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BEFORE THE WASHINGTON STATE

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UTILITIES AND TRANSPORTATION COMMISSION

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WASHINGTON UTILITIES AND) Docket UE-120436 and
TRANSPORTATION COMMISSION,) UG-120437, and UE-110876 and

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) UG-110877(Second Phase)

6

v.) (Consolidated)

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) Pages 34-62

8

Complainant,)

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AVISTA CORPORATION d/b/a)

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AVISTA UTILITIES,)

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)

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Respondent.)

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PREHEARING CONFERENCE, VOLUME IV

15

Pages 98-126

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ADMINISTRATIVE LAW JUDGE MARGUERITE E. FRIEDLANDER

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9:35 A.M.

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October 16, 2012

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Washington Utilities and Transportation Commission

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OLYMPIA, WASHINGTON, OCTOBER 16, 2012

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9:35 A.M.

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P R O C E E D I N G S

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JUDGE FRIEDLANDER: Good morning, everybody. It is
7 October 16, 2012, and this is the time and place set for a
8 prehearing conference in the Avista general rate case and
9 decoupling matters, Dockets UE-120436, UG-120437, and Phase 2 of
10 Dockets UE-110876 and UG-110877, consolidated.

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Yesterday I received an informal notification from
Staff that it had reached a settlement in principle with
multiple parties, including the Company. Thereafter, the
Commission suspended the deadline for filing rebuttal testimony
and cross-answering testimony that was previously set for this
Friday and convened this morning's prehearing conference to
discuss consideration of the proposed settlement agreement.

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Mr. Trotter, on behalf of Staff, Avista, ICNU, the
Northwest Industrial Gas Users, and The Energy Project have
proposed a procedural schedule which I received yesterday, and I
understand that there are at least a couple of parties who may
not have been aware of that at the time.

23

24

So before we get into discussion of a proposed
procedural schedule, let's go ahead and take appearances.

25

We'll begin with Avista.

0102

1 Mr. Meyer?

2 MR. MEYER: Thank you, Your Honor. David Meyer with
3 Avista.

4 JUDGE FRIEDLANDER: Thank you. And appearing today
5 on behalf of Staff?

6 MR. TROTTER: For UTC Staff, Donald T. Trotter and
7 Michael Fassio.

8 JUDGE FRIEDLANDER: Thank you. And appearing today
9 on behalf of Public Counsel?

10 MR. FFITCH: Your Honor, Simon ffitch, on behalf of
11 Public Counsel.

12 JUDGE FRIEDLANDER: Thank you. And appearing today
13 on behalf of the Industrial Customers of Northwest Utilities?

14 MS. DAVISON: This is Melinda Davison and Joshua
15 Weber.

16 JUDGE FRIEDLANDER: Thank you. Appearing today on
17 behalf of the Northwest Industrial Gas Users?

18 MR. STOKES: Good morning, Your Honor. Chad Stokes
19 here.

20 JUDGE FRIEDLANDER: Thank you. Appearing today on
21 behalf of The Energy Project?

22 MR. ROSEMAN: Ron Roseman.

23 JUDGE FRIEDLANDER: Thank you. And last, but not
24 least, the Northwest Energy Coalition?

25 MR. TRUE: Thank you. (Phone beeps.)

0103

1 JUDGE FRIEDLANDER: Could you -- yeah, go ahead,
2 Mr. True.

3 MR. TRUE: Yes. Your Honor, this is Todd True and
4 Amanda Goodin for the Northwest Energy Coalition.

5 JUDGE FRIEDLANDER: Okay. Thank you. And is there
6 anyone else who would like to put in an appearance at this time?

7 MR. FFITCH: Your Honor, this is Simon ffitch again.
8 I neglected to report that I believe Ms. Lisa Gafken is also on
9 the call for Public Counsel.

