

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION,

Respondent.

DOCKETS UE-160228/UG-160229

MOTION TO STRIKE, OR IN THE
ALTERNATIVE, MOTION FOR
SURREBUTTAL, ON BEHALF OF
COMMISSION STAFF

I. INTRODUCTION

1 Pursuant to WAC 480-07-375(1)(d), Staff of the Washington Utilities and
Transportation (Commission) files this motion to strike, or in the alternative for leave to
present surrebuttal testimony to respond to a proposal that Avista Corporation (Avista or
Company) first presented on rebuttal concerning accounting treatment of Advanced
Metering Infrastructure (AMI) costs.

II. RELIEF REQUESTED

2 Commission Staff (Staff) moves the Commission to strike portions of the rebuttal
testimonies of Avista witnesses Mr. Kelly Norwood and Ms. Elizabeth Andrews that discuss
a proposal for deferred accounting treatment of AMI costs. In the alternative, Staff moves
for leave to file written surrebuttal testimony one week following the close of the
evidentiary hearing, to be considered at a supplemental hearing on only this issue. As a
further alternative, Staff requests leave to present oral surrebuttal on this issue at the
evidentiary hearing scheduled to begin October 12, 2016.

III. STATEMENT OF FACTS

3 On September 19, 2016, Avista filed rebuttal testimony. The rebuttal filing contains
testimony from Mr. Norwood and Ms. Andrews introducing a proposal for deferred

accounting treatment related to AMI. Mr. Norwood requests that the Commission approve deferred accounting treatment for the AMI project if the Commission does not approve recovery of the AMI costs as proposed by Avista.¹ Ms. Andrews describes the proposed deferred accounting treatment in under two pages of testimony.² The essence of the Company's proposal consists of the following:

The revenue requirement associated with the actual investment in AMI that transfers to plant in service between January 1, 2017 and June 30, 2018, would be deferred to preserve the opportunity for recovery in a future proceeding. This includes the costs of depreciation and the return on investment, including any related increases or reductions in O&M expenses.³

4 Avista did not propose deferred accounting treatment for the AMI project in its direct testimony. In its initial filing Avista proposed only that a portion of the Company's projected costs for the AMI project be incorporated into the revenue requirement as an "after-attrition adjustment."⁴ Avista first proposed deferred accounting treatment for AMI in rebuttal testimony.

5 Staff witnesses Ms. Melissa Cheesman and Mr. David Nightingale presented response testimony concerning the AMI project. Neither of them discussed deferred accounting treatment for the AMI project in their respective testimonies.

6 The AMI project is a sizable project. Avista estimates that the deployment of AMI will cost approximately \$166.7 million in capital and \$123.4 million in operating expenses over the life of the AMI system.⁵

¹ Norwood, Exh. No. KON-1T 35:15-17.

² Andrews, Exh. No. EMA-6T 52:8 - 53:18.

³ *Id.* at 52:13-17.

⁴ *E.g.*, Andrews, Exh. No. EMA-1T 30:6-12 (electric); 30:19 - 31:2 (gas).

⁵ Rosentrater, Exh. No. HLR-1T 20:10.

IV. STATEMENT OF ISSUES

7 Whether the Commission should strike Avista's testimony on deferred accounting treatment for the AMI project, proposed for the first time on rebuttal, or, in the alternative, whether the Commission should permit Staff to present surrebuttal testimony in order to respond to the Company's new proposal.

V. EVIDENCE RELIED UPON

8 Staff relies on the following prefiled written testimony contained in the following exhibits filed in this docket:

Nightingale, Exhibit No. DN-1T

Cheesman, Exhibit No. MC-1T

Norwood, Exhibit No. KON-1T

Andrews, Exhibit No. EMA-6T

Rosentrater, Exhibit No. HLR-1T

VI. ARGUMENT

9 Avista has sprung a new proposal on the other parties in the rebuttal phase, when there are no further opportunities in the procedural schedule to present responsive testimony. This is manifestly unfair to the other parties and risks presenting an inadequate record to the Commission for decision on AMI. Avista could have easily presented its proposal for deferred accounting treatment for the AMI project as an alternative in its direct testimony, which is where it belongs because it is direct testimony.

10 It is axiomatic that the purpose of rebuttal testimony is to rebut another party's testimony. None of the parties that filed responsive testimony, however, so far has mentioned deferred accounting for the AMI project, and Avista did not discuss it at all in its

initial filing. Under these circumstances, Avista's deferred accounting proposal crosses the line of rebuttal and, unfairly, slips in additional direct testimony.

11 While it is routine for rebuttal testimony to contain updates and changes in position, it is another matter to introduce an entirely new proposal at the rebuttal phase. This new proposal is significant because, as the Company has made clear, the AMI project is a very large project, which may subject both Avista and its ratepayers to substantial risk. Further, the proposal to defer "revenue requirement" is unorthodox, unlike the Company's proposed accounting treatment for the Montana Riverbed lease, which requests authorization to defer an annual expense. Finally, deferred accounting treatment creates a regulatory asset and a greater expectation of recovery;⁶ which, as a practical matter, makes it more difficult for non-Company parties who ultimately conduct the prudence investigation to contest prudence. For these reasons, it is especially inappropriate to introduce this deferred accounting proposal during the rebuttal phase for such a significant project.

12 Staff opposes Avista's deferred accounting proposal. At this stage in the procedural schedule, there is no opportunity for Staff to present testimony explaining Staff's concerns. This is not fair, nor does it benefit the record to accept the one-sided deferred accounting proposal from Avista at this stage, when the Company could have and should have included

⁶ See 18 C.F.R. Parts 101, Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, Definitions.

31. *Regulatory Assets and Liabilities* are assets and liabilities that result from rate actions of regulatory agencies. Regulatory assets and liabilities arise from specific revenues, expenses, gains, or losses that would have been included in net income determination in one period under the general requirements of the Uniform System of Accounts **but for it being probable:**

A. that such items will be included in a different period(s) for purposes of developing the rates the utility is authorized to charge for its utility services.

(Emphasis added.)

this testimony in its initial filing, thereby affording Staff an opportunity to complete discovery and formulate a reasoned opinion.

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The Commission should strike Avista's testimony concerning the late-introduced deferred accounting proposal. Allowing this evidence into the record un rebutted would set an unfair precedent and create an unbalanced record. Specifically, Staff requests that the Commission strike the following testimony:

Norwood, Exhibit No. KON-1T

- 7:13-15 – strike “for two unique issues” and “Advanced Metering Infrastructure (AMI) and”
- 29:13-22 – strike references to AMI: strike “two” in line 14; strike “Advanced Metering Infrastructure, and” in lines 17 to 18.
- 35:10-11 – strike “or deferred accounting treatment is approved for the project”
- 35:12 - 36:24
- 44:6-8 – strike “of deferred accounting with respect to both AMI expenditures and” and “for both matters”
- 44:16-18 – strike “for AMI and”
- 44:20 – strike “AMI and”
- 45, Table 7 – strike references to AMI on line 3 of the table, and recalculate revenue requirement
- 46:7-8 – strike “for the 2017 costs associated with the Advanced Metering Infrastructure (AMI) project”

Andrews, Exhibit No. EMA-6T

- 1:30 – strike “AMI and”

- 1:31
- 3:13 – strike “the Advanced Metering Infrastructure (AMI) project and”
- 5:39 – strike “the Advanced Metering Infrastructure (AMI) project and”
- 33, note 44
- 51:29-30 – strike “AMI and”
- 52:2-3 – strike “Advanced Metering Infrastructure, and”
- 52:10 - 53:18

14

In the alternative, if the Commission declines to strike this testimony, the Commission should permit Staff to present surrebuttal, which would remedy some of the unfairness and would lead to a more complete record. Ideally, the parties would have sufficient time to vet Avista’s proposal before filing testimony. Given the advanced stage of this proceeding, however, Staff proposes filing surrebuttal testimony within one week after the hearing concludes. Staff could best address the topic of deferred accounting treatment in general, and specifically Avista’s proposal, in written prefiled testimony; however, Staff acknowledges the time constraints of the proceeding, and, as a further alternative, proposes presenting oral surrebuttal at the hearing scheduled to begin on October 12.

VII. CONCLUSION

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Avista’s rebuttal testimony on deferred accounting for AMI project costs, which is an entirely new proposal for a significant project, is prejudicial to the other parties because they do not have the opportunity to properly vet the testimony and file a response. Further, this testimony leaves the Commission with an incomplete record for decision. For these reasons and to discourage parties from filing testimony in rebuttal that should be filed in direct, Staff moves to strike Avista’s testimony proposing deferred accounting treatment for

the AMI project. In the alternative, Staff proposes to file written surrebuttal or, if the Commission prefers, to present oral surrebuttal at hearing on Avista's proposed deferred accounting treatment.

DATED this 4th day of October 2016.

Respectfully submitted,

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for 
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