

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

AVISTA CORPORATION'S

Natural Gas Demand-Side Management  
Programs and Expenditures During 2010  
and 2011

DOCKET UG-121026

ORDER 01

ORDER REGARDING NATURAL  
GAS DEMAND-SIDE  
MANAGEMENT PRUDENCE  
REVIEW

**I. BACKGROUND**

**A. Order 05 in Docket UE-110876 and UG-110877**

1 In 2011, Avista Corporation (Avista or Company) filed tariff revisions in consolidated Dockets UE-110876 and UG-110877 that proposed to increase its rates for electricity and natural gas service in the state of Washington. The Washington Utilities and Transportation Commission (Commission) suspended the proposed tariff revisions and commenced an adjudicative proceeding.

2 As the parties prepared for hearing, a dispute arose among some of them regarding the proper forum to review Avista's demand-side management (DSM) programs and expenditures. To resolve the dispute, Public Counsel, Avista, and Commission Staff entered into a Memorandum of Understanding, dated July 22, 2011.

3 Paragraph 1 of the Memorandum of Understanding provides as follows:

The Parties [Public Counsel, Avista, and Commission Staff] agree to jointly recommend that the Washington Utilities and Transportation Commission (Commission or UTC) adopt the following procedure to review the prudence of Avista DSM programs and expenditures:

Timing	June 1, 2012
Term	The Parties agree that this prudence review process will continue for the two-year cycles subsequent to 2012. Any Party may recommend changes to the process after 2014, based on substantial change in circumstances.
Filing	<p>Avista files testimony and supporting evidence on June 1, 2012, to demonstrate the prudence of its DSM expenditures for the prior two-year period for electric and natural gas programs (2010-2011).</p> <p>The filing will include a separate filing for natural gas which would be assigned its own docket number. The Parties will support consolidation of the natural gas and electric DSM dockets. The filing will include electric and natural gas verified savings.</p> <p>Avista agrees that discovery will be immediately available.</p>
Trigger	Within 30 days, any person may request that the Commission set Avista DSM prudence for adjudication. Avista agrees not to oppose the request.
Process	In an adjudication, the Parties agree to recommend the adjudication include the opportunity for discovery, testimony, hearing and briefs.
Length of Adjudication	Up to 6 months (Parties agree to support a schedule that would allow a Commission order within 6 months)
Implementation	The Parties agree to recommend any disallowance ordered by Commission would be implemented in the next occurring annual tariff rider filing (currently annual on 5/1) as part of the true-up.
Reservation	The Parties understand this MOU does not affect review of annual tariff rider filing (e.g., for inclusion of improper costs, etc.).

- 4 On August 1, 2011, Public Counsel, Avista, and Commission Staff filed a Joint Motion in Dockets UE-110876 and UG-110877, asking the Commission to enter an order clarifying that review of the prudence of Avista’s DSM programs and expenditures would be conducted pursuant to the Memorandum of Understanding. The Joint Movants explained “Granting this Motion would make clear the issue of DSM prudence for electric operations will be considered by the Commission as part of Avista’s biennial Energy Independence Act conservation target filing in 2012 [footnote 1: The Joint Movants’ MOU also commits to the continuation of this procedure in subsequent biennial cycles.], and in a simultaneously-filed docket related to natural gas DSM prudence, and not in this docket.”<sup>1</sup>
- 5 The Commission granted the Joint Motion on August 18, 2011, noting the link between the new prudence review process and the biennial filings required under the electricity conservation provisions of the Energy Independence Act.<sup>2</sup> The Commission found the motion to be in the public interest because:

The request provides for an alternative process in which the Commission will review and rule on the prudence of Avista’s electric and natural gas DSM expenditures. . . . Avista is the only qualifying utility whose DSM expenditures are currently reviewed for prudence in a general rate case. Granting the Joint Motion will align the prudence review process of Avista’s DSM expenditures with the process of other qualifying utilities.<sup>3</sup>

The Commission noted that prudence reviews of Avista’s DSM expenditures had historically taken place in general rate cases, while the DSM expenditures of other investor-owned utilities in Washington are reviewed outside of their rate case filings.<sup>4</sup>

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<sup>1</sup> Joint Motion of Avista, Commission Staff and Public Counsel for Order Clarifying Forum for Resolution of DSM Prudence, Dockets UE-110876 and UG-110877 (Aug. 1, 2011), ¶ 3. The Energy Independence Act, RCW 19.285, requires electric utilities to set and meet biennial targets for electricity conservation. It does not apply to natural gas conservation.

