

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of)	
)	DOCKET NO. UE-000080
AVISTA CORPORATION)	
)	
for a Ruling on the Regulatory Treatment of)	ORDER CLARIFYING ORDER
the Gain on the Proposed Sale of the 2.5%)	APPROVING SALE AND DISTRIBUTION
Share of the Centralia Power Plant Acquired)	OF GAIN
by Avista Corporation from Portland General)	
Electric to be Sold to TECWA Power, Inc.)	
.....)	

I. SUMMARY

A. SYNOPSIS

1 The Commission clarifies its final order in this matter by confirming that Avista should treat the sale of Avista’s 2.5 percent share of Centralia consistently with the Second and Fourth Supplemental Orders in Dockets No. UE-991255, *et al.*¹

B. PROCEEDINGS

2 On January 24, 2000, Avista filed with the Commission a request for a ruling on the regulatory treatment of the gain on its proposed sale of the 2.5 percent share of the Centralia Power Plant acquired by Avista from PGE. The Commission convened a prehearing conference at Olympia, Washington on February 10, 2000, before Administrative Law Judge C. Robert Wallis. The parties submitted an agreed stipulation of facts to the Commission on Monday, February 14, 2000. The parties submitted simultaneous opening briefs on February 28, 2000. Avista and Public Counsel submitted reply briefs on March 6, 2000.

C. PARTIES

3 Gary A. Dahlke, Paine, Hamblen, Coffin, Brooke & Miller, Spokane, represents Avista. Robert D. Cedarbaum, Senior Counsel, Olympia, represents the Staff of the Washington Utilities and Transportation Commission (“Commission Staff”). Simon ffitch, Assistant Attorney General, Seattle, appears as Public Counsel. Melinda J. Davison, Duncan Weinberg Genzer and Pembroke, Portland, represents the Industrial Customers of Northwest Utilities (“ICNU”).

¹ Second Supplemental Order, *Avista/PacifiCorp/PSE Applications to Sell Centralia Power Plant*, Docket Nos. UE-991255, UE-991262 and UE-991409 (March 6, 2000). Hereinafter *Centralia*.

II. MEMORANDUM

A. BACKGROUND

4 In this proceeding Avista Corporation asked the Commission to determine whether it has jurisdiction to approve the sale, and if yes, to approve the sale and the regulatory treatment of the gain on the proposed sale of the Company's 2.5 percent share of the Centralia power plant and related facilities ("Centralia" or "the Plant"). This 2.5 percent share of the Plant was acquired by Avista from Portland General Electric on December 31, 1999 ("the PGE share"). Avista has contracted to sell the PGE share to TECWA contemporaneously with the sale of the Company's original 15 percent share of the Plant. TECWA is a Washington corporation and a subsidiary of TransAlta Corporation, headquartered in Calgary, Alberta, Canada.

5 On February 11, 2000, the parties submitted a stipulation of facts and eleven exhibits identified as Exhibits A-K. The decision in this matter was based on those facts and exhibits. The decision in this matter was also based, in part, on the Commission's decision in *Centralia*,² in which all parties to this proceeding were also parties, and which was entered on March 6, 2000. The Commission incorporated the record in *Centralia* into this proceeding.

6 On March 22, 2000, the Commission authorized Avista Corporation ("Avista") to sell the portion of the Centralia steam plant and related facilities it purchased from Portland General Electric ("PGE") to TECWA Power, Inc. (TECWA). The Commission ordered that the gain on the sale should be allocated equally between Avista's shareholders and ratepayers.

B. MOTION FOR RECONSIDERATION

7 On April 3, 2000, Commission Staff filed a Petition for Reconsideration. Staff's petition notes that petitions for reconsideration are currently pending in *Centralia*, and indicates that issues presented to the Commission by those petitions include the appropriate treatment for allocating transaction costs and state income taxes between ratepayers and shareholders. The Staff asks the Commission to order "equal treatment" on those items to the treatment ordered in *Centralia*. (ICNU's Response, p. 2).

8 On April 14, 2000, ICNU filed a response to Commission Staff's Petition for Reconsideration. In its response ICNU argues, as it did in *Centralia*, that Avista should bear 100 percent of the transaction costs of the sale of the PGE share. ICNU asks the Commission, if it elects to impose any of the transaction costs on ratepayers, to require Avista to demonstrate that such costs were prudent. (ICNU's response, p. 2).

² *Id.*

Commission Discussion

- 9 On reconsideration, the Commission may explain or “clarify” portions of an order to assist the parties in implementing its requirements. The Commission has, contemporaneously with entry of this order, entered its Fourth Supplemental Order, Order Granting Reconsideration in Part; Providing Clarification in Centralia.³ In that order the Commission determines:

The Order [Second Supplemental Order] used an estimate of taxes based on the federal tax rate to illustrate the tax consequences of the sale. It did not seek to address other states’ taxes, because the record is not well developed on that issue. Both Avista and PacifiCorp are currently before the Commission in rate request proceedings. After the sale closes, and final numbers are known, Avista and PacifiCorp should present their detailed implementation proposals regarding other states’ taxes. The Commission will be able to determine in that forum the proper amount of other states’ taxes to include in Washington rate calculations. The Commission expects any other states’ taxes allocated to Washington ratepayers to be allocated between shareholders and ratepayers in the manner it has shown for Federal taxes. (Order, Paragraph 90).

and

The transaction costs should be deducted from the proceeds before calculating the pre-tax gain. The methods proposed by Commission Staff, Public Counsel, and Avista to account for transaction costs appear to be equivalent, and are the appropriate method. The Commission disagrees with ICNU that the Companies should bear all of the transaction costs. (Order, Paragraph 96).

- 10 The Commission agrees with Commission Staff that these rulings should apply equally to Avista’s sale of the PGE share. The Commission will allow ICNU or other parties to examine the prudence of the transaction costs in Avista’s general rate request proceeding.

³ *Id.*

ORDER

11 The Commission grants the petition for reconsideration as fully described in the text of this Order.

DATED at Olympia, Washington, and effective this day of April 2000.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner