

[Service Date May 27, 2003]

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

WASHINGTON UTILITIES AND	)	DOCKET NO. UE-011595
TRANSPORTATION	)	
COMMISSION,	)	
	)	SIXTH SUPPLEMENTAL ORDER:
Complainant,	)	PREHEARING CONFERENCE ORDER
	)	
v.	)	
	)	DOCKET NO. UE-030751
AVISTA CORPORATION, d/b/a	)	ORDER NO. 01
AVISTA UTILITIES,	)	
	)	PREHEARING CONFERENCE ORDER
Respondent.	)	ESTABLISHING SCHEDULE;
	)	EXTENDING REVIEW PERIOD
.....	)	

- 1 **Proceeding:** This proceeding is to determine the prudence of Avista’s power cost deferrals under the Energy Recovery Mechanism (“ERM”) approved as part of the Stipulation adopted by the Commission on June 18, 2002, in Docket No. UE-011595.<sup>1</sup>
  
- 2 **Conference:** The Commission convened a prehearing conference at the offices of the Commission in Olympia, Washington on May 23, 2003 presided over by Administrative Law Judge Theodora Mace.
  
- 3 **Appearances:** David Meyer, attorney, represents Avista Corporation, d/b/a Avista Utilities (“Avista”). Donald Trotter, Assistant Attorney General, represents Commission Staff. Robert Cromwell, Assistant Attorney General, Public Counsel’s Office, represents Public Counsel. S. Bradley Van Cleve, attorney, Portland, Oregon, represents Industrial Customers of Northwest Utilities (“ICNU”).

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<sup>1</sup> This proceeding to review Avista's power cost deferrals will be styled Docket No. UE-030751. This Prehearing Conference Order is captioned with both the old and new docket numbers to aid the transition to the new docket.

## MEMORANDUM

### A. Procedural Issue.

- 4 The primary issue raised by the parties during the prehearing conference was what procedures were appropriate for a review of Avista's power cost deferrals under the ERM provision approved by the Commission on June 18, 2002. This case constitutes the first Commission review of those deferrals since the ERM went into effect. The Stipulation identifies the following procedure for such a review:

Annual Filing to Review Deferrals: The Company agrees to make an annual filing on or before April 1<sup>st</sup> of each year to provide opportunity for the Commission and interested parties to review the prudence of and audits the ERM deferral entries for the prior calendar year. The Company will respond to data requests within 10 days to allow the Commission Staff and interested parties the opportunity to review the deferral information during the 90-day review period ending June 30<sup>th</sup> of each year. The 90-day review period may be extended by agreement of the parties participating in the review, or by Commission order. *Stipulation, Paragraph 4.b.*

Avista made its first annual review filing on March 28, 2003. The parties indicated they had conferred prior to that time and that a technical conference also took place to determine what aspects of Avista's power cost deferrals were of concern to the parties. When Avista did file on March 28, its filing covered amounts deferred under the ERM from July 1, 2002 to December 31, 2002. The filing consisted of a two-page letter accompanied by two attachments. The first of these provided a summary of the costs Avista deferred each month from July 1, 2002 to December 31, 2002, and the total ERM deferral balance, after application of the deadband, sharing percentages, and carrying charges. The second attachment summarized on an annual basis the data on Avista's net fuel expense.

5 On May 8, 2003, Commission Staff, Public Counsel and ICNU filed a joint motion for a prehearing conference. Their motion requested that Avista be required to make a more comprehensive filing demonstrating the prudence of its power cost deferrals and that procedures be established to permit a full review of that filing.

6 Avista argues that its March 28 filing should be sufficient to allow the parties to determine the prudence of what are, according to Avista, a series of standard power cost transactions. Avista points out that the type of filing it made in Washington on March 28 was accepted by the Idaho regulatory authorities as sufficient to determine prudence. Avista suggests that the Commission require another technical conference to further refine the issues so as to prevent Avista from having to file voluminous, and ultimately, unnecessary testimony on issues that are not contested.

7 Commission Staff and the other parties argue that since this is a case of first impression, it is important that the company file a complete justification for its power cost deferrals. Otherwise, the parties will be conducting their scrutiny of Avista's power transactions by a fragmented discovery process. Requiring Avista to file direct testimony and evidence about the prudence of its transactions would help define the issues and would save Commission time and resources. The deferral amount is \$18 million and would have a significant impact on ratepayers.

8 **Decision:** Since this is a case of first impression, the Commission deems it important to have adequate information to make a determination on the prudence of Avista's power cost deferrals. In light of the abbreviated nature of the company's filing on March 28 and considering the amount of money associated with the deferrals, the most reasonable course of action is to require Avista to make an evidentiary filing justifying the prudence of those deferrals. This requirement pertains only to this first review and should not be interpreted by the parties to be a precedent for all future review proceedings.

### **B. Scheduling.**

9 During the prehearing conference, the parties agreed upon the following schedule in the event that the Commission ordered Avista to make an

evidentiary filing in this case. It is noted that the Commissioners will preside at the hearing in this matter.

June 23, 2003	Avista direct case filing
June 30, 2003	Status report on negotiations, scheduling
August 25, 2003	Commission Staff, ICNU, Public Counsel response filing
September 17, 2003	Rebuttal filing – Avista
October 15-17, 2003	Evidentiary Hearing

This schedule is reasonable and is adopted for purposes of this proceeding.

**C. Discovery.**

10 The parties have already commenced discovery under authority under in the original docket. The discovery rule is invoked in this docket.

**D. Protective Order.**

11 The parties did not request that the Commission enter a protective order. If the need for such an order arises in the context of this case, the parties may request such an order at that time.

**E. Extension of 90-day Review Period.**

12 The parties' agreed schedule extends the review of Avista's power cost deferrals beyond the 90-day review period contemplated in the Stipulation. The Commission orders the period extended until review proceedings are completed.

**F. Alternative Dispute Resolution.**

13 The parties were encouraged to continue discussion and refinement of the issues that separate them. The parties were also encouraged to seek the Commission's assistance in resolving any disputes between them, to the extent appropriate.

Dated at Olympia, Washington and effective this 27th day of May, 2003

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE  
Administrative Law Judge

**NOTICE TO PARTIES:** Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.