

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In re the Matter of)	
	)	DOCKET NO. UE-010395
AVISTA CORPORATION, d/b/a)	
AVISTA UTILITIES	)	SECOND SUPPLEMENTAL
	)	ORDER GRANTING
Request Regarding the Recovery of	)	INTERVENTION; ESTABLISHING
Power Costs Through the Deferral	)	PROCESS AND PROCEDURAL
Mechanism	)	SCHEDULE
)	
	)	NOTICE OF PREHEARING
	)	(September 4, 2001, 9:30 a.m.)
)	
	)	NOTICE OF HEARING
	)	(September 5, 2001, 9:00 a.m.)
)	
	)	NOTICE OF PUBLIC COMMENT
	)	HEARING
.....	)	(September 10, 2001, 6:30 p.m.)

1 **PROCEEDINGS:** In the broadest context, this proceeding concerns Avista Utilities' recovery of certain power costs that presently are being booked to a Commission-approved deferral account and not included in rates to Avista's customers. The current phase of this proceeding, however, involves only Avista's request to begin recovering its deferred power costs immediately. Avista requests the Commission to approve by September 15, 2001, a 36.9 percent surcharge that Avista would collect subject to refund. Avista proposes that the broader issues be determined in subsequent phases of this proceeding, or in connection with a general rate case Avista intends to file in November 2001.

2 Earlier in these proceedings, following a first prehearing conference on April 23, 2001, and a status conference on April 27, 2001, Avista filed a Settlement Stipulation that provided an opportunity for the company to achieve a zero balance in the deferral account by February 28, 2003. The Commission approved the unopposed settlement agreement on May 23, 2001.

- 3 The hoped-for achievement of a zero balance in the deferral account pursuant to the Settlement Stipulation depended on various assumptions about the western power markets, the availability of hydroelectric power, and other factors over which Avista exerts no control. Because of the uncertainties associated with such assumptions, the Settlement Stipulation provided that if Avista's power cost deferral account balance increased substantially, or was reasonably anticipated to increase substantially, due to unanticipated or uncontrollable events, Avista would have the right to petition to alter, amend, or terminate the Settlement Stipulation.
- 4 On August 2, 2001, Avista filed a petition that would alter, amend, or terminate the Settlement Stipulation. Avista, through its petition, requests the Commission to approve a 36.9 percent surcharge increase in rates for its Washington electric customers. Avista also asks the Commission to extend the deferral account treatment of its power costs through December 31, 2003, by which date Avista expects the surcharge to reduce the account balance to zero. Avista also asks the Commission to approve accelerated amortization of a deferred credit on its balance sheet that arises from the "monetization of the Portland General Electric (PGE) Sale Agreement." This credit would be treated as an offset to the power cost deferral balance so as to reduce the overall rate impact to Avista's customers. Avista states that its need for rate relief is immediate and urgent. Avista proposes that the Commission approve and allow Avista to implement the requested surcharge by September 15, 2001, with the collection of surcharge revenues being subject to refund.
- 5 On August 10, 2001, the Commission conducted a prehearing conference in Olympia, Washington, before Administrative Law Judge Dennis J. Moss. Among other things, the purposes of the prehearing conference were to define the scope of the proceedings, establish appropriate process, develop a procedural schedule, and consider any pending motions.
- 6 **PETITION TO INTERVENE:** On August 9, 2001, BP Energy Company (BP) submitted to the Commission a courtesy copy of its Petition To Intervene, which was filed with the Commission the following morning. BP states that its interest in the proceeding arises from its status as a wholesale electricity provider that makes sales to Avista, among others. Commission Staff and Public Counsel voiced opposition to the Petition on grounds that BP's interests are tangential, at best, and BP's participation might broaden the issues in the proceeding. Avista stated that it did not oppose BP's intervention, but agreed with the concerns enunciated by others.

- 7 The Commission finds that BP has demonstrated by its filing and argument at prehearing both its substantial interest in the proceeding and that its participation would be in the public interest. BP's participation, in and of itself, will not broaden the issues the Commission otherwise will consider in this proceeding. BP's Petition To Intervene is granted.
- 8 **PARTIES:** David Meyer, General Counsel, represents Avista Corporation d/b/a Avista Utilities (Avista). Melinda Davison, Bradley Van Cleve, and Irion Sanger, Davison Van Cleve, P.C., Portland, Oregon, represent the Industrial Customers of Northwest Utilities (ICNU). Don Brookhyser and Elizabeth Westby, Alcantar & Kahl, LLP, Portland, Oregon, represent BP Energy Company. Simon ffitich, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section, Office of Attorney General (Public Counsel). Donald Trotter and Jonathan Thompson, Assistant Attorneys General, Olympia, Washington, represent the Commission's regulatory staff (Staff).
- 9 **DISCOVERY:** The Parties already have initiated discovery on an informal basis, but they request that the Commission officially invoke the discovery process under WAC 480-09-480. Staff, supported by others, requests that responses be required within three business days.
- 10 The Commission finds that this proceeding is the type described in WAC 480-09-480(2)(a). The discovery rule is invoked. In view of the expedited schedule established below, parties are required to respond to all discovery requests within three business days. Parties are required to limit discovery to that necessary to their respective cases, and parties should cooperate to facilitate discovery and resolve informally any disputes. Any discovery dispute referred to the Commission by motion must state what steps the parties have taken to resolve the dispute.
- 11 **PROTECTIVE ORDER:** The Commission anticipates that certain confidential information may be requested during the discovery process. Accordingly, discovery may be facilitated by a protective order. A protective order consistent in substance with the form typically used in Commission proceedings will be entered to protect the parties' interests in insulating confidential information from public disclosure.
- 12 **ISSUES:** This phase of the proceedings is limited in scope. The Commission will consider only the question whether Avista requires immediate rate relief in the form of a surcharge that will permit it to recover certain power costs reflected in its deferral account, subject to refund. Specific issues include, but are not limited to: a) whether proposed Schedule 93, and the rates, terms and conditions requested by the Company therein, should be placed into effect promptly, subject to refund; b) whether the

Petition is consistent with the Settlement Stipulation; c) whether the deferral mechanism currently authorized should continue in effect and, if so, on what terms and conditions; d) whether proposed Schedule 93, and the rates terms and conditions therein, are fair, just, reasonable, and sufficient; and e) the Company's plan to mitigate the deferred power costs.

- 13 We emphasize that if the Commission determines in subsequent proceedings that all or part of the costs included in any approved surcharge should not be recovered through rates, Avista will be liable to refund such amounts, with interest. Avista bears the burden to show that the Commission should order such relief as it requests; other parties may advocate alternative forms of relief, or may contend that no relief should be granted.
- 14 In this phase of the proceedings, the Commission will not determine the prudence of Avista's power costs or make determinations regarding substantive issues that may be raised in subsequent proceedings concerning the appropriate treatment of such costs for rate and accounting purposes. Specific issues that will be considered in a subsequent phase of this proceeding, or in other proceedings Avista proposes to initiate via filings later this year, include but are not limited to: a) the prudence of the power costs incurred or to be incurred by the Company; b) the optimization of Company-owned resources to the benefit of its retail customers; c) the appropriateness of recovery of power costs through a deferral mechanism and; d) a proposal for cost of capital offsets to recognize any shift in risk from shareholders to ratepayers.
- 15 **PROCESS AND PROCEDURAL SCHEDULE; NOTICE OF HEARING:**
Avista filed its direct testimony and exhibits on August 2, 2001. The Commission, following discussion at prehearing, established the following procedural schedule:
- Staff and Intervenor
Prefiled Testimony
and Exhibits August 24
 - Avista Rebuttal August 30
 - Final Prehearing September 4
 - **Hearing (Olympia)** **September 5-6**
 - Public Comment Hearing
(Spokane) September 10 (6:30 p.m.)
 - Briefs September 12 (tentative)

NOTICE IS GIVEN that the Commission will convene a prehearing conference in this proceeding on Tuesday, September 4, 2001, beginning at 9:30 a.m. in Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive SW, Olympia, Washington.

NOTICE IS GIVEN that evidentiary hearing proceedings will commence on Wednesday, September 5, 2001, beginning at 9:00 a.m. in Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive SW, Olympia, Washington.

NOTICE IS GIVEN that the Commission will conduct public comment hearing proceedings on Monday, September 10, 2001, beginning at 6:30 p.m. (doors open at 5:30 p.m.) in Building 17, Lounges A & B of Spokane Falls Community College, West 3410 Fort George Wright, Spokane.

- 16 **FILING; COPIES OF MATERIALS:** All filings should be directed to the Commission Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250, or by hand delivery to the Commission Secretary at the Commission's records center at the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington, 98504. Both the post office box and street address are required to expedite deliveries by U.S. Postal Service. An original plus fourteen (14) copies of all pleadings, motions, briefs, and other prefiled materials must be filed with the Commission. **An electronic courtesy copy of all filings should be provided to the Presiding Administrative Law Judge at <dmoss@wutc.wa.gov>.**
- 17 Parties must furnish separately a 3.5 inch IBM formatted high-density diskette including the filed document(s) in .pdf format, MS Word 97 (or later), or WordPerfect 5.1 (or later) format, **or may supplement their filing by sending an electronic copy via e-mail attachment to: <records@wutc.wa.gov>.**
- 18 **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.

DATED at Olympia, Washington, and effective this ___ day of August 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS,
Administrative Law Judge