<sup>2</sup> *WUTC v. Avista Corp.*, Dockets UE-110876 and UG-110877, Order 05 Granting Joint Motion for Clarification on Forum for Resolution of DSM Prudence (Aug. 18, 2011), ¶¶ 3-4 & n.8.

<sup>3</sup> *Id.* ¶ 7 (footnote omitted).

<sup>4</sup> *Id.* ¶ 3 & n.7; ¶ 7 & n.14.

**B. Planning and Reporting for Avista's Natural Gas Demand-Side Management Programs and Expenditures**

6 Avista funds its natural gas demand-side management programs through a tariff rider mechanism that has been in place since 1994.<sup>5</sup> Avista has established an External Energy Efficiency Board that reviews Avista's demand-side management programs and budgets.<sup>6</sup> The External Energy Efficiency Board reviews Avista's proposals to adjust the natural gas tariff rider before Avista files the adjustments with the Commission. Further review occurs after Avista files proposed tariff rider adjustments. Commission Staff and other interested parties examine the proposals before making a recommendation to the Commission for its decision.<sup>7</sup>

7 In accordance with WAC 480-90-238, Avista develops and files a Natural Gas Integrated Resource Plan every two years. Among other things, WAC 480-90-238 requires an evaluation of conservation opportunities. Commission Staff and other interested parties participate in the planning process and may provide comments to the Commission. Avista presented its 2009 Natural Gas Integrated Resource plan to the Commission on April 29, 2010. The Commission acknowledged it by letter and provided written comments.<sup>8</sup> Avista filed a work plan for its 2012 Natural Gas Integrated Resource Plan on August 31, 2011.<sup>9</sup>

**C. Avista's Filings in this Docket**

8 As required by Order 05 in Dockets UE-110876 and UG-110877 and the Memorandum of Understanding it approved, Avista initiated this docket on June 1, 2012, by filing testimony and exhibits to demonstrate the prudence of its natural gas demand-side management expenditures during 2010 and 2011. Avista asked the Commission to issue a finding that the expenditures to fund Avista's natural gas efficiency programs in calendar years 2010 and 2011 were prudent.

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<sup>5</sup> *Wash. Water Power Co.*, Docket UG-941378.

<sup>6</sup> *See Wash. Water Power Co.*, Docket UE-981126.

<sup>7</sup> *See, e.g., Avista Corp.*, Docket UG-090052; *Avista Corp.*, Docket UG-110790.

<sup>8</sup> *Avista Corp.*, Docket UG-090015.

<sup>9</sup> *Avista Corp.*, Docket UG-111588; *see Avista Corp.*, Docket UG-101982, Order 01 (Dec. 30, 2010) (adjusting the due date for Avista's natural gas integrated resource plan).

- 9 On May 31 and June 5, 2012, Avista filed revisions to its natural gas tariff rider (Tariff WN U-29, Schedule 191, Public Purposes Rider Adjustment). That matter has been assigned Docket UG-120790.
- 10 On June 22, 2012, the Commission issued a Notice in this docket inviting interested persons to file written comments no later than July 16, 2012, for consideration at the Commission's July 27, 2012, Open Meeting. Referring to Order 05 in Docket UE-110876 and UG-110877, the Notice stated that, within 30 days of filing, any person could request that the Commission set the matter for adjudication.
- 11 During the comment period, the Commission received written comments from Public Counsel and from Commission Staff. At the July 27, 2012, Open Meeting, the Commission heard oral comments from Public Counsel, Commission Staff, and Avista. The Commission orally invited interested persons to file additional written comments no later than August 2, 2012. None were filed. The comments that Public Counsel filed in Docket UE-100176 also discuss issues in this docket, however.<sup>10</sup>
- 12 On July 27, 2012, the Commission suspended the Schedule 191 tariff revision in Docket UG-120790, to allow more time for review in light of the pendency of this docket. The Commission allowed the tariff revision to become effective on a temporary basis.<sup>11</sup>
- 13 The Commission heard additional oral comments in this docket from Avista, Public Counsel, and Commission Staff during its August 9, 2012, Open Meeting. The Commission also considered Staff's Open Meeting memorandum of that date. The Commission asked Staff to collaborate with interested persons to develop a proposed order, which was presented to the Commission at its Open Meeting of September 27, 2012.

## **II. SUMMARY AND DISCUSSION OF COMMENTS**

- 14 Public Counsel agreed that Avista had satisfied the June 1, 2012, filing requirement of the Memorandum of Understanding approved in Order 05 in Dockets UE-110876 and

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<sup>10</sup> Docket UE-100176 involves Avista's 2010-2011 biennial target for electricity conservation under the Energy Independence Act, RCW 19.285.

<sup>11</sup> *WUTC v. Avista Corp.*, Docket UG-120790, Order 01 (July 27, 2012).

UG-110877. Public Counsel stated that it is not requesting adjudication of Avista's DSM prudence filing.

- 15 Commission Staff stated that Avista had effectively implemented a prudent conservation portfolio, and that Avista's natural gas DSM program expenditures appeared generally to be prudent.
- 16 Commission Staff proposed an approach for assessing prudence of utility conservation activities, and described the factors to be considered in such an assessment. Commission Staff recommended that a "finding of prudence" is not necessary, urging instead that the conservation planning, reporting, and oversight process already in place is effectively a prudence review. In its August 9, 2012, Open Meeting memorandum, Staff recommended:

Avista's natural gas conservation portfolio has been exposed to a high level of scrutiny through the development of conservation potential assessments, acknowledgement of the company's integrated resource plan, review of the DSM business plan, continued advisory group involvement, commission review of DSM tariff riders, and third party evaluation of the conservation achievement. As a result, a separate determination of prudence is unnecessary. Conservation portfolios should be reviewed for prudence through the planning and reporting cycle . . . .

- 17 Commission Staff explained that review of the prudence of demand-side management expenditures always occurs when companies file proposed adjustments to their tariff riders or other conservation cost recovery mechanisms. In the past, Avista has provided evidence of cost-effectiveness of its conservation portfolio in a general rate case, but the Commission's recent orders require Avista to file that evidence on June 1 of each year.<sup>12</sup>

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<sup>12</sup> *Avista Corp.*, Docket UE-100176, Order 02 ¶ 13 (Feb. 23, 2012) (electric conservation programs); *Avista Corp.*, Docket UE-111882, Order 01 ¶ 30 (Feb. 10, 2012) (electric conservation programs); *see WUTC v. Avista Corp.*, Dockets UE-110876 and UG-110877, Order 05 ¶ 4 (Aug. 18, 2011) (electric and natural gas conservation programs).

- 18 In its written comments filed on August 2, 2012, in Docket UE-100176, Public Counsel expressed concern about Commission Staff's statement that the ongoing review process that has developed for each utility's portfolio is effectively a prudence review. Public Counsel urged that there must be an opportunity for parties to challenge prudence in an adjudicatory setting. Public Counsel recommended that the Commission address the process for assessing DSM prudence in a later policy proceeding. In its oral comments during the August 9, 2012, Open Meeting, Public Counsel expressed concern about the relationship between the prudence review process recommended by Staff and the process approved in Order 05, Dockets UE-110876 and UG-110877.
- 19 In its oral comments during the July 27, 2012, Open Meeting, Avista asked the Commission to issue an order finding that its natural gas demand-side management program expenditures in 2010-2011 were prudent. Avista requested that the Commission spell out in an order the prudence review process proposed by Commission Staff as the process to be used for future review. At the August 9, 2012, Open Meeting, Avista stated that it agreed with the recommendations in Staff's August 9, 2012, Open Meeting memorandum that a prudence finding was not necessary.
- 20 None of the comments suggested that Avista's natural gas demand-side management programs or expenditures in 2010-2011 were not prudent. No person has requested that the Commission set Avista natural gas demand-side management prudence for adjudication.
- 21 The Commission agrees with Public Counsel that the prudence review process approved in Order 05, Dockets UE-110876 and UG-110877, remains in place until and unless the Commission modifies that order. Order 05 requires Avista to make certain filings and allows any person to request an adjudication. Order 05 does not require the Commission to make a finding of prudence, or lack thereof, if no person requests an adjudication. Because no person has requested an adjudication in this docket, the Commission agrees with Staff that a "finding of prudence" is not necessary.
- 22 In the Memorandum of Understanding that the Commission approved in Order 05, Dockets UE-110876 and UG-110877, the parties agreed that the prudence review

