

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 In the Matter of the Petition of)
)
 4 AVISTA CORPORATION, d/b/a)
 AVISTA UTILITIES,) DOCKET NO. UG-060518
 5) Volume IV
 For an Order Authorizing) Pages 216 - 249
 6 Implementation of a Natural)
 Gas Decoupling Mechanism and to)
 7 Record Accounting Entries)
 Associated with the Mechanism.)
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 10 A prehearing conference in the above matter
 11 was held on May 14, 2009, at 1:46 p.m., at 1300 South
 12 Evergreen Park Drive Southwest, Olympia, Washington,
 13 before Administrative Law Judge ADAM TOREM.

14 The parties were present as follows:

15 AVISTA CORPORATION, by DAVID MEYER, Vice
 16 President and Chief Counsel for Regulatory and
 17 Governmental Affairs, 1411 East Mission, Spokane,
 Washington 99220; telephone, (509) 495-4316.

18 WASHINGTON UTILITIES AND TRANSPORTATION
 19 COMMISSION, by GREGORY J. TRAUTMAN, Assistant Attorney
 General, 1400 South Evergreen Park Drive Southwest,
 20 Post Office Box 40128, Olympia, Washington 98504;
 telephone, (360) 664-1187.

21 PUBLIC COUNSEL, by SIMON J. FFITCH, Senior
 22 Assistant Attorney General, 800 Fifth Avenue, Suite
 2000, Seattle, Washington 98104; telephone, (206)
 389-2055.

23 THE ENERGY PROJECT, by RONALD L. ROSEMAN,
 24 Attorney at Law, 2011 14th Avenue East, Seattle,
 Washington 98112; telephone, (206) 324-8792.
 25 Kathryn T. Wilson, CCR

0217

1 NORTHWEST INDUSTRIAL GAS USERS, by CHAD M.
2 STOKES, Attorney at Law, Cable, Huston, Benedict,
3 Haagensen & Lloyd, 1001 Southwest Fifth Avenue, Suite
4 2000, Portland, Oregon 97204; telephone, (503)
5 224-3092.

6 NORTHWEST ENERGY COALITION, by DAVID S.
7 JOHNSON, Attorney at Law, 811 First Avenue, Suite 305,
8 Seattle, Washington 98104; telephone, (206) 621-0094.

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1 PROCEEDINGS

2 JUDGE TOREM: We'll be on the record in
3 Docket UG-060518. It's Thursday afternoon, May 14th,
4 2009, a little after 1:30. It's almost 1:50, so I
5 apologize to those of you on the bridge line waiting.
6 This is a prehearing conference in the matter of Avista
7 Corporation's petition now to extend its existing pilot
8 natural gas decoupling program, and secondly, a motion
9 to consolidate it into the rate case that's pending,
10 and that's in Docket UG-090135.

11 Let me take appearances from those that are
12 here in the decoupling case, and then if there are any
13 other parties here as a part of the rate case, we will
14 take your appearance as well. Starting with the
15 Company?

16 MR. MEYER: Thank you, Your Honor. Appearing
17 for Avista is David Meyer, and the particulars, address
18 and phone number, were all part of the original docket
19 in decoupling. Thank you.

20 JUDGE TOREM: Commission staff?

21 MR. TRAUTMAN: Gregory Trautman, assistant
22 attorney general for Commission staff.

23 JUDGE TOREM: Public counsel?

24 MR. FFITCH: Simon Ffitch, senior assistant
25 attorney general from the Public Counsel office, and we

0219

1 also were a party to the decoupling docket, UG-060509.

2 JUDGE TOREM: Energy Project?

3 MR. ROSEMAN: Thank you, Your Honor. We have
4 appeared in the Avista general rate case, and we are
5 also a party to the decoupling docket with Avista. I'm
6 Ronald Roseman appearing on behalf of The Energy
7 Project.

8 JUDGE TOREM: Northwest Energy Coalition?

9 MR. JOHNSON: Thank you, Your Honor. David
10 Johnson, attorney, representing the Coalition. The
11 coalition is a party to 060518, but it is not a party
12 to the rate case. My address, and I will be filing an
13 entry of appearance depending on how the cases are all
14 consolidated, is 811 First Avenue, Suite 305, Seattle
15 Washington, 98104. E-mail address is
16 david@nwenergy.org. Also with me is Nancy Hirsh,
17 policy director for the Coalition, and her address
18 should be on file.

19 JUDGE TOREM: Northwest Industrial Gas Users?

20 MR. STOKES: Chad Stokes for the Northwest
21 Industrial Gas Users. We are a party to both
22 proceedings.

23 JUDGE TOREM: Is anyone here from ICNU? They
24 are a party to the general rate case only. Brad Van
25 Cleve is their representative normally, and I'm not

0220

1 hearing him chime in from the bridge line either.

