

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKETS UE-150204 and
TRANSPORTATION COMMISSION,	)	UG-150205 (consolidated)
)	
Complainant,	)	ORDER 06
)	
v.	)	ORDER DENYING JOINT
	)	MOTION FOR
AVISTA CORPORATION d/b/a	)	CLARIFICATION, DENYING
AVISTA UTILITIES,	)	PETITION FOR
	)	RECONSIDERATION, AND
Respondent.	)	DENYING MOTION TO
	)	REOPEN THE RECORD
.....)	

MEMORANDUM

- 1 **PROCEEDING:** On February 9, 2015, Avista Corporation d/b/a Avista Utilities (Avista or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-28, Electric Service. The Company requested authority to increase charges and rates for electric service by approximately \$33.2 million or 6.7 percent in billed rates. The Company simultaneously filed revisions to its currently effective Tariff WN U-29, Natural Gas Service. Avista sought to increase rates for natural gas service by approximately \$12 million or 6.9 percent in billed rates. The Commission suspended the tariff sheets and set the dockets for hearing.

- 2 On May 1, 2015, Avista, the Commission’s regulatory staff (Staff),¹ the Public Counsel Unit of the Office of Attorney General (Public Counsel), the Industrial Customers of Northwest Utilities (ICNU), and the Northwest Industrial Gas Users (NWIGU) filed a Settlement Agreement to resolve certain issues pertaining to the Company’s cost of capital, power supply, rate spread, and rate design.² The effect of the settlement reduced Avista’s requested electric revenue requirement from \$33.2 million to \$17 million and its

¹ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See*, RCW 34.05.455.

² Settlement ¶ 3.

requested natural gas revenue requirement from \$12 million to \$11.3 million.³ The settlement provided for a 9.5 percent ROE and an overall ROR of 7.29 percent.⁴ The Company agreed to file an updated power supply adjustment two months prior to new electric rates from this proceeding going into effect.⁵ The Company filed the update to its power supply adjustment on October 29, 2015. This reduced the power cost adjustment by \$12.3 million.⁶

- 3 The Commission entered Order 05, its Final Order in these consolidated electric and natural gas general rate case proceedings, on January 6, 2016. As required under the Administrative Procedure Act,⁷ Order 05 fully resolved all issues exclusively on the basis of the record developed over the 10-month statutory period allowed for review in these complex cases.⁸ In Order 05, on the basis of evidence offered in support of the settlement, the Commission approved the parties' proposals, as discussed above, and adopted their Settlement Agreement as its own resolution of the issues identified.
- 4 While the parties' settlement reduced the number of contested issues and, hence, simplified the case to some degree, significant issues were not resolved by the agreement. These were the subjects of extensive, detailed evidentiary presentations by the parties. The fully contested issues included disputes over pro forma plant additions, generation plant operations and maintenance expense, labor expenses, advanced meter infrastructure, Project Compass,⁹ low-income rate assistance, and various miscellaneous expenses including property tax, insurance, accumulated deferred Federal Income Tax, corporate aircraft expense, and transmission revenues and expenses.
- 5 The most significant contested issues in terms of dollars were Avista's proposed attrition adjustments to the Company's rates for electric and natural gas. More than one-third of

³ Joint Motion for an Order Approving Settlement ¶ 2.

⁴ *Id.* ¶ 4.

⁵ *Id.* ¶ 5. The statutory effective date of Avista's general rate request in these combined dockets, absent a Commission final order, is January 11, 2016.

⁶ *Id.*

⁷ RCW 34.05.461(4).

⁸ RCW 80.04.130(1).

⁹ On February 2, 2015, Avista replaced its legacy Customer Information and Work Asset Management System following a multiyear project it called Project Compass.⁹ As the result of Project Compass, the Company installed and now uses Oracle's *Customer Care & Billing* system and IBM's *Maximo* work and asset management application. In this case, Avista sought recovery of costs associated with the project.

the Commission's 93 page Final Order narrative is devoted to this subject. As discussed in Order 05:

Attrition occurs when the test-period relationship between rate base, expenses and revenues does not hold under conditions in the rate effective period, such that a utility's expenses or rate base grows more quickly than revenues, and a utility would likely have no reasonable opportunity to earn its allowed rate of return. An attrition adjustment is a discrete adjustment to the modified historical test year that the Commission may use when it determines attrition is present.

