



# ATTORNEY GENERAL OF WASHINGTON

Public Counsel

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June 23, 2023

**SENT VIA WUTC WEB PORTAL**

Amanda Maxwell  
Executive Director and Secretary  
Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE  
Lacey, WA 98503

**Re: *Avista Corporation's Energy Recovery Mechanism Annual Review for 2022 and Proposed Tariff for Surcharge of Overall Deferred Balances, Docket UE-230214***

Dear Director Maxwell:

The Public Counsel Unit of the Washington State Attorney General's Office (Public Counsel) respectfully submits these comments in advance of the June 29, 2023, Open Meeting. These comments are in response to Avista Corporation's (Avista or the Company) Energy Recovery Mechanism (ERM) 2022 annual review and proposed tariff for surcharge of overall deferral balances.<sup>1</sup> Public Counsel engaged in discussions regarding the surcharge request in this Docket with the Company, the Alliance of Western Energy Consumers (AWEC), and the Washington Utilities and Transportation Commission Staff (UTC Staff). Public Counsel appreciates the willingness of these parties to participate in those discussions. As a result of these interactions, the Company refiled tariffs on June 22, 2023, revising the amortization period from 12 to 24 months.<sup>2</sup>

***Public Counsel's Recommendation***

Public Counsel recommends that the Washington Utilities and Transportation Commission (Commission) allow the Company's June 22, 2023, revised filing to become effective.

<sup>1</sup> See Avista Annual Review for 2022 and Proposed Tariff for Surcharge of Overall Deferral Balances (Mar. 31, 2023) (hereinafter "Avista ERM Initial Filing").

<sup>2</sup> Avista Replacement Pages & Workpapers (June 22, 2023) (hereinafter "Avista ERM Revised Surcharge Request").

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On March 31, 2023, Avista filed a request with the Commission to increase electric rates to qualifying customers, effective July 1, 2023. The request reflects a rate adjustment to recover from customers certain deferred power supply costs tracked in the Company's ERM. Under the mechanics of the ERM, if Avista's deferral balance surpasses \$30 million in either the surcharge or rebate direction, Avista is required to adjust its tariffs. The Commission established the \$30 million trigger in Docket UE-120436, before which the trigger was set at 10 percent of base revenues.<sup>3</sup> The total deferral amount is determined by the extent to which actual power supply costs exceed authorized power supply costs.

Also under the ERM mechanics are dead and sharing bands that establish how much of the total deferral amount is to be absorbed by customers, either through a surcharge or rebate, and how much by the Company. The first \$4 million in either the surcharge or the rebate direction is 100 percent absorbed by Avista. This is referred to as the dead band. After the dead band, the next \$6 million (amounts between \$4 million and \$10 million) would be absorbed 50 percent by the Company and 50 percent by customers when in the surcharge direction.<sup>4</sup> Any amount in excess (above \$10 million), in either direction, the Company absorbs 10 percent and customers absorb 90 percent.

Avista's initial filing states that actual power costs exceeded the authorized amount in 2022 by a total of approximately \$48.8 million, excluding interest.<sup>5</sup> The filing claims that the primary contributor to the increase in cost was an increase in customer load in response to unusually hot or cold temperatures, combined with very high electric and natural gas prices.<sup>6</sup> The deferral in the customer surcharge direction amounted to approximately \$38 million, and the Company absorbed approximately \$10.9 million.<sup>7</sup> After adjusting for previously approved unamortized balances, interest, and slightly offset by understated Energy Imbalance Market benefits Avista proposes to return to customers, the total surcharge to customers equals \$34.6 million, or a six percent revenue increase.<sup>8</sup> Under the 12 month amortization period proposed in the initial filing, the average residential customer using 932 kWhs per month would see an increase of \$5.60 per month, or approximately 6.3 percent beginning July 1, 2023. The revised filing reduces the monthly impact to average residential customers to \$2.84, approximately 3.2 percent, by extending the amortization period to 24 months.

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<sup>3</sup> *Wash. Utils. & Transp. Comm'n v. Avista Corp. d/b/a Avista Utils.*, Dockets UE-120436 & UG-120437 (consol.), Final Order 09 & 14, ¶ 35 (Dec. 26, 2012).

<sup>4</sup> If in the rebate direction, the Company would absorb 25 percent and return 75 percent to customers.

<sup>5</sup> Direct Test. of Scott J. Kinney, Exh. SJK-1T at 3:1 (filed Mar. 31, 2023).

<sup>6</sup> Avista Cover Letter at 2 (filed Mar. 31, 2023).

<sup>7</sup> Kinney, Exh. SJK-1T at 3:2-3.

<sup>8</sup> Avista Cover Letter at 3.

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On June 5, 2023, AWEC filed its Petition for Adjudication in this Docket, which Public Counsel supported.<sup>9</sup> The UTC Staff filed an Answer to the Petition in which the Staff recommended interim rate relief if the Commission determined further investigation of Avista's ERM is warranted.<sup>10</sup> After the Company revised its ERM filing on June 22, 2023, AWEC withdrew its Petition.<sup>11</sup> As a result of the Company's revised ERM surcharge request and AWEC's request to withdraw its Petition, the interim rates issue is now moot.<sup>12</sup> The UTC Staff filed a letter in support of both the Company's initial and revised ERM surcharge request filings.<sup>13</sup>

The potential impact on customer rates of 6.3 percent that would result from the Company's initial request in this Docket would be significant and would come shortly after the significant rate increases to be implemented over the next two years approved in Avista's recently concluded general rate case (GRC).<sup>14</sup> The potential dollar rate impact when amortized over 12 months as originally proposed to electric customers was larger than the approved dollar increase for year one of the GRC rate plan.<sup>15</sup>

In its initial filing, Avista discussed liquidity concerns as one of the reasons for an amortization period of 12 months.<sup>16</sup> Further, the UTC Staff has noted in this Docket that Avista is currently on S&P negative watch as of November 2022.<sup>17</sup>

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<sup>9</sup> Alliance of Western Energy Consumers Pet. for Adjudication ¶ 1 (June 5, 2023).