2 MR. FFITCH: Public Counsel is also a party
3 to the rate case, the pending general rate case.

4 JUDGE TOREM: Thank you. So the two issues
5 we have to take up today are what to do with the
6 expiring on June 30th pilot program, and that's the
7 first question that Avista has put before us. We will
8 deal with that first, and then we will turn to the
9 motion to consolidate the ultimate outcome of the
10 decoupling program into the pending rate case.

11 First, the petition itself came in saying it
12 was in accordance with the administrative code
13 480-09-420, and I went looking for that and realized
14 that it expired back on January 1st, 2004, well before
15 I got to the Commission, so I believe we will deal with
16 WAC 480-07-370, which appears to be the replacement
17 provision in our current procedural rules, so I'll ask
18 that the Corporation make a note of it.

19 MR. MEYER: Thank you. We overlooked that.

20 JUDGE TOREM: At first I thought it was a
21 dyslexic 480-90.

22 MR. MEYER: I think the previous version
23 worked so well over the years we thought we would
24 continue making use of that.

25 JUDGE TOREM: I've been on both sides so I

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1 understand, but I thought I would call that to your
2 attention to update.

3 MR. MEYER: Thank you.

4 JUDGE TOREM: Let me ask at this point if
5 there is any other party that wants to intervene in
6 060518 now that there is a new motion to extend this,
7 and I will pose the same question in the rate case when
8 we get to the consolidation. I saw the prehearing
9 conference notice that went out, and there was a
10 paragraph regarding additional intervention. I'm
11 hearing none today, at least at this point. We will
12 come back to the Energy Coalition, Mr. Johnson, if you
13 want to intervene if they are consolidated. In that
14 case, we will stay within the decoupling issue, so we
15 will take that up at that time when he get to the
16 motion to consolidate.

17 Let me hear a summary of the request for the
18 record, Mr. Meyer -- you and I discussed with some of
19 the other parties the Company's intention and some
20 other ideas on how to handle the motion but to continue
21 the existing natural gas decoupling mechanism and all
22 the accounting entries as the petition states on an
23 interim basis while it's being reviewed for possible
24 adoption in the rate case on a permanent basis. Do you
25 want to summarize exactly what that means?

0222

1 MR. MEYER: Yes. To the extent that it's
2 consolidated with the general case, a decision might
3 not be reached until really the deadline of toward the
4 end of December, December 23rd, 2009, the general rate
5 case, so the question is what to do in the meantime
6 between June 30th when the pilot program is scheduled
7 to terminate and that decisional date in the
8 consolidated proceedings.

9 The proposal of the Company was to extend on
10 the same terms the pilot program for that six-month
11 period doing so under what we've characterized as an
12 interim basis during which time we would continue to
13 record on our books any deferrals for essentially that
14 will six-month period.

15 When a decision is finally made to either
16 continue the program as is, continue it with
17 modifications, or to reject the program, the Commission
18 then, it's the Company's proposal, can then decide if
19 it's continued. Of course, the deferrals would remain
20 intact that were made during the six-month period.

21 Should the Commission decide that it wants to
22 discontinue the decoupling program, it's very easy,
23 very efficient for us to reverse those deferrals. The
24 rate payer in this entire process is not harmed, in the
25 Company's view, and to present this issue procedurally

0223

1 for a Commission decision, the issue being whether the
2 interim program should continue during this interval.

3 Public Counsel has suggested that it ought to
4 be argued through pleadings, through comments. The
5 Company doesn't have a problem with that as long as
6 whatever comments are filed in opposition to the
7 Company's request for interim continuation, the Company
8 would have a chance to reply to those with a responsive
9 pleading, and then if the Commission wanted oral
10 argument after that, so be it, we are fine with that,
11 but we think it could be handled just on the papers.

12 JUDGE TOREM: Let me here from Public Counsel
13 then first.

14 MR. FFITCH: Thank you, Your Honor. I'm not
15 going to respond to the merits of the request. We do
16 believe that the interim extension is not warranted,
17 and we would like to present the support for that
18 position to the Commission in writing. We differ with
19 some of the points that were made by Mr. Meyer, but I
20 don't want to prematurely get into that at this point.

21 We do agree with this characterization that a
22 good approach here would be to have a round of
23 pleadings, a filing date for memoranda in opposition to
24 the extension, and we would propose the date of either
25 May 22nd or May 27th. We've shared that proposal with

0224

1 most of the parties so far. The other component of the
2 proposal is it would be submitted on the pleadings to
3 the Commission, and we would not be requesting a
4 hearing or an oral argument, but the parties would be
5 available if the Bench would like to have an oral
6 argument or a hearing. At this point, I don't believe
7 we think that's necessary.

