

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	DOCKETS UE-120436 and UG-120437 ( <i>Consolidated</i> )
	)	
Complainant,	)	ORDER 03
	)	
v.	)	PREHEARING CONFERENCE
	)	ORDER, ORDER GRANTING
AVISTA CORPORATION d/b/a AVISTA UTILITIES,	)	REQUEST FOR LIMITED
	)	CONSOLIDATION OF DOCKETS
	)	<b>(Evidentiary Hearing set for</b>
Respondent.	)	<b>November 27-30, 2012)</b>
	)	
.....	)	
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	DOCKETS UE-110876 and UG-110877 ( <i>Consolidated</i> )
	)	
Complainant,	)	ORDER 08
	)	
v.	)	ORDER GRANTING REQUEST FOR
	)	LIMITED CONSOLIDATION OF
AVISTA CORPORATION d/b/a AVISTA UTILITIES,	)	DOCKETS AND VACATING PRIOR
	)	PROCEDURAL SCHEDULE
	)	<b>(Evidentiary Hearing now set for</b>
Respondent.	)	<b>November 27-30, 2012)</b>
	)	
.....	)	

1 **NATURE OF PROCEEDINGS:** On April 2, 2012, Avista Corporation d/b/a Avista Utilities (Avista or Company) revisions to its currently effective Tariff WN U-28, Electric Service in Docket UE-120436 and revisions to its currently effective Tariff WN U-29, Gas Service in Docket UG-120437. Specifically, Avista requests an electric rate increase of \$41.0 million, or 9.0 percent, and a gas rate increase of \$10.1 million or 7.0 percent. In addition, Avista filed tariff Schedule 93, which reflects a proposed one-year Energy Recovery Mechanism bill decrease, or rebate, to electric customers of \$13.6 million (about 2.9 percent). On April 26, 2012, the Washington

Utilities and Transportation Commission (Commission) suspended operation of the tariffs and consolidated the dockets for hearing. The Commission entered a standard protective order on April 27, 2012.

2 The Commission convened a prehearing conference in this proceeding at Olympia, Washington on May 9, 2012, before Administrative Law Judge Marguerite E. Friedlander, whom the Commission appoints as presiding officer in this proceeding.

3 **PARTY REPRESENTATIVES:** David J. Meyer, Vice President and Chief Counsel for Regulatory and Governmental Affairs, Spokane, Washington, represent Avista. Simon J. ffitch, Senior Assistant Attorney General, and Lisa W. Gafken, Assistant Attorney General, Seattle, Washington, represent the Public Counsel Section of the Washington Office of Attorney General (Public Counsel). Donald T. Trotter and Michael A. Fassio, Assistant Attorneys General, Olympia, Washington, represent the Commission's regulatory staff (Commission Staff or Staff).<sup>1</sup>

4 Melinda J. Davison, Davison Van Cleve, P.C., Portland, Oregon, represents the Industrial Customers of Northwest Utilities (ICNU). Ronald L. Roseman, Attorney, Seattle, Washington, represents The Energy Project. Chad M. Stokes and Tommy A. Brooks, Cable Huston Benedict Haagensen & Lloyd LLP, Portland, Oregon, represent the Northwest Industrial Gas Users (NWIGU). Todd True, Earthjustice, Seattle, Washington, represents The Northwest Energy Coalition (NWECC). A complete list of party representatives and interested persons, along with their contact information, is attached to this Order as Appendix A.

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<sup>1</sup> In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

5 **PETITIONS FOR INTERVENTION.** The following businesses and organizations filed petitions to intervene:

- ICNU
- The Energy Project
- NWIGU
- NWECC

6 There were no objections to the petitions to intervene. The Commission finds that the petitioners each demonstrated their substantial interests in this proceeding and that their participation will be in the public interest. The petitions to intervene are granted.

7 **DISCOVERY.** Discovery will continue pursuant to the Commission's discovery rules, WAC 480-07-400 – 425. The response time for data requests is ten business days. In addition, to expedite the exchange of potentially relevant information, all parties are required to provide all work papers, including model runs and source documents, at the time they prefile testimony and exhibits. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

### I. PROCEDURAL SCHEDULE

8 During the prehearing conference, the parties were unable to agree on a procedural schedule. Avista, Staff, and Public Counsel each proposed schedules for the Commission's consideration. Both Staff and Public Counsel argue that the Company's proposal does not provide sufficient time for the parties to develop their cases given the complexity of the issues in the rate request. ICNU and NWIGU indicated they too would appreciate additional time to prepare their arguments. In response to questioning from the bench, Public Counsel conceded that Staff's proposed schedule would be a practical alternative.

9 The Commission has examined the competing proposals and the Commission's calendar and finds with one exception that Staff's proposed schedule best balances the needs of the parties for adequate time to develop their cases while providing for a

reasonable hearing schedule. The exception is Staff's proposed deadlines for post-hearing briefs and the final issues lists, which would not result in final party presentations of their positions until mid-January and would not leave the Commission sufficient time to draft a final order. The Commission, therefore, will set these deadlines for January 4, 2013. The Commission otherwise adopts Staff's procedural schedule proposed at the prehearing conference. The procedural schedule is more fully set forth in Appendix B to this Order.

- 10 *Joint Issues List.* Given the complexity of the issues involved, the Commission recognizes the value and utility of a joint issues list in this proceeding. Avista will compile an issues list based on its prefiled direct case and circulate this list to the parties by **July 25, 2012**. The parties will then supplement the list with issues they intend to raise and the corresponding monetary adjustments.<sup>2</sup> All adjustments will be based on Avista's test year actual results (or "per books"). Avista is responsible for compiling the parties' issues into a single joint issues list and filing it with the Commission by **October 1, 2012**.<sup>3</sup> The parties are welcome to format the list in a style of their choosing (i.e., matrix, Excel spreadsheet, et cetera), as long as the list includes the above-referenced information. The issues list should be a neutral list of the disputed issues presented for Commission resolution and should not include party advocacy on those issues.
- 11 *Updated Issues List.* During the course of preparing testimony and settlement discussions prior to the evidentiary hearing, some issues will have been resolved making it unnecessary for the Commission to address them in the final order. As such, the parties will file an updated issues list with their post-hearing briefs on **January 4, 2013**.

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<sup>2</sup> If a party intends to raise an issue with Avista's direct case and does not intend to do so through the testimony of a witness, that party should still include those issues in the list.

<sup>3</sup> If the parties wish to submit their issues in a separate issues list, that should be done by October 1, 2012, as well. However, it is the Commission's preference to receive one, comprehensive issues list.

- 12 *Cross-Examination Exhibits.* The parties must pre-distribute **8 hard copies** of the cross-examination exhibits they have prepared for use during the evidentiary hearing to the Commission's Records Center by **November 19, 2012**. Cross-examination exhibits also must be served on all parties by this same date. The exhibits must be accompanied by an exhibit list and must be organized into sets that are tabbed, labeled, and grouped according to the witness the party intends to cross examine with the exhibits. Cross-examination exhibits not conforming to these requirements may be rejected. The parties will provide an electronic copy of all cross-examination exhibits to the administrative law judge by **November 21, 2012**. The parties will file all cross-examination exhibits offered or discussed on the record by **December 10, 2012**.
- 13 *Public Comment Hearing.* The Commission will hold public comment hearings in this matter on dates and at times to be established by subsequent notice.
- 14 *Post-Hearing Briefs.* The parties' post-hearing briefs will be due **January 4, 2013**.
- 15 **NOTICE OF HEARING.** The Commission will hold evidentiary hearings in this matter beginning **November 27, 2012**, at 9:30 a.m., and continuing thereafter, as necessary, on **November 28, 29, and 30, 2012**, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.

## II. MOTION TO CONSOLIDATE

- 16 On May 11, 2012, the Commission convened a status conference in the second phase of Dockets UE-110876 and UG-110877, consolidated. The second phase, examination of the issue of full decoupling as an option for the Company, had been set for hearing on June 4, 2012, prior to Avista filing its current general rate case (2012 GRC). This new rate case contains an attrition adjustment, one component of which is the possible recovery of lost margins from the Company's demand side management program. At the status conference, NWECA, proposed the limited consolidation of the decoupling proceeding with Avista's 2012 GRC. Under NWECA's proposal, the previously filed decoupling testimony would become a part of

Avista's 2012 GRC. Additional testimony that is still outstanding in the decoupling proceeding would instead be due at the same time the parties filed responsive testimony in Avista's 2012 GRC on September 19, 2012. This, NWEAC argues, would allow further refinement of the decoupling issues, as well as enable the parties to address both the Commission's recent ruling on decoupling in Puget Sound Energy, Inc.'s (PSE) general rate case and Avista's proposed attrition adjustment.

- 17 ICNU and Public Counsel oppose NWEAC's consolidation request. They argue that it would complicate an already complex general rate case. ICNU contends that NWEAC should withdraw its full decoupling proposal in light of the Commission's decision in PSE's rate case declining to impose decoupling on the utility. Both ICNU and Public Counsel raise concerns that NWEAC will use this opportunity to modify its original decoupling proposal.
- 18 Staff and Avista support consolidation based on the related facts and principles involved in both proceedings. Avista points out that NWEAC could raise decoupling in the Company's 2012 GRC in an effort to counter the attrition adjustment proposal even without the consolidation of the proceedings. As a result, the parties would still have to address the issue without benefit of their previous testimony in the record. NWEAC took no position on NWEAC's consolidation request. The Energy Project indicated that, if the matters were consolidated, it might be in a position to participate in the decoupling issue where it previously could not.
- 19 *Commission Decision and Determination.* Contrary to ICNU and Public Counsel's claims of additional complexity, Avista's 2012 GRC already contains an element of lost margin recovery. As Avista correctly points out, NWEAC, or any other party for that matter, could raise decoupling in the 2012 GRC even absent consolidation. The fact remains that the decoupling/demand side management based attrition adjustment proposals are related. Having these proceedings continue on separate tracks is a poor option. Decisions in these cases should not be rendered separately, in a vacuum, and without a full evidentiary record in either.