When developing an attrition adjustment, parties first provide a revenue requirement analysis based on a modified historical test year. Parties then perform an attrition study to determine the utility's revenue requirement in the rate year. The attrition adjustment is the difference between the revenue requirement provided by the modified historical test year and the revenue requirement provided by the attrition study.¹⁰

- 6 Both Avista and Staff performed attrition studies. These studies involved the development and use of complex models populated by myriad data. The modeling methodologies used by Avista and Staff in the first instance were significantly different and there were also significant differences separating the parties in terms of what data should populate the models. On rebuttal, Avista abandoned the attrition study it filed in its direct testimony and instead adopted Staff's proposed attrition study and methodologies, albeit with several changes.
- 7 Public Counsel and ICNU opposed making any attrition adjustment in this case. For that reason, they did not present their own models, being of the opinion that no study would support such adjustments.
- 8 The Commission found "Staff's approach, as adjusted and corrected by the Company, [provided] the most appropriate methodology in this docket for supporting an attrition adjustment."¹¹ The Commission discusses in considerable detail in Order 05 the ramifications of this finding for the application of an attrition adjustment in this case.
- 9 After careful and thoroughgoing consideration of the record evidence, the Commission concluded that it would allow attrition adjustments affecting both electric and natural gas rates. Order 05 explains, however, that the Commission's decisions in awarding attrition

¹⁰ Order 05 ¶ 47 and accompanying n. 60.

¹¹ Order 05 ¶ 111.

adjustments would be informed not only by its application of a modified version of Staff's model, but also by its informed judgment as a regulatory body charged with making decisions that produce end results, regardless of the methods used, that yield rates that are fair, just, reasonable, and sufficient.¹²

- 10 Order 05, among other things, takes into account a positive \$28 million attrition adjustment to the modified test year amounts for the Company's electric service. The Commission's decisions on other issues, however, established negative adjustments that more than offset the positive attrition adjustment. In the final analysis, the Commission authorized Avista to file revised tariffs with electric rates that will recover \$8.1 million less in revenue, for a 1.63 percent rate decrease, relative to the Company's rates in effect at the time these dockets were initiated.
- 11 Following the Commission's entry and service of Order 05 on January 6, 2016, the Commission, at the request of the Company, convened an informal telephonic order conference with Avista, Commission Staff, Public Counsel, the ICNU, and NWIGU to "[e]nsure that any compliance filing can be accurately prepared and presented."¹³ During the order conference, the Commission's Accounting Advisor, Mr. Danny Kermode, explained systematically the data from the record on which the Commission relied, how these data inputs were utilized, , and how, together, the results formed the basis for Avista's electric revenue requirement decrease of \$8.1 million.
- 12 On January 7, 2016, Avista filed electric and natural gas tariff sheets revising Tariff WN U-28 to reflect the \$8.1 million reduction in electric base revenue and Tariff WN U-29 to reflect the \$10.8 million increase in natural gas base revenue as specified in Order 05. The Commission reviewed the tariff sheets and determined that they did, in fact, comply with the terms of the Order. The Commission Secretary, as authorized by Order 05, therefore approved the revised tariff sheets by letter, with copies to all parties. Under the terms of the Secretary's letter, the revised tariff sheets became effective as filed, with an effective date of January 11, 2016. This was the last day of the suspension period allowed under RCW 80.04.130(1).

¹² See Order 05 ¶¶ 129, 132 – 135.

¹³ Email from Marguerite E. Friedlander, Administrative Law Judge, Commission, to parties in Dockets UE-150204 and UG-150205 (consolidated), January 6, 2016 (citing WAC 480-07-840(1)(b)). The Energy Project was unable to participate in the conference but raised no objection to it.

