

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION,

Respondent.

DOCKETS UE-200900 and
UG-200901 (*consolidated*)

In the Matter Petition of Avista
Corporation d/b/a Avista Utilities for an
Accounting Order Authorizing
Accounting and Ratemaking Treatment
of Costs Associated With the Company's
Wildfire Resiliency Plan

DOCKET UE-200894

MOTION TO CONSOLIDATE
PROCEEDINGS

I. INTRODUCTION

1 On October 30, 2020, Avista Corporation (Avista) filed a general rate case (GRC) with the Washington Utilities and Transportation Commission (Commission). Simultaneously, the company filed a petition seeking authority to defer costs incurred pursuant to its wildfire resiliency plan. The GRC and the deferral petition contain almost identical supporting narratives and materials concerning Avista's wildfire resiliency plan, which will necessitate identical discovery. The Commission should consolidate the deferral petition with Avista's GRC.

2 Although the petition addresses a period not covered by the GRC, Commission Staff (Staff) will need to examine the same underlying data to analyze the requests in both the petition and the GRC dockets. The duplication of the record required for resolution of both

the deferral and the rate requests creates related facts and law between the GRC and the petition, allowing consolidation. Administrative efficiency is best served by consolidation because of the duplication just mentioned and the number of questions raised by Avista's petition, all of which Staff and other parties can most efficiently investigate within one proceeding. The GRC has already been set for adjudication and will provide not only discovery tools but access to a full accounting of all of the company's expenses related to wildfire mitigation.

II. RELIEF REQUESTED

3 Staff respectfully requests that the Commission consolidate Docket UE-200894 with
Dockets UE-200900 and UG-200901.

III. STATEMENT OF FACTS

4 In October 2020, Avista filed revisions to its currently effective tariffs governing the
provision of electric and natural gas service in Washington.¹

5 Avista supported the proposed revisions with testimony from nearly 20 witnesses.²
One of these, Mr. David R. Howell, presented testimony and supporting exhibits concerning
Avista's wildfire resiliency plan, which sets out the company's proposal to address the threat
of wildfires in its service territory.³ Mr. Howell submitted six exhibits related to the wildfire

¹ *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-200900 & UG-200901, Order 01, 1, ¶ 1 (Nov. 25, 2020).

² *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-200900 & UG-200901, Exh. DPV-1T at 42:23 - 49:2 (Oct. 30, 2020).

³ *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-200900 & UG-200901, Exh. DRH-1T at 1:1-26:21 (Oct. 30, 2020) (Howell).

plan with his testimony.⁴ Another witness, Ms. Elizabeth M. Andrews, testified concerning Avista's proposal for recovering costs incurred under the wildfire plan.⁵

6 On the same day that Avista filed its GRC, it filed a petition seeking authorization to defer certain expenses incurred pursuant to the wildfire plan.⁶ In general, the petition covers many of the same topics as Mr. Howell's testimony, in strikingly similar language.⁷ Avista attached five documents to its petition; those largely duplicate the exhibits submitted by Mr. Howell along with his testimony.⁸

7 In its petition, Avista seeks to defer the costs it believes that it will incur between January 1, 2021, and the start of the GRC rate year, October 1, 2021.⁹ It estimates that these costs will amount to \$2.6 million dollars.¹⁰ Avista acknowledges that not all of the costs in its wildfire plan are incremental.¹¹ Both the petition and a similar filing in Idaho note that the areas in Avista's service territory that are vulnerable to fire-related disruptions are disproportionately located in Idaho.¹²

8 Mr. Howell and Ms. Andrews recognized enough commonality on this issue between the GRC and the deferral petition that they testified about the petition in their GRC testimonies.¹³

⁴ *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-200900 & UG-200901, Exhs. DRH-2 – DRH-7 (Oct. 30, 2020).

⁵ *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-200900 & UG-200901, Exh. EMA-1T at 82:11 – 89:19 (Oct. 30, 2020) (Andrews).

⁶ *In re Petition of Avista Corp.*, Docket UE-200894, Petition of Avista Corp., 1 - 25 (Oct. 30, 2020) (Petition).

⁷ Compare *id.* with Howell at 1:1 – 26:21.

⁸ Compare *In re Petition of Avista Corp.*, Docket UE-200894, Petition of Avista Corp., Attachment A – Attachment E (Oct. 30, 2020) with *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-200900 & UG-200901, Exhs. DRH-2 – DRH-7.

⁹ Petition at 20, ¶ 45.

¹⁰ *Id.* at 2, ¶ 2.

¹¹ *Id.* at 20, ¶ 44.

¹² *Id.* at 5, ¶ 11; *In re Application of Avista Corp.*, Case No. AVU-E-20-05, Application of Avista Corporation for Deferral Costs Associated With Wildfire Resiliency Plan, 5 n.10 (Idaho Pub. Serv. Comm'n May 29, 2020).

¹³ *E.g.*, Howell at 25:10-17; Andrews at 86:4 – 87:15.

IV. STATEMENT OF ISSUES

9 Should the Commission consolidate the deferral petition with Avista’s GRC?

V. EVIDENCE RELIED UPON

10 Staff relies on the Declaration of Amy White, filed concurrently with this motion, as well as the record in Dockets UE-200894, UE-200900 and UG-200901.

VI. ARGUMENT

11 Parties may move to consolidate proceedings if “the facts or principles of law are related” between them.¹⁴ Where proceedings share related facts or principles of law, the Commission’s willingness to consolidate turns on whether doing so serves the ends of “judicial economy and administrative efficiency”¹⁵ or “unduly delay[s] the resolution of one or all of the proceedings.”¹⁶

12 Whether the GRC and the petition share related facts is relatively straightforward: they do. The wildfire resiliency plan looms large in both the GRC and the petition, and the record in the two proceedings is effectively identical between them on the issue. The petition largely recounts the same facts as Mr. Howell’s testimony, and the petition’s attachments duplicate exhibits submitted along with Mr. Howell’s testimony.

13 Whether the GRC and the petition share related points of law is more complicated. The legal issues *should* be different between the GRC and petition, as described below, but the manner in which Avista has presented the petition tends to blur those differences out of existence.

¹⁴ WAC 480-07-320.

¹⁵ *In re Determining the Proper Classification of Lowper, Inc. d/b/a Lowper Corp., a/k/a Lowper Water Co. & Iliad inc. d/b/a Lowper Water Sys.*, Dockets UW-091006 & UW-110213 (Consolidated), Order 02/Order 01, 2, ¶ 5 (Mar. 24, 2011).

¹⁶ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Dockets UE-111048 & UG-111049 (Consolidated) & UG-110723, Order 04, 4, ¶ 8 (Sept. 7, 2011).

14 The ultimate legal issue in the GRC concerns whether Avista’s proposed revisions result in fair, just, reasonable, and sufficient rates.¹⁷ That question turns, in part, on whether Avista’s customers receive the services they pay for (and pay for the services that they receive)¹⁸ and on whether Avista seeks the recovery of prudently incurred expenses.¹⁹

15 The legal issue in the deferral docket is whether good cause justifies allowing Avista to book expenses so that it may attempt to recover them in a period different than the one in which it incurred them. That question turns on whether extraordinary²⁰ and material²¹ circumstances justify what might otherwise constitute a violation of the matching principle.

16 Avista’s petition does not squarely present the issues that it should. The petition does not allege that its expenses are extraordinary. Nor does Avista’s petition speak to the materiality of the amounts it seeks to defer, which are not large given the overall size of the company.²² Instead, Avista’s petition speaks largely to the reasonableness of its wildfire plan. For example, the conclusion of its petition begins with the following:

The risk of large wildfire events is increasing across the western United States. Recent fire events Washington, Oregon and California, illustrate that utility operating risk is increasing related to wildfires. Reducing the risk of

¹⁷ RCW 80.28.010, .020.

¹⁸ *Cf. Wash. Utils. & Transp. Comm’n v. Cascade Nat. Gas Co.*, Dockets UG-940034 & UG-940814, Fifth Supplemental Order, 4 (Apr. 11, 1995) (“[t]o the extent that one goal of ratemaking is to adopt rates for each customer class that reflect the cost of service that class, cost of service studies are a useful tool.”).

¹⁹ *In re Investigation of Avista Corp. et al.*, Docket UE-190882, Order 05, 11-12, ¶ 41 (Mar. 20, 2020).

²⁰ *E.g., Wash. Utils. & Transp. Comm’n v. Pac. Power & Light Co.*, Dockets UE-140762 & UE-140617 & UE-131384 & UE-140094, Order 08, 114, ¶ 273 (Mar. 25, 2015) (“The costs are in no sense ‘extraordinary,’ a criterion that should apply to a cost deferral accounting mechanism at the time requested and at the time any recovery is sought.”); *id.* at 110, ¶ 263 (“The replacement power costs in question do not qualify as extraordinary costs such as might arguably be candidates for deferral accounting.”); *Wash. Utils. & Transp. Comm’n v. PacifiCorp d/b/a Pac. Power & Light Co.*, Dockets UE-050684 & UE-050412, Order 04/Order 03, 11-12, ¶¶ 305-06 (Apr. 17, 2006); *In re Petition of Puget Sound Energy*, Docket UE-011600, Order Granting Accounting Petition, 2, ¶ 6 (Dec. 28, 2001).