8 The only question, and I think just based on
9 discussions with counsel, this is pretty much a
10 consensus approach except for the question of the
11 reply. We would prefer to simply operate according to
12 the general rule that replies has to be especially
13 requested and is only allowed upon Commission approval,
14 so we prefer to just have this go a step at a time. If
15 it appears to the Company after the oppositions come in
16 that they want a reply or feel one is warranted, they
17 could request it at that time. It may not be opposed
18 by other parties at that time; I don't know, but it
19 could be decided in the normal course rather than
20 having it be agreed to now.

21 If a reply is, in the Bench's view, a good
22 idea to establish right now, we would just ask that
23 there be a right of cross-reply for parties with
24 adverse positions so that if there were some other
25 party that we wanted to respond to in a reply round, we

0225

1 could do that.

2 JUDGE TOREM: Suggesting that simultaneous
3 cross-reply?

4 MR. FFITCH: Yes. So in other words, if we
5 filed in opposition to the interim extension on May
6 22nd and Mr. Roseman filed supporting the extension on
7 May 22nd, then in the reply round, we could respond to
8 Mr. Roseman.

9 JUDGE TOREM: So there won't be a fourth
10 filing. The Company would be replying to whoever
11 opposed it, and you could look at the other filings
12 that might come in and comment on those as well.

13 MR. FFITCH: Yes, Your Honor.

14 JUDGE TOREM: Commission staff?

15 MR. TRAUTMAN: Commission staff concurs with
16 the description of the interim program that's being
17 sought by Mr. Meyer and Avista. Staff is amenable to
18 having this resolved on pleadings, and the schedule
19 that Mr. ffitch set forth is acceptable, and Staff
20 would agree that the Commission could defer
21 consideration of a reply round until the original
22 pleadings were filed, but if a reply round is provided
23 for, Staff would not object to having cross-replies.

24 JUDGE TOREM: Mr. ffitch, was there any
25 intention to submit testimony in support of those

0226

1 responses in opposition?

2 MR. FFITCH: No, Your Honor. It would simply
3 be referring to documents already in the record of the
4 decoupling docket.

5 MR. MEYER: Your Honor, may I contribute?
6 Just one other observation. An additional reason for
7 deciding this issue now, the issue being whether we
8 should have a reply or not, is that June 30th is the
9 deadline for the pilot to otherwise terminate, and
10 rather than, I think, needlessly create an additional
11 round of pleadings where I then have to request the
12 opportunity to file a reply, make a showing, and have
13 the Commission issue an order either proposing or
14 rejecting that and then taking the next step of
15 actually filing the reply, I think we build in
16 needlessly an additional step, which burns up time and
17 shortens the time for the Commission really to address
18 the round of pleadings.

19 So it seems to me that given the history of
20 the positions of the parties and what we can reasonably
21 anticipate to be various arguments -- we can't
22 anticipate all the arguments that will be made by
23 Public Counsel and others -- we do know that the
24 Company will be wanting to say something in response,
25 and we know that today. We don't have to wait.

0227

1 JUDGE TOREM: Mr. Stokes?

2 MR. STOKES: Thank you, Your Honor. We think
3 the approach led by Mr. ffitch is appropriate in this
4 proceeding, and we support that approach.

5 JUDGE TOREM: Mr. Roseman?

6 MR. ROSEMAN: We generally agree with Public
7 Counsel. We agree that the interim extension that the
8 Company has requested we think is contrary to the order
9 that the Commission gave in this docket. At least it
10 was my understanding when I read the order and when I
11 attended the hearings that on June 30th, there would be
12 a decision whether this pilot would end or whether it
13 would continue. That is obviously not going to be the
14 case now. So there will be this six-month period that
15 Avista would like to continue to treat the decoupling
16 pilot as if it was continuing up until there is an
17 ultimate decision, which Mr. Meyer said is six months
18 from now.

19 We believe a modification of Order No. 5 in
20 060518 is uncalled for and contrary to the orders of
21 the Commission that was issued on April 11th, 2008.

22 MR. TRAUTMAN: Your Honor, may I respond?

23 JUDGE TOREM: Yes.

24 MR. TRAUTMAN: I don't believe that the
25 result would necessitate any modification of the prior

0228

1 order of 05. I understand this would be addressed in
2 the various pleadings, but the Commission stated that
3 Avista could not seek an extension of the program until
4 April 30th.

5 It did say that it won't be extended beyond
6 June 30th unless the Commission takes affirmative
7 action. It did not state that the Commission's
8 decision on the ultimate extension of the program had
9 to be taken by that date. In fact, the Commission's
10 prior order said that that would be resolved in the
11 context of a rate case, and given the fact that the
12 Commission has already determined it would be within a
13 rate case, almost by definition, that could not be
14 completely accomplished by June 30th. I just want to
15 say that Staff does not agree that that would be a
16 modification of the prior order.

17 MR. STOKES: I think the positions of the
18 parties show why pleadings are appropriate here,
19 because this is not a time to talk about the merits of
20 the case, so I think that's why pleadings are
21 appropriate.

22 MR. JOHNSON: Your Honor, the Coalition
23 doesn't have any objection to an interim or hearing the
24 issue on the interim extension on the pleadings, and we
25 also don't have any objection to the cross-reply issue

0229

1 that's been raised. Thank you.

2 JUDGE TOREM: Let me respond, Mr. Roseman and
3 Mr. Trautman, to your views on what Orders 4 and 5. I
4 think Mr. Trautman has it much more on point. The
5 orders do speak for themselves, but we will deal with
6 that based on the pleadings that come in. Nothing is
7 being modified as of now. This is simply a procedural
8 discussion as to how to handle this request to
9 determine what's already stated in Order 4 and in
10 Order 5 and what terms, if any, can be granted to
11 extend the program. I can't decide that from the Bench
12 today, so your views on that should be incorporated
13 into the pleadings.

14 I would advise that if you are looking at
15 Order 4 that you pay particular attention to Paragraph
16 32 and the conclusion in Paragraph 33. The
17 Commission's certainly aware of the language in its own
18 orders, but if you want to look at things to interpret
19 and argue about, you can start there, and then you can
20 go back in Order 05 and look at the timing to figure
21 out why we are where we are today in May of 2009 and
22 what happens on June 30th and what affirmative action
23 can be taken, if any, to postpone that termination of
24 the two-and-a-half-year pilot program.

25 So it sounds like the parties are in

0230

1 agreement; at least that there isn't a need to sit
2 before the commissioners and argue about this but that
3 it can be done in writing. Is everyone in agreement
4 then that by next Friday, the 22nd of May, you can
5 submit whatever pleadings you have in opposition or in
6 support of or just commenting on Avista's petition to
7 extend the project?

8 MR. FFITCH: Yes, Your Honor, and may that be
9 established as an electronic filing date with the hard
10 copy to be received the next business day?

11 JUDGE TOREM: Which would be Tuesday the 26th
12 after the holiday.

13 MR. FFITCH: Yes, Your Honor.

14 JUDGE TOREM: Is everyone okay with that?

15 MR. STOKES: Your Honor, I was hoping to slip
16 that date until the next Monday. I've got the next
17 Monday is Memorial Day.

18 MR. FFITCH: The next Monday is Memorial Day,
19 Your Honor.

20 JUDGE TOREM: It might be possible to set up
21 the 26th on Tuesday as the electronic filing date with
22 the 27th, which was the other alternate date as the
23 actual receipt date here, that, I think, would work,
24 and if we are amenable to setting a reply, I think I
25 would be interested in hearing what the Company has to

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1 say in reply to the pleadings that come in as well as
2 any cross-replies that other parties wish to make.

3 If we set it for the 26th, 27th, and I want
4 to make sure the commissioners and I have enough time
5 to review those documents, determine if there is a need
6 for Bench requests to further flesh out the issues, I
7 would say the latest would have to be Friday, June the
8 5th. The intention would be that we would have
9 something out to you by the last Friday of June, the
10 26th of June, and that the Company would know
11 accounting-wise where it's going the next week, whether
12 the project is going to terminate and the last
13 deferrals that it could record would happen on June
14 30th, or if it would be going forward.

15 If we miss the June 30th date, the accounting
16 can still be run in anticipation either way. I don't
17 think a paper case is going to hurt the Company one way
18 or another, and I see Mr. Meyer shaking his head no,
19 he's fine with that, but I think that would be a target
20 date in giving us three weeks to draft an opinion, and
21 in between, if necessary, send out three- or
22 four-day-response Bench requests would work.

23 MR. MEYER: June 5th would be just fine for
24 the Company for the reply date.

25 JUDGE TOREM: So let me set Tuesday, to

0232

1 accommodate Mr. Stokes, the 26th for an electric filing
2 deadline, so the hard copy would be due on the 27th on
3 Wednesday.

4 MR. STOKES: Thank you, Your Honor.

5 JUDGE TOREM: Then the cross-reply would be
6 Friday, June 5th, also an electronic date, and that
7 would make Monday, June the 8th, the hard-copy date for
8 replies and cross-replies. I think that takes care of
9 the first issue. Is there anything else on 060518 and
10 the motion by the Company request to extend the pilot
11 program and what the Commission should do with that
12 request?

