

Agenda Date: June 6, 2007
Item Number: A1

Docket: UE-071014
Company Name: Avista Corporation d/b/a Avista Utilities

Staff: Mike Parvinen, Deputy Assistant Director - Energy

Recommendation

Allow Avista's Schedule 59 tariff revision to go into effect on June 7, 2007, and grant the Company's request for less than statutory notice.

Background

On May 23, 2007, Avista Corporation d/b/a Avista Utilities ("Avista", or "the Company") filed a revision to Schedule 59 of its tariff, which is titled Residential and Farm Energy Rate Adjustment - Washington, but more commonly known as the "BPA residential exchange". This schedule passes through to customers the benefits of the federal power system to Avista's residential and small farm customers.

Avista receives from the Bonneville Power Administration ("BPA") approximately \$12.8 million annually to distribute to its qualifying customers in Washington. Avista does so through its Schedule 59 as a credit to customer bills of 0.523 cents per kilowatt-hour. As of May 21, 2007, the payments Avista receives from BPA will cease.

The practical effect of BPA's suspension of payments is that Avista is obligated by its tariff to continue the credit on its customers' bills without receiving compensating funds from the BPA until the Commission grants a change to the tariff. The Company, therefore, requests that the rate in Schedule 59 be revised to zero effective as soon as possible, with less than statutory notice.

BPA's current level of payments to Avista is determined pursuant to a series of contracts negotiated beginning in the year 2000 for the 2002 through 2011 period. A revised contract implemented an umbrella settlement agreement negotiated among BPA and the region's six investor-owned utilities and approved by the BPA's Record of Decision dated May 25, 2004.¹

Under the revised contract, Avista should receive an annually determined fixed number of dollars from the BPA for their residential exchange allotment. Because the dollar amount varies from year to year and because the credit to customers is based on KWh sales that may also

¹ *Proposed Contracts or Amendments to Existing Contracts with the Regional Investor-Owned Utilities Regarding the Payment of Residential and Small-Farm Consumer Benefits Under the Residential Exchange Program Settlement Agreements FY 2007-2011, Administrator's Record of Decision (May 25, 2004).*

change from year to year, the residential exchange rate requires periodic adjustments to keep the receipts and disbursements in balance.²

However, a May 3, 2007, decision by the Ninth Circuit Court of Appeals determined the contracts are “not in accordance with law.” Federal law requires that a Federal Certifying Officer be personally responsible and accountable for certifying the legality of proposed agency payments. Given the uncertainty of the legality of the Residential Exchange contracts, BPA has suspended payments to the investor-owned utilities effective May 21, 2007. The BPA hopes the suspension of payments is an interim measure. The BPA and the investor-owned utilities are working together to resolve the situation with the ultimate goal of reaching a regional solution.

The BPA requires Avista and the other regulated utilities to forward all Residential Exchange funds to the qualifying customers. The utilities do so, but the reimbursements from BPA are generally not received for thirty to sixty days after the applicable month. Avista has no assurance of receiving funds from BPA for the credits already issued to its customers. Staff finds that continuing the Residential Exchange credit on customer bills during the 30-day notice period is unfair and considers the Company’s request to implement the revision to Schedule 59 with less than statutory notice is reasonable.

Avista proposes to notify customers through appropriate local media and by bill inserts as soon as practicable.

Conclusion

Staff recommends that the commission grant the Company’s request to set the residential exchange rate to zero in Avista’s Schedule 59 and that the tariff revision should go into effect June 7, 2007, and issue an order granting the Company’s request for approval on less than statutory notice.

² Please refer to the Staff memo in Docket UE-061412 dated October 25, 2006, for detailed information on the contracts between the investor-owned utilities and the BPA.