10 JUDGE FRIEDLANDER: Ms. Gafken?

11 MS. GAFKEN: Yes, I'm here.

12 JUDGE FRIEDLANDER: Okay. Thank you. All right. So
13 let me just summarize the proposed schedule as I have it.
14 Instead of filing rebuttal and cross-answering testimony this
15 Friday, the settling parties have proposed filing the full
16 settlement, the full multiparty settlement, and supporting
17 testimony this Friday, October 19th; testimony in opposition to
18 the settlement would be due on November 9th; rebuttal testimony
19 on behalf of the settling parties would be due on November 19th;
20 and there is a proposed hearing that would take place two days,
21 November 27th and 28th, as necessary; is that about right?

22 MR. TROTTER: Yes, Your Honor.

23 JUDGE FRIEDLANDER: Okay. So my understanding is
24 that Public Counsel and possibly the Northwest Energy Coalition
25 did not necessarily see the proposed schedule prior to

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1 yesterday; is that correct?

2 MR. FFITCH: That is correct, Your Honor, for Public
3 Counsel. We received a copy of that by e-mail when it was sent
4 to the -- on to Your Honor.

5 MR. TRUE: That would also be correct for the Energy
6 Coalition, Your Honor.

7 JUDGE FRIEDLANDER: Okay. But everyone else has seen
8 it and is in agreeance with the schedule?

9 MR. MEYER: That is correct, Your Honor, for Avista.

10 JUDGE FRIEDLANDER: Okay. So, Mr. ffitch, you've had
11 a chance now to review the schedule.

12 Could I get your thoughts on it?

13 MR. FFITCH: Yeah, thank you, Your Honor. We have
14 had a chance to look at it and think about it, and I have
15 some -- some comments.

16 First of all, I think that it is important to
17 remember that the settlement has not yet been filed. I don't
18 know if it's been reduced to writing or not at this point. It's
19 reported to be in agreement in principle. And the testimony, of
20 course, has not been filed, so just having said that, from
21 Public Counsel's perspective, the proposed schedule appears
22 generally workable.

23 However, because of the fact that the Commission has
24 not yet seen the settlement or the testimony and -- nor have we
25 or the Energy Coalition, we would recommend that the Commission

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1 retain discretion to modify the schedule, if needed, once it has
2 seen that, and we would -- by the same token Public Counsel
3 would reserve the right to request any schedule modification
4 that -- you know, that would be appropriate once we've actually
5 seen the settlement.

6 However, at this time, as I indicated, we think it is
7 a workable schedule, with a couple of specific comments that I
8 could make at this time, if you would like to hear those.

9 JUDGE FRIEDLANDER: Yes. Please go ahead.

10 MR. FFITCH: First of all, we would request that
11 discovery, the discovery rule, continue in force. As you know,
12 Your Honor, right now the discovery cutoff is November 9th, so
13 under this schedule, we would have rebuttal testimony coming in
14 on the 19th. And, obviously, we have a new -- the settlement
15 itself and the settlement testimony is also new material, so we
16 would ask that the discovery rule remain in effect until
17 November 27th, right before the hearing.

18 And related to that, we would ask that the response
19 time beginning today would be five business days until the 19th,
20 when the rebuttal testimony comes in, at which time, because
21 it's so close to hearing, we'd ask that the discovery turnaround
22 be three business days. We also have, obviously, the
23 Thanksgiving holiday in there. So that's the discovery piece.

24 Also because of the tight time lines for the November
25 19th rebuttal testimony of proponents, we would ask that that be

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1 due at noon on that day. It would facilitate our ability to get
2 out any final discovery, you know, that we felt was appropriate
3 and also just prepare for hearing on the short time line that's
4 allowed.

5 For the hearing dates themselves, we did have -- as
6 Your Honor knows, we have, I believe, the 27th through the 30th
7 set aside, and this proposal picks the first two days.

8 Because of the short time line, you know, after the
9 rebuttal testimony comes in and the Thanksgiving holiday, we'd
10 recommend starting either on the 28th or the 29th. I guess if
11 you want a specific recommendation, we would recommend the 29th
12 and the 30th to give everybody a little bit more time to
13 prepare. So that's a modification as to the hearing dates.

14 Currently, moving on to cross-examination exhibits,
15 currently those are due on the 19th, so with the new
16 developments, we would ask that that be moved to the following
17 week to November 27th, the Tuesday, which would fit with
18 slipping the hearing till the later part of the week.

19 And then, finally, the settling parties have
20 mentioned oral arguments or briefs to be determined. We do
21 think that briefs are going to be important in this case, and we
22 would recommend that a date be set for filing of simultaneous
23 briefs after the hearing. We would recommend December 11th for
24 that date.

25 We understand that one way to approach that is if the

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1 Commission could reserve that decision until the time of the
2 hearing to see if it feels that it needs briefs, but we could
3 have that on the calendar as a protective date for that purpose.

4 So in terms of the schedule, Your Honor, those are
5 our comments and recommendations.

6 JUDGE FRIEDLANDER: Thank you. I just have a couple
7 of comments, and then I'll open it up for discussion of the
8 parties, and then also get the Coalition's take on this.

9 I am wondering about the first suggestion that I
10 heard, which was the Commission reserving the right to modify
11 the schedule.

12 With the January 1st date being so critical to the
13 settlement agreement, how do you propose that we would be --
14 that the Commission would be able to do that and still possibly
15 keep within that framework?

16 MR. FFITCH: Your Honor, is that directed to me?

17 JUDGE FRIEDLANDER: It is.

18 MR. FFITCH: You know, I don't think that any of us
19 can answer that until we see the filing. But, Your Honor, I
20 think the Commission, you know, would just have to sort of keep
21 that in mind as it considered the nature of the settlement. And
22 we're not suggesting that the Commission would necessarily have
23 to modify the effective date in order to modify the schedule.
24 That is -- certainly the Commission has the, you know, ability
25 to do that, but we're not suggesting that would necessarily

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1 occur. It's just that they may want to -- they may have some
2 other ideas about how best to approach this once they have
3 actually seen the settlement.

4 JUDGE FRIEDLANDER: Okay.

5 MR. FFITCH: So you are correct to note that the
6 early effective date is a major change in the case. And given
7 that the suspension date is in March, it certainly constrains
8 the consideration of the issues in this case.

9 JUDGE FRIEDLANDER: All right. Okay. Well, thank
10 you. I appreciate that response.

11 Let me open it up to the other parties as well to get
12 their take, especially the settling parties, and then we'll also
13 go to the Coalition to see if there are other suggestions with
14 regard to this proposed procedural schedule.

15 So if Avista or Staff want to take the lead as far as
16 those proposed modifications?

17 MR. MEYER: Donald, unless you have a problem, I'll
18 go first. This is David Meyer with Avista.

19 I think the modifications or the clarifications that
20 Public Counsel suggested are all acceptable and appropriate, and
21 that includes moving the hearing date, if need be, to the 29th
22 and 30th. We would not object to that. That includes
23 continuation of the discovery rules, as well as the shortened
24 response times, so I don't have any quarrel with any of those
25 modifications.

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1 Just a brief comment on oral argument or briefs. My
2 view is we should leave that undecided now to determine (a)
3 whether the Commission would like either of those, and (b) when
4 those should be filed. And I think that should wait until the
5 conclusion of the evidentiary hearing just to see how extensive
6 the issues are that remain. And that may dictate the timing or
7 the need for such briefing or oral argument.

8 JUDGE FRIEDLANDER: Okay. Thank you.

9 MR. TROTTER: Your Honor, this is Don Trotter. I
10 think Staff can agree to that. I think the -- whether the case
11 merits briefing or not can be determined at a later date.

12 I would like to say it is literally true that Public
13 Counsel has not seen the settlement because it's not been filed;
14 however -- and I don't want to get into the settlement process,
15 but there were proposals that all parties were circulated during
16 the process, and I did brief Mr. ffitich this week on -- on the
17 matter, so -- and I believe that's why he's comfortable with
18 this schedule, because he is generally familiar with it.

