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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
Complainant,)
vs.)
) Docket Nos. UE-110876
AVISTA CORPORATION d/b/a AVISTA) and UG-110877
UTILITIES,) (Consolidated)
Respondent.)

STATUS CONFERENCE, VOLUME VIII

Pages 269 - 307

ADMINISTRATIVE LAW JUDGE MARGUERITE FRIEDLANDER

1:33 P.M.

MAY 11, 2012

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1 JUDGE FRIEDLANDER: Good afternoon. It
2 is May 11th, 2012, and this is the time and place set
3 for a status conference in Dockets UE-110876 and
4 UG-110877 consolidated, also known as the Washington
5 Utilities and Transportation Commission, Complainant,
6 versus Avista Corporation, doing business as Avista
7 Utilities, Respondent.

8 Phase 1 of this proceeding involving the
9 actual rate increase request has been resolved. We
10 are now in Phase 2, and that involves decoupling. My
11 name is Marguerite Friedlander, and I am the presiding
12 ALJ today.

13 At this juncture, I want to go ahead and take
14 appearances of the parties. We already have contact
15 information, so we don't need that repeated, but if
16 you could say your name and spell your last name, that
17 would be very helpful.

18 Appearing today on behalf of Avista?

19 MR. MEYER: Thank you, Your Honor.
20 David Meyer, M-E-Y-E-R, and I have with me on the
21 phone Kelly Norwood and Patrick Ehrbar.

22 JUDGE FRIEDLANDER: Thank you.

23 Appearing today on behalf of Staff?

24 MR. TROTTER: For UTC Staff, my name is
25 Donald T. Trotter, Assistant Attorney General.

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1 JUDGE FRIEDLANDER: Thank you.

2 Appearing today on behalf of Public Counsel?

3 MS. GAFKEN: Lisa Gafken, Assistant
4 Attorney General.

5 I have not formally appeared in this
6 proceeding, so would you like me to do a full
7 appearance or is that sufficient?

8 JUDGE FRIEDLANDER: Why don't you just
9 go ahead and do your personal telephone number, you
10 know, your individual line, and your e-mail address.
11 We already have the basic physical address.

12 MS. GAFKEN: Okay. My telephone number
13 is (206) 464-6595, and e-mail address is
14 lisa.gafken@atg.wa.gov.

15 JUDGE FRIEDLANDER: Thank you.

16 And appearing today on behalf of the Energy
17 Project?

18 MR. ROSEMAN: Ronald Roseman,
19 R-O-S-E-M-A-N.

20 JUDGE FRIEDLANDER: Thank you.

21 Appearing today on behalf of the Northwest
22 Energy Coalition?

23 MR. TRUE: Todd True, Your Honor,
24 T-R-U-E. And with me are Amanda Goodin and Nancy
25 Hirsh.

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1 JUDGE FRIEDLANDER: Thank you.

2 Appearing today on behalf of ICNU?

3 MR. SANGER: This is Irion Sanger,
4 appearing on behalf of ICNU. My name is I-R-I-O-N,
5 last name Sanger, S-A-N-G-E-R.

6 JUDGE FRIEDLANDER: Thank you.

7 And appearing today on behalf of the Northwest
8 Industrial Gas Users?

9 MR. BROOKS: Good afternoon, this is
10 Tommy Brooks, B-R-O-O-K-S, appearing on behalf
11 of NWIGU.

12 JUDGE FRIEDLANDER: Thank you.

13 Is there anyone else who would like to put in
14 an oral appearance today?

15 I can tell that there is no one else in the
16 hearing room, and there is no one making any
17 indication on the conference bridge.

18 Okay. So we are here today to discuss where
19 the decoupling phase of this process is going. On
20 March 6th, Avista, Staff, Public Counsel, ICNU and the
21 Energy Project filed a joint motion requesting a
22 continuance of the procedural schedule and postponing
23 the filing date for rebuttal and cross-answering
24 testimony until the parties had received some kind of
25 additional guidance from the Commission in its order

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1 in the Puget Sound Energy rate case.

2 That order was entered this past Monday. In
3 it, the Commission declined to impose decoupling on
4 PSE. And in addition to that, we also have another
5 general rate case that has been filed about a month
6 ago by Avista. And that case includes testimony that
7 involves an attrition adjustment with a DSM component
8 to it.

9 Now, earlier today, I received a proposal from
10 the Coalition, NWECC, which would consolidate the
11 limited issue of decoupling in the Phase 2 of this
12 proceeding with the recently filed Avista general
13 case.

14 Mr. True, is that an accurate description?

15 MR. TRUE: Yes, your Honor. As I
16 explained in my e-mail, we think that the most
17 efficient way to carry the decoupling issue forward,
18 rather than completely start over with it as an issue
19 in the new case, is to bring the testimony from
20 the existing case forward and then provide an
21 opportunity for testimony in the 2012 case at the two
22 points of testimony that are going to be scheduled in
23 that case.

24 JUDGE FRIEDLANDER: Thank you.

25 And since the e-mail is not in record, why

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1 don't you go ahead and describe what you have
2 proposed.

3 MR. TRUE: Sure.

4 JUDGE FRIEDLANDER: Especially -- I
5 mean, you have already gone through a little bit of
6 it, but especially with regard to testimony dates.

7 MR. TRUE: I'd be happy to, Your Honor.

8 What we are proposing essentially is that the
9 currently scheduled May 21st filing in the 2011 case
10 would now occur in whatever date in September is set
11 for the 2012 case. And it would address any
12 additional issues regarding decoupling that are raised
13 in the 2012 case. We would certainly expect trial
14 testimony on that date. Any other party that wanted
15 to file testimony related to decoupling, can certainly
16 do that.

17 Then on the date for rebuttal or
18 cross-answering testimony, there would be an
19 opportunity for any of the parties to respond to
20 testimony filed on that September date.

21 And we would then forego the currently
22 scheduled June 4th hearing in this 2011 docket, and
23 that issue would go forward on whatever hearing
24 schedule is set in the 2012 case.

25 JUDGE FRIEDLANDER: And so are you

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1 proposing, then, that the Coalition --

2 MR. TRUE: If you or anyone else needs
3 further clarification or details, I can certainly try
4 to provide that, but that's the gist.

5 JUDGE FRIEDLANDER: I'm sorry, my
6 microphone wasn't on. I was going to ask you if the
7 NWECC is proposing to modify its original decoupling
8 mechanism in this 2012 general rate case.

9 MR. TRUE: I think, Your Honor, the
10 answer may be -- may have been what you mean by
11 "modify." I think the basic sort of concept that we
12 have proposed is one we will continue to pursue.
13 Parts of it may be adjusted or adapted to accommodate
14 the new information that has come in in the 2012 case.
15 So I'm not sure where the word "modification" fits
16 there. In my view, we will continue to pursue
17 essentially the kind of approach to decoupling that
18 we've been pursuing.

19 JUDGE FRIEDLANDER: Okay, thank you.
20 Why don't we go ahead and discuss this with the other
21 parties. I would like to get Staff, Public Counsel,
22 ICNU and the others' reactions.

23 Why don't we go ahead and start with Staff.

24 MR. TROTTER: Yes, your Honor. I did
25 circulate an e-mail this morning that Staff is

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1 supportive of the concept of consolidation and
2 synching it up with the hearing dates yet to be
3 determined.

4 I think our major concerns are adding more
5 issues into the 2012 general rate case, and then the
6 nature of the filings that people anticipate they will
7 be filing in addition to what they would have filed on
8 the 21st. It seems to me that the Commission's order
9 in PSE is pretty concise, and so it didn't seem to me
10 that responding to that order would be more than a
11 couple of pages.

12 Similarly, with respect to the general rate
13 case, that also we didn't believe was going to be a
14 very significant element to it. The company itself,
15 for example, has addressed their policy on decoupling
16 in the current 2012 GRC. So it didn't appear to us
17 that these filings would be very extensive, and it
18 made sense if the issue was going to be resolved, the
19 alternative would be if we let the current docket that
20 we are here to talk about today to move forward, what
21 would be most helpful out of that docket would be a
22 Commission order. But we don't know when that would
23 be, but sometime probably in the middle of the 2012
24 GRC, and that didn't make much sense to us, either.

25 So somehow synching the two up does make

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1 sense. But our major concern is the volume of the
2 filing, incremental volume of the filing, that we
3 would otherwise see. Mr. True has indicated that the
4 basic concept is the same. He may not be able to be
5 more precise than that, but that's a pretty general
6 statement. If the numbers change based on revenue per
7 customer or something like that, based on 2012 test
8 year data, and they are just going to change a number
9 here and there, I get that.

10 If, however, it's going to be a different
11 mechanism with different and new features that we
12 haven't seen before, you know, that's something else.

13 So we're cautiously supportive for those
14 reasons, but we also have some trepidation about how
15 it will actually work out.

16 JUDGE FRIEDLANDER: Thank you.

17 And let's go ahead and hear from Public
18 Counsel.

19 MS. GAFKEN: Thank you.

20 Public Counsel would initially prefer that the
21 current docket, so the 2011 docket, continue on a
22 separate course. I will note that Public Counsel did
23 oppose bifurcation when that issue initially came up.
24 And so I think our preference is to just get this one
25 finished.

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1 However, we are aware of the significant
2 support that some of the other parties have for
3 consolidating the two proceedings. And so we do
4 recognize that, but our first preference would be that
5 this proceeding continue on a separate track.

