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1 BEFORE THE WASHINGTON

2 UTILITIES AND TRANSPORTATION COMMISSION

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4 WASHINGTON UTILITIES AND )

TRANSPORTATION COMMISSION, ) DOCKETS UE-170485 &

5 ) UG-170486

Complainant, ) (Consolidated)

6 )

vs. )

7 )

AVISTA CORPORATION, d/b/a )

8 AVISTA UTILITIES, )

)

9 )

Respondent. )

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PREHEARING CONFERENCE, VOLUME I

12

Pages 1-23

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ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

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9:30 A.M.

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June 30, 2017

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18 Washington Utilities and Transportation Commission

1300 South Evergreen Park Drive Southwest

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1 OLYMPIA, WASHINGTON; JUNE 30, 2017

2 9:30 A.M.

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P R O C E E D I N G S

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7 JUDGE PEARSON: Let's be on the record.

8 Good morning. My name is Rayne Pearson. I'm an

9 administrative law judge for the Washington Utilities

10 and Transportation Commission, and I'm sitting in for

11 Judge Marguerite Friedlander while she's on medical

12 leave, and Judge Friedlander will be coming in and

13 taking over the case just prior to the evidentiary

14 hearing, but she will be closely following the case

15 until she returns.

16 We are here today for a prehearing

17 conference in consolidated Dockets UE-170485 and

18 UG-170486, which is Avista's 2017 general rate case

19 filing.

20 Related to these dockets, it is Avista's

21 request for a power cost adjustment in Docket UE-170484,

22 and ICNU filed a motion to dismiss the filing in that

23 docket or in the alternative to consolidate it with the

24 general rate case proceeding. That docket will be heard

25 by the commissioners at an open meeting most likely on

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1 August 10th, so ICNU's motion will carry until that

2 time.

3 So let's get started by taking short

4 appearances beginning with the Company, then we'll jump

5 over here to Staff and go around the room, and then I

6 will ask for appearances on the bridge line.

7 MR. MEYER: Thank you, Your Honor. David

8 Meyer appearing on behalf of Avista.

9 MR. CASEY: Christopher Casey appearing on

10 behalf of Commission Staff.

11 MR. BRYANT: Armikka Bryant appearing on

12 behalf of Public Counsel.

13 MS. GAFKEN: Lisa Gafken appearing on behalf

14 of Public Counsel.

15 MR. COWELL: Jesse Cowell on behalf of the

16 Industrial Customers of Northwest Utilities.

17 JUDGE PEARSON: Okay. And on the bridge

18 line?

19 MR. OSHIE: Patrick Oshie with Davison Van

20 Cleve representing ICNU.

21 MR. BROOKS: This is Tommy Brooks and Chad

22 Stokes from Cable Huston for the Northwest Industrial

23 Gas Users.

24 MR. FFITCH: This is Simon ffitch appearing

25 on behalf of the Energy Project.

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1 JUDGE PEARSON: Okay. Is there anyone else

2 on the bridge line?

3 Okay. Hearing nothing, we will first

4 address the petitions for intervention. Are there any

5 objections to the petitions for intervention filed by

6 the Energy Project, the Industrial Customers of

7 Northwest Utilities, or the Northwest Industrial Gas

8 Users?

9 MR. MEYER: No objection.

10 JUDGE PEARSON: Okay.

11 MR. CASEY: No objection from Staff.

12 JUDGE PEARSON: All right. Then those

13 petitions for intervention are granted.

14 For the record, we've already entered a

15 standard protective order and have made discovery rules

16 available to the parties. And as a reminder, the

17 Commission has adopted new procedural rules that provide

18 for electronic service of all documents. So absent a

19 request for a paper service, the Commission will only

20 serve documents electronically in this case. So make

21 sure and let me know now if you require paper service,

22 which I assume no one does.

23 Okay. So that brings us to the schedule. I

24 know the parties have been conferring about a schedule.

25 Do we need to take a break for some more discussion

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1 about that?

2 MR. MEYER: Not from Avista's standpoint. I

3 know there are a few things that I think we can just

4 fire off quickly. There may be a date for discovery

5 cutoffs that is still to be discussed, but I don't think

6 that will take long.

7 MR. CASEY: Same. Two of the parties had

8 talked about potentially slipping the discovery date a

9 little bit later. The discovery deadline from December

10 12th to the 28th, Staff has no objection to that, but

11 believes that if we do that, everybody should be aware

12 that in that week kind of between Christmas and New

13 Year's, I think the parties should just be flexible and

14 understand that, you know, parties might need a couple

15 extra days to fulfill a discovery request if Staff is

16 out for the holidays or something to that effect. But

17 we are fine with slipping the discovery date.

18 MR. MEYER: You know, with the good faith of

19 the parties, we're fine with that. I think that is a

20 truncated five-day turnaround, five business-day

21 turnaround, that on top of the holidays I could see

22 quite possibly we'll be asking for additional time, and

23 I would encourage the -- well, we'll do it on a

24 case-by-case basis and just work with the parties.

25 MS. GAFKEN: So Public Counsel was the one

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1 who suggested that we slip the proposed cutoff from

2 December 12th to December 28th and to put it more in

3 line with procedural schedules that we typically see

4 that result in this final discovery response as being

5 due shortly before cross-exhibits come in. And there

6 certainly are holidays in that timeframe, there's also

7 holidays around the December 12th date as well, there's

8 Hanukkah right there. So I think we have holidays all

9 around during that timeframe anyway.

10 One thing to note is a truncated five-day

11 turnaround period, but with a request coming in, let's

12 say on December 28th, there's holidays that bump that

13 out, and so those responses wouldn't be due -- I thought

14 I wrote it down. I think -- oh, January 5th is when

15 they would be due. And so quite frankly, I think a lot

16 of the work on any requests that would come in during

17 that timeframe would happen after the holidays. I

18 think, in my experience, parties have been very

19 accommodating when additional time is needed and if

20 somebody just isn't available and they need an extra

21 day.

22 The way the procedural schedule is set or

23 proposed, cross-exhibits aren't due until January 9th,

24 and so there's some padding built in. But, you know, I

25 guess from our perspective, we would assume the parties

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1 will approach discovery in a reasonable manner and work

2 together.

3 JUDGE PEARSON: Okay. So do we have an

4 agreement on the schedule, then, that can be read into

5 the record at this point or do the parties want a couple

6 of minutes to iron things out?

7 MR. MEYER: No, I just have one question.

8 So which -- I appreciate your feedback yesterday on the

9 scheduling, as part of the scheduled settlement

10 conferences and the one you would schedule. So have you

11 decided which one you would prefer to be scheduled or is

12 that up to parties to decide?

13 JUDGE PEARSON: The first one would be

14 scheduled.

15 MR. MEYER: Okay. Very well.

16 JUDGE PEARSON: And then what I would

17 recommend doing is putting another one in the schedule

18 with a TBD instead of a date.

19 MR. MEYER: Okay. All right. And could

20 that, then, be the second one that appears on this

21 sequence of process?

22 JUDGE PEARSON: That would be the TBD?

23 MR. MEYER: Yeah.

24 JUDGE PEARSON: I mean, that's what I think.

25 Is everyone in agreement on all the other dates? I

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1 guess I'm not really getting an answer to that question,

2 if we're ready to go forward with reading a schedule

3 into the record or if you need a couple of minutes.

4 MS. GAFKEN: I think we're probably very

5 close. And as far as having both of the settlement

6 conference dates, we have these marked in, and the

7 parties have agreed that those dates work for us,

8 October 6th and November 3rd. I will raise a concern

9 more just because I want to air it than anything else.

10 I certainly don't have a strong objection to having that

11 October date, but -- October date set, but one thing

12 that I just wanted to bring up was the -- in two recent

13 cases where we've had the early settlement conferences,

14 they've been very unproductive, either they've been

15 cancelled or completely unfruitful.

16 And so I raise it just because I want

17 parties to start thinking about maybe moving that first

18 conference past the time that we're filing our cases in

19 chief. That may help for more productive sessions, but

20 I also understand there's another perspective where

21 parties want to try to reduce the amount of testimony

22 that's filed. So I see both sides of the coin, so I

23 just want to raise it since we're on the record.

24 JUDGE PEARSON: Okay.

25 MR. CASEY: Staff agrees that the second

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1 settlement conference, the one that would be scheduled

2 for November 3rd, should be the official, the one that's

3 in the official schedule, but I think Staff does think

4 it is very important to get together before any

5 testimony is filed to see if there are certain issues

6 that we can settle without litigation.

7 And so, you know, I would make -- I would

8 agree with Public Counsel to make the second one the one

9 that is officially noticed, but, you know, I think all

10 the parties are in agreement that we're going to have

11 both of them. So that's Staff's position.

12 MS. GAFKEN: And I think that if we're in

13 agreement that we're going to have both of them, I would

14 prefer they both be on the schedule particularly in

15 light of kind of the sordid history of settlement

16 conferences and making sure that everybody is at the

17 table the first round.

18 JUDGE PEARSON: Okay.

19 MR. MEYER: Thank you. We would agree that

20 both should be on the schedule.

21 JUDGE PEARSON: So, Mr. Casey, are you

22 amendable to that?

23 MR. CASEY: Yes, if the parties agree that

24 they want both to be scheduled, then Staff is fine with

25 that.

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1 JUDGE PEARSON: Okay.

2 MR. COWELL: ICNU is fine with that, too,

3 Your Honor.

4 JUDGE PEARSON: Okay. Anyone on the bridge

5 line?

6 (Multiple speakers talking.)

7 JUDGE PEARSON: I'm sorry, what?

8 MR. FFITCH: Energy Project is fine with

9 that, Your Honor.

10 JUDGE PEARSON: Okay. Anyone else?

11 Okay. So are we, then, adopting the version

12 that was sent to me by Avista yesterday with a couple

13 modifications or...

14 MR. CASEY: Yes, the schedule that was sent

15 by Avista with the one modification of moving the

16 discovery deadline from December 12th to December 28th.

17 JUDGE PEARSON: Okay. So I will read that

18 into the record now, and please correct me at any point

19 if there's disagreement.

20 So we have the public notice report on

21 August 7th, 2017; Avista circulates joint issues list on

22 September 15th, 2017; the first settlement conference on

23 October 6th, 2017; Staff, Public Counsel, and intervenor

24 response testimony and exhibits due on

25 October 27th, 2017; the second settlement conference on

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1 November 3rd, 2017; the joint issues list due on

2 November 13th, 2017; Company rebuttal testimony and

3 exhibits and Staff, Public Counsel, and intervenor

4 cross-answering testimony and exhibits due on

5 December 1st, 2017; the public comment hearing to be

6 determined by a later notice; the discovery deadline

7 last day to issue data requests on December 28th, 2017;

8 and it looks like -- well, backing up, that after

9 December 1st, 2017, the response time to data requests

10 will be seven business days, and then after December

11 28th it will be reduced to five business days.

12 The deadline for filing cross-examination

13 exhibits and time estimates and witness list will be

14 January 9th, 2018; the evidentiary hearing will be held

15 January 16th, 17th and 18th, 2018; post-hearing briefs

16 and updated issues list will be due on

17 February 22nd, 2018; the suspension date is

18 April 26th, 2018, but from my reading, Avista is seeking

19 to have rates go into effect on May 1st, 2018; is that

20 correct?

21 MR. MEYER: Well, I think more precisely on

22 or before May 1st.

23 JUDGE PEARSON: Okay. So coincide it with

24 the suspension date.

25 MR. MEYER: Yes, please.

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1 JUDGE PEARSON: All right. So if everyone

2 is in agreement --

3 MR. COWELL: Your Honor?

4 JUDGE PEARSON: Yes?

5 MR. COWELL: I might have heard incorrectly,

6 but I did want to maybe just clarify or go over again

7 the dates for the response times changing.

8 JUDGE PEARSON: Oh, sure. So according to

9 this schedule, following Staff, Public Counsel, and

10 intervenor response testimony exhibits on October 27th,

11 response time to data requests would be reduced to seven

12 business days. And then -- there's actually two

13 footnotes noting reducing the time to five business

14 days, and then the first is after December 1st and the

15 second is after December 28th. So which date did the

16 parties want that to go down to five days, December 1st

17 or December 28th?

18 MS. GAFKEN: December 1st.

19 MR. CASEY: December 1st.

20 JUDGE PEARSON: December 1st? Okay.

21 MR. MEYER: Avista, given that we're kind of

22 stretching things out a bit in that back part of the

23 schedule, we prefer that to be seven days, and then the

24 shorter five-day turnaround would be for the last --

25 JUDGE PEARSON: December 28th?

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1 MR. MEYER: Correct. Yeah.

2 JUDGE PEARSON: How do the other parties

3 feel about that?

4 MS. GAFKEN: Well, under our standard -- the

5 way we usually see it is that after each round of

6 testimony it ratchets down, and I don't really see any

7 reason to do it differently in this case. To have just

8 that last set of discovery be shortened to five doesn't

9 seem to provide any benefit.

10 MR. CASEY: I would agree. Staff would

11 agree, I think, it's important to have after that --

12 after the rebuttal testimony and cross-answering

13 testimony for the discovery time to be reduced to make

14 sure there can be a proper exchange.

15 MS. GAFKEN: Another reason in support of

16 reducing it or the main reason why we see reducing at

17 that time period, at that point nobody's preparing

18 testimony. And so -- and before that, we have longer

19 response times as people are doing two different things;

20 responding to discovery and doing testimony. But after

21 that last round of testimony, we don't have that added

22 burden of preparing testimony.

23 MR. CASEY: I would add that we've also

24 often seen change of position on -- in the rebuttal

25 round and sometimes you need a couple rounds of

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1 discovery to flesh out that change of position because

2 you don't have more testimony to respond to.

3 JUDGE PEARSON: Okay. That sounds

4 reasonable to me.

5 Mr. Cowell, did you --

6 MR. COWELL: We'd also prefer the December

7 1st to start the five-day.

8 JUDGE PEARSON: Okay. All right. Then we

9 will adopt that date.

10 Any other questions?

11 MR. MEYER: I do just have a request that as

12 discovery is put to the Company, that not be batched up

13 in big bundles so we don't get 40, 50, 80 or a hundred

14 with multiple subparts all at once, no matter whether

15 it's the first round, second, or third round. It's --

16 sometimes in prior cases, especially with some outside

17 experts, it seems like they get them batched up, they

18 get forwarded to us, and it's -- it's just not

19 reasonable. So we've managed to work our way through

20 it, the parties have cooperated, but just anticipate

21 that from the outset, I encourage all parties to begin

22 their discovery, but please make it in manageable

23 tranches, if you will, okay?

24 JUDGE PEARSON: That sounds reasonable.

25 MR. CASEY: One thing to add with discovery

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1 too. I know a couple of the cases we've had before the

2 Commission recently we've stipulated to the first

3 customary DR where we all agree to send each other all

4 the discovery requests and responses, and I'd like to do

5 that today so that the parties don't have to send that

6 DR out.

7 JUDGE PEARSON: I was wondering if you were

8 going to bring that up.

9 Can we have stipulations from the parties on

10 that?

11 MR. COWELL: Yes, Your Honor.

12 MS. GAFKEN: Yes.

13 MR. BROOKS: Yes, Your Honor.

14 JUDGE PEARSON: All right. Thank you.

15 So the Commission encourages stipulations,

16 both as to facts and to issues that can be resolved via

17 the settlement process or other means of alternative

18 dispute resolution, and so the Commission should be

19 advised of any progress you make in those processes.

20 For filing, we will need the original plus

21 ten copies for internal distribution. If filings

22 include information designated as confidential or highly

23 confidential, file the original and ten copies of the

24 fully unredacted version, the original and one copy of

25 any partly redacted version, and the original and one

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1 copy of the fully redacted version.

2 We will require you to submit a witness list

3 showing an order of presentation and time estimates for

4 cross-examination of each witness. And

5 cross-examination exhibit lists by January 9th, and we

6 will exchange cross-examination exhibits prior to the

7 hearing and take up any other business that will

8 maximize efficiency at the hearing such as stipulating

9 to the admission of testimony and exhibits.

10 If any party has not yet designated a lead

11 representative for service, please do so via email to

12 myself as soon as possible. Right now, I just have the

13 same individuals that were in the previous rate case,

14 and I imagine that is the same. And once again, if

15 anyone would like to add names and email addresses of

16 other representatives or support staff who should

17 receive service of all documents, please email that to

18 me as well, preferably by the end of the day today.

19 MR. COWELL: Your Honor?

20 JUDGE PEARSON: Yes?

21 MR. COWELL: Question on that because we're

22 now working under the new procedural rules. Trying the

23 expanded rules out, ICNU put in our petition to

24 intervene experts and support staff that we'd like to

25 have on the emails, and is that sufficient for purposes

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1 of what you were just speaking about?

