

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In re the Matter of	)	
	)	DOCKET NO. UE-010395 <sup>1</sup>
AVISTA CORPORATION, d/b/a	)	
AVISTA UTILITIES	)	
	)	FIRST SUPPLEMENTAL
Request Regarding the Recovery of	)	ORDER APPROVING AND
Power Costs Through the Deferral	)	ADOPTING SETTLEMENT
Mechanism	)	STIPULATION
.....	)	

***SYNOPSIS:** The Commission approves an unopposed settlement agreement that extends an existing deferred accounting mechanism for Avista Utilities' power costs with the goal of reducing the deferral balance to zero on or before February 28, 2003. This action promotes the public interest by enhancing the possibility that Avista Utilities will not seek any increase in rates to recover unusually high power costs experienced during recent periods of volatile wholesale prices.*

**SUMMARY**

*1* **PROCEEDINGS:** This proceeding was initiated by Avista Corporation's filing on March 22, 2001, in compliance with requirements established by the Commission's *Order Granting Request To Modify Power Cost Deferral Mechanism, Petition of AVISTA CORPORATION for an Order Regarding the Accounting Treatment of Certain Wholesale Power Costs to Serve Firm Load Obligations*, Docket No. UE-000972 (January 24, 2001). The ultimate issue involved is what action the Commission should take, in the public interest, with respect to certain power costs deferred, or to be deferred, by Avista. The Commission conducted a prehearing conference on April 23, 2001, and a status conference on April 27, 2001. The Parties reported at the status conference that they had negotiated the terms of a settlement agreement by which they would propose to resolve this proceeding. Avista filed the settlement agreement with the Commission on May 1, 2001. The Commission conducted a settlement hearing on May 15, 2001.

---

<sup>1</sup> This Order modifies the Commission's Third Supplemental Order, dated September 29, 2000, in Docket Nos. UE-991606 and UG-991607 (consolidated).

2       **PARTIES:** David Meyer, General Counsel, represents Avista Corporation d/b/a Avista Utilities (Avista). Melinda Davison, Davison Van Cleve, P.C., Portland, Oregon, represents the Industrial Customers of Northwest Utilities (ICNU). Simon ffitch, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section, Office of Attorney General (Public Counsel). Donald Trotter, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Staff).

3       **COMMISSION:** The Commission approves and adopts the Parties' settlement agreement. The settlement agreement represents a reasonable resolution of the issues in this proceeding and it is in the public interest. The Commission incorporates the Parties' settlement agreement by reference and makes it a part of this Order.

### MEMORANDUM

#### **I. Background and Procedural History.**

4       On August 9, 2000, in Docket No. UE-000972, the Commission approved Avista's request for a deferred accounting mechanism that allowed Avista to defer certain increased costs related to power supply beginning July 1, 2000, and ending June 30, 2001. On January 24, 2001, the Commission approved Avista's request to modify the deferred accounting mechanism to include certain other power-supply-related components and actual system load requirements in the deferral calculation effective December 1, 2000. *Order Granting Request To Modify Power Cost Deferral Mechanism, Petition of AVISTA CORPORATION for an Order Regarding the Accounting Treatment of Certain Wholesale Power Costs to Serve Firm Load Obligations*, Docket No. UE-000972 (January 24, 2001). The Commission's order entered on January 24, 2001, also required Avista to address in a subsequent filing certain issues related to the cost deferral.

5       On March 22, 2001, Avista Corporation d/b/a Avista Utilities (Avista) filed prepared direct testimony and exhibits regarding the recovery of power costs through a Commission-approved deferral mechanism. Avista stated that its filing was in compliance with requirements established by the Commission's Order of January 24, 2001, in Docket No. UE-000972. The ultimate issue involved is what action the Commission should take, in the public interest, with respect to certain power costs deferred, or to be deferred, by Avista.

6 The Commission conducted a prehearing conference on April 23, 2001, in Olympia, Washington, before Administrative Law Judge Dennis J. Moss. The Parties requested that they be given an opportunity to continue settlement negotiations initiated prior to the prehearing conference.

7 Avista filed the Parties' Settlement Stipulation with the Commission on May 1, 2001. *Exhibit No. 1*. All parties to this proceeding are signatories to the Settlement Stipulation. The Commission conducted a settlement hearing on May 15, 2001.

## II. Brief Description of the Settlement Stipulation<sup>2</sup>

8 The Settlement Stipulation states that its purpose is to permit Avista to manage effectively its current power supply situation. The goal is to achieve a zero deferral balance on or before February 28, 2003, without any associated change in retail rates.

9 According to the Settlement Stipulation, Avista has taken steps to position itself to be in a surplus power situation beginning in calendar year 2002. Avista would, if its plan is realized, be able to sell its surplus power, accrue the benefits from those sales, and fully recover its deferred costs without a price increase to its retail customers. The Settlement Stipulation cautions that Avista's ability to fully offset its deferred costs is based on a number of assumptions including, but not limited to, streamflow conditions, thermal plant performance, level of retail loads, and wholesale market prices during the deferral period. Thus, the Settlement Stipulation provides that if unanticipated or uncontrollable events should cause, or be reasonably anticipated to cause, a substantial increase in Avista's deferral balance, Avista may petition the Commission to alter, amend, or terminate the Settlement Stipulation. Absent a petition, which would require further action by the Commission, the Settlement Stipulation provides that Avista's deferral balance cannot be greater than zero for regulatory purposes as of February 28, 2003.

10 In sum, the Parties request through their settlement agreement that the Commission take three related actions. The Parties propose that we extend the existing deferred

---

<sup>2</sup> Our brief description of the settlement agreement in the body of this Order does not attempt to capture all of its provisions. We incorporate the Settlement Stipulation by reference, and include it as an appendix to this Order. To the extent of any arguable discrepancy between our brief summary here and the terms of the Settlement Stipulation, we intend that the settlement document controls, except as we may otherwise expressly provide in this Order.

accounting mechanism through the earlier of February 28, 2003, or until Avista’s deferral balance becomes zero. This, in turn, makes unnecessary the amortization approved in Docket No. UE-000972. The Parties agreed at hearing that we should make an express finding to that effect in any order approving the Settlement Stipulation. Finally, the Parties propose that we modify the requirement imposed in our Third Supplemental Order, entered on September 29, 2000, in Docket Nos. UE-991601 and UG-991607 (consolidated), that Avista file on or before December 31, 2001, a power supply case to address certain power costs and power costs models. Specifically, the Parties request that we require that filing to be made on or before April 1, 2002, to ensure consistent timing in the regulatory treatment of Avista’s power-supply-related costs.

**III. Discussion.**

**A. Governing Statutes and Rules.**

11

The following statutory provisions and rules, quoted in relevant parts, are most central to our discussion and decision:

**RCW 80.01.040 General Powers and Duties of Commission.**

The utilities and transportation commission shall:

\* \* \*

(3) Regulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation, and related activities; including, but not limited to, electrical companies . . . .

**RCW 80.04.090 Forms of records to be prescribed.**

The commission may, in its discretion, prescribe the forms of any and all accounts, records and memoranda to be kept by public service companies, including the accounts, records and memoranda of . . . sales of its product, the receipts and expenditures of money. . . .

**RCW 80.04.210 Commission may change orders.**

The commission may at any time, upon notice to the public service company affected, and after opportunity to be heard as provided in the case of complaints rescind, alter or amend any order or rule made, issued or promulgated by it, and any order or rule rescinding, altering or amending any prior order or rule shall, when served upon the public service company affected, have the same effect as herein provided for original orders and rules.

Additional provisions in Title 80 RCW, chapter 34.05 RCW, and the Washington Administrative Code may be pertinent in the event of further review.

**B. Commission Analysis and Decision.**

- 12 It appears on the basis of the record that Avista's goal of achieving a zero balance in its power-supply-related deferral account on or before February 28, 2003, is reasonably achievable. Monthly deferral entries in the existing mechanism include both the total costs and total benefits of the measures taken by Avista to mitigate the deferred power-supply-related costs. The monthly deferral entries and reporting requirements we required in Docket No. UE-000972 will continue through the extended period. Absent unanticipated or uncontrollable events, such as an unplanned outage of a large Avista-owned thermal unit, worsening drought conditions, or unmanageable wholesale market conditions, Avista should not experience the sort of substantial increase in its deferral balance that would trigger a petition to alter, amend, or terminate the Settlement Stipulation. In any event, such a petition would allow the Commission to undertake further review as appropriate under the circumstances at the time any petition is filed.
- 13 Our approval of the Settlement Stipulation offers significant potential that Avista will not seek any increase in rates to its customers related to power supply costs despite the volatility of wholesale power markets in our region during recent periods. Avoidance of power-supply-related retail rate increases is a particularly laudable goal under present market conditions. The Commission commends the Parties for their efforts, reflected in the Settlement Stipulation, to achieve that goal through cooperative effort.

14 We find and conclude that the Settlement Stipulation is in the public interest and should be approved. We adopt, and incorporate the Settlement Stipulation into this Order by reference as a reasonable resolution of the issues pending in this proceeding.<sup>3</sup>

### **FINDINGS OF FACT**

15 Having discussed above all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary findings of fact. Those portions of the preceding discussion that include findings pertaining to the ultimate decisions of the Commission are incorporated by this reference.

16 (1) The Washington Utilities and Transportation 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 companies.

17 (2) Avista is engaged in Washington State in the business of supplying utility services and commodities to the public for compensation.

18 (3) Extending the deferred accounting mechanism the Commission approved for Avista's power-supply-related costs in Docket No. UE-000972 through February 28, 2003, or until the deferral balance becomes zero, whichever occurs first, will avoid the necessity for the Commission to consider any increase to Avista's retail rates to permit recovery of the company's power-supply-related costs that are afforded deferred accounting treatment, absent unanticipated or uncontrollable events.

---

<sup>3</sup> The Settlement Stipulation is included as an Appendix to this Order.

- 19 (4) Commission approval of the Settlement Stipulation proposed in this proceeding will eliminate the need for the amortization approved by the Commission in Docket No. UE-000972.
- 20 (5) Changing the requirement that Avista file on or before December 31, 2001, a power supply case to address certain power supply costs and power cost models, imposed by the Commission's Third Supplemental Order in Docket Nos. UE-991606 and UG-991607 (consolidated), to require that the filing be made on or before April 1, 2002, will provide for consistent timing in the regulatory treatment of Avista's power supply-related costs through the relevant period.
- 21 (6) The Settlement Stipulation reasonably resolves the issues pending in this proceeding and is in the public interest.

### **CONCLUSIONS OF LAW**

- 22 Having discussed above in detail all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.
- 23 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and all parties to, these proceedings. *Title 80 RCW.*
- 24 (2) Avista is a "public service company" and an "electrical company" as those terms are defined in RCW 80.04.010, and as those terms otherwise may be used in Title 80 RCW.
- 25 (3) The Settlement Stipulation reasonably resolves the issues pending in this proceeding and is in the public interest. Accordingly, it is in the public interest to approve the settlement agreement in accordance with its terms and the requirements of this Order. *RCW 80.01.040.*

**ORDER**

26 THE COMMISSION ORDERS That the Settlement Stipulation filed in this proceeding on May 1, 2001, is approved and adopted as a reasonable resolution of the issues pending in this proceeding.

27 THE COMMISSION ORDERS FURTHER That the existing deferred accounting mechanism authorized in Docket No. UE-000972 is extended through February 28, 2003, or until Avista's deferral account balance becomes zero, whichever occurs first.

28 THE COMMISSION ORDERS FURTHER That the existing amortization approved in Docket No. UE-000972 is no longer necessary and is no longer required.

29 THE COMMISSION ORDERS FURTHER That the date by which Avista is required to file a power supply case to address certain power costs and power cost models, as specified in the Commission's Third Supplemental Order, dated September 29, 2000, in Docket Nos. UE-991606 and UG-991607 (consolidated), is modified to require that the subject filing be made on or before April 1, 2002.

30 THE COMMISSION ORDERS FURTHER That it retains jurisdiction to enforce the terms of this Order, and all prior Orders entered in this proceeding.

DATED at Olympia, Washington, and effective this \_\_\_\_ day of May 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner



**NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).**