

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,)
Complainant,)

) DOCKETS UE-090134
) and UG-090135
) (*consolidated*)

v.)

) AVISTA CORPORATION, d/b/a)
) AVISTA UTILITIES,)
) Respondent.)

))

) In the Matter of the Petition of)
)

) DOCKET UG-060518
) (*consolidated*)

) AVISTA CORPORATION, d/b/a)
) AVISTA UTILITIES,)

) PUBLIC COUNSEL MOTION FOR
) CLARIFICATION OF ORDER 10

) For an Order Authorizing)
) Implementation of a Natural Gas)
) Decoupling Mechanism and to Record)
) Accounting Entries Associated With the)
) Mechanism.)

))

1. Pursuant to WAC 480-07-835(1), Public Counsel respectfully requests clarification with respect to the following matters addressed in Order 10 in this matter, served on December 22, 2009.

A. Lancaster Contracts – Prudence Issues

2. Paragraph 227 of Order 10 states, in full:

Our decision here does nothing to prevent the Company from seeking recovery of Lancaster costs or deferred balances in the future. Without having the Company's detailed filings before us, we decline to permanently disallow the 2010 Lancaster costs or

find the entire contract imprudent for its full term. We acknowledge that the Company's IRP identifies a need for new cost-effective energy and capacity resources over the next decade. Staff and the Company both represent that taking a long-term view of the Lancaster contracts suggests they may be beneficial to ratepayers. However, we cannot reach that issue and make such a conclusion at this time.

3. In paragraph 228, the Commission determines that Avista will be allowed to defer the costs associated with the Lancaster power purchase agreement (PPA) and associated contracts. In paragraph 229, the Commission states that “[a]ny recovery of these deferred costs in customer rates will be considered and determined in a future rate proceeding.”
4. Public Counsel reads these statements to hold that no prudence decision has been made with respect to the Lancaster contracts, and that prudence will be addressed if and when Avista seeks to recover Lancaster costs in a future rate proceeding. However, in footnote 304 the Commission states: “[w]e reject Public Counsel’s original recommendation...to permanently disallow Lancaster-associated power costs for the 2010 rate year *and* find the Lancaster contracts imprudent over their full term.” It is unclear to Public Counsel whether this footnote constitutes a finding on Lancaster prudence issues in any respect.
5. Therefore, Public Counsel respectfully requests clarification as to whether Order 10 is intended to constitute a prudence determination on the Lancaster PPA or associated contracts in any respect, and whether Order 10 limits any party’s ability in an appropriate future proceeding to challenge the prudence of any Lancaster contract costs. Public Counsel further requests

clarification that the proper proceeding to address Lancaster prudence issues would be a general rate proceeding.¹

B. Lancaster Contracts – ERM Settlement Issue

6. Order 10 notes that Public Counsel raised the issue in this proceeding of whether Avista Utilities is barred from entering into the Lancaster PPA by the terms of the settlement stipulation establishing the Energy Recovery Mechanism (ERM).² The order does not appear to contain an express ruling on this issue. Public Counsel respectfully requests clarification as to whether this matter remains at issue in future proceedings regarding the Lancaster contracts.

7. RESPECTFULLY SUBMITTED this 4th day of January, 2010.

ROBERT M. McKENNA
Attorney General

Simon J. ffitc
Senior Assistant Attorney General
Public Counsel

¹ Order 10 contemplates possible review of Lancaster issues in several possible forums: a future rate proceeding for cost recovery purposes; an affiliated interest proceeding or proceedings (one of which is currently pending); and a GHG proceeding (RCW 80.80). There may be some overlap between these issues, at least with regard to underlying facts, and consolidation of one or more of the dockets for efficient use of party and Commission resources may be reasonable.

² Order 10, ¶ 184.