and we would be willing to  
20 try to meet a one-week deadline, as difficult as that  
21 is, for a posthearing brief if there are expedited  
22 transcripts available. I don't know if Mr. Cromwell is  
23 still listening in. I'm not hearing a scream from him.  
24 All I can say is that I'm not asking him to go  
25 somewhere I wouldn't go, but we would be prepared to

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1 meet a shorter posthearing briefing schedule in the  
2 Puget matters.

3 Additional thoughts, we would ask that a  
4 public comment hearing be set for the interim phase of  
5 the case in Spokane. I would note, actually, that one  
6 of the schedules the Commission passed out does provide  
7 for such a hearing on March 4th, so it may have been  
8 just an oversight that it didn't make it into the other  
9 schedule, the schedule that doesn't include Puget  
10 matters or the Olympic matters. I don't think that has  
11 a public hearing on it.

12 I think another observation is that the  
13 evidentiary hearing on the Avista-only schedule that's  
14 been passed out, on either one of them, the  
15 Commission's proposed schedules here for a hearing in  
16 the week of February 25th could conflict with hearing  
17 dates that were suggested yesterday in the Puget  
18 discussions in which there was an effort to perhaps  
19 slip the Puget interim hearings back a week or so,  
20 which would place them in that week. If the Commission  
21 adopts staff or the company's alternative schedules  
22 with hearings in the first week of March 4th or 5th,  
23 that would solve that problem.

24 JUDGE MOSS: We won't set a schedule today.  
25 As we discussed at yesterday's prehearing conference,

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1 we have a number of matters under consideration for  
2 schedules, and we will take everybody's comments. We  
3 are taking careful notes and rework things as we can to  
4 satisfy all the concerns. Obviously, we will not  
5 schedule simultaneous hearings so you don't need to be  
6 concerned about that. Anything else, Mr. ffitch?

7 MR. FFITCH: I don't see anything here in my  
8 notes. I will try to pipe up if I come across any, but  
9 those are the main points.

10 JUDGE MOSS: Mr. Van Cleve?

11 MR. VAN CLEVE: Your Honor, I'm in complete  
12 support of the comments that Mr. ffitch made, and we  
13 would prefer the staff-proposed schedule over the  
14 company's with respect to the due date for staff and  
15 intervenor testimony. It's only a few days, but if you  
16 look at the calendar, it's almost a full business week,  
17 and I think those few extra days would be critical.

18 We would also support posthearing briefs  
19 rather than prehearing briefs or oral argument and  
20 would commit to turn those around in a week, and I  
21 would just note in the schedule that was proposed by  
22 the Bench that there is only a week between the  
23 company's rebuttal case and the due date for prehearing  
24 briefs, and in my experience, the company's rebuttal  
25 case can be quite voluminous. In fact, it can be the

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1 bulk of their case, would probably require discovery,  
2 and I think it would be hard to have a meaningful brief  
3 out in a week following that.

4 MR. MEYER: May I have further comment before  
5 we are finished?

6 JUDGE MOSS: Sure.

7 MR. MEYER: Again, unless the Commission  
8 wants more argument on the issue that was discussed at  
9 length in our last prehearing conference on the need  
10 for an order by the latest April 1, and I got into that  
11 on the record last time. I won't belabor that point  
12 now. Assuming a schedule that leads up to an April 1  
13 order on a consolidated basis, and I guess I have the  
14 following comments and response.

15 I'm concerned, and part of the reason that I  
16 did pass this schedule around was that it not only  
17 provides -- it does tend to shorten up on the tail  
18 end -- and I apologize for that, and maybe we can make  
19 other accommodations -- of the decision, but it does  
20 provide a little more time for staff and intervenors to  
21 get their direct case in, but just as importantly from  
22 the company's perspective, there is more time in  
23 between the staff filing and our rebuttal in the  
24 schedule that I distributed.

25 You will see in their proposed schedule of --

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1 "their" being staff's -- staff intervenor direct in the  
2 combined prudence and interim cases would be filed on  
3 February 15th. One week later, we would have to have  
4 our rebuttal in in both dockets. That's just too  
5 tight. I understand they need to be tight, but that's  
6 just too tight. I think with the schedule that I  
7 distributed, there is enough breathing room in between  
8 those two dates of February 11th and 25th so the issues  
9 can be adequately responded to. Again, the hearing  
10 dates as we've discussed, briefs we can accelerate, if  
11 need be, and so all things considered, if we are  
12 looking at what staff proposes as opposed to what we  
13 are proposing, I think ours is the better schedule.

14 MR. FFITCH: If I could be heard briefly on  
15 that issue, Your Honor.

16 JUDGE MOSS: Yes, you may.

17 MR. FFITCH: One of the experts we would  
18 intend to use in this phase of the case is unavailable  
19 the week of February 4th through the 8th; in other  
20 words, the final week before the February 11th date  
21 that Mr. Meyer is proposing here. It's not  
22 particularly great even with a February 15th filing  
23 date for us to have that witness gone, but we can work  
24 with that. He will be back before a week before the  
25 due date. If the due date is the 11th, he's basically

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1 lost a week of time to prepare his testimony, so that's  
2 another reason why we would support the staff proposal  
3 of February 15th. I understand the company's need to  
4 have time to work on their rebuttal, but we just have a  
5 witness availability issue I wanted to do communicate.

6 JUDGE MOSS: Is this a witness who will be  
7 testifying or an expert who will be supporting your  
8 efforts otherwise?

9 MR. FFITCH: We would expect him to be filing  
10 written testimony.

11 CHAIRWOMAN SHOWALTER: I have a question.  
12 This may come down to a choice between giving you a  
13 little more time to file your direct but less time to  
14 prepare for hearing after rebuttal, or an earlier  
15 direct date but a little more time after rebuttal to  
16 prepare your hearing. In other words, which interval  
17 is more important to you; to get a little more time at  
18 the beginning if it means not so much time after the  
19 end of the rebuttal and hearing?

20 For example, if you only have a week -- one  
21 of the things that occurs to me in looking at all the  
22 dates here is that if you had, as you request, and  
23 including staff here, until the 15th to file your  
24 direct, but the company had until 25th as opposed to  
25 the 22nd to file it's rebuttal, that only gives you a

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1 week to prepare for the hearing if the hearing date is  
2 as you are both actually requesting. We just have a  
3 limited number of days to shove things around.

4 MR. TROTTER: If your question is which do we  
5 prefer, I would say for staff that we need the most  
6 time to get a case filed. The company's deadline is  
7 the end of May, which gives them two full months after  
8 April 1, and if that gives them a little less time for  
9 rebuttal, frankly, I say, so be it.

10 CHAIRWOMAN SHOWALTER: The question I was  
11 posing to you is it gives the company a little less  
12 time than they had asked for getting in rebuttal, but  
13 it would give you one week between the filing of the  
14 company's rebuttal and the hearing.

15 MR. TROTTER: Right. I think that's doable,  
16 but I think also, as Mr. Van Cleve pointed out,  
17 sometimes the rebuttal case looks nothing like the main  
18 case. Maybe the Commission and the parties need to be  
19 disciplined that rebuttal is truly point by point,  
20 short, concise, direct rebuttal instead of lots of new  
21 issues, but if the company can commit to a pointed  
22 rebuttal case, I think it's doable.

23 JUDGE MOSS: It goes without saying, but  
24 since Mr. Trotter raises it, that's the purpose of  
25 rebuttal is to respond to the case put in by the staff



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1 and intervenors, so I think everybody understands that.  
2 I see nods of acknowledgment from the company, so I  
3 just will make that comment.

4 MR. MEYER: I think the suggestion was to,  
5 say, change the rebuttal date from the 22nd to the  
6 25th. If my calendar is correct, that would be  
7 changing it from a Friday to a Monday, so that helps,  
8 but it's essentially five business days plus a weekend,  
9 and not knowing what we are going to be rebutting, it's  
10 always hard to commit we will turn that around.

11 CHAIRWOMAN SHOWALTER: Both of you have the  
12 question, you don't know what you are going to rebut,  
13 and they don't know what they are going to get in  
14 rebuttal, and there are only so many days if you want  
15 to keep that April 1st. You have to work backwards.

16 JUDGE MOSS: There are always uncertainties  
17 as we go forward. I do want to make one remark.  
18 Mr. Trotter made reference to a date, the end of May.  
19 I think that that would be to reference something that  
20 would be discussed at the prudence case, but the  
21 commissioners were not sitting, so I just want to  
22 clarify the reference that Mr. Trotter made to the end  
23 of May was a reference to a discussion had in the other  
24 prehearing conference concerning the companies  
25 renegotiation of various credit instruments, and

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1 Mr. Meyer, you also alluded to that, and I want to ask  
2 the Bench if the Bench would like to hear anything  
3 further about the company's timing issues and why they  
4 are urging the early order date and so forth. If not,  
5 we can move on, but I want to have that opportunity.

6 CHAIRWOMAN SHOWALTER: I don't want to take  
7 up a lot of time. We could read what you have to say.  
8 It might be helpful to give us a five-minute version.

9 MR. MEYER: I would be happy to do that. The  
10 reason for an expedited schedule, and I'll summarize  
11 here, and this is set forth in some detail in the  
12 prefile testimony of Eliason and Peterson in the  
13 interim case and also the prudence case, we have the  
14 need to resecure, if you will, our short-term credit  
15 lines, which expire at the end of May, and that  
16 process, as our CFO and our other financial officer  
17 explained, begins really in earnest in the March time  
18 frame, and so we have accounts receivable financing  
19 with a short-term credit line.

20 In order for us to make sufficient headway in  
21 those negotiations -- and it is an ongoing process; in  
22 fact, I'm told we are already starting some of those  
23 discussions -- there needs to be some certainty, some  
24 resolution around certain key issues, the same key  
25 issues that we're all aware of that the investment

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1 community talks repeatedly about, they need to know  
2 where we are headed with respect to prudence recovery,  
3 interim rate relief, and also the temporary deferral  
4 mechanism.

5           It won't suffice just to say, well, by mid  
6 May or toward the end of May, that should be good  
7 enough for an order date because it's not, because if  
8 the order is adverse to the company, then the company  
9 is left in a position of trying to scramble to replace  
10 banks that might otherwise be part of such credit line,  
11 and it doesn't allow sufficient time to go to Plan B.  
12 So you need to get sooner resolution rather than later  
13 resolution to better position the company, and that's  
14 just in terms of positioning ourselves with respect to  
15 the short-term credit renewal and the accounts  
16 receivable financing.

17           There are the other pressures, of course,  
18 that you are well aware of in terms of financial  
19 community concerns, the need for prompt resolution on  
20 these issues for those reasons, in addition to just the  
21 near-term concerns over the credit lines. So that's  
22 the very short version of it.

23           MR. TROTTER: Brief response, Your Honor?

24           JUDGE MOSS: Brief.

25           MR. TROTTER: I wish they would have told us

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1 when they were testifying last summer when Mr. Eliason  
2 said, Let's take our time with the prudence review, and  
3 let's take the full stand of the rate case, and we  
4 relied on that, and I believe the Commission relied on  
5 that when they deferred the rate case filing date.

6 So the company knew they had to refinance at  
7 the end of May when they floated these notes a year  
8 ago, and now it's a crisis today, so we feel, as the  
9 Commission issue states in its order, extraordinary  
10 times require extraordinary measures, and eight weeks  
11 after an order for them to get financing seems plenty  
12 more than enough, and we think our proposed schedule  
13 would satisfy those concerns.

14 CHAIRWOMAN SHOWALTER: Would you address  
15 yourself a little bit more to how things stand today?  
16 I understand your comments on the company's position in  
17 earlier months, but it's also the case that the company  
18 was asking for significantly greater rate increase than  
19 we gave, so that worked into their assumption, I  
20 assume, about when they needed what, but as things  
21 stand today with the increase they did get, the bonds  
22 ratings they do have, etcetera, is it your opinion that  
23 they are not adverse effects from a later ruling on our  
24 part?

25 MR. TROTTER: I don't believe that it

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1 requires a full eight weeks for the company to  
2 refinance their credit lines. Also, they knew what you  
3 ordered when you issued your order, and if they felt  
4 this was going to cause a time crunch, they should have  
5 filed their cases earlier. There was no impediment  
6 from the Commission to file it earlier. The Commission  
7 filed an outside deadline which they more or less met.

8 I guess our concern would be you are correct.  
9 You granted them less than what they requested. If  
10 that was causing them a problem, then it was fully  
11 within their control to file earlier, but if you are  
12 asking me about today, yes, we have a problem, but I  
13 remain unconvinced that eight full weeks is necessary  
14 for their end at the cost of less time for us to  
15 adequately prepare our case.

16 MR. FFITCH: May I be heard briefly?

17 JUDGE MOSS: Yes.

18 MR. FFITCH: We wholeheartedly agree with  
19 Mr. Trotter's comments for staff. I want to state in  
20 the strongest terms public counsel's objection to the  
21 approach that appears to be suggested here by the  
22 company with regard to the treatment of the prudence  
23 issues for the reasons that Mr. Trotter mentioned,  
24 among others.

25 I would like to make one particular point

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1 here, and that is that if we take a step back and look  
2 at the history of the Avista deferred accounting  
3 matter, staff, public counsel, and other intervenors  
4 have been told from the very beginning of the proposals  
5 for deferred accounting by Avista that the significant  
6 issues that we have raised from the very beginning  
7 about the deferred account would be addressed in an  
8 appropriate time. We are now finding as this matter is  
9 developing that apparently we are going to have to  
10 address those issues now involving 200 million dollars  
11 in the timespan of 60 to 90 days.

12 This issue has been developing for two years.  
13 The parties have been waiting for 18 months to two  
14 years to essentially have our day court on these very,  
15 very significant issues that in many ways completely  
16 overshadow the issues in the interim and geNeral case.  
17 It's extremely unfortunate in our view that we are now  
18 squeezed into a 90-day schedule or perhaps a little  
19 longer than that to consider those issues. We think  
20 it's a disservice to the Commission. We think it's a  
21 disservice to the parties and to the company's  
22 customers.

23 Even the March 31st deadline and the  
24 company's time squeeze we are talking about here, we  
25 don't have any evidence about that. We have assertions

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1 by the company and its counsel about their situation,  
2 their timing, their needs, their abilities, and we just  
3 have to rely on those, but I would suggest that we  
4 don't have any sort of independent verification that we  
5 really are under that time line, and as Mr. Trotter has  
6 pointed out, the company made quite different  
7 representation to this Commission very recently with  
8 regard to the prudence issue.

9 CHAIRWOMAN SHOWALTER: Haven't, in effect, we  
10 bifurcated the deferred account? If you look at last  
11 August -- I really don't remember the dates, but the  
12 company's proposal or status quo at that time was a  
13 deferred account. The company's request was to carry  
14 it forward into the future months, and those future  
15 months going past their emergency relief date would  
16 have gone past this interim date, but that didn't exist  
17 at that time, but it went into what would be a general  
18 rate case timing period, but then in the emergency  
19 docket, we cut off that deferred account, and aren't we  
20 now engaged in looking at the prudence of some matters  
21 in that account? Meanwhile, we have authorized a new  
22 deferred account or another start date, which are those  
23 events that will continue through the general rate  
24 case.

25 I think what I'm getting at is, we haven't

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1 squeezed into this 90 days the full review of what  
2 originally was proposed to be in that long spanned  
3 account? We now have a bifurcated time period. Isn't  
4 this the case that what we are looking at is the  
5 prudence of certain expenditures to a certain date, and  
6 we have authorized a deferred account for other  
7 expenses after the date, i.e., January 1, 2002, and we  
8 aren't going to be looking at those in this short time  
9 period. Correct me if I'm wrong.

