

**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

**Avista Corporation  
Avista Energy, Inc.**

**Docket No. EL02-115-000**

**ORDER OF CHIEF JUDGE CONFIRMING RULINGS  
MADE AT PREHEARING CONFERENCE AND  
ESTABLISHING FURTHER PROCEDURES**

**(April 9, 2003)**

1. At a further prehearing conference held today in the above-captioned docket, the Chief Judge ruled that the proposed settlement filed on January 31, 2003, in this proceeding by the Commission trial staff and Avista Corporation and Avista Energy, Inc. (Avista) could not be certified to the Commission because it appears to be in conflict with the Commission's investigative staff March 26, 2003 Final Report on Price Manipulation in Western Markets, Docket No. PA02-2-000 (Final Report)--pages ES16 and VI-17 and VI-18--and pages 20, 21, 22, 33, and 34 of the California ISO Report (CAISO Report) of October 4, 2002, Analysis of Trading and Scheduling Strategies Described in Enron Memos. Among other things, the proposed settlement states that the Commission trial staff investigation found no evidence that any executive or employee of Avista knowingly engaged in or facilitated improper trading strategies, that it found no evidence that Avista engaged in any effort to manipulate the western markets during the year 2000 and 2001, etc., while the March 26, 2003 Final Report and the October 4, 2002 CAISO Report indicated possible misconduct in three areas, ratchet or megawatt laundering, sell back of ancillary services ("get shorty"), and counter-flow revenues from cut schedules in real time.

2. The Chief Judge denied the City of Tacoma's April 4, 2003, motion to lift the protective order in this case as being too broad, and requesting documents and tapes that contain privacy conversations or matters, and extremely sensitive business communications. The information requested was provided to the Commission trial staff for "Federal Investigative Eyes Only."

3. The Chief Judge denied the City of Tacoma's motion to file supplemental comments as moot since he declined to certify the settlement and since he introduced as his own exhibit the investigative staff's Final Report.

4. The Chief Judge introduced into evidence the following exhibits:

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- Chief Judge's Exhibit 1 - The Final Report
- Chief Judge's Exhibit 2 - The CAISO Report
- Chief Judge's Exhibit 3 - The January 17, 2003, Supplement to the CAISO Report
- Chief Judge's Exhibit 4 - FERC Trial Staff Investigative Report, dated January 30, 2003, except for Tab 3 which contains protected material.

5. The Commission trial staff was ordered to make a presentation setting forth the documents and other information it examined in reaching its conclusions in the trial staff's Investigative Report.

6. The Commission trial staff will file and serve on all parties a supplement to the proposed settlement addressing the three issues set forth above by the Chief Judge on or before May 15, 2003.

7. A further prehearing conference will be held at 10:00 a.m., on May 20, 2003, to discuss whether the settlement, as supplemented, can be certified to the Commission by the Chief Judge. If it cannot, the Chief Judge will establish an expedited trial schedule.

8. The Chief Judge believes that the settlement or hearing in this proceeding will cover all issues raised by the Final Report of the Commission's investigative staff, as well as all matters relating to Avista in the Commission's August 13, 2002 order instituting this proceeding.

Curtis L. Wagner, Jr.  
Chief Administrative Law Judge