

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION d/b/a  
AVISTA UTILITIES,

Respondent.

DOCKETS UE-220053 & UG-220054  
(Consolidated)

ORDER 03

PREHEARING CONFERENCE  
ORDER; NOTICE OF HEARING

(Set for Wednesday, September 21,  
2022, at 9:30 a.m.)

- 1 **NATURE OF PROCEEDING.** On January 21, 2022, Avista Corporation d/b/a Avista Utilities (Avista or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions in Docket UE-220053 to its currently effective electric service tariff, Tariff WN U-28, and in Docket UG-220054 to its natural gas service tariff, Tariff WN U-29. These filings would increase rates and charges for electric and natural gas service provided to customers in the state of Washington.
- 2 On January 27, 2022, the Commission entered Order 01, consolidating Dockets UE-220053 and UG-220054, suspending the tariff revisions, and setting the matters for adjudication.
- 3 **CONFERENCE.** The Commission convened a virtual prehearing conference on February 14, 2022, before Administrative Law Judge Andrew J. O’Connell.
- 4 **APPEARANCES.** David J. Meyer, Vice President and Chief Counsel for Regulatory and Governmental Affairs, Spokane, Washington, represents Avista. Jennifer Cameron-Rulkowski, Jeff Roberson, Nash I. Callaghan, Harry Fukano, Joe M. Dallas, and Daniel J. Teimouri, Assistant Attorneys General, Olympia, Washington, represent Commission

staff (Staff).<sup>1</sup> Nina Suetake, Ann Paisner, and Lisa Gafken, Assistant Attorneys General, Seattle, Washington, represent the Public Counsel Unit of the Attorney General's Office (Public Counsel). Brent L. Coleman and Tyler Pepple, Davison Van Cleve, P.C., Portland, Oregon, represent the Alliance of Western Energy Consumers (AWEC). Irion Sanger, Joni Sliger, and Ellie Hardwick, Sanger Law P.C., Portland, Oregon, represent NW Energy Coalition (NVEC). Yochanan Zakai and Stacy Lee, Shute, Mihaly & Weinberger LLP, San Francisco, California, represent The Energy Project. Gloria D. Smith, Managing Attorney, Sierra Club Environmental Law Program, Oakland, California, represents Sierra Club. Jeff Winmill and James m. Birkelund, San Francisco, California, represent Small Business Utility Advocates (SBUA). Contact information for the representatives of those granted party status is attached as Appendix A to this Order.

5 **PETITIONS FOR INTERVENTION.** AWEC, NVEC, The Energy Project, and Sierra Club filed petitions to intervene. No party objected to the petitions. During the conference, SBUA petitioned orally to intervene, citing its representation of the interests of small businesses with fewer than 100 employees and its experience representing such interests in the utility regulatory proceedings of Oregon and California. No party objected to the petition. While the Commission may accept an oral petition to intervene at a prehearing conference, the Commission strongly prefers written petitions to intervene, filed with the Commission at least three business days in advance of the initial hearing date or prehearing conference.<sup>2</sup> Such a written filing permits the Commission, in addition to all other parties and petitioners for intervention, to identify and evaluate the interest represented by the petitioner and begin consideration of the merit of their intervention, whether that be justified by the petitioner's substantial interest in the proceeding or by their participation benefitting the public interest and aiding the Commission's decision making. Ultimately, the Commission finds that all petitioners for intervention in these consolidated matters have established a substantial interest and that their participation will be in the public interest. Accordingly, the Commission grants the petitions.

6 **PROTECTIVE ORDER.** The Commission entered a Protective Order, Order 02, in Dockets UE-220053 and UG-220054 (*Consolidated*) on January 31, 2021. For

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<sup>1</sup> 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.

<sup>2</sup> WAC 480-07-355(1)(a).

information marked as confidential in Docket UE-220053 and UG-220054, any parties or witnesses must submit the required agreement found in Order 02.

- 7 **DISCOVERY.** Discovery will be conducted according to this Order, the procedural schedule attached to this Order as Appendix B, the Protective Order, and the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively to avoid having to bring discovery matters forward for formal resolution.
- 8 The Parties agree to certain discovery practices that will facilitate the sharing of all data requests and responses with all Parties as well as the tracking and organizing of those data requests and responses.
- 9 First, the Parties agree to identify each data request by subject (1) above each data request, (2) in the cover letter, and (3) in the distribution email. Data requests propounded in a single set will be grouped by subject in the cover letter and distribution email. The Parties will cooperate to develop a uniform list of subjects to facilitate discovery tracking. These discovery tracking processes are not intended to limit or restrict discovery in any way.
- 10 The Parties also agree to provide each data request to all Parties at the time it is propounded and each data request response at the time it is served on the requestor.
- 11 Last, the Parties agree and request that the Commission allow modification to the deadlines for discovery as indicated in Appendix B and accompanying footnotes.
- 12 The Commission approves and adopts the Parties' agreements applicable to discovery in these consolidated dockets.
- 13 **PROCEDURAL SCHEDULE.** The Parties presented an agreed procedural schedule at the prehearing conference. The Commission adopts this procedural schedule, with a minor modification described below, and attaches it to this Order as Appendix B.
- 14 The suspension date in these consolidated dockets is December 21, 2022, 11 months from the date of first filing. The Commission may not suspend the operation of the tariff changes for longer than 11 months from the date of filing and must therefore issue an order prior to the suspension date.<sup>3</sup>

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<sup>3</sup> See RCW 80.04.130; RCW 80.28.060.