6 However, a lot of my comments are geared
7 towards if the Commission does decide to consolidate,
8 because we understand that there is quite a bit of
9 support for consolidation from some of the other
10 parties.

11 So having said that, our primary concern is
12 that consolidation may lead to administrative
13 inefficiency rather than administrative efficiency.
14 And that it will also unnecessarily expand the 2012
15 general rate case proceeding that Avista has presently
16 pending before the Commission.

17 Avista could have waited until this proceeding
18 was completed. It chose to file its rate case before
19 the bifurcated proceeding was completed. Avista could
20 have requested decoupling in its case in chief; it
21 chose not to. Rather, Avista is requesting an
22 attrition adjustment with a significant DSM component.
23 And now apparently Avista is supporting consolidating
24 the decoupling proceeding with their general rate case
25 proceeding.

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1 So really, the big question in our mind is:
2 Which proposal is Avista supporting? Are they going
3 to go with decoupling, or will they continue to
4 support their DSM attrition adjustment?

5 And I think we need to know that before
6 testimony is filed in September. That's an awfully
7 long time to wait. If the two matters -- if
8 decoupling is consolidated into the general rate case,
9 that consolidation does need to recognize that we
10 really are at the tail end of the bifurcated process.
11 There's only one more round of testimony that is
12 anticipated under that process, and then there's a
13 hearing and briefing schedule.

14 We've already had direct testimony from NWIGU
15 where they have presented their proposed decoupling
16 mechanism. We've had responsive testimony, and there
17 was also a settlement conference that was scheduled.

18 So we've had a lot of process already, and
19 really, more process on top of what was already
20 anticipated isn't really necessary.

21 The proponents of the proposed decoupling
22 mechanism shouldn't have endless opportunities to
23 craft and recraft their proposal. Enabling them to
24 craft and recraft their proposal really is the
25 equivalent of starting over. So if they produce a new

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1 proposed mechanism or a mechanism that's different
2 than what they have been proposing, that requires the
3 responding parties to expend resources that we may or
4 may not have to respond to those new proposals.

5 So it is akin to starting over and starting
6 the clock over. Although I do understand that NWIGU
7 is saying that's not their intention, but that would
8 be the effect.

9 So there's many reasons why additional process
10 for decoupling is not necessary. NWIGU's proposal is
11 not based on numbers, or at least it's not heavily
12 based on numbers, that need updating based on the 2012
13 numbers. It's primarily a theory-based proposal, and
14 the company would be in the position of filling in
15 what those numbers are.

16 NWIGU has intervened in the 2012 general rate
17 case proceeding. And so in that proceeding, they can
18 certainly argue that the company's proposals are
19 either consistent or inconsistent with their proposed
20 decoupling mechanism. But they shouldn't really be
21 allowed to change the substance of the decoupling
22 proposal. Having them change their proposal multiple
23 times, and giving them that opportunity to craft and
24 recraft and then having the responding parties respond
25 to the recrafted proposals, that's really inefficient,

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1 and that certainly doesn't promote efficiency.

2 I will note that the 2012 general rate case is
3 a very complicated docket. We had our prehearing
4 conference on Wednesday, and a lot of those issues
5 were iterated in that conference. I'm not going to
6 enumerate them here. But I will note that
7 consolidating the decoupling issue with the general
8 rate case would certainly exacerbate some of the
9 issues that we talked about on Wednesday.

10 So what is Public Counsel's recommendation?

11 We would recommend first that the decoupling
12 proceeding continue to proceed on its separate track.
13 In the alternative, if the Commission does consolidate
14 the two proceedings, that the decoupling testimony
15 continues on its separate track, perhaps extending the
16 deadline from May 21st a couple weeks, until June 4th,
17 just in recognition that the parties have been in a
18 holding pattern awaiting this status conference. And
19 the PSE order is out and so building in a couple of
20 extra weeks for that testimony would be appropriate.

21 But again, if it's consolidated, allowing
22 additional discovery as needed, but not allowing
23 further rounds of testimony on decoupling, after what
24 was already anticipated in the decoupling bifurcated
25 proceeding. And then at the end, having a combined

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1 hearing and briefing schedule where both the GRC
2 issues and decoupling issues are both addressed at the
3 hearing and in a briefing schedule.

4 If the Commission does allow for additional
5 rounds of testimony on decoupling, then the Commission
6 should absolutely reject the compressed schedule that
7 is being considered in the 2012 docket. And it should
8 also consider extending the schedule, and that would
9 include resetting the suspension date from the date of
10 consolidation rather than the date of -- the general
11 rate case was filed.