²¹ *Wash. Utils. & Transp. Comm’n v. Nw. Nat. Gas Co.*, Dockets UG-080519 & UG-080530, Order 01, 3, ¶ 7 (May 02, 2008) (“In prior decisions concerning accounting petitions, the Commission has determined that deferred amounts must be of a magnitude such that recording the costs under the Federal Energy Regulatory Commission’s uniform system of accounts has a material impact on company earnings.”).

²² *Compare* Petition at 2 ¶ 2 (estimate that the deferral will amount to \$2.6 million) *with* Andrews at 22:5-8 (Avista’s net plant balance is nearly \$2 billion).

wildfires is critical for customers, communities, investors, and the regional economy. Avista has taken a proactive approach for many years to manage wildfire risks and impacts, and through this plan, the Company has identified additional wildfire defenses for implementation. The goals, strategies, and tactics set forth in this plan reflect a quantitative view of risk. Additional research, conversation and analysis with Avista's operating staff and steering group provided critical qualitative and contextual information that also shaped the recommendations. This combination of quantitative and qualitative analysis ensures the recommendations are robust, well-rounded, and thoughtful, and that they align with the plan goals and are appropriate.

Only after that paragraph, and two other similar ones, does Avista quickly mention the deferral. The petition's focus on reasonableness means it reads as seeking a preemptive prudence determination rather than one dedicated to obtaining a deferral.²³ Given that reading, the petition and the GRC appear to share related points of law in addition to related facts.

17 Turning to whether judicial economy and administrative efficiency militate toward consolidation, they do, for two reasons.

18 First, as mentioned, the record in the petition docket is all but identical to the portions of the GRC docket concerned with the wildfire plan. This means that the failure to consolidate the dockets will result in the Commission and the parties (other than Avista) reviewing the same text and exhibits twice, and conducting identical discovery in multiple dockets, something anathema to administrative efficiency.

19 Second, Staff has significant questions concerning the costs at issue in the petition. While Avista alleges that some of them are incremental, it already spends significant sums of money on the type of activity at issue in the petition,²⁴ and it admits that some of the costs

²³ *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy, Inc.*, Docket UE-090704 & UG-090705, Order 11, 110, ¶ 319 (Apr. 2, 2010) (noting the Commission applies a reasonableness standard to prudence reviews).

²⁴ *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-100467 & UG-100468, Order 07, 5, ¶ 12, Appx. A at 9, ¶ j (Nov. 19, 2010).

are not incremental.²⁵ Staff seeks to investigate whether the costs that Avista is requesting permission to defer truly are incremental.²⁶ Avista's petition also raises questions about the allocation of costs between Washington and Idaho.²⁷ Staff seeks to answer those questions through discovery.²⁸ Given these questions, an adjudication likely will be necessary to resolve the deferral petition.²⁹ The Commission should therefore consolidate it with the GRC, where formal discovery already is available,³⁰ so that the investigation of the costs at issue can benefit from a single record.³¹

20 Finally, consolidation will not unduly delay the resolution of any proceeding. The wildfire plan is already at issue in the GRC because of Mr. Howell's and Ms. Andrews's testimony, meaning consolidation with the petition will not add issues that will delay the Commission's GRC order. The Commission will, in any event, issue its final GRC order largely in accordance with a statutorily defined timeframe.³² Nor would consolidation unduly delay the Commission's action with regard to the petition. Avista seeks to defer costs incurred after the filing of its petition, so the company simply needs the Commission to approve the deferred accounting Avista will have commenced on January 1, 2021. The Commission can do this any time after the date of Avista's petition³³ but before Avista seeks recovery.³⁴

²⁵ Petition at 20 ¶ 44.

²⁶ Decl. of Amy White at 2, ¶ 4 (White Decl.).

²⁷ *Id.* at 2, ¶ 3.

²⁸ *Id.*

²⁹ WAC 480-07-305.

³⁰ *See* WAC 480-07-400(2)(b)(i) (making the full suite of discovery tools available in a proceeding in which a public service company seeks to increase rates).

³¹ White Decl. at 2-3, ¶ 5.

³² RCW 80.04.130.

³³ *In re Petition of PacifiCorp*, Docket UE-020417, Third Supplemental Order, 7-9, ¶¶ 22-27 (Sept. 27, 2002).

³⁴ Andrews at 87:10-15.

VII. CONCLUSION

21 Staff requests that the Commission grant its motion and consolidate Dockets UE-200894, UE-200900 and UE-200901.

DATED this 11th day of December 2020.

Respectfully submitted,

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