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COUNSEL FOR DEFENDANTS

13 *Additional counsel on signature page*

14 **IN THE UNITED STATES DISTRICT COURT
15 FOR THE EASTERN DISTRICT OF WASHINGTON**

16 AVISTA CORPORATION, CASCADE
17 NATURAL GAS CORPORATION,
18 NORTHWEST NATURAL GAS
19 COMPANY, AND PUGET SOUND
20 ENERGY, INC.,

21 Plaintiffs,

22 vs.

23 WASHINGTON STATE DEPARTMENT
24 OF ECOLOGY; MAIA D. BELLON, in her
25 official capacity as Director of Washington
26 State Department of Ecology,

27 Defendants.

Case No. 2:16-cv-00335

**JOINT MOTION TO HOLD
CASE IN ABEYANCE**

28 Plaintiffs Avista Corporation, Cascade Natural Gas Corporation,
Northwest Natural Gas Company, and Puget Sound Energy, Inc. (collectively

1 “Plaintiffs”) and Defendants Washington State Department of Ecology and Maia D.
2 Bellon, in her official capacity as Director of Washington State Department of
3 Ecology, (collectively “Defendants”) jointly and respectfully move this Court to
4 hold this litigation in abeyance. In support of this motion, the parties state as
5 follows:
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8 1. On September 27, 2016, Plaintiffs filed a Complaint in the U.S.
9 District Court for the Eastern District of Washington, alleging that Defendants’
10 Clean Air Rule (“CAR”) violates the U.S. Constitution Commerce Clause.

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12 2. On September 30, 2016, Plaintiffs filed a Petition for Review and
13 Declaratory Judgment in the Thurston County Superior Court in the State of
14 Washington (case no. 16-2-03966-34), alleging, in part, that Defendants’ CAR
15 exceeds Ecology’s statutory authority, violates Washington State law, and is
16 arbitrary and capricious under the Washington Administrative Procedure Act. In its
17 State case, Plaintiffs seek (in part) relief declaring CAR invalid, or invalid as it
18 pertains to Plaintiffs.
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21 3. On October 13, 2016, petitioners in a related Washington state case
22 against Ecology’s CAR regulations (case no. 16-2-03923-34) filed an unopposed
23 motion to consolidate its case with Plaintiffs’ State case (collectively, the “State
24 cases”) and to establish an expedited schedule for briefing and hearing on the
25 merits. Under the proposed schedule, briefing would be completed by March 2017,
26 and oral argument would be scheduled soon after.
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1 4. Given that resolution of the State cases could render moot the issues
2 before this Court, the Parties agree that litigation in this Court, including any
3 deadlines for Answers or discovery under the Federal Rules of Civil Procedure or
4 Local Rules, should be held in abeyance at least until the final adjudication of the
5 Plaintiffs' claims in Thurston County Superior Court under the State cases.
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7 5. This motion is made pursuant to the Court's inherent powers to
8 manage its docket. *Landis v. North American Co.*, 299 U.S. 248, 254 (1936)
9 (“[T]he power to stay proceedings is incidental to the power inherent in every court
10 to control the disposition of the causes on its docket with economy of time and
11 effort for itself, for counsel, and for litigants.”).
12

13 6. The Parties agree to meet and confer within 21 days of final
14 adjudication of the Plaintiffs' claims in Thurston County Superior Court under the
15 State cases to discuss the status of litigation in this Court. The Parties agree to
16 submit a joint status report to the Court 10 days after the Parties meet and confer.
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18 7. The Parties have submitted a proposed order in conjunction with this
19 motion.
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1 Dated: October 18, 2016.

Respectfully submitted,

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3 s/ Laura J. Watson

s/ Gregory C. Hesler

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27 *motion to appear *pro hac vice* pending

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CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice.

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