

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	DOCKET NOS.
)	UE-160228 & UG-160229
)	
Complainant,)	NORTHWEST INDUSTRIAL GAS
)	USERS' ANSWER TO PETITION FOR
v.)	RECONSIDERATION OR
)	REHEARING
AVISTA CORPORATION dba AVISTA UTILITIES,)	
)	
)	
Respondent.)	

January 13, 2017

I. INTRODUCTION

1. Pursuant to the Washington Utilities and Transportation Commission's ("Commission") Notice of Opportunity to File Answers to Petition for Reconsideration or Rehearing, dated December 27, 2016, Northwest Industrial Gas Users ("NWIGU") submits this Answer.
2. On December 15, 2016, the Commission entered Order 06, Final Order Rejecting Tariff Filing ("Order 06") in this proceeding. In Order 06, the Commission rejected proposed rates by Avista Corporation d/b/a Avista Utilities ("Avista" or "Company") that would have increased the Company's electric rates by 7.6 percent (\$38.6 million in additional revenue) would have increased natural gas rates by 2.8 percent (\$4.4 million in additional revenue). The Commission's ultimate conclusion in Order 06 was that Avista had "failed to carry its burden to show that its current rates are not fully sufficient to meet its needs."¹
3. On December 23, 2016, Avista filed its Petition for Reconsideration, or in the Alternative, for Rehearing ("Petition"). In the Petition, Avista raises several arguments, ostensibly asserting that the Commission's order is erroneous and incomplete. In fact, as explained in more detail below, Avista's Petition merely re-argues facts it already presented to the Commission. While Avista clearly disagrees with the outcome of the Commission's order, Avista's Petition fails to explain why the Commission could not arrive at the conclusion it did. In the alternative, Avista seeks a re-hearing to provide "opportunity to further explore" several issues. Avista's request, however, does not satisfy the standard for holding a re-hearing.
4. For the reasons stated below, NWIGU urges the Commission to deny Avista's Petition.

¹ Order 06 at p.1, Synopsis.

II. LEGAL STANDARD

5. Pursuant to WAC 480-07-850(1), “[t]he purpose of a petition for reconsideration is to request that the commission change the outcome with respect to one or more issues determined by the commission's final order.” To that end, the “petitioner must clearly identify each portion of the challenged order that it contends is erroneous or incomplete.”²

6. The Commission has determined that, for purposes of a petition for reconsideration, “a party must do more than simply reargue an issue decided in a final order.”³ Rather, a petitioner must show that the order itself is in error. As the Commission notes in Order 06, and which Avista does not object to, the Commission must make its decision based on substantial evidence in the record.⁴ Substantial evidence is “evidence sufficient to persuade a fair-minded person of their truth” and is a “highly deferential” standard.⁵ The Supreme Court of Washington has further stated as follows:

It should be pointed out that the evidence need not support the contention that the approved method is the most just and reasonable. It may very well be that the method proposed by Respondents, and rejected by the Commission, is just and reasonable. There may in fact be many different methods that would meet this standard. We need only decide, however, whether the record can support the Commission's determination that the approved method is one of these.⁶

7. Avista’s alternative request for rehearing is based on WAC 480-07-870, which provides that a public service company may seek rehearing pursuant to RCW 80.04.200. That statute in turns, provides the following:

² WAC 480-07-850(2).

³ *In the Matter of the Petition of: Qwest Corp. & Eschelon Telecom, Inc. Pursuant to 47 U.S.C. Section 252(b)*, Docket UT-063061, Order 19 (Jan. 30, 2009) at ¶7.

⁴ Order 05 at ¶19, n.28.

⁵ *PacifiCorp v. Washington Utilities & Transp. Comm'n*, 194 Wash. App. 571, 586, 376 P.3d 389, 397 (2016).

⁶ *ARCO Prod. Co. v. Washington Utilities & Transp. Comm'n*, 125 Wash. 2d 805, 814, 888 P.2d 728, 733 (1995) (emphasis added).