13 Let's turn then to the second issue. This is
14 the motion under WAC 480-07-320 to consolidate the
15 decoupling issue in its final status, make it an issue
16 in the general rate case. Before we get to that, I
17 want to turn back to where we were on February 24th,
18 and I thought about how best to ask this, but I'll put
19 it in the terms we had back on the transcript from that
20 date. If anybody wants to follow along, I'm going to
21 start on Page 15 of Line 23 and read about a page of
22 it. That day, I had asked you, Mr. Meyer, as follows:
23 "Mr. Meyer, is the Company aware of any dockets now
24 pending or any dockets you intend to file between now
25 and the December 23rd suspense date that the Company

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1 might later seek to consolidate into this case for any
2 reason," and your responded, "We are continuing to look
3 at some other filings, one of which may be but which
4 will not involve a request at this point by us to
5 consolidate perhaps a filing relating to gas decoupling
6 in as much as the pilot program has been evaluated, and
7 there will be a final report issuing, and then by the
8 spring, there is an opportunity for us to file to
9 continue that program, so that may be in the offing,
10 but at least at this point, it was not our intent to
11 consolidate that with that proceeding. There might be
12 other filings, none of which we have taken a position
13 at this point internally, at least that they must be or
14 should be consolidated," and then I commented about
15 reading the summary testimony for the case from your
16 company's chairman; that I didn't see anything that
17 gave me a hint as to the outstanding what would be the
18 fate of the decoupling pilot from the Company's
19 perspective or any other accounting petitions that were
20 projected.

21 So I just wanted to ask today to be clear on
22 the due-process question as to what other parties might
23 be preparing for in the months ahead. So I know it's
24 been two months, and I didn't mention decoupling in my
25 question, but you read right through to it that that

0234

1 was the outstanding docket on February 24th that I was
2 referring to. So today, I just want to know what
3 changed between February 24th and April 30th when you
4 filed not only to extend the pilot but to consolidate
5 it with this rate case?

6 MR. MEYER: That's certainly a fair question.
7 When that statement was made, we were anticipating, as
8 I indicated, that we would be filing a request to
9 extend the decoupling. We certainly wanted to look at
10 the results of the independent analysis that had been
11 done and have further internal discussion.

12 What we were not prepared at that time, and I
13 hope that was clear on that statement, we were not
14 prepared at that time to suggest that it should be
15 consolidated with the rate case, because as we've
16 already discussed at some extent timing-wise, they were
17 out of sync. There was a general rate case, and then
18 we couldn't, as Mr. Trautman alluded to earlier, refile
19 for a continuation of the decoupling until the April
20 30th date, so we started at the threshold with
21 different starting points, but the reason we were
22 unwilling to commit at that time to consolidate
23 whatever decoupling filing we would make with the gas
24 case was that we were not willing to do anything that
25 would cause the gas case to slip, the schedule to slip,

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1 and after we filed or just prior, actually, to filing
2 the decoupling case, we talked to the various parties
3 and reviewed the orders, and we made it clear in the
4 filing itself that we would move to consolidate with
5 the gas case so long as it didn't disturb the
6 procedural schedule in the gas case.

7 If the parties were at loggerheads over that
8 very issue and we are taking the position that we
9 should somehow extend the procedural schedule in the
10 general gas case, then I would be arguing an entirely
11 different position before you today. I would be
12 arguing that they should not be consolidated, that they
13 need to run on separate parallel paths, because the
14 Company then and now is not prepared to do anything
15 that would disturb that existing schedule for the gas
16 case, so hopefully, that clarifies that.

17 JUDGE TOREM: I take it when the Company
18 filed earlier this year, it determined that it couldn't
19 or shouldn't wait to start its new general rate cases
20 until the April 30th deadline could ripen.

21 MR. MEYER: That is correct.

22 JUDGE TOREM: So what we have on the motion
23 before us today is now to consolidate this with the
24 understanding the hearing dates stay the same and this
25 simply becomes an added issue.

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1 MR. MEYER: Correct.

2 JUDGE TOREM: I can see where the Company may
3 have felt it couldn't make any indication of
4 consolidation then in respect of the April 30th
5 starting gate that would not open under Order 05 in
6 Docket 060518, and perhaps felt a little handcuffed by
7 the terms of that order and what it wanted to do.

8 The request for that information back in
9 February was to really make sure we were protecting the
10 rights of other parties that had to propose a schedule
11 for response testimony and see if they would not have
12 to slip those dates later if issues came along. We had
13 started that discussion in February with a reference to
14 supplemental economic data or rate data that might be
15 submitted and then we got to the decoupling.

16 So let me ask the other parties today what
17 their positions are on the consolidation of this
18 additional issue into the rate case and whether or not
19 they think the hearing dates can stay the same. I know
20 we had some prediscussion about this, and there is a
21 proposed solution, so let me turn to Mr. ffitch, who
22 seems to have taken the lead on the scheduling issue.

23 MR. FFITCH: Thank you, Your Honor. Public
24 Counsel does not have an objection to the motion to
25 consolidate. We take that position in large part

0237

1 because we believe that was the contemplated approach
2 in the Commission's original orders in the decoupling
3 was that the extension of the evaluation of the program
4 would happen in a general rate case context, so we have
5 that now. We have the ability to do that, and looking
6 at the schedule in the general rate case, we've
7 concluded that we can live with the existing schedule
8 for testimony and that that's workable to add the
9 decoupling issue into it.

