

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION, d/b/a AVISTA
UTILITIES,

Respondent.

DOCKET UE-170484

ORDER 01

REJECTING TARIFF FILING

BACKGROUND

- 1 On May 26, 2017, Avista Corporation, d/b/a Avista Utilities (Avista or Company), filed with the Washington Utilities and Transportation Commission (Commission) proposed revisions to its currently effective Tariff WN U-28 Power Cost Rate Adjustment Schedule 93 in the above-referenced docket (PCRA filing), which would increase billed revenues by approximately \$15 million, or 2.92 percent, effective September 1, 2017, and reset the Energy Recovery Mechanism (ERM) baseline used to track how actual power costs differ from the power costs embedded in retail rates.
- 2 Avista filed the proposed tariff revisions concurrently with its general rate case (GRC) in consolidated Dockets UE-170485 and UG-170486. The proposed power cost baseline increase would expire at the conclusion of the GRC, at which point Avista requests a second update to the power cost baseline. The Company seeks to: (1) update the three-month average of forward natural gas and electricity market prices for the pro forma power costs; (2) include new short-term contracts for gas and electric; and (3) update or correct power and transmission service contracts for the rate year.
- 3 In its PCRA filing, Avista requests to update the level of power supply costs currently recovered from its customers. Avista argues that an update is appropriate for the following reasons: (1) the contract between Avista and Portland General Electric (PGE), which is presently included in base power supply costs, expired on December 31, 2016; (2) power supply costs were last updated in the Company's 2015 GRC, which does not reflect the expiration of the PGE contract or accurate wholesale power and natural gas prices; (3) the PCRA filing updates the same power supply cost components as those

updated at the conclusion of prior rate cases; (4) the PCRA filing is similar to Puget Sound Energy's (PSE) Power Cost Only Rate Case (PCORC) and Avista's Purchase Gas Cost Adjustments (PGA); and (5) allowing the PCRA filing will mitigate rate increases for customers.

- 4 On June 16, 2017, the Industrial Customers of Northwest Utilities (ICNU) filed a Motion to Dismiss; Alternative Motion to Consolidate with General Rate Case Filing (Motion). In its Motion, ICNU argues that Avista seeks to update its Schedule 93, traditionally associated with its Energy Recovery Mechanism (ERM), without considering using its ERM rebate balance as an offset. ICNU notes that the ERM rebate balance is \$23.3 million, which is more than enough to obviate the need for the PCRA filing.
- 5 ICNU further contends that Avista's PCRA filing provides no basis for relief because the Commission already determined the sufficiency of present rates in its final order in the Company's most recent GRC. Moreover, ICNU notes that the Commission considered the expiration of the PGE contract in Avista's most recent GRC.
- 6 ICNU requests the Commission dismiss the PCRA filing because Avista has not demonstrated an urgent need for expedited or interim rate relief, and consideration of ERM offsets and other potential forms of relief is more appropriate in the context of the Company's GRC. ICNU notes that Avista's comparison of its PCRA filing to PSE's PCORC and its own PGA is misplaced because both of those mechanisms were approved following significant process, not by operation of law.
- 7 Alternatively, ICNU requests the Commission consolidate Avista's PCRA filing with its GRC because the proceedings address related facts or principles of law and consolidation of power supply cost considerations will allow the Commission to avoid rehearing the same issues recently decided in the 2016 GRC.
- 8 On June 19, 2017, the Commission issued a Notice Soliciting Staff Response and Notice of Opportunity to Respond requesting that Commission staff (Staff) and any other party or person seeking intervention in Avista's GRC file a response indicating whether it supports or opposes ICNU's Motion by June 27, 2017.
- 9 On June 27, 2017, Avista filed an Answer to ICNU's Motion. In its answer, Avista objects to ICNU's Motion and argues that the Company's filing makes use of an existing schedule that has been previously used for purposes of implementing either power cost surcharges or rebates. Rather than wait until the conclusion of the Company's GRC in May 2018, Avista urges the Commission to recognize the most recent updated power

supply costs because, Avista argues, the present base power supply costs are stale. Finally, Avista argues that unless the power supply contracts are updated, nearly 16 months will have passed since the Company's contract with PGE expired and new rates, effective May 1, 2018, will be implemented, resulting in nearly \$10 million in contract benefits passed through to ratepayers at the expense of Company shareholders.

10 Also on June 27, Public Counsel and Staff filed responses in support of ICNU's Motion. In its response, Public Counsel argues that, rather than requesting an update to power costs, Avista's PCRA filing is a tacit request for interim rate relief without any recognizable legal, factual, or policy basis. Public Counsel notes that Avista alleges no financial emergency, no imminent harm to shareholders or ratepayers, and no hardship or inequity. Accordingly, Public Counsel recommends the Commission reject Avista's PCRA filing.

11 In its response, Staff argues that ICNU's Motion should be granted because Avista failed to adequately justify its request for a 2.9 percent power cost rate increase during the pendency of its GRC. Staff notes that Avista currently has an ERM that equitably allocates between the Company and its customers the risk of ordinary variations in power costs that may occur between rate cases. Staff argues that increasing rates and the ERM baseline to account for a few discrete changes in power costs – without considering potentially offsetting cost changes – would frustrate the protections and incentive the ERM provides. Overall, Staff argues that Avista failed to demonstrate that it has incurred extraordinary power cost variations that cannot be addressed by its ERM.

12 Finally, Staff argues that Avista's PCRA filing amounts to single-issue ratemaking because it ignores potentially offsetting changes in power costs. Staff notes that the Commission generally disfavors single-issue ratemaking, and recommends the Commission reject Avista's PCRA filing.

13 Avista notified its customers of the proposed rate increase by bill insert during the June-July billing cycle. Staff received seven consumer comments regarding the proposed rate increase; six opposed to the rate increase, and one undecided. Customers were generally concerned with frequent rate proposals and increasing rates.

DISCUSSION

14 We agree with Staff's and the other interested parties' recommendations and reject Avista's proposed PCRA filing, which effectively grants the relief ICNU seeks in its

Motion. For the reasons discussed below, we find that Avista failed to adequately justify its request.

- 15 As Avista noted during its presentation at the August 10, 2017, open meeting, the Commission has broad discretion to regulate in the public interest. While the Commission’s procedural rules permit us to consider and approve tariff filings that result in a rate increase of less than three percent – such as Avista’s present request – outside the context of a general rate proceeding, we have a number of concerns with the specific circumstances presented by this filing.
- 16 First, as Staff notes in its memo, ordinary power cost variations are accounted for in the Company’s ERM, which carries a sufficient balance to absorb any increase in net power supply costs. Avista’s Monthly Power Cost Deferral Report shows that the Company has over-collected its power costs in the first six months of 2017 by nearly \$6.5 million, with the Company receiving a \$4.6 million benefit, and customers accruing \$1.9 million towards a potential rebate. The cumulative Energy Cost Deferral Balance as of June 30, 2017, is \$23.5 million, which exceeds the total incremental amount of the power cost increase the Company proposes to collect over the next eight months.
- 17 In addition, the Commission does not generally authorize separate power cost adjustments during the pendency of a general rate proceeding. Rather, we have allowed those adjustments at the conclusion of a general rate case or between rate cases to prevent excessive regulatory lag during a multi-year rate plan or a “stay-out” period.
- 18 We also share Staff’s concerns that the Company’s filing amounts to single-issue ratemaking. Avista requests the Commission consider four discrete line items in isolation from potentially offsetting changes in power costs. We do not agree, however, that the Company’s offsetting hydro resources, for example, are “immaterial” to its power costs.¹
- 19 Moreover, we agree with Public Counsel that Avista’s PCRA is, in effect, a request for interim rate relief without any cognizable rationale. Avista offers several bases for its request, none of which are characterized as – nor demonstrated to be – exigent circumstances. Public Counsel correctly notes that any grant of emergency rate relief must follow the guidelines set out in *WUTC v. Pacific N.W. Bell Tel. Co.*, which include, *inter alia*, a demonstration that an actual emergency exists or that interim rates are

¹ Avista’s filing claims that four updated power supply contracts account for the most significant changes from the present level of authorized power supply expense, and that all other changes are immaterial.

necessary to prevent gross hardship or gross inequity.² Ultimately, the Company made no showing of any circumstances that warrant rate relief prior to the conclusion of the GRC.

20 Finally, we conclude that rejecting the filing outright, as opposed to consolidating Avista's PCRA filing with the GRC, is the best resolution of the Company's request. First, whether the filing is rejected or the dockets are consolidated, the issues are preserved for consideration in the rate case. As the Company and all other parties acknowledged during discussion at the open meeting, the issue of resetting the ERM baseline to track the difference between actual power costs and those embedded in retail rates is already before the Commission in the pending GRC. Our decision here does not alter the ability of all parties to address the issues presented in this filing.

21 Second, consolidating the PCRA filing with the GRC is not an appropriate outcome because it would create burdensome procedural consequences with no corresponding benefit. The effect of rejecting rather than consolidating the filings is simply that the parties and the Administrative Law Judge will avoid the unnecessary process and expense of resources that consolidation would require in an already tight timeline for the GRC, including the need to address two separate effective dates in a single proceeding. Moreover, consolidation would necessarily imply that the Commission believes interim rate relief may be appropriate in these or similar circumstances.

22 Accordingly, we reject Avista's PCRA filing and will allow Avista's ERM to operate relative to the existing power cost baseline, thus affording adequate protection to the Company and its ratepayers pending the conclusion of the Company's GRC.

FINDINGS AND CONCLUSIONS

- 23 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies.
- 24 (2) Avista is an electric company and a public service company subject to Commission jurisdiction.
- 25 (3) On May 26, 2017, Avista filed proposed revisions to its currently effective Tariff WN U-28 Power Cost Rate Adjustment Schedule 93.

² *WUTC v. Pacific N.W. Bell Tel. Co.*, Docket U-72-30, Second Supp. Order (October 10, 1972).

- 26 (4) Staff has reviewed the tariff filing in Docket UE-170484, including related work papers.
- 27 (5) This matter came before the Commission at its regularly scheduled meeting on August 10, 2017.
- 28 (6) After reviewing Avista's proposed tariff revision filed in Docket UE-170484 on May 26, 2017, and giving due consideration to all relevant matters, the Commission finds for good cause shown that Avista failed to adequately justify its request for a 2.9 percent power cost rate increase during the pendency of its general rate case, and concludes that the proposed revision should be rejected.

ORDER

THE COMMISSION ORDERS:

- 29 (1) Avista Corporation d/b/a Avista Utilities' proposed revisions to its currently effective Tariff WN U-28 Power Cost Rate Adjustment Schedule 93 are rejected.
- 30 (2) The Commission retains jurisdiction over the subject matter and Avista Corporation d/b/a Avista Utilities to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective August 15, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

Separate Statement of Commissioner Balasbas

- 31 I agree with the concerns included in paragraphs 15 through 19 of this Order about the Company's tariff filing. However, I respectfully disagree with my colleagues' decision to reject the filing. Rather, this filing should be consolidated as part of the pending general rate case in Dockets UE-170485 and UG-170486. Consolidation is neither approval nor rejection of the filing, and better preserves the ability for all parties in the pending general rate case to consider in a broader context the important issues raised here.
- 32 The timing and content of this tariff filing made it difficult to approve. I sympathize with the Company's current position. In addition to serving ratepayers, it has a responsibility to show progress with its shareholders and independent rating agencies. However, this tariff filing was not in the best interests of ratepayers and for that matter, the Company. Consolidation balances the concerns raised in this Order with the Company's desire to have "a starting point for getting back on track to address the significant under-recovery of costs..."³
- 33 The Commission's action today may have been different had this tariff filing come in prior to the Company's submission of its general rate case, or, at the very least, utilized a significantly different mechanism to recognize these power cost changes. One option, subject to Commission approval, would be to utilize a portion of the existing ERM balance. This option provides one-time monetary relief for the Company without raising existing rates. Going forward, it is essential the Company continue engaging with the Commission and other interested parties on the issues raised in this tariff filing.

JAY M. BALASBAS, Commissioner

³ August 8, 2017, Kelly Norwood response to Staff memo, page 3.