

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

DOCKET U-210595

PUGET SOUND ENERGY, AVISTA CORPORATION d/b/a AVISTA UTILITIES, PACIFICORP d/b/a PACIFIC POWER & LIGHT COMPANY, CASCADE NATURAL GAS CORPORATION, NORTHWEST NATURAL GAS COMPANY d/b/a NW NATURAL, THE ALLIANCE OF WESTERN ENERGY CONSUMERS, NW ENERGY COALITION, SMALL BUSINESS UTILITY ADVOCATES, FRONT & CENTERED, AND SPARK NORTHWEST,

ORDER 02

APPROVING AGREEMENT  
SUBJECT TO CONDITION;  
REQUIRING REILING OF  
MODIFIED AGREEMENT

Petitioners,

For an Order Approving Extended Interim Participatory Funding Agreement between Puget Sound Energy, Avista Corporation d/b/a Avista Utilities, PacifiCorp d/b/a Pacific Power & Light Company, Cascade Natural Gas Company d/b/a NW Natural, the Alliance of Western Energy Consumers, NW Energy Coalition, The Energy Project, Small Business Utility Advocates, Front & Centered, and Spark Northwest.

**BACKGROUND**

*1* On December 20, 2022, Puget Sound Energy (PSE), Avista Corporation d/b/a Avista Utilities (Avista), PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp), Cascade Natural Gas Corporation (Cascade), Northwest Natural Gas Company d/b/a NW Natural (NW Natural), the Alliance of Western Energy Consumers, NW Energy Coalition, The Energy Project, Small Business Utility Advocates, Front & Centered and Spark Northwest (collectively, Joint Parties) filed with the Washington Utilities and Transportation Commission (Commission) a petition seeking an order authorizing PSE, Avista,

PacifiCorp, Cascade, and NW Natural (Companies) to extend and modify previously approved funding agreements with certain customer advocacy organizations (Petition).

- 2 The Washington State Legislature passed Engrossed Substitute Senate Bill 5295 in 2021, codified as RCW 80.28.430. The measure required utilities to enter into funding agreements with organizations that represent broad customer interests. The Commission is directed to determine the amount of financial assistance, if any, that may be provided to any organization; the way the financial assistance is distributed; the way the financial assistance is recovered in a utility's rates; and other matters necessary to administer the agreement. Such agreements for participatory funding must prioritize organizations that represent highly impacted communities and vulnerable populations (Prioritized Communities).
- 3 On August 19, 2021, the Commission issued a notice seeking input from interested persons and utilities, and on September 28, 2021, the Commission hosted a workshop. After considering input, including written comments from 11 interested parties, the Commission issued a Policy Statement on Participatory Funding for Regulatory Proceedings (Policy Statement) on November 19, 2021, that provides interim, high-level guidance on participatory funding agreements. The Policy Statement includes guidance on funding caps; funding for Prioritized Communities; the Commission's interpretation of "eligible organizations," "eligible proceedings," and "broad customer interests"; and process requirements for the distribution of funds.
- 4 After the Policy Statement was issued, the Joint Parties entered discussions to negotiate the interim, one-year funding agreement (Original Agreement). The Original Agreement was limited to a one-year term, made up to .01 percent of operating revenue available from each company (up to a cap of \$300,000 per utility), set aside one-third of funding for organizations representing Prioritized Communities, and detailed a process that includes Commission approval for all requests for funds and final payments.
- 5 On February 24, 2022, the Commission entered Order 01, Approving Agreement with Modifications (Order 01), allowing the Original Agreement, with several modifications, to take effect February 25, 2022, and remain in place until December 31, 2022, unless extended or terminated with Commission approval.
- 6 Commission staff (Staff) has reviewed the revised agreement (Revised Agreement) submitted with the Petition and believes it continues to align with the guidance in the Policy Statement, for the most part. Staff believes that the funding limits are appropriate and that the Revised Agreement appropriately sets funding aside for organizations

representing Prioritized Communities, and notes that the proposed increase of \$100,000 to PSE's prioritized communities sub-fund is appropriate given the fact that PSE's funds were over-subscribed under the Original Agreement. Staff believes that, if implemented with minor modifications, the Revised Agreement will continue to enable public participation in the Commission's regulatory processes as SB5295 intended. Staff recommends the Commission make the following modifications to the Agreement:

- Remove new provision 4.2.4, a "safety valve" provision to increase sub-funds upon showing of good cause.
- Remove provision 7.9, which pre-approved accounting treatment for the duration of the Original Agreement.

- 7 Staff believes that provision 4.2.4 provides an avenue by which organizations that have historically been more involved with the Commission and are already familiar with Commission processes will be able to increase their access to funding at the expense of smaller, less experienced organizations. Staff also believes that this provision would create increased administrative burdens and unnecessarily increase the burden on ratepayers.
- 8 Finally, Staff recommends the Commission clarify again that it is not bound by the timeframes set out in the Revised Agreement.
- 9 This matter came before the Commission at its regularly scheduled open meeting on February 9, 2023.
- 10 At the open meetings, the Commission heard comments from most of the Companies and consumer advocacy groups in support of the Revised Agreement as written.
- 11 The Alliance of Western Energy Consumers (AWEC) stated, in support of provision 4.2.4, that the safety valve mechanism is intended as a true emergency provision, rather than a first resort, and that a compelling argument would be required for approval of any increase in funds. AWEC further mentioned that any grant of increase in funds would be at the Commission's discretion after thorough review, and so concerns about abuse of process or inequitable distribution of funds could be addressed in those individual petitions for funds. Additionally, AWEC stated that the primary impetus for provision 4.2.4 is the likelihood of a generally applicable docket, such as a rulemaking affecting all utilities, arising after any particular utility's funds have been depleted, which may result in the customers of other utilities unfairly subsidizing the representation on behalf of the customers of the utility whose funds were depleted.

- 12 The Energy Project (TEP) echoed AWEC’s remarks and reiterated that there would be a very high bar to prove the necessity of additional funds under the safety valve.
- 13 Small Business Utility Advocates also advocated for provision 4.2.4, echoing AWEC and TEP, and added that a two-year trial of provision 4.2.4 would be more informative to a future long-term agreement.
- 14 Spark Northwest joined in the earlier comments in support of provision 4.2.4, but advised that the Commission needs to improve and extend its outreach towards new and smaller frontline and environmental justice organizations that have had little opportunity to participate previously, to ensure that those organizations have access to the approved funds and any additional funds available through provision 4.2.4.
- 15 NW Energy Coalition, PacifiCorp, Avista, and PSE all echoed the comments in support of provision 4.2.4 and supported the Revised Agreement as a whole. Avista spoke additionally to support provision 7.9, stating that it believes that because the Revised Agreement is simply an extension of the Original Agreement, the deferrals granted for the duration of the Original Agreement should likewise extend.
- 16 PacifiCorp additionally expressed concern that any modification to the agreement that would require the parties to modify, re-sign, and re-file the agreement could raise other potential issues or changes requiring further examination by the Commission.
- 17 PSE noted that its currently approved deferral was date-specific and therefore would need to be modified or refiled regardless of the Commission’s decision regarding provision 7.9.

## **DISCUSSION**

- 18 We agree in part with Staff’s recommendation and approve the Revised Agreement, subject to the removal of provision 7.9 only.
- 19 New provision 4.2.4, “Request to Increase Sub-funds,” is a “safety valve” provision that would allow the Commission to consider requests for an increase to funding after an annual limit is exhausted if a participating organization demonstrates good cause. The joint parties argue that some sub-funds were over-subscribed, which indicates an additional need for funding. While we are sympathetic to Staff’s concerns that this provision could increase the burden on ratepayers and that it could tend to favor incumbent organizations, we find that the Revised Agreement provides sufficient procedural mechanisms to prevent unwarranted increases in funding. Any petition to increase sub-funds would also be subject to Commissions review. We are further

persuaded by the argument that a two-year trial of this safety valve would provide more information for future negotiations toward a long-term agreement.