Any public service company affected by any order of the commission, and deeming itself aggrieved, may, after the expiration of two years from the date of such order taking effect, petition the commission for a rehearing upon the matters involved in such order, setting forth in such petition the grounds and reasons for such rehearing, which grounds and reasons may comprise and consist of changed conditions since the issuance of such order, or by showing a result injuriously affecting the petitioner which was not considered or anticipated at the former hearing, or that the effect of such order has been such as was not contemplated by the commission or the petitioner, or for any good and sufficient cause which for any reason was not considered and determined in such former hearing.

8. Although the statute indicates that a petition for rehearing is not appropriate until two years after an order takes effect, it does allow the Commission to exercise its discretion to allow such petitions at any time.

9. Under this standard, a petitioner must allege and show either: (1) the existence of changed conditions since the issuance the order; (2) the existence of some injury affecting the petitioner which was not considered or anticipated at the former hearing; (3) that the effect of the order was not contemplated by the Commission or the petitioner; or (4) other good reason that was not considered and determined in the original hearing.

III. RESPONSE TO REQUEST FOR RECONSIDERATION

10. Based on the legal standards outlined above, Avista's Petition is not sufficient and the Commission should deny the Company's request for reconsideration or rehearing.

11. Before addressing specific alleged errors in Order 06, Avista makes a plea to the Commission to recognize that Avista's electric rates "are among the very lowest of any investor-owned utility in the County," and that the Commission received "only 73 comments" from the total of its Washington customers, which numbers in the hundreds of thousands.⁷ However, Avista provides

⁷ Petition at ¶7.

no context for these statements with respect to their role in a petition for reconsideration. While customer satisfaction in general may be relevant to specific issues the Commission analyzes in a general rate case, the Commission does not make rate decisions based on whether a utility's rates are low compared to other utilities. Rather, the Commission is tasked with approving only rates that are fair, just, reasonable, and sufficient.⁸ Even high rates of service may satisfy that standard if a utility's cost of providing service are demonstrably high. Similarly, the raw number of customers who provide comment to the Commission is virtually meaningless. It is the content of those comments that may or may not impact what level of rates are fair, just, reasonable, and sufficient. Of note, Avista fails to acknowledge that of those 73 comments, all but two opposed rate increases. A more cynical conclusion is that, based on this sample of customers, 97% of customers are dissatisfied with Avista's rates. If that were true, which it likely is not, it still has no bearing on whether the Commission's order rejecting the proposed rate increases was in error. The Commission should therefore disregard these statements in Avista's Petition.

Issue No.1

12. Avista first takes issue with the conclusions in paragraphs 111 and 112 of Order 06 that Avista failed to carry its burden to prove existing rates are insufficient and, as a result, that existing rates continue to be fair, just, reasonable and sufficient.⁹ Avista's primary complaint in this regard is its contention that the conditions that prompted the Commission to approve an attrition adjustment in its prior general rate case continue to persist.¹⁰ Further, Avista claims that it has provided "even more evidence" of a mismatch of revenues, expense, and rate base.¹¹

⁸ RCW 80.28.020.

⁹ Petition at ¶8.

¹⁰ Petition at ¶9

¹¹ Petition at ¶9.

13. In support of its first argument, Avista cites to evidence in the record to show the mismatch of revenues, expense, and rate base it believes warrant another attrition adjustment.¹² Avista further argues that the methodology on which it relied is identical to the methodology it utilized in its prior general rates case, which had a more favorable outcome.¹³ Avista summarized this argument as follows: “In short, the Commission applied the same standards to the same type of evidence in both cases – and yet reached different results, approving an attrition adjustment in its Order 05 and rejecting it in Order 06.”

