

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION, D/B/A
AVISTA UTILITIES,

Respondent.

DOCKETS UE-160228 and
UG-160229 (*Consolidated*)

ANSWER OF AVISTA CORPORATION TO
STAFF MOTION TO STRIKE

¹ Pursuant to WAC 480.07.374, Avista Corporation (“Avista” or “Company”) answers Staff’s “Motion to Strike, or in the Alternative, Motion for Surrebuttal on Behalf of Commission Staff,” as filed on October 4, 2016 (hereinafter “Motion”). In its Motion, Staff seeks to strike those portions of Company Witness Norwood and Andrews’ testimony that address the Company’s alternative proposal for deferred accounting treatment of AMI costs. In the alternative, Staff moves for leave to file surrebuttal testimony after the close of the evidentiary hearing (together with a supplemental hearing on the issue), or to otherwise be given leave to present oral surrebuttal at the time of the scheduled evidentiary hearing on October 12, 2016.¹

¹ On October 5, 2016, Public Counsel/The Energy Project filed a Response in Support of Staff’s Motion, but raising no new arguments. Accordingly, Avista’s Answer to Staff’s Motion should be deemed to address Public Counsel/The Energy Project’s Response as well.

2 Avista objects to Staff's Motion to Strike, as well as its alternative Motion for Surrebuttal
Testimony for the following reasons:

I. STAFF'S MOTION IS UNTIMELY AND DISRUPTIVE OF THE PROCEDURAL SCHEDULE

3 Before addressing the merits of Staff's Motion, there is a threshold reason why it should
be rejected. The Company filed its rebuttal testimony on September 19, 2016 – nearly two and
one-half weeks before the filing of Staff's Motion. Nowhere does Staff explain why it waited until
only one week prior to hearing before submitting its Motion. It should have submitted its Motion
much earlier, in order to allow for a reasonable period to respond and an orderly disposition of this
matter. Instead, what the Commission is left with is a Motion on the eve of the evidentiary hearing
in which Staff is suggesting, if its Motion is not granted to strike, that either written supplemental
testimony be provided (together with a supplemental hearing after the evidentiary hearing
scheduled to begin on October 12, 2016), or the creation of additional process during the scheduled
hearing dates to allow for oral surrebuttal testimony on the issue. Neither is appropriate at this
juncture of the proceeding. Had the Staff otherwise timely filed this Motion, this would have
provided a reasonable opportunity, were the alternative Motion granted, for the filing of the
surrebuttal testimony, as well as Avista's written answering testimony– all in advance of the
scheduled hearing dates. That is what the orderly disposition of this case would suggest.

4 Moreover, Staff could have, but did not, include the actual form of surrebuttal testimony
that it is proposing, along with its Motion. Because it did not, the Commission and the Company
are left to wonder about its scope and reasoning. In that regard, it is entirely unclear as to whether
this matter can or should be addressed during the scheduled evidentiary hearing, or the scope of
any necessary reply by Avista to the surrebuttal. Accordingly, the Motion is deficient on its face
in that regard, as well, because it failed to provide the proposed surrebuttal testimony.

5 In conclusion, the timing of Staff’s Motion, and the lack of specificity concerning the nature of its proposed surrebuttal, should prove as troubling to the Commission as it does to the Company. This could have been avoided had the Motion been brought on a timely basis, with the proposed surrebuttal attached. At this late juncture, Staff’s Motion will disrupt the orderly processing of this proceeding.

II. APART FROM ITS UNTIMELY NATURE, THE MOTION SHOULD BE DENIED ON ITS MERITS

A. The Company’s Proposal for Deferred Accounting, as an Alternative, Does Not Constitute Improper Rebuttal.

6 Staff argues that Avista “could have easily presented its proposal for deferred accounting treatment for the AMI Project as an alternative in its Direct Testimony, which is where it belongs because it is Direct Testimony.” (Motion at ¶9) Staff is incorrect. Indeed, Avista’s proposed alternative of deferred accounting for AMI is utterly consistent with the very purpose of rebuttal, because it responds to testimony in opposition to AMI as filed by Public Counsel and Staff. Avista is not required to anticipate in its direct case the position of parties on AMI and suggest alternative resolutions addressing their concerns at that time. And that is because their concerns have yet to be expressed. Avista is not required to assume opposition to an issue in its direct case, or in the case of AMI, to assume the nature of that opposition. Indeed, if it were otherwise, virtually every piece of rebuttal would be subject to strike, because it could be argued that the Company’s Direct Testimony should have somehow anticipated the issue.

7 After reviewing the pre-filed testimony of parties in opposition to AMI, Avista responded with an alternative solution to address the concerns expressed by parties with regard to the recovery of any AMI costs. It did so in the form of proposing deferred accounting for AMI costs.² With deferred accounting, as testified to by Mr. Norwood, the revenue requirement associated with the AMI costs that are transferred to plant-in-service would be set aside for the opportunity (not guarantee) for future recovery.³ Accordingly, for those parties in this case that oppose including AMI costs in retail rates, through the use of deferred accounting the AMI costs would be excluded from retail rates at this time. For its part, with deferred accounting, Avista would not experience the significant negative financial impact otherwise associated with excluding AMI cost recovery in this case.⁴ And finally, through deferred accounting, the Commission will have the opportunity to review such costs after-the-fact, and make a prudence determination prior to the Company receiving recovery of any prudently incurred costs through retail rates.⁵ Accordingly, should the Commission not approve recovery of the AMI costs for the rate period, through an after-attrition adjustment, Avista requested that the Commission approve deferred accounting treatment for the AMI Project.⁶ (See also, rebuttal testimony of Ms. Andrews regarding the accounting for costs under deferred accounting for AMI.)⁷

² Exh. No. KON-1T, p.35:12 – 36:24.

³ Id.

⁴ The Company has included approximately \$17.9 million of transfers-to-plant associated with AMI in 2017, along with net operating expenses of \$2.2 million. These are included in its “after-attrition adjustment” and account for a revenue requirement need of \$4.9 million. If the Commission does not either approve this requested adjustment, or otherwise grant deferred recovery of these amounts, it will have effectively denied the Company recovery of these expenditures, without otherwise determining that they were imprudent.

⁵ Exh. No. KON-1T, p.35:21 – 36:12.

⁶ Id.

⁷ Exh. No. EMA-6T, p.52:10 – 53:18.

B. Staff's Motion Would Deprive the Commission of a Constructive Alternative.

8 Particularly disturbing is the fact that Staff's Motion challenges what is proffered as a constructive alternative to address the concerns of all parties, as discussed above. While it still remains the position of the Company that it should be allowed the recovery of AMI costs incurred during 2017 in this case, the Company has suggested the reasonable alternative of deferred accounting. Indeed, as recently as March 15, 2016, this Commission issued its "Order Granting Amended Accounting Petition Subject to Conditions," in Docket UE-160100, approving an accounting order authorizing deferred accounting treatment related to the undepreciated net book value of the Company's existing (soon to be retired) electric meters. As will be discussed below, the use of deferred accounting is a recognized approach for addressing matters in dispute, pending their final resolution. No party will be harmed through deferred accounting and the parties will have preserved their positions to subsequently argue the prudence of the AMI expenditures at issue in this case.

C. Staff's Position Reflects a Misunderstanding of the Purpose and Effect of Deferred Accounting.

9 In its Motion, Staff suggests that deferred accounting treatment creates a "greater expectation of recovery; which as a practical matter, makes it more difficult for non-Company parties who ultimately conduct the prudence investigation to contest prudence." (See Motion at ¶11) This position, of course, ignores the very conditions placed on any deferred accounting order. This is best illustrated by the Commission's recent deferred accounting order on the retired meters, supra, where it stated:

Further, our decision in no way constitutes a pre-approval of the Company's AMI investment, and the Commission makes no finding regarding the prudence of the investment. Avista recognizes that a determination of prudence and the eligibility for recovery of any costs associated with the Company's AMI investment will be addressed in a future regulatory proceeding. As the Company noted in its Amended

Petition, '[w]e also agree the obligation to demonstrate both that the decision to move forward was prudent, and the costs of installation are prudent, rests solely with the Company, and we will proceed on that basis.' (Emphasis added)

(Order 01, supra, at ¶9.) Finally, in its Ordering Paragraph 20, the Commission, as it always does, stated: "Nor shall this Order granting Petition be construed as an agreement to any estimate, determination of costs, valuation of property claimed or asserted or to the possible recovery of, or return on, the amounts deferred to the regulatory asset." (See Order 01, supra, at ¶20) In its alternative proposal for deferred accounting in this proceeding, Avista has made it quite clear that it is not otherwise seeking a prudence determination as part of its deferred accounting request.

III. CONCLUSION

10 The Commission should deny Staff's Motions. For the reasons stated above, Staff's Motion to Strike should be denied, not only as untimely, but on its merits as well. If granted, it would suggest that nearly any piece of rebuttal testimony could be rejected as improper because a suggested alternative resolution was not previously raised in a party's own Direct Testimony. That would create bad precedent and disrupt the orderly processing of rate proceedings. For that reason alone, the Motion to Strike should be denied. Avista, however, understands that it is important for the Commission to have the information it needs before it, in order to make a reasoned decision. If the Commission elects to entertain additional surrebuttal testimony by Staff on the issue of deferred accounting, the Company urges the Commission to reject outright the proposed pre-filing of supplemental surrebuttal on this issue and the setting of an additional hearing after the close of the evidentiary hearings scheduled for October 12, 2016. The schedule is already sufficiently compressed, and to add another procedural step would only deprive the parties of additional time for briefing as well as the rendering of a decision by this Commission. Therefore, if the Commission wishes to entertain additional surrebuttal from Staff, the Company would not object

to a brief oral presentation by Staff, in this regard, at the time of the October 12-14 hearing dates, so long as the Company would be allowed to recall a witness to reply to such oral surrebuttal.

11 RESPECTFULLY SUBMITTED this 2⁴ day of October, 2016.

AVISTA CORPORATION

By:  _____

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