

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION	)	
	)	
Complainant,	)	DOCKETS UE-200900 and
v.	)	UG-200901 ( <i>Consolidated</i> )
	)	
AVISTA CORPORATION d/b/a	)	
AVISTA UTILITIES	)	
Respondent.	)	
.....)	)	
	)	
In the Matter Petition of Avista Corporation	)	DOCKET UE-200894
d/b/a Avista Utilities for an Accounting	)	
Order Authorizing Accounting and	)	ANSWER OF AVISTA CORPORATION
Ratemaking Treatment of Costs Associated	)	TO STAFF’S MOTION TO
With the Company’s Wildfire Resiliency	)	CONSOLIDATE WILDFIRE DEFERRAL
Plan	)	PETITION WITH GENERAL RATE CASE
.....)	)	

1 COMES NOW, Avista Corporation (hereafter “Avista” or the “Company”), and by and through its undersigned attorney, answers the Motion to Consolidate Avista’s Wildfire Deferral Petition (Docket UE-200894) with the Company’s pending general rate case (Dockets UE-200900 and UG-200901 (*Consolidated*)). Avista opposes this Motion for the following reasons: The Motion fails to understand the purpose behind any deferral application – i.e., to simply preserve the opportunity for cost-recovery after a subsequent prudency determination; it unduly delays action on a well-supported Petition for Deferral by eleven (11) months; it actually results in administrative inefficiency by subjecting cost-recovery to not one, but two separate adjudicative proceedings (in the present GRC and a subsequent one seeking actual cost-recovery); if granted, the Motion would call into question the efficacy of future deferral requests; and is antithetical to

Commission efforts to efficiently address and preserve the opportunity to recover prudently-incurred costs.

2           Staff’s Motion “conflates” the issues by bringing together and confusing two entirely different processes with different intended outcomes: (1) An adjudication of the prudence and cost-recovery of expenses and investment resulting in a change in rates, with (2) a deferral request which seeks to do neither – i.e., it neither addresses prudence, nor seeks cost-recovery. As such, the two distinct processes (litigated cost-recovery and deferral requests) operate under different standards and result in different outcomes. A deferral request does not need to meet a “prudence” standard (only a reasonable showing of a basis for possible future recovery) and the outcome is entirely different – i.e., does not determine prudence and provide cost-recovery. That comes later, if it comes at all. The Commission, in its ordering language, has repeatedly stressed this very point in acting on deferral requests<sup>1</sup>.

3           At the outset, Staff “walks itself into a corner” when it acknowledges that the ultimate legal issue in the GRC concerns proposed revisions in the rates to assure they are “fair, just and reasonable”, while at the same time recognizing that the legal issue presented by the Petition is whether “good cause” exists to allow a deferral for possible later recovery based on a later determination of prudence. (See Motion at para. 3) As such, the legal determination in each docket is fundamentally different, as are the attendant procedures.

4           Having done so, however, Staff then argues, without any basis whatsoever, that the Petition

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<sup>1</sup> For example, in its most recent order allowing the deferral of certain COVID-related costs (Dockets UE-200407 and UG-200408), the Commission again employed the same language in its ordering paragraph 17: “..this Order does not pre-approve or guarantee recovery of any of the costs we approve for deferral in this docket. Moreover, this Order does not approve any specific methodology for measuring the costs and revenue identified in the Revised Petition. Any future recovery is subject to prudence review; the utility bears the burden of proving not only that the costs in question were prudently incurred, but also that it was confronted with extraordinary hardship at the time the deferral was recorded.”

for deferral seeks a “preemptive prudence determination”. (Motion at para. 16) Not true. One need only read the prayer for relief in the Petition itself, which requests an Order authorizing the deferred accounting treatment of certain vegetation management (tree-trimming) costs to preserve the opportunity in a future proceeding to address the prudence and recovery of these costs .

5           And yet, Staff’s Motion argues that this will somehow lead to administrative efficiency, because the recovery of certain costs associated with Avista’s Wildfire Resiliency Plan during the subsequent rate period are also included in Avista’s pending GRC. (Motion at para. 2) Staff conveniently ignores, however, that the GRC seeks recovery of a different set of wildfire-related costs (i.e., those experienced during the rate-effective period beginning October 1, 2021) than those costs sought to be preserved in a prior period leading up to the October 1, 2021 rate effective date (i.e., tree-trimming expenses of approximately \$2.6 million for the period January through September, 2021).<sup>2</sup> The purpose of deferring those prior period costs was to merely “preserve” them for a later determination of prudence in a later GRC.