14. Avista’s first arguments fails for at least two reasons. First, Avista specifically cites to Paragraphs 111 and 112 of Order 06, which are the Commission’s legal conclusions. In doing so, Avista fails to grapple with the individual findings in the body of the Order which explain the Commission’s decision, and which cite to the evidence in the record on which the Commission made its decision. For example, with respect to the sufficiency of current rates, the Commission considered Avista’s analysis the Company described as a modified historical test year *pro forma* study.¹⁴ But the Commission also considered the analyses of other parties and concluded that Staff and ICNU/NWIGU presented “results that show small to modest revenue sufficiencies for both electric and natural gas service.”¹⁵

15. Avista may believe that its analysis is more accurate than the analyses presented by Staff and intervenors, but it was up to the Commission to determine the weight of the evidence. Further, even if Avista is correct and the evidence it provided could have served as a basis for determining rates that are fair, just, reasonable, and sufficient, that alone does not mean the Commission erred when it rejected Avista’s proposal. As noted above, the Commission’s order did not err as long as

¹² See, e.g., Petition at ¶9, citing to Exh. No. SLM-1T, p.15:1-20.

¹³ Petition at ¶11.

¹⁴ Order 06 at ¶63.

¹⁵ Order 06 at ¶65.

it was based on substantial evidence in the record. Avista does not cite to the counter evidence in the record Order 06 cites to, or attempt to explain why the Commission could not rely on that evidence.

16. Second, although Avista implies that it used an identical methodology to calculate an attrition adjustment as the methodology approved in the last general rate case, it is the very fact that the methodology was different that led the Commission to reject Avista's proposal in this case. The Commission very clearly described this difference in Order 06, noting that the Company presented an analysis of a modified historical test year only as a comparison of its attrition adjustment analysis as opposed to using that analysis as the starting point for an attrition adjustment.¹⁶

17. In its Petition, Avista acknowledges that the methodology it used in this case is not identical to the methodology the Commission applied in the prior rate case. The Petition quite expressly states “[w]ith a few adjustments, this was the attrition model approved by the Commission in Order 05.”¹⁷ Even if the methodology were identical, the Commission is not required to arrive at the same conclusion just because Avista presented “similar” evidence as it presented in the last general rate case. As Avista witness Mr. Norwood described during the evidentiary hearing, “What's relevant is what is the evidence in this case.”¹⁸ Moreover, the Commission is required to look at all the evidence in the record, not just the evidence provided by Avista. Other parties to this proceeding proffered reliable evidence showing the Company is experiencing a revenue sufficiency. Again, Avista fails to describe in the Petition why the Commission could not rely on that evidence.

¹⁶ Order 06 at ¶63.

¹⁷ Petition at ¶12.

¹⁸ Norwood, TR 96:10.

Issue No.2

18. Avista's second argument builds on its first and takes issue with the Commission's conclusion relating to how Avista utilized its modified historical test year analysis. For example, Avista identifies Paragraph 65 in Order 06 as being in error where it states that Avista did not follow the appropriate methodology of using the modified historical test year as the starting point for an attrition analysis.¹⁹
19. Similar to Issue No. 1 above, Avista supports its Petition merely by re-arguing the evidence and arguments it already presented to the Commission. Specifically, Avista's Petition asserts that the evidence presented by Ms. Smith, the Company witness who presented the modified historical test year, was the "starting point in Avista's determination of the requested revenue increase in this case."²⁰ Avista made a similar argument in its post-hearing brief, describing the attrition adjustment as being based on the difference between the results of its attrition analysis and the results of the traditional ratemaking approach.²¹ However, this is the very evidence the Commission found was not persuasive, and for good reason.
20. First, as the Commission correctly noted, Avista's proposed revenue requirement was based entirely on the results of its attrition study relying on trends in costs over a certain time period. Avista may have included a line in its testimony referring to an "attrition allowance," but that number was essentially reverse-engineered (calculated after the proposed revenue requirement was calculated) and played no meaningful role in determining what the Company's revenue requirement should be.

¹⁹ Petition at ¶16.

²⁰ Petition at ¶18.

²¹ Post Hearing Brief of Avista Corporation at ¶17.

