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1 P R O C E E D I N G S

2 JUDGE MOSS: Good afternoon, everyone. My  
3 name is Dennis Moss. I'm an administrative law judge  
4 with the Washington Utilities and Transportation  
5 Commission, and we are convened today for our first  
6 prehearing conference In the Matter of the Petition of  
7 Avista Corporation, doing business as Avista Utilities,  
8 for Continuation of the Company's Energy Recovery  
9 Mechanism, With Certain Modifications; Docket No.  
10 UE-060181. Why don't we begin with our appearances,  
11 and let's start with the Company; Mr. Meyer?

12 MR. MEYER: Thank you, Your Honor. David  
13 Meyer appearing on behalf of Avista. Would you like  
14 the short form of introduction?

15 JUDGE MOSS: For the first prehearing, I  
16 would like the long form, and then thereafter in our  
17 proceeding, we will use the short form.

18 MR. MEYER: The phone number is (509)  
19 495-4316. The e-mail address is  
20 david.meyer@avistacorp.com. Fax number is (509)  
21 495-8856, and the address is East 1411 Mission Avenue,  
22 Spokane, Washington.

23 JUDGE MOSS: For ICNU?

24 MR. SANGER: My name is Irion Sanger. I'm  
25 here with the law firm of Davis and Van Cleve for the

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1 Industrial Customers of Northwest Utilities. Address  
2 is 333 Southwest Taylor, Suite 400, Portland, Oregon,  
3 97204. Phone number is (503) 241-7242; fax, (503)  
4 241-8160, and e-mail is mail@dvclaw.com.

5 JUDGE MOSS: Mr. Sanger, I confess I did not  
6 read your appearance filing. Are any of your  
7 colleagues making appearances in this proceeding, or  
8 will you be proceeding alone?

9 MR. SANGER: No. Matt Perkins and Brad Van  
10 Cleve were on the notice as well.

11 JUDGE MOSS: Thank you. I will note also  
12 that you filed a petition to intervene on behalf of  
13 ICNU. Mr. ffitich?

14 MR. FFITCH: Good afternoon, Your Honor.  
15 Simon ffitich, assistant attorney general for the Public  
16 Counsel section of the Washington Attorney General's  
17 office. Address is 900 Fourth Avenue, Suite 2000,  
18 Seattle, Washington, 98164-1012. Phone is  
19 (206) 389-2055; fax, (206) 389-2079; e-mail,  
20 simonf@atg.wa.gov.

21 JUDGE MOSS: Thank you. Mr. Trautman?

22 MR. TRAUTMAN: Thank you, Your Honor.  
23 Gregory J. Trautman, assistant attorney general for  
24 Commission staff. My address is 1400 South Evergreen  
25 Park Drive Southwest, PO Box 40128, Olympia,

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1 Washington, 98504. My telephone number is (360)  
2 664-1187. Fax number is (360) 586-5522, and my e-mail  
3 is gtrautma@wutc.wa.gov.

4 JUDGE MOSS: Thank you. Are there any other  
5 appearances? I see none in the hearing room. Anyone  
6 on the conference bridge line who wishes to enter an  
7 appearance today? Hearing none, I think we can proceed  
8 directly to the only petition to intervene today of  
9 which I'm aware, and that is of ICNU. Is there any  
10 objection?

11 MR. MEYER: No objection.

12 MR. TRAUTMAN: No.

13 JUDGE MOSS: Hearing no objection, the  
14 petition is granted. Has discovery commenced?

15 MR. MEYER: It has not. We are available, of  
16 course, any time.

17 JUDGE MOSS: Of course the discovery rule is  
18 invoked in a proceeding such as this, and everyone is  
19 familiar with the rules at WAC 480-07-400, et seq. We  
20 will talk about whether we want to make any  
21 modifications to the discovery schedule as we talk  
22 about the procedural schedule. Do the parties perceive  
23 the need for a protective order in this proceeding?

24 MR. MEYER: Yes, we do.

25 JUDGE MOSS: Standard protective order?

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1 MR. MEYER: Please.

2 JUDGE MOSS: Highly confidential provisions?

3 MR. MEYER: Shouldn't require that.

4 JUDGE MOSS: We can always amend if that  
5 should come up. I'll see to that in the next day or  
6 two.

7 That does bring us then directly to the  
8 procedural schedule. I will just note for the record  
9 that I did have brief informal conversations with both  
10 Mr. Trautman and Mr. Meyer concerning the procedural  
11 schedule. They between themselves had some discussion  
12 and were separated by about a month on hearing dates,  
13 and I appreciate that advance notice because it gave me  
14 an opportunity to discuss the matter with the  
15 Commissioners, and I know their preferences, which will  
16 inform our discussion today.

17 So why don't I just start with that, and then  
18 I'll let you go off the record a little bit and see if  
19 you can arrange the intermediary dates, and then we'll  
20 come back, perhaps, with an agreed schedule, or I have  
21 some ideas of my own if you can't do that.

22 The Commissioners' preference is to have the  
23 hearing in May, and their goal is to complete this  
24 proceeding by the end of June. So with that in mind, I  
25 have looked at the calendar very closely and have seen

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1 what dates are available in the second half of May, and  
2 I will state that I have a preference for May 18 and  
3 19, a Thursday and a Friday. I'm assuming about two  
4 days. Does that seem about right to everybody? I have  
5 the filing here, and I actually haven't even read all  
6 the testimony, and it strikes me we are looking at no  
7 more than a two-day hearing.

8 MR. MEYER: I would agree.

9 JUDGE MOSS: So that's why I picked two days,  
10 18 and 19. I'm working around availability dates, that  
11 is to say, the Commissioners' availability, so that's  
12 why these dates are your basic choices. As I say,  
13 those are my preferred dates, but as optional dates, we  
14 could go with May 15 and 16, which is the Monday and  
15 Tuesday of that same week, or we could go with the  
16 Thursday and Friday of the following week. That would  
17 be the 25th and 26th.

18 Mr. Meyer, you had expressed when we  
19 discussed the matter something about the week of May  
20 22nd, so that would be the end of that week. Now, May  
21 22nd is also available, but I don't think, particularly  
22 for a short hearing, that it makes a lot of sense to  
23 start on one day, send everybody home, and come back  
24 two days later. The middle of that week is  
25 unavailable. I don't have any other helpful

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1 information. Would the parties like to have the  
2 opportunity to go off the record and discuss this among  
3 themselves and make some suggestions when we come back  
4 on the record?

5 MR. TRAUTMAN: I would just then want to ask  
6 on the briefing, and then the reason I'm asking is  
7 because I had had some scheduled time I was going to be  
8 gone, out of the country, actually, between May 28th,  
9 which is a Sunday, and June the 7th.

10 So I guess given those dates, I prefer the  
11 18th and the 19th. It would at least give me the week  
12 before that to do the briefing, but I don't know how  
13 long the Commission would like from when -- I assume if  
14 it's one round of briefs, from when the Commission  
15 would want the briefs to come in until the order is  
16 issued. I would like some guidance on that.

17 JUDGE MOSS: I can give you some guidance on  
18 that as well. Earlier is something I can always agree  
19 to, but in terms of later, I just put June 30th as an  
20 aspirational date for the order for purposes of my own  
21 ruminations about this, and I backed up from that 21  
22 days to June 9th as a date on which I would like to get  
23 briefs. Now, I'm flexible, and I could actually take  
24 them a little later than that too and still meet the  
25 aspirational date.



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1           The main problem I have is that I have to  
2 work around the Commissioners' availability. I am at  
3 their FX, so whatever they can do I will do, but there  
4 is less control in the other direction.