process described in the MOU would continue for the two-year cycles subsequent to 2012, and that any party may recommend changes after 2014, based on a substantial change in circumstances. The Commission agrees with Staff and Avista, however, that the ongoing review of Avista's natural gas demand-side management programs and expenditures that occurs under the process described above in Part I.B is effectively a prudence review. The Commission encourages the interested parties to work together in both processes.

### III. FINDINGS AND CONCLUSIONS

- 23 (1) The Washington Utilities and Transportation Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including gas companies. RCW 80.01.040; RCW Chapters 80.04, 80.08, 80.12, 80.16, 80.28.
- 24 (2) Avista is a gas company and a public service company subject to Commission jurisdiction.
- 25 (3) In Order 05 in Docket UE-110876 and UG-110877, the Commission approved a July 22, 2011, Memorandum of Understanding between Public Counsel, Avista, and Commission Staff, which describes a process for Commission review of the prudence of Avista's natural gas demand-side management programs and expenditures. The "Filing" element in the Memorandum of Understanding required Avista to file testimony and supporting evidence on June 1, 2012, to demonstrate the prudence of its natural gas DSM expenditures during 2010 and 2011.
- 26 (4) On June 1, 2012, as required by the Memorandum of Understanding, Avista filed the testimony of three witnesses, supporting exhibits, and other materials to demonstrate the prudence of its natural gas demand-side management expenditures during 2010 and 2011. Avista has satisfied the "Filing" element of the Memorandum of Understanding approved in Order 05, Docket UE-110876 and UG-110877.
- 27 (5) The "Trigger" element of the Memorandum of Understanding approved in Order 05, UE-110876 and Docket UG-110877, and described in ¶ 4 of Order



05, provided that any person could request an adjudication of Avista DSM prudence within 30 days of Avista's filing. The Notice that the Commission issued on June 22, 2012, referred to the deadline as described in Order 05. No person has requested that the Commission set Avista DSM prudence for adjudication.

- 28 (7) No comments or information presented to the Commission suggest that Avista's natural gas demand-side management programs and expenditures during 2010 and 2011 were not prudent.
- 29 (8) Nothing in this order is intended to modify Order 05 in Dockets UE-110876 and UG-110877.
- 30 (9) The Commission will review Avista's natural gas demand-side management expenditures when it considers the revisions to Tariff WN U-29, Schedule 191, Public Purposes Rider Adjustment, in Docket UG-120790. Nothing herein changes the status of Order 01 entered in that docket on July 27, 2012. The tariff suspension will remain in effect until the Commission orders otherwise in Docket UG-120790.

#### **IV. ORDER**

##### **THE COMMISSION ORDERS:**

- 31 (1) Avista Corporation has complied with Order 05, Docket UE-110876 and UG-110877, with respect to its natural gas demand-side management programs and expenditures for 2010 and 2011.
- 32 (2) Avista Corporation has a natural gas demand-side program that will be reviewed for prudence outside of a general rate case, consistent with Puget Sound Energy, Inc., and PacifiCorp d/b/a Pacific Power and Light Company.

DATED at Olympia, Washington, and effective September 27, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner