

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION d/b/a
AVISTA UTILITIES,

Respondent.

DOCKETS UE-190334, UG-190335,
and UE-190222 (*Consolidated*)

ORDER 05 (Corrected)

SUSPENDING FILING DEADLINE
IN DOCKET UE-190222;
REQUIRING NON-COMPANY
PARTIES TO FILE CONTESTED
ISSUES LISTS IN DOCKET UE-
190222

BACKGROUND

- 1 On April 30, 2019, 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, in Docket UE-190334 and revisions to its currently effective Tariff WN U-29, Natural Gas, in Docket UG-190335.
- 2 On March 29, 2019, Avista filed with the Commission tariff revisions designed to rebate to customers approximately \$34.4 million in Docket UE-190222, referenced as its Energy Recovery Mechanism (ERM) filing.
- 3 On May 30, 2019, the Commission issued Order 03, consolidating Dockets UE-190334, UG-190335, and UE-190222.
- 4 On September 26, 2019, Commission staff (Staff) filed with the Commission a motion that, among other things, requests to sever Avista's ERM filing in Docket UE-190222 from Avista's general rate case (GRC) and consolidate it with other dockets addressing power costs for Puget Sound Energy (PSE) in Docket UE-190324 and for Pacific Power

& Light Company (Pacific Power) in Docket UE-190458. Staff argues that all three filings share common issues related to an outage at Colstrip Units 3 and 4, facilities commonly owned by Avista, PSE, and Pacific Power. In its motion, Staff moved to suspend the October 3, 2019, testimony filing deadline in Docket UE-190222 pending the Commission's decision on Staff's other motions. Staff indicated that the non-company parties did not oppose its motion to suspend the testimony filing deadline.

- 5 On September 30, 2019, the Commission issued a Notice allowing the parties to file responses to Staff motions to sever Docket UE-190222 from Avista's GRC and consolidate the power cost filings by 5 p.m. on October 10, 2019. The Notice also reminded parties that they may respond to Staff's motion to suspend the October 3, 2019, testimony filing deadline by 5 p.m. on October 1.
- 6 On October 1, 2019, the Public Counsel Unit of the Washington Attorney General's Office (Public Counsel) filed a response in support of Staff's motion to suspend the filing deadline. Public Counsel argues that filing testimony in Avista's GRC would clutter and confuse the proceeding and cause additional administrative burden to the Commission if it were to later decide that Docket UE-190222 should be severed and consolidated with the other power cost filings. Further, Public Counsel argues that testimony can be filed shortly after a Commission decision without prejudice to any other party should the Commission determine that Docket UE-190222 should remain consolidated with Avista's GRC.
- 7 On October 1, 2019, Avista filed a response opposing Staff's motion to suspend the filing deadline in Docket UE-190222. Avista notes the extensive discovery already undertaken in this case, and its frustration with the timing of the motion. Substantively, Avista argues that "any commonality among the three separate power cost filings would occur, if at all, only with respect to the limited issue relating to the causes of the Colstrip outage in 2018. . ." and that the Commission cannot know whether sufficient commonality exists between the proceedings to justify consolidation without first reviewing Staff's and other parties' testimony.¹

¹ Avista's Response at 3-4, ¶¶ 4-5.

DISCUSSION AND DECISION

- 8 We grant Staff's motion to suspend the October 3, 2019, filing deadline in Docket UE-190222. Pursuant to WAC 480-07-385(2)(a), the Commission will grant a continuance if the requesting party demonstrates good cause for the continuance and the continuance will not prejudice any party or the Commission. We find that there is good cause to suspend the testimony filing deadline pending our decision regarding Staff's motion to sever Docket UE-190222 from Avista's GRC and consolidate it with Pacific Power's and PSE's power cost filings. We agree with Public Counsel that requiring testimony to be filed in Avista's GRC may create confusion and additional administrative burdens if we ultimately determine that the matter should be severed and consolidated with the other power cost filings.
- 9 While we understand Avista's frustration, we also agree with Public Counsel that no party will be prejudiced by suspending the October 3, 2019, filing deadline, provided that certain conditions are met. To ensure that the Commission and the Company will not be unduly burdened by delaying the responsive testimony deadline of October 3, 2019, in Docket UE-190222, we require Staff, Public Counsel, and the Intervenors to each file a list of contested issues regarding Docket UE-190222 identified in their responsive testimony by 5 p.m. on Thursday, October 3, 2019. Additionally, to ensure that this process does not substantially burden the tight procedural schedule in the currently consolidated dockets, we require the parties to Docket UE-190222 to file responses to Staff's other motions as soon as practicable, preferably prior to the October 10, 2019, deadline established by Notice on September 30. The presiding administrative law judge will convene a conference call with the parties in Docket UE-190222 to discuss the timeframe for responding to Staff's motion.
- 10 We do not modify, by this order, the deadline for responsive testimony in Dockets UE-190334 and UG-190335. Parties to those consolidated dockets are expected to file responsive testimony by 5 p.m. on October 3, 2019, consistent with the procedural schedule in those dockets.
- 11 If the Commission decides not to sever and consolidate Docket UE-190222 with the other power cost filings, the Commission will establish a modified procedural schedule that affords Avista sufficient opportunity to respond to the parties' arguments. If the Commission decides to sever and consolidate Docket UE-190222 with the other power cost filings, the Commission will take steps to limit any undue burden to the parties in discovery.

FINDINGS AND CONCLUSIONS

- 12 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including electric and natural gas companies.
- 13 (2) Avista is a “public service company,” an “electrical company,” and a “gas company” as those terms are defined in RCW 80.04.010, and as those terms are otherwise used in Title 80 RCW. Avista is engaged in Washington in the business of supplying utility services and commodities to the public for compensation.
- 14 (3) WAC 480-07-385 states Commission requirements for receiving a continuance or suspension in an adjudicative proceeding.
- 15 (4) Staff’s motion for suspending the October 3, 2019, filing deadline in Docket UE-190222 meets the requirements of WAC 480-07-385.
- 16 (5) There is good cause to suspend the filing deadline of October 3, 2019, in Docket UE-190222, pending the Commission’s decision on Staff’s motion to sever and consolidate Docket UE-190222 with other power cost filings.
- 17 (6) No party will be prejudiced by suspending the filing deadline in Docket UE-190222 until after the Commission decides whether Staff’s motion to sever and consolidate Docket UE-190222 with other power cost filings should be granted.
- 18 (7) It is consistent with the public interest and the Commission’s administrative needs to grant Staff’s motion to suspend the October 3, 2019, filing deadline in Docket UE-190222 provided that the non-company parties each file a list of contested issues identified in their responsive testimony by 5 p.m. on October 3, 2019.
- 19 (8) The Commission should grant Staff’s motion to suspend the testimony filing deadline of October 3, 2019, in Docket UE-190222, pending the Commission’s determination on the remainder of its motions.
- 20 (9) The Commission should maintain the deadline of October 3, 2019, for responsive testimony on all other issues in Dockets UE-190334 and UG-190335 in accordance with the procedural schedule in those dockets.

ORDER

THE COMMISSION ORDERS:

- 21 (1) Commission staff's motion to suspend the testimony filing deadline of October 3, 2019, in Docket UE-190222, pending the Commission's determination on the remainder of its motion, is granted.
- 22 (2) Commission Staff, Public Counsel, and the Intervenors each must file a list identifying the contested issues in their responsive testimony in Docket UE-190222 by 5 p.m. on October 3, 2019.
- 23 (3) All non-company parties must each file responsive testimony on all other issues in Dockets UE-190334 and UG-190335 by 5 p.m. on October 3, 2019, according to the procedural schedule in those dockets.

DATED at Lacey, Washington, and effective October 2, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Andrew J. O'Connell

ANDREW J. O'CONNELL
Administrative Law Judge