

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKETS UE-100467
TRANSPORTATION)	and UG-100468
COMMISSION,)	(consolidated)
)	
Complainant,)	ORDER 04
)	
v.)	
)	PREHEARING CONFERENCE
AVISTA CORPORATION d/b/a)	ORDER; NOTICE OF HEARING
AVISTA UTILITIES,)	(Set for November 1-5, 2010)
)	
Respondent.)	
.....)	

1 **NATURE OF PROCEEDINGS.** On March 23, 2010, 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-100467, and revisions to its currently effective Tariff WN U-29, Gas Service in Docket UG-100468. The stated effective date of the proposed tariff revisions is April 23, 2010. The proposed revisions would have implemented a general rate increase of \$55.3 million, or 13.4 percent, for electric service and \$8.5 million, or 6.0 percent, for gas service.

2 The Commission suspended the filings on April 5, 2010, consolidated the two dockets, and set the dockets for hearing. *Order 01*. On April 6, 2010, the Commission entered a Notice of Prehearing Conference and appointed Administrative Law Judge (ALJ) Adam E. Torem as presiding officer in these proceedings.

3 **CONFERENCE.** The Commission convened a prehearing conference in this proceeding at Olympia, Washington on Tuesday, April 20, 2010, before Judge Torem.

4 **PARTY REPRESENTATIVES:** David J. Meyer, Vice President and Chief Counsel for Regulatory and Governmental Affairs, represents Avista. Sarah Shifley and Simon ffitich, Assistant Attorneys General, Seattle, Washington, represent the Public

Counsel Section of the Washington Office of Attorney General (Public Counsel). Greg Trautman and Michael Fassio, Assistant Attorneys General, Olympia, Washington, represent the Commission's regulatory staff (Commission Staff or Staff).¹ S. Bradley Van Cleve and Irion Sanger, Davison Van Cleve, P.C., Portland, Oregon, represent the Industrial Customers of Northwest Utilities (ICNU). Chad M. Stokes and Tommy Brooks, Cable Huston Benedict Haagensen & Lloyd LLP, Portland, Oregon, represent Northwest Industrial Gas Users (NWIGU). Ronald Roseman represents The Energy Project.

5 **PETITIONS FOR INTERVENTION.** On April 7, 2010, NWIGU filed a petition to intervene. On April 13, 2010, ICNU filed a petition to intervene. The Energy Project orally petitioned to intervene during the prehearing conference.

6 These petitions were not opposed. Moreover, each petitioner demonstrated its substantial interest in this proceeding and that its participation will be in the public interest. *WAC 480-07-355*. The petitions to intervene by ICNU, NWIGU, and The Energy Project are granted.

7 **PROTECTIVE ORDER.** On April 8, 2010, the Commission entered a protective order in these dockets pursuant to RCW 34.05.446, RCW 80.04.095, WAC 480-07-420 and WAC 480-07-423 to protect the confidentiality of proprietary information. *Order 03*.

8 **DISCOVERY.** In Order 01, *Complaint and Order Suspending Tariff Revisions and Order of Consolidation*, the Commission invoked its formal discovery rules in this proceeding.

¹ In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See, RCW 34.05.455*.

- 9 At the prehearing conference, Public Counsel inquired with regard to an appropriate method for incorporating into the record of this proceeding the relevant testimony, exhibits, and transcript excerpts from Avista's most recent general rate case (UE-090134) regarding the prudence of the Company's Lancaster Power Purchase Agreement (PPA). Public Counsel also sought to avoid duplication of discovery efforts previously made regarding the Lancaster PPA in the prior rate case.
- 10 The presiding officer instructed Public Counsel to work with the Company and Commission Staff to identify all relevant items from the prior docket and, in accordance with WAC 480-07-490(4), file an agreed motion to have those items received into the record of this case. Similarly, the presiding officer instructed Public Counsel to serve a new data request (DR) on the Company seeking confirmation of certain enumerated prior responses to DRs issued in Dockets UE-090134/090135. The Company agreed to this process but may seek an extended response time to DRs which seek to confirm or incorporate by reference its positions in prior dockets.
- 11 *Data Requests – Shortened Response Periods.* The parties requested shortened response periods for data request responses as the case progresses toward hearing.² Therefore, following the filing of response testimony by Staff, Public Counsel and the intervenors, response time for DRs will be reduced to seven business days. Further, following the Company's rebuttal filing, response time for DRs will be reduced to five business days. In addition, to expedite the exchange of potentially relevant information, all parties are required to provide all work papers, including model runs and source documents, at the time they prefile testimony and exhibits, or as soon thereafter as possible. The Commission urges the parties to work together cooperatively to avoid having to bring discovery matters forward for formal resolution.
- 12 *Discovery Cut-Off.* The presiding officer raised the question of a discovery cut-off date to be incorporated into the procedural schedule. Only the Company spoke in favor of the concept, with all other parties voicing concerns with regard to their abilities to conduct adequate discovery into the Company's rebuttal case. The

² Avista Corporation suggested a slightly different reduction of response times with regard to those data requests served following the rebuttal filing (to seven days, rather than five days).

Commission has considered the parties' positions and will adopt a discovery cut-off date in this matter, effective 10 business days prior to the hearing date.³

- 13 **SUPPLEMENTAL TESTIMONY.** On April 13, 2010, Avista filed two additional exhibits to supplement its original filing. No one objected to the Company's supplemental filing. The Company's supplemental filing was filed close in time to its original filing and allows all parties sufficient time to conduct discovery and address the new information as they develop their responsive cases. It appears in this instance that the Commission's best interests will be served by granting Avista leave to file its supplemental testimony and exhibits, subject to the caveat that parties retain their rights to object to the evidence at hearing.
- 14 The Commission grants Avista leave to file supplemental exhibits RJL-6T and RJL-7 into the record of these consolidated dockets.
- 15 **PROCEDURAL SCHEDULE.** The parties were unable to agree on a procedural schedule during the conference. The Commission adopts a procedural schedule that takes into consideration the issues raised by the parties as well as the press of other business before the Commission. The procedural schedule is set forth in Appendix B to this Order.
- 16 *Public Comment Hearing.* Public Counsel requested that the Commission hold a public comment hearing on the Company's proposed rate increases and recommended scheduling a hearing in Spokane on an appropriate evening in either September or October 2010, to begin no earlier than 6:00 p.m.
- 17 The Commission will hold one public comment hearing in this matter on a weekday evening yet to be determined in September or October 2010. The Commission will issue a separate Notice specifying the date and location for the public comment hearing, along with the specific time and venue.

³ The Commission expects that discovery into rebuttal and cross-answering cases should be less extensive than earlier stages of the proceeding. Interjection of new information to the case is not permitted through rebuttal or cross-answering testimony. If necessary, parties may seek relief from the discovery cut-off. In the alternative, parties may ask the Commission to strike rebuttal or cross-answering testimony that inappropriately attempts to expand the scope of the case.

- 18 The Commission may convene technical conferences in this matter to ensure full understanding of accounting exhibits and associated work papers. If needed, these technical conferences would likely be held in October 2010 (prior to the hearing) and January 2011 (post-briefing) to clarify the parties' positions and calculations.
- 19 The Commission may convene a further prehearing conference in this matter in October 2010 to mark exhibits, including exhibits on cross examination, if any, and to address any procedural matters that the parties may present.
- 20 **NOTICE OF HEARING.** The Commission will hold evidentiary hearings in this matter beginning on Monday, **November 1, 2010**, at 9:30 a.m., and continuing daily thereafter, as necessary, until Friday, **November 5, 2010**, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. If a later determination is made that fewer days are required for hearing, the hearing will commence on Tuesday, November 2, 2010.
- 21 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file the original plus **16 copies** of the unredacted versions of all pleadings, motions, briefs, and other prefiled materials. Parties must also file the original and 1 copy of any redacted version(s). These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 22 All filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 23 A copy of all filings must be provided through the Commission's Web Portal (www.utc.wa.gov/e-filing) or by e-mail delivery to records@utc.wa.gov. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a

separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.

24 **ACCOUNTING EXHIBITS – FORMAT.** As noted at the prehearing conference, accounting exhibits must be filed in compliance with WAC 480-07-510. In order to facilitate the Commission’s analysis and to minimize confusion, all parties’ testimony and supporting exhibits *must* begin from a common starting point: the “per books” filing made by Avista, (as opposed to the Company’s adjusted filing). Further, for ease of tracking, all parties submitting testimony regarding the Company’s adjustments should explain whether they are contested or uncontested, explaining any disputes and differences with contested adjustments. Of course, any party may also submit its own proposed adjustments. Finally, all parties proposing adjustments must demonstrate the proposed adjustment’s effect, without limitation, on ratebase, net operating income, and revenue requirement on a stand-alone basis (i.e., how each adjustment on an individual basis affects any other adjustment and the overall ratebase, net operating income, and revenue requirement). These format requirements also apply to any corrections to testimony.

25 In addition, to ensure consistency in evaluating mathematical calculations, all parties’ calculations should rely on a “hard” rate of return rounded to 2 digits (e.g., 8.22 percent) and a “hard” conversion factor rounded to 6 digits (e.g., 0.620919). Finally, all parties submitting accounting exhibits which rely on formulae must ensure each formula is accessible to other parties in an “unlocked” version of the spreadsheet, database, or other supporting exhibit.⁴

26 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Parties may submit documents electronically to the Commission on the filing deadline to expedite the filing process, but must file an original, plus **16** paper copies,⁵ of the documents with the Commission by 12:00 noon on the first business day following the filing deadline established in the procedural schedule. *WAC 480-07-145(6)*. Parties may submit documents electronically through the Commission’s Web Portal (www.utc.wa.gov/e-

⁴ The company indicates that its filing complies with this requirement. Therefore, no separate bench request should prove necessary to seek this information.

⁵ See, *supra*, ¶ 7, and Order 03, *Protective Order*, ¶ 6, for detailed filing requirements when documents include material designated confidential.

filing) or by e-mail to records@utc.wa.gov. Finally, to perfect filing, parties must simultaneously provide e-mail courtesy copies of filings to the presiding administrative law judge and advisory staff identified on Appendix A to this Order as well as to the parties to the proceeding.

27 Electronic versions of all documents must be filed in accordance with WAC 480-07-140(6). Specifically, all documents must be filed in .pdf (Adobe Acrobat) format, supplemented by a separate file in .doc (MS Word, .wpd (WordPerfect), .xls (Excel), or .ppt (Power Point) format. In addition, as noted above, electronic versions of accounting exhibits must contain formulas to allow review of calculations for results of operations, not simply end-result values.

28 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal resolution of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission has limited resources but can provide dispute resolution services in some cases, if requested. If parties wish to explore those services, they should contact the Administrative Law Judge Ann E. Rendahl, Director, Administrative Law Division, at 360-664-1144.

29 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective April 22, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

APPENDIX A-1

**PARTIES' REPRESENTATIVES
DOCKETS UE-100467 and UG-100468**

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Avista Corporation	David J. Meyer, Esq. Vice President and Chief Counsel for Regulatory and Governmental Affairs P.O. Box 3727 / MSC-13 1411 E. Mission Avenue Spokane, WA 99220-3727	509-495-4316	509-495-8851	<u>david.meyer@avistacorp.com</u>
Commission Staff	Gregory J. Trautman Michael Fassio Assistant Attorneys General 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1187 360-664-1192	360-586-5522	<u>gtrautma@utc.wa.gov</u> <u>mfassio@utc.wa.gov</u>
Public Counsel	Sarah Shifley Simon J. ffitch Assistant Attorneys General Public Counsel Section Office of Attorney General 800 Fifth Avenue, Suite 2000 Seattle, WA 98104-3188	206-464-6595 206-389-2055	206-464-6451	<u>sarah.shifley@atg.wa.gov</u> <u>simonf@atg.wa.gov</u>
Industrial Customers of Northwest Utilities (ICNU)	S. Bradley Van Cleve Irion Sanger Davison Van Cleve, P.C. 333 S.W. Taylor Street Suite 400 Portland, OR 97204	503-241-7242	503-241-8160	<u>bvc@dvclaw.com</u> <u>ias@dvclaw.com</u> <u>mail@dvclaw.com</u>
Northwest Industrial Gas Users (NWIGU)	Chad M. Stokes Tommy A. Brooks Cable Huston Benedict Haagensen & Lloyd LLP 1001 SW Fifth Avenue Suite 2000 Portland, OR 97204-1136	503-224-3092	503-224-3176	<u>cstokes@cablehuston.com</u> <u>tbrooks@cablehuston.com</u>
The Energy Project	Ronald L. Roseman Attorney At Law 2011 14 th Avenue East Seattle, WA 98112	206-324-8792	206-568-0138	<u>ronaldroseman@comcast.net</u>

APPENDIX A-2

**INTERESTED PERSONS
DOCKETS UE-100467 and UG-100468**

IP	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Avista Corporation	Kelly Norwood Vice President, State & Federal Regulation Avista Corporation 1411 E. Mission Ave, MSC-27 Spokane, WA 99220-3727	509-495-4267	509-777-9522	<u>kelly.norwood@avistacorp.com</u>
Avista Corporation	Liz Andrews Manager, Revenue Requirements State & Federal Regulation Avista Corporation 1411 E. Mission Ave, MSC-13 Spokane, WA 99220-3727	509-495-8601	509-777-9522	<u>liz.andrews@avistacorp.com</u>
Additional Lead Staff for Avista Corporation	Pat Ehrbar Manager, Rates & Tariffs	509-495-8620	509-777-9522	<u>pat.ehrbar@avistacorp.com</u>
	Linda Gervais Manager, Regulatory Policy	509-495-4975		<u>linda.gervais@avistacorp.com</u>
	Paul Kimball Sr. Regulatory Analyst	509-495-4584		<u>paul.kimball@avistacorp.com</u>
Commission Staff	Betsy DeMarco			<u>bdemarco@utc.wa.gov</u>
	Krista Gross			<u>kgross@utc.wa.gov</u>
Public Counsel	Stefanie Johnson Regulatory Analyst	206-389-3040	206-464-6451	<u>stefaniej@atg.wa.gov</u>
	Mary Kimball Regulatory Analyst			<u>maryk2@atg.wa.gov</u>
	Lea Daeschel Regulatory Analyst			<u>lead@atg.wa.gov</u>
	Mary Harper Legal Assistant			<u>maryh2@atg.wa.gov</u>
	Carol Williams Legal Assistant 3	206-464-6215		<u>carolw@atg.wa.gov</u>

APPENDIX A-2 (Cont.)

**INTERESTED PERSONS
DOCKETS UE-100467 and UG-100468**

IP	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
ICNU	Michael Early Executive Director Industrial Customers of Northwest Utilities (ICNU) 1300 SW 5 th Avenue Suite 1750 Portland, OR 97201			
NWIGU and ICNU	Donald W. Schoenbeck RCS, Inc. 900 Washington Street Suite 780 Vancouver, WA 98660-3409	360-737-3877	360-737-7628	<u>dws@r-c-s-inc.com</u>
NWIGU	Paula Pyron Executive Director NW Industrial Gas Users 4113 Wolf Berry Court Lake Oswego, OR 97035-1827	503-636-2580	503-636-0703	<u>ppyron@nwigu.org</u>
The Energy Project	Charles Eberdt	360-255-2169	360-671-2753	<u>Chuck Eberdt@oppco.org</u>

APPENDIX B

**PROCEDURAL SCHEDULE
DOCKETS UE-100467 and UG-100468**

<u>EVENT</u>	<u>DATE</u>	<u>INTERVAL</u> (Days)
Company Direct Testimony and Supporting Exhibits	March 23, 2010	—
Issue Discussion/Settlement Conference (parties only)	Week of August 16-20, 2010	146 days
Staff, Public Counsel and Intervenor Responsive Testimony and Exhibits	Thursday, September 2, 2010	~15 days
Settlement Conference (parties only)	Week of September 27-30, 2010	~25 days
Company Rebuttal Testimony and Exhibits; Staff, Public Counsel and Intervenor Cross-Answering Testimony and Exhibits	Monday, October 4, 2010	~7 days
Public Comment Hearing	TBD – Autumn 2010	—
Pre-Hearing Technical Conference <i>(only if necessary)</i>	Week of October 11-15, 2010 or October 18-22, 2010	~7 to 18 days
Discovery Cut-Off <i>(last day to <u>serve</u> data requests)</i>	Monday, October 18, 2010	14 days (from Rebuttal)
Prehearing Conference <i>(only if necessary)</i>	Week of October 25-29, 2010	~7 days
Evidentiary Hearing	November 1-5, 2010	< 7 days
Simultaneous Briefs	Monday, December 6, 2010	~30 days
Post-Hearing Technical Conference <i>(only if necessary)</i>	Week of January 3-7, 2011	~30 days
Suspension Date	February 23, 2011	79 days (from Briefing)