

**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 and
UG-220054 (*Consolidated*)

**RESPONSE TO BENCH
REQUEST NO. 2**

- 1) Small Business Utility Advocates (“SBUA”) provides the following response to the Administrative Law Judge (“ALJ”) Bench Request No. 2, issued on March 16, 2022, in Dockets UE-220053 & UG-220054.
- 2) Bench Request No. 2(a): “Please identify and explain, with greater specificity and in greater detail than the stated calculation of the likely number of small businesses that operate in Avista’s service territory, the particular customers [SBUA] seeks to represent.”
- 3) Response: Title 39 of the Revised Code of Washington, governing public contracts, defines a “Small business” as:

[A]n in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either: (i) Fifty or fewer employees; or (ii) A gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or (b) Is certified with the office of women and minority business enterprises under chapter 39.19 RCW. RCW 39.26.010(22).
- 4) In the UE-220053/UG-220054 general rate case, SBUA seeks to represent and advocate

for the interests of Avista customers that meet these qualifications. This class of customers may include, but is not limited to, Avista ratepayers that also qualify for Avista’s various small business incentive programs, including its commercial/industrial business partner and prescriptive programs,¹ its community and small business energy efficiency² and energy assistance programs,³ and its on-bill financing programs for small business energy efficiency upgrades.⁴

- 5) While SBUA is still studying Avista’s application, it is our understanding that small businesses are primarily served by Avista’s Electric Rate Schedule 11 and Gas Rate Schedule 101, and that these customers may run in the five figures, although SBUA would need to confirm these numbers in discovery.
- 6) Bench Request No. 2(b): “Please identify and explain SBUA’s connection to the customers identified in (a), above, including duration of membership or relationship, and also SBUA’s connection to Avista’s service territory.”
- 7) Response: SBUA’s connection to the small business ratepayers identified in ¶¶ 3-5 above is driven and defined by SBUA’s nonprofit mission and the support of its members.
 - a. Nonprofit Mission: The organization’s core mission is to ensure fair and reasonable energy costs for small business ratepayers and to promote utility programs that help small businesses, including progressive energy and climate change programs related to clean energy, distributed energy, demand response, among others. Because small

¹ Avista Programs supporting the Clean Energy Implementation Plan at 1, available at <https://www.myavista.com/-/media/myavista/content-documents/about-us/ceip/appendix/c/energy-efficiency-program-descriptions.pdf> (last visited Mar. 3, 2022).

² *Id.* at 3.

³ *Id.* at 6.

⁴ Washington Energy-Smart Loans: Energy-efficiency financing for your home or small business, available at <https://www.myavista.com/energy-savings/washington-energy-smart-loans>, (last visited Mar. 3, 2022).

businesses usually cannot afford their own representation, they are largely unable to participate in utility proceedings. SBUA aims to address this problem by providing a mechanism and increased capacity for small business ratepayers to shape regulatory decisions and make their voices heard. In this process, SBUA seeks to hold regulatory authorities and utilities accountable to this important ratepayer class and ensure equitable utility costs, rate design, and allocation of utility resources. SBUA's mission directs its advocacy to matters that benefit the *community* of small business ratepayers as a whole. SBUA, therefore, does not represent the direct financial interests of any individual small business or member. If SBUA prevails in its advocacy related to utility programs, rate design, costs or otherwise, the benefits to small businesses are dispersed across all ratepayers in the relevant classes.

- b. Membership. SBUA has numerous members that are Avista small business customers, which are among the hundreds of SBUA members across California, Oregon, and Washington. SBUA's first Washington member joined in 2013; however, most of SBUA's current members joined between 2020 and the present. This proceeding is SBUA's first before the Washington UTC. Because SBUA is new to the Washington intervenor program, which was only established in the last few months, SBUA's membership and relationships are actively developing. SBUA anticipates having over two dozen members in the State of Washington by the end of 2022. Along with legal advocacy, SBUA's connection to small business customers includes outreach and education on utility issues, invitations to provide public comment in key utility proceedings, and digests of contractor opportunities for small businesses and minority owned business for utility related contractor projects.

- 8) Bench Request No 2(c): “Please detail and explain how no other party, *e.g.*, the Public Counsel Unit of the Washington Attorney General’s Office (Public Counsel), adequately represents small business customers in Avista’s service territory. Where the represented interests of small business customers in Avista’s service territory overlap with that of Public Counsel, please explain how the public interest will benefit from the participation and funding of SBUA’s participation in these consolidated proceedings.”
- 9) Response: Given our mission statement, only SBUA exclusively represents the interests of small business customers as a class. By comparison, Public Counsel’s advocacy includes the interests of residential customers, which, by necessity, can conflict with the interests of small commercial customers. For example, lowering revenue allocation for one customer class, such as small commercial customers, necessarily requires redistributing the revenue requirements to other classes, including residential customers (a proposition that Public Counsel can and may oppose). Because of SBUA’s unique core mission, we are able to sustain conflict-free and untethered advocacy in favor of small commercial customers throughout proceedings. Therefore, while other parties, such as Public Counsel, may have some positions that are similar to SBUA in some degrees, our perspectives and goals are necessarily different, and unique to small business customers.
- 10) Thus, where the represented interests of small business customers in Avista’s service territory overlap with that of Public Counsel, the public interest will benefit from the Commission hearing both the focused voice of SBUA and the broader perspective of Public Counsel, along with their distinct rationales, individual analyses, and different proposals for resolution of issues. Moreover, while the Commission expressly declined

to adopt a “materiality” condition to intervenor funding in its Policy Statement, as it might chill new participation,⁵ the reasonableness of any funding award likely depends on all parties providing individual contributions that aid the Commission in its decision-making. This mitigates against a duplication of effort.

Dated this 18th day of March, 2022.

Respectfully submitted,

/s/ Jeff Winmill

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⁵ POLICY STATEMENT ON PARTICIPATORY FUNDING FOR REGULATORY PROCEEDINGS, DOCKET U-210595 at P 61 (issued Nov. 19, 2021) (stating that “[t]he Commission declines to condition general funding and interim funding on the basis of a participant’s material contribution to a proceeding at this time. The Commission needs more experience with the program before it can assess how materiality would impact overall eligibility. The Commission wants to ensure any materiality requirements will not discourage participation of newcomers in our processes nor discourage collaboration among participants in adjudicative and non-adjudicated proceedings.”).