

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION d/b/a
AVISTA UTILITIES CUSTOMERS,

Respondent.

DOCKET NO. UE-011595

MOTION FOR PREHEARING
CONFERENCE BY
COMMISSION STAFF, THE
INDUSTRIAL CUSTOMERS OF
NORTHWEST UTILITIES AND
PUBLIC COUNSEL

1 The moving parties are the Staff of the Commission, the Industrial Customers of Northwest Utilities (ICNU) and the Public Counsel Section of the Attorney General's Office (Public Counsel). These parties seek a prehearing conference in Commission Docket No. UE-011595 to address procedures regarding a prudence review of Avista Corporation's (Avista) power cost deferrals.

2 Rules involved are WAC 480-09-420 and 480-09-460.

MOTION FOR PREHEARING CONFERENCE
BY COMMISSION STAFF, THE INDUSTRIAL
CUSTOMERS OF NORTHWEST UTILITIES
AND PUBLIC COUNSEL - 1

3 On March 28, 2003, Avista Corporation (“Avista” or the “Company”) submitted
its first annual filing for a prudence review and audit of the power cost deferrals under
the Energy Recovery Mechanism (ERM) approved as part of the Stipulation
(Stipulation) adopted by the Commission on June 18, 2002, in Docket No. UE-011595.

4 Commission Staff, ICNU and Public Counsel request that a prehearing
conference be scheduled as soon as possible to determine the procedures by which this
review will take place, because Avista’s filing is not sufficient to thoroughly examine
the Company’s deferred power costs within the initial 90 days contemplated by the
Stipulation.

BACKGROUND

5 In its Fifth Supplemental Order in Docket No. UE-011595, the Commission
approved the May 23, 2002 Stipulation between ICNU, Public Counsel, Commission
Staff, and Avista, which resolved the outstanding issues in the general rate case filed by
Avista in Docket No. UE-011595. The Stipulation provided that Avista would
implement an ERM in its electric operations beginning July 1, 2002, and that the
Commission would conduct a prudence review of the costs deferred under the ERM
each year.

6

Paragraph 4.b on pages 6-7 of the Stipulation outlines the procedure for such a

review:

Annual Filing to Review Deferrals: The Company agrees to make an annual filing on or before April 1st of each year to provide opportunity for the Commission and interested parties to review the prudence of and audit the ERM deferral entries for the prior calendar year. The Company will respond to data requests within 10 days to allow the Commission Staff and interested parties the opportunity to review the deferral information during a 90-day review period ending June 30th of each year. The 90-day review period may be extended by agreement of the parties participating in the review, or by Commission order.

7

As noted earlier, on March 28, 2003, Avista made its first annual filing for review of the amounts deferred under the ERM from July 1, 2002, to December 31, 2002.

8

The parties met with Avista prior to the March 28, 2003, filing, and discussed what sort of filing Avista should make. Commission Staff, ICNU and Public Counsel identified some of the issues they needed to have addressed. The filing Avista made did not specifically address any of the issues raised during that meeting.

DISCUSSION

9 Avista's March 28, 2003, filing is not sufficient to provide an opportunity for
meaningful review of the prudence of Avista's deferred power costs in this proceeding.
Avista's filing consists of a two-page letter accompanied by only two attachments.

10 Attachment "A" provides a summary of the costs Avista deferred each month
from July 1, 2002, to December 31, 2002, and the total ERM deferral balance, after
application of the deadband, sharing percentages, and carrying charges.

11 Attachment "B" summarizes data on Avista's net fuel expense. Avista also
generally incorporates by reference prior monthly ERM reports filed with the
Commission through December 2002.

12 However, many of the figures in Attachment B do not directly tie to the monthly
ERM reports Avista filed. Moreover, Avista's filing contains no testimony or narrative
justifying the prudence of any of its deferred power costs. No detailed information is
provided regarding any of the transactions that gave rise to deferred power costs,
including those previously identified in prior discussions between the parties.

13 By contrast, in Docket No. UE-011514, Avista's direct case on prudence of power
costs consisted of over 500 pages of testimony, exhibits and workpapers. In Docket No.

UE-020417, PacifiCorp's pending deferred cost recovery docket, PacifiCorp filed substantial direct testimony and exhibits to justify its deferred excess net power costs.

14 In short, Avista's letter filing provides an insufficient basis for the prudence review contemplated by the Stipulation. Avista's filing does not provide a basis upon which the Commission can conclude that the Company has met its burden to demonstrate that the deferred costs are prudent and appropriate for recovery.

15 Under Paragraph 4.b of the Stipulation, the annual review of the ERM deferral is to be conducted in 90 days, but this period "may be extended by agreement of the parties participating in the review, or by Commission order." The Stipulation does not indicate the exact process for the review, other than that the parties may submit data requests regarding the Company's filing.

16 Avista's March 28, 2003, filing is insufficient to allow a thorough review in 90 days. To require the parties to move forward without any additional evidence submitted by Avista will, in effect, shift the burden to the other parties to determine through discovery whether Avista's deferred power cost are prudent. If the entire review must take place through discovery (*i.e.* without the benefit of a direct case), the thorough review contemplated by the Stipulation cannot be completed within 90 days.

17 By the same token, the parties have been reviewing Avista's monthly deferral filings, and have reviewed Avista's annual filing. Issues are being evaluated. However, given the nature of Avista's annual filing, and the June 30, 2003, initial deadline to complete the review, it is apparent that additional time will be needed.

18 Accordingly, Commission Staff, ICNU and Public Counsel request that a prehearing conference be scheduled to accomplish the following specific items, among others:

- 1) Identify, to the extent possible, the issues regarding the prudence of Avista's deferred power costs;
- 2) Require Avista to file testimony and exhibits addressing those issues, and the overall prudence of its deferred power costs, and establish when that filing should be made;
- 3) Decide whether the 90-day time limit for review of the ERM filing should be extended as permitted by the Stipulation, and a procedural schedule established; and
- 4) Decide whether Commission review of Avista's ERM filing will require evidentiary hearings, followed by an order from the Commission.

19 This is an important phase of this docket, and a thorough review of the prudence of Avista's deferred power costs is necessary for several reasons. First, such a process is the only regulatory review before \$18 million in power costs are recovered from ratepayers via Avista's power cost surcharge tariff (Schedule 93).

20 Second, this is the first annual ERM prudence review. It is important that a
process for meaningful review be established, given the cursory filing Avista has
elected to make in this case.

21 Third, Commission Staff, ICNU and Public Counsel should not be required to
expend the considerable resources necessary to evaluate the issues presented by Avista
in its filing, without a more clearly defined process, and a more detailed prudence
demonstration than the cursory filing that Avista has made.

22 It is not reasonable to expect the other parties to review the prudence of Avista's
deferred power costs primarily through discovery, without benefit of a direct case. That
is inefficient, and has the effect of improperly shifting the burden of proof from Avista
to the other parties.

CONCLUSION

23

Commission Staff, ICNU and Public Counsel request that a prehearing conference be scheduled in this docket as soon as possible to establish a process for the annual ERM review. This is the first annual review of Avista's ERM deferrals. Avista is asking the Commission to determine that over \$18 million in power costs were prudently incurred. This case is the only regulatory review of these costs prior to their inclusion in rates. It is critical that a meaningful review occur. A prehearing conference is necessary to establish the process for that review.

DATED this 8th day of May, 2003.

CHRISTINE O. GREGOIRE
Attorney General

CHRISTINE O. GREGOIRE
Attorney General

DONALD T. TROTTER
Assistant Attorney General
Washington Utilities and
Transportation Commission

Robert W. Cromwell Jr.
Assistant Attorney General
Public Counsel Section

DAVISON VAN CLEVE, P.C.

S. Bradley Van Cleve
Davison Van Cleve, PC
Of Attorneys for the Industrial Customers
of Northwest Utilities

MOTION FOR PREHEARING CONFERENCE
BY COMMISSION STAFF, THE INDUSTRIAL
CUSTOMERS OF NORTHWEST UTILITIES
AND PUBLIC COUNSEL - 8