10 MR. FFITCH: I believe I understand your  
11 point, and it is correct that this prudence case is not  
12 -- I haven't really thought a whole lot about that,  
13 about whether this prudence case would also affect  
14 recovery of deferred amounts pursuant to this new  
15 approved deferred account mechanism.

16 My comments were directed to the deferred  
17 account which was established 18 months, two years  
18 ago -- I don't have the dates in mind -- that has  
19 accumulated approximately 200 million dollars of  
20 deferred costs, which is the subject of the company's  
21 prudence petition filing, and those are the issues that  
22 have been continually deferred, and in response to  
23 opposition that's been raised by a number of parties,  
24 the response has always been we will get a chance to  
25 litigate those issues, and now when it comes time to



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1 finally meet those issues, we find there is basically  
2 not adequate time in the schedule, and that's a very  
3 serious concern to us. It's an unfortunate  
4 development.

5 CHAIRWOMAN SHOWALTER: It wasn't your  
6 proposal, but I think it was staff's in the earlier  
7 proceeding that they wanted to cut the deferred account  
8 as of last June but have a prudency proceeding, I  
9 think, before the end of this year. In other words, I  
10 think everyone has been talking about different spans  
11 but also different time lines for determining prudency  
12 that some were correlated to a shorter or longer span.

13 MR. TROTTER: I think the proposal was to cut  
14 it off either effective July 1 of last summer or  
15 September 30th, and to have the company file its  
16 prudence case in September and have it resolved by the  
17 time they closed their books, which I think is in  
18 February, which is more time than we are getting in the  
19 current proposal, but that is what we were proposing.

20 MR. MEYER: Two very brief rejoinder points.

21 JUDGE MOSS: Sure.

22 MR. MEYER: What has happened since the  
23 surcharge order issues? We have been downgraded by  
24 three different agencies. In the course of those  
25 downgrades, the recurring theme is the need for

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1 resolution and prompt resolution on issues of prudence  
2 and interim rate relief.

3           So no, at the time we were before you in the  
4 surcharge case, we had reason to believe that what we  
5 were proposing then would be acceptable pretty much as  
6 proposed. We thought that's what we needed. That's  
7 why we proposed it. We aren't awarded everything we  
8 needed. There has been a reaction for better, for  
9 worse, and that's why we are here before you on an  
10 expedited basis.

11           The extraordinary circumstances that you  
12 talked about are upon us requiring in these times  
13 extraordinary schedule making, but I remind you that we  
14 filed a prudence case November 13th. We are asking for  
15 an April 1 resolution. That's four-and-a-half months.  
16 That should be doable. That's all I have.

17           MR. VAN CLEVE: Can I make one comment?

18           JUDGE MOSS: Yes, Mr. Van Cleve.

19           MR. VAN CLEVE: I think the discussion we had  
20 at the public meeting yesterday was sort of the  
21 beginning of the process, and what we are talking about  
22 here is what the end of the process looks like. We  
23 raised a lot of issues that we had with deferred  
24 accounting in general and specifically with deferred  
25 accounting related to power costs, and I think the

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1 message that we got back is all those issues can be  
2 addressed later in a prudence proceeding, and that's  
3 what we are talking about now, looking at the prudence  
4 of the company's conduct over an 18-month period, which  
5 ends at the end of this year, and I think part of the  
6 concern with the shortened schedule is that you have to  
7 look at what the company did on an hour-by-hour basis  
8 over an 18-month period. It's a huge volume of data,  
9 but you have to look at things like I mentioned  
10 yesterday about whether costs are moved into certain  
11 periods and things like that.

12 It's quite a great undertaking, and I think  
13 the shorter the schedule, the less the quality of the  
14 analysis you are going to see in the testimony will be,  
15 and we do think this is an enormous issue. I agree  
16 with all of the comments that staff and public counsel  
17 made. There is a large amount of money at issue that  
18 will have a big impact on customers in Spokane.

19 JUDGE MOSS: I think our record is clear, but  
20 just to be certain it is abundantly clear, as I  
21 understand the situation, the prudence proceeding that  
22 we are talking about conducting on an expedited  
23 schedule is one that will concern costs incurred  
24 through December 31, 2001.

25 MR. MEYER: End of September.

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1           JUDGE MOSS: Even shorter. So we would then  
2 be looking at the post-September costs and costs in the  
3 new deferred account, if you will, in the context of  
4 the general rate case. Am I correct in that  
5 presumption?

6           MR. MEYER: Yes.

7           JUDGE MOSS: So that's the split. So for  
8 example, one point of significance, I believe, in a  
9 document that public counsel filed in connection with  
10 yesterday's proceedings was the Coyote Springs expense.  
11 That would be something the prudence issue would be  
12 considered in the context of the general proceeding.  
13 I'm seeing nods of acknowledgment from the company. So  
14 does that clarify things a little bit? It does for me,  
15 anyway.

16          MR. VAN CLEVE: I guess I have a question  
17 following up on what the chairwoman asked, and are  
18 there, in effect, three deferred accounts, one through  
19 September, one through the end of the year, and one  
20 that was authorized yesterday?

21          JUDGE MOSS: It sounds to me that the  
22 prudence of the costs is trifurcated in that fashion,  
23 but as Mr. Meyer just indicated, the prudence filing as  
24 to which an expedited schedule has been urged would  
25 concern costs incurred through the end of September.

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1 MR. MEYER: Yes.