12 JUDGE FRIEDLANDER: Thank you.

13 I do have a question, but I'm going to wait
14 until I hear from the rest of the parties.

15 So let's go to Avista at this point.

16 MR. MEYER: Thank you, Your Honor. This
17 is David Meyer.

18 I thought your notice of this conference had
19 it right, that there may well be some administrative
20 efficiencies here in consolidating this. Remember
21 that if we go ahead and let the other proceeding run
22 its course, there are a couple of problems with that.
23 Number one, we may not get a determination in time
24 enough to make effective use of it in our now-pending
25 rate case, as Mr. Trotter noted. Parties may still be

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1 flying blind, so to speak, on the issue as they are
2 prefiling their own testimony. And if that decoupling
3 issue is raised by other parties, we did not propose
4 decoupling sure enough, but other parties may.

5 And really, this gets to a point that somehow
6 gets lost in all of this. That no matter what happens
7 in the existing decoupling dockets, the Coalition is
8 an intervenor in our general rate case, and they could
9 essentially start all over and file their initial
10 round of testimony in September, and propose a
11 decoupling proposal that may look like what it already
12 looked like in their existing filing or could look
13 somewhat different. So that is their option, that's
14 their election, and if we go down that path, we truly
15 will be starting all over again.

16 So it doesn't make any sense to do that. Why
17 not build on what's already been done. We've had, in
18 our existing decoupling docket, their prefile
19 testimony late last year. We've had in February,
20 rounds of testimony from all parties, and we're just a
21 week and a half away from what would have otherwise
22 been the last round of testimony. But we don't need
23 to rush into that last round of testimony.

24 Sure enough, we have the Puget order. But
25 what's different now is we also have the context of

1 Avista's rate case in which we are proposing an
2 attrition adjustment. That, as your notice pointed
3 out, also has a component that deals with the lost
4 margin issue resulting from conservation.

5 So the record will be well served by waiting
6 for the positions of the parties to evolve as they
7 continue to look at our general rate case, to better
8 understand what our attrition adjustment does or does
9 not do, and let that inform their judgment as to where
10 they want to be on the decoupling issue. That way,
11 what you will get in September, for the first round of
12 Staff and intervenor cases, is a pretty well thought
13 out proposal on decoupling for or against, in light of
14 the Puget order and in light of what they have learned
15 about Avista's attrition filing. So ultimately, the
16 record is enhanced, and I think the Commission and all
17 parties will be better served.

18 And let's not assume this involves additional
19 rounds of testimony. That's the beauty of this
20 proposal, there are no additional rounds beyond what
21 is already contemplated in the proposed general rate
22 case schedule. There's a round of Staff and
23 intervenor testimony, and there's a final round of
24 company rebuttal and cross-answering testimony. And
25 even at the earliest of the dates, the September 5th

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1 date proposed by the company for the initial round,
2 that's still some four months away, and that's plenty
3 of time for the parties to analyze what their
4 positions are as they better understand our rate case.
5 So plenty of time, then, to modify their testimony
6 that they would have filed a week and a half from now,
7 in any event, under the old schedule.

8 So this just makes sense all the way around,
9 and I think everyone wins, and most importantly, I
10 think the record wins at the end of the day.

11 So that's where we stand.

12 JUDGE FRIEDLANDER: Thank you.

13 And ICNU?

14 MR. SANGER: Yes, this is Irion Sanger.

15 And I sent an e-mail earlier, and I won't repeat
16 everything that I put in the e-mail. I also agree
17 with what Public Counsel said. I'll take this
18 opportunity to respond to what Mr. Meyer just said.

19 And I think the opposite is going to be the
20 case. It's our belief that the record in the general
21 rate case and the general rate case proceeding, which
22 is already complex enough, will just become muddied.
23 If Northwest Energy Coalition wishes to make a new
24 proposal in the decoupling -- sorry, in the general
25 rate case proceeding, then that should be judged on

1 its merits.

2 If we bring in the current case with multiple
3 rounds of testimony and parties revise their proposals
4 or Northwest Energy Coalition revises its decoupling
5 proposal, and we still have the original information
6 in the record, then the record is going to be
7 confused; it will become muddy. It's not a clear
8 record; it's a worse record. Either the Northwest
9 Energy Coalition continues to support its original
10 proposal, and if that's the case, and we have that
11 before us, the Commission's order did not change
12 anything in terms of fact, it clarified the
13 Commission's policy. The Commission's order did not
14 say, well, we like decoupling, and here's what we want
15 to do, and here's the four things we want to change in
16 Northwest Energy Coalition's proposal. It wasn't a
17 complex order, it was a very precise, clear order that
18 articulated its policy. There doesn't need to be that
19 many changes to a proposal. And we have Northwest
20 Energy Coalition's proposal before us. We should
21 address it on its merits, and resolve that discrete
22 issue.

23 If Northwest Energy Coalition no longer
24 supports the specific proposal that they have made in
25 the decoupling proceeding, then they should withdraw

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1 that, and they can file whatever they want to file
2 that is consistent with the schedule in another
3 proceeding.

4 So I think that we should not muddy up the
5 records in these proceedings. We should make it clear
6 in terms of what Northwest Energy Coalition is
7 supporting or not supporting. And if they continue to
8 support fundamentally their original decoupling
9 proposal, then we should address it on the merits in
10 the decoupling proceedings.

11 JUDGE FRIEDLANDER: Thank you.

12 And the Northwest Industrial Gas Users?

13 MR. BROOKS: This is Tommy Brooks. As I
14 indicated in the e-mail I circulated earlier today, we
15 don't have a position on whether it should or should
16 not be consolidated. We do have concerns about the
17 record in the general rate case being hampered or
18 being made more complex than it already is. Your
19 Honor, you have heard a lot of statements this week
20 about the complex issues that are in that general rate
21 case. But since we don't have to address the
22 decoupling issue on the case that we are here for
23 today, that per se doesn't add extra work for us, but
24 it makes it a more difficult record to deal with in
25 the general rate case. But we'll take a position on

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1 consolidation.

2 JUDGE FRIEDLANDER: Okay, thank you.

3 And Mr. Roseman?

4 MR. ROSEMAN: Thank you, Your Honor.

5 We had some concerns about this consolidation,
6 and I guess our concerns are that, while we pretty
7 much, due to resource constraints, backed away from
8 participating in this decoupling proceeding, and that
9 has moved forward. Now all of a sudden, there's a
10 move to bring it into the general rate case. Does
11 that mean that we are thereby included or if we have
12 the resources as part of our -- of the general rate
13 case, to submit our point of view on this now
14 consolidated docket, which we did not anticipate that
15 it was part of the general rate case. So by joining
16 them, we might be prejudiced from participating on
17 that issue. And it might change, as people have
18 spoken about that. So I think that is -- primarily is
19 our concern.

20 JUDGE FRIEDLANDER: Mr. Roseman, I am a
21 little bit confused. Are you saying that -- how are
22 you saying that you would be prejudiced? I guess I
23 don't understand.

24 MR. ROSEMAN: Okay. We did not
25 participate in this -- this phase of the decoupling.

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1 We did not submit testimony for that. Now -- so
2 therefore, we thought this was to be resolved in this
3 phase. Now it looks -- there is a move afoot to
4 consolidate, to bring this issue into the general rate
5 case. We chose -- we had to choose not to submit
6 testimony due -- in the decoupling phase. But now
7 that it's become a part of the general rate case, with
8 budget monies moving around because it's later in the
9 time frame, we might -- we would like to have the
10 option of retaining a witness and submitting testimony
11 if, in fact, it is consolidated and becomes part and
12 parcel of the 2012 rate case.

13 JUDGE FRIEDLANDER: I see. And you are
14 still a party to the case regardless of what phase we
15 are in. So I don't believe -- I don't believe
16 there's any prohibition --

17 MR. ROSEMAN: That would be correct, but
18 we had to choose not to participate in this phase.
19 Now it's consolidated as part of the general rate
20 case. That wasn't our anticipation. We thought this
21 phase was to be resolved. So I guess what my question
22 is, is since we did not file testimony in Phase 1, are
23 we precluded from filing testimony regarding the
24 Northwest Energy Coalition's -- or if this is
25 decoupling -- if this is another decoupling proposal

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1 here -- but of the Northwest Energy Coalition's
2 decoupling proposal, since we didn't do that in
3 Phase 1.

4 All the other parties have submitted -- I
5 don't think the Gas Users have, but the other parties
6 besides them and myself have submitted testimony on
7 this issue. I guess I'm just -- now, if it's to be
8 consolidated it will move forward and I presume that
9 testimony has been moved forward, are we -- because we
10 didn't choose to do this in Phase 1, are we precluded
11 from submitting comments on the decoupling aspects
12 from the Northwest Energy Coalition --

13 JUDGE FRIEDLANDER: Right. And my
14 understanding of Mr. True's proposal is that we
15 wouldn't be starting over, so you wouldn't get that
16 initial round. But there still is a round of
17 cross-answering testimony that's outstanding, that
18 anyone who is a party to the case, according to
19 Mr. True's proposal, would be able to file
20 cross-answering testimony addressing the Coalition's
21 proposal.

22 MR. ROSEMAN: Okay.

23 JUDGE FRIEDLANDER: Mr. True, is that an
24 accurate summation of your proposal?

25 MR. TRUE: Yes, Your Honor. We

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1 certainly have no intention of trying to limit
2 anybody's ability to address a proposal we make.

3 JUDGE FRIEDLANDER: Okay.

4 MR. TRUE: So to the extent that
5 Mr. Roseman wants to say something about decoupling on
6 September whatever, he's welcome to do that, to the
7 extent that after we file testimony, then he has more
8 to say, he's welcome to do that as well.

9 JUDGE FRIEDLANDER: Okay. Thank you.

10 Hearing the arguments from the various
11 parties, I would like the Coalition now to address
12 some of the concerns raised, especially by Public
13 Counsel and by ICNU with regards to the complexity of
14 the matter, as well as the opportunity to revise the
15 initial proposal, if you would.

16 MR. TRUE: Certainly, Your Honor.

17 I guess I would first say that I think
18 Mr. Meyer from Avista summarized the arguments about
19 why proceeding with consolidation makes sense in this
20 situation. Our goal is to come up with a decoupling
21 proposal that works. And it seems to me, that in
22 light of the PSE case, we have an opportunity here in
23 this new general rate case to take another run at
24 that.

25 Now, we have that opportunity, as Mr. Meyer

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1 points out, regardless of whether there is
2 consolidation or there isn't. So I suppose the basic
3 question is: Does consolidating these cases in some
4 way cause confusion? And I'm not sure how that could
5 be the case, either, since it seems to me that we
6 would be perfectly free in the 2012 rate case to file
7 the testimony that we have already filed as an
8 attachment to updated and new testimony.

9 I just don't see how this either -- the
10 consolidation either muddies or clarifies the water
11 here. It simply carries forward what has already
12 occurred and provides everyone an opportunity to
13 respond to the decoupling issue. In the current
14 situation, forcing the 2011 case forward, which the
15 Commission certainly can do, and if they do, we will
16 deal with that, it seems to sort of have everyone
17 drive down a dead-end road rather than take the fork
18 where the road goes forward somewhere. I don't see
19 any of that in terms of efficiency at all.

20 So it does seem to me that there may be
21 parties who wish the decoupling issue would go away,
22 but opposing consolidation is not going to accomplish
23 that.

24 JUDGE FRIEDLANDER: Thank you.

25 I have a question for Ms. Gafken and for

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1 Mr. Sanger. It would seem to me that the objections
2 you both have raised with regard to consolidating the
3 dockets might not be very pragmatic for the
4 Commission. And the reason why I say that is because
5 the Commission has two decisions to make, but they are
6 very related.

7 For example, this decoupling docket, as
8 pointed out by Mr. Trotter and Mr. Meyer, has been
9 going on for a while now, and theoretically, the
10 Commission could decide to impose a decoupling
11 mechanism on Avista. That would be done sometime
12 prior to even Staff and the intervenors submitting
13 testimony regarding the general rate case in this
14 year.

15 Now the Commission also has to decide, after
16 it has already decided to impose decoupling without
17 having heard from the parties to the 2012 case,
18 whether attrition is even a viable option. So we
19 would be making a blind determination without all of
20 the evidence before us, without the option of having
21 more than one option.

22 So I guess what I would like to know is, how
23 does either of your objections address this concern of
24 the Commission?

25 MS. GAFKEN: This is Lisa Gafken. So

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1 you're right, the Commission has two decisions to
2 make, and they could be related. You could end up
3 with potentially -- although I think the risk of this
4 may not be as great -- but you could have two
5 decisions that are inconsistent with each other.

6 So for example, if the Commission did oppose
7 the decoupling mechanism on Avista, and then approved
8 the DSM attrition adjustment, those two orders
9 would -- I would argue would be inconsistent with one
10 another.

11 I don't think that there's a high likelihood
12 of that happening. Because as you point out, the
13 decoupling order, if it stays on a separate track,
14 would come out before the 2012 rate case is decided.
15 And so parties would point back to the decoupling
16 order and say, you can't have DSM attrition.

17 And so I think the Commission would have that
18 in mind when they are looking at the attrition
19 adjustment. So that piece, I don't see as being a
20 very large concern.

21 JUDGE FRIEDLANDER: And I don't want to
22 interrupt your flow, but my perhaps larger point is
23 that decision we would be making in the decoupling
24 case would be without benefit of having had testimony
25 on how Staff and Public Counsel feel about the

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1 attrition adjustment. So we would be deciding
2 Option A before we've even had a chance to litigate
3 Option B.

4 MS. GAFKEN: And that's a problem that
5 is fairly unnecessary. As I mentioned in my earlier
6 statements, Avista did choose its timing of filing.
7 However, having said that, we are in the situation and
8 we now have these proposals in front of the
9 Commission.

10 Point of the matter is the decoupling docket
11 is first in line. Could there be other alternatives
12 to both decoupling and the DSM attrition adjustment?
13 There probably are other alternatives, but those
14 aren't necessarily in front of us now. So I think the
15 simple answer is the decoupling docket was first in
16 line, it should be decided. Or in the alternative, if
17 it is folded into the general rate case proceeding,
18 the proponents of the decoupling mechanism shouldn't
19 be allowed to have a million different bites of the
20 apple, and a million different chances to change their
21 proposal requiring the parties, then, to respond to
22 all of those changes. It becomes a moving target at
23 that point.