- 13 **ICNU/Public Counsel’s Joint Motion for Clarification.** On January 19, 2016, ICNU and Public Counsel (Joint Parties) filed a Joint Motion for Clarification of Order 05. Joint Parties state that they do not seek to change the outcome of any issues resolved by the Commission in Order 05. Instead, they argue that the Commission’s rulings in Order 05, taken together, should have resulted in a \$16.6 million attrition allowance and an electric revenue requirement reduction of \$19.8 million.¹⁴ Joint Parties provided work papers with their filing that allowed the Commission to identify precisely the source of the computational difference between Order 05 and Joint Parties’ Motion. The approximate \$12 million difference between their proposed attrition adjustment and what the Commission determined for electric service is explained largely by different treatments of power costs in the attrition model.
- 14 The settlement provides that “[t]he Parties agree that Avista shall file with the Commission an updated Power Supply adjustment two months before new electric retail rates from this electric Docket go into effect.”¹⁵ A footnote to this Settlement provision states that “[a]s in past proceedings, the purpose of this power supply update would be to: 1) update the three-month average of natural gas and electricity market prices; 2) include new short-term contracts for gas and electric; and 3) update or correct power and transmission service contracts for the 2016 rate year.”
- 15 Avista filed its updated power supply adjustment on October 29, 2015. The Commission incorporated the revised data provided, namely the \$12.3 million reduction in pro forma net power costs, by inserting it directly into the appropriate tab in Staff’s attrition model. Joint Parties, however, “believe that the \$12.3 million reduction detailed in the Company’s update[d] filing should have been applied as a discrete adjustment *outside* of the attrition model.”¹⁶
- 16 We do not agree that it is appropriate to treat Avista’s power cost update outside of the attrition model. Instead, we believe that overall net power costs, including any update or revision to such costs, should continue to be examined in the context of both the attrition methodology agreed to by Staff and Avista in the case, and in the record evidence upon which the Commission relied to make its final decision in Order 05. A change in any specific data or assumption used in the attrition model will invariably affect other data in the model and needs to be assessed logically on a holistic basis, not on a selective basis

¹⁴ Joint Motion for Clarification ¶ 6. Joint Parties also request a typographical correction to Footnote 72 in Order 05 removing reference to Public Counsel. We agree that this typographical error needs editing and will address the issue in a subsequent errata order.

¹⁵ Settlement ¶ 5(a) (May 1, 2015).

¹⁶ *Id.* (emphasis added).

inside or outside of the model, especially after the close of the record. We continue to believe that the end result of an \$8.1 million decrease in revenue requirement is proper after incorporating Avista's power cost update directly into the attrition model. We believe it is improper to assess the updated net power costs, as the Joint Parties argue, outside of the agreed-upon attrition methodology, resulting in a further \$12.3 million reduction in revenue requirement. It follows that the Joint Parties' Motion for Clarification of Order 05 should be denied.

- 17 **Staff Petition for Reconsideration.**¹⁷ Also on January 19, 2016, Staff filed its "Motion to Reconsider," seeking "a review of [the Commission's] calculation of Avista's overall revenue requirement to ensure that the adjustments set forth in Table 1 have been properly incorporated."¹⁸ As noted, it appears from the substance of Staff's filing that it actually seeks clarification by motion under WAC 480-07-835 and 840, rather than reconsideration by petition under WAC 480-07-850. WAC 480-07-835 provides that:

The purpose of a motion for clarification is to ask for clarification of the meaning of an order so that compliance may be enhanced, so that any compliance filing may be accurately prepared and presented, to suggest technical changes that may be required to correct the application of principle to data, or to correct patent error without the need for parties to request reconsideration and without delaying post-order compliance.

- 18 Staff's post-order filing states at ¶ 2 that: "It is merely addressing what it believes to be the appropriate calculation of Avista's revenue requirement for electric operations, including various adjustments set forth in Order 05." Staff reiterates in ¶ 4 that: "Staff's motion only seeks Commission review of its calculation of Avista's overall revenue requirement to ensure that the adjustments set forth in Table 1 have been properly incorporated." Finally, Staff states at ¶ 11 that it believes "the Commission's application of the principles enunciated in *Hope* and *Bluefield*" "would benefit from clarification as to the Commission's intent," if the Commission agrees with Staff that it has miscalculated Avista's revenue requirement for electric service. In sum, all of this suggests what Staff is asking for is clarification, not reconsideration, the purpose of which is quite different, as described in WAC 480-07-850.

¹⁷ Staff styles its filing as a "Motion to Reconsider." The Commission's procedural rules, however, call for "Reconsideration of a final order by petition," not by motion. This, in itself, is a technicality of no particular consequence. However, as discussed in the body of this order, it appears that what Staff seeks is clarification by motion, not reconsideration by petition. We nevertheless will refer in this order to Staff's filing as a "Petition for Reconsideration."