2 JUDGE MOSS: Then the costs incurred after  
3 September 2001 and into 2002, while those are the costs  
4 post-September through December 31 remain in the prior  
5 deferred account, if you will, because the Commission  
6 in the surcharge order authorized that to continue  
7 until the end of this year, and then there is a  
8 separate deferred account, if you will, for the January  
9 1 forward costs. So there are some separate accounts  
10 involved, but does that answer your question with  
11 respect to what costs we are talking about in what  
12 case?

13 MR. VAN CLEVE: I think so. It's a little  
14 confusing, because I think the methodology on the  
15 account that was authorized yesterday was different  
16 than the one in place before, so it might have --

17 JUDGE MOSS: There might have to be some  
18 nuances in the testimony to reflect that, but that  
19 would be in the general case for the proposed September  
20 time frame. Any other questions on that?

21 MR. FFITCH: I appreciate your clarification.  
22 I think it's accurate. I would just respond briefly  
23 that it doesn't really address the concerns that I  
24 raised as the anticipation was that the prudence issues  
25 would be resolved in the context of the full general

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1 rate case on roughly that kind of time frame and not an  
2 expedited up-front procedure for that past deferral  
3 account.

4 JUDGE MOSS: I was just trying to clarify the  
5 time frames. I wasn't trying to satisfy your concerns.  
6 We recognize those as concerns we need to take into  
7 account as we consider the scheduling.

8 Is there anything else on scheduling that we  
9 need to discuss? Mr. Trotter?

10 MR. TROTTER: Do you want to move to the  
11 general rate case?

12 JUDGE MOSS: Let's me pause momentarily.

13 COMMISSIONER HEMSTAD: So what is the burden  
14 of your concern? That the approved order date of April  
15 1 should be pushed back to April 7 or April 15th? Is  
16 that now what concerns you presented?

17 MR. TROTTER: In terms of the interim  
18 schedule, I think that can be handled with an April 1  
19 order date in mind. We had proposed a schedule which  
20 I've outlined which would have briefs to you -- have  
21 the hearings March 25th through 27th, and on the  
22 prudence case, you could have briefs a week later and  
23 then get an order out, and perhaps in mid April -- and  
24 still give the company six weeks, then have the interim  
25 order on April 1. They will have a prudence order a

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1 few weeks later and still have six weeks to deal with  
2 their lenders.

3 COMMISSIONER HEMSTAD: Back to the company.  
4 In view of all the pressures here, why wouldn't six  
5 weeks be enough?

6 MR. MEYER: Six weeks in terms of the April  
7 15th vis-a-vis end of May, two points I would like to  
8 make. What Mr. Trotter has suggested is really a  
9 separation, not a consolidation, of the two, and that  
10 creates its own issues in terms of your schedule as  
11 well as everyone else's. Would another week or two --  
12 it complicates things. It's not impossible, and when I  
13 say it's acceptable, it's acceptable in the sense that  
14 when we filed this case, we had hoped for a mid March  
15 order date.

16 At the urging of the Bench in the last  
17 proceedings after consultation, I think, on April 1,  
18 and now it looks like we are going to slip it yet again  
19 just further compresses our time frame within which we  
20 have to do business. We've got the prefiled testimony.  
21 It's just not the comments of counsel. It's what  
22 Mr. Eliason and Mr. Peterson say in their prefile  
23 testimony, and they are stressing the urgency, but I  
24 won't tell that you April 1 is an absolute deadline,  
25 but a week or two beyond that, if that's what it takes,

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1 and we hope it doesn't, but if that's what it takes, so  
2 be it.

3 JUDGE MOSS: Mr. Trotter, did you have  
4 another comment?

5 MR. TROTTER: No, but I'm prepared to speak  
6 about the general.

7 JUDGE MOSS: Yes, we do need to have some  
8 discussion about the general. Hopefully, we can do  
9 that a little more quickly and wrap up this morning,  
10 but let's go ahead and have that.

11 MR. FFITCH: I'm wondering if we could have a  
12 break for the personal convenience of the parties.

13 JUDGE MOSS: Let's break until 11 o'clock by  
14 the wall clock.

15 (Recess.)

16 JUDGE MOSS: We were about to discuss the  
17 parties' concerns, if any, respecting the general  
18 schedule, and I believe, Mr. Trotter, we had given you  
19 the floor.

20 MR. TROTTER: Thank you, Your Honor. A  
21 couple observations about the schedule on the sheet  
22 that was handed out, it does call for briefs to be  
23 filed approximately four months before the suspension  
24 period is over, so I think there is plenty of room in  
25 the schedule for adjustment. Having said that, I



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1 understand this schedule needs to be synchronized with  
2 the Commission's Puget docket.

3           The key date for us, really, and things flow  
4 from that, is the filing of the staff intervenor direct  
5 case. It's currently May 10th. The problem that's  
6 presented is that the currently compressed schedule on  
7 the prudence case power supply issues is the same staff  
8 that will be dealing with the rate case, which are  
9 substantial, and it's very difficult to do both dockets  
10 simultaneously, so we need as much time after the  
11 prudence case is over to prepare our direct case in the  
12 rate case. So our proposed schedule adds a month,  
13 slightly less, to the distribution date.

14           Now, we are not particularly wedded to any  
15 other dates in that schedule that we proposed in that  
16 handout. I will note that the hearing that we would  
17 call for would be in late July, early August, and that  
18 does not coincide very well with what staff proposed in  
19 the Puget case yesterday, which I think would have you  
20 sitting in hearing the following Monday, but perhaps  
21 their cross could be set back, and maybe cross in this  
22 case could be moved up to accommodate.

23           The big picture here is that the suspension  
24 period for Puget ends October 27th, and this ends  
25 November 15th, and the schedule calls for Avista to be

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1 resolved, at least submitted to you before the Puget  
2 case, so that puts pressure, but I guess if I had to  
3 advocate a single point here, it's the distribution  
4 date we need additional time, and so we've proposed  
5 that, and how the dates flow from there aren't as  
6 important, but that's the real critical one.

7 JUDGE MOSS: Thank you, Mr. Trotter.

8 CHAIRWOMAN SHOWALTER: The way you have it  
9 set up, there would be two weeks between the filing of  
10 Avista's rebuttal and the beginning of hearings, and  
11 what if that were one week? How critical is that  
12 period between the filing of rebuttal and hearing? And  
13 I actually have the same question to Avista.

14 MR. TROTTER: In this phase, it's more  
15 important because there are so many, many more issues,  
16 so I think we need that additional time to do discovery  
17 of the rebuttal case. I didn't give you the same  
18 answer with respect to the other phases, and that's the  
19 reason. It's just so many more issues and probably  
20 additional need for the discovery.

21 CHAIRWOMAN SHOWALTER: The hearing dates  
22 you've proposed are problematic, but it might be  
23 possible to move your set of two weeks back by one  
24 week. If that were the case, would you feel  
25 comfortable putting your filing date and the company's

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1 filing date back one week?

2 MR. TROTTER: Perhaps, but perhaps there  
3 could be a compromise of half a week off so we could  
4 distribute direct half a week earlier and they  
5 distribute rebuttal a week earlier, and that way, you  
6 could pick up the time there, but certainly have some  
7 flexibility there.

8 JUDGE MOSS: You are saying you want two  
9 weeks after their rebuttal case to prepare for hearing?

10 MR. TROTTER: Yes, if possible.

11 JUDGE MOSS: Mr. ffitch, do you have some  
12 comments for us?

13 MR. FFITCH: Yes, Your Honor. We should ask  
14 the BCS computers to figure out our schedule here. We  
15 don't have a general problem with the extension of the  
16 schedule that staff has proposed. Although, the  
17 Commission proposed schedule that we have received this  
18 morning also looks acceptable in terms of general  
19 dates, and the public comment hearing we note is fine.  
20 That would be after the testimony is filed and before  
21 the briefs are filed so that there could be discussion  
22 of the hearing, and any additional materials, written  
23 submissions could be placed in the record and then  
24 mentioned in the briefs.

25 I guess the only other observation is while

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1 we are generally comfortable with this set of dates,  
2 I'll note that it doesn't include a first-round hearing  
3 for cross-examination of the company's direct, which is  
4 a departure from the general approach that we've had in  
5 major rate cases. Maybe that that's necessary here  
6 given the press of multiple dockets. We think that's a  
7 disadvantage but may be unavoidable here. Those are  
8 all my comments.

9 JUDGE MOSS: Mr. Van Cleve?

10 MR. VAN CLEVE: I think we will work to  
11 accommodate whatever schedule the Commission comes up  
12 with. I would just note we do plan to have the same  
13 lawyer and witness on both the Puget and Avista cases,  
14 so to the extent those can be synchronized, we would  
15 appreciate it.

16 COMMISSIONER HEMSTAD: I take it that lawyer  
17 is you?

18 MR. VAN CLEVE: Yes, it is.

19 JUDGE MOSS: And you reported to me your  
20 schedule is already complicated. Mr. Ffitch, you gave  
21 me some witness blackout dates while we were off the  
22 record. Does this implicate the general case?

23 MR. FFITCH: No, Your Honor.

24 JUDGE MOSS: That was March 21st and 22nd and  
25 April 8 through 10.

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1                   MR. FFITCH: Particularly for the prudence  
2 docket.

3                   JUDGE MOSS: If anybody else has witness  
4 availability issues, I imagine they've raised them by  
5 now, except you, Mr. Meyer, but I was remembering that  
6 as I got to you so I wanted to make sure I got everyone  
7 else.

8                   MR. FFITCH: Since you went back to me, just  
9 one additional comment just to echo Mr. Van Cleve's  
10 concern about the doubling up of dates with the Avista  
11 general and Puget general. While we have different  
12 counsel, there is obviously one set of support staff,  
13 and there is some overlap in some of the consultants  
14 helping us on some of the cases, so it makes it real  
15 tough if there is really identical very close dates. I  
16 know the commissioners can't sit on both at the same  
17 time.

18                   CHAIRWOMAN SHOWALTER: It forces the two  
19 proceedings not to overlap.

20                   JUDGE MOSS: I think it's fair to say we all  
21 face these same time constraints. Mr. Meyer, in terms  
22 of the general schedule?

23                   MR. MEYER: The only blackout date I'm aware  
24 of is July 12th through the 19th. In terms of  
25 comments --

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1 JUDGE MOSS: Let's elaborate on that. The  
2 blackouts of July 12 through 19th, and when you say  
3 "blackout," do you have a witness unavailable or  
4 everyone is unavailable?

5 MR. MEYER: I will be unavailable. If you  
6 can schedule around that, it would be appreciated. If  
7 you can't, I'll be here.