10 There is one proviso, as you refer to, and we
11 believe the decoupling issue is a very important issue.
12 This is a precedent-setting matter. It is the first
13 independent evaluation in Washington of a decoupling
14 pilot program. The Commission has orders indicate a
15 strong interest in this evaluation. We want to make
16 sure it doesn't get lost in the shuffle, if you will,
17 of the other important issues in the general rate case.

18 So the proposal we've worked with the other
19 parties on is to identify a specific day during the
20 general rate case hearing schedule in the first week of
21 October as decoupling day, if you will, and protect
22 that date as the day when we would hold the hearing on
23 decoupling. Recognizing that that steals from some of
24 the existing time in the four-day schedule, the
25 proposal that we discussed off the record with Your

0238

1 Honor and with the other parties was that we add some
2 time at the beginning of the hearing on the Monday the
3 5th so that the hearing would start at one o'clock in
4 the afternoon, and that the decoupling day schedule
5 would be scheduled for Friday, October 9th, starting at
6 the standard hearing beginning time.

7 I think that states essentially the consensus
8 that was evolving, but that's all I have to say at this
9 point on that.

10 JUDGE TOREM: Just to restate it then, the
11 hearing is currently scheduled for four days, Tuesday
12 October 6th through Friday October the 9th. Your
13 proposal would have us begin Monday afternoon at one or
14 1:30, at the Commission's discretion, and begin the
15 rate case on Monday afternoon, October 5th, and then
16 designate whatever time the rate case finishes, even if
17 it were to be done on Wednesday, Friday, would be the
18 separate date on October 9th for the decoupling issues.

19 MR. FFITCH: Thank you, Your Honor. I
20 appreciate you reminding me about that proviso. We
21 think it's important to have that be set as a date
22 certain, and if the other rest of the hearing concludes
23 in advance, that does give actually the parties and the
24 Commission additional time to take a breath and prepare
25 for the decoupling hearing on that Friday.

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1 JUDGE TOREM: Commission staff, are you
2 amenable to that?

3 MR. TRAUTMAN: Yes, Your Honor, and the
4 Commission agrees that it is appropriate to consolidate
5 the decoupling into the rate case, and it's consistent
6 with the Commission's prior orders, and yes, Staff is
7 agreeable to the schedule that Mr. ffitch proposed.

8 JUDGE TOREM: Mr. Stokes?

9 MR. STOKES: Yes, Your Honor, we also agree
10 that consolidation is appropriate, and the schedule is
11 fine with us as well.

12 JUDGE TOREM: Mr. Johnson, you are not a
13 party to the rate case yet. Are you okay with
14 consolidation?

15 MR. JOHNSON: Yes, we are, Your Honor, and
16 because we are a part of the 06 docket, and I echoed
17 part of what Mr. ffitch said that part of the
18 contemplation was that the result of this would be
19 dealt with in the context of or surrounding the general
20 rate case, and this seems like the opportune forum to
21 do it.

22 I can't, obviously, since we are not a party
23 to the rate case itself, comment on the impact to the
24 rate case, but for the reason that Mr. ffitch said, we
25 don't oppose consolidation, and the preexisting

0240

1 schedule in the rate case with the modifications that
2 have been agreed to is fine with us.

3 JUDGE TOREM: So as I hear it now, you would
4 come along and be bootstrapped into the rate case.

5 MR. JOHNSON: And that would be our request,
6 Your Honor. We would request intervenor status.

7 JUDGE TOREM: Let me ask if that means you
8 would want to attend the other portions of the rate
9 case and file testimony on the rest of it or simply
10 reserve your spot on that Friday, October 9th, as
11 proposed and not be required to attend or otherwise
12 participate in the other issues in the rate case. You
13 can make this request to intervene just at the
14 consolidated issue or request to more broadly
15 intervene. Maybe you want it broad up front if you may
16 chose not to file testimony in August under the current
17 schedule. What do you think, Mr. Johnson?

18 MR. JOHNSON: I think we would rather have
19 the intervenor status at this point be broader rather
20 than narrower. Obviously, our interests will primarily
21 be focused on the decoupling mechanism, but I think
22 given the filing that's been made and the potential
23 interface between the filing and the Company's other
24 efficiency in conversation measures, there may be a
25 carryover beyond just the decoupling day into other

0241

1 issues. I'm not going to prejudge that right now, but
2 I think we prefer to reserve that right and have it
3 broader rather than narrower. Thank you for raising
4 that and putting it in those terms.

