

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

<input type="checkbox"/> EXPEDITE <input checked="" type="checkbox"/> No hearing is set <input type="checkbox"/> Hearing is set Date: Time: Judge/Calendar: Ex Parte

**STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT**

THE WASHINGTON STATE
ATTORNEY GENERAL'S OFFICE,
PUBLIC COUNSEL UNIT,

Petitioner,

v.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,
a Washington state agency, and
AVISTA CORPORATION,

Respondents.

NO. 16-2-01108-34

ORDER GRANTING PARTIES'
MOTION TO REMAND TO
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

EX PARTE

This matter having come before the Court on April 16, 2019; the Court having considered the Parties' Joint Motion to Remand Cause to Washington Utilities and Transportation Commission; and having considered the decision of the Washington State Court of Appeals in COA No. 48982-1-II on direct review of a final order of the Washington Utilities and Transportation Commission, in which the Court of Appeals concluded as follows:

Because the projections of future rate base were not "used and useful" for service in Washington, we conclude that the WUTC may not base Avista's rates on them. Accordingly, the WUTC erred in calculating Avista's electric and natural gas rates. The WUTC order provided one lump sum attrition allowance without distinguishing what portion was for rate base and which was for O&M expenses or other considerations. We

(22)

1 strike all portions of the attrition allowance attributable to Avista's rate base and reverse
2 and remand for the WUTC to recalculate Avista's rates without relying on rate base that
is not used and useful.

3 *Public Counsel v. Wash. Utils. & Transp. Comm'n*, 4 Wn. App. 2d 657, 688-89 (2018); the Court
4 enters its findings, conclusions, and order, as follows:

5 **FINDINGS**

- 6 1. The Washington State Court of Appeals entered an order reversing and remanding the
7 decision of the Washington Utilities and Transportation Commission.
- 8 2. The Washington State Court of Appeals has mandated jurisdiction in this matter back to
9 this Court.

10 **CONCLUSIONS**

- 11 1. This Court need take no further action in this review of an order of an administrative
12 agency because the Washington State Court of Appeals has rendered a decision on direct
13 review.
- 14 2. The matter must be remanded to the administrative agency to effectuate the decision of
15 the Washington State Court of Appeals.

16 **ORDER**

17 THEREFORE, IT IS ORDERED THAT the parties' motion to remand this cause to the
18 Washington Utilities and Transportation Commission is GRANTED and this cause is
19 REMANDED to the Washington Utilities and Transportation Commission.

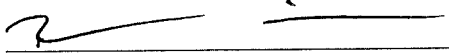
20 //

21 //

22 //

23 //

1 DONE IN OPEN COURT on April 16, 2019.

2
3 
4 JUDGE/COMMISSIONER
REBEKAH ZINN
COURT COMMISSIONER

5 *Presented by:*

6 WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

7 ROBERT W. FERGUSON
8 Attorney General

9 

10 Jennifer Cameron-Rulkowski
11 WSBA No. 33734
Assistant Attorney General
12 Office of the Attorney General
Utilities and Transportation Division
13 P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1186
jennifer.cameron-rulkowski@utc.wa.gov

Approved as to form:

PUBLIC COUNSEL

ROBERT W. FERGUSON
Attorney General

14 

15 Lisa W. Gafken
16 WSBA No. 31549
Assistant Attorney General
17 Public Counsel Unit
Office of the Attorney General
18 800 Fifth Ave., Suite 2000
Seattle, WA 98104-3188
(206) 464-6595
lisa.gafken@atg.wa.gov

19 AVISTA CORPORATION

Signed per email authorization:

20 

21 David J. Meyer
22 WSBA No. 8717
VP and Chief Counsel for Regulatory and
23 Governmental Affairs
Avista Corporation
1411 E. Mission, MSC-27
Spokane, WA 99220-3727
(509) 495-4267
david.meyer@avistacorp.com