

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION d/b/a  
AVISTA UTILITIES,

Respondent

DOCKETS UE-220053, UG-220054,  
UE-210854 (*Consolidated*)

ORDER 12/06

APPROVING PAYMENTS

In the Matter of the Electric Service  
Reliability Reporting Plan of

AVISTA CORPORATION d/b/a  
AVISTA UTILITIES.

**BACKGROUND**

- 1 On November 11, 2021, Avista Corporation d/b/a Avista Utilities (Avista or Company) filed with the Washington Utilities and Transportation Commission (Commission) its Electric Service Reliability Reporting Plan in Docket UE-210854 pursuant to Washington Administrative Code (WAC) 480-100-393, modifying the Company's previous plan.
- 2 On January 21, 2022, Avista filed with the Commission revisions in Docket UE-220053 to its currently effective electric service tariff, Tariff WN U-28, and in Docket UG-220054 to its natural gas service tariff, Tariff WN U-29 (Avista 2022 GRC).

- 3 On January 27, 2022, the Commission consolidated Dockets UE-220053 and UG-220054 by Order 01 and on May 27, 2022, the Commission consolidated those dockets with Docket UE-210854 by Order 07/01.
- 4 On February 14, 2022, the Commission convened a virtual prehearing conference, and on February 16, 2022, issued Order 03, Prehearing Conference Order; Notice of Hearing, granting, among other things, intervention to the Alliance of Western Energy Consumers (AWEC), the NW Energy Coalition (NWEC), The Energy Project (TEP), and Small Business Utility Advocates (SBUA).
- 5 On February 28, 2022, the Commission convened a second virtual prehearing conference to discuss intervenor participatory funding procedures for these consolidated proceedings and on March 1, 2022, issued Order 04, Second Prehearing Conference Order. The Commission adopted the filing deadlines discussed during the second prehearing conference for participatory funding filings. Participating Organizations seeking a Fund Grant were required to file a Request for Case Certification (Request) and Notice of Intent to request a Fund Grant (Notice of Intent) by March 9, 2022. The Commission also determined that each Participating Organization should be required to file with the Commission its proposed budget 30 days after the Commission issued a decision on its Request and Notice of Intent.
- 6 By March 9, 2022, AWEC, TEP, NWEC, and SBUA had each filed with the Commission a request for case certification and notice of intent to request a fund grant.
- 7 On March 24, 2022, the Commission entered Order 05, granting case certification to AWEC, NWEC, TEP, and SBUA, and directing each to file a proposed budget within 30 days. Each of the four parties timely filed with the Commission proposed budgets by April 25, 2022.
- 8 On May 27, 2022, the Commission entered Order 06, Approving and Rejecting Proposed Budgets for Fund Grants. The Commission approved proposed budgets and fund grants of \$50,000 for AWEC, \$50,000 for NWEC, and \$50,000 for TEP, but rejected SBUA's proposed budget, finding that SBUA failed to establish a sufficient connection to Washington ratepayers.
- 9 On June 6, 2022, SBUA filed a Petition for Interlocutory Review (Petition) requesting the Commission modify Order 06 and approve SBUA's proposed budget.

- 10 On July 11, 2022, the Commission entered Order 08/02, Granting Petition for Interlocutory Review, In Part; Approving Proposed Budget Subject to Condition (Order 08). Order 08 approved SBUA's proposed budget in the amount of \$20,000 to be used for attorney fees and expert witness fees only, subject to the condition that SBUA file a confidential list of its members concurrent with its request for reimbursement later in these consolidated proceedings.<sup>1</sup>
- 11 On November 30, 2022, AWEC filed a Request for Payment of Fund Grant and Eligible Expenses Report for a payment of \$50,000 from Avista's Customer Representation Sub-Fund.
- 12 On December 12, 2022, the Commission entered its Final Order 10/04, Rejecting Tariff Sheets; Granting Petition; Approving and Adopting Full Multiparty Settlement Stipulation Subject to Conditions; Authorizing and Requiring Compliance Filing (Order 10/04). Order 10/04 resolved all contested issues and required Avista to file revised tariff pages consistent with the Commission's decisions contained therein.
- 13 On January 30, 2023, the Commission issued Order 11/05, Denying Petition for Reconsideration filed by the Public Counsel Unit of the Washington Attorney General's Office (Public Counsel) on December 22, 2022.
- 14 On February 9, 2023, TEP filed a Request for Payment of Fund Grant, requesting a payment of \$50,000 from the Customer Representation Sub-Fund.<sup>2</sup>
- 15 On February 10, 2023, NWEAC filed a Request for Payment of Fund Grant, requesting a payment in the amount of \$29,340 from the Customer Representation Sub-Fund.