15 These statutory requirements are not in conflict with the Commission's rules regarding compliance filings. Avista may only charge the tariff rates authorized by the Commission in its final order and must make a compliance filing identifying the authorized tariff revisions.<sup>4</sup> The Commission will state in its final order a date for its compliance filing.<sup>5</sup> Staff must file a response to Avista's compliance filing within five business days.<sup>6</sup>

16 The Commission does not accept the Parties' proposed deadline of December 14, 2022, for Avista's compliance filing and rejects any implication that the Commission must enter its final order by any deadline other than the one set by statute. It is also premature to set a deadline for Avista's compliance filing. When the Commission issues the final order, it may be appropriate to direct Avista to make its compliance filing prior to December 14, 2022. Thus, it is prudent and appropriate to delay setting the deadline for the Company's compliance filing until the final order.

17 **DOCUMENT FILING AND SERVICE REQUIREMENTS.** Parties must file and serve all pleadings, motions, briefs, and other prefiled materials in compliance with all of the following requirements:

- (a) Parties must submit electronic copies of all documents by 5 p.m. on the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. Parties must comply with WAC 480-07-140(6) in formatting, organizing, and identifying electronic files. Documents that include information designated as confidential must comply with the requirements in WAC 480-07-160 and the Protective Order in these dockets.
- (b) The Commission accepts only electronic versions of documents for formal filing. The Commission requires electronic copies to be in searchable .pdf format (adobe acrobat or comparable software), or to otherwise comply with WAC 480-07-140(6)(a). Parties must submit documents electronically through the Commission's web portal ([www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing)). If a party is unable to use the web portal to submit documents for filing, the Commission will accept a submission via email to records@utc.wa.gov provided the email: (1) explains the

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<sup>4</sup> RCW 80.28.060; WAC 480-07-880.

<sup>5</sup> WAC 480-07-880(2).

<sup>6</sup> Any party is permitted to file a response to a company's compliance filing. WAC 480-07-880(4).

reason the documents are not being submitted via the web portal, and (2) complies with the requirements in WAC 480-07-140(5)(b).

- (c) Parties must also file **three (3) paper copies** (with original signatures, if applicable) of all **unredacted** documents with the Commission by 5 p.m. on the next business day following the filing deadline established in the procedural schedule (or other deadline as applicable) unless the Commission orders otherwise. If any of the exhibits contain information designated as confidential, parties must file an electronic copy, only, of the redacted version in searchable .pdf (adobe acrobat or comparable software) of each such exhibit. All hard copy filings must be mailed or otherwise delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, Washington 98504-7250.
- (d) Documents filed with the Commission must conform to the formatting and other requirements in WAC 480-07-395 and WAC 480-07-460, and must comply with the requirements in WAC 480-07-160 and the Protective Order in these dockets for documents that include information designated as confidential.
- (e) Parties must electronically serve the other parties **and provide courtesy electronic copies of filings to Judge O’Connell** ([andrew.j.oconnell@utc.wa.gov](mailto:andrew.j.oconnell@utc.wa.gov)) **by 5 p.m.** on the filing deadline unless the Commission orders otherwise. If parties are unable to email copies, they may furnish electronic copies by delivering them on a flash drive, only.

18 **EXHIBITS FOR CROSS-EXAMINATION.** Parties are required to file with the Commission and serve all proposed cross-examination exhibits by **5 p.m. on September 14, 2022.** The Commission requires electronic copies in searchable .pdf (adobe acrobat or comparable software) **and three (3) paper copies of the exhibits.** If any of the exhibits contain information designated as confidential, parties must file an electronic copy, only, of the redacted version in searchable .pdf (adobe acrobat or comparable software) of each such exhibit. The exhibits must be grouped according to the witness the party intends to cross examine with the exhibits. The paper copies of the exhibits also must be organized into sets that are tabbed and labeled.

19 **EXHIBIT LISTS.** With each submission of prefiled testimony and exhibits, the party making the submission must include a preliminary exhibit list that identifies each submitted exhibit in the format the Commission uses for exhibit lists it prepares for evidentiary hearings. The Company will prepare and file its preliminary exhibit list for

their initial filing in these dockets. Each party must file and serve a final list of all exhibits the party intends to introduce into the evidentiary record, including all prefiled testimony and exhibits, as well as cross-examination exhibits by **5 p.m. on September 14, 2022.**

- 20 **PLEADINGS, MOTIONS, BRIEFS, AND OTHER PREFILED MATERIALS**  
**PLEADINGS.** The Commission modifies Judge O’Connell’s instructions, given during the prehearing conference. Except for testimony and exhibits, all motions, briefs, and other pleadings filed by the Parties, should **not** also include three (3) paper copies sent to the Commission. Instead, Parties should file electronic versions of these documents, only, for formal filing. These electronic versions must comply with WAC 480-07-140, WAC 480-07-160, the Protective Order in these dockets, and the instructions issued in this Order.
- 21 **CROSS-EXAMINATION TIME ESTIMATES.** Each party must provide a list of witnesses the party intends to cross-examine at the evidentiary hearing and an estimate of the time that party anticipates the cross-examination of that witness will take. Parties should not file witness lists or cross-examination time estimates but must provide them to the administrative law judge ([andrew.j.oconnell@utc.wa.gov](mailto:andrew.j.oconnell@utc.wa.gov)) and the other parties by **5 p.m. on September 14, 2022.**
- 22 **NOTICE OF EVIDENTIARY HEARING.** The Commission will hold a virtual evidentiary hearing in these consolidated dockets via Zoom beginning on **September 21, 2022, at 9:30 a.m. and, if necessary, continuing on September 22 and 23, 2022.** To participate by phone, call (253) 215 8782 and enter the Conference ID: 998 8641 5658# and use passcode 117213#. To participate via Zoom, use the following link: [Click here to join the meeting.](#)
- 23 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. If the Parties reach a settlement in principle and request suspension of the procedural schedule, Avista must inform the Commission whether it is willing to extend the statutory deadline, if necessary, to allow the Commission sufficient time to consider the settlement and take final action in these consolidated proceedings. The Commission may decline to consider a settlement agreement if the Commission determines that it cannot consider the settlement and take final action by the statutory deadline. Ideally, settlement among the parties would arise sooner rather than later during these proceedings, thus resulting in a Commission determination at a much earlier stage.

- 24 Parties are also encouraged to consider other means of resolving disputes informally. The Commission has limited ability to provide dispute resolution services. If you wish to explore those services, please contact Rayne Pearson, Director, Administrative Law Division ([rayne.pearson@utc.wa.gov](mailto:rayne.pearson@utc.wa.gov) or 360-664-1136).
- 25 **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 these dockets, subject to Commission review.**

DATED at Lacey, Washington, and effective February 16, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ *Andrew J. O'Connell*  
ANDREW J. O'CONNELL  
Administrative Law Judge

**APPENDIX A  
PARTIES' REPRESENTATIVES  
DOCKETS UE-220053 & UG-220054**

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**APPENDIX B  
PROCEDURAL SCHEDULE  
DOCKETS UE-220053 & UG-220054**

EVENT	DATE
Company Filing	<b>January 21, 2022</b>
First Prehearing Conference	<b>February 14, 2022</b>
Second Prehearing Conference	<b>February 28, 2022</b>
Initial Settlement Conference <sup>7</sup>	<b>May 25-26, 2022</b>
Staff, Public Counsel, and Intervenor Response Testimony and Exhibits <sup>8</sup>	<b>July 6, 2022</b>
Avista Circulates Joint Issues Matrix	<b>TBD</b>
Settlement Conference	<b>July 25-26, 2022</b>
Notice Issued for Public Comment Hearing	<b>At least 30 days prior to Public Comment Hearing</b>
Public Comment Hearing	<b>TBD</b>
Avista Rebuttal Testimony and Exhibits; Staff, Public Counsel, and Intervenor Cross-Answering Testimony and Exhibits <sup>9</sup>	<b>August 19, 2022</b>
Discovery Deadline – Last Day to Issue Data Requests <sup>10</sup>	<b>September 6, 2022</b>
Avista Files Joint Issues Matrix	<b>September 14, 2022</b>
Exhibits List, Cross-Examination Exhibits, Witnesses List, Time Estimates, Exhibits Errata	<b>September 14, 2022</b>
Evidentiary Hearing	<b>September 21-23, 2022</b>
Post-Hearing Briefs and Updated Joint Issues Matrix	<b>October 21, 2022</b>

<sup>7</sup> Parties may reschedule a settlement conference included in the procedural schedule without seeking to modify the schedule if all Parties agree, but the Parties must provide notice to the presiding officer of the rescheduled date. WAC 480-07-700(5)(a). After the prehearing conference, Public Counsel informed Judge O’Connell via email that it could attend a settlement conference beginning on May 25. Consistent with discussion during the prehearing conference, the initial settlement conference is therefore set to begin on that date and continue on May 26, if necessary.

<sup>8</sup> Response time to data requests relating to this testimony will be 7 business days.

<sup>9</sup> Response time to data requests will be 5 business days.

<sup>10</sup> Response time to data requests will be 5 business days.

Compliance Filing	<i>TBD</i>
Suspension Date <sup>11</sup>	<b>December 21, 2022</b>

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<sup>11</sup> Based on a 10-month suspension from the stated effective date of February 21, on the as-filed tariff sheets. *See* RCW 80.04.130; RCW 80.28.060.