20 However, the provision regarding accounting treatment in the extended agreement, provision 7.9, should be removed. Typically, the Commission does not pre-authorize accounting treatment, and it will not do so in this case. Specific accounting treatment should be determined by the Commission via accounting petitions, consistent with other Commission practices, rather than through a pre-negotiated agreement. We also clarify that the current deferrals granted pertain only to funds distributed in 2022 and are not ongoing, so either new or amended petitions must be filed for funds distributed under the Revised Agreement.

21 Additionally, the Joint Parties request that filings under the Revised Agreement be ruled on within 30 days of receipt. Although the Commission believes that this timeline is a reasonable guideline and goal, the Commission clarifies by this Order that it is not bound by the timelines set out in the Revised Agreement. Likewise, our approval of the agreement does not bind the Commission to the requests outlined in the Petition's section titled "VI. Further Process."

22 Finally, although we approve the proposed two-year term, we believe that Staff and the Joint Parties should work toward a permanent agreement to take effect at the expiration of this term.

23 Overall, the Commission finds that the Revised Agreement serves the public interest, and that the funding made available through the Revised Agreement represents a reasonable allocation of financial assistance. Accordingly, we approve the Revised Agreement with the modification described above.

### FINDINGS AND CONCLUSIONS

24 (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 and gas companies.

25 (2) PSE and Avista are electric and natural gas companies and public service companies subject to Commission jurisdiction. PacifiCorp is an electric company and a public service company subject to Commission jurisdiction. NW Natural and Cascade are natural gas companies and public service companies subject to the Commission's jurisdiction.

- 26 (3) RCW 80.28.430 requires investor-owned utilities to enter into funding agreements  
with organizations that represent broad customer interests, including the Revised  
Agreement for which the Joint Parties seek approval.
- 27 (4) Staff has reviewed the Petition and the Revised Agreement filed in this Docket.
- 28 (5) Staff believes the proposed Revised Agreement the Joint Parties' request is  
reasonable and in the public interest, and that it should be granted with one  
modification.
- 29 (6) This matter came before the Commission at its regularly scheduled meeting on  
February 9, 2023.
- 30 (7) RCW 80.28.430 also delegates to the Commission the authority to review and  
approve an agreement, approve an agreement with modifications, or reject an  
agreement.
- 31 (8) The Revised Agreement filed by the Joint Parties, with certain modifications, is  
consistent with both RCW 80.28.430 and the Commission's Policy Statement and  
should be approved.
- 32 (9) After reviewing the Petition filed in U-210595 on December 20, 2022, and giving  
due consideration to all relevant matters and for good cause shown, the  
Commission finds that the Revised Agreement should be approved, subject to the  
removal of provision 7.9.

**ORDER**

**THE COMMISSION ORDERS THAT:**

- 33 (1) The Revised Agreement filed by Puget Sound Energy, Avista Corporation d/b/a  
Avista Utilities, PacifiCorp d/b/a Pacific Power & Light Company, Cascade  
Natural Gas Corporation, Northwest Natural Gas Company d/b/a NW Natural, the  
Alliance of Western Energy Consumers, NW Energy Coalition, The Energy  
Project, Small Business Utility Advocates, Front & Centered, and Spark Northwest  
is approved, subject to the removal of paragraph 7.9. The Revised Agreement must  
be refiled in this Docket with the modification identified in paragraph 20 within  
seven days of the entry of this Order.

- 34 (2) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, all filings that comply with the requirements of this Order.
- 35 (3) This Order shall not affect the Commission's authority over rates, services, accounts, valuations, estimates, or determination of costs, on any matters that may come before it. Nor shall this Order be construed as an agreement to any estimate or determination of costs, or any valuation of property claimed or asserted.
- 36 (4) The Commission retains jurisdiction over the subject matter and Puget Sound Energy, Avista Corporation d/b/a Avista Utilities, PacifiCorp d/b/a Pacific Power & Light Company, Cascade Natural Gas Corporation, and Northwest Natural Gas Company d/b/a NW Natural to effectuate the provisions of this Order.

DATED at Lacey, Washington, and effective February 9, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair<sup>1</sup>

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner

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<sup>1</sup> Chair Danner does not join Paragraph 19 of this Order.