

Agenda Date: December 19, 2024
Item Number: A2

Docket: UE-240891
Company: Avista Corporation d/b/a Avista Utilities

Staff: Chris McGuire, Regulatory Analyst – Energy Rates and Services

Recommendation

Issue an order suspending the tariff sheets filed by Avista Corporation d/b/a Avista Utilities, on October 31, 2024, in Docket UE-240891, but allow the proposed rates to become effective on January 1, 2025, on an interim basis, subject to review and refund, pending the Commission's final determination in this docket.

Summary of Filing

On October 31, 2024, in Docket UE-240891, Avista Corporation d/b/a Avista Utilities (Avista or Company) filed with the Washington Utilities and Transportation Commission (Commission), proposed revisions to rates under electric Tariff WN U-28, Schedule 99 – Colstrip Tracker. The revised tariff sheets bear an effective date of January 1, 2025. In its filing, Avista seeks to revise Schedule 99 rates to reflect forecasted costs for Colstrip Units 3 and 4 for calendar year 2025. Notably, Avista's proposed rates reflect full recovery (over one year) of all plant investments expected to be placed in service in calendar years 2024 and 2025.

The revisions to Schedule 99 rates would increase in Avista's annual revenues by \$18 million,¹ or 2.7 percent. A typical residential customer using 945 kWhs per month would see an increase of \$4.47 per month, or 4.1 percent.²

Short Summary of Issues Warranting Suspension

In its revised Schedule 99 rates, Avista seeks recovery of several capital investments at Colstrip that are potentially inappropriate to include in rates in Washington. In summary:

1. The proposed rates include forecasted 2025 investments at Colstrip which might be impermissible under the Settlement Stipulation in Docket UE-220053 (which states that plant additions will be included in Schedule 99 rates on a one-year lag);
2. The proposed rates include recovery of several significant capital investments at Colstrip in 2024 and 2025 that appear to be for the purpose of extending the life of the facility beyond 2025, calling into question whether those investments are used and useful for service in Washington (which cannot receive power from Colstrip beyond 2025); and
3. The proposed rates include recovery of at least one major capital investment at Colstrip that will not be in service until 2027 and, therefore, will not be used and useful for service in this state by or during the rate-effective period.

¹ From \$24.6 million to \$42.6 million.

² From \$109.58 per month to \$114.05 per month.

Background

The Clean Energy Transformation Act

In 2019, the Washington State Legislature passed the Clean Energy Transformation Act (CETA),³ which, among other mandates, requires costs associated with coal-fired generation facilities to be removed from rates no later than December 31, 2025.⁴ This does not include the costs associated with decommissioning and remediation (D&R) for coal-fired facilities which may continue to be included in rates beyond 2025.⁵ CETA further requires the Commission to “allow in electric rates all decommissioning and remediation costs prudently incurred by an investor-owned utility for a coal-fired resource.”⁶ Legal counsel for Commission staff (Staff) interprets this language such that it necessitates that D&R costs for coal-fired resources be recovered through a tracker with a true-up function.⁷

Settlement Agreement in Avista’s 2022 GRC (Docket UE-220053)

On December 12, 2022, the Commission entered Final Order 10/04 in Avista’s 2022 GRC, approving and adopting the full multiparty settlement stipulation filed on June 28, 2022.⁸ Among other terms, the settlement stipulation required Avista to establish a tracker for Avista’s Colstrip-related costs, including D&R costs as well as O&M expense, depreciation and amortization expense, and a return on rate base.⁹ Notably, the settling parties agreed that each annual Schedule 99 tariff revision will include plant investments on a one-year lag.¹⁰

Last year’s Schedule 99 tariff revision (Docket UE-230883)

On October 31, 2023, Avista filed its first annual revision of Schedule 99 for rates effective calendar year 2024. In that filing, the proposed rates for 2024 included plant additions through 2023 only (i.e., on a one-year lag). Those plant additions were relatively minor, totaling approximately \$320,000 for the year. The change in revenue requirement from 2023 to 2024 was immaterial, leading Avista to seek no change to Schedule 99 rates for 2024. The revised tariff was allowed to go into effect by operation of law on January 1, 2024.

³ LAWS OF 2019, ch. 288, §§ 1–13 and 26. Codified at RCW 19.405.

⁴ RCW 19.405.030(1). For Avista, this mandate pertains to Colstrip Units 3 and 4.

⁵ *Id.*

⁶ RCW 19.405.030(1)(b)

⁷ See, e.g., *WUTC v. Puget Sound Energy*, Dockets UE-190529 et al. (Consolidated), Initial Brief of Commission Staff, 57-59, ¶¶ 127-130 (March 17, 2020).

⁸ *WUTC v. Avista Corporation*, Dockets UE-220053, UG-220054, and UE-210854 (consolidated), Order 10/04 (December 12, 2022) (“Avista 2022 GRC”).

⁹ Rate base includes utility plant (net of accumulated depreciation and ADFIT), and regulatory asset and liability balances related to Colstrip D&R costs. Avista’s transmission investments and costs included in Avista’s power cost mechanism are not recovered through Schedule 99.

¹⁰ Avista 2022 GRC, Supplemental Joint Testimony, Exh. JT-3T at 6:12-14 and 10:20-21.

Discussion

Overview

In this filing, Avista seeks to increase annual Schedule 99 revenues by \$18.7 million – from \$23.9 million in 2024 to \$42.6 million in 2025 – which would represent a year-over-year increase of 78 percent. The proposed rate increase is driven predominantly by significant capital investment at Colstrip in 2024 and 2025, all of which Avista seeks to recover in full in 2025. The relatively high level of investment at Colstrip forecasted for 2024-2025 coupled with the accelerated recovery of those investments over one year manifests itself as a \$13.4 million (or 110 percent)¹¹ increase in the level of depreciation expense Avista embeds in its proposed Schedule 99 rates for 2025.

Staff has three primary concerns regarding the capital investments Avista seeks to recover in its revised Schedule 99 rates. I discuss each of those concerns separately below.

Including 2025 plant investments in this tariff revision does not appear to be permitted under the Settlement Stipulation in Docket UE-220053

As part of the Settlement Stipulation in Avista's 2022 GRC, Avista agreed that in its annual Schedule 99 tariff revisions the Company would include Colstrip capital investments on a one-year lag.¹² While in last year's filing Avista included plant on a one-year lag (i.e., Avista's proposed rates for 2024 included plant additions up through but not beyond 2023),¹³ in this year's filing Avista does not implement such a lag; the revised Schedule 99 rates for 2025 in the current filing include Colstrip investments in 2024 as well as forecasted investments in 2025.

In Staff's reading of the Settlement, Schedule 99 rates in 2025 are to continue to include capital investments on a one-year lag (i.e., though 2024). In the supplemental joint testimony filed in support of the settlement on the Colstrip tracker, the settling parties stated that "capital investment additions beyond test period investment included in Rate Year 1, will be included on a one-year lag."¹⁴ The supplemental joint testimony did not state that capital investments in 2025 would be excepted from this requirement. Furthermore, as shown in the "Calendar 2025" column of excerpt below, the filing and review process diagram the settling parties included as part of Exhibit JT-4 explicitly identified that the rates effective January 1, 2025, would include capital investments on a one-year lag.¹⁵

¹¹ From \$12.1 million to \$25.5 million.

¹² Avista 2022 GRC, Supplemental Joint Testimony, Exh. JT-3T at 6:12-14 and 10:20-21.

¹³ See Docket UE-230883.

¹⁴ Avista 2022 GRC, Supplemental Joint Testimony, Exh. JT-3T at 10:20-21. See also Supplemental Joint Testimony, Exh. JT-3T at 6:12-14 ("The Colstrip Tracker would recover non-O&M items on a one-year lag, using actuals through August 31st and estimates through December 31st of the filing year.")

¹⁵ Avista 2022 GRC, Exhibit to Supplemental Joint Testimony, Exh. JT-4 at 3.

Colstrip Tracker / Tariff Schedule 99 Process

Colstrip Tracker / Tariff Schedule 99 Process ⁽¹⁾				
Rate Year 1 Effective December 21, 2022	Rate Year 2 (2024) Effective January 1, 2024	Calendar 2025 Effective January 1, 2025	*	Calendar 2026 Forward Effective January 1
12/21/2022: GRC RY1 Compliance Filing - move Colstrip Costs from Base Rates to Schedule 99	1/1/2024 Revised Tariff: Updated Capital investment (1-yr lag), Updated A/D and ADFIT, D&R Asset/Liability ⁽²⁾	1/1/2025 Revised Tariff: Updated Capital investment (1-yr lag), Updated A/D and ADFIT, D&R Asset/Liability ⁽²⁾ , Expected O&M and Other expenses.	Dec 31, 2025	1/1/2026 On-going Schedule 99 Includes: D&R Regulatory Asset/Liability and amortization expense. ⁽²⁾
X Annually file on 10/31 Compliance Filing / Tariff Schedule 99. 60-Day Party Review for new rates effective: January 1 annually.				
¹ Colstrip Tracker and Tariff Schedule 99 would become effective December 21, 2022 with GRC effective date. True-up Annually. Per Settlement, all incremental capital additions included beyond GRC test period 12ME 09.30.2021 is subject to prudence review and does not guarantee recovery.				
² On-going decommissioning and remediation (D&R) accounting based on that approved per Avista Docket UE-190334.				
*Balances at 12/31/2025 for Colstrip Capital investment and operating expenses will be removed from Schedule 99.				

Given that CETA requires coal to be removed from rates by the end of 2025,¹⁶ one of the implications of forcing a one-year lag on 2025 capital investments is that it could render those investments unrecoverable, even if the Commission were to determine that those investments were prudent. While the Settlement is clear that Schedule 99 rates in 2025 are to continue to include capital investments on a one-year lag, the Settlement does not provide insight on whether Avista absorbing the costs of 2025 plant additions was an intended outcome of the agreement to continue implementing a one-year lag in plant recovery in 2025 rates. The joint testimony says only that “[t]he Company will have an opportunity in a future proceeding or Tariff Schedule 99 Compliance filing to propose recovery of any unrecovered balances deemed prudent by the Commission as of December 31, 2025, that still allows the Colstrip balances to be removed as required on December 31, 2025.” It is unclear whether CETA allows for post-2025 recovery of regulatory assets associated with unrecovered Colstrip balances. Therefore, it is unclear whether holding Avista to the terms of the Settlement requiring plant to be recovered on a one-year lag would require Avista to absorb the costs of those investments or whether Avista would be allowed to recover the associated regulatory assets post 2025.

Life-extending Plant Additions

In recent years, utility requests to recover significant new investments at Colstrip in Washington rates – particularly investments made for the purpose of extending the life of the facility beyond 2025 – have been met with challenges of imprudence. Under the Commission’s prudence standard, for an investment to be recovered in rates in Washington the company must demonstrate a need for the investment¹⁷ and must perform a cost-benefit analysis¹⁸

¹⁶ It is not clear whether the settling parties intended for (or even contemplated) this implication.
¹⁷ *Puget Sound Energy*, Dockets UE-111048 & UG0111949 (Consolidated), Order 08, at 148 ¶ 409; *Wash. Utils. & Transp. Comm’n v. Pacific Power & Light Co.*, Docket UE-152253, Order 12, ¶ 94.
¹⁸ *Puget Sound Energy*, Dockets UE-111048 & UG0111949 (Consolidated), Order 08, at 148 ¶ 409.

demonstrating that the benefits of the investment are commensurate with its costs.¹⁹ Given that under CETA Washington ratepayers cannot benefit from the continued operation of Colstrip beyond 2025, investments made for the purpose of extending the life of Colstrip beyond 2025 almost certainly would fall short of the Commission's prudence standard as they likely will not meet an identified need and they likely do not confer benefit to ratepayers, let alone benefits commensurate with cost ratepayers are asked to bear.

The Commission itself has indicated that investments made to extend the life of Colstrip likely are not appropriate to include in Washington rates. In its Final Order 08/05 of Avista's 2020 GRC, after taking note of Avista's agreement in a prior settlement to not support capital expenditures beyond routine capital maintenance costs that would extend Colstrip's operational life beyond December 31, 2025,²⁰ the Commission found that the investment in a dry ash waste disposal system at Colstrip was "not [a] routine capital maintenance measure and... absent a showing by Avista that it is *not* life-extending, we are unconvinced that it should be allowed in rates."²¹

In Schedule 99 tariff revision currently before the Commission, Avista's proposed rates include recovery of several significant new investments in Colstrip in 2024 and 2025. Overall, the joint owners of Colstrip Units 3&4 have approved \$113 million in capital spending for 2024 and 2025 – \$45 million across 42 projects in 2024 and another \$68 million across 37 projects in 2025. On a Washington-allocated basis, Avista's share of that capital spending is \$4.3 million in 2024 and \$6.6 million in 2025.

In Attachment A to its tariff filing (which Avista designated as Confidential per WAC 480-07-160), Avista provided summary sheets for the larger dollar capital projects. It appears to Staff that several of the projects included in Attachment A are for long-lived investments that go beyond routine maintenance. For example, the cooling tower being replaced has been in service for 15 years, the unit 3 cooling tower fill being replaced has been in service for 18 years, and the startup transformers being replaced have been in service for over 40 years. These investments are predominantly, if not entirely, for the purpose of extending the life of Colstrip beyond 2025; if Colstrip were scheduled to close at the end of 2025, the joint owners would not be making these types of significant investments in long-lived assets.

Additionally, most of the projects in Attachment A that appear to relate to routine maintenance are not expected to be completed and in service until June or July 2025. Therefore, Washington ratepayers would receive improved reliability benefits from these projects for six months at most. It is not clear to Staff that, from the perspective of Washington ratepayers, those are prudent investments. And to the extent that those investments should be included in Washington rates at

¹⁹ *Wash. Utils. & Transp. Comm'n v. PacifiCorp, d/b/a Pacific Power & Light Co.*, Dockets UE-050684 & UE-050412, Order 04/03, 27-28, ¶ 68 (Apr. 17, 2006). *See also Wash. Utils. & Transp. Comm'n v. Avista Corporation.*, Dockets UE-160228 & UG-160229, Order 6, at 42 ¶ 72 (December 15, 2016).

²⁰ *Wash. Utils. & Transp. Comm'n v. Avista Corp., d/b/a Avista Utils.*, Dockets UE-190334, UG-190335, and UE-190222 (*Consolidated*), Order 09 at 19, ¶ 51 (March 25, 2020).

²¹ *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Dockets UE-200900, UG-200901, & UE-200894, Order 08/05, 100, ¶ 279 (Sept. 27, 2021).

all – and it is not clear that they should be – it is not clear to Staff how assigning ratepayers a fully allocated (non-prorated) share of the costs is consistent with the principle of benefit follows burden.

Projects not Used and Useful before January 1, 2026

In its proposed Schedule 99 rates, Avista has included the cost of at least one major capital project that is not scheduled to be placed in service until 2027. To meet new EPA particulate matter standards effective July 2027, the joint owners have approved construction of baghouses for units 3 and 4. The baghouse project is by far the largest project Avista included in its revised Schedule 99 rates.

RCW 80.04.250(2) grants the Commission the power to ascertain and determine the fair value for rate making purposes of the property of any public service company *used and useful for service in this state by or during the rate effective period*. Given that the baghouses will not be in service until well after December 31, 2025, that project will not be used and useful for service in this state by or during the rate effective period (or at all for that matter). Therefore, pursuant to RCW 80.04.250(2), the baghouses cannot be included in rates in Washington.

Other Issues to Consider

Why rates subject to refund

While Staff recommends the Commission suspend the revised Schedule 99 tariff sheets, Staff recommends that the Commission nevertheless allow the proposed rates to become effective on January 1, 2025, on an interim basis, subject to review and refund. Staff's reasoning is that, given that an adjudication might not be completed until late 2025, suspending the tariff but *not* allowing the revised rates to go into effect subject to refund would possibly require Avista to absorb the costs of the investments at issue even if the Commission were to determine those costs were appropriate for Avista to recover in 2025. Including 2025 investments in rates now subject to refund is necessary to allow Avista to recover those costs in 2025 if the Commission determines that is appropriate.

The Settling Parties Agreed to Not Oppose a Request for Adjudication

As part of the settlement agreement in Docket UE-220053, each of the settling parties (including Avista) agreed to not oppose a request for adjudication of the annual Schedule 99 tariff revision.²² Therefore, the Commission should hear no opposition from the settling parties to Staff's recommendation to suspend this tariff revision and set the matter for hearing

Conclusion

²² Avista 2022 GRC, Supplemental Joint Testimony, Exh. JT-3T at 10:14.

Given Staff's concerns discussed herein regarding several of the capital investments Avista includes in its proposed Schedule 99 rates, Staff is unable to conclude that the proposed rates are fair, just, reasonable, equitable, and sufficient. Therefore, pursuant to RCW 80.04.130(1), the Commission should suspend the tariff revision and set the matter for hearing.