¹⁸ Staff's Petition for Reconsideration ¶ 4.

19 Staff states that it followed the computation of each adjustment and decision that the Commission made in Order 05 and arrived at an electric revenue requirement decrease of \$27.4 million.¹⁹ Using Avista’s proposed attrition model, Staff contends that the Commission may have erred when it updated the Company’s power supply costs within the model.²⁰ Staff explains that:

[T]he cells in the pro forma power supply worksheet (“PF Power Supply 09.2014 load”) would have linked to dependent cells in a hidden worksheet related to incremental load expense (“incremental load expense”). If not controlled for, these dependent cells would have updated column [J] of the attrition tab (“Attrition 09.2014 to 2016”). The resulting update would have, in effect, offset changes in column [I] of the attrition tab that would have been carried forward from the pro forma power supply worksheet.²¹

Staff, like Joint Parties, “recommends that the Commission input the October 29, 2015, power supply update (\$12.3 million) outside of, rather than within, the attrition model.”²² This is in spite of Staff’s recognition that “there are multiple interdependent formulas in the attrition model,”²³ which, as previously discussed, is precisely why it is inappropriate to consider Avista’s power cost update outside the attrition model.

20 Staff did not provide its work papers with its Petition to Reconsider. The Commission accordingly issued Bench Request Nos. 19 and 20. Upon examination of Staff’s computations, filed in response to the Bench Requests on January 26, 2016, it became clear that the Staff’s revised revenue requirement decrease, now \$27.7 million, was due, in part, to various errors and erroneous assumptions in Staff’s calculations. Staff also made changes to the attrition model relative to what is in the evidentiary record that the Commission relied on in Order 05.

21 Joint Parties also filed responses to Bench Request Nos. 19 and 20, replying to Staff’s responses to the Bench Requests and referencing several instances where Joint Parties disagree with Staff’s interpretation of Order 05. Most notably, Joint Parties used Staff’s attrition model to calculate the attrition allowance authorized in Order 05, while Staff

¹⁹ *Id.* ¶ 7 (Table 2).

²⁰ *Id.* ¶ 9.

²¹ *Id.*

²² *Id.* ¶10.

²³ *Id.*

derived its calculations from Avista's model. Joint Parties included Avista's post-attribution adjustment for Project Compass as Order 05 rejected Staff's removal of certain Project Compass expenditures, while Staff removed the Project Compass adjustment in its entirety. Joint Parties applied the power supply cost update as an adjustment outside of the attrition model, while Staff, according to Joint Parties, "was not opposed to applying this adjustment outside of the model, [but] Staff has also proposed a methodology that would estimate 2016 power costs in the attrition model."

22 On January 28, 2016, Avista filed a Motion for Waiver of Rules Allowing for an Answer to ICNU and Public Counsel's Joint Motion for Clarification and Staff's Motion to Reconsider (Avista's Motion for Waiver). Avista' filing included its responses to the Joint Motion for Clarification and Staff's Petition for Reconsideration. We grant the request for a waiver and consider Avista's responses.

23 Avista states that it does not challenge the end result of the Commission's order decreasing the Company's electric revenue requirement by \$8.1 million, and argues that the decrease is within the "bounds of reasonableness" when compared to the Company's recommendation of a decrease in electric revenues of \$5.7 million and other parties' recommendations for much larger decreases.²⁴ Avista notes that, during the January 6, 2016, telephonic order conference, Staff asked "a question related to the significant difference between the attrition adjustment proposed by [it] and that approved by the Commission."²⁵ The Company states that Mr. Kermode explained the derivation and further answered in the affirmative when asked by ICNU whether the updated power supply costs had been incorporated into the Commission's calculations.²⁶ The Commission's reduction of \$8.1 million to the Company's revenue requirement, according to Avista, will still allow it an actual opportunity to earn the stipulated 9.5 percent return on equity (ROE), in accordance with the parties' settlement.²⁷ The Company argues that the \$19.8 million revenue requirement decrease proposed by Joint Parties and the \$27.7 million decrease recommended by Staff "would not come close to providing a reasonable opportunity for Avista to earn the agreed-upon 9.5 [percent] authorized ROE for 2016."²⁸ Thus, Avista focuses appropriately on the end result

²⁴ *Id.* ¶ 16 (Table 1).