8 JUDGE MOSS: Thank you.

9 MR. TROTTER: While we are on blackout dates,  
10 staff witness Buckley is unavailable April 12th through  
11 the 19th. I don't think that's a problem, but I want  
12 you to know.

13 JUDGE MOSS: Thank you. Back to you,  
14 Mr. Meyer.

15 MR. MEYER: Your proposed Commission schedule  
16 this morning works for us. I don't know if you want  
17 further comment with regard to alternative discussions  
18 or not. We don't have an alternative suggestion as we  
19 did with the interim piece.

20 JUDGE MOSS: Only to the extent something  
21 poses a problem for you, we certainly need to know  
22 that.

23 MR. MEYER: What you have proposed works.

24 JUDGE MOSS: I meant with respect to other  
25 proposals.

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1           MR. MEYER: I think there was a suggestion  
2 that staff had proposed in the general case shortening  
3 somewhat the interval between staff and our rebuttal.  
4 They've given us essentially a full month there with  
5 what they originally proposed. That's enough time. If  
6 they want to shorten that a bit, that's acceptable.

7           CHAIRWOMAN SHOWALTER: Shorten the time  
8 between their direct and your rebuttal.

9           MR. MEYER: Yes. They had proposed June 7th  
10 with our rebuttal, and then July 8th, that interval is  
11 nearly a month. If you are trying to buy some  
12 additional time in the schedule, you could squeeze  
13 those together a little bit.

14          JUDGE MOSS: By a week?

15          MR. MEYER: Yes.

16          MR. TROTTER: Your Honor, I have a couple  
17 more blackout dates. We didn't reflect these because  
18 they weren't conflicting with any schedule, but we  
19 realize the Commission may do otherwise. Mr. Buckley  
20 is unavailable the week of February 18th through 22nd.  
21 I've another witness unavailable on the 22nd, and  
22 Mr. Paarvinen is unavailable the week of March 18  
23 through 22nd.

24          CHAIRWOMAN SHOWALTER: Of these blackout  
25 dates, are any of these vacation times versus

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1 nonvacation times?

2 MR. TROTTER: I believe Mr. Buckley's is a  
3 prior scheduled out-of-state vacation time, yes.

4 CHAIRWOMAN SHOWALTER: Both of them?

5 MR. TROTTER: I believe so. It's my  
6 understanding these have been set for a long time, and  
7 as I said, they didn't conflict with any dates  
8 heretofore mentioned.

9 JUDGE MOSS: Do we have anything else on  
10 scheduling before we move on and conclude our  
11 conference today?

12 MR. FFITCH: Your Honor, I've only given you  
13 the blackout dates around hearings for prudence. I've  
14 been working from a whole list of blackout dates for a  
15 group of consultants, both for this case and the Puget  
16 cases, and I'm wondering if it makes some sense to  
17 provide you with that information. We don't have to  
18 take everyone's time with it now.

19 JUDGE MOSS: Do you have that written down?  
20 Could you just hand that up?

21 MR. FFITCH: It would need to be deciphered a  
22 bit.

23 JUDGE MOSS: Then go ahead and lay it out for  
24 us.

25 MR. FFITCH: Right now?



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1 JUDGE MOSS: Yes.

2 MR. FFITCH: I'll just address Avista, Your  
3 Honor. January 21st through 25th, February 4th through  
4 8th, and February 1st also. I'm sorry. We could make  
5 that February 1st through 8th.

6 CHAIRWOMAN SHOWALTER: I'm sorry. I missed  
7 what these dates are.

8 MR. FFITCH: These are dates when our  
9 consultant team for Avista dockets are not available.  
10 It's most significant, I think, around when our  
11 testimony would be due, and particularly just being  
12 available for cross-examination hearings.

13 CHAIRWOMAN SHOWALTER: So these are dates  
14 that your consultants could not be present in that  
15 hearing?

16 MR. FFITCH: Correct. The other  
17 consideration, as I mentioned earlier, is if there was  
18 a consultant gone for a week, and the last day of that  
19 week is the day that person's testimony is due, we are  
20 asking that be taken into account too as a softer  
21 issue. Then I have already given March 1st through  
22 15th is a gray-out date. I would say it's not -- why  
23 don't I withdraw that one.

24 Then March 21st and 22nd, as I mentioned  
25 those to you earlier, and April 8th through 10th. I

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1 don't know if this is in the gray category. I've been  
2 hoping to protect the July 29th through August 2nd for  
3 myself. I'm beginning to lose hope on that as these  
4 scheduling hearings advance.

5 JUDGE MOSS: Is that it?

6 MR. FFITCH: Yes, that's it. Should we  
7 provide similar dates in the Puget matter, Your Honor?  
8 I know that's not before us right now, but we could get  
9 that to you today by e-mail or fax.

10 CHAIRWOMAN SHOWALTER: If you know now -- I  
11 realize this is a different case, but our plan was as  
12 soon as this is over to stare at our calendar for an  
13 hour.

14 MR. FFITCH: As soon as we are done, I could  
15 simply come up and advise the Bench at that time rather  
16 than take up other people's time.

17 JUDGE MOSS: We will do that off the record.  
18 Again, I want to reiterate a comment Chairwoman  
19 Showalter made yesterday, which is that in proceedings  
20 of this type magnitude involving the number of people  
21 they do involve, it's literally impossible to  
22 accommodate everyone's conflicts; particularly when  
23 they involve things like vacations and so forth. We  
24 have to have some flexibility.

25 So the Commission will have to conduct itself

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1 in this proceeding and in the related other proceedings  
2 that we are trying to schedule more akin to what courts  
3 often do, which is set the schedule and everybody has  
4 to live with it. We are trying to gather as full a set  
5 of information as we can from the parties as well as  
6 considering the Commission's own calendar and  
7 accommodate to the extent possible, but to the extent  
8 someone is inconvenienced, then they will have to be  
9 inconvenienced.

10 MR. FFITCH: Thank you, Your Honor.

11 JUDGE MOSS: Anything else on scheduling  
12 then? All right. Then we have a couple of brief  
13 points to make and then we can conclude for the day. I  
14 just will remind everyone quickly that the Commission's  
15 rules concerning settlement and alternative dispute  
16 resolution, those processes are available to you.

17 The Commission has with some success offered  
18 mediation services to parties in other proceedings, and  
19 we would endeavor to do that here if you request it of  
20 us. All you need to do is let me know, and I will be  
21 glad to see what I can arrange to promote that process  
22 for you. I have a few closing remarks. They are  
23 largely ministerial, but let me ask first if there is  
24 any other business.

25 MR. FFITCH: Your Honor, one matter, and

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1 that's the matter of the legal notice required to  
2 customers under WAC 480-80-125. We have not had an  
3 opportunity to discuss this informally with the  
4 company, but I'm assuming they will be planning to  
5 issue the individualized customer notice. Now that  
6 these matters have been suspended, it appears we will  
7 have hearing dates, including a date for a public  
8 hearing, so that could be included in the notice.

9 We would ask that the company issue a notice  
10 both for the interim case and a separate one for the  
11 general case and that there be consultation with the  
12 Commission public affairs office on the text and an  
13 opportunity for public counsel to have input as well on  
14 the text of the notice as has been the practice in many  
15 previous cases.

16 JUDGE MOSS: Mr. Meyer, I assume the company  
17 will work in the usual fashion with the public affairs  
18 staff and public counsel in the notice matters?

19 MR. MEYER: I would be happy to.

20 CHAIRWOMAN SHOWALTER: Back on the  
21 scheduling, all of the proposals have attempted to have  
22 two solid weeks of hearings. How problematic is it to  
23 have one week of hearings, off a week, and then another  
24 week of hearings? Is that difficult for people? It's  
25 obviously going to be difficult for those that might be

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1 at the end of the first week or the beginning of the  
2 second week.

3 MR. MEYER: Not for us.

4 MR. FFITCH: The only concern I would have is  
5 what's happening in the middle. Not intrinsically, but  
6 it might be difficult if there is another hearing in  
7 that gap or something else that requires a complete  
8 switch of gears, and in week one, you are in this  
9 hearing so you are not preparing for what's happening  
10 in the gap. That would be my only concern, but it  
11 might be a false efficiency that way, but other than  
12 that, I'm not sure I have any problem with it.

13 MR. TROTTER: That's acceptable to staff.

14 JUDGE MOSS: Unless, of course, we split it  
15 around your vacation, Mr. ffitich.

16 CHAIRWOMAN SHOWALTER: That may be one of the  
17 things that occurs, not necessarily solely for  
18 someone's vacation, but there are a lot of other issues  
19 going on.

20 MR. FFITCH: I see some advantages. It gives  
21 you more time to prepare for the second phase of that  
22 hearing.

23 JUDGE MOSS: In the prudence matter at our  
24 last prehearing, we adopted an electronic filing  
25 process, and I think we should continue that through

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1 the interim phase, however that's constituted on the  
2 basis of the Commission's consideration of all that  
3 we've heard today in setting the schedule and so forth.  
4 So everyone here was also present then so I won't go  
5 off over the details of that again. We are working to  
6 make it work internally, and by fits and starts, we  
7 will get there.

8 To the extent we have paper filings required,  
9 either because the document is in a format that  
10 requires it or it is the party's preference to file  
11 paper rather than electronic, we will need the original  
12 and 19 for purposes of the rate proceeding, so you may  
13 as well just file that for everything. I should  
14 reiterate on that point, if you make a filing  
15 electronically and there are certain attachments that  
16 need to be furnished in hard copy format because of  
17 their nature, you will need to provide the full 19  
18 copies as opposed to just the four that we talked  
19 about, and I don't want to go into the details. If  
20 there are any questions, you can call me.

21 Everyone is familiar with the conventions for  
22 filing through the Commission secretary at our street  
23 and P.O. box addresses. I will again stress that  
24 significant filings of substance should be provided  
25 electronically. Even if you choose to file paper copy

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1 as your official filing, we need an electronic version  
2 of it for purposes of our Web Site and so forth.  
3 We will enter a prehearing conference order  
4 after due deliberation and consideration of the host of  
5 factors that are before us in terms of scheduling and  
6 other matters. We will no doubt have additional  
7 prehearing conferences, and certainly there will be one  
8 shortly before the hearings to deal with the  
9 preparation, numbering of exhibits and that sort of  
10 thing, and I will issue further direction to the  
11 parties concerning those matters as we get closer to  
12 hearing dates. That's all I have. Is there anything  
13 else from the parties? Is there anything further from  
14 the Bench? Then we will be off the record.

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(Prehearing conference concluded at 11:30 a.m.)

