

[Service Date June 18, 2002]

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	
)	DOCKET NO. UE-011595
Complainant,)	
)	
v.)	FIFTH SUPPLEMENTAL ORDER:
)	REJECTING TARIFF FILING;
AVISTA CORPORATION, d/b/a)	APPROVING AND ADOPTING
AVISTA UTILITIES,)	SETTLEMENT STIPULATION;
)	AUTHORIZING AND REQUIRING
Respondent.)	COMPLIANCE FILING
.....)	

SYNOPSIS: The Commission approves and adopts the Parties' Settlement Stipulation as a reasonable resolution of Avista's general rate proceeding. There will be no incremental increase in customers' rates relative to the rates established following the Commission's Fourth Supplemental Order in this proceeding that approved interim rates for Avista, subject to refund. There will be a reallocation of the revenue increases authorized for, and implemented by, Avista since October 1, 2001, by Commission orders in Docket Nos. UE-010395 (power-cost surcharge), UE-011514 (prudence), and UE-011595 (interim phase). The Commission authorizes Avista to implement an "Energy Recovery Mechanism" that allows for positive or negative adjustments to Avista's rates to account for fluctuations in power costs outside of an authorized band for power-cost recovery in base rates.

1 **PROCEEDINGS:** Docket No. UE-011595 is a general rate case filed by Avista on December 3, 2001. Avista requested permanent increases in its electric rates. Avista also requested a 12.4 percent interim rate increase, subject to refund, for its electric rates. In a related filing in Docket No. UE-011514, Avista requested a determination regarding the prudence and recoverability of certain power costs incurred by the Company through September 30, 2001. The Commission conducted joint proceedings in Docket Nos. UE-011514 and UE-011595 to consider the prudence of Avista's power costs and the Company's request for interim rate relief.

2 By its Fourth Supplemental Order in Docket Nos. UE-011514 and UE-011595,
entered on March 4, 2002, the Commission approved and adopted the Parties’
Settlement Stipulation as a reasonable resolution of Avista Utilities’ petition
concerning the prudence of certain deferred power costs and Avista Utilities’ request
for interim rate relief.

3 On May 31, 2002, Commission Staff filed a Settlement Stipulation among all parties
to Docket No. UE-011595 that would resolve all remaining issues in the general rate
proceeding, if it is approved and adopted by the Commission. The Commission
conducted a public comment hearing in Spokane, Washington on June 10, 2002, to
provide Avista’s customers and other interested persons an opportunity to be heard on
the proposed settlement. The Commission conducted evidentiary proceedings and
heard argument concerning the proposed settlement on June 12, 2002.

4 **PARTIES:** David Meyer, General Counsel, represents Avista Utilities. S. Bradley
Van Cleve, Davison Van Cleve, P.C., Portland, Oregon, represents the Industrial
Customers of Northwest Utilities (ICNU). Robert Cromwell, Assistant Attorney
General, Seattle, Washington, represents the Public Counsel Section, Office of
Attorney General (Public Counsel). Donald Trotter, Senior Assistant Attorney
General, and Jonathan Thompson, Assistant Attorney General, Olympia, Washington,
represent the Commission’s regulatory staff (Staff).¹

5 **COMMISSION:** The Commission approves and adopts the Settlement Stipulation
as a reasonable resolution of Avista’s general rate filing. The Commission
incorporates the Parties’ Settlement Stipulation by reference and makes it a part of
this Order. *Appendix A, infra*. The Commission authorizes and requires Avista to
make any compliance filings required to effectuate the terms of the Settlement
Stipulation and this Order.

¹ In formal proceedings, such as this case, the Commission’s regulatory staff (Staff) functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding ALJ, and the Commissioners’ policy and accounting advisors from all parties, including Staff. *RCW 34.05.455*.

MEMORANDUM**I. Introduction.**

6 This Order marks the culmination of significant efforts by the Parties, and by the Commission, to help restore the financial integrity of one of Washington State's major electric utilities, and to help ensure that Avista's customers continue to receive reliable electric service at reasonable rates. Mr. Jon Eliassen, Avista's Chief Financial Officer, testified that the Company has

made significant progress over the past nine months in addressing our financial condition. The regulatory action and support received to date from this Commission has been a critical part of that progress. In particular, the surcharge implemented last fall was a key action that provided cash flows necessary to allow the Company to reduce the amount of money being borrowed to pay for power purchases. The deferral accounting order, prudence settlement and interim rate increase orders granted earlier this year have all been recognized by the financial community as positive steps by this Commission that show its commitment to the financial health of regulated utilities in Washington.

Exhibit No. 13 at 1-2.

7 Staff states in its Memorandum Explaining Settlement Stipulation² the reasons it believes support a determination that the Settlement Stipulation is in the public interest as follows:

The Stipulation:

- Achieves a degree of rate certainty for Avista's customers, because it avoids immediate increases in customers' rates by maintaining the rate levels previously authorized on March 4, 2002.

² *Exhibit No. 14 (Staff Memorandum) at 2-3.* Staff's Memorandum includes both argument and factual assertions. To the extent of its factual content, Mr. Ken Elgin, testifying for the Staff, subscribed to and adopted the Memorandum as his sworn testimony.

- Continues or enhances the rate mitigation measures previously approved by the Commission in a prior stipulation.
- Resolves the uncertainty with respect to the Company's exposure to extraordinary power costs during 2000 and 2001.
- Implements an energy cost recovery mechanism, with an appropriate sharing of risk between shareholders and ratepayers, consistent with traditional rate base, rate of return regulation.
- Provides an orderly way for the Company to recognize in its financial statements the change from deferred power cost accounting to the proposed energy cost recovery mechanism ("ERM").
- Provides the Company the necessary revenues to recover the costs of new long-term, least-cost, appropriate risk resources it has acquired to serve core customers.
- Is based on a revenue requirement that reflects consideration of outstanding issues related to power supply and power cost modeling the Commission directed the Company to address in Docket No. UE-991606, the Company's last general rate case.
- Provides an opportunity for the parties to review issues related to power supply recovery under the ERM in 2006.
- The Stipulation will provide the Company an opportunity to earn a fair return on the facilities devoted to serving its electric customers.
- The Stipulation provides Avista with a reasonable opportunity to turn its financial situation around and to restore the investment community's faith in the Company.
- The ultimate goal is for Avista to regain an investment grade rating on its securities, which will translate into customer benefit.

8 Based on our review and analysis of the Settlement Stipulation and the record of our proceeding, we find these benefits to be present. Accordingly, we find that it is in the public interest for us to approve and adopt the Settlement Stipulation as a full and final resolution of this general rate proceeding. We congratulate and commend the parties for their hard work and cooperation in forging an agreement that brings an impressive array of short-term and long-term benefits. The agreement we approve

today strengthens Avista's ability to provide the public with the essential service of reliable and cost-efficient electricity while minimizing adverse effects of rate increases on customers.

II. Background and Procedural History.

- 9 The genesis of the instant proceeding, in part, is found in Docket No. UE-991606, Avista's last general rate case. In that proceeding, the Commission ordered Avista to address several specific issues related to power supply, cost, dispatch, and rate treatment in its next general rate filing. Staff states that it has examined these issues "in detail," and Staff recommends that the Commission approve the Settlement Stipulation. *Exhibit No. 14 (Staff Memorandum) at 4, 10-11.*
- 10 Other key issues in this proceeding concern Avista's deferred power costs, which have been the subject of inquiry in several dockets. In Docket No. UE-000972, Avista petitioned the Commission for an accounting order to permit the Company to defer certain power costs for potential later recovery. The Commission granted Avista's petition, but did not specify the method or timing for any recovery. *Petition of AVISTA CORPORATION, Docket No. UE-000972, Order Approving Establishment of a Deferral Mechanism To Track Power Costs (August 9, 2000).* On December 21, 2000, Avista requested authority to modify the deferral accounting mechanism. The Commission granted Avista's request, conditioned by a requirement that the Company file a proposal to address: the prudence of the incurred power costs; the optimization of Company-owned resources to the benefit of retail customers; the appropriateness of recovery of power costs through a deferral mechanism; a proposal for cost of capital offsets to recognize the shift in risk from shareholders to ratepayers; and a Company plan to mitigate the deferred power costs.
- 11 On March 22, 2001, Avista made the required filing in Docket No. UE-010395. Following a prehearing conference on April 23, 2001, the parties reported at a status conference on April 27, 2001, that they had negotiated the terms of a settlement agreement. Avista filed the promised settlement agreement on May 1, 2001, and we approved it, after hearing, on May 23, 2001. The central purpose of our order approving the settlement was "to permit Avista to manage effectively its current power supply situation." *In re the Matter of AVISTA CORPORATION, Docket No. UE-010395, First Supplemental Order (May 23, 2001) at 3.* The promise of the settlement was the possibility that Avista could "achieve a zero deferral balance on or

before February 28, 2003, without any associated change in retail rates.” *Id.* The Commission recognized that achievement of this goal depended on several assumptions about the Western power markets, including the availability of hydroelectric power, and other factors over which Avista could exert no control. The Settlement Stipulation provided that if Avista’s power-cost deferral account balance increased substantially, or was reasonably anticipated to increase substantially, due to unanticipated or uncontrollable events, Avista could petition to alter, amend, or terminate the Settlement Stipulation, or seek other appropriate relief.

- 12 Unfortunately, the power market assumptions underlying the settlement agreement did not bear out. On July 18, 2001, Avista filed a petition in Docket No. UE-010395 seeking to initiate recovery of its power cost deferrals. Avista requested the Commission to approve by September 15, 2001, a 36.9 percent surcharge that Avista would collect, subject to refund, pending further proceedings. Following hearing proceedings, the Commission entered its Sixth Supplemental Order in Docket No. UE-010395 on September 24, 2001, authorizing immediate rate relief for Avista in the form of a 25 percent surcharge applied to Avista’s retail rates on an equal percentage basis, subject to refund, and subject to further proceedings concerning prudence and other issues.
- 13 Avista filed this general rate case on December 3, 2001.³ Avista requested a 22.5 percent permanent increase in its electric rates to produce additional annual revenue of approximately \$53,247,000. Avista also requested a 12.4 percent interim rate increase for its electric rates (*i.e.*, approximately \$29,344,000 on an annualized basis), subject to refund, pending the Commission’s determination of the Company’s general rate proceeding.
- 14 Among other things, the prudence and recoverability of Avista’s deferred power costs incurred after September 30, 2001, were put at issue in the general rate proceeding. Avista also requested a determination in Docket No. UE-011514 regarding the prudence and recoverability of certain power costs incurred by the Company through September 30, 2001.

³ Avista also filed on December 3, 2001, a petition for an accounting order that would allow the Company to defer power costs it incurred after December 31, 2001, pending the outcome of the general rate case. The Commission entered the requested accounting order on December 28, 2001, in Docket No. UE-011597.

- 15 The Commission convened a joint prehearing conference in Olympia, Washington, on December 21, 2001, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, Commissioner Patrick J. Oshie, and Administrative Law Judge Dennis J. Moss. This was the second prehearing conference in Docket No. UE-011514 and the first prehearing conference in Docket No. UE-011595. The Commission determined at its prehearing conference that Avista's prudence proceeding (Docket No. UE-011514) should be heard jointly with the interim rate request in Docket No. UE-011595 and established a procedural schedule.
- 16 On February 20, 2002, the Parties filed a Settlement Stipulation. The Parties proposed that the Commission approve and adopt the Settlement Stipulation as a full resolution of the issues presented regarding prudence and interim rates, and a partial resolution of certain issues pending in the general rate proceeding.
- 17 The Commission conducted evidentiary hearings on the Parties' proposed settlement in Olympia, Washington, on February 25, 2002. On February 27, 2002, the Commission heard public testimony in Spokane on the issues related to prudence and interim rate relief, and on the proposed Settlement Stipulation. The Commission closed the record in Docket No. UE-011514, and in the interim phase of Docket No. UE-011595, on March 1, 2002.
- 18 By its Fourth Supplemental Orders in Docket Nos. UE-011514 and UE-011595, entered on March 4, 2002, the Commission approved and adopted the parties' Settlement Stipulation as a reasonable resolution of Avista Utilities' petition concerning the prudence of certain deferred power costs and Avista request for interim rate relief. The Commission found prudent and allowed for recovery in rates \$196,023,342 in deferred power costs, adjusted the accounting treatment of a previously approved power cost surcharge, and provided for a 6.2 percent rate increase over base rates (*i.e.*, a 5 percent increase over then-current rates) for Avista Utilities. The Commission's Order also resolved certain issues pending in Avista Utilities' general rate increase request, consistent with the Settlement Stipulation's terms.
- 19 On May 31, 2002, Commission Staff filed a Settlement Stipulation among all parties to Docket No. UE-011595 that, if approved and adopted by the Commission, would resolve all remaining issues in the general rate proceeding. Overall rates to Avista's retail customers under the Settlement Stipulation are proposed to remain at the levels

previously authorized by the Commission in its Fourth Supplemental Order in Docket Nos. UE-011514 (prudence) and UE-011595 (interim phase), entered March 4, 2002.

20 The Commission conducted a public comment hearing in Spokane, Washington, on June 10, 2002, to provide Avista's customers and other interested persons an opportunity to be heard on the proposed settlement. The Commission conducted evidentiary proceedings and heard argument concerning the proposed settlement on June 12, 2002, in Olympia, Washington.

III. Governing Statutes and Rules.

21 The following statutory provisions and rules are most central to our discussion and decision:

RCW 80.01.040 General Powers and Duties of Commission.

The utilities and transportation commission shall:

* * *

(3) Regulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation, and related activities; including, but not limited to, electrical companies

RCW 80.04.130 Suspension of tariff change.

(1) Whenever any public service company shall file with the commission any schedule, classification, rule or regulation, the effect of which is to change any rate, charge, rental or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justness thereof, and pending such hearing and the decision thereon the commission may suspend the operation of such rate, charge, rental or toll for a period not exceeding ten months from the time the same would otherwise go into effect, and after a full hearing the commission may make such

order in reference thereto as would be provided in a hearing initiated after the same had become effective. . . .

(2) At any hearing involving any change in any schedule, classification, rule or regulation the effect of which is to increase any rate, charge, rental or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

RCW 80.28.010 Duties as to rates, services, and facilities.

(1) All charges made, demanded or received by any gas company, electrical company or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient.

(2) Every gas company, electrical company and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

(3) All rules and regulations issued by any gas company, electrical company or water company, affecting or pertaining to the sale or distribution of its product, shall be just and reasonable. . . .

RCW 80.28.020 Commission to fix just, reasonable, and compensatory rates.

Whenever the commission shall find, after a hearing had upon its own motion, or upon complaint, that the rates or charges demanded, exacted, charged or collected by any gas company, electrical company or water company, for gas, electricity or water, or in connection therewith, or that the rules, regulations, practices or contracts affecting such rates or charges are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of the provisions of the law, or that such rates or charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine the just, reasonable, or sufficient rates, charges,

regulations, practices or contracts to be thereafter observed and in force, and shall fix the same by order.

WAC 480-09-310 Filing requirements—Definitions:

(2) The following proceedings shall not be considered general rate increases for companies regulated under Title 80 RCW even though the revenue requested may exceed three percent of the company's gross annual revenue from Washington regulated operations: . . . ; emergency or other short-notice increases caused by disaster or weather-related conditions unexpectedly increasing a public service expense; rate increases designed to recover governmentally-imposed increases in costs of doing business such as changes in tax laws or ordinances; or other increases designed to recover increased expenses arising on short-notice and beyond the public service company's control.

Additional parts of Chapters 80.01, 80.04, and 80.28 RCW and Chapters 480-09, 480-80, and 480-100 WAC apply generally.

IV. Analysis and Decision.

A. Retail Rates

22

The Parties' Settlement Stipulation provides that net retail rates to customers will remain at current levels,⁴ based on the revenue amounts authorized by the Commission in its Sixth Supplemental Order in Docket No. UE-010395 (effective October 1, 2001) and its Fourth Supplemental Order in this proceeding. The previously authorized annual revenue increases of approximately \$73,914,000, however, will be reallocated as follows: \$45,722,000 to base rates and \$28,192,000 to amortization of the energy cost deferral balance (before adjustment for revenue-sensitive expenses) through the Schedule 93 surcharge tariff approved in Docket No.

⁴ There is one exception. Avista's rate Schedule 25 for high voltage customers will be modified by adding two additional discounts to reflect Avista's reduced costs from avoiding transformer costs and associated energy losses related to stepping the voltage down to lower levels. The net revenue impact of implementing these discounts—approximately \$70,000 annually—will be reallocated within Schedule 25.

UE-010395, and by elimination of Schedule 96, the operative interim rate compliance filing tariff sheet approved in Docket No. UE-011595 (interim phase). The Settlement Stipulation provides that “[t]his assignment of revenue requirements is to be considered the final resolution of Docket Nos. UE-010395, UE-011514 and UE-011595, and will be reflected through changes to the Company’s general service tariffs and the Schedule 93 surcharge tariff.” The general service tariff changes will reflect new permanent rates for Avista;⁵ the Schedule 93 surcharge tariff will remain in place until the Company’s energy cost deferral balance reaches zero.

23 Commission Staff argues in support of the allocation of revenue described above. Staff states that Avista’s filing in this docket proposed an increase in general electric service revenues of \$53,247,000, an increase of about 22.5 percent over the rates established in Docket No. UE-991606. A reduction in this request to \$45,722,000 was achieved and is supported by Staff’s detailed analysis of every Company-proposed adjustment, according to Staff. *Exhibit No. 14 (Staff Memorandum) at 11.* Staff also states that it conducted an independent review of the Company’s books of account and found additional adjustments, both positive and negative.⁶ *Id.* Staff finally states in this connection that based on its review and audit, “Staff is satisfied that the Company’s electric revenue requirements portrayal is consistent with past Commission orders.” *Id.* The resulting retail revenue increase of \$45,722,000 leads to total pro forma retail revenues for general rates of \$278,000,000 (Washington).⁷

24 Staff also addresses new power supply costs, the prudence of which was reserved as an issue for the general rate proceeding. *Exhibit No. 14 (Staff Memorandum) at 15-20.* These costs include those associated with the Company’s fifty-percent ownership in the Coyote Springs II generation project, its Boulder Park project, and the Kettle Falls CT generation project. “Staff believes [these projects] will provide benefits in the form of firm energy supply and a reduction in exposure to the more volatile

⁵ “Permanent rates,” in the lexicon of utility law, are Commission-approved rates that are not subject to refund, and that are subject to change prospectively following a hearing and determination by the Commission that they are not fair, just, reasonable, or sufficient in accordance with *RCW 80.28.20*.

⁶ Staff does not offer a detailed statement of these adjustments, but Staff does highlight one issue. Staff states specifically that while the level of executive compensation has been an issue in past, Staff’s review “found no expenses related to the former CEO, Mr. Thomas “Tom” Matthews,” and that “the overall level of executive compensation was in line with Staff’s analysis and recommendations in the last general rate case.” *Exhibit No. 14 (Staff Memorandum) at 11.*

⁷ We clarify the Settlement Stipulation by noting that references in the Settlement Stipulation to revenue in the amount of \$282,490,000 include revenue attributable to Special Contracts and Avista’s conservation tariff rider. *TR. 217 (Elgin).*

wholesale markets.” *Exhibit No. 14 (Staff Memorandum) at 15*. Staff states that based on its analysis, “these projects were prudently acquired and that the Company should be allowed to recover associated costs, including capital costs, interest, depreciation, and non-fuel O&M costs on a prospective basis.” *Id. at 15-16*.

25 Staff discusses power costs at some length, and refers to other projects and contracts that bear on the Company’s pro forma estimates of power supply expense. Staff argues, on the basis of its detailed analyses of both the power supply cost items, and Avista’s new dispatch model, that the Commission should “approve the level of pro forma power supply expense as filed by the Company.”⁸

26 Messrs. Kelly Norwood and Brian Hirschorn for Avista, and Mr. Schoenbeck for ICNU testified in response to questions from the Bench concerning rate spread and rate design issues that relate to the subject of rate rebalancing or parity. *TR. 220-22; TR. 232-42*. These witnesses agreed that although the uniform percentage basis for adjusting rates under the Settlement Stipulation moves revenue-to-cost ratios toward unity, the effect is slight. The witnesses also agreed that this would not be an opportune time to address any disparities in revenue-to-cost ratios more aggressively in light of the magnitude of recent increases. Messrs. Hirschorn and Schoenbeck testified that a more appropriate time to readdress this issue would be when the Energy Cost Deferral Balance reaches zero and the surcharge recovery rate under Tariff Schedule 93 is terminated. *TR. 241-42*. We agree with this last point and expect that the issue will be considered at that time, or before, if warranted by other circumstances such as an intervening filing to reduce Avista’s electric rates.

27 *Commission Decision*: The proposed resolution of issues related to retail rates is fully supported by the record as being in the public interest. The resulting rates are fair, just, reasonable, and sufficient.

B. Deferred Energy Costs.

28 Highly perturbed conditions in Western wholesale power markets during 2000 and 2001 contributed significantly to the decline of Avista’s financial condition during

⁸ Staff states that “[t]his level serves as the ‘base’ level of power costs that are included in the [Energy Recovery Mechanism], as shown on Attachment 1 to the [Settlement] Stipulation.” *Id. at 20*.

recent periods.⁹ Avista accrued \$217,803,712 in deferred energy costs to Account 186, “Miscellaneous Deferred Debits,” from July 2000 through December 2001, pursuant to the Commission’s orders in Docket Nos. UE-000972 and UE-010395. In our Sixth Supplemental Order in Docket No. UE-010395, we allowed the Company to begin recovering some of these costs by approving Tariff Schedule 93, a 25 percent rate surcharge, effective October 1, 2001, but subject to refund.

29 The Settlement Stipulation approved by our Fourth Supplemental Order to resolve the interim rate phase of this proceeding and the prudence issues in Docket No. UE-011514 provided that 90 percent, or \$196,023,342, of these deferred energy costs would be deemed prudently incurred and recoverable in rates. In approving the settlement of those proceedings, we removed the subject-to-refund condition on the revenues generated by the 25 percent surcharge. The remaining 10 percent, or \$21,780,370, of these costs were required to be booked to expenses according to proper accounting practices.¹⁰ We also adjusted the prospective allocation of the surcharge revenues so that 80 percent would be credited against the deferral account balance while 20 percent would be available to Avista for general operating costs.

30 On December 28, 2001, we entered our Order Granting Accounting Petition in Docket No. UE-011597, which allowed Avista to defer and record on its financial books certain energy costs incurred by the Company from January 1, 2002, through June 30, 2002. According to the Settlement Stipulation, the balance of these deferrals at April 30, 2002, is a credit of \$640,000. The Settlement Stipulation now under consideration provides that this balance, plus actual deferrals for May and June of 2002, will be consolidated for accounting and recovery purposes with the remaining energy cost deferral balance authorized for recovery by our Fourth Supplemental Order in this proceeding. This is referred to in the Settlement Stipulation as the “Energy Cost Deferral Balance.” Beginning on July 1, 2002, the Energy Cost Deferral Balance will also include any deferrals from the Energy Recovery Mechanism, discussed in the next section of our Order.

31 In its discussion of deferrals, Staff points out that the Commission’s Fourth Supplemental Order in this docket and in Docket No. UE-011514 resolved the issues

⁹ See, e.g., In re the Matter of Avista Corporation, d/b/a Avista Utilities, Sixth Supplemental Order, Docket No. UE-010395 (September 24, 2001) at ¶¶5-8.

¹⁰ The practical effect of booking these costs to expense is that Avista was required to “write-off” the \$21,780,370, thus assigning responsibility for these costs to shareholders rather than to ratepayers.

of prudence and recoverability with respect to power costs deferred over the period October 1, 2001, through December 31, 2001. Staff discusses the remaining deferral issues in the broader context of general power supply issues, including those specified for further consideration in this proceeding by the Commission's final order in Docket No. UE-991606.

32 Staff says that from its perspective “the remaining deferral issues include: the actual mechanics of the deferral calculation, the prudence of costs tracked in the deferral, and the disposition of the resulting deferral balances at the end of the deferral period.” *Exhibit No. 14 (Staff Memorandum) at 13*. Staff states that the Settlement Stipulation satisfactorily resolves these issues by allowing the present power cost deferral mechanism to continue until the Energy Recovery Mechanism, discussed below, begins on July 1, 2002. As Staff points out, “[t]his includes the 90% customer/10% Company sharing percentages, and an adjustment related to unused natural gas that is sold at a loss or gain.” *Id.* Staff also states that favorable hydropower generation conditions are presently providing an offset to costs through the ongoing deferral mechanism. *Id.*

33 *Commission Decision*: We find that the treatment of remaining issues related to Avista's power cost deferral as proposed in the Settlement Stipulation is consistent with our prior determinations concerning such costs and is fully supported by the record. The proposed treatment of deferred power costs is in the public interest.

C. Energy Recovery Mechanism.

34 The Settlement Stipulation provides that Avista will implement a so-called Energy Recovery Mechanism (“ERM”) beginning July 1, 2002. The details of the ERM are in Section II.3. of the Settlement Stipulation. The ERM includes both accounting procedures and procedures to adjust rates.

35 Staff describes the ERM accounting and rate adjustment procedures in its Memorandum and argues for their approval and adoption as follows:

In brief, the ERM tracks Avista's power expenses and revenues from four FERC accounts (Accounts 447, 501, 547 and 555), which comprise the Company's major power supply cost accounts, and compares these amounts to “base” levels for these accounts. The

“base” levels are shown in Attachment 1 to the Stipulation. The base levels result from the pro forma power supply analysis demonstrated in the general rate case. As explained in Part IV, below, Staff thoroughly evaluated the company’s presentation of pro forma power supply cost. On that basis, Staff recommends the “base” levels be accepted.

36 Our record clarifies that the ERM accounting, as set forth in the Settlement Stipulation, operates to: a) accrue monthly deferrals during the calendar year equal to 90 percent of the difference between base and actual power costs if that difference exceeds \$9 million; b) add a deferral credit or debit to the Energy Cost Deferral Balance only if the cumulative calendar year total of monthly deferrals exceeds \$9 million; and c) begin January of each year with a new calendar year deferral balance of zero. Exhibit 15, attached to our Order as Appendix B, illustrates these points graphically for several example scenarios.

37 It also is clear from our record that the “retail revenue adjustment” included in the ERM simply contributes to the monthly deferrals and, ultimately, to the ERM contributions, if any, to the Energy Cost Deferral balance. As Mr. Elgin testified:

It's primarily a design to account for load growth and also make sure that the Company bears in its actual results of operations the traditional variations of temperature. So the idea is to adjust the deferral by the amount that the Company recovers through load growth on its system, and then to the extent that temperature affects power supply costs, it's to adjust the deferral for that impact as well. So imbedded in the calculation of any deferral is the retail revenue adjustment figure, so that's what it's designed to do. It's designed to make sure the Company does not book costs to the deferral that would otherwise recover due to load growth or variations in temperature, and it's symmetrical both on the upside and the downside.

TR. 218-19. In other words, the retail revenue adjustment is part of the monthly calculation Avista will make under the ERM.

38 We also clarified through colloquy with the witnesses, that the ERM is intended to address only the ordinary variations in power costs that may occur going forward, not extraordinary costs. Mr. Norwood, for example, testified that:

if you had a 100-million-dollar situation, then it would operate just as is shown here, and that is the first nine million would be absorbed by the Company. There would be a 90 percent deferral for any amount above that, and once you hit the 27.8-million trigger, we would file with the Commission to adjust rates. If the balance continues to grow, then it would be up to the Company then to come to the Commission to say that we have an extreme extraordinary situation and request the appropriate relief at that point in time, but that would be outside of this ERM mechanism. It could be done in the context of a general rate case or request for some kind of emergency relief.

39 In a similar vein, Mr. Elgin testified that:

The ERM is designed to deal with the expected normal variability of hydro. If you look at Exhibit 16, this was the prosym modeling of the water records that the Company has, and the ERM is a mechanism designed to deal with those variations in hydros and the expenses on the Company, and this is a modeling of that. From Staff's perspective, this settlement agreement does not deal with extraordinary circumstances that we dealt with in 2000, 2001 period that gave rise to the existing deferrals. . . This settlement does not deal with those conditions. It just can't. Those impacts and costs are too big, and we have to deal with that on the cases and the circumstances as they arise, and this is how staff would view this settlement operation, the operation of this settlement document.

TR. 184-85. There is nothing in the Settlement Stipulation that precludes the Company from seeking relief from extraordinary or other circumstances that call for modification of the ERM. Indeed, paragraph 4(c) on page 7 of the Settlement Stipulation provides that Avista may seek to modify the ERM "on or before December 31, 2006."

40 *Commission Decision:* We find on the basis of the record that it is in the public interest to approve the ERM mechanism included in the Settlement Stipulation, as clarified by our discussion here.

D. Customer Impact Mitigation Measures, Demand Side Management, and Low-Income Tariff Riders

- 41 Under the Stipulation approved by the Commission's Fourth Supplemental Order in this proceeding, Avista implemented several measures designed to help mitigate the impact of increased rates on customers. Under the instant Settlement Stipulation, Avista will continue, or expand, its commitment to customer mitigation measures at least through June 30, 2003. Specifically, Avista will continue the Winter Low-Income Payment Program; will continue to actively promote its levelized billing program (i.e., "Comfort Level Billing"), as modified by the prior Stipulation; will continue to offer the option for customers to pay deposits in four equal installments; and will continue customer service awareness efforts to increase participation in the CARES program. Avista also will continue to promote additional contributions to Project Share, which provides emergency energy assistance for families in Washington, and will provide \$150,000 annually to Project Share funding until the Energy Cost Deferral Balance is reduced to zero or produces a credit to customers.
- 42 Finally, Avista will propose modifications to its Demand Side Management and Low Income Tariff Riders within 120 days after Commission approval of the Settlement Stipulation. These modifications relate to the appropriate matching of prospective Tariff Rider revenues and prospective program costs, after stakeholder review with the External Energy Efficiency Board. These modifications will be subject to filing and Commission review.
- 43 *Commission Decision:* We acknowledge the testimony from members of the public that described the effect of any rate increases on Avista's customers, particularly those who are most financially vulnerable. Although customers will not experience any net rate increase under the Settlement Stipulation, a portion of the previously approved increases will become part of Avista's permanent rates, and a power-cost-deferral surcharge rate will remain in effect for the time being. The customer impact mitigation, Demand Side Management, and Low-Income Tariff Rider provisions of the Settlement Stipulation continue, and expand on, initiatives that offer customers some relief from higher rates. We find these provisions to be in the public interest.

FINDINGS OF FACT

- 44 Having discussed above all matters material to our decision, and having stated our general findings, the Commission now makes the following summary findings of fact. Those portions of the preceding discussion that include findings pertaining to the ultimate decisions of the Commission are incorporated by this reference.
- 45 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including electric companies.
- 46 (2) Avista is a “public service company” and an “electrical company” as those terms are defined in RCW 80.04.010, and as those terms otherwise may be used in Title 80 RCW. Avista is engaged in Washington State in the business of supplying utility services and commodities to the public for compensation.
- 47 (3) Avista filed certain tariff revisions on December 3, 2001, that were suspended by Commission Order entered in Docket No. UE-011595 on December 12, 2001. The general rates proposed by Avista’s as-filed tariff revisions are the principal subject matter of the Commission’s inquiry in this proceeding.
- 48 (4) Staff, on behalf of all Parties to this proceeding, filed a proposed Settlement Stipulation on May 31, 2002.
- 49 (5) The existing permanent rates for electric service provided in Washington State by Avista are insufficient to yield reasonable compensation for the service rendered. Avista requires relief with respect to the permanent rates it charges for electric service provided in Washington State.
- 50 (6) The existing temporary surcharge rates charged to customers under Avista’s Tariff Schedule No. 93 are no longer fair, just, and reasonable.
- 51 (7) The permanent rates and the temporary surcharge rates that result from adoption of the Settlement Stipulation filed by the Parties to these proceedings are fair, just, and reasonable and sufficient rates; the terms and conditions of

service that result from adoption of the Settlement Stipulation are fair, just, and reasonable.

- 52 (8) The rates, terms, and conditions of service that result from adoption of the Settlement Stipulation filed by the Parties to these proceedings are neither unduly preferential nor discriminatory.

CONCLUSIONS OF LAW

53 Having discussed above in detail all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.

- 54 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and Parties to, this proceedings. *Title 80 RCW.*
- 55 (2) The rates proposed by tariff revisions filed by Avista on December 3, 2002, and suspended by prior Commission order, are not just, fair, or reasonable and should be rejected. *RCW 80.28.010.*
- 56 (3) The existing permanent rates for electric service provided in Washington State by Avista are insufficient to yield reasonable compensation for the service rendered. *RCW 80.28.010; RCW 80.28.020.*
- 57 (4) The existing temporary surcharge rates under Avista's Tariff Schedule 93 are not fair, just, or reasonable for prospective application.
- 58 (5) Avista requires relief with respect to the rates it charges for electric service provided in Washington State. *RCW 80.01.040; RCW 80.28.060.*
- 59 (6) The Commission must determine the fair, just, reasonable, and sufficient rates to be observed and in force under Avista's Tariff WN U-28, which governs its rates, terms, and conditions for providing electric service in Washington State. *RCW 80.28.020.*

- 60 (7) The Settlement Stipulation filed by the Parties on May 31, 2002, which is attached to this Order as Appendix A and incorporated by reference as if set forth in full in the body of this Order, should be approved and adopted by the Commission as a reasonable resolution of the issues presented. *WAC 480-09-465; WAC 480-090-466.*
- 61 (8) The rates that result from this Order are fair, just, reasonable, and sufficient; the terms and conditions of service that result from this Order are fair, just, and reasonable. *RCW 80.28.010; RCW 80.28.020.*
- 62 (9) The rates, terms, and conditions of service that result from this Order are neither unduly preferential nor discriminatory. *RCW 80.28.020.*
- 63 (10) The Commission's prior orders in this proceeding, and in any related proceedings discussed in the body of this Order, should be amended to the extent necessary, or rescinded to the extent required, to effectuate the provisions of this Order. *RCW 80.04.210; WAC 480-09-815.*
- 64 (11) The Commission Secretary should be authorized to accept by letter, with copies to all Parties to this proceeding, a filing that complies with the requirements of this Order. *WAC 480-09-340.*
- 65 (12) The Commission should retain jurisdiction over the subject matters and the Parties to this proceeding to effectuate the terms of this Order. *Title 80 RCW.*

ORDER

- 66 (1) THE COMMISSION ORDERS That the proposed tariff revisions filed by Avista on December 3, 2001, and suspended by prior Commission order, are rejected.
- 67 (2) THE COMMISSION ORDERS FURTHER That the Settlement Stipulation filed by the Parties on May 31, 2002, which is attached to this Order as Appendix A and incorporated by reference as if set forth in full in the body of this Order, is approved and adopted.

- 68 (3) THE COMMISSION ORDERS FURTHER That Avista is authorized and required to file tariff sheets following the effective date of this Order to effect an increase to permanent base rates under various rate schedules, including Residential Schedule 1, General Service Schedule 11, Large General Service Schedule 21, Extra Large General Service Schedule 25, Pumping Service Schedule 31, Street & Area Lighting Schedules 41-47, and a decrease to temporary surcharge rates in Tariff Schedule 93, all of which shall be consistent with the Settlement Stipulation and the terms of this Order. The required tariff sheets shall bear an effective date of July 1, 2002.
- 69 (4) THE COMMISSION ORDERS FURTHER That Avista is authorized and required to file following the effective date of this Order such other tariff sheets as are required to effectuate its terms.
- 70 (5) THE COMMISSION ORDERS FURTHER That the Commission Secretary is authorized to accept by letter, with copies to all Parties to this proceeding, a filing that complies with the requirements of this Order.
- 71 (6) THE COMMISSION ORDERS FURTHER That it retains jurisdiction over the subject matter and the Parties to effectuate the provisions of this Order.

DATED at Olympia, Washington, and effective this 18th day of June 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).

APPENDIX A

SETTLEMENT STIPULATION

APPENDIX B

EXHIBIT NO. 15