19 So I am sensitive to the literal truth of the
20 statement, but at the same time, there has been familiarity with
21 the situation. But Staff can live with the items that
22 Mr. ffitich has identified.

23 JUDGE FRIEDLANDER: Okay. Thank you.

24 And does any other party wish to comment on
25 Mr. ffitich's proposed modifications to the proposed procedural

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1 schedule?

2 MS. DAVISON: Yes, Your Honor. This is Melinda
3 Davison. A couple of things I would like to point out.

4 In terms of moving the hearing from the 27th and 28th
5 to the 29th and 30th, that creates a personal conflict for me.
6 Certainly, I can have someone else from my office attend, but
7 I've had that conflict all along with those dates, obviously,
8 but ICNU's strong preference is to have it earlier rather than
9 later. You know, we don't oppose. We came in and supported the
10 joint settling parties with this schedule, but I did want to
11 point out to you that -- the obvious, which is that this does
12 create a crunch with the time. And particularly given the
13 holidays involved -- you know, two -- two holidays come into
14 this time schedule.

15 So from ICNU's perspective, if this hearing gets
16 moved up even a little earlier, it probably -- it's better for
17 us, as well as I would think it would be better for the
18 Commission, to give them more time to consider this. And I
19 think that's particularly true with regard to Mr. ffitch's
20 suggestion that we have December 11th as the date that -- given
21 the holidays, I would assume that that would be way too tight of
22 a schedule.

23 Otherwise, we're fine with discovery and the other
24 suggestions Mr. ffitch made.

25 JUDGE FRIEDLANDER: Thank you. Mr. Roseman?

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1 Mr. Stokes?

2 MR. ROSEMAN: The Energy Project finds Mr. ffitch's
3 suggestion satisfactory.

4 JUDGE FRIEDLANDER: Thank you.

5 MR. STOKES: I'm also fine with that schedule. This
6 is Chad Stokes.

7 JUDGE FRIEDLANDER: Great. Okay. Thank you. I
8 appreciate that. Now, let's go to the Coalition.

9 Mr. True, did you have a chance, I assume, then, to
10 review the proposed procedural schedule, and did you have any
11 concerns or modifications?

12 MR. TRUE: No, Your Honor. We did review the
13 schedule and we don't have any concerns with either the proposed
14 schedule or the modifications.

15 JUDGE FRIEDLANDER: Okay. Thank you.

16 I have -- I guess there would be two concerns, first,
17 with regard to the filing of cross-exam exhibits.

18 As it stands right now, the parties would be filing
19 them approximately three days -- three business days prior to
20 start of the hearing. If we were to take Mr. ffitch's proposed
21 modification, you would be filing it one day before the start of
22 the hearing. That really does not give the Commission enough
23 time to mark the exhibits, to circulate a new exhibit list to
24 the parties to make sure that we have characterized their
25 exhibits correctly. And so I would say that that -- you know,

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1 one day is not enough. I might be willing to go with the 26th.
2 But as I said, the -- having one day to mark exhibits just isn't
3 enough, especially when we don't know whether we're going to be
4 getting voluminous cross-examination exhibits and be working all
5 night to try to get them all marked.

6 The other concern that I have is with the briefing
7 schedule, and this relates really to the larger proposed
8 procedural schedule, which is: Is the Commission going to have
9 enough time to write an order given any kind of briefing
10 schedule or transcript, you know, or whether we're going to get
11 expedited transcripts or not.

12 As it stands right now, the post-hearing briefs would
13 be filed January 4th, and we would have approximately eight
14 weeks to write an order.

15 If we allow for post-hearing briefs in this case,
16 we're going to have approximately two weeks with a holiday in
17 between, not to mention neighboring schedules and things like
18 that. So that is my other concern, but that may be alleviated,
19 depending on how many issues are left over.