²⁵ *Id.* ¶ 9.

²⁶ *Id.*

²⁷ *Id.* ¶ 16.

²⁸ *Id.* ¶ 18. Avista calculates the ROE opportunities for either ICNU/Public Counsel's or Staff's Motions at 8.21 percent and 7.50 percent, respectively.

reflected in Order 05 and cites specifically to the Commission's reliance on the 'end result' principle in the *Hope Natural Gas Co.* case that provides "it is the result reached not the method employed which is controlling."²⁹

- 24 To address the computational questions raised in both Joint Parties' and Staff's Motions, the Commission convened in its main hearing room on February 3, 2016, a second order conference with Administrative Law Judge Marguerite Friedlander presiding and led by the Commission's Accounting Advisor. Having reviewed the work papers supporting the Motion for Clarification and the Petition for Reconsideration, Mr. Kermode presented a careful, step-by-step explanation of the Commission's use of data, and its calculations and the resulting impacts when the various adjustments are included in Staff's attrition model reflected in Order 05. Mr. Kermode demonstrated conclusively that the results reflected in Order 05 are correct, based on the evidentiary record in these proceedings and that the Commission's application of Staff's attrition methodology is proper.
- 25 We determine, on the basis of the preceding discussion, that Staff's Petition for Reconsideration, whether considered as a request for reconsideration or clarification, should be denied.
- 26 **Motion to Reopen the Record.** On February 4, 2016, Staff filed a Motion to Reopen the Record for the Limited Purpose of Receiving into Evidence Instruction on Use and Application of Staff's Attrition Model (Staff's Motion to Reopen). Staff requests that the Commission waive its rule that provides for reopening the record in a proceeding, only "after the close of the record and *before* entry of the final order."³⁰ By waiving this rule, Staff argues that the Commission could address the "perceived limitations on the Commission's ability to effectively use Staff's attrition model and input the results of

²⁹ *Id.* ¶ 21 (citing *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603, 64 S. Ct. 281, 88 L. Ed. 333 (1944)).

³⁰ WAC 480-07-830 (emphasis added). The Commission's procedural rules provide:

The commission may grant an exemption from or modify the application of its rules in individual cases if consistent with the public interest, the purposes underlying regulation, and applicable statutes. The commission may modify the application of procedural rules in this chapter during a particular adjudication consistent with other adjudicative decisions, without following the process identified in subsection (2) of this section.

WAC 480-07-110(1). While Staff's motion and Avista's answer refer to a "waiver" of the rules, the rule refers to an exemption, which the Commission may grant during an adjudication.

Avista's [power cost update] filed October 29, 2015."³¹ It recommends that the evidentiary record be reopened to allow introduction of "helpful information . . . on the application and use of its attrition model, including the impacts of Commission determinations in Order 05."³² According to Staff:

By reopening the record, the Commission will be able to address its specific issues, and remove any limitations on its ability to calculate Avista's revenue requirement based on Staff's *updated* attrition model. Moreover, reopening the record would not prejudice any party. This is so even if the Commission's review results in a properly revised revenue requirement. No party can claim to be harmed by Commission action *correcting* a calculation.³³

In its Motion to Reopen, Staff proposes its third electric revenue requirement reduction amount – this time in the amount of \$19.6 million.³⁴

- 27 On February 9, 2016, Avista and Joint Parties filed responses to Staff's Motion to Reopen. Avista opposes Staff's Motion to Reopen, emphasizing the importance and fundamental nature of the end result test that the Commission and the U.S. Supreme Court use as a key guiding principle in determining rates for jurisdictional utilities such as Avista.³⁵ Even with Staff's third revised electric revenue requirement of \$19.6 million, calculated using Staff's "corrected" attrition model, Avista argues it would have an opportunity to earn an ROE of no more than 8.22 percent, which is nearly 130 basis points lower than the 9.5 percent agreed to in the parties' settlement and approved by the Commission.³⁶
- 28 Avista says in addition that the entire record may need to be reopened if the Commission decides to allow additional, however limited, attrition evidence.³⁷ In the Company's

³¹ Staff's Motion to Reopen at 2-3.

³² *Id.* at 3.