2 JUDGE PEARSON: Yes. If you've already

3 included everyone you want to receive service, that's

4 fine. But if there's anyone that you haven't indicated

5 at this point in time, just please send me an email and

6 let me know.

7 MR. MEYER: Just so I -- excuse me. Just so

8 I -- appreciate the size and scope of this master

9 service list as we respond to testimony sometimes with

10 voluminous responses. Is it the intent of the Bench

11 that all of those responses be provided to all of the

12 multiple representatives that each party may designate

13 at some point, it could become pretty unwieldy.

14 JUDGE PEARSON: Well, if you create just an

15 electronic master service list and just paste it into

16 the email line. That's usually what I do.

17 MR. MEYER: Some of the stuff is provided

18 not just in emails but hard copy.

19 JUDGE PEARSON: Oh, I see.

20 MR. MEYER: And then some members ship out

21 FedExes to ten representatives --

22 JUDGE PEARSON: These are just for

23 electronic courtesy copies. This does not apply for

24 hard copies.

25 MR. MEYER: Thank you very much.

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1 JUDGE PEARSON: For paper copies, you just

2 need to provide those to the designated lead

3 representative for service.

4 MR. MEYER: That is helpful. Thank you.

5 JUDGE PEARSON: Okay. All right. Is there

6 anything else that we need to address while we're here?

7 MS. GAFKEN: There is just one more item,

8 and I didn't want to interrupt this process when we left

9 the calendar on the schedule. With respect to the

10 public comment hearing, we would request the two that

11 we've usually done with Avista cases and historically,

12 we've done them in Spokane and Spokane Valley. I know

13 there's been some discussion about maybe moving the

14 Spokane Valley to a different location. I don't know if

15 that's still a live issue or not, but I was going to

16 suggest that we would work with Andrew Roberts to

17 discuss locations and potential dates. We would suggest

18 the first half of December, because looking at our

19 procedural schedule, that seems to fit in well despite

20 the holiday issue --

21 JUDGE PEARSON: Okay.

22 MS. GAFKEN: -- in terms of where things

23 fall.

24 JUDGE PEARSON: And they will be back to

25 back, correct?

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1 MS. GAFKEN: Correct.

2 JUDGE PEARSON: So we only need one space

3 in the schedule to hold those two dates?

4 MS. GAFKEN: I believe so, and I suppose

5 that would be determined a little bit in part in where

6 locations are. I mean, if we stick with the Spokane and

7 Spokane Valley, that works really well because there's

8 usually one in the evening in Spokane and one during the

9 lunch hour in Spokane Valley.

10 JUDGE PEARSON: Okay.

11 MS. GAFKEN: And just one overnight trip,

12 two days together. So I think that would most likely be

13 sufficient, but I would like to talk with Andrew --

14 Mr. Roberts, a little bit more about the locations.

15 JUDGE PEARSON: Okay. He's right here so

16 now he knows.

17 Okay. Is there anything else?

18 MR. BROOKS: Your Honor, this is Tommy

19 Brooks for the Gas Users, I do have one follow-up

20 question about service, and your question earlier to the

21 parties was whether anyone was requesting a paper copy

22 from the Commission for service. Does that also apply

23 for service by other parties? Has anyone requested

24 paper copies for other parties?

25 JUDGE PEARSON: No, the parties are still

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1 required to use paper services. This is just the way

2 that the Commission serves documents at this time.

3 We've only addressed that chunk of the procedural rule

4 so far. So in the general rate case rules, it still

5 requires paper copies from the parties.

6 MR. BROOKS: Thank you.

7 JUDGE PEARSON: Okay. Anything else?

8 Okay. Well, I will issue an order

9 reflecting the schedule and everything that we discussed

10 here today, and we are adjourned. Thank you.

11 (Hearing adjourned at 9:54 a.m.)

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3 STATE OF WASHINGTON

4 COUNTY OF THURSTON

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6 I, Tayler Russell, a Certified Shorthand Reporter

7 in and for the State of Washington, do hereby certify

8 that the foregoing transcript is true and accurate to

9 the best of my knowledge, skill and ability.

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12 Tayler Russell, CCR 3358

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