20 So while I don't want to talk about the substance of
21 the settlement agreement, it would be helpful for me to know
22 whether or not there are still a lot of issues in contest or
23 whether we're talking one or two minor issues.

24 MR. TROTTER: Well, Your Honor, this is Don Trotter.

25 The settlement purports to resolve all issues in the

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1 case other than decoupling. Now, I don't mean to suggest that
2 opposing parties might raise a bunch of issues, but the
3 settlement will resolve those.

4 And we did have some ideas about -- some ideas about
5 addressing the decoupling issue on a procedural level, but I
6 don't think there's going to be -- other than decoupling, I
7 don't think there's any substantive account-type issues that
8 will be left hanging.

9 So on the decoupling issue, it might be -- and I have
10 not spoken to Mr. True or other parties about this, but it might
11 be possible if they are willing to handle that issue on a paper
12 record on a different schedule. We weren't proposing to resolve
13 that on this schedule, but there might be some. Since that case
14 is now fully submitted, there might be some creative ways to
15 address that, again, not on this schedule necessarily, but to
16 provide a process for resolution of that issue.

17 JUDGE FRIEDLANDER: Okay. So just so that I have
18 everything clear and we're on the same page, the proposed
19 procedural schedule that I have before me is just for
20 consideration of the settlement?

21 MR. TROTTER: Correct.

22 JUDGE FRIEDLANDER: It is not for consideration of
23 decoupling.

24 What about attrition?

25 MR. TROTTER: The attrition issue will be resolved in

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1 the settlement.

2 JUDGE FRIEDLANDER: Okay. So that could still
3 potentially be an issue for litigation?

4 MR. TROTTER: The decoupling?

5 JUDGE FRIEDLANDER: No, the attrition.

6 MR. TROTTER: No. It will be resolved -- well, it
7 would be presented for resolution.

8 JUDGE FRIEDLANDER: Right, right. The nonsettling
9 parties may still raise that --

10 MR. TROTTER: Yes.

11 JUDGE FRIEDLANDER: -- and it is a fairly good-sized
12 issue.

13 MR. TROTTER: Well, as well as they could raise --

14 JUDGE FRIEDLANDER: Anything.

15 MR. TROTTER: -- any accounting issue for that
16 matter.

17 JUDGE FRIEDLANDER: Okay. Certainly. Okay. So --
18 okay.

19 MR. FFITCH: Your Honor?

20 JUDGE FRIEDLANDER: Yes? Is this Mr. ffitch?

21 MR. FFITCH: This is Simon ffitch. I apologize for
22 interrupting, but I wanted to, I guess, add to the comments
23 about the -- answer your question about how many issues there
24 are.

25 From our prospective, Your Honor, there are a pretty

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1 significant number of significant issues. We have not joined
2 the settlement. It's sort of the flip side of Mr. Trotter's
3 comment that it resolves all issues.

4 We raised a number of issues in our testimony, and
5 based on the general -- general understanding of what we have
6 heard about the settlement in the earlier versions that we saw,
7 we have significant concerns on a range of important issues, so
8 this would kind of answer your question about the scale or
9 complexity of the dispute.

10 JUDGE FRIEDLANDER: Thank you. I appreciate that.
11 You are not, however, allaying my concerns about the procedural
12 schedule.

13 Mr. True, are you in agreement with Public Counsel
14 that there are significant issues would remain in dispute even
15 given the settlement agreement?

16 MR. TRUE: Your Honor, from our perspective, I don't
17 believe -- and with the caveat that we haven't seen the detail.

18 JUDGE FRIEDLANDER: Sure.

19 MR. TRUE: I don't believe we have any problems with
20 the substantive terms of the settlement. I believe there's a
21 provision in the settlement related to this -- this response to
22 decoupling that we have an objection to, but that is really
23 something that could probably be taken care of in the context of
24 dealing with the decoupling issue itself.

25 And we have not really had a chance to even think

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1 about Mr. Trotter's proposal that decoupling be handled on the
2 existing record or with some further briefing or in some other
3 manner that would make it easier to address that issue, so we're
4 not able to really respond to that at this point.