5 JUDGE TOREM: Easier for you to start broader
6 and narrow it down. I'll take that as a motion to
7 intervene. Let me ask the Company if they have any
8 objection to you becoming a party not only in the
9 decoupling docket but now in the broader rate case, and
10 I would make that with a consolidated rate case which
11 involves 090134 on the electric side as well as 090135
12 on the gas side. I don't think the issues are going to
13 be divvied up, gas or electric, particularly, except on
14 the rate schedules and items like that, but there will
15 be some crossover testimony, so we will make it a
16 motion to intervene in both of those cases. Mr. Meyer?

17 MR. MEYER: We don't object.

18 JUDGE TOREM: Mr. Roseman; your party's
19 position on the consolidation?

20 MR. ROSEMAN: I guess I will be the loan
21 voice in the wilderness on this. We have just recently
22 retained our expert for the general rate case. We
23 haven't addressed what we will do and how we will
24 approach this case if it is merged with the rate case.

25 I realized it was a possibility, but it was

0242

1 somewhat of an unexpected, maybe wrongly on my part,
2 that this decoupling was joined with this case. I do
3 concur with something that Mr. ffitch said, which is
4 that this decoupling matter is of great importance. A
5 lot of the people in this room have spent many months
6 in the evaluation. Now there is a report. Now it's
7 seeking to be made final, and I do have some concern
8 that there be enough time to adequately address the
9 issues and enough time, and it sounds like that's what
10 most of the parties are seeking, that it not get lost
11 in the shuffle of revenue requirement or the other
12 issues that come up in a general rate case.

13 I guess I am less than enthusiastic about
14 this consolidation for those reasons. I feel the tide
15 is driven against me on this issue, but that is what
16 our position is.

17 JUDGE TOREM: Any other parties have a
18 position or further comments on the motion to
19 consolidate this? Mr. Roseman, I just wanted to ask,
20 the retention you mentioned about the expert, was there
21 something in your strategy for the rate case that would
22 be altered or you would have a different expert that
23 has a wider knowledge base, or is there something else
24 that affects that and your ability to participate on
25 October 9th, the decoupling day, as it's been called?

0243

1 MR. ROSEMAN: It will not be the same person.
2 The person we have now is focusing on a certain aspect
3 of the rate case. I just can't answer that question
4 right now. We are thinking about and trying to find
5 someone for this contested case. There are some
6 possibilities whether, depending on who that person is,
7 it could make a difference, or maybe October the 9th
8 would be fine, but I don't know that right now.

9 JUDGE TOREM: I was just trying to see if
10 there is anything else that I could smoke out of you
11 that would allow me to accommodate you. It sounds like
12 it's a vague, We've got one person. We would need a
13 second. We don't know who it is.

14 MR. ROSEMAN: We have tentatively identified.
15 We haven't finalized that and locked it down. I
16 appreciate the help that you are trying to provide. I
17 wish I could reciprocate in some way, but I'm sorry, I
18 can't.

19 JUDGE TOREM: I have had a chance to think
20 this over and look at what the Commission's approach to
21 consolidation would be, and the parties, aside from
22 Mr. Roseman, have made it a little easier for me to
23 know that none of the parties are expressing any
24 due-process concerns, and that's really what we were
25 getting at back in February. Nobody is asking that the

0244

1 dates be changed or that the Company refile its tariff
2 at this point because they are not asking for any
3 higher rates than have already been asked for in the
4 original rate case filing.

5 So I will grant the motion to consolidate.
6 The Commission does agree with the parties that this is
7 an important item, and I think it's a wise decision to
8 carve out a single day to focus on decoupling. We are
9 having this prehearing conference today in place of a
10 workshop where we were going to address the adequacy
11 and the completeness of the evaluation report and give
12 the commissioners a chance to sit in and listen to the
13 parties discuss it. That's just to give you an idea of
14 how important they think this topic is, and to
15 understand, Mr. Meyer, that your client has the
16 opportunity to possibly set precedent of where this
17 issue is going in the state.

18 There are other companies that I thought
19 might choose to show up today and intervene based on
20 that. They have not, but they will have their chances
21 in front of the Commission down the road, and this is
22 an important one, so consolidation with the October 9th
23 provision of that being the scheduled date for that
24 portion of the hearing is granted.

25 I'll also grant the request then to retain an

0245

1 additional half day or put in an additional half day
2 into the rate case and put that on Monday afternoon,
3 October the 5th, so I will be issuing another
4 prehearing conference order to that effect setting up
5 the schedule expanding. Everything else should stay
6 the same on the procedural schedule, and we will still
7 have August 17th as the date for response testimony,
8 and the rebuttal testimony and cross-answering
9 testimony will be coming in on September the 11th. I
10 don't see any other dates that look like they will be
11 impacted.