6           Therefore, contrary to Staff’s suggestion, there is no overlap in the costs covered by the Petition and in the GRC. (Motion at para. 1) As noted, the costing periods are different: Petition covers costs between January and October of 2021 (the beginning of the rate year); and the GRC covers costs that are experienced in the rate year and thereafter (October 2021 and beyond).

7           So how does all of this promote “administrative efficiency?” It doesn’t. If Staff’s Motion is granted, we will now be engaged in discovery around the deferral request, with the submission

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<sup>2</sup> In its general rate case filing, the Company pro formed in Wildfire Resiliency Plan costs of approximately \$4 million (WA share) for the rate period beginning October 1, 2021. (See Exh. No. DRH-1T and DRH-4) This is separate from the \$2.6 million of tree-trimming costs to be incurred during the prior period of January through September of 2021. Mr. Howell explains the types of wildfire mitigation measures contained within the Wildfire Resiliency Plan: enhanced vegetation management; grid-hardening; situational awareness; operation and emergency procedures and reports; and communication plans.

of testimony and the conduct of a hearing also addressing the deferral request. And to what end? Simply to do this all over again when Avista later files for actual cost-recovery in a later contested GRC. And at that time, the facts will have developed after the expenditures have become known during the January through September 30, 2021, relevant timeframe, so we can begin all over again with discovery, witness testimony, hearings, and a decision on prudence. It is hard to imagine how any of this will contribute to “administrative efficiency.”

8           Staff’s Motion attempts to bolster its argument for consolidation by referring to similar documents (i.e., the Wildfire Resiliency Plan) provided in both dockets. The deferral Petition, by including the Plan, simply sought to provide a larger context for its ongoing and enhanced tree-trimming efforts – all as part of a much larger planning effort. Avista believed this would be helpful to provide the Commission with necessary context for how the deferral cost would fit within a much larger effort. It is unfortunate that such a good faith attempt at clarity and context is now being used to argue against a deferral. (Indeed, this additional material is arguably not even necessary for the Commission to reach a decision on a far more limited issue of the deferral of tree-trimming costs for possible later recovery.) At such later time as the Company does seek recovery, the Company will marshal all the necessary facts, including the actual costs that have been incurred by then, not merely the anticipated costs.

9           Staff questions whether the “tree-trimming costs” are “incremental” to what is already being done. (Motion at para. 19) While that may be a fair question, that is a question that can only be answered, for cost-recovery purposes, after such costs have been incurred and, thusly, at the time of a subsequent GRC (and not in this GRC). At that time, the Company will make such a case in support of seeking approval of any deferred balance, and new discovery would be undertaken to “prove up” such costs as part of the prudence process.

10 Then Staff argues that the allocation of these deferred costs between Washington and Idaho needs to be explored in this GRC. (Motion at para. 19) To begin with, this is a non-issue; distribution costs associated with tree-trimming are directly assigned by jurisdiction (not allocated), and any transmission-related costs are allocated under the long used and accepted P/T Ratio (Production/Transmission). And it really is beside the point at this juncture: allocations are properly taken up in the cost-recovery phase of a later GRC.

11 Is this a case where the existing Petition for deferral of a subset of wildfire-related costs for a prior period is so woefully deficient on its face that it would somehow benefit by subjecting it to an eleven (11) month adjudicative process for future elucidation and refinement? Hardly. The 25 page Petition was extremely detailed and thorough, with the full-fledged 67 page Wildfire Resiliency Plan appended to it, for context, even though the deferral request was for a limited subset of costs for a limited period (Jan. – Sept. 2021). It certainly met any reasonable threshold for prima facie showing for deferral of costs for possible later cost recovery. Subjecting the Petition to adjudication is not necessary over the remaining eleven months for the Commission to reasonably determine that such prior period costs may be deferred for possible cost recovery in the future. (Contrariwise, there is certainly no reasonable basis for denying such a deferral request and forever causing Avista to absorb this limited subset of costs, without any possibility of future recovery.)

12 In its Motion, Staff seems to be prejudging whether the deferral Petition should ever be approved. It argues that the deferral costs would be neither “extraordinary” nor “material”. (Motion at para. 3) Those questions, to the extent pertinent, are not now before the Commission, even with Staff’s Motion to consolidate. When the Commission separately takes up the deferral petition, it can then address whether these enhanced tree-trimming costs are a good candidate for deferrals.