<sup>10</sup> See Staff's Answer to AWEC's Pet. for Adjudication ¶¶ 1, 6–13 (June 14, 2023).

<sup>11</sup> See Avista ERM Revised Surcharge Request; The Alliance of Western Energy Consumers' Notice of Withdrawal of Pet. for Adjudication (June 23, 2023).

<sup>12</sup> See The Alliance of Western Energy Consumers' Notice of Withdrawal of Petition for Adjudication ¶ 2 (June 23, 2023); see generally *Wash. Utils. & Transp. Comm'n v. P. Nw. Bell Tel. Co.*, Cause U-72-30, Second Suppl. Order (Oct. 10, 1972); *Wash. Utils. & Transp. Comm'n v. Ludlow Utilities Co.*, Docket U-87-1550-T, Second Suppl. Order Den. Pet. for Interim Rates (Feb. 19, 1988); *Wash. Utils. & Transp. Comm'n v. Verizon Nw. Inc.*, Docket UT-040788, Order Den. Request for Interim Rates (Oct. 15, 2004); *Wash. Utils. & Transp. Comm'n v. Alderton-McMillin Water Supply*, Docket UW-911041, Third Supplemental Order (June 3, 1992) (denying petition for interim rate relief); *Wash. Utils. & Transp. Comm'n v. P. Nw. Bell Tel. Co.*, Docket U-87-1083-T, Second Suppl. Order Allowing Interim Rates (Aug. 26, 1987).

<sup>13</sup> See Staff Letter (filed June 23, 2023).

<sup>14</sup> *Wash. Utils. & Transp. Comm'n v. Avista Corp. d/b/a Avista Utils.*, Dockets UE-220053, UG-220054 & UE-210854 (consol.).

<sup>15</sup> *Wash. Utils. & Transp. Comm'n v. Avista Corp. d/b/a Avista Utils.*, Dockets UE-220053, UG-220054 & UE-210854 (consol.), Final Order 10/04 at 2 (Dec. 12, 2022). The year 1 electric increase for the typical residential customer is \$4.47, compared to \$5.60 in this filing.

<sup>16</sup> Direct Test. of Patrick D. Ehrbar, Exh. PDE-1T at 9:9–10.

<sup>17</sup> Decl. of Alex Tellez (filed June 14, 2023).

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Public Counsel appreciates the Company's interest in maintaining liquidity and a credit rating sufficient to obtain financing. The Company's request in its initial filing, however, would have imposed an unreasonable financial burden on customers. While Avista's credit rating is certainly a concern, the recent revenue boosts from Avista's rate cases in Washington and Oregon will help alleviate investor concerns. A recent article in *Clearing Up* states that Company officials report recent revenue requirement and return on equity increases will help boost its credit rating.<sup>18</sup>

Discussions between AWEC, Public Counsel, Staff, and the Company resulted in the Company's revisions to its request extending the surcharge amortization period from 12 to 24 months. After reviewing the Company's initial filing, Public Counsel's view was that 24 months is an appropriate amortization period for the surcharge because it adequately allows for rate mitigation for customers, but is still short enough to mitigate the Company's financial concerns that accompany extending the period. The Company's revised filing extending the surcharge amortization period from 12 to 24 months reduces the increase in billed revenue from six to three percent.<sup>19</sup>

Public Counsel acknowledges that there is a possibility that next year's ERM could trigger a rebate or surcharge, which raises concerns of "pancaking" the rate revisions. However, there is no evidence to suggest that the ERM will trigger a \$30 million surcharge every consecutive year. This is the first of the annual ERM reviews to trigger a tariff revision request and consequently to impact rates since 2019, which was a rebate. If the total deferrals in the ERM do trigger that large of a surcharge every year, the mechanics of the ERM, Company hedging practices, or power cost baselines set in GRCs may need to be revised, which is a separate issue. We also believe that 24 months is still relatively short, which helps to mitigate concerns of intergenerational equity. For these reasons, Public Counsel finds the revised 24-month amortization period for the surcharge reasonable and recommends that the Commission allow the Company's revised filing to become effective.

Public Counsel would also like to note that Avista's customer notice in this filing does not include any information about bill assistance available to customers that may need it.<sup>20</sup> Avista should include this information in future rate increase notices.

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<sup>18</sup> Dan Catchpole, *Avista Hopes Oregon Rate Settlement Will Buoy Its Credit Ratings*, *Clearing Up* (June 2, 2023), [https://www.newsdata.com/clearing\\_up/briefs/avista-hopes-oregon-rate-settlement-will-buoy-its-credit-rating/article\\_e4f659a0-0152-11ee-aace-5bdd0a8122f9.html](https://www.newsdata.com/clearing_up/briefs/avista-hopes-oregon-rate-settlement-will-buoy-its-credit-rating/article_e4f659a0-0152-11ee-aace-5bdd0a8122f9.html).

<sup>19</sup> Avista ERM Revised Surcharge Request at 1–2.

<sup>20</sup> Avista Customer Notice.

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We appreciate the opportunity to submit these comments. If you have any questions about this filing, please contact Ann Paisner at [Ann.Paisner@ATG.WA.GOV](mailto:Ann.Paisner@ATG.WA.GOV) or Shay Bauman at [Shay.Bauman@ATG.WA.GOV](mailto:Shay.Bauman@ATG.WA.GOV).

Sincerely,

*/s/ Ann Paisner*

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