

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

WASHINGTON UTILITIES AND	)	DOCKETS UE-100467
TRANSPORTATION	)	and UG-100468
COMMISSION,	)	(consolidated)
)	
Complainant,	)	ORDER 06
)	
v.	)	INITIAL ORDER GRANTING IN
	)	PART PUBLIC COUNSEL’S
AVISTA CORPORATION d/b/a	)	MOTION REQUESTING OFFICIAL
AVISTA UTILITIES,	)	NOTICE OF PORTIONS OF
	)	RECORD IN DOCKET UE-090134
Respondent.	)	REGARDING LANCASTER PPA
.....)	

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 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. The stated effective date of the proposed tariff revisions was April 23, 2010; however, the Commission suspended the filings on April 5, 2010, consolidated the two dockets, and set the matters for hearing in November 2010. *See Order 01 and Order 02.*

2 A portion of the Company’s proposed electric rate increase is based on the addition of the Lancaster Generating Facility (Lancaster) and power purchase agreement (PPA). In late 2009, as part of the Company’s previous rate case, the Commission considered and ruled on issues related to Lancaster and the associated PPA.¹ In that matter, the Commission did not authorize Avista to recover in rates any costs associated with Lancaster but allowed the Company to defer certain net costs related to the facility.²

¹ See *WUTC v. Avista Corporation*, Dockets UE-090134, UG-090135, and UG-060518 (consolidated) (Avista 2009 GRC), Order 10, ¶¶ 12 and 175-234.

² *Id.* at ¶¶ 226-229.

In its current rate case, the Company seeks a prudence determination regarding the Lancaster contracts and also seeks to recover in rates those deferred costs.

3 **PUBLIC COUNSEL’S MOTION.** On Friday, May 28, 2010, Public Counsel filed a motion seeking an order taking official notice of certain exhibits and other items relating to Lancaster and the associated PPA that are contained in the record of the Company’s previous rate case. Public Counsel notes that “the Lancaster issues were developed in significant depth in the prior docket” and that capturing those efforts through official notice will avoid unnecessary duplication here.³ Public Counsel provided an attachment to its motion listing the exhibits and portions of the transcript from Docket UE-090134 it proposes for official notice.⁴

4 Neither Avista, Commission Staff, nor ICNU oppose the motion.⁵

5 **COMMISSION DECISION.** Public Counsel asks that we take official notice of evidence regarding Lancaster and the associated PPA recently considered in Avista’s previous general rate case. We agree with Public Counsel that every effort should be made to preserve the parties’ limited resources and avoid unnecessary expenditures in this general rate case when relevant evidence on the Lancaster issues have already been litigated by the parties and presented to the Commission in a recent proceeding. Based on the limitations of the procedural rule governing matters of which the Commission may take official notice, we grant, in part, Public Counsel’s motion, and also incorporate by reference those materials of which it may not be appropriate to take official notice.⁶

6 Washington Administrative Code (WAC) 480-07-495(2) provides that the Commission may take official notice of any “judicially cognizable fact.” According

³ Public Counsel Motion Requesting Official Notice of Portion of Record of Prior Proceeding, at ¶ 3.

⁴ *Id.* at Appendix A.

⁵ *Id.* at ¶ 6.

⁶ The undersigned presiding officer recognizes that it was his own suggestion at the prehearing conference conducted on April 20, 2010, that the Commission could take official notice of portions of transcript and relevant items in the record of Avista’s prior general rate case. *See* TR. 11:22 – 12:21, 15:16 – 16:3, and 18:20 – 20:20.

to that regulation, illustrative examples of such facts include “administrative rulings and orders, exclusive of findings of fact, of the commission and other governmental agencies.” WAC 480-07-495(2)(c) requires the presiding officer to notify parties of material officially noticed and its source and afford parties an opportunity to contest facts and material so noticed.

- 7 WAC 480-07-495(2) permits the Commission to officially notice our rulings and orders, but it does not directly authorize the Commission to take official notice of exhibits admitted in a prior adjudication. Nevertheless, we interpret Public Counsel’s motion to be a request to incorporate the specified exhibits and transcript excerpts into this matter by reference, avoiding the need to re-file those documents or re-hire those expert witnesses or substitutes to present testimony in this case.⁷
- 8 In the interests of efficiency and consistency, the Commission should take official notice of its prior Order 10 in Docket UE-090134 regarding Lancaster and incorporate by reference into this general rate case all relevant portions of the transcript and exhibits from the Company’s prior general rate case filed in 2009. To that extent, Public Counsel’s motion should be granted.
- 9 In accordance with WAC 480-07-495(2)(c), all parties to this proceeding must be afforded an opportunity to contest the facts and materials officially noticed or incorporated by reference into this proceeding. As ordered below, objections to any exhibits or transcript excerpts must be filed with the Commission **no later than Friday, July 9, 2010.**

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⁷ Here, no other party has objected to Public Counsel’s motion, but we do not have before us a formal stipulation to these exhibits from the Company’s prior general rate case. Therefore, we provide all parties an opportunity to object to the proposed incorporation by reference of portions of the record from Dockets UE-090134, UG-090135, and UG-060518 (consolidated).

ORDER

THE COMMISSION ORDERS That

- 10 (1) Public Counsel's Motion Requesting Official Notice of Portion of Record in
Prior Proceeding is granted, in part, as described herein.
- 11 (2) The Commission takes official notice of Order 10 from Dockets UE-090134,
UG-090135, and UG-080546 (*consolidated*) in this matter.
- 12 (3) The Commission incorporates by reference the specified exhibits and
transcript references set out in Appendix A to this is order into the record of
this proceeding.
- 13 (4) The deadline for any party to contest the taking of official notice or
incorporation by reference of these items is Friday, July 9, 2010, at 5:00 p.m.

Dated at Olympia, Washington, and effective June 11, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ADAM E. TOREM
Administrative Law Judge

APPENDIX A

**Items Incorporated into Dockets UE-100467 & UG-100468 (consolidated)
by reference from
Dockets UE-090134, UG-090135, and UG-080546 (consolidated)**

EXHIBITS

NUMBER	SPONSOR	DATE	DESCRIPTION
Bench Exhibits			
B-11C	Avista Corporation	13-Oct-09	Avista's Response to Bench Request #10 (Confidential)
B-13	Avista Corporation	14-Oct-09	Avista's Response to Bench Request #12
B-14	Avista Corporation	14-Oct-09	Avista's Response to Bench Request #13
B-15	NW Energy Coalition	14-Oct-09	NWEC's Response to Bench Request #12
B-16	Commission Staff	14-Oct-09	Staff's Response to Bench Requests #12 & #13

William G. Johnson, Wholesale Marketing Manager in Energy Resources Dept., Avista			
WGJ-1T	William G. Johnson	23-Jan-09	Prefiled Direct Testimony re proposed normalizing and pro forma adjustments to power supply revenues/expenses & proposed level of authorized expense/retail revenue credit for ERM purposes
WGJ-2	William G. Johnson	23-Jan-09	Worksheet – Power Supply Pro Forma
WGJ-3	William G. Johnson	23-Jan-09	Description of Power Supply Adjustments
WGJ-4	William G. Johnson	23-Jan-09	Plant Generation & Fuel Cost Summary
WGJ-5	William G. Johnson	23-Jan-09	ERM Authorized Expenses – Pro Forma 2010
CROSS-EXAMINATION EXHIBITS			
WGJ-6-X	Public Counsel		Avista's Response to PC DR No. 81

Clint G. Kalich, Manager Resource Planning & Power Supply Analyses, Energy Resources Dept., Avista			
CGK-1T	Clint G. Kalich	23-Jan-09	Prefiled Direct Testimony re Avista's use of the AURORA Dispatch Model
CGK-2	Clint G. Kalich	23-Jan-09	Forecast of Company Load and Resource Positions from 2009 through 2019
CGK-3	Clint G. Kalich	23-Jan-09	Summary Output from Dispatch Model
CGK-4T	Clint G. Kalich	11-Sep-09	Rebuttal Testimony re Lancaster Prudence
CROSS-EXAMINATION EXHIBITS			
CGK-5-X	Public Counsel		Avista's Response to PC DR No. 496
CGK-6-X	Public Counsel		Avista's Response to PC DR No. 534
CGK-7-X	Public Counsel		Avista's Response to PC DR No. 535
CGK-8-X	Public Counsel		Avista's Response to PC DR No. 538
CGK-9-X	Public Counsel		Avista's Response to PC DR No. 539
CGK-10-X	Public Counsel		Avista's Response to PC DR No. 541

Scott J. Kinney, Director of Transmission Operations, Avista			
SJK-1T	Scott J. Kinney	23-Jan-09	Prefiled Direct Testimony presenting Avista's pro forma transmission revenues and expenses, the company's transmission and distribution expenses, and Avista's Asset Management Program expenses
SJK-2	Scott J. Kinney	23-Jan-09	Transmission pro forma adjustments
SJK-3	Scott J. Kinney	23-Jan-09	Asset Management Program Model
SJK-4 T	Scott J. Kinney	11-Sep-09	Prefiled Rebuttal Testimony re Kermode proposal to exclude certain gen/trans/distro and general plant expenses from rates
SJK-6	Scott J. Kinney	7-Oct-09	Avista's response to Staff's DR No. 46
CROSS-EXAMINATION EXHIBITS			
SJK-5-X	Public Counsel		Avista Response to PC DR No. 237

Robert J. Lafferty, Director of Power Supply, Avista			
RJL-1T	Robert J. Lafferty	11-Sep-09 <i>*29 Sep 09 w/add'l correction</i>	Rebuttal Testimony re Lancaster Prudence (BPA Transmission Contracts and Nat Gas Transportation Contracts) (Revised)
CROSS-EXAMINATION EXHIBITS			
RJL-2-X	Public Counsel		Avista's Response to PC DR No. 528
RJL-3-X	Public Counsel		Avista's Response to PC DR No. 529 (Including Attachment A)
RJL-4-X	Public Counsel		Avista's Response to PC DR No. 532 (Revised)
RJL-5-X	Public Counsel		Avista's Response to PC DR No. 533 (Including Attachments A and B)

Richard L. Storro, Vice President of Energy Resources, Avista Corporation			
RLS-1T	Richard L. Storro	23-Jan-09	Prefiled Direct Testimony re Avista's resource planning and power operations
RLS-2	Richard L. Storro	23-Jan-09	Avista 2007 Electric Integrated Resource Plan
RLS-3	Richard L. Storro	23-Jan-09	Lancaster Generation Facility (map + picture)
RLS-4	Richard L. Storro	23-Jan-09	Lancaster Generating Facility Power Purchase Agreement Evaluation Overview
RLS-5	Richard L. Storro	23-Jan-09	Independent Valuation of the Lancaster Facility Tolling Agreement
RLS-6	Richard L. Storro	23-Jan-09	Overview of the Lancaster Power Purchase Agreement
RLS-7	Richard L. Storro	11-Sep-09	Rebuttal Testimony responding to Staff (Kermode) Proposal to Exclude Certain Pro Forma Adjustments re Plant/Gen In Service

Richard L. Storro (continued)			
CROSS-EXAMINATION EXHIBITS			
RLS-8-X	Public Counsel		Avista's Response to PC DR No. 88 (Including Attachment A)
RLS-9-X	Public Counsel		Avista's Response to PC DR No. 89 (Including Attachment A)
RLS-10-X	Public Counsel		Avista's Response to PC DR No. 93
RLS-11-X	Public Counsel		Avista's Response to PC DR No. 94 (Including Attachment A)
RLS-12-X	Public Counsel		Avista's Response to PC DR No. 95
RLS-13-X	Public Counsel		Avista's Response to PC DR No. 100
RLS-14-X	Public Counsel		Avista's Response to PC DR No. 101
RLS-15-X	Public Counsel		Avista's Response to PC DR No. 102
RLS-16-X	Public Counsel		Avista's Response to PC DR No. 103
RLS-17-X	Public Counsel		Avista's Response to PC DR No. 104
RLS-18-X	Public Counsel		Avista's Response to PC DR No. 112
RLS-19-X	Public Counsel		Avista's Response to PC DR No. 118 (Including Attachment A)
RLS-20-X	Public Counsel		Avista's Response to PC DR No. 129
RLS-21-X	Public Counsel		Avista's Response to PC DR No. 135
RLS-22-X	Public Counsel		Avista's Response to PC DR No. 174 (w/o Attachment A)
RLS-23-X	Public Counsel		Avista's Response to PC DR No. 304
RLS-24-X	Public Counsel		Avista 2009 Electric Integrated Resource Plan (Excerpt, pp. 2-27 and 2-28)
RLS-25-X	Public Counsel		Draft Sixth Northwest Power Plan (Excerpt, pp . 8-26 and 8-27)
RLS-26-X	Public Counsel		Pacific Northwest Regional Resource Adequacy Assessment
RLS-27-X	Public Counsel		Power Plants in the Pacific Northwest (Formatted from NPCC website)
RLS-28-X	Public Counsel		Pacific Northwest Resource Adequacy Assessment 2011 and 2013
RLS-29-X C	Public Counsel		Avista Response to PC DR No. 108-C (CD-ROM) (Confidential)

Kevin Woodruff			
KDW-1 T	Kevin D. Woodruff	2-Sep-09	Response Testimony re Avista's Forecast of 2010 Power Supply Costs (Revised)
KDW-2	Kevin D. Woodruff	17-Aug-09	Witness Qualifications
KDW-3	Kevin D. Woodruff	17-Aug-09	Avista's Response to Staff DR No. 206
KDW-4	Kevin D. Woodruff	17-Aug-09	Avista's Lancaster CCCT Power Purchase Agreement Acquisition (same as RLS-6)
KDW-5	Kevin D. Woodruff	17-Aug-09	Avista 2007 Electric Integrated Resource Plan (<i>Excerpt Only</i>)
KDW-6	Kevin D. Woodruff	17-Aug-09	Avista 2009 IRP Preferred Resource Strategy Presentation (<i>Excerpt Only</i>)
KDW-7	Kevin D. Woodruff	17-Aug-09	Avista 2007 Annual Report (<i>Excerpt Only</i>)
KDW-8	Kevin D. Woodruff	17-Aug-09	Avista's Response to PC DR No. 496
KDW-9	Kevin D. Woodruff	9-Oct-09	Public Counsel Response to Staff DR No. 6

TRANSCRIPT EXCERPTS

Evidentiary Hearing of October 6, 2009: Transcript pages 461-462, 474

Page Reference	Witness
461-462	VanCleve
474	<i>none</i>

Evidentiary Hearing of October 7, 2009: Transcript page 487

Page Reference	Witness
487	<i>none</i>

Evidentiary hearing of October 8, 2009: Transcript pages 756-980

Page Reference	Witness
461-462	VanCleve
756-758	<i>none</i>
758-857	Storro
858-864	<i>none</i>
865-900	Kalich
901-902	<i>none</i>
903-912	Lafferty
913-915	Norwood
916-922	Johnson
923-936	Woodruff
937-980	Buckley

Evidentiary Hearing of October 9, 2009: Transcript pages 1048-1087

Page Reference	Witness
1048-1050	<i>none</i>
1051-1057	Buckley
1058-1070	Woodruff
1071-1074	<i>none</i>
1075-1087	Norwood