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<sup>1</sup> Order 08 found that requiring the confidential submission of its membership list is neither unusual nor extraordinary, observing that other organizations have provided confidential membership lists in other proceedings and would assist the Commission with evaluating SBUA's connection to Washington ratepayers (citing AWEC's confidential filing of its membership lists in Cascade Natural Gas Corporation's general rate case, Docket UG-210755, in support of its proposed budget and in Puget Sound Energy's general rate case, Dockets UE-220066 and UG-220067 (*Consolidated*), in support of its petition to intervene). Order 08 at 6, ¶ 20, n. 4.

<sup>2</sup> TEP refers more broadly to Avista's Customer Access Fund, but we construe this as a request from the Customer Representation Sub-Fund.

- 16 On February 17, 2023, SBUA filed a Request for Payment of Fund Grant, requesting a payment in the amount of \$20,000 from the Customer Representation Sub-Fund.

### DISCUSSION

- 17 Pursuant to RCW 80.28.430, utilities must enter into funding agreements with organizations that represent “broad customer interests.” The Commission is directed to determine the amount of financial assistance, if any, that may be provided to any organization; the way the financial assistance is distributed; the way the financial assistance is recovered in a utility’s rates; and other matters necessary to administer the agreement.<sup>3</sup>
- 18 The Commission’s Policy Statement on Participatory Funding for Regulatory Proceedings (Policy Statement), Docket U-210595, provides “high-level guidance regarding the amount of financial assistance that may be provided to organizations, the manner in which it is distributed to participants and recovered in the rates of gas or electrical companies, and other matters necessary to administer agreements.”<sup>4</sup>
- 19 On February 24, 2022, the Commission issued Order 01, Approving Agreement with Modifications (Order 01).<sup>5</sup> The Commission approved the Interim Agreement filed by the parties on February 23, 2022, subject to certain modifications, and adopted the Interim Agreement as Appendix A to the Order. Among other points, the Commission clarified that it is not bound by the timeframes set forth in the Interim Agreement.<sup>6</sup> The Commission also determined that of the amount authorized for funding, fully one third would be dedicated to organizations representing highly impacted communities and vulnerable populations.<sup>7</sup>

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<sup>3</sup> RCW 80.28.430(2).

<sup>4</sup> *In re Examination of Participatory Funding Provisions for Regulatory Proceedings*, Docket U-210595, Policy Statement, ¶ 3 (Nov. 19, 2021).

<sup>5</sup> *In re Petition of Puget Sound Energy, et al.*, Docket U-210595, Order 01 (Feb. 24, 2022).

<sup>6</sup> *Id.* at ¶ 17.

<sup>7</sup> *Id.* at ¶ 4.

20 Pursuant to the Interim Agreement, participating organizations must submit to the Commission a Request for Payment. The Request for Payment must:

- (a) Itemize the expenses, payees, and hourly rates for amounts to be reimbursed, including billing details, and including separately identified amounts for consultant or expert witness fees and travel expenses;
- (b) Demonstrate that the expenses are reasonable and are directly attributable to issues and positions pursued on behalf of customers and consistent with the intervenor's proposed budget;
- (c) Provide information sufficient to show that the Participating Organization has complied with any condition or requirement of the Fund Grant; and
- (d) Specify whether the request for payment is for interim funding, in the case of Prioritized Organizations only, or final payment in full, and indicate whether any approved budget amount may be released back to the applicable Sub-Fund because the Participating Organization does not intend to request payment for the full approved budget amount.”<sup>8</sup>

21 The Commission may disallow, in whole or in part, a Request for Payment if it determines that the request seeks reimbursement for (a) expenses that are not Eligible Expenses,<sup>9</sup> or (b) expenses that are inconsistent with the Participating Organization's Consumer Access Fund Grant or any conditions placed on the Consumer Access Fund Grant.<sup>10</sup> Upon authorization of payment, the Commission will make a determination on how to recover the Fund Grants from the various customer classes of the affected Participating Public Utility.<sup>11</sup> Additionally, the Commission may determine whether Fund Grants that were used to advocate positions on behalf of a broad cross-section of customers should be assessed against all customers or multiple classes of customers, to

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<sup>8</sup> *In re Petition of Puget Sound Energy, et al.*, Docket U-210595, Order 01, Appendix A, § 7.1 (Feb. 24, 2022) [hereinafter Interim Agreement].

<sup>9</sup> Interim Agreement, § 7.3.

<sup>10</sup> Interim Agreement, § 7.6.

<sup>11</sup> Interim Agreement, § 7.7.

fairly align the costs of the advocacy with the intended potential beneficiaries of the advocacy.

22 On February 9, 2023, the Commission entered Order 02, Approving Agreement Subject to Condition, Requiring Refiling of Modified Agreement (Order 02).<sup>12</sup> The Commission approved the Revised Agreement submitted by the parties, subject to the removal of paragraph 7.9, which authorized deferred accounting treatment.<sup>13</sup> The Commission also clarified that it was not bound by the timelines set forth in the Revised Agreement.<sup>14</sup>

23 As relevant here, the Revised Agreement carried forward the same requirements for requests for payments of fund grants.<sup>15</sup> It also makes clear that “[e]ligible expenses” may include costs for eligible proceedings incurred prior to the approval of the Revised Agreement.<sup>16</sup>

24 In this case, each of the case-certified parties filed Requests for Payment of Fund Grants. The parties’ requests would, if approved in whole, equal \$149,340 of the \$200,000 allocated to Avista’s Customer Representation Sub-Fund for proceedings in 2022. We address each of the Requests for Payment in turn.

25 **AWEC.** AWEC has been an active participant in this case. It was a party to the full multiparty settlement agreement, “reviewed the filings in this [p]roceeding, conducted discovery, participated in settlement discussions, and filed a brief.”<sup>17</sup> AWEC submitted a timely Request for Payment. It describes its attorney fees, consultant fees, and costs in sufficient detail for the Commission to determine that they are reasonable, and it maintains that this time is directly attributable to participating in the case. AWEC’s

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<sup>12</sup> *In re Petition of Puget Sound Energy, et al.*, Docket U-210595, Order 02 (Feb. 9, 2023).

<sup>13</sup> *Id.* at ¶ 20.

<sup>14</sup> *Id.* at ¶ 21.

<sup>15</sup> *In re Petition of Puget Sound Energy, et al.*, Docket U-210595, Order 02, Appendix A, § 7.1 (Feb. 9, 2023) [hereinafter Revised Agreement].

<sup>16</sup> Revised Agreement, § 7.3; *see also* Interim Agreement, § 9.3 (providing that the Commission will require a participating utility to pay eligible expenses incurred under an approved fund grant that was awarded before the date of the termination of the Interim Agreement).

<sup>17</sup> AWEC’s Request for Payment at 3, ¶ 7; AWEC’s Brief at 1, ¶ 3.

Request for Payment represents only a portion of its costs for participating in this proceeding.

- 26 We find that the participatory funding costs incurred by AWEC are properly assessed against industrial customers because AWEC represents industrial customers and is primarily concerned with issues affecting those customers. Accordingly, with consideration of the requirements set forth in Sections 7.1, 7.3, and 7.7 of the Interim Agreement, we determine that AWEC's Request for Payment of \$50,000 should be approved, assigned proportionally between electric and natural gas customers based on total billed revenue, and only allocated to and recovered from the industrial customer class.
- 27 **TEP.** TEP has been an active participant in this case. It investigated, addressed, and “focused on all matters having an impact on Avista’s low-income and vulnerable customers, including, among other issues, low-income assistance program funding and design, low-income weatherization, billing, credit and collection issues, arrearage management, COVID-19 impacts and costs, performance-based regulation, time varying rates, and Avista’s revenue requirement.”<sup>18</sup> It requests payment for only a portion of attorneys’ fees and for reasonable expert witness fees. It does not request payment for in-house staff time, other fees, or other costs. It provided sufficient information for the Commission to determine that its expert witness fees and wages for in-house staff are reasonable. Further, TEP submits that this time is directly attributable to participating in this proceeding. Additionally, TEP’s Request for Payment represents only a portion of its costs for participating in this proceeding.
- 28 We find that the participatory funding costs incurred by TEP are properly assessed against residential customers because TEP focuses on issues affecting those customers. Accordingly, with consideration of the requirements set forth in Sections 7.1, 7.3, and 7.7 of the Interim Agreement, we determine that TEP’s Request for Payment of \$50,000 should be approved, assigned proportionally between electric and natural gas customers based on total billed revenue, and only allocated to and recovered from the residential customer class.

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<sup>18</sup> TEP’s Request for Payment at 2, ¶ 5.

29 **SBUA.** SBUA has been an active participant in this case. It investigated, addressed, and analyzed many issues, including:

the revenue requirement, Rate of Return, rate spread, rate design provisions, energy efficiency provisions, affordability metrics, and distributed energy resources (DER) programs, all from the perspective of the interests of small business ratepayers, attending prehearings / status conferences, drafting and reviewing discovery, engaging with Avista and other groups in settlement negotiations, sponsoring joint testimony, filing joint post-hearing briefs, and joining as a party to the multiparty settlement stipulation.<sup>19</sup>

30 It requests payment for only a portion of attorneys' fees and for reasonable expert witness fees. It does not request payment for in-house staff time, other fees, or other costs. It provided sufficient information for the Commission to determine that its expert witness fees and wages for in-house staff are reasonable. Further, SBUA submits that this time is directly attributable to participating in this proceeding. Additionally, SBUA's Request for Payment represents only a portion of its costs for participating in this proceeding. Last, SBUA filed confidentially with the Commission a list of its members, including those in Avista's service territory, in compliance with the conditions of Order 08/02.

31 We find that the participatory funding costs incurred by SBUA are properly assessed against commercial customers because SBUA focuses on issues affecting those customers. Accordingly, with consideration of the requirements set forth in Sections 7.1, 7.3, and 7.7 of the Interim Agreement, we determine that SBUA's Request for Payment of \$20,000 should be approved, assigned proportionally between electric and natural gas customers based on total billed revenue, and only allocated to and recovered from the commercial customer class.

32 **NWEC.** NWEC has been an active participant in this case. It investigated, addressed, and "raised several issues throughout the Proceeding such as Colstrip costs, natural gas line extensions, transportation electrification, Climate Commitment Act, performance metrics,

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<sup>19</sup> SBUA's Request for Payment at 3, ¶ 13.



and rate design.”<sup>20</sup> It provided sufficient information for the Commission to determine that its expert witness fees and wages for in-house staff are reasonable. Further, NWECC submits that this time is directly attributable to participating in this proceeding.

33 We find that the participatory funding costs incurred by NWECC are properly assessed against all customer classes because NWECC addresses several issues on behalf of a broad cross-section of customers. Accordingly, with consideration of the requirements set forth in Sections 7.1, 7.3, and 7.7 of the Interim Agreement, we determine that NWECC’s Request for Payment of \$29,340 should be approved, assigned proportionally between electric and natural gas customers based on total billed revenue, and allocated to and recovered from all customer classes on an equal percentage basis.

34 Avista must pay the above Requests for Payment as directed within 30 days of the entry of this Order.<sup>21</sup>

## ORDER

### THE COMMISSION:

- 35 (1) Approves Alliance of Western Energy Consumer’s Request for Payment from the Customer Representation Sub-Fund in the amount of \$50,000.
- 36 (2) Approves The Energy Project’s Request for Payment in the amount of \$50,000 from the Customer Representation Sub-Fund.
- 37 (3) Approves NW Energy Coalition’s Request for Payment in the amount of \$29,340 from the Customer Representation Sub-Fund.
- 38 (4) Approves Small Business Utility Advocates’ Request for Payment in the amount of \$20,000 from the Customer Representation Sub-Fund.
- 39 (5) Authorizes the Commission Secretary to accept by letter, with copies to all parties to this proceeding, any filings necessary to effectuate this Order.

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<sup>20</sup> NWECC’s Request for Payment at 3, ¶ 7.

<sup>21</sup> Interim Agreement, § 7.8.

- 40 (6) Retains jurisdiction to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective March 2, 2023.

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

MILT DOUMIT, Commissioner