5 JUDGE FRIEDLANDER: Okay. Okay. I appreciate that.

6 Did any of the other parties wish to address the
7 issue at this time, because I have a few procedural concerns
8 that I, again, wanted to mention in -- in talking about the
9 January 1st implementation goal.

10 MR. MEYER: Before you do that, Your Honor, this is
11 David Meyer. Just again on the need for briefs, I really do
12 think that even the need for briefs should be revisited after we
13 see how the hearing goes. You and the Commission may find that
14 the testimony filed for and against the settlement will -- will
15 speak for itself in much the same way that a brief would, and it
16 may -- may in and of itself do a good job of -- of identifying
17 issues and stating the arguments in support of that, and
18 briefing may not be required. But rather than address that now,
19 let's see how the hearing goes.

20 JUDGE FRIEDLANDER: Well -- and I suppose the
21 other -- the alternative would be to have oral arguments, but I
22 would prefer to give parties a heads-up before asking that they
23 give oral arguments. And waiting until the hearing wouldn't
24 really provide a whole lot of time for parties to prepare for
25 that, but I take your comment.

0117

1 So let me ask you this, Mr. Meyer: Would Avista --
2 does Avista plan on expediting the transcript? Because as it
3 stands right now, our court reporting contract provides that the
4 court reporters can have up to ten business days. And if that
5 were shortened to get the transcripts in a much more expedited
6 manner, it would certainly help the decision-makers. And if the
7 briefs are necessary, it would possibly shorten the amount of
8 time that is needed to write those briefs.

9 MR. MEYER: Yes, we will expedite it.

10 JUDGE FRIEDLANDER: Okay. The other question I have
11 is more of a "what if" question. The parties have proposed a
12 January 1st effective date for the settlement terms and for
13 rates to go into effect, and we certainly, as has been stated
14 repeatedly, have not seen the terms of the settlement agreement,
15 so it's very difficult at this point to say, you know, what's in
16 it and -- and what the conditions and terms will be and what the
17 Commission's response to those will be.

18 However, I think in the past, the recent past,
19 parties have understood that settlements are not sacrosanct and
20 they aren't rubber-stamped by the Commission. So in some
21 instances, not necessarily rate cases, but in other instances,
22 the Commission has conditioned approval of settlement
23 agreements, and the parties have not necessarily agreed with
24 those conditions. In addition, the Commission has on occasion
25 rejected settlement agreements.

0118

1 My question is we are very far into this process
2 right now, so if the Commission were to come out with an
3 order -- and playing devil's advocate here not having seen the
4 settlement agreement.

5 If the Commission were to come out with an order at
6 the end of December that either imposed conditions that the
7 parties would not necessarily agree with or rejected the
8 settlement outright, the effective date is still early March. I
9 believe it's March 2nd. That would put us at the point where
10 the settlement agreement was first filed, so we would have eight
11 weeks to conduct a case that we had previously had 4 1/2 months
12 for.

13 My question is this effectively -- this effectively
14 ties the Commission's hands procedurally, so my question -- and
15 this is, I guess, particularly posed to Mr. Meyer -- is Avista
16 amenable to tolling the effective date during consideration of
17 the settlement agreement?

18 MR. MEYER: Your Honor, it is not, at least not at
19 this time. I would suggest that there may be ways to expedite
20 this if it's back on a litigated path, and I would like to
21 explore those rather than commit now to any kind of waiver.

22 JUDGE FRIEDLANDER: Okay. And I guess I'm not
23 understanding.

24 How would you expedite the filing of rebuttal and
25 cross-answering the hearing, the post-hearing briefs, and a

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1 decision on the -- in the case?

2 MR. MEYER: Yeah. You know, I -- I mean, it's a fair
3 question, Your Honor. I don't have a specific suggestion right
4 now, but I also don't think it needs to be answered right now.
5 We can revisit this question in the event the settlement is
6 rejected or conditioned in a way that's unacceptable to the
7 parties. But as of now, we're not -- not prepared to waive that
8 period.