12 I believe the parties are getting together to
13 talk about the initial settlement or discussion of the
14 issues the middle of July, and we will get together
15 again after the August 17th testimony filings so you
16 will know which issues are contested and which issue
17 are not. Are there any other issues we need to take up
18 today on consolidation?

19 MR. FFITCH: I think if we could address the
20 question of a protective order or orders, the status of
21 those, and whether there is a need for additional
22 protective orders, and then the status of existing
23 discovery or the record in the existing 060518 docket.

24 On the first point, just to cut to the chase,
25 I think in our view we have sufficient protective

0246

1 orders as between the two dockets. There is a
2 protective order in 060518, and there is a new
3 protective order in the rate case, and between those, I
4 don't think we need additional orders.

5 On discovery, we would just request that the
6 record in the decoupling docket, 060518, be available
7 for you use in this consolidated matter going forward.
8 That would include discovery that might have been
9 conducted separately under the 060518 docket.

10 JUDGE TOREM: So as to the discovery, that's
11 not necessarily part of the record that the Commission
12 has access to, but you are asking if there were data
13 requests filed in 060518 that you be permitted to rely
14 on those in the now consolidated case?

15 MR. FFITCH: Yes, that is correct. If we
16 chose to refer to them in testimony or offer them as an
17 exhibit that we be allowed to do that. To be honest,
18 I'm not sure if there is anything in that category, but
19 there was discovery and there is a record from the
20 prior proceeding, and it's all related in general to
21 these same topics, so it would be a matter of
22 administrative convenience if we could simply
23 incorporate that record.

24 JUDGE TOREM: I think your request would make
25 it more clear that any of the matters that came in

0247

1 under 060518 would not be referenced only on October
2 9th but could be referenced or used in support of any
3 point of the case and vice versa, just in case a
4 decoupling discovery request proved relevant to
5 something that came up between October 5 and October
6 8th.

7 MR. FFITCH: Yes, that would be correct.

8 JUDGE TOREM: Any other comment on the
9 discovery matter from the other parties or opposition
10 to that?

11 MR. MEYER: There is no opposition. I take
12 that to mean that we are simply going to incorporate
13 the record. It's the same docket. The same record
14 applies. Reference can be made freely by any party to
15 any matter that's been entered into the record in this
16 ongoing docket, and obviously, we have responded to
17 discovery, and the fruits of that parties may make use
18 of.

19 JUDGE TOREM: I think that makes sense for
20 the Commission to have all of its records that have
21 been established in the decoupling docket to this point
22 also available in the rate case, so that will be
23 granted.

24 As to the protective orders, the only concern
25 I would see is for those parties such as the Northwest

0248

1 Energy Coalition that just became an intervenor in the
2 rate case, that they sign the protective order and
3 submit those agreements in that docket number, and that
4 if the ICNU folks intend to participate whatsoever on
5 October 9th, and I'm not sure that they would, if,
6 Mr. Stokes, if you have any contact with Mr. Van Cleve
7 as industrial folks, you might let him know to sign off
8 on the 060518 order if he intends to get into that
9 docket whatsoever. I may make him a phone call to him.

10 MR. JOHNSON: We will sign those agreements
11 and get all the confidentiality agreements submitted so
12 we are up to speed on the paperwork.

13 JUDGE TOREM: I think that would make it
14 clear for the Coalition to be confidentially bound in
15 both dockets. I don't see any other issues.
16 Mr. Ffitch, does that address the points you needed on
17 the protective order as well?

18 MR. FFITCH: Yes, Your Honor, thank you. I
19 think this was clear. Just checking back to the record
20 issue and the discovery issue, I think you were clear,
21 but just to make sure that I'm clear, the consolidated
22 record would allow us to refer to matters from 060518,
23 either fruits of discovery or prior matters of record
24 for any purpose, if it were relevant, in our testimony
25 on August 17th.

0249

1 JUDGE TOREM: That's correct, and it will go
2 for the rest of the case as well.

3 MR. FFITCH: Thank you.

4 JUDGE TOREM: Any other comments, questions?
5 Then I think what I will be doing is issuing -- I'm not
6 sure I can do this all in one order, but there will be
7 orders going out addressing the briefing schedule on
8 the request to extend the pilot program in 060518.
9 Then there will also be a notice consolidating these
10 two cases together for the purposes of testimony and
11 going forward with the rate case and specifying the
12 single day for the decoupling issue to be heard,
13 regardless of when the rate case wraps up, and that we
14 will be starting on October 5th in the afternoon and
15 get with the commissioners to specify whether that is
16 one o'clock or 1:30.

17 I think that takes care of what we have
18 today. I may make some comments in the order about the
19 status of the protective orders and the parties that
20 haven't signed both to make sure they do, and that the
21 discovery efforts previous and any of the record is
22 available for both matters as consolidated for all
23 proceedings from this point forward. Anything else?
24 Seeing none, then we are adjourned at 2:35.

25