

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION  
COMMISSION,

Complainant,

v.

AVISTA CORPORATION, d/b/a  
AVISTA UTILITIES,

Respondent.

DOCKET UE-160082

ORDER 01

ORDER ALLOWING TARIFF  
REVISIONS TO BECOME  
EFFECTIVE SUBJECT TO  
CONDITIONS

**BACKGROUND**

- 1 On January 14, 2016, Avista Corporation d/b/a Avista Utilities (Avista or Company) filed revisions to its currently effective Tariff WN U-28 reflecting the addition of Schedule 77, Electric Vehicle Supply Equipment (EVSE) Pilot Program (Pilot Program). Based on an initial discussion at the Commission’s regularly scheduled open meeting on March 10, 2016, Avista agreed to file replacement pages extending the effective date of the tariff to facilitate further dialogue among stakeholders.<sup>1</sup> The filing was again addressed at the Commission’s March 24, 2016, open meeting. On March 31, 2016, Avista filed replacement pages and extended the effective date of the tariff revisions to May 2, 2016.
- 2 Avista proposes to implement a Pilot Program that includes installing AC Level 2 chargers<sup>2</sup> for electric vehicles in its Washington service territory in 120 residential single-family homes; at 100 workplace, fleet, and multi-unit dwelling locations; and at 45 public locations. Of the 265 total planned AC Level 2 chargers, Avista plans to install “smartchargers” for electric vehicles in 100 residential and 90 other locations.

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<sup>1</sup> On March 11, 2016, Avista filed replacement pages extending the effective date to April 11, 2016.

<sup>2</sup> AC “Level 2” chargers operate at approximately 220 volts AC, and typically result in 11 to 22 miles of driving range gained per hour of charging. AC “Level 1” chargers, on the other hand, operate at approximately 110 volts AC and typically result in 3 to 5 miles of driving range gained per hour of charging.

Smartchargers provide enhanced capabilities that allow for data acquisition, network communication, and demand response, which will allow the Company to determine baseline charging profiles and to ultimately enable demand response programs. Finally, Avista proposes to install DC fast chargers<sup>3</sup> for electric vehicles at seven locations throughout the Company's Washington service territory.<sup>4</sup> Avista agrees to consult with the Washington State Department of Transportation (WSDOT) on the location of sites and follow WSDOT siting specifications for DC fast chargers. All chargers will be owned by Avista for the depreciable life of the assets, and Avista likely will request rate recovery in a future general rate case proceeding.<sup>5</sup>

3 The Northwest Energy Coalition, Public Counsel ChargePoint, Inc. (ChargePoint),<sup>6</sup> and a number of interested persons filed comments in this docket. At the Commission's March 10 and March 24, 2016, open meetings, ChargePoint argued that by choosing a single vendor through an RFP process, Avista would deprive consumers of product choice and effectively prevent fair market competition<sup>7</sup> in conflict with RCW 80.28.360(1), which provides that "[t]he Commission must consider and may adopt other policies to improve access to and promote fair competition in the provision of electric vehicle supply equipment."

4 Commission Staff (Staff) agrees that further direction from the Commission on the promotion of fair market competition is desirable, and will likely be required if Avista

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<sup>3</sup> "DC fast chargers" provide electricity at high voltage (usually delivering power at 50 kW or more) and typically result in total charging time as low as 15 minutes.

<sup>4</sup> DC refers to direct current, AC refers to alternating current.

<sup>5</sup> In its initial filing, Avista proposed not to require any financial contribution from customers that host the Level 2 chargers. Avista would fund fully the equipment, installation, and premises wiring. After receiving feedback from the Commission and Public Counsel, Avista agreed to reduce the funding for premises wiring to 80 percent for residential and non-residential installations, and 65 percent for non-residential installations that require user payment capabilities. Avista will pay these percentages of the premises wiring costs up to \$1,000 per port for residential installations and up to \$2,000 per port for non-residential installations. Staff agrees that partial funding by the program participant is warranted, at least until it can be demonstrated that an increased level of funding is necessary for greater program participation. If project participation is stifled by up-front premises wiring cost borne by the customer, Staff expects that Avista will file a tariff revision to raise incentives in an effort to promote greater participation.

<sup>6</sup> In its comments, ChargePoint represents that it has the world's largest and most open network of electric vehicle charging stations, including more than 1,000 charging stations in Washington.

<sup>7</sup> See e.g., Docket UE-160082, Comments on behalf of ChargePoint, Inc. (March 24, 2016), at page 2.

extends its program beyond the pilot stage. At this juncture, however, Staff believes it is unnecessary to address these policy issues given the limited scope of Avista's Pilot Program.

