

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In re the Matter of)	
)	DOCKET NO. UE-010395
AVISTA CORPORATION, d/b/a)	
AVISTA UTILITIES)	
)	EIGHTH SUPPLEMENTAL
Request Regarding the Recovery of)	ORDER GRANTING AND DENYING
Power Costs Through the Deferral)	PETITIONS FOR CLARIFICATION;
Mechanism)	DENYING PETITION FOR
)	RECONSIDERATION
.....)	

SUMMARY

1 **PROCEEDINGS:** The Commission entered its Sixth Supplemental Order in this proceeding on September 24, 2001. The Sixth Supplemental Order addressed Avista’s petition for immediate rate relief in connection with certain deferred power costs. The Commission authorized Avista to initiate a temporary rate increase in the form of a surcharge to all of its electric rate schedules in a uniform amount of 25 percent beginning on October 1, 2001. Surcharge revenues, albeit subject to refund following subsequent proceedings, are to be booked against the power cost deferral account balance. The Commission ordered that Avista cease booking power costs to the deferral account on December 31, 2001. In addition, the Commission revised its treatment of the PGE monetization credit as provided in *WUTC v. Avista*, *WUTC Docket Nos. UE-991606 and UG-991607 (consolidated), Third Supp. Order at 36 (Sept. 29, 2000)*, and ordered the full amount be accelerated and credited against Avista’s deferred power costs on October 1, 2001.

2 **PARTIES:** David Meyer, General Counsel, represents Avista Corporation d/b/a Avista Utilities. Melinda Davison, Bradley Van Cleve, and Irion Sanger, Davison Van Cleve, P.C., Portland, Oregon, represent the Industrial Customers of Northwest Utilities (ICNU). Don Brookhyser and Elizabeth Westby, Alcantar & Kahl, LLP, Portland, Oregon, represent BP Energy Company. Simon ffitch, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section, Office of Attorney General (Public Counsel). Donald Trotter and Jonathan Thompson,

Assistant Attorneys General, Olympia, Washington, represent the Commission's regulatory staff (Staff).

3 **PETITIONS FOR CLARIFICATION AND RECONSIDERATION:** On September 26, 2001, Staff filed a Petition for Clarification. On October 4, 2001, Avista filed a Petition for Clarification, and Public Counsel filed a Petition for Reconsideration and Clarification.

4 **COMMISSION:** The Commission grants clarification , in part, and denies clarification, in part. The Commission denies Public Counsel's Petition for Reconsideration.

MEMORANDUM

I. Requests for Clarification.

5 Staff's Petition poses two questions: (1) Is the deferred power cost termination date December 1 or December 31?; (2) Does the PGE Monetization Credit amount include the unamortized balance of \$14.2 million element of that Credit (*See* Tr. 442-45)? Avista also requests clarification with respect to the second question posed by Staff.

6 Staff's first question points out a discrepancy in our Sixth Supplemental Order with respect to the date on which Avista is required to cease booking power costs to its deferral account. On page 24 of the Order, Table 1, the date appears as "December 1, 2001." Yet, in ¶ 86, the date appears as "December 31, 2001." The first entry reflects a typographical error. The Commission clarifies that Avista is required to terminate the deferred accounting of power costs on December 31, 2001.

7 Staff's second question calls for the addition of detail to our Sixth Supplemental Order with respect to the amount of the PGE Monetization Credit that we required be credited against the deferral balance as of October 1, 2001. Staff correctly observes that the PGE Monetization "amount actually treated by the Commission" in Docket Nos. UE-991606 and UG-991607 (consolidated) included both the \$53.8 million Avista proposed in this proceeding to credit against the deferral balance and an additional \$14.2 million in imputed interest. As Mr. Falkner testified, however, this "interest component is a regulatory adjustment and is not reflected on the Company's balance sheet." *See Avista Petition for Clarification at 1-3.* In order to credit the \$14.2 million off-book amount to the booked deferrals, the Company would have to

somehow move the \$14.2 million to booked amounts. There is no record to show whether, or how, this might be accomplished. The Commission clarifies that the treatment of the \$14.2 million in imputed interest associated with the PGE Monetization, as provided in the Commission's Order in Docket Nos. UE-991606 and UG-991607 (consolidated), is unaffected by our Sixth Supplemental Order in this proceeding. The "full amount" of the Credit referred to in ¶ 77 (page 29) of the Sixth Supplemental Order is \$53.8 million.

