0001

 1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

 2 COMMISSION

 3 WASHINGTON UTILITIES AND )

 TRANSPORTATION COMMISSION )

 4 )

 Complainant, )

 5 )

 vs. ) DOCKETS NO. UE-090134/

 6 ) UG-090135

 AVISTA CORPORATION, d/b/a ) Volume V

 7 AVISTA UTILITIES, ) Pages 250 - 266

 )

 8 Respondent. )

 ---------------------------------

 9 In the Matter of the Petition )

 of )

10 )

 AVISTA CORPORATION, D/B/A, )

11 AVISTA UTILITIES, ) DOCKET NO. UG-060518

 ) Volume V

12 For an Order Authorizing ) Pages 250 - 266

 Implementation of a Natural )

13 Gas Decoupling Mechanism and )

 to Record Accounting Entries )

14 Associated With the Mechanism.)

 --------------------------------

15

16

 A prehearing conference in the above matter

17

 was held on September 23, 2009, at 11:35 p.m. at 1300

18

 South Evergreen Park Drive Southwest, Olympia,

19

 Washington, before Administrative Law Judge ADAM TOREM.

20

21 The parties were present as follows:

22 WASHINGTON UTILITIES AND TRANSPORTATION

 COMMISSION, by GREGORY J. TRAUTMAN, Assistant Attorney

23 General, 1400 South Evergreen Park Drive Southwest,

 Post Office Box 40128, Olympia, Washington 98504;

24 telephone, (360) 664-1187.

25 Kathryn T. Wilson, CCR

0002

 1 AVISTA CORPORATION, by DAVID J. MEYER, Vice

 President and Chief Counsel, 1411 East Mission Avenue,

 2 Post Office Box 3727, Spokane, Washington 99220;

 telephone, (509) 495-4316.

 3

 PUBLIC COUNSEL, by SIMON J. FFITCH, Assistant

 4 Attorney General, 800 Fifth Avenue, Suite 2000,

 Seattle, Washington 98104; telephone, (206) 389-2055.

 5

 THE ENERGY PROJECT, by RONALD L. ROSEMAN,

 6 Attorney at Law, 2011 14th Avenue East, Seattle,

 Washington 98112; telephone, (206) 324-8792.

 7

 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,

 8 by IRION A. SANGER, Attorney at Law, Davison Van Cleve,

 333 Southwest Taylor, Suite 400, Portland, Oregon

 9 97204; telephone, (503) 241-7242.

10 NORTHWEST INDUSTRIAL GAS USERS, by CHAD M.

 STOKES (via bridge line), Attorney at Law, Cable,

11 Huston, Benedict, Haagensen & Lloyd, 1001 Southwest

 Fifth Avenue, Suite 2000, Portland, Oregon 97204:

12 Telephone, (503) 224-3092.

13

 NORTHWEST ENERGY COALITION, by DAVID S.

14 JOHNSON (via bridge line), Attorney at Law, 811 First

 Avenue, Suite 305, Seattle, Washington 98104;

15 telephone, (206) 621-0094.

16

17

18

19

20

21

22

23

24

25

0003

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

 2 JUDGE TOREM: It's now 11:37 or thereabouts.

 3 This is Wednesday, September 23, 2009. We are

 4 originally scheduled to convene a prehearing conference

 5 in the Avista general rate case and decoupling dockets.

 6 They are docket UE-090134 and UG-090135, and they are

 7 now consolidated with UG-060158, the decoupling docket.

 8 Today's prehearing conference is at my

 9 request as well as Mr. Meyer's from Avista based on the

10 filing of the partial settlement on September 4th, the

11 completion of the prefiled testimony coming in on

12 September 11th, and the September 17th filing of the

13 joint testimony in support of the partial settlement

14 stipulation. Today we are going to talk about how to

15 handle the hearing schedule and any other filings with

16 cross-exam exhibits and any witnesses that needed to be

17 excused, and most people showed up in person today. As

18 I understand, there might be some ongoing settlement

19 negotiations. Whether those bear fruit, we'll let the

20 parties make their predictions or let me know. Let's

21 take appearances now. First from Avista.

22 MR. MEYER: David Meyer.

23 JUDGE TOREM: Public Counsel?

24 MR. FFITCH: Simon ffitch.

25 JUDGE TOREM: Attorney general's office for

0004

 1 Staff?

 2 MR. TRAUTMAN: Greg Trautman.

 3 JUDGE TOREM: ICNU?

 4 MR. SANGER: Irion Sanger.

 5 JUDGE TOREM: The Environmental Coalition?

 6 MR. JOHNSON: Northwest Energy Coalition,

 7 David Johnson.

 8 JUDGE TOREM: And Mr. Stokes, you are out

 9 there as well?

10 MR. STOKES: Chad Stokes for the Northwest

11 Industrial Gas Users.

12 JUDGE TOREM: Mr. Roseman?

13 MR. ROSEMAN: For The Energy Project.

14 JUDGE TOREM: Did I leave anybody out?

15 Mr. ffitch, I understood that you have got the summary

16 of the proposed sequences or what to do with the

17 hearing schedule.

18 MR. FFITCH: Yes, Your Honor. I believe I

19 can represent that this is a consensus recommendation.

20 We would recommend that the Commission convene the

21 hearing beginning Tuesday afternoon, October 6th, to

22 take the settlement panel and deal with other

23 preliminary procedural matters at a time of the

24 Commission's convenience, partly depending on how much

25 questions we anticipate, but perhaps 1:30, two o'clock,

0005

 1 in that time frame.

 2 We will then continue the hearing on until

 3 its conclusion, and we would propose to sort of have

 4 subject areas as follows: The issue of the revenue

 5 requirement accounting adjustments, as they are

 6 sometimes called, would come up beginning Wednesday

 7 morning, and when that was completed, we would move to

 8 the Lancaster contract issues approximately Thursday

 9 morning or beginning Wednesday afternoon, if we get

10 there.

11 Then the decoupling issues would start after

12 that, and I think we've decided we are okay with

13 starting decoupling early if we get done with the other

14 issues, so Thursday afternoon we would start with

15 decoupling witnesses. I believe that's the overview of

16 the sequencing. We also, I think, reached agreement

17 that we would recommend that we provide our

18 cross-examination exhibits in hand to the Bench and to

19 the parties on Friday, October 2nd, and that we would

20 provide you with cross-examination estimates, which

21 would present you with the witness list on the

22 preceding day, on Thursday, October 1st.

23 MR. TRAUTMAN: For Commission staff, we just

24 have one request on witnesses. We need to have

25 Ms. LaRue on Wednesday, and she's a revenue requirement

0006

 1 witness so that should fit in fine, but she's not

 2 available Thursday or Friday.

 3 JUDGE TOREM: Mr. Meyer?

 4 MR. MEYER: And I have three or four or five

 5 witnesses that I would like to have excused all

 6 together, and in part depends on whether the

 7 commissioners or you have questions of them. Those are

 8 as follows: Scott Morris, Mark Thies, Bill Avera, and

 9 for sure those three, and we don't have any questions

10 for Mr. Gorman, cost of capital witness for Public

11 Counsel, and we would have no objection to him being

12 excused all together, nor do we have questions of

13 Mr. Parcell, the staff witness on cost of capital, so

14 we will make that offer if they want to inquire of the

15 other parties.

16 JUDGE TOREM: So your three witnesses,

17 Mr. Morris, Mr. Thies, Mr. Avera, were there any other

18 Avista witnesses you were seeking to excuse?

19 MR. MEYER: I think this will evolve over the

20 next week. There may be others that people have no

21 questions of at all; Bill Johnson, for example, or Don

22 Kopczynski. I haven't heard enough from the other

23 parties yet on those to know.

24 MR. FFITCH: We may have questions for

25 Johnson, might.

0007

 1 MR. TRAUTMAN: I had two witnesses.

 2 MR. MEYER: Also, if it helps, we don't have

 3 any cross for Glenn Watkins, if that saves time and

 4 expense.

 5 MR. TRAUTMAN: We might. I can't definitely

 6 say yet, but we will know later.

 7 JUDGE TOREM: Let me ask the other parties.

 8 As far as the three witnesses from Avista that they are

 9 asking to be excused, are there any objections or

10 concerns that anyone want to state? Anything for

11 Mr. Morris, Mr. Thies or Mr. Avera?

12 MR. MEYER: No objection.

13 MR. JOHNSON: No objection from the

14 Coalition.

15 MR. STOKES: Gas Users as well.

16 MR. FFITCH: I believe we have no objection.

17 I just want to check with our experts and our analyst

18 to make sure I'm not getting off the reservation.

19 JUDGE TOREM: If you can, send me an e-mail

20 by noon tomorrow if you have any changes to that. I'm

21 going to inquire of the commissioners. I don't ever

22 presume to know who they want to ask questions of, and

23 check with our policy staff as well. I will issue

24 probably just an e-mail to you summarizing what we've

25 done and give you an electronic copy of the exhibit

0008

 1 list and sketch this out a little bit more with the

 2 witness's names in alphabetical order or group the

 3 witnesses by date, and then you guys can make

 4 arrangements and further cuts at it by next Thursday,

 5 it sounds like. Mr. Trautman, you had some other

 6 witnesses?

 7 MR. TRAUTMAN: I had a request for Ms. Huang

 8 and Ms. Novak, and also I talked briefly with Public

 9 Counsel. As to Mr. Parcell, if there were any

10 questions, we would request that he could appear by

11 phone, because he's in Richmond, Virginia, and it would

12 be a tremendous expense to fly him out just for that.

13 MR. MEYER: Avista has no questions of any of

14 those three, Mr. Parcell, Ms. Novak, Ms. Huang.

15 JUDGE TOREM: Any other parties have problems

16 or concerns or they want to hold until tomorrow at noon

17 via e-mail about Ms. Huang, Mr. Parcell, and Ms. Novak?

18 MR. ROSEMAN: I have spoken about it. The

19 Energy Project has no objections to any of the

20 witnesses that have been mentioned to be excused.

21 MR. JOHNSON: No objections from the

22 Coalition, Your Honor.

23 MR. FFITCH: On Mr. Parcell, we have probably

24 relatively limited questioning for him. I expect 30

25 minutes or less. We would be amenable to a telephone

0009

 1 appearance.

 2 With respect to Mr. Gorman and Mr. Watkins,

 3 they are both panelists supporting the joint testimony

 4 and partial settlement, so we would request that they

 5 be allowed to appear by telephone for the panel;

 6 although, if the commissioners would like them to

 7 attend, we could make that arrangement.

 8 JUDGE TOREM: Where would they be traveling

 9 from?

10 MR. FFITCH: Mr. Watkins is also traveling

11 from Virginia and Mr. Gorman from St. Louis.

12 MR. MEYER: Avista wouldn't object to them

13 appearing by phone.

14 MR. TRAUTMAN: Staff has no objection.

15 JUDGE TOREM: Any other parties have concerns

16 with Mr. Watkins or Mr. Gorman making their appearance

17 by telephone on Wednesday, Tuesday afternoon for the

18 settlement panel? Hearing none, then I'll see if the

19 commissioners have any problem with them being by phone

20 on Tuesday afternoon. This list can get refined next

21 week if we need to. There can sort of a check amongst

22 yourselves, and let me know if it's an agreement and no

23 objections, and you can send it to me that way. Then I

24 can get feedback from the commissioners. We will be

25 seeing most of you next Wednesday at the public comment

0010

 1 hearings in the Spokane Valley, and all three

 2 commissioners will be back in the country by then.

 3 Any other witness excusals being sought at

 4 this point? It sounds as though we've covered the

 5 sequence to start Tuesday afternoon, October 6th, with

 6 the settlement panel and that you said there might be

 7 some other minor issues we could delve into?

 8 MR. MEYER: Housekeeping.

 9 MR. FFITCH: I don't think we had anything in

10 mind.

11 JUDGE TOREM: How long do you anticipate the

12 settlement panel making their presentation? I don't

13 want you to estimate the questions yet.

14 MR. MEYER: I would envision since they

15 prefiled joint testimony just to submit them for any

16 commissioner questions, no further statements.

17 JUDGE TOREM: The parties aren't anticipating

18 making opening statements at that point?

19 MR. FFITCH: No, unless the Bench would like

20 an opening or would like from counsel or would like a

21 brief statement from panelists. I think from our

22 perspective, Your Honor, we are amenable to what is the

23 Bench's preference, but we are not asking for opening

24 statements.

25 MR. TRAUTMAN: Nor is Staff.

0011

 1 JUDGE TOREM: So it would be a cold opening

 2 right in cross-examination.

 3 MR. ROSEMAN: Your Honor, if, in fact, the

 4 commissioners in this instance at least want opening

 5 statements or other comments, it would be useful to me

 6 to be informed that would be their expectation prior

 7 to. I would prefer to know in advance.

 8 JUDGE TOREM: What I will try to do is sort

 9 out. We've done a couple of different settlement

10 panels of late, and in one, it felt as though because

11 the case settled on the eve of hearing that it was

12 appropriate for the commissioners to get warmed back up

13 to what they were set to do as opposed to what they had

14 been ready to do the month before by the time we pushed

15 it over. It was a telecommunications case, and it

16 helped the commissioners all get on the same page. We

17 do have a briefing schedule, and I think I'll know at

18 least a week in advance of the hearing whether they are

19 seeking any opening statements. So definitely by the

20 time we get done with the public comment hearings, I

21 will know if we are or not having opening statements.

22 MR. JOHNSON: Your Honor, while we are

23 talking about the settlement, the Coalition is not a

24 party to the settlement but does not oppose the

25 settlement and the stipulation provides as such. Since

0012

 1 there is nothing that's going to be covered on Tuesday

 2 afternoon that involves my client, it would be my

 3 preference not to attend the hearing that day even on

 4 the bridge line unless Your Honor feels that it's

 5 necessary for me to make that representation on the

 6 record that we do not oppose. You heard it from me now

 7 and you've seen it in the stipulation. That would be

 8 the only point, it seems to me, of my appearing, but

 9 I'm happy to do whatever you like.

10 JUDGE TOREM: I'm happy to save you a trip to

11 Olympia on Tuesday, Mr. Johnson.

12 MR. JOHNSON: I appreciate that.

13 JUDGE TOREM: If it doesn't prejudice your

14 client, then I can tell you no one is going to object

15 to your requested absence on Tuesday afternoon, as long

16 as the other parties, and I think we are setting up the

17 schedule this way, we are only going to talk about the

18 settlement stipulation and not delve into the revenue

19 requirements adjustments until the following morning,

20 and they are all nodding here, then it should be a

21 relatively short afternoon, I hope, on Tuesday.

22 I do know there are some questions among

23 policy staff and myself as to exactly how the case is

24 left or connected to the settlement and what happens

25 depending there maybe some hypotheticals Tuesday if the

0013

 1 Commission does something unexpected as some of you

 2 might think with the remaining disputed parts, how does

 3 the affect the settlement, if at all, because there are

 4 some parts that are still moving and still connected.

 5 That's the only thing, Mr. Johnson, I can imagine,

 6 depending on which issues you are focusing on the

 7 remaining days of the hearing, you might benefit for

 8 being on the bridge line. Although again, we are going

 9 to limit it to the discussion of the stipulation and

10 the supporting testimony on that first afternoon of the

11 hearing.

12 MR. JOHNSON: That's fine, Your Honor. If I

13 appear on that Tuesday, it will be by bridge line only.

14 JUDGE TOREM: I've got a note here you will

15 not appear on Tuesday. If you do, if you want to let

16 me know if you decide Tuesday morning, then send me an

17 e-mail so I remember to ask for you. If not, make

18 yourself known on the bridge line ahead of us calling

19 the hearing to order so I'll remember to take your

20 appearance. Are there other issues that we can address

21 on the record today or need to address today?

22 MR. FFITCH: Your Honor, there is frequently

23 a request that we provide an exhibit list or in advance

24 of the hearing, add in our cross-exhibits, so I guess I

25 would -- we had mentioned that so far that we probably

0014

 1 do that on Friday along with the cross-exhibits. That

 2 will be the day that we really know finally what we are

 3 submitting. Typically, we receive from the ALJ a draft

 4 and then we will separately send in our version.

 5 JUDGE TOREM: That's what I plan on doing.

 6 I'll summarize this either in an order or an e-mail. I

 7 may yet not issue an order unless there is an objection

 8 to take your agreed schedule and say here's what the

 9 parties agreed to. Attached is the templet for filling

10 out cross-examination with all the names of the

11 witnesses and then the updated exhibit list, which I

12 will count on you to say did I overlook something or

13 not and go on from there.

14 MR. MEYER: The return date on that updated

15 exhibit list will be after we decide what

16 cross-examination exhibits we want to add to.

17 JUDGE TOREM: You can send me corrections to

18 your own prefiled exhibits any time, but the deadline

19 will be to return your cross-exam exhibits for each

20 one, and I will put them into an order. As far as the

21 numbering of them goes, if you will just put the

22 initials of the witness they relate to primarily and

23 leave me the number to fill in. We are trying to work

24 on something that is the initials-based numbering so we

25 don't -- we've been assigning these duplicate exhibit

0015

 1 numbers in the past, and it just makes it painful. Now

 2 an exhibit has two numbers, and it's in the odd

 3 occasion where someone will have the same exact

 4 initials, and I don't think we have that in this case.

 5 There is no reason we can't adequately create a record

 6 that identifies the exhibits simply on the prefiled

 7 exhibit numbers.

 8 There has been some concern expressed in the

 9 past and maybe a Bench bar that assigning the witness's

10 initials to something that's not been proffered by them

11 gives some indication to somebody that they are

12 sponsoring the exhibit, but you will see there are

13 multiple columns. There is a number, a sponsor, and

14 then there is the date that it's submitted and the

15 description. If you will fill out just the initials of

16 the witness and the fact that you are sponsoring that

17 exhibit to cross-examine them, then I can cut and paste

18 that and build a master exhibit list from there.

19 On those cases where you have put multiple

20 witnesses with one exhibit, we will pick randomly one

21 witness to assign it to and we will relist that exhibit

22 by those other witness's initials and indicate yes,

23 this appears in both lists, so the same exhibit in the

24 past might have gotten to be Exhibit 4 and Exhibit 8,

25 and it was the same exhibit. Now it will just have one

0016

 1 randomly assigned initials, and let's not lose any

 2 sleep over that. Your questions based on the exhibit

 3 are what we are truly interested in and the witness's

 4 responses, so the number, let's not let that get in the

 5 way of the substance we are trying to get at in the

 6 hearing.

 7 MR. FFITCH: Your Honor, maybe the Bench bar

 8 recommended consideration of using some other code

 9 along with the lettering approach just to clarify that

10 it was a cross exhibit as opposed to a sponsored

11 exhibit, and using the letter "X" comes to mind after

12 the number or something of that nature, and I know this

13 is an evolving practice. We just raise that out of a

14 concern of some confusion.

15 JUDGE TOREM: I think I did that in the last

16 case where we had some cross-exam exhibits on a

17 settlement panel, but if you see that, it may be yet

18 another indicator that looking at the exhibit number,

19 this was a cross-exam exhibit, so I take that as a good

20 suggestion. Thank you. Anything else for our

21 discussion today?

22 MR. MEYER: No, thank you, Your Honor.

23 JUDGE TOREM: It's noon. I will send you an

24 e-mail summarizing this and hope to hear back from you

25 all as the week goes on with additional witnesses that

0017

 1 might want your consideration for telephone only or

 2 being excused all together. Also, the deadlines you

 3 suggested will be next Thursday for the estimates on

 4 cross-exam on any remaining witnesses and Friday for

 5 the actual submission filing of the cross-exam exhibits

 6 themselves.

 7 One thing I want to make sure the parties

 8 bring them to the records center for the Commission's

 9 copies. Don't bring them down to ALD. They need to

10 get logged into our records management system, so

11 bringing them to the judges' office only causes some

12 confusion. I know they are coming next Friday. I will

13 let the records center know, and they will quickly log

14 them and bring my copies down and distribute the rest

15 accordingly. So there is no need to come down to this

16 wing of the building to make the delivery. The front

17 counter will be just fine. We are off the record.

18 (Prehearing conference adjourned at 12:00 p.m.)

19

20

21

22

23

24

25