5           So June actually looks pretty good in the  
6 early part of the month. It's the later part of that  
7 month that's a problem in terms of my being able to get  
8 with them. I'm willing to be somewhat flexible about  
9 that June 9th date in terms of looking forward, but I  
10 don't want it to slip too far. Or we could move it  
11 back if you all want to do an expedited transcript and  
12 do the briefs early, or you could always ask the  
13 indulgences of your chief judge to assign a different  
14 assistant attorney general, Mr. Trautman.

15           MR. TRAUTMAN: I don't think that's going to  
16 happen. We are already shorthanded by many attorneys.

17           JUDGE MOSS: Does that help you?

18           MR. TRAUTMAN: If you would indulge to moving  
19 it to the next week, how late?

20           MR. FFITCH: Your Honor, I think I need to  
21 interject before this gets too far down the line --

22           JUDGE MOSS: Let me interrupt. Let's do this  
23 off the record and we'll come back on if we need to.

24           (Discussion off the record.)

25           JUDGE MOSS: We have had some discussion off

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1 the record and have arrived at a procedural schedule  
2 that works from everyone's perspective, so I will put  
3 that into the record and it will appear as part of the  
4 prehearing order, and then we will take up another  
5 issue that Mr. ffitch has raised off the record.

6 The first date on our procedural schedule  
7 will be March 29th and 30th, which we are setting aside  
8 for settlement conference. I will mention that the  
9 parties should feel the freedom to change that, but we  
10 do like to be notified if you want to change that date  
11 so that we are at least abreast of what's going on in  
12 the case in that way.

13 The next date is the Staff and Intervenor  
14 testimony, the response testimony, on April 21st. The  
15 Company rebuttal testimony will be May 12th, and after  
16 the May 12th date, we will revise the response time for  
17 data requests to three business days after the date of  
18 receipt.

19 We will plan to exchange exhibits on May  
20 23rd. That will not be on the procedural schedule. I  
21 will send out a notice approximately a week ahead that  
22 will detail the procedures for that. I would like to  
23 get your cross-examination estimates at the same time.

24 Briefs June 16th, and I think one round of  
25 briefing will be sufficient, which brings me to a point

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1 Mr. ffitch raised, which is the question of the scope  
2 of the proceeding, and I think it's fair to say that  
3 what the Commission is interested in seeing in this  
4 proceeding is the development of a rather more full  
5 record on the subject of the ERM than we had in the  
6 recently completed rate proceeding. Of course, Avista  
7 has stated its position and the modifications it  
8 proposes in its initial filing, so you have that to  
9 respond to, and if there are alternative proposals,  
10 they will be brought forward, I'm sure.

11 So yes, the ERM is on the table in the same  
12 sense it would have been reviewed six or eight months  
13 from now under the original. We are substituting this  
14 review for that review, so to the extent parties  
15 contemplated review under the original agreement, this  
16 is taking the place of that. Although in this case, it  
17 will, I'm sure, lead to an order. Anything else about  
18 schedules or scoping?

19 MR. TRAUTMAN: Did you state the hearing  
20 dates on the record?

21 JUDGE MOSS: May 25th and 26th for the  
22 hearing dates. I may have missed it.

23 I checked with our records center, and in  
24 this proceeding, we will need the original plus 12  
25 copies. We will get the prehearing conference order

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1 out in the next couple of days as well as a protective  
2 order. We will only have another prehearing conference  
3 if we need one to deal with some sort of motions  
4 practice or whatever, so you let me all know, and let  
5 me know too if the parties want to have the assistance  
6 of a settlement judge, mediator, and I can talk to  
7 Judge Wallis and see if there is someone available to  
8 do that, and if the Commission thinks it's appropriate  
9 to do so, it will assign someone, so let us know. Is  
10 there anything else?

11 MR. MEYER: Nothing from us, thank you.

12 JUDGE MOSS: Thank you all very much. I  
13 appreciate your being here today and look forward to  
14 working with you to resolve the case.

15 (Prehearing conference adjourned at 2:10 p.m.)

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