- 8 Avista requests that the Commission clarify whether the Company is permitted to continue accruing interest on the deferral account balance after December 31, 2001. Avista argues that since any refunds will include interest, equity requires that Avista be allowed to continue to accrue interest on the deferral account balance. Public Counsel raises a related point for clarification and asks that the Commission state what interest rate applies to any refunds that are ordered following further proceedings.
- 9 In response to these points, we clarify that Avista should continue to accrue interest on the deferral account balance after December 31, 2001, at the previously approved rate. The subject of refunds, however, is reserved for determination in the general rate proceeding Avista is required to file by December 1, 2001. Interest to be paid on any refunds will be determined if, and when, such refunds are required.
- 10 Public Counsel requests clarification regarding "refund methodology and tracking." Public Counsel states it is concerned that the Sixth Supplemental Order may not provide sufficient detail concerning record-keeping requirements. Public Counsel argues that the Order should be clarified to provide that Avista must keep track of surcharge revenues by customer, rather than by rate schedule, to ensure customers are made whole for their actual surcharge payments.
- 11 Our Sixth Supplemental Order required Avista to establish a separate, off-book record (*i.e.*, a side-account) and report to the Commission monthly, by the 15th day of each month, commencing November 15, 2001, the amount of surcharge revenues billed and collected from its customers under each of its rate schedules. We clarify that Avista must maintain records of surcharge amounts paid by individual customers, but should report monthly surcharge revenues to the Commission by rate schedule.

- 12 Finally, Public Counsel requests that we clarify the issues to be addressed in the general rate case Avista is required to file by December 1, 2001, and to clarify the burden of proof. Taking the second point first, we clarify that nothing in our Sixth Supplemental Order changes the burden of proof with respect to any issue we may hear in Avista's general rate proceeding.
- 13 Public Counsel states that the reserved issues listed in paragraph 14 of the Commission's Second Supplemental Order in this proceeding also are included in the issues that the Commission required Avista to address as a condition of approving the Company's modified deferral mechanism. *Order Granting Request To Modify Power Cost Deferral Mechanism, Docket No. UE-000972, at ¶¶3, 7 (January 24, 2001)*. That Order also required Avista to provide a plan to mitigate the deferred power costs, and to provide monthly reports including all calculations and accounting entries related to the deferrals. *Id. at ¶¶7, 8*. Public Counsel submits that this statement of issues was itself an elaboration on the issues stated in the Commission's order approving the deferral mechanism. *Order Approving Establishment of a Deferral Mechanism To Track Power Cost Expenses, Docket No. UE-000972, Ordering Paragraph 3, p.2, (August 9, 2000)*. Public Counsel also states that Avista was required to present a power supply case to address certain power costs and power cost models, as discussed in our Third Supplemental Order in Avista's last rate case. *WUTC v. Avista Corporation, Docket Nos. UE-991606 and UG-991607 (consolidated), Third Supplemental Order at ¶¶138-144*. Public Counsel requests clarification that the Commission intends that the required power supply case be part of Avista's general rate filing to be made later this year.
- 14 We clarify that Avista must address in its general rate filing all issues stated in paragraph 14 of the Commission's Second Supplemental Order in this proceeding. We also clarify that paragraph 111 of our Sixth Supplemental Order in this proceeding does not amend or rescind the provisions of the Commission's prior orders in Docket No. UE-000972, as referenced in the preceding paragraph of this Order. Furthermore, we clarify that Avista must continue to provide monthly reports as required by the Commission's January 24, 2001, Order in that docket. Finally, we clarify that Avista must include as part of its general rate filing the power supply case required by our Third Supplemental Order in Avista's last rate case.

II. Request for Reconsideration.

15 Public Counsel makes two requests for reconsideration. The first request relates to the content of paragraph 86 of our Sixth Supplemental Order, which states (footnote omitted):

We are persuaded by Staff's advocacy that the power cost deferral mechanism should be terminated at an early date. However, we are not persuaded by Staff's arguments that the mechanism should be retroactively terminated, as of June 30, 2001. Instead, we find that the deferred account should be terminated on a date that is tied to Avista's general rate case filing. Since we require that filing by December 1, 2001, and reasonably anticipate that we will suspend the rates proposed under the filing for the full statutory period, the most logical date to terminate the power cost deferral is December 31, 2001. We can consider as part of the general rate case whether, and by what means, Avista may be permitted to recover the fourth quarter 2001 deferral amounts and power costs it may subsequently incur.

16 Public Counsel argues that we should reconsider this analysis and require that the deferral be terminated as of September 30, 2001. Public Counsel does not raise any issues that were not considered in reaching our decision to terminate the deferral on December 31, 2001. We remain of the view expressed in our Sixth Supplemental Order. Public Counsel's request for reconsideration of this issue is denied.

17 Public Counsel's second request for reconsideration is that we modify the surcharge amount by adopting "a surcharge consistent with the recommendation as set forth in Appendix A to Public Counsel's post-hearing brief in this docket." Alternatively, Public Counsel states that it "seeks clarification as to the evidentiary basis of the 25 percent surcharge adopted in the Order."

18 Our Sixth Supplemental Order discusses at length the factors and the evidentiary record we evaluated in determining a comprehensive plan of relief consistent with our finding that Avista required immediate rate relief. *See Sixth Supplemental Order at ¶¶62-84.* We considered and weighed all of the evidence and advocacy related to the surcharge amount, including Public Counsel's several alternatives. As we stated in the Sixth Supplemental Order, we determined on the basis of our careful review a

level of rate relief shown by the evidence to be “the minimum we believe to be immediately necessary for the Company to preserve its ability to fulfill its service obligations to the public.” We adhere to that view. Public Counsel’s request for reconsideration of the surcharge amount is denied.

19 Furthermore, having explained the matter adequately in our Sixth Supplemental Order, we see no reason to offer further analysis of the evidentiary basis for our decision to authorize a 25 percent surcharge beyond what is included in that Order. Public Counsel’s alternative request for “clarification” is denied.

ORDER

- 20 (1) THE COMMISSION ORDERS That its Sixth Supplemental Order in this proceeding is corrected by deleting the date “December 1, 2001,” which appears on page 24, Table 1 (column headed “Commission Decision,” third row from the bottom), and inserting instead the date “December 31, 2001.”
- 21 (2) THE COMMISSION ORDERS FURTHER That its Sixth Supplemental Order in this proceeding is clarified by revising ¶ 77 (page 29) to read: “We order that the full amount, \$53.8 million, be accelerated and credited against Avista’s deferred power costs on October 1, 2001, . . .”
- 22 (3) THE COMMISSION ORDERS FURTHER That our Sixth Supplemental Order made no change with respect to Avista’s accrual of interest on the deferral account balance; Avista should continue to accrue interest on the deferral account, as previously authorized.
- 23 (4) THE COMMISSION ORDERS FURTHER That the records and reporting requirements established by our Sixth Supplemental Order mean that Avista must maintain records that are adequate in form and substance to permit Commission review of surcharge revenue collections both on a rate schedule by rate schedule basis, and by customer; Avista’s monthly reports to the Commission are required to include only data aggregated by rate schedule.
- 24 (5) THE COMMISSION ORDERS FURTHER That the issues Avista is required to address in its general rate filing later this year include those discussed in the body of this Order at paragraphs 12 through 14.

- 25 (6) THE COMMISSION ORDERS FURTHER That Public Counsel's request for reconsideration of the December 31, 2001, termination date for additions to the deferral account is denied.
- 26 (7) THE COMMISSION ORDERS FURTHER That Public Counsel's request for reconsideration of the surcharge amount is denied. Public Counsel's alternative request for clarification of the evidentiary basis for the surcharge determination also is denied.
- 27 (8) THE COMMISSION ORDERS FURTHER That it retains jurisdiction over the subject matter and the Parties to enforce the provisions of this Order, and all prior orders entered in this proceeding.

DATED at Olympia, Washington, and effective this ___ day of October, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner