

**BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION
COMMISSION**

In the Matter of the Petition of
AVISTA CORPORATION'S

Ten-Year Achievable Conservation Potential
And Biennial Conservation Target Under
RCW 19.285.040 and WAC 480-109-010

DOCKET NO. UE-100176

JOINT MOTION OF AVISTA,
COMMISSION STAFF AND PUBLIC
COUNSEL TO AMEND ORDER 01

**REQUEST FOR EXPEDITED
TREATMENT**

I. MOTION TO AMEND -- RELIEF REQUESTED

1. Pursuant to RCW 80.04.210, WAC 480-07-875, and WAC 480-07-375, Avista Corporation (Avista), the Public Counsel Section of the Washington State Attorney General's Office (Public Counsel) and Commission Staff (Staff) (collectively Joint Movants) move for an order amending Order 01, entered May 13, 2010, in the above-captioned docket.
2. Joint Movants respectfully request that the Commission amend Order 01 to incorporate the procedure delineated in the Joint Movants' Memorandum of Understanding (MOU) for review of the prudence of Avista's Demand Side Management (DSM) programs and expenditures for both electric and natural gas DSM. A copy of the MOU is attached as Appendix A. A proposed form of amending order for the Commission's consideration is attached as Appendix B.
3. Granting the Motion to Amend (Motion) would make clear the issue of DSM prudence will be considered by the Commission as part of Avista's biennial Energy Independence Act

conservation target filing in 2012¹, and not in Avista's currently pending general rate case (Avista GRC).²

4. Concurrently with this filing, the Joint Movants have provided written notice to all participants in Docket UE-100176 by service of this Motion. The Motion was also served on parties in the pending Avista GRC.

5. Joint Movants respectfully request expedited treatment of this motion so that Joint Movants and other parties to the pending Avista general rate case will have certainty as to the docket in which the Commission will consider DSM prudence.

II. MEMORANDUM STATEMENT OF FACTS AND ISSUES

A. Applicable Statute and Rule

6. RCW 80.04.210 and WAC 480-07-875(1) authorize the Commission to amend an order that it has previously entered after providing notice to the affected public service company and to all parties in the underlying proceeding.

B. Background

7. The Energy Independence Act, RCW Chapter 19.285, requires large electric utilities, such as Avista, to set and meet targets for the conservation of electricity. In Order 01, the Commission found that it was in the public interest to approve Avista's Revised Ten-Year Achievable Conservation Potential and 2010 – 2010 Biennial Conservation Target, subject to

¹ The Joint Movants' MOU also commits to the continuation of this procedure in subsequent biennial cycles (see discussion below).

² *WUTC v. Avista Corp.*, Dockets UE-110876/UG-110877 (Avista GRC).

certain conditions, as consistent with the requirements of the Energy Independence Act (EIA).³ Pursuant to the EIA and Order 01, Avista must meet its identified biennial targets for conservation of electricity.⁴ Additionally, Order 01 stated, “Avista must demonstrate the prudence and cost-effectiveness of its conservation programs to the Commission after the savings are achieved.”⁵ However, Order 01 did not specify the procedure or proper forum for demonstration and review of Avista’s DSM prudence.⁶ The EIA itself does not specifically address the determination of DSM prudence.

8. For Avista, DSM prudence review historically has occurred in general rate cases.⁷ However, the conservation target process established by the EIA, including biennial reporting on electric conservation achievement, provides a potential alternative process for prudence review. Parties disagreed as to whether the general rate case or other forum was appropriate as to location and timing for review of Avista DSM prudence. Following the filing of Avista’s current general rate case, Joint Movants met to discuss this issue, ultimately reaching the consensus reflected in the attached MOU.

³ *In the Matter of Avista Corporation’s Ten-Year Achievable Conservation Potential and Biennial Conservation Target Under RCW 19.285.040 and WAC 480-109-010*, Docket No. UE100176, Order 01, ¶ 54 (May 2010).

⁴ RCW 19.285.040(1)(b).

⁵ *In the Matter of Avista Corporation’s Ten-Year Achievable Conservation Potential and Biennial Conservation Target Under RCW 19.285.040 and WAC 480-109-010*, Docket No. UE100176 Order 01, ¶ 62 (May 2010).

⁶ *See In the Matter of Avista Corporation’s Ten-Year Achievable Conservation Potential and Biennial Conservation Target Under RCW 19.285.040 and WAC 480-109-010*, Docket No. UE100176 Order 01, ¶ 62 (May 2010).

⁷ *See Washington Utilities and Transportation Commission v. Avista Corporation d/b/a Avista Utilities*, Docket Nos. UE-100467 and UG-100468 (consolidated) Settlement Stipulation, ¶ 14 (Nov. 2010); *Washington Utilities and Transp. Comm’n v. Avista Cor. d/b/a Avista Utilities*, Dockets UE-070804, UG-070805, UE-070311 (consolidated) Order 05, ¶ 21 (Dec. 2007).

C. The Memorandum of Understanding

9. In summary, the MOU provides a process for Avista DSM prudence review that contains the same basic components historically available in Avista's DSM prudence review in rate cases. The MOU has the effect of moving DSM prudence issues for both electric and natural gas programs from the rate case context to the future June EIA filings.⁸
10. The new process would begin with Avista filing testimony and evidence supporting both electric and natural gas DSM prudence on June 1, 2012, along with its required June 1 Energy Independence Act conservation target filing. This filing would address programs and expenditures for 2010 and 2011 and would include an independent third-party verification of energy savings resulting from Avista's DSM programs for the 2010-2011 period. After review, any person could then request that the Commission set the filing for adjudication. The MOU recommends certain procedural components for the adjudication, and further recommends that the adjudication process not exceed six months. Any disallowance ordered by the Commission would be implemented in the next occurring annual DSM tariff rider filing.
11. The Joint Movants recognize the Commission retains discretion whether to set prudence for adjudication and the specific process for such an adjudication. Under the MOU, however, Avista does not oppose the establishment of an adjudication for DSM prudence, if requested, and Joint Parties recommend that an adjudication, if any, include the opportunity for discovery, testimony, a hearing and briefs. In order to provide stability and certainty, the Joint Movants


⁸ Provision 4 of the MOU, however, clarifies that DSM issues regarding compliance with Order 07 in the 2010 Avista General Rate Case may still be addressed in the currently pending 2011 GRC.

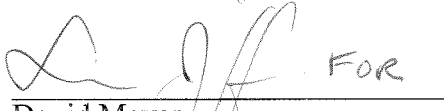
agree this process is appropriate for prudence review in subsequent biennial cycles, but agree that parties can request changes to the process after 2014, based on a substantial change in circumstances.

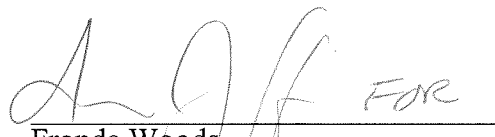
12. Joint Movants have attached a proposed form of amending order for the Commission's consideration. The amending order would essentially add the MOU process described above to the list of conditions contained in Ordering Paragraphs (2) through (11) of Order 01, incorporating them in a new Paragraph (12).

III. CONCLUSION

13. The MOU resolves the dispute between Joint Movants, clarifies the procedural framework for Avista's DSM prudence review, including a reasonable adjudicatory time frame. The Joint Movants believe the mechanism and protections provided in the attached MOU are reasonable and recommend that the Commission adopt them.
14. For the reasons set forth above, the Joint Parties respectfully request the Commission grant this Motion and modify Order 01 in Docket UE-100176 to include the procedure for DSM prudence review delineated in the attached MOU.
15. Dated this 28th day of July, 2011.


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per email authorization

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