

**Docket Nos. UE-170485 and UG-170486 (Consolidated) -
Vol. I**

**Washington Utilities and Transportation Commission v.
Avista Corporation**

June 30, 2017



206.287.9066 | 800.846.6989

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

www.buellrealtime.com

email: info@buellrealtime.com



BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,) DOCKETS UE-170485 &
) UG-170486
Complainant,) (Consolidated)
))
vs.))
))
AVISTA CORPORATION, d/b/a)
AVISTA UTILITIES,)
))
Respondent.)

PREHEARING CONFERENCE, VOLUME I

Pages 1-23

ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

9:30 A.M.

June 30, 2017

Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive Southwest
Olympia, Washington 98504

REPORTED BY: TAYLER RUSSELL, CCR 3358

Buell Realtime Reporting, LLC
1325 Fourth Avenue, Suite 1840
Seattle, Washington 98101
(206) 287-9066
(360) 534-9066
(800) 846-6989
www.buellrealtime.com

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1 A P P E A R A N C E S

2
3 ADMINISTRATIVE LAW JUDGE:

4 RAYNE PEARSON
5 Washington Utilities and
6 Transportation Commission
7 1300 S. Evergreen Park Drive SW
8 Olympia, Washington 98504
9 PO Box 47250
10 (360) 664-1160

11 FOR PUBLIC COUNSEL:

12 LISA W. GAFKEN
13 ARMIKKA BRYANT
14 Assistant Attorney General
15 Public Counsel Unit
16 Office of the Attorney General
17 800 Fifth Avenue, Suite 2000
18 Seattle, Washington 98104
19 (206) 464-6595
20 lisaw4@atg.wa.gov
21 armikkab@atg.wa.gov

22 FOR COMMISSION STAFF:

23 CHRISTOPHER CASEY
24 Assistant Attorney General
25 Office of the Attorney General
1400 S. Evergreen Park Drive SW
PO Box 40128
Olympia, Washington 98504
(360) 664-1189
ccasey@utc.wa.gov

FOR AVISTA CORP.:

DAVID MEYER
Avista Corp.
1411 East Mission
Spokane, Washington 99220
PO Box 3727
(509) 495-4316
david.meyer@avistacorp.com

1 A P P E A R A N C E S (Cont.)

2
3 FOR INDUSTRIAL CUSTOMERS OF
4 NORTHWEST UTILITIES:

5 JESSE E. COWELL
6 PATRICK OSHIE (via bridge line)
7 Davison Van Cleve, PC
8 333 SW Taylor, Suite 400
9 Portland, Oregon 97204
10 (503) 241-7242
11 jec@dvclaw.com
12 pjo@dvclaw.com

13 FOR NORTHWEST INDUSTRIAL
14 GAS USERS:

15 TOMMY BROOKS (via bridge line)
16 CHAD STOKES (via bridge line)
17 Cable Huston LLP
18 1001 SW Fifth Avenue
19 Suite 2000
20 Portland, Oregon 97204
21 (503) 224-3092
22 tbrooks@cablehuston.com
23 cstokes@cablehuston.com

24 FOR THE ENERGY PROJECT:

25 SIMON FFITCH (via bridge line)
 Attorney at Law
 321 High School Road NE
 Suite D3, Box 383
 Bainbridge Island, WA 98110
 (206) 669-8197
 simon@ffitchlaw.com

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1 OLYMPIA, WASHINGTON; JUNE 30, 2017

2 9:30 A.M.

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5 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

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 ffitich 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

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

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

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

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?

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

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

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?

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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C E R T I F I C A T E

STATE OF WASHINGTON

COUNTY OF THURSTON

I, Tayler Russell, a Certified Shorthand Reporter
in and for the State of Washington, do hereby certify
that the foregoing transcript is true and accurate to
the best of my knowledge, skill and ability.



Tayler Russell

Tayler Russell, CCR 3358

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