³³ *Id.* (*emphasis added*)

³⁴ *Id.* Commission Staff's Petition for Reconsideration supports a \$27.4 million adjustment. Staff's response to Bench Request 19 shows an adjustment of \$27.7 million. Staff's Motion to Reopen the Record, based on a third set of calculations shows an adjustment of \$19.6 million.

³⁵ Avista's Response ¶¶ 19-20.

³⁶ *Id.* ¶ 24.

³⁷ *Id.* ¶ 28.

view, the Commission's decision resulting in an \$8.1 million reduction is based on a full examination of the record evidence relevant to each issue and adjustment that affects Avista's revenue requirement, and leads to fair, just, reasonable, and sufficient end results.³⁸ This is a reduction that still allows Avista a reasonable opportunity to earn its authorized return. To the extent the adjustments proposed by Staff and Joint Parties result in rates that make it highly unlikely that Avista could earn the rate of return the Commission approved in Order 05, Avista is correct that such adjustments do not produce acceptable end results in accordance with the *Hope* and *Bluefield* standards. Rates that have such an effect cannot be said to be fair, just, reasonable, and sufficient.

29 In their response, Joint Parties support Staff's Motion to Reopen. They argue that a waiver of the rule requiring the timeliness of motions to reopen the record should be granted, arguing that the Commission's Order 05, is not truly a final order because the Commission still has to resolve two outstanding post-Final Order motions.³⁹ In addition, Joint Parties assert that Staff's attrition model is not functioning as intended when Avista's updated power cost data are added.⁴⁰ Specifically, Joint Parties allege that Avista did not provide the pro forma 2016 load information in its October 29, 2015, update.⁴¹ While they acknowledge that Staff's attrition model functions as designed "using the information provided to it," Joint Parties claim that this "missing information" produces a number that is incorrect.⁴² They recommend that the Commission either recalculate Avista's power supply cost update outside of Staff's attrition model or reopen the record for the limited purpose of the inclusion of Staff's additional updates to its model.⁴³

30 **COMMISSION DETERMINATIONS:** WAC 480-07-850(1) describes a petition for reconsideration as a filing that allows a party "to request that the commission change the outcome with respect to one or more *issues* determined by the commission's final order."⁴⁴ In regard to its Petition for Reconsideration, Staff explained that it is not questioning the Commission's decisions on the contested issues in the case. Instead, it only seeks Commission review of its "calculation of Avista's overall revenue requirement to ensure that the adjustments set forth in Table 1 have been properly

³⁸ *Id.* ¶¶ 28-29.

³⁹ Joint Parties' Response ¶¶ 3-5.

⁴⁰ *Id.* ¶ 6.

⁴¹ *Id.*

⁴² *Id.* ¶ 9.

⁴³ *Id.* ¶ 15.

⁴⁴ Emphasis added.

incorporated.”⁴⁵ While Staff characterized its first, post-Final Order motion as a “Motion to Reconsider,” it is more akin to a Motion for Clarification, as previously discussed.

31 That said, during two order conferences the Commission’s Accounting Advisor clarified why and how Staff’s and Joint Parties’ computations produce incorrect results in the context of the record in this proceeding. During these conferences, all parties, including Staff, Public Counsel, and ICNU, were invited to ask unlimited clarifying questions regarding the calculations and incorporations of the Commission’s various decisions into Staff’s attrition model. Given all of this, we certainly have made clear the Commission’s results determined in Order 05 and have demonstrated their correctness as simply and as comprehensively as we can. To the extent not fully resolved to the satisfaction of the parties by Order 05 itself and by these post-Final Order clarification conferences, we conclude that no further clarification is required and determine that Staff’s Petition for Reconsideration and Joint Parties’ Motion for Clarification should be denied.

32 As Staff and Joint Parties acknowledge, the appropriate time, indeed the time mandated by our own rules, to file a motion to reopen the record is after the close of the record and prior to the entry of a final order in the proceeding.⁴⁶ Order 05, the Final Order, was entered on January 6, 2016. Staff’s Motion to Reopen was filed on February 4, 2016, nearly a month after the Final Order was served. Staff recommends an exemption from this timeliness requirement, stating that the Commission may grant an exemption of its own rules, yet provides no showing of good cause for taking such an unusual step after the entry of a Final Order.

