

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION)	DOCKETS UE-240006 and UG-240007 (<i>Consolidated</i>)
)	
Complainant,)	
)	REPLY TO AVISTA’S RESPONSE TO
v.)	STAFF’S MOTION FOR SUMMARY
)	DETERMINATION OF
AVISTA CORPORATION d/b/a)	THE ALLIANCE OF WESTERN
AVISTA UTILITIES)	ENERGY CONSUMERS
)	
Respondent.)	

I. INTRODUCTION

1 Pursuant to Administrative Law Judge Doyle’s April 25, 2024, Notice Inviting
Reply to Avista’s Response (“Response”) to Staff’s Motion for Summary Determination
 (“Motion”), the Alliance of Western Energy Consumers (“AWEC”) hereby files this Reply with
 the Washington Utilities and Transportation Commission (“Commission”).

II. RELIEF REQUESTED

2 While AWEC generally believes Staff has raised legitimate concerns about the
 justness and reasonableness of Avista’s “portfolio forecast error” adjustment to the power cost
 baseline (and AWEC also opposes this adjustment) regardless of how the Commission rules on
 Staff’s Motion, AWEC respectfully requests that the Commission make this ruling prior to the
 Initial Settlement Conference on May 28-29, 2024 so that parties may engage in productive

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DAVISON VAN CLEVE, P.C.
107 SE Washington St., Suite 430
Portland, OR 97214
Telephone: (503) 241-7242

settlement negotiations. In the alternative, AWEC requests that if the Commission cannot make a determination prior to May 28th, the Commission indicate as much so that parties may reschedule the settlement conference to take place after the Commission issues a decision on Staff's Motion.

III. STATEMENT OF THE FACTS

3 On January 18, 2024, Avista filed its 2024 general rate case with the Commission. Included in Avista's initial filing for revised rates is a Net Power Expense pro forma adjustment of \$65.8 million to address anticipated forecast error.¹ Avista incorporates the portfolio forecast error into the Energy Recovery Mechanism ("ERM") as a reduction in Account 447 revenues, thereby proposing an increase to the ERM baseline by \$65.8 million.²

4 On March 20, 2024, Staff filed a Motion requesting that the Commission determine as a matter of law that Avista may not include the \$65.8 million adjustment in the Company's pro forma power cost adjustment nor incorporate it into the Company's the ERM baseline.³

5 On April 9, 2024, Public Counsel ("PC") filed a reply in support of Staff's Motion.⁴ On April 9, 2024, Avista filed its Response, recommending that the Commission deny

¹ See CGK-1T at 224:4-6 and SJK-1T at 65:9-10.

² Exh. CGK-3 at 2 line 62.

³ Staff Motion for Summary Determination ("Staff Motion") at 2:4.

⁴ Public Counsel's Reply in Support of UTC Staff's Motion for Partial Summary Determination, at 2:2.

Staff's Motion.⁵ On April 25, 2024, the Commission issued a notice inviting reply to Avista's Response to Staff's Motion.⁶

IV. STATEMENT OF THE ISSUES

6 Whether the Commission should conclude as a matter of law that Avista may not incorporate the \$65.8 million portfolio forecast error adjustment into the Company's pro forma power cost adjustment and into the Company's ERM baseline.

V. ARGUMENT

a. Staff's conclusion that Avista's portfolio forecast error adjustment is not known and measurable is reasonable.

7 Staff argues that Avista has failed to carry its burden of proof regarding whether the Company's proposed \$65.8 million portfolio forecast error adjustment is known and measurable and offset by other factors.⁷ Staff further asserts that "[t]he Commission should reject the portfolio forecast error adjustment because it unfairly, unjustly, or unreasonably modifies the ERM."⁸ AWEC concurs with Staff that Avista's portfolio forecast error adjustment is not a reasonable adjustment to the ERM baseline.

⁵ Avista's Response to Staff's Motion for Partial Summary Determination, at 1:3.

⁶ Notice Inviting Reply to Avista's Response to Staff's Motion for Summary Determination, at 2.

⁷ Staff Motion at 11:22-16:33. Commission precedent requires that "[p]ro forma adjustments to the historical test year must reflect 'known and measurable' expenses" and that "utilities must account for offsetting costs when proposing pro forma adjustments." Docket No. TP-190976, Order No. 09 at 15:56; Docket No. UG-200568, Order No. 05, at 92:305. Accordingly, "[i]t is the Company's burden to demonstrate...that the effect of the event will be in place during the rate year." Docket Nos. TP-220513, Order No. 08 at fn.357 (internal citations omitted).

⁸ Staff Motion at 16.

In Avista’s 2017 general rate case, following several years of controversy over Avista’s power cost modeling, the Commission concluded that “Avista’s power cost forecasts [had] been consistently unbalanced in the Company’s favor,”⁹ and ordered Avista to engage parties “in a discussion about how power cost modeling may be simplified and improved.”¹⁰ Through a series of workshops that took place over two years, a collaborative team, which included AWEC representatives, was able to reach agreement on a power supply modeling methodology in an effort to resolve the forecasting issues raised by parties.¹¹ Notably, in reporting on the progress of those workshops shortly before the agreed-upon methodology was finalized, Avista testified that the over-collection of power costs the Company had experienced in recent years “will trend towards the surcharge direction when market prices rise.”¹² Mr. Kalich, for the Company, further testified that “[w]holesale natural gas prices and electricity prices are volatile – they always have been and always will be. For 2019, while the recent forecast shows deferrals in the rebate direction ... volatility can quickly wipe away any benefit and drive the ERM into the surcharge direction. This is normal in my view, and the ERM appropriately tracks this volatility.”¹³ Yet, now that Mr. Kalich’s prediction has materialized, based on “normal” conditions, Avista proposes to increase the ERM baseline in a manner

⁹ Docket Nos. UE-170485 and UG-170486 Order 07 at 54:156.

¹⁰ *Id.* at 55:161.

¹¹ *See* Docket Nos. UE-200900, UG-200901, and UE-200894, EXH. CGK-10.

¹² Docket Nos. UE-190334 and UG-190335, Exh. CGK-1T at 10:13-14.

¹³ *Id.* at 10:22-11:3.

fundamentally at odds with the outcome of the power cost workshops and Commission precedent.

9 In its 2017 rate case order, the Commission stated that it “will consider carefully any adjustments to the power cost baseline and change it only in extraordinary circumstances, which would include more closely matching the baseline to actual collections.”¹⁴ For example, the Commission has previously adjusted the ERM baseline as the result of the expiration of a contract, reasoning the expiration was “a finite, known event with a measurable impact.”¹⁵

10 Here, in support of its \$65.8 million portfolio forecast error, Avista asserts that the Company cannot forecast power supply costs accurately and that such forecasts “continue to get worse with new and nearly impossible to predict variables.”¹⁶ These variables include the “normal”¹⁷ circumstance of market volatility and illiquidity.¹⁸ As such, Avista proposes a specific dollar increase to the ERM baseline based on an unspecified event that Avista itself predicted would occur and previously considered “normal.” This does not provide the compelling evidence required under Commission precedent.

b. Regardless of the outcome, AWEC recommends the Commission issue an order on Staff’s Motion prior to the May 28th Initial Settlement Conference.

11 AWEC notes that Avista does not argue the merits of Staff’s motion and, instead, merely requests the opportunity for a hearing on its power cost adjustments. Regardless of how

¹⁴ Docket Nos. UE-170485 and UG-170486, Order No. 07 at 54:160.

¹⁵ *Id.* at 54:158.

¹⁶ Exh. SJK-1T at 54:6-9.

¹⁷ Docket Nos. UE-190334 and UG-190335, Exh. CGK-1T at 11:3.

¹⁸ Exh. SJK-1T at 57:18-21; 62:9-11; 68:13-16.

the Commission resolves this dispute, an open item of this magnitude creates significant uncertainty for the parties. Pursuant to the February 27, 2024, Order, an Initial Settlement Conference will be held on May 28-29, 2024.¹⁹ Given that Avista's proposed \$65.8 million adjustment accounts for approximately 50% of the Company's total requested first year rate increase in this proceeding, it will be effectively impossible for parties to settle any issues without a determination on Staff's Motion because they will not know the starting point for negotiations. AWEC therefore recommends that the Commission issue an order on Staff's Motion prior to the Initial Settlement Conference so that parties may engage in productive negotiations. In the alternative, AWEC requests that if the Commission cannot make a determination prior May 28th, the Commission identify the date by which it will make a determination so that parties may reschedule the settlement conference to take place after the Commission issues a decision on Staff's Motion.

VI. CONCLUSION

12 For the reasons set forth herein, AWEC concurs with many of the concerns raised by Staff, but regardless of how the Commission rules, AWEC respectfully requests that the Commission make a determination regarding Staff's Motion prior to the Initial Settlement Conference in these dockets.

¹⁹ Docket Nos. UE-240006 and UG-240007, Order No. 2, at 7.

Dated this 6th day of May 2024.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Sommer J. Moser

Sommer J. Moser, OR State Bar No. 105260

Tyler C. Pepple, WA State Bar No. 50475

Davison Van Cleve, P.C.

107 SE Washington St., Suite 430

Portland, OR 97214

sjm@dvclaw.com

tcp@dvclaw.com

Telephone: (503) 241-7242

Attorneys for the Alliance of Western Energy Consumers

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