The Company believes, and has argued, that given the increased focus on wildfire prevention and the catastrophic risks involved, the Company should have the opportunity to recover at some point the tree-trimming costs meant to directly address these issues – as a matter of sound “public policy.”

13           Essentially, Staff seeks to superimpose a new process for approving a deferral (any deferral). At the end of the day, Staff would essentially “refashion” a deferral request into an adjudicatory proceeding, resulting in attendant delay, witness testimony, hearings and a decision. And for what purpose? Just so the parties and the Commission could do it all over again, this time “for real” when the Company actually seeks a prudence determination and cost recovery.

14           Such an approach carries with it implications for future deferral requests – in terms of what prima facie showing must be made and whether an adjudicative process will be required before the “real” adjudicative process on prudence can occur at some later time. This regulatory model sends the wrong message, especially in the context of very important wildfire mitigation efforts.

15           A word about the type of costs at issue in the deferral request: as noted, Avista anticipates spending approximately \$2.6 million on enhanced tree-trimming during the January-September 2021 period (Washington’s share). To Avista’s knowledge, tree-trimming expenses have never been at issue, and would not become so unless Avista did not spend enough on the tree-trimming, resulting in significant wildfire exposure, resulting in loss of life and property. Stated differently, the need for these types of costs are well understood in the industry, rarely calling into question the propriety of such expenditures. There is no good reason to “high center” the deferral application by appending it to an 11-month adjudicatory process – especially when the Company is not yet seeking recovery.

16            Nowhere does Staff's Motion assert that it will not otherwise have access to necessary information for it to assess Avista's deferral request, unless it has available to it the full panoply of discovery tools in an adjudicative proceeding. Indeed, that has never been the case. To the best of Avista's knowledge, it has never refused to supply any requested information associated with a deferral request. It understands that all parties benefit by full disclosure and transparency. The prior treatment and processing of deferral applications indicated no problem in this regard – and Staff has referenced none. Staff has been able to do its job in reviewing the deferral applications and seeking additional information if needed, without seeking to append the matter to an ongoing adjudicative proceeding.

17            It is to be remembered that ratepayers are not harmed by the granting of a deferral request. The prudence of the costs will be later reviewed for prudence. The converse is not true. If not deferred, Avista will have to absorb forevermore the costs that are the subject of a deferral request, even if such costs were prudently-incurred on behalf of ratepayers. Staff has lost no advantage in challenging at some later date the prudence of deferred costs. The messaging to the broader audience in the investment community is also disturbing, if Avista is unable to get a timely resolution of even a straight-forward deferral request of wildfire expenditures.

18            Staff contends that the consolidation will not delay the GRC. (Motion at para. 20) Of course it won't. But that was never at issue to begin with, because the case schedule in the GRC recognizes the statutory deadline for action. What Staff's Motion will do, however, is to delay a straight-forward and timely decision to allow the Company to defer costs on our books for possible later recovery (the very purpose of any deferral request.)

19            Simply put, no facts need to be litigated at this time. Indeed such facts have not even developed at this time, in advance of recurring enhanced tree-trimming costs in January through

September of 2021. Avista is simply seeking to set aside a limited subset of anticipated costs over a limited period of time for future cost recovery. After these costs materialize, the parties are free to litigate, at will, the prudence of these costs. What is not fair, however, is for the Company to be denied the opportunity forevermore to request the determination of the prudence of such costs by the denial of its deferral petition.

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In conclusion, the Motion should be denied because it:

- (1.) Misapprehends the very purpose of this (or any) deferral application – which simply preserves the opportunity for later cost recovery based on a later determination of prudence;
- (2.) Unduly delays action on a well-supported deferral application by appending it to an eleven-month adjudicative process for a GRC;
- (3.) Results in administrative inefficiency by essentially litigating an issue twice – once in the pending GRC and again when the Company later seeks actual cost recovery;
- (4.) Calls into question the efficacy of deferral requests at a time when the Commission is exploring means of assuring cost recovery of prudently-incurred costs (without such costs falling through the cracks because they were not deferred and preserved for possible later recovery);
- (5.) Is especially puzzling in the context of recovery of reasonable wildfire preventative measures such as tree-trimming – something about which there should be little dispute.

Respectfully submitted this 18<sup>th</sup> day of December 2020.

By:           /s/David Meyer            
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