24 JUDGE FRIEDLANDER: Thank you.

25 And Mr. Sanger?

1 MR. SANGER: Thank you, Your Honor.

2 I think that's always going to be the issue in
3 that you might have different proposals that are out
4 there that could impact your decision. I mean, we've
5 had this situation for years now with both Avista and
6 Puget Sound Energy proposing partial decoupling
7 proposals, and the Commission has been forced to
8 address those.

9 In the last Puget case, the Commission was
10 presented with a partial decoupling proposal, a full
11 decoupling proposal, an attrition adjustment, an
12 expedited rate case proposal, and there's probably
13 other proposals that had not yet been presented to the
14 Commission. I mean, there's no end to the
15 possibilities. And in the Puget case, the Commission
16 decided not to adopt attrition or the partial
17 decoupling or the full decoupling, and I think that
18 you can't -- you can't make a decision -- you can't be
19 afraid to make a decision because there are
20 possibilities that are out there. And we think that
21 the decoupling issue is clearly presented to the
22 Commission, and at least on this record here, a
23 decision should be made.

24 Again, I'm not saying that a party can't make
25 a different filing or a different proceeding, but on

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1 the record in this proceeding, it's been fully
2 presented to the Commission -- it's going to be fully
3 presented to the Commission, and we believe it will be
4 the clearest -- we would have the clearest record if
5 either a decision was made on this record or the
6 Northwest Energy Coalition went through the proposal
7 and reconsidered and made an appropriate filing
8 somewhere else.

9 JUDGE FRIEDLANDER: But if the Coalition
10 withdrew and refiled, they could refile anything;
11 isn't that correct? We could be starting from scratch
12 anyway.

13 MR. SANGER: If we are starting from
14 scratch, I think it's a clearer record to start from
15 scratch rather than start from four different rough
16 drafts that are redlined that nobody really knows
17 what's going on.

18 JUDGE FRIEDLANDER: Thank you.

19 And, Mr. True, could you maybe respond to some
20 of the arguments that Mr. Sanger and Ms. Gafken have
21 made?

22 MR. TRUE: Sure.

23 First, as far as I know, we didn't file
24 testimony that was redlined. The testimony was
25 viable, it was clear, and if we go forward, as you

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1 have pointed out, if the Commission issues a
2 decoupling decision in this docket, I would submit the
3 first thing that's going to happen is the parties who
4 are concerned about consolidation are going to be back
5 before you, and the 2012 rate case docket now needs to
6 be extended by some significant amount of time to take
7 into account the decoupling decision. By
8 consolidation, you eliminate that risk with all of
9 those going on one schedule together.

10 I mean, I think the concern about a docket
11 that's too complicated for people to understand or
12 wrap their minds around really surprises me. I have
13 been very impressed with the sophistication of the
14 parties in these proceedings, understanding the
15 issues, complicated as they are, around decoupling and
16 attrition adjustments and all that. Certainly they
17 understand them better than I do.

18 I don't think we have a situation that is
19 unmanageable. I do think we have a situation through
20 consolidation that allows the most efficient path
21 forward with the greatest opportunity for getting
22 these issues resolved on their merits, which is where
23 we want to go.

24 JUDGE FRIEDLANDER: Okay. Thank you.

25 Mr. True, walk me through the testimony that

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1 would be filed. If these two cases were consolidated,
2 when would the May 21st testimony in the decoupling
3 phase be filed in the 2012 docket?

4 MR. TRUE: Well, Your Honor, I think
5 it -- let's call it the "May 21st testimony" in
6 quotes. We would anticipate filing testimony on the
7 September date that addressed the new 2012 rate case,
8 and the testimony that was filed by all the other
9 parties in this docket in February. You've got one
10 single consolidated package there that addressed the
11 existing testimony that hasn't been responded to in
12 this docket, plus any changes or any adjustments that
13 are a consequence of the 2012 proposals from Avista.
14 And then of course, parties would have an opportunity
15 to respond to that on the October date set in the 2012
16 case.

17 JUDGE FRIEDLANDER: Right. So what I
18 have currently scheduled in this case is on May 21st,
19 the Coalition, Avista, Staff, Public Counsel, pretty
20 much everybody is going to have the opportunity to
21 file testimony. And then, if this case were
22 consolidated with the 2012 case, that means everybody
23 would be filing on the September date, which would
24 have been just the response testimony; is that
25 correct?

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1 MR. TRUE: I'm not sure that's quite
2 right.

3 JUDGE FRIEDLANDER: Okay.

4 MR. TRUE: I mean, while in theory we're
5 happy to have testimony from anyone filed on May 21st,
6 the last testimony that was filed in this docket was
7 from four other parties responding to our testimony.
8 We were -- on May 21st, would be filing testimony that
9 responds to that February filing. I assume that
10 somebody -- even though they had already just filed
11 testimony, nobody had said anything about it. If they
12 wanted to file additional testimony, maybe they could.
13 We haven't really thought about the idea that there
14 might be anyone besides us filing testimony on
15 May 21st.

16 JUDGE FRIEDLANDER: Well, that's the way
17 the order reads and no one challenged it, so --

18 MR. TRUE: And I'm not -- I'm saying, if
19 that's what was about to happen, then so be it. We're
20 not interested in trying to keep evidence out from in
21 front of the Commission.

22 JUDGE FRIEDLANDER: Okay. But you're
23 saying --

24 MR. TRUE: But as a practical matter, I
25 would think that we would have been the only parties

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1 filing on May 21st.

2 MR. MEYER: This is Avista. We were
3 planning on filing then, and I suspect others were,
4 too. Mr. True, and, Your Honor, Avista understood
5 with what's being proposed here today that the
6 testimony that's scheduled, and that's the Coalition
7 rebuttal testimony, as well as Avista, Staff, Public
8 Counsel, ICNU and Energy Project cross-answering
9 testimony and exhibits, that had been due on May 21st,
10 that type of testimony would be part of the direct
11 submission of their case in our general rate case in
12 September, when it's filed.

13 So what would have been filed on May 21st by
14 any and all parties, now would be filed as part of
15 their direct case in September, whatever the date is
16 in our general rate case schedule.

17 JUDGE FRIEDLANDER: Right, that was my
18 understanding of Mr. True's proposal as well.

19 Mr. True, is that what you are proposing, have
20 we got it right?

21 MR. TRUE: That was my understanding in
22 my proposal, too.

23 JUDGE FRIEDLANDER: Good to know.
24 Thank you.

25 Okay. Did anyone else have anything they

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1 wished to add? Ms. Gafken?

2 MS. GAFKEN: Going back to the point
3 about who is filing when and what people are filing
4 when, you are exactly right. All the parties have the
5 chance to file cross-answering on that May 21st date,
6 and that's what would be anticipated under the
7 proposed schedule where everything is consolidated and
8 that gets moved to September.

9 That does pose a little bit of awkwardness
10 just in the way that these cases generally proceed.
11 Because on that September filing date, Avista would
12 not be filing testimony under normal circumstances.
13 That's the date that the other parties are filing
14 their rebuttal to Avista's case in chief.

15 So if the Commission allows all of this
16 testimony on decoupling to come in in the September
17 time period, Avista is going to be filing testimony.

18 So the question becomes, what exactly is
19 Avista going to be filing on that date? Are they
20 going to be filing additional case in chief-type stuff
21 that would be supportive of their DSM attrition
22 adjustment? Sure, there's cross-answering later, but
23 that's really -- that's material that shouldn't be
24 filed on that September date when the other parties
25 are responding.

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1 So that's one of the problems with
2 consolidating and having the decoupling testimony then
3 be laid on top of the general rate case testimony, and
4 why Public Counsel, at least, is recommending that if
5 the cases are consolidated, to separate the decoupling
6 testimony from the general rate case testimony.

7 JUDGE FRIEDLANDER: Thank you. And I
8 would really expect Avista to limit their remarks to
9 the Coalition's proposal and not to restate their case
10 in chief or go off of that, keeping in mind that the
11 two matters are related. But if these matters were
12 consolidated, then I would expect the testimony that
13 they provide the Commission with would be fairly
14 restrictive.

15 MR. MEYER: Yes, that's what we've had
16 in mind for that September testimony.

17 JUDGE FRIEDLANDER: Thank you.
18 Was there anything else the parties wished to
19 add to this discussion?

20 Okay. Hearing nothing, I am inclined to
21 consolidate these matters. Of course, you all know
22 that the commissioners sit on general rate cases.
23 They would have been sitting also in this Phase 2
24 evidentiary hearing. I will be discussing the matter
25 with them, and I will be getting out an order, I would

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1 anticipate on Monday, so that you will have plenty of
2 time, if they are not consolidated, to continue with
3 the May 21st testimony deadline. But I will be
4 getting out an order. It may be at the end of the day
5 on Monday, but it will be on Monday.

6 So if there's nothing further, then we're
7 adjourned. Thank you.

8 (Status conference adjourned 2:23 p.m.)

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I, Sherrilyn Smith, a Certified
Shorthand Reporter and Notary Public 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.

IN WITNESS WHEREOF, I have hereunto
set my hand and seal this 18th day of May, 2012.

SHERRILYN SMITH

MY COMMISSION EXPIRES:
JUNE 2012