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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. )

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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.)  
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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

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1 AVISTA CORPORATION, by DAVID J. MEYER, Vice  
2 President and Chief Counsel, 1411 East Mission Avenue,  
3 Post Office Box 3727, Spokane, Washington 99220;  
4 telephone, (509) 495-4316.

5 PUBLIC COUNSEL, by SIMON J. FFITCH, Assistant  
6 Attorney General, 800 Fifth Avenue, Suite 2000,  
7 Seattle, Washington 98104; telephone, (206) 389-2055.

8 THE ENERGY PROJECT, by RONALD L. ROSEMAN,  
9 Attorney at Law, 2011 14th Avenue East, Seattle,  
10 Washington 98112; telephone, (206) 324-8792.

11 INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES,  
12 by IRION A. SANGER, Attorney at Law, Davison Van Cleve,  
13 333 Southwest Taylor, Suite 400, Portland, Oregon  
14 97204; telephone, (503) 241-7242.

15 NORTHWEST INDUSTRIAL GAS USERS, by CHAD M.

16 STOKES (via bridge line), Attorney at Law, Cable,  
17 Huston, Benedict, Haagensen & Lloyd, 1001 Southwest  
18 Fifth Avenue, Suite 2000, Portland, Oregon 97204:  
19 Telephone, (503) 224-3092.

20 NORTHWEST ENERGY COALITION, by DAVID S.  
21 JOHNSON (via bridge line), Attorney at Law, 811 First  
22 Avenue, Suite 305, Seattle, Washington 98104;  
23 telephone, (206) 621-0094.

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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

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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,

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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

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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.

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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

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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



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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

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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.

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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

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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

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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

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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

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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

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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



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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.)

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