

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of)	DOCKET UG-230214
)	
AVISTA CORPORATION d/b/a AVISTA UTILITIES,)	PETITION FOR ADJUDICATION OF THE
)	ALLIANCE OF WESTERN ENERGY
)	CONSUMERS
Energy Recovery Mechanism Annual Review)	
for 2022 and Proposed Tariff for Surcharge of)	
Overall Deferral Balances.)	
_____)	

1 Pursuant to RCW 80.04.130(1) and WAC § 480-07-305(3)(b), the Alliance of Western Energy Consumers (“AWEC”) hereby respectfully petitions the Washington Utilities and Transportation Commission (“WUTC” or “Commission”) to suspend Avista Utilities’ (“Avista” or “Company”) tariff surcharge of overall deferral balances associated with its Energy Recovery Mechanism (“ERM”) and to initiate an adjudicatory proceeding to review whether Avista’s proposed rates are reasonable and just. AWEC’s review of Avista’s 2022 ERM has resulted in at least two areas of potential controversy that AWEC believes warrant additional investigation and the development of an administrative record to determine issues of fact and law, necessitating that this matter be set for adjudication. AWEC has conferred with Public Counsel, Commission Staff and Avista on this petition. Public Counsel supports AWEC’s request for an adjudication. Staff does not oppose AWEC’s petition. Avista opposes AWEC’s petition.

I. INTRODUCTION

2 Avista filed to update rates in its 2022 Energy Recovery Mechanism on March 31,
2023, therein seeking a surcharge to customers of \$34.6 million, or 6.0 percent overall,¹ with a
proposed rate-effective date of July 1, 2023. Under the structure of the ERM, Avista makes an
annual filing no later than April 1st of each year on the prudence of ERM deferral entries for the
prior calendar year and the parties then have a 90-day review period, ending no later than June
30th of each year. This review period can be extended by agreement of reviewing parties and
Avista, or by Commission order. In the present proceeding, Avista has declined to agree to an
extension in this case.²

3 Under the ERM deferral mechanism, variations between authorized forecast and
actual power supply revenues and expenses are tracked by month and accumulate into a
calendar-year total. Avista absorbs the first \$4 million in variation in each calendar year. For
variations greater than \$4 million but less than \$10.0 million, Avista is permitted to defer 50
percent of the cumulative variation if the deferral is a surcharge to customers, and 75 percent if
the deferral is a rebate to customers. If the cumulative variance exceeds \$10.0 million, 90 percent
of the variance above \$10.0 million is deferred for future surcharge or rebate.

4 In the present case, 2022 actual net power costs significantly exceeded the amount
included in base rates to the amount of \$48,834,582. After ERM mechanics are applied, Avista is
seeking to defer \$37,951.124 in excess net power costs, and to surcharge customers \$34.6
million after netting unamortized rebate balances from prior periods and deferred Energy
Imbalance Market benefits and adding accrued interest and revenue conversion items.

¹ Exh. PDE-1T at Table 4.

² Based on informal correspondence with Avista and other stakeholders.

5 Avista’s requested deferral in this case, if granted, would result in an overall 6.0
percent rate increase for its customers – and a 9.1 percent increase for its Schedule 25 and special
contract customers. This increase is substantial, and for the reasons set forth below, warrants
additional time and process for investigation.

II. ARGUMENT

6 Avista’s 2022 power cost variance was driven almost entirely by \$31,614,949 in
short-term purchases in December 2022. Ordinarily, AWEC understands Avista to make only
limited short-term purchases of around \$3,000,000. The difference in this case is likely due in
part to price impacts as power pricing in December 2022 was exceptional. However, AWEC is
concerned that Avista was not sufficiently hedged, and may not have acted in accordance with its
hedging practices, to avoid such major impacts to customers, which is something that AWEC
plans to review as part of the adjudication.

7 Correspondingly, Avista made a significant sum of money by selling natural gas
in December 2022. The margins on AECO gas in December were very high and, where
economic, Avista has the ability sell that gas in the market rather than using it to generate
electricity. However, it appears that Avista only included sales of month-ahead gas in its power
costs, which settled at very low prices relative to actual prices. Normally, these transactions
would provide some price protection for customers; however, in December, they served as a
penalty to customers. In operations, AWEC finds it likely that Avista made daily gas sales that
were much more valuable than the gas sales that it has allocated to electric service. Avista has
not allocated the benefits from those gas sales transactions to electric customers because they are
being assigned to gas operations. Accordingly, AWEC finds that additional investigation is
warranted to review how these gas sales were included in rates.

8

As such, there appear to be issues of material fact and law that require additional time, process and the development of an administrative record prior to a Commission determination that Avista's proposed rates are reasonable and just. Currently, this matter is scheduled for the June 29, 2023 Open Meeting. In an effort to timely identify and resolve issues within the 90-day review period, AWEC issued informal discovery requests shortly after Avista's ERM petition was filed and met with Avista to discuss settlement options. Unfortunately, the discovery responses and settlement discussions were not sufficient to resolve AWEC's concerns and AWEC anticipates it will need to issue additional discovery to fully investigate the issues it has identified. Given the depth and complexity of the issues that AWEC has identified above, in addition to issues that may be raised by other parties in this proceeding and other pending matters before the Commission more generally, Avista's requested three-month review period is not sufficient to allow for appropriate investigation. Further, the Open Meeting process does not afford the same procedural safeguards – such as discovery rights – that are available in an adjudicatory proceeding.

9

Granting adjudication will not prevent Avista from recovering from customers deferred, prudently incurred power costs given the ERM's underlying deferral mechanism. The Commission has previously concluded that utilities are not unduly harmed by the timing delay associated with adjudicative proceedings where the underlying issue involves deferred amounts.³

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WHEREFORE, AWEC respectfully petitions the Commission to suspend Avista's tariff seeking to surcharge customers pursuant to its ERM and to initiate an adjudicatory

³ See e.g. *Washington Utilities and Transportation Commission v. Avista Corporation d/b/a Avista Utilities*, Dockets UE-200900, UG-200901, UE-200984 (Consolidated), Order 04 /01 at ¶¶ 9-10 (Dec. 23, 2020).

proceeding to review whether Avista's proposed rates are reasonable and just.

Dated this 5th day of June, 2023.

Respectfully submitted,

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