33 WAC 480-07-830, also provides that the Commission may reopen a record to take additional evidence “that is essential to a decision and that was unavailable and not reasonably discoverable with due diligence at the time of the hearing or for any other good and sufficient cause.” Avista filed its power cost update on October 29, 2015, after the hearing but well before the Commission entered its Final Order on January 6, 2016.⁴⁷

⁴⁵ Staff’s Petition for Reconsideration ¶ 4.

⁴⁶ WAC 480-07-830.

⁴⁷ We reject out of hand the Joint Parties’ argument that Order 05 is not a final order. That this argument is incorrect is demonstrated, among other things, by language in the Commission’s rules governing motions for clarification and petitions for reconsideration. WAC 480-07-835 provides:

Filing a petition for clarification tolls the time for judicial review but does not toll the time for compliance with the final order of which clarification is sought.

WAC 480-07-840 provides:

Staff, and the other parties had ample time - over two months - to assess the comprehensive impact of the net power cost update within the context of the attrition model. They had ample time to raise with the Commission any issues they had with results that were not what they wanted or expected. In fact, not only did Staff and Joint Parties fail to recognize timely that Staff's own model appeared not to produce the result that these parties expected, they also failed to bring to the Commission's attention their belated allegation that Avista only supplied one-half of the power cost update. Staff and Joint Parties omit any explanation why either of these "discoveries" were not reasonably known, if they acting with due diligence, well before January 6, 2016.

34 While Joint Parties support Staff's Motion, they still acknowledge that "the attrition model functioned"⁴⁸ and that "the model will calculate an attrition revenue requirement using the information provided to it."⁴⁹ If Avista's power cost update, as Joint Parties allege, was incomplete in any way, the time to bring that to the Commission's attention was at, or shortly after, its filing on October 29th. Simply because Joint Parties and Staff expected a different result from Staff's attrition model than what the model actually produced when updated with revised power costs in late October does not provide good cause for reopening the record at this time.

35 As Avista aptly notes, much more goes into the revenue requirement number than simply the power supply adjustment or even the attrition model results. If we were to open up the record for either of those issues, we might be required to reopen the record in its entirety to protect all parties' rights to due process. The myriad adjustments in the interrelated cells of the models that inform our decisions in this matter that create final revenue requirements numbers cannot be considered separately or on an ad hoc basis.

An order conference will not stay the effect of an order, the time for compliance, the time for securing post-order review, or the time for petitioning for judicial review, unless the conference results in a supplemental commission order, which then becomes a final order subject to review. An order conference does not constitute a formal interpretation of an order. The final order that is the subject of an order conference will remain the sole expression of the commission's decision unless supplemented through an additional order.

WAC 480-07-850 provides:

Filing a petition for reconsideration does not automatically stay the effect of an order or serve as a request for a stay. A party may request that the commission stay the effectiveness of an order pending reconsideration by filing a petition for stay pursuant to WAC [480-07-860](#).

⁴⁸ Joint Parties' Response ¶ 9.

⁴⁹ *Id.*

- 36 Finally, Avista has made clear, contrary to Staff's assertion, that it would be prejudiced, perhaps seriously prejudiced, by our reopening the record at this late date, a date well after the statutory deadline for the Commission to reach finality in these dockets. There comes a point in any case when parties directly impacted by the outcome are entitled to repose. We reach that point today insofar as our rules governing adjudicative proceedings take us. We determine that Staff's Motion to Reopen should be denied along with Staff's Petition for Reconsideration and Joint Parties' Motion for Clarification.
- 37 The Commission's Final Order, Order 05, approved an \$8.1 million decrease in Avista's electric revenue requirement as a fair, just, reasonable, and sufficient end result, based on substantial record evidence. None of the Petitions, Motions, or Replies discussed in this order have offered convincing factual or legal arguments to alter that decision.

ORDER

THE COMMISSION ORDERS THAT:

- 38 (1) The Motion for Clarification filed by the Industrial Customers of Northwest Utilities and the Public Counsel Section of the Washington Office of Attorney General and the "Motion to Reconsider" filed by the Commission's regulatory staff (Staff) are denied.
- 39 (2) Staff's Motion to Reopen the Record for the Limited Purpose of Receiving into Evidence Instruction on Use and Application of Staff's Attrition Model is denied.

Dated at Olympia, Washington, and effective February 19, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

ANN E. RENDAHL, Commissioner