20 The Commission finds that the decoupling issue in Dockets UE-110876 and UG-110877 and the demand side management component of Avista's proposed attrition adjustment involve related facts and principles of law. It is appropriate then that they be consolidated for hearing and determination pursuant to WAC 480-07-320.

21 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file the original plus **20 copies** of the unredacted versions of all pleadings, motions, briefs, and other prefiled materials. Parties must also file the original and **1 copy** of any redacted version(s). These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

22 All filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

23 An electronic copy of all filings must be provided through the Commission's Web Portal ([www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing)) or by e-mail delivery to ([records@utc.wa.gov](mailto:records@utc.wa.gov)). Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.

24 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Electronic versions of all documents must be filed in accordance with WAC 480-07-140(6). Specifically, all documents must be filed in .pdf (Adobe Acrobat) format, supplemented by a separate file in .doc (MS Word), .wpd (WordPerfect), .xls (Excel), or .ppt (Power Point) format.

25 As stated in WAC 480-07-145(6), the parties may electronically submit documents to the Commission provided the electronic submission is received by 3:00 p.m. on the filing deadline and the Commission receives the original and required number of copies by 12:00 p.m. on the following business day. Parties must submit documents through the Commission's Web Portal ([www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing)) or by e-mail to [records@utc.wa.gov](mailto:records@utc.wa.gov), and file an original, plus **20 copies**, of the documents with the Commission by the following business day. Parties must provide courtesy copies of their electronic submissions to the administrative law judge at [mfriedla@utc.wa.gov](mailto:mfriedla@utc.wa.gov) and to the parties to the proceeding.

26 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1355.

### **ORDER**

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

- 27 (1) The procedural schedule previously adopted in Order 07 in Dockets UE-110876 and UG-110877 is vacated.
- 28 (2) The Northwest Energy Coalition's motion to consolidate phase two of Dockets UE-110876 and UG-110877 with Dockets UE-120436 and UG-120437 is granted.
- 29 (3) The procedural schedule for the consolidated dockets listed in Appendix B to this Order is adopted.



**NOTICE TO PARTIES:** A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.

Dated at Olympia, Washington, and effective May 14, 2012.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARGUERITE E. FRIEDLANDER  
Administrative Law Judge

**APPENDIX A**

**PARTIES' REPRESENTATIVES  
DOCKETS UE-120436 & UG-120437**

<b>PARTY</b>	<b>REPRESENTATIVE</b>	<b>PHONE</b>	<b>E-MAIL</b>
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<b>Northwest Industrial Gas Users (NWIGU)</b>	Paula E. Pyron Executive Director Northwest Industrial Gas Users 4113 Wolf Berry Court Lake Oswego, OR 97035-1827	503-636-2580	<a href="mailto:ppyron@nwigu.org">ppyron@nwigu.org</a>
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PARTY	REPRESENTATIVE	PHONE	E-MAIL
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**APPENDIX B  
 PROCEDURAL SCHEDULE  
 DOCKETS UE-110876 and UG-110877 (phase two)  
 and  
 DOCKETS UE-120436 and UG-120437**

<u>EVENT</u>	<u>DATE</u>
Company Direct Testimony and Exhibits	April 2, 2012
Public Notice Report	June 1, 2012
Avista Circulates Joint Issues List	July 25, 2012
<u>Addressing Avista GRC Direct Case:</u> Staff, Public Counsel and Intervenor Responsive Testimony and Exhibits; <u>Addressing Decoupling:</u> NWECA Rebuttal Testimony and Exhibits, Avista, Staff, Public Counsel, ICNU, NWIGU, and The Energy Project Cross-Answering Testimony and Exhibits	September 19, 2012
Public Comment Hearing	Date and location to be determined by separate notice
Joint Issues List	October 1, 2012
Issue Discussion/Settlement Conference (parties only)	October 2, 2012
<u>Addressing Avista's 2012 GRC Only:</u> Company Rebuttal Testimony and Exhibits and Staff, Public Counsel and Intervenor Cross-Answering Testimony and Exhibits	October 19, 2012

Discovery Deadline – Last day to issue Data Requests	November 9, 2012
Pre-Distribution of Cross-Examination Exhibits	November 19, 2012
Evidentiary Hearing	November 27-30, 2012
File Cross-Examination Exhibits	December 10, 2012
Post-hearing Briefs and Updated Issues List	January 4, 2013
Suspension Date	March 2, 2013