5 Overall, Staff finds that Avista's Pilot Program is both properly constructed and warranted, and should be approved, subject to conditions. First, Avista should be required to report every six months, beginning November 1, 2016, the locations of its DC fast chargers, their utilization rates, and their revenue contribution to fixed and variable costs.

6 Second, Avista should be required to regularly review and revise the retail rate it charges for DC fast charging services and report the retail rate to the Commission quarterly, beginning August 1, 2016. As discussed throughout this proceeding, the retail rate Avista proposes to charge for its public DC fast chargers is not cost-of-service based. Rather, the rates are "market-based," which means the rates are designed to be competitive with the rates charged by other public DC fast charging facilities. Staff believes this approach is appropriate for this two-year Pilot Program, particularly since cost of service-based rates cannot be calculated when utilization rates are unknown. In order to continuously charge rates that are "market-based," however, Avista must regularly review and revise its rates as appropriate.

7 Finally, Avista should be required to report quarterly on program participation levels, expenditures, and revenues for each service offered under the pilot program beginning August 1, 2016. This reporting requirement will keep the Commission apprised of the Pilot Program's progress and inform the Commission's report to the legislature in 2017.<sup>8</sup>

8 Accordingly, Staff recommends the Commission allow tariff Schedule 77, as revised on March 31, 2016, to go into effect by operation of law, subject to the conditions described above.

### DISCUSSION

9 We agree with Staff's recommendation and authorize tariff Schedule 77, as revised on March 31, 2016, to go into effect by operation of law on May 2, 2016, subject to conditions.

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<sup>8</sup> RCW 80.28.360(5) provides that "[b]y December 31, 2017, the commission must report to the appropriate committees of the legislature with regard to the use of any incentives allowed under this section, the quantifiable impacts of the incentives on actual electric vehicle deployment, and any recommendations to the legislature about utility participation in the electric vehicle market."

- 10 RCW 80.28.360 establishes a clear policy directive to promote utility investment in EVSE and allows the Commission to authorize an incentive rate of return on these investments contingent upon a demonstration of benefits to ratepayers.<sup>9</sup> RCW 80.28.360 further requires the Commission to consider, and allows it to adopt, other policies to improve access to, and promote fair competition within the market for, the provision of EVSE. In 2017, the Commission is required to report the quantifiable impacts of the incentives on actual EV deployment to the appropriate committees of the Legislature with regard to the use of any incentive, as well as any recommendations to the Legislature about utility participation in the EV market.
- 11 Several factors make it difficult for us to consider Avista’s proposal in the context of RCW 80.28.360. First, the incentive rate of return provided in the statute applies only to projects that are reasonably expected to result in “real and tangible benefits for ratepayers.” We recognize that it is not possible for Avista to quantify these benefits to ratepayers at this time. The benefits of the investments included in the Pilot Program will depend heavily on the utilization of the infrastructure, which is unknown and unpredictable.
- 12 Second, RCW 80.28.360 leaves other issues of cost allocation and rate design to the Commission’s discretion, which allows the Commission to retain its broad authority to ensure the proper application of this incentive with input from electric companies and other stakeholders. We believe these issues are more appropriately addressed through a rulemaking or policy statement rather than in this docket.
- 13 Notably, Avista has not requested recovery or deferral of costs associated with its Pilot Program with this filing. Accordingly, it is not necessary for us to make a decision on these issues at this juncture. To that end, our approval of Avista’s EVSE Pilot Program does not constitute pre-approval of the inclusion of capital expenditures in Avista’s rate base or the recovery of program operations and maintenance costs. It also does not constitute a finding that such expenditures are eligible for the incentive rate of return established by RCW 80.28.360. Instead, we recognize that the primary purpose of this Pilot Program is to allow Avista to better understand EV charging behavior and the impacts of EV charging on its system, and to promote electric vehicle adoption in Avista’s service area consistent with state policy.

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<sup>9</sup> To achieve the incentive rate of return established by RCW 80.28.360, an increment of up to two percent must be added to the rate of return on common equity allowed on a company’s other investments.

- 14 Avista has indicated that it will seek recovery of costs associated with the Pilot Program in a future proceeding. Our approval of such a request, as well as whether an incentive rate of return is applicable, will be contingent upon a demonstration by the Company that the Pilot Program provides benefits to ratepayers commensurate with, or in excess of, program costs. Prior to such a proceeding, we intend to initiate a policy workshop to further examine methods for quantifying the benefits of EV infrastructure and other policy issues raised by RCW 80.28.360, and potentially opening a rulemaking or issuing a policy statement to address these issues.
- 15 Finally, RCW 80.28.360 requires us to consider other policies to improve access to, and promote fair competition in, the provision of electric vehicle supply equipment. We note that Avista has committed to considering selecting multiple EVSE vendors in its Request for Proposals, and we assume that Avista will take this commitment seriously. We believe that that selection of multiple vendors would increase the amount of information obtained through the program, and therefore could maximize the benefits of the Pilot Program to customers. While we recognize that this does not resolve ChargePoint's concerns, we commit to closely examining policies to promote fair competition should this project move beyond the pilot phase.
- 16 With all of these factors in mind, we approve Avista's EVSE Pilot Program subject to the conditions proposed by Staff. First, Avista must demonstrate that the DC fast charging component of the Pilot Program is consistent with state policy and established siting specifications. At this time, we believe that the application of RCW 80.28.360 to DC fast chargers remains unclear. The statute does not explicitly provide an incentive for a regulated utility to build, own, and operate EVSE for public use. However, the Commission has authority under RCW 80.28.320 to approve an electric company's offering of battery charging facilities to the public for hire if its battery charging facilities are not subsidized by any regulated service. This statute further provides that an electric company may offer battery charging facilities as a regulated service, subject to Commission approval.
- 17 Although RCW 80.28.320 offers no policy guidance related to the regulatory treatment of DC fast charging stations beyond the existing public interest standard, this lack of guidance does not prevent us from approving DC fast charging stations as a component of a limited pilot program such as Avista's. Regulated companies routinely conduct pilot programs for the purpose of collecting information to better inform future service offerings. We believe that the limited scale and scope of Avista's proposal is reasonable and appropriate for treatment as a pilot.

18 In addition, the Legislature has provided substantial policy guidance to the Department of Transportation (WSDOT), regional transportation planning organizations, and local governments for the promotion of EV infrastructure development. While the specific locations of Avista's proposed DC fast charging stations are unknown at this time, Avista has committed to following WSDOT's siting specifications and to working with WSDOT to ensure that DC fast charging stations are sited at locations best utilized by EV drivers to provide the greatest overall public benefit.

19 As a condition of approving the rate for DC fast charging provided in this tariff, we require Avista to report quarterly, beginning August 1, 2016, the locations of DC fast chargers, their utilization rates, and their revenue contribution to fixed and variable costs for the duration of the Pilot Program. Any future request for rate recovery must include a demonstration by Avista that its DC fast charging service provides benefits to ratepayers, and is consistent with state policy promoting the development of DC fast charging infrastructure.

20 Avista must also compare its DC fast charging rate to other service providers, and assess the amount of overall fixed and variable costs recovered through user payments. Avista states that the DC fast charging rate is based on the market rate for comparable service from unregulated market participants. Staff and stakeholders agree with Avista that the unknown utilization of the planned charging stations is a barrier to designing cost-based rates. Avista further contends that a cost-based rate may not be competitive with the market, and could inhibit use of DC fast chargers and EV adoption in Avista's service territory. Until more information becomes available, we find it reasonable to adopt a market-based rate for DC fast chargers in the Pilot Program.

21 Because Avista's Pilot Program is not subsidized by a regulated service at this time, we are unable to determine whether the proposed rate of \$0.30 per minute for DC fast charging – which will be collected directly from the user – is fair, just, reasonable, and sufficient. If Avista proposes to include its Pilot Program in rates in a future proceeding, Avista will bear the burden of demonstrating that the rate it charges for DC fast charging meets this standard.<sup>10</sup>

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<sup>10</sup> At the March 24, 2016, Open Meeting, Avista expressed some interest in offering DC Fast Charging services under a banded rate. RCW 80.28.075 allows the Commission to approve a tariff that includes a banded rate for any nonresidential electric service that is subject to effective competition from energy suppliers not regulated by the Commission. As required by WAC 480-80-112, such filings must include a cost-of-service study showing that the minimum rate in the band covers the cost of service and provides a contribution to fixed costs, and also must include information detailing the potential effect on revenue of the proposed banded rate. Avista has not requested approval of a banded rate at this time. However, the Commission may consider a

- 22 Avista has committed to reviewing its DC fast charging rate every three to six months to determine whether it is still competitive, and how much of the overall fixed and variable costs are recovered through user payments.<sup>11</sup> As a condition of approving Avista's DC fast charging rate, we require Avista to review and revise the retail rate it charges for DC fast charging services and report the retail rate to the Commission quarterly, beginning August 1, 2016.
- 23 Avista must also file in this docket quarterly reports documenting program participation levels, expenditures, and revenues for each service offered under the Pilot Program beginning August 1, 2016. Our approval of this Pilot Program is primarily based on the benefits associated with collecting information on EV charging behavior and the potential for ratepayer benefits associated with shifting EV charging to off-peak. Accordingly, it is essential that Avista collect adequate information to assess charging behavior. Over the course of the Pilot Program, we expect Staff to recommend the collection and reporting of additional data if required to provide enough information to evaluate accurately the program's success upon its completion, with a final quarterly report due August 1, 2018. We encourage Avista to share these reports with stakeholders and provide stakeholders a forum to provide ongoing feedback on the Pilot Program. The final report should include a brief narrative evaluation of the program.
- 24 Finally, we believe it is necessary to clarify that our approval of Avista's Pilot Program does not pre-approve the inclusion of capital or program costs in general rates, nor does it serve as a precedent for any future implementation of RCW 80.28.360. Avista has indicated that it will propose to recover the costs of the Pilot Program in a future proceeding. At that time, Avista must demonstrate that the Pilot Program benefits ratepayers, the facilities are used and useful, and the investments are prudent for inclusion in rates. Avista assumes this risk.
- 25 We acknowledge that RCW 80.28.360 raises many policy and implementation questions that remain unresolved. These questions include, but are not limited to:
- a. What policies should the Commission consider to improve access to, and promote fair competition within the market for, the provision of EVSE, as specified in RCW 80.28.360(1)?
  - b. How does the incentive rate of return authorized in RCW 80.28.360(2) apply to EVSE investments that serve the public?

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petition for a waiver of WAC 480-80-112 in the future if Avista makes a compelling case for approving a banded rate under the statute.

<sup>11</sup> Letter from Shawn Bonfield to Steven King, March 21, 2016, at 5.

- c. How should the Commission apply the rate impact cap in RCW 80.28.360(2)?
- d. How should an electrical company demonstrate “real and tangible benefits for ratepayers”?
- e. What quantifiable benefits should the Commission consider when making a prudence determination for the inclusion of EVSE investments in rates?
- f. What is the appropriate depreciable life for EVSE equipment?
- g. When would it be appropriate for an electrical company to “gift” EVSE to a customer, as provided in RCW 80.28.360(4)?

In the coming months, we will initiate a proceeding to discuss these and other issues, which will inform future regulatory treatment of utility-owned EVSE.

### FINDINGS AND CONCLUSIONS

- 26 (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, regulations, practices, and accounts of public service companies, including electric companies.
- 27 (2) Avista is an electric company and a public service company subject to Commission jurisdiction.
- 28 (3) On January 14, 2016, Avista filed revisions to its currently effective Tariff WN U-28 reflecting the addition of Schedule 77, Electric Vehicle Supply Equipment Pilot Program. On March 11 and March 31, 2016, Avista filed revised tariff pages.
- 29 (4) This matter came before the Commission at its regularly scheduled open meetings on March 10, March 24, and April 28, 2016.
- 30 (5) Staff reviewed Avista’s filing and finds that the tariff revisions filed on March 31, 2016, should be allowed to go into effect by operation of law, subject to the following conditions: 1) Avista should be required to report to the Commission quarterly, beginning August 1, 2016 and ending August 1, 2018, the locations and utilization of DC Fast Charging stations; 2) Avista should be required to review and revise the DC fast charging rate, and assess the amount of overall fixed and variable costs recovered through user payments and report its findings to the Commission quarterly, beginning August 1, 2016, for the duration of its Electric Vehicle Supply Equipment Pilot Program; and 3) Avista should be required to report to the Commission quarterly, beginning August 1, 2016, its Electric



Vehicle Supply Equipment Pilot Program participation levels, expenditures, and revenues for each service offered under its Electric Vehicle Supply Equipment Pilot Program.

- 31 (6) After reviewing the revised tariff pages Avista filed in Docket UE-160082 and giving due consideration, the Commission finds it is consistent with the public interest to allow the tariff revisions filed on March 31, 2016, to become effective on May 2, 2016, subject to the conditions recommended by Commission Staff as set forth in paragraph 30 of this Order.

### **ORDER**

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

- 32 (1) The tariff revisions filed by Avista Corporation d/b/a Avista Utilities on March 31, 2016, shall become effective on May 2, 2016, subject to the conditions set out below.
- 33 (2) Avista Corporation d/b/a Avista Utilities is required to file quarterly reports to the Commission, beginning August 1, 2016 and ending August 1, 2018.
- 34 (3) For DC Fast Charging stations, Avista Corporation d/b/a Avista Utilities shall report the locations and utilization of stations, review and revise the DC fast charging rate, and assess the amount of overall fixed and variable costs recovered through user payments and report its findings to the Commission quarterly, beginning August 1, 2016.
- 35 (4) For all other services offered under the Electric Vehicle Supply Equipment Pilot Program, Avista Corporation d/b/a Avista Utilities shall report participation levels, expenditures, and revenues for each service offered for the duration of the program. We expect the Company to collect and report additional data necessary to provide enough information to evaluate accurately the program's success by August 1, 2018.

- 36 (5) The Commission Secretary is authorized to accept or approve a filing that complies with the requirements of this Order.

DATED at Olympia, Washington, and effective April 28, 2016.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner