BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. AVISTA CORPORATION d/b/a AVISTA UTILITIES, Respondent.))) DOCKET UE-070804)) and)) DOCKET UG-070805) (consolidated))
In the Matter of the Petition of AVISTA CORPORATION d/b/a AVISTA UTILITIES, For an Accounting Order Regarding the Appropriate Treatment of the Net Costs Associated with the Repurchase of Debt) DOCKET UE-070311) (consolidated)) ORDER 05) FINAL ORDER REJECTING) TARIFF SHEETS; APPROVING) AND ADOPTING SETTLEMENT) STIPULATION; REQUIRING) COMPLIANCE FILING)

Synopsis: The Commission approves and adopts an uncontested Settlement Stipulation that increases Avista Corporation's electric rates by \$30,166,000, an average of 9.34 percent across all rate classes, and its natural gas rates by \$3,282,000, an average of 1.65 percent across all rate classes. The Commission authorizes increased funding for Avista's low income demand side management and low income rate assistance programs. The approved Settlement terms provide that Avista will charge against earnings \$3,850,000 of debt repurchase costs and pay a \$15,000 non-compliance penalty to resolve the issues raised by the Company's petition for an accounting order.

SUMMARY

- PROCEEDINGS: On April 26, 2007, Avista Corporation d/b/a Avista Utilities (Avista or the Company) filed with the Washington Utilities and Transportation Commission (Commission) certain tariff revisions designed to effect general rate increases for electric service (Docket UE-070804) and gas service (Docket UG-070805) in the state of Washington. The tariff sheets reflect a stated effective date of June 1, 2007. The Commission, at the Company's request, suspended the tariff sheets on May 2, 2007, and set the matter for hearing.
- Docket UE-070311 was opened on February 14, 2007, when Avista filed a petition seeking an accounting order under WAC 480-07-370(b)(i). Avista requested retroactive approval to account for certain debt repurchase costs in a manner that deviated from the Commission's rules. On April 11, 2007, the Commission entered an order setting the matter for hearing at a date to be determined by further order. On May 3, 2007, the Commission entered Order 02 consolidating Docket UE-070311 with Dockets UE-070804 and UG-070805 for hearing and determination pursuant to WAC 480-07-320.
- PARTY REPRESENTATIVES: David J. Meyer, Vice President and Chief Counsel for Regulatory & Governmental Affairs for Avista Corporation, Spokane, Washington, represents Avista. S. Bradley Van Cleve and Irion Sanger, Davison Van Cleve, P.C., Portland, Oregon, represent Industrial Customers of Northwest Utilities (ICNU). Edward A. Finklea and Chad M. Stokes, Cable Huston Benedict Haagensen & Lloyd, Portland, Oregon, represent Northwest Industrial Gas Users (NWIGU). Ronald Roseman, Attorney, Seattle, Washington, represents the Energy Project. Simon ffitch, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Office of the Attorney General (Public Counsel). Gregory J. Trautman, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).

¹ In formal proceedings, such as this, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as other parties to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including regulatory Staff. *RCW 34.05.455*.

- 4 **COMMISSION DETERMINATIONS:** We find reasonable the parties' proposal to allow Avista to recover in electric rates \$30,166,000 in additional revenue considering increased production and transmission expense, investments in plant, load growth and other factors that have caused Avista to incur higher power costs. We also find reasonable the parties' proposal to allow Avista to recover in natural gas rates \$3,282,000 in additional revenue considering increased infrastructure and natural gas costs and load growth. It is necessary to reflect these increased costs in rates to ensure that Avista's rates remain fair, just, reasonable and sufficient, as required by law.
- We also find reasonable the parties' agreement that Avista will charge \$3,850,000 of certain debt repurchase costs against third quarter 2007 earnings and pay a \$15,000 penalty to deter any future non-compliance with rules governing accounting authorization. The Company recognizes the need to follow Federal Energy Regulatory Commission (FERC) General Instruction 17 unless and until it obtains advance authority from the Commission to use alternate methodology. These Settlement terms satisfactorily resolve the accounting issues pending in Docket UE-070311.
- We conclude that it is in the public interest for the Commission to approve and adopt the Settlement Stipulation as filed and without condition.

MEMORANDUM

I. Background and Procedural History

- The Commission convened a prehearing conference in these dockets at Olympia, Washington on May 23, 2007, before Administrative Law Judge Dennis J. Moss. Judge Moss, in consultation with the parties, established a procedural schedule providing dates for response testimony by Commission Staff, Public Counsel, and the intervenors.
- The Commission conducted a public comment hearing in Spokane, Washington, on Tuesday, October 2, 2007, before Commission Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, Commissioner Philip B. Jones and Administrative

Law Judge Adam Torem.² Fifteen members of the public who wished to comment on the Company's filing gave oral testimony. The Commission also received written comments from members of the public. The transcript of oral comments and the written comments are part of the official record in this proceeding.

- The parties filed a "Partial Settlement Stipulation" on October 15, 2007. They proposed by the terms of their agreement to resolve many, but not all, issues concerning revenue requirements and other matters. Staff, Public Counsel and ICNU subsequently filed their response testimony and exhibits on October 17, 2007. The response testimony addressed the Partial Settlement and provided evidence concerning the issues that remained in dispute.
- The parties filed a "Full Settlement Stipulation" (Settlement Stipulation or Settlement) on November 5, 2007, resolving the remaining issues. The Settlement adopts the Partial Settlement by reference. The agreements are supported by prefiled testimony and exhibits through the response phase and by a joint narrative statement filed with the Settlement.
- The Commission held an evidentiary hearing on November 19, 2007, before Chairman Sidran, Commissioners Oshie and Jones, and Judge Moss. The hearing provided the Commissioners an opportunity to question a panel of witnesses sponsored by the parties in support of their Settlement Stipulation, which they propose to resolve fully the issues in this proceeding.

II. Proposed Settlement

The parties agreed in the Partial Settlement to nine revenue requirement adjustments. Collectively, these reduced the Company's \$51.1 million as-filed request on the electric side by nearly \$6 million and the Company's \$4.5 million as-filed request on the gas side by \$1.3 million. This still left the parties far apart on the overall revenue requirement because key factors—capital structure and cost of capital—were left unresolved. In its response testimony, Staff recommended an overall electric revenue requirement recommendation of \$29.4 million and a gas revenue requirement recommendation of \$3.2 million.

² The Commission previously designated Judge Torem as co-presiding officer with Judge Moss.

- The Settlement resolves the capital structure and cost of capital issues at levels close to Staff's litigation position. The key elements are a 10.2 percent rate of return on equity (ROE) and 46 percent equity in the capital structure. While the 10.2 percent ROE is a slight decrease from the currently authorized 10.4 percent ROE, the equity share is increased from the currently approved 40 percent. Given these changes and a reduced cost of debt, the overall rate of return in the Settlement, at 8.20 percent, is 91 basis points lower than the currently authorized 9.11 percent. Much of this reduction is due to a decrease in the cost of total debt in the proposed capital structure.
- The remaining revenue requirement issues not resolved in the Partial Settlement are resolved in the Full Settlement as follows:
 - Customer deposits: Adopts Staff's recommendation to adjust rate base and operating expense resulting in revenue requirement reductions of \$171,000 for electric and \$100,000 for gas.
 - Directors' and Officers' (D&O) Insurance: Reduce revenue requirement by \$117,000 for electric and \$30,000 for gas.
 - Late charges: None will be implemented in this proceeding.
- The overall results under the Settlement Stipulation, in terms of increased revenue requirement, are \$30,166,000 for electric (an average of 9.34 percent across all rate classes) and \$3,282,000 for gas (an average of 1.65 percent across all rate classes). This is close to Staff's response case at \$29,442,000 for electric (9.15 percent) and \$3,172,000 for gas (1.60 percent), and lower than the Company's original requests for \$51.1 million (15.85 percent) for electric and \$4.5 million (2.27 percent) for gas.
- The parties agree to a January 1, 2008, effective date for rates filed to recover the additional revenue.
- The Settlement Stipulation resolves certain remaining significant issues by deferring them for consideration in subsequent proceedings after development of new information. The four issues resolved in this way are rate spread/rate design, demand side management (DSM) expenditures, power cost only rate case (PCORC), and advanced meter reading (AMR).

The parties did not reach agreement on the cost-of-service study Avista relied on for its rate spread/rate design proposal. The Company agrees to conduct new load and cost allocation studies for consideration in a future case. Avista will seek input from Staff and other interested parties as it undertakes its new load study.

The parties agree to resolve the matter of electric rate spread/design for purposes of 19 this case by applying a uniform percentage increase to the electric energy charges (i.e., no change to base rates or demand charges). For Extra Large General Service Schedule 25, the Primary Voltage Discount (PVD) rates for service at or above 60 kV and 115 kV will be increased as follows: The PVD rate for service at or above 60 kV will be increased from \$0.40 per kVA to \$0.80 per kVA and the PVD rate for service above 115 kV will be increased from \$0.50 per kVA to \$1.00 per kVA. The revenue reduction resulting from the PVD rate changes would be offset by an increase to the other energy charges under Schedule 25. Additionally, a third energy rate block will be implemented for usage in excess of 6,000,000 KWhs per month. The rate for energy usage under this block will be less than the rates for the first two blocks under the schedule. The Company agrees to withdraw, for purposes of this case, its proposal to add language under Schedule 25 that would require the customer to execute a special contract for service to a new/incremental load requirement of 25 megawatts or greater.

For purposes of this case, the parties agree to resolve the matter of natural gas rate spread/design, other than the revenue related to Terasen storage capacity releases, by spreading the revenue increase on a uniform percentage of margin basis across the various rate schedules. Increases related to the elimination of the Jackson Prairie release revenue Avista had received from Terasen will be allocated based on 80 percent of costs allocated to all gas sales and 20 percent of costs allocated to all schedules except Schedule 148, a special contract.

The parties agree that Avista's proposed rate base treatment of demand side management (DSM) expenditures will not be implemented in this proceeding.³ These costs will continue to be expensed annually. Nor will any electric lost margin recovery mechanism be implemented at this time. The parties agree, however, to the

³ Avista will make an annual DSM tariff filing in which rate adjustments covering DSM costs and budget projections will be addressed.

prudence of Avista's DSM expenditures during the period January 1, 2004, through December 31, 2006. They also agree the DSM tariff rider amount should be increased to correspond with increased DSM target levels set forth in the Company's 2007 Integrated Resource Plan, including \$1,132,000 in low income DSM funding. DSM will be revisited in future cases.

- In addition to the low income DSM funding mentioned above, the parties agree to increase the Low Income Rate Assistance Program (LIRAP) portion of Schedules 91 and 191 to reflect the overall percentage increase in retail rates.⁴
- The parties agree that Avista's proposed Power Cost Only Rate Case (PCORC) mechanism should not be implemented in this proceeding. PCORC-related issues may be considered in a future proceeding.
- Avista did not seek cost recovery in this proceeding with respect to advanced meter reading (AMR), but did discuss the subject in testimony. The Settlement Stipulation makes clear that this proceeding has no implications for AMR in future proceedings.
- Finally, the parties propose to resolve the issues concerning accounting for debt amortization in consolidated Docket UE-070311 by agreeing that Avista will charge against 2007 earnings \$3.85 million of debt repurchase costs. In addition, Avista will pay a \$15,000 penalty for non-compliance with Commission rules regarding the need to file for proper accounting authorization. Avista will follow FERC General Instruction 17 for any new debt repurchases or will request an accounting order from the Commission, prior to any new repurchase of debt, if it desires to use an accounting method other than FERC General Instruction 17. Additionally, the parties recommend that the Commission approve their agreement that the costs of short-term lines of credit may be deferred and amortized over the five year life of the lines of credit, and the costs of interest rate hedges may be deferred and amortized over the life of bonds to be issued upon the maturity of the 9.75 percent bonds in June of 2008.

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⁴ These expenditures are \$2.469 million for electric and \$1.262 million for natural gas.

III. Discussion and Decision

A. Revenue Requirements

The parties recommend by their Settlement Stipulation that we approve \$30,166,000 in additional electric revenue and \$3,282,000 in additional gas revenue for Avista, which will result in an average 9.34 percent rate increase for electric customers and an average 1.65 percent rate increase for gas customers. While these are significant increases, particularly with regard to electric rates, they represent a reasonable compromise relative to the Company's originally requested revenue requirements of \$51,100,000 in additional electric revenue and \$4,500,000 in additional gas revenue, corresponding to average rate increases of 15.8 percent for electric customers and 2.3 percent for gas customers.

The amounts settled upon are only slightly higher than the \$29,400,000 and \$3,200,000 in additional electric and gas revenues, respectively, Staff proposed following its analysis of the Company's case. Overall, we find the Settlement amounts are reasonable outcomes within a range of possible results supported by the record.

B. Rate Design

Avista proposed in its initial filing to change its current electric and gas rate designs to recover more of its fixed costs through customer charges rather than in its volumetric rates. Avista's as-filed rates, for both electric and gas, proposed to increase the current monthly residential customer charges from \$5.50 to \$6.00. Considering, however, that the cost-of-service study upon which Avista relied in support of its proposal is seriously outdated, the Company agreed to withdraw this proposal. Avista also agreed to conduct a new cost-of-service study using current data so that the Commission will have a better record upon which to consider any proposed changes to the Company's rate spread and rate design in a future proceeding.

While we approve the Settlement Stipulation in this regard, we recently noted that a reasonable balance must be struck between recovery of fixed costs via fixed charges versus volumetric charges. As a general proposition, there are sound reasons supporting recovery of a greater proportion of a utility's fixed costs in basic or demand charges, rather than in energy or commodity charges. For example, in an environment of increasing costs, a rate design that increases the recovery of fixed costs in fixed charges can promote rate stability while tempering the need for higher returns by reducing the risk the Company faces in terms of overall cost recovery.

Nonetheless, it is necessary, as the parties recognize, to first obtain accurate data from current load and cost-of-service studies. Since the Settlement specifically provides for the collection and analysis of this data, we accept the parties' proposed rate design that will recover the increased revenue via energy charges alone.

Finally on the subject of rate design, we approve the parties' agreed increase in the Schedule 25 Primary Voltage Discount (PVD) rates at or above 60 kV from \$0.40 per kVA to \$0.80 per kVA, and for service above 115 kVA, from \$0.50 per kVA to \$1.00 per kVA. We also approve the creation of a third energy rate block for usage in excess of 6,000,000 KWhs per month. We determine that Avista's rate design for Schedule 25 should be adopted.

C. Low Income

While approving increased rates in recognition of our obligation to ensure rates that are fair, just, reasonable and sufficient, we are mindful of the impact of any rate increase on customers—particularly those least able to afford it. We commend the parties for their attention to this important issue and approve the Settlement's increase in Low Income Ratepayer Assistance Program (LIRAP) funding and low-income DSM assistance. We note, too, that the Company will continue to provide other customer-assistance programs, including Project Share, comfort-level billing, payment arrangements and the CARES programs.

 5 See WUTC v. Puget Sound Energy, Inc., Docket Nos. UE-060266 and UG-060267 (consolidated), Order No. 8, \P 136-143 (January 5, 2007).

D. Issues Deferred for Later Consideration

- Avista agrees as part of the Settlement Stipulation to withdraw for the time being its proposed rate base treatment of DSM expenditures. The Company will continue to expense its prudent DSM expenditures on an annual basis. This issue may be revisited in a future proceeding.
- Avista's proposed PCORC will be tabled for the time being. Future consideration of a PCORC mechanism should take into account, among other things, the outcome of an ongoing collaborative among Puget Sound Energy, Staff and others that will consider the subject of such cost recovery mechanisms in detail.
- Avista did not seek cost recovery in this proceeding with respect to AMR, but did discuss the subject in testimony. The Settlement Stipulation makes clear that nothing in this proceeding will have implications for AMR in future proceedings.
- We find nothing objectionable in any of these Settlement terms.

E. Accounting Petition

- According to Staff, Avista's agreement to restate its deferred costs for reacquired debt effectively nullifies the accounting treatment sought in its petition. Avista also accepts a fine of \$15,000 for violating Commission accounting rules. These are appropriate results in light of the Company's unauthorized treatment of certain debt repurchases.
- Staff uncovered other improper accounting practices in its analysis and determination of debt interest expenses, which Staff testifies the Company has corrected. Additionally, the Settlement Stipulation provides that the costs of short-term lines of credit and the costs of interest rate hedges for bonds expected to be issued in 2008 may be deferred and amortized over appropriate periods of time. We accept the parties' accounting recommendations as a reasonable resolution of the issues in Docket UE-070311.

F. Summary

The record shows the Settlement terms are well supported by the evidence. We find the proposed Settlement Stipulation to be in the public interest and we approve and adopt it as a full resolution of the issues in this proceeding.

FINDINGS OF FACT

- Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:
- The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate the rates, rules, regulations, practices, and accounts of public service companies, including electrical and gas companies.
- 42 (2) Avista is a "public service company," an "electrical company," and "gas company" as those terms are defined in RCW 80.04.010 and used in Title 80 RCW. Avista is engaged in Washington in the business of supplying utility services and commodities to the public for compensation.
- 43 (3) Avista filed a petition seeking an accounting order to grant retroactive approval to account for certain debt repurchase costs in a manner that deviated from the Commission's rules implementing FERC General Instruction 17.
- 44 (4) Avista filed certain revisions to its currently effective tariffs for electric service and gas service. Avista proposed an effective date of June 1, 2007, upon which to change its rates recovering the cost of power as a result of increased production and transmission expense, investments in plant, load growth, and increased natural gas costs.

- The Commission suspended the operation of the proposed tariff revisions on May 2, 2007, pending an investigation and hearing and consolidated the Company's proposed tariff revisions and its petition for an accounting order.
- On October 15, 2007, the parties filed a Partial Settlement Stipulation that, if approved, would resolve many, but not all, issues concerning revenue requirements and other matters.
- On November 5, 2007, the parties filed a Full Settlement Stipulation that, if approved, would resolve the remaining issues. The Full Settlement adopts the Partial Settlement by reference.
- 48 (8) The existing rates for electric service and gas service Avista provides are insufficient to yield reasonable compensation for the services rendered.
- 49 (9) It is necessary to increase the Low Income Rate Assistance Program portion of Schedules 91 and 191 as specified in the Settlement Stipulation to reflect the overall percentage increase in retail rates.

CONCLUSIONS OF LAW

- Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:
- The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.
- The rates proposed by tariff revisions filed by Avista on April 26, 2007, and suspended by prior Commission order, were not shown to be fair, just or reasonable and should be rejected.

- The existing rates for electric service and gas service that Avista provides in Washington are insufficient to yield reasonable compensation for the services rendered.
- Avista requires relief with respect to the rates it charges for electric service and gas service provided in Washington.
- The Settlement Stipulation filed by the Parties to this proceeding on November 5, 2007, if approved, would result in rates for Avista that are fair, just, reasonable and sufficient, and are neither unduly preferential nor discriminatory.
- The Settlement Stipulation, attached to this Order as Appendix A, and incorporated by reference as if set forth here, should be approved by the Commission as a reasonable resolution of the issues presented.
- Avista's DSM expenditures during the period January 1, 2004, through December 31, 2006, were prudent and should be allowed for recovery in rates.
- The Low Income Rate Assistance Program portion of Schedules 91 and 191, should be increased in the Company's electric and gas tariffs to levels specified in the Settlement Stipulation, which will approximately match LIRAP funding to levels commensurate with the overall percentage increase in retail rates.
- The Commission should approve the accounting treatment of certain debt repurchases by Avista as set forth in the Settlement Stipulation. Avista should be required to pay a \$15,000 penalty for its failure to comply with the Commission's accounting rules.
- 60 (10) The accounting treatment proposed in the Settlement Stipulation for costs of short-term lines of credit and interest rate hedges is appropriate and should be approved.
- 61 (11) Approval and adoption of the Settlement Stipulation is in the public interest.

- Avista should be required to make such compliance and subsequent filings as are necessary to effectuate the terms of this Order.
- 63 (13) The Commission should retain jurisdiction to effectuate the terms of this Order.

ORDER

THE COMMISSION ORDERS:

- The proposed tariff revisions Avista filed on April 26, 2007, and suspended by prior Commission order, are rejected.
- The Settlement Stipulation filed by the Parties on November 5, 2007, which is attached to this Order as Appendix A and incorporated by reference as if set forth in full here, is approved and adopted.
- Avista is required to make a compliance filing including such new and revised tariff sheets as are necessary to implement the requirements of this Order. The stated effective date of the revised tariff sheets shall be January 1, 2008, in accordance with the terms of the Settlement Stipulation. Avista must make its compliance filing sufficiently in advance of January 1, 2008 to afford Staff a reasonable opportunity to review the filing and to inform the Commission whether Staff finds the revised tariff sheets fully conform to the requirements of this Order.
- 67 (4) Avista's DSM expenditures during the period January 1, 2004, through December 31, 2006, are deemed prudent and are authorized for recovery in rates.
- (5) Increases to levels specified in the Settlement Stipulation are approved for the Low Income Rate Assistance Program portion of Schedules 91 and 191 to reflect the overall percentage increase in retail rates.

- 69 (6) Avista's Petition for Accounting Order in Docket UE-070311 is denied. The Company will conform its accounting for repurchased debt as discussed in this Order and in the incorporated Settlement Stipulation. Avista will pay a penalty of \$15,000 within 30 days after the date of this Order for violations of Commission accounting rules.
- 70 (7) The Commission approves accounting treatment for costs of short-term credit and interest rate hedges as specified in the Settlement Stipulation.
- 71 (8) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, such filings as Avista makes to comply with the terms of this Order.
- 72 (9) The Commission retains jurisdiction to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective December 19, 2007.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a Commission Final Order. 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 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.

Appendix A