21. Second, this portion of Order 06 was not concerned only with the timing of when the modified historical test year study is considered, but in what that study should look like. In describing the Company's methodology, Avista stated as follows:

Company Witness Smith presented the Company's "Modified Test Year" study and adjusted it to reflect not only agreed-upon adjustments by the parties, but also updates to reflect more recent information. She also presented a "Cross Check Study" for the purpose of reflecting the level of net plant and operating expense that will be experienced by the Company during the 2017 and 2018 rate-effective period – a "bottoms-up" study. While Avista's proposed revenue requirement was not specifically derived from its "Cross Check Study," as explained below, such a study served as a useful comparison with the results of the Attrition Studies prepared by the Company and Staff. (Avista's Attrition Study, however, forms the basis for Avista's filed-for revenue requirement.)²²

In other words, Avista modified its historical test year study to reflect its Cross Check Study, which includes results based on budget projections. It was this additional step that the Commission took issue with, noting that it had rejected the use of a cross check study in Avista's prior general rate case.²³ Avista fails to recognize the Commission's reasoning here and makes no attempt to challenge the Commission's description of this flaw in Avista's approach.

22. Avista may disagree with how the Commission characterizes its testimony, but mere disagreement with the Commission does not serve as a basis for reconsideration, especially since Avista is merely re-presenting the arguments it already made to the Commission.

Issue No.3

23. Avista next asserts that the finding in Paragraph 66 of Order 06 is in error. That portion of the order concludes that the failure of Avista to show chronic under earnings militates against the use of an attrition adjustment in this case.²⁴

²² Post Hearing Brief of Avista Corporation at ¶65.

²³ Order 06 at ¶63.

²⁴ Petition at ¶22.

24. In support of Avista’s argument, the Petition presents several paragraphs describing the history of Avista’s earnings. However, the Petition very candidly notes that Avista consistently under-earned prior to 2013 but, since that time, has earned at or close to its authorized rate of return.²⁵ Indeed, for the first six months of 2016, the Company was in an over-earning position.²⁶ It was not unreasonable for the Commission to determine that a company that earns at, near, or above its authorized rate of return for the four most-recent years is not “chronically” under-earning.

25. Avista appears to recognize that it is not chronically under-earning, so it instead argues that the only reason that is the case is because the Commission has allowed it to utilize attrition adjustments and that without such an adjustment, everything will “unravel.”²⁷ That argument is irrelevant and is misplaced. Regardless of the reason, it is simply uncontested that Avista is not chronically under-earning. Whether or not that fact militates against continuing to utilize an attrition adjustment is up to the Commission.

26. Further, the Commission has repeatedly noted that it has several “tools in the toolbox” to properly undertake the ratemaking process. Attrition adjustments are only one tool, but not a tool the Commission has expressly used for the entirety of the time period since 2013. For example, 2013 rates were based on a stipulation the Commission approved in the Company’s 2012 general rate case.²⁸ While the Company relied heavily on its attrition analysis as the basis for the stipulation, the stipulation expressly disavowed any such reliance and other parties were willing to agree to the stipulation based on non-attrition analyses.²⁹ The Commission approved the stipulation with the understanding that the Company would experience attrition during the 2013

²⁵ Petition at ¶¶24-28.

²⁶ Petition at ¶26.

²⁷ Petition at ¶28.

²⁸ Order 06 at ¶32.

²⁹ Order 06 at ¶34.

rate year, but did not come to the same conclusion for the 2014 rate year.³⁰ The Commission therefore approved the stipulation, but without endorsing specific attrition methodologies or assumptions.³¹

27. Avista again relied on an attrition analysis when it filed a general rate case in early 2014.³² That case, too, was approved by a stipulation of the parties, not all of whom agreed that the end results were justified by the attrition analysis.³³ The Commission recognized that difference in positions and did not expressly approve an attrition adjustment.³⁴ Notably, the stipulation included another component – a decoupling mechanism – intended to improve “significantly a utility company’s opportunity to realize its authorized return.”³⁵

28. It was not until the most recent general rate case that the Commission for the first time expressly approved an attrition adjustment for Avista. Moreover, it is the rates that were in effect since that case that allowed Avista to over-earn in the first part of 2016. Thus, while Avista may believe it was only an attrition adjustment that has allowed it to avoid chronic under-earning, that is not something the record actually demonstrates. It has been the combination of all of the Commission’s efforts, including allowing a decoupling mechanism, that have helped the Company to turn the corner. And when only an attrition adjustment is involved, as it was in the last general rate case, the Company is in an over-earning situation.

Issue No. 4

29. Avista next assigns error to footnote 119 of Order 06, which is part of Paragraph 61. In that footnote, the Commission states that Staff’s traditional *pro forma* study shows a revenue

³⁰ Order 06 at ¶35.

³¹ Order 06 at ¶36.

³² Order 06 at ¶37.

³³ Order 06 at ¶42.

³⁴ Order 06 at ¶43.

³⁵ Order 06 at ¶40.

sufficiency in the rate year for both electric and natural gas operations. Avista counters that the results of a traditional modified test year study are not a reflection of sufficient revenues.³⁶

30. The Commission should reject this portion of Avista’s challenge without any consideration. The contents of footnote 119 address the distinction between the Commission majority opinion from the opinion in the dissent to the order. While helpful in understanding the Commission’s decision, the language in the footnote is dictum. The Commission’s decision is not embodied in this footnote and, instead, relies on the findings throughout the order. Regardless of how the Commission chooses to distinguish the majority opinion from the dissent, the outcome of the order remains the same. A challenge to the content of the footnote is therefore without effect.

31. Even if there is a practical effect to the language in the footnote, the portion of the footnote Avista objects to is merely a recital of the law and of the facts. It does not comprise a decision. The language Avista quotes first is “If the *pro forma* study demonstrates a mismatch in the rate year between revenues, rate base and expenses that is not within the utility’s control, then there is evidence of attrition.” This is true. To determine if attrition exists, the Commission has stated that it will consider if there is a mismatch in the rate year between revenues, rate base and expenses that is not within the utility’s control.³⁷

32. Avista then quotes the following language as being in error: “In point of fact, as discussed in this Order, Staff’s traditional *pro forma* study shows a revenue sufficiency in the rate year for both electric and natural gas operations, while the existence of attrition depends on the existence of a revenue deficiency.”³⁸ Again, this is true. Later in the order, the Commission discusses the fact

³⁶ Petition at ¶30.

³⁷ *WUTC v. Avista Corporation d/b/a Avista Utilities*, Dockets UE-150204 and UG-150205 (consolidated), Order 05 (“2015 Order”) at ¶110.

³⁸ Petition at ¶30.

that Staff's traditional *pro forma* study shows a revenue sufficiency.³⁹ Moreover, the Commission also held, and Avista does not dispute, that only if the results of a modified historical test year demonstrate a revenue deficiency will the Commission continue to consider whether an attrition adjustment is necessary.⁴⁰

33. Based on the foregoing, Avista has not demonstrated that the language cited in footnote 119 of Order 06 constitutes error sufficient for reconsideration by the Commission.

Issue No. 5

34. Avista challenges several findings in Order 06 concluding that Avista did not meet its burden of demonstrating that its increased capital costs and expenses are caused by factors beyond the Company's control.⁴¹ In response, Avista asserts that it "submitted hundreds of pages of testimony and exhibits" justifying its capital expenses and providing explanations for each of its projects.⁴² Avista further puts great emphasis on the fact that no party in the proceeding objected to any of its capital projects.⁴³

35. The flaw in this portion of Avista's argument is similar to the flaws in earlier arguments in that Avista is simply trying to re-argue the case it already presented to the Commission instead of demonstrating how the Commission erred when it arrived at its conclusion. For example, the Petition recites the evidence the Company presented to explain the rationale behind its capital projects relating to generation, transmission and distribution projects.⁴⁴ In reciting this evidence, however, Avista ignores the Commission's conclusion in Order 06, which is that Avista did not

³⁹ Order 06 at ¶65.

⁴⁰ Order 06 at ¶58, n.115.

⁴¹ Petition at ¶34.

⁴² Petition at ¶35.

⁴³ Petition at ¶40.

⁴⁴ Petition at ¶¶36-38.

present persuasive evidence or testimony to support a conclusion that increasing rates of capital investment and expenses “are beyond the ability of the Company to control.”⁴⁵

36. As the Commission explained, the alleged mismatch between Avista’s earned and authorized revenues “tells us nothing about whether the increased revenue and spending were necessitated by circumstances beyond the ability of the Company to control. In Avista’s post-hearing brief, the Company’s only attempt to demonstrate such a circumstance was a reliance on a statement by Staff that increased expenses and investment are largely the result of factors that appear to be outside of the control of the utility, but without any description or explanation for what those factors are.⁴⁶ The Commission pointed out this “bare assertion,” noting that the Company failed to further explain what might be behind Staff’s statement.⁴⁷

37. Avista does not appear to dispute that it offered no explanation for why increased expenses and investments are beyond its ability to control. Instead, Avista offers a new, unsupported claim that any expense made in good faith that is related to providing safe and reliable system is inherently beyond its control because foregoing such an expense would compromise its statutory mandate to provide such service.⁴⁸ This argument equates prudence with cost control. Avista simply provides no authority for making such a broad conclusion.

Issue No. 6

38. Avista next assigns error to Paragraph 68 of Order 06, which expresses the Commission’s opinion that Avista’s results in recent years appear to be a realization of the Commission’s earlier

⁴⁵ Order 06 at ¶70.

⁴⁶ Post Hearing Brief of Avista Corporation at ¶14.

⁴⁷ Order 06 at ¶70.

⁴⁸ Petition at ¶41.

concerns that attrition allowances may actually provide an incentive to drive up rates of capital expenditure in order to match the earlier projections on which the attrition allowances are based.⁴⁹

39. Avista's entire argument relating to this issue begins with a statement that there is "no evidence in this record that the Commission's approval of attrition adjustments in past cases has resulted in, or has created, a 'self-fulfilling prophecy' regarding utility investments or operating costs."⁵⁰

40. Contrary to Avista's assertion, the Commission's conclusion in Paragraph 68 of Order 06 actually begins with the evidence on which the Commission drew that conclusion. Specifically, the Commission cites to its order in Avista's last general rate case in which the Company explained that its practice is to spend up to its authorized revenue by ramping up expenditures late in the year if funds are available.⁵¹ As with Avista's other arguments, Avista attempts in the Petition to represent its own evidence and urges the Commission to find that evidence persuasive. However, Avista's obligation in petition for reconsideration is to explain why the Commission erred, which requires the Company to explain why the Commission could not rely on the evidence it relied on. Avista has not met that obligation here.

Issue No. 7

41. Avista asserts that a portion of Paragraph 73 of Order 06 is erroneous or incomplete. The challenged language of that paragraph is the Commission's conclusion that the Company did not "present adequate evidentiary support to demonstrate that its current rates are insufficient or that the pace of its capital investments is outside of the Company's control."⁵²

⁴⁹ Petition at ¶42.

⁵⁰ Petition at ¶43.

⁵¹ Order 06 at ¶68; 2015 Order at ¶126.

⁵² Petition at ¶49.

42. Avista's sole challenge to this portion of Order 06 appears to be its assertion that the Company "is not increasing the rate or pace of capital investment."⁵³ This response reads too much into the Commission's language, which focuses on whether the Company's expenditures have been demonstrated to be beyond the Company's control. The particular language challenged here does not focus on whether capital investments are increasing or decreasing. To the contrary, the express language cited by Avista states simply that Avista has not demonstrated that "the pace" of investment is beyond its control. It does not attempt to describe whether that pace is increasing, decreasing, or constant. The Commission therefore did not conclude, as Avista suggests, that the Company is increasing the pace of capital expenditures and this portion of Avista's Petition should be denied.

Issue No. 8

43. Avista's final challenge to Order 06 relates to the Commission's findings in Paragraph 65, which addresses the various *pro forma* analyses presented by different parties.⁵⁴ Specifically, that paragraph concludes that, even if Avista had performed its analysis correctly, which the Commission found it did not, the Commission would be unlikely to accept the results of that analysis at face value. The rationale behind that conclusion is that, the Commission very rarely, if ever, approved a revenue requirement in a litigated case that is as high as Avista originally proposed in its initial filing. Moreover, the Commission pointed out that the evidence in this record includes analyses by other parties showing a revenue sufficiency, including Avista's own analysis with respect to its natural gas operations.

44. Avista's response to this portion of the Commission's order is that the Company did present a traditional modified test year *pro forma* analysis. Avista then describes the portions of the record

⁵³ Petition at ¶50.

⁵⁴ Petition at ¶53.

containing that analysis.⁵⁵ It is unclear here to what Avista is objecting. The Commission's finding in Paragraph 65 does not assert that that Avista failed to provide a *pro forma* analysis. To the contrary, the Commission expressly acknowledges that such an analysis was provided.⁵⁶

45. Avista also takes issue that the Commission did not resolve the contested issues between its *pro forma* analysis and the analyses of other parties.⁵⁷ However, no such resolution was necessary, as Avista did not base its revenue requirement on that analysis. As noted earlier, the revenue requirement Avista sought was based entirely on its attrition study. Had Avista desired a complete resolution of its *pro forma* analysis, it should have presented a rate case to the Commission that was based on that analysis. That issue, therefore, is not ripe for reconsideration.

IV. RESPONSE TO REQUEST FOR REHEARING

46. As an alternative to its request for reconsideration, Avista seeks a rehearing for the purpose of taking new evidence and addressing several issues. Avista's stated purpose for the rehearing would be "to explore alternative resolutions for rate relief in these dockets."⁵⁸ The issues Avista would like to explore are: (1) the interrelationship of a modified test year study and an attrition study; (2) the meaning of "within the Company's control"; (3) financial ramifications of the Commission's order; (4) opportunities and risks associated with reducing capital expenditures; and (5) alternative proposals for rate relief.⁵⁹

47. The Commission should reject the request for rehearing. Each of the issues Avista identifies are issues it already has, or could have, presented to the Commission as part of its case in chief. As noted above, a rehearing is appropriate where there is: (1) the existence of changed conditions

⁵⁵ Petition at ¶¶54-55.

⁵⁶ Order 06 at ¶63

⁵⁷ Petition at ¶56.

⁵⁸ Petition at ¶62.

⁵⁹ Petition at ¶63.

since the issuance the order; (2) the existence of some injury affecting the petitioner which was not considered or anticipated at the former hearing; (3) that the effect of the order was not contemplated by the Commission or the petitioner; or (4) other good reason that was not considered and determined in the original hearing. Avista's Petition does not even attempt to explain how what it seeks in a rehearing is consistent with these purposes for a rehearing.

48. The Commission has already addressed the interrelationship of a modified test year study and an attrition study. It did this initially in Avista's last general rate case. Had Avista desired to modify how the Commission treats those studies, it could have explored that issue when it filed this case.

49. Similarly, Avista already had an opportunity to "explore" the meaning of "outside the Company's control." Instead of raising that issue in its filing, however, Avista remained silent on that issue, despite the fact that the Commission very clearly stated this factor is important to determining whether an attrition adjustment is necessary.⁶⁰

50. The financial ramifications of the Commission's order and opportunities and risks associated with reducing capital expenditures are also factors already considered by the Commission. The Commission demonstrated it considered these factors in the following finding:

The Commission has observed in a number of orders during the past two decades that its responsibility in general rate case proceedings is to determine an appropriate balance between the needs of the public to have safe and reliable electric and natural gas services at reasonable rates, and the financial ability of the utility to provide such services on an ongoing basis. In the words of our governing statutes, we are required to determine results that establish "fair, just, reasonable and sufficient" rates for prospective application. This means rates that are *fair* to customers and to the Company's owners; *just* in the sense of being based solely on the record developed in a rate proceeding; *reasonable* in light of the range of possible outcomes supported by the evidence; and *sufficient* to meet the needs of the Company to cover its expenses and attract necessary capital on reasonable terms.⁶¹

⁶⁰ 2015 Order at ¶110.