9 JUDGE FRIEDLANDER: Okay. Thank you.

10 With that, I guess I have one other question, which
11 is the filing of witness, cross-examination schedules, and time
12 estimates. I don't know if that was addressed in the schedule,
13 and so my question would be, I guess, typically, I would send
14 out a form for the parties to fill out as far as cross-exam,
15 witness lists, and times probably the week prior to the hearing.

16 I'm looking at maybe sending -- if we're going to
17 allow cross-exam -- cross-examination exhibits to be filed, say,
18 the 26th, that's not allowing much time to -- to have you all
19 fill out estimates.

20 So does anyone have a suggestion on how we would
21 solve that?

22 MR. FFITCH: Your Honor, Simon ffitch. I think that
23 we could probably be able to provide the cross estimates and
24 witness lists on the 26th also.

25 JUDGE FRIEDLANDER: All right. Does everyone feel

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1 the same?

2 MR. TROTTER: Yes, Your Honor.

3 MR. MEYER: Fine with Avista.

4 JUDGE FRIEDLANDER: Okay. All right. I will be
5 checking with the Commissioners on this schedule.

6 As I said, this is a very tight schedule, especially
7 given that we don't know for sure what's in the settlement. We
8 don't know what's going to be contested. I appreciate the fact
9 that the Company is willing to expedite transcripts. That will
10 certainly help, but the month of December is crammed as it is.

11 We have a TransAlta hearing, an evidentiary hearing
12 with PSE the second week, that all three of the Commissioners
13 will be attending and will not really be concentrating on this
14 case. And, of course, we have the Hanukkah and Christmas
15 holidays, so that really doesn't allow a lot of time for us to
16 draft an order and certainly before that even have relevant
17 discussions with the Commissioners.

18 I will work with the Commissioners and see if -- if
19 this will be amenable to them and if we can -- if we can
20 accomplish this, and I will get back to you with a procedural
21 order -- a prehearing conference order, rather, within the next
22 couple of days.

23 So is there anything else before we adjourn?

24 MR. FFITCH: Yes, Your Honor. This is Simon ffitich.
25 Just a couple of additional thoughts based on the discussion.

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1 Number one, looking at the Commission rules on
2 settlement, the definition of a multiparty settlement is simply
3 that it is a joint position of some of the parties on the issues
4 in the case.

5 From that perspective -- I've been thinking outside
6 the box a little bit here -- other than the effective date,
7 which is significantly advanced over the suspension date, other
8 than that one issue, it would be possible, it seems to me, to
9 simply go -- stick with the existing case schedule and have the
10 parties come in to hearing presenting this settlement as their
11 settlement -- you know, as their joint position. I'm just
12 trying to think creatively here about options.

13 The second point that I wanted to make is just to
14 agree with you. You had identified attrition as one of the
15 issues in the case, and I neglected to mention when I was saying
16 there were significant issues that -- that would, in fact, be
17 one of the issues that we would be raising.

18 JUDGE FRIEDLANDER: Okay. Thank you.

19 MR. MEYER: And, Your Honor -- this is Mr. Meyer
20 again.

21 JUDGE FRIEDLANDER: Yes.

22 MR. MEYER: Just a final thought as we -- as the
23 Commission approaches that January 1st date which, as I'll
24 reiterate again, is critical from our perspective to the
25 settlement.

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1 In the past on occasion, the Commission has issued
2 a -- I'll call it a "short form order with a longer form to
3 follow." So in terms of the longer draft or the longer version
4 of the order, that could follow, so long as the shorter form
5 either approving or rejecting the settlement was issued in time
6 to effectuate settlement rates. So that is one option to
7 release some of the time pressure that you or the Commission may
8 be facing.