⁶¹ Order 06 at ¶70.

51. Finally, it makes little sense to have a rehearing for the purpose of exploring alternatives for rate relief. In NWIGU's experience, "alternatives to rate relief" means developing new solutions that depart from the Commission's traditional ratemaking methods. Typically, new solutions are not without controversy and require a robust record. The appropriate process for exploring such alternatives is to work with parties in advance of a filing, explore the issue through a generic proceeding to obtain Commission guidance, or to file a well-developed proposal that parties can analyze and critique – or a combination of all three. That process is not well suited at the end of a litigated rate case simply by re-opening the record for that new purpose.

V. CONCLUSION

52. For the reasons stated, the Commission should decline to reconsider its Order 06 in this case, and decline to open the record for a rehearing of new issues identified by Avista.

Dated: January 13, 2017

Respectfully submitted,



Chad M. Stokes, WSB 37499, OSB 00400
Tommy A. Brooks, WSB 40237, OSB 076071
Cable Huston LLP
1001 SW Fifth Avenue, Suite 2000
Portland, OR 97204-1136
Telephone: (503) 224-3092
Facsimile: (503) 224-3176
E-mail: cstokes@cablehuston.com
tbrooks@cablehuston.com

Of Attorneys for
Northwest Industrial Gas Users

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing document upon all parties of record (listed below) in this proceeding by electronic mail and by mailing a copy properly addressed with first class postage prepaid.

Kelly Norwood
Vice President
Avista Corporation dba Avista Utilities
1411 E. Mission, MSC-27
Spokane, WA 99220-3727
kelly.norwood@avistacorp.com

Meyer, David J.
VP and Chief Counsel
Avista Corporation dba Avista Utilities
P.O. Box 3727
Spokane, WA 99220-3727
david.meyer@avistacorp.com

Lisa Gafken
Office of the Attorney General
800 Fifth Avenue
Seattle, WA 98104-3188
Lisaw4@atg.wa.gov

Christopher M. Casey
Assistant Attorney General
WUTC
PO Box 40128
Olympia, WA 98504-0128
ccasey@utc.wa.gov

Charles Eberdt
The Energy Project
3406 Redwood Ave.
Bellingham, WA 98225
chuck_eberdt@oppco.org

Jesse E. Cowell
Davison Van Cleve, PC
333 SW Taylor St.
Portland, OR 97204
jec@dvclaw.com

Andrew O'Connell
Assistant Attorney General
WUTC
P.O. Box 40128
Olympia, WA 98504
AOCConnell@utc.wa.gov

Industrial Customers of Northwest
Utilities
818 SW 3rd Avenue
Portland, OR 97204

Jennifer Cameron-Rulkowski
Assistant Attorney General
WUTC
PO Box 40128
Olympia, WA 98504-0128
JCameron@utc.wa.gov

Ronald L. Roseman
Attorney At Law
2011 - 14th Avenue East
Seattle, WA 98112
ronaldroseman@comcast.net

Brett Shearer
Assistant Attorney General
WUTC
PO Box 40128
Olympia, WA 98504-0128
Bshearer@utc.wa.gov

Dated in Portland, Oregon this 13th day of January 2017



Chad M. Stokes, WSBA 37499, OSB 00400
Tommy A. Brooks, WSBA 40237, OSB 076071
Cable Huston LLP
1001 SW Fifth Avenue, Suite 2000
Portland, OR 97204-1136
Telephone: (503) 224-3092
E-mail: cstokes@cablehuston.com
tbrooks@cablehuston.com
Of Attorneys for
Northwest Industrial Gas Users