9 JUDGE FRIEDLANDER: Okay. First of all, do you have
10 any docket numbers off the top of your head where the Commission
11 has done this before so I can --

12 MR. MEYER: No. Help me out here, Don, but I think
13 they did it in the Puget case a couple of cases back; is that
14 right, Don?

15 MR. TROTTER: It definitely rings a bell that it has
16 occurred, and I can't recall the specifics.

17 MR. MEYER: Yeah. Don, is that something that you
18 could -- we weren't involved in that case, but I think that --
19 that may be something that you can supply information on.

20 MR. TROTTER: Well, if I do, I'll transmit it via
21 e-mail to all parties. We'll see if we can --

22 MR. MEYER: Okay. Just a thought, Your Honor.

23 JUDGE FRIEDLANDER: Okay.

24 MR. TROTTER: We'll see if we can find it.

25 JUDGE FRIEDLANDER: Okay. Thank you. And so if the

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1 Commission were to issue or to enter a short form order, that
2 would essentially be ruling on the settlement agreement, right?
3 Is that correct?

4 MR. MEYER: That is correct.

5 JUDGE FRIEDLANDER: Okay. So --

6 MR. MEYER: And if it approves the settlement, it
7 would be authorizing implementation of the rates on January 1st.
8 But the full reasoning would follow in a longer order that
9 would -- would follow, and then that longer form of order, then,
10 would trigger whatever date it follows. So just a thought.

11 JUDGE FRIEDLANDER: I see. And so because I'm not
12 familiar with the case or the short form order, was -- I don't
13 know if you know this, but -- because you weren't involved in
14 the case, Mr. Meyer -- but was the short form order completely
15 accepting, or was it conditioning acceptance; do you know?

16 MR. MEYER: In fact, I'm not even sure it was in a
17 settlement mode. It may have been in a...

18 JUDGE FRIEDLANDER: Fully contested case?

19 MR. MEYER: Contested litigated case mode.

20 JUDGE FRIEDLANDER: I see. Okay. Thank you.

21 MR. MEYER: It's just, again, thinking outside the
22 box here to help you along.

23 JUDGE FRIEDLANDER: Okay. I appreciate that. Thank
24 you.

25 I did have a question with regard to Mr. ffitich's

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1 suggestion that the settlement is just -- is simply -- a
2 multiparty settlement is simply a position of the parties and
3 keeping to the original schedule.

4 The original schedule would provide for post-hearing
5 briefs on January 4th. That really wouldn't be conducive if the
6 settling parties -- it wouldn't be conducive to decision on the
7 case by January 1st, would it?

8 MR. MEYER: No, it would not. This is on a separate
9 track, and it needs to -- this needs to be processed expeditiously
10 in accordance with the schedule that I think we've got general
11 concurrence on rather than trying to marry it up to the prior
12 schedule.

13 So I think we're on -- and from our point of view,
14 this is a reasonable way to get this in front of the Commission
15 and get it resolved, and then we'll reset if we need to if
16 there's rejection of the settlement in this situation.

17 JUDGE FRIEDLANDER: Well, it may prove more or less
18 reasonable depending on what the settlement agreement says.

19 So as I said before, I will talk with the
20 Commissioners and come up with a prehearing conference order
21 shortly.

22 Is there anything else that we need to address before
23 we adjourn?

24 MR. MEYER: Not from our end, Your Honor. Thanks.

25 JUDGE FRIEDLANDER: Okay. Thank you. All right.

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1 Hearing nothing, we are adjourned. Thank you.

2 (Proceedings concluded at 10:13 a.m.)

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6 I, SHELBY KAY K. FUKUSHIMA, a Certified Shorthand Reporter
7 and Notary Public in and for the State of Washington, do hereby
8 certify that the foregoing transcript is true and accurate to
9 the best of my knowledge, skill and ability.

10 IN WITNESS WHEREOF, I have hereunto set my hand and seal
11 this 24th day of October, 2012.

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SHELBY KAY K. FUKUSHIMA, CCR

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19 My commission expires:

June 29, 2013

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