

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>In the Matter of</p> <p>AVISTA CORPORATION d/b/a AVISTA UTILITIES’</p> <p>2022-2023 Biennial Acquisition Target Under RCW 80.28.280</p>	<p>DOCKET UG-210827</p> <p>ORDER 02</p> <p>ACCEPTING AVISTA’S 2022-2023 BIENNIAL CONSERVATION REPORT; ADDRESSING COMPLIANCE WITH DECOUPLING COMMITMENT</p>
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BACKGROUND

1 Until recently, conservation targets for gas companies were set by Commission order in a general rate case. Effective 2022, Revised Code of Washington (RCW) 80.28.380 codified requirements for conservation targets for gas companies. These new statutory requirements for gas company conservation targets, unlike those for electric company conservation targets, do not contain an exception for extenuating circumstances if a company fails to reach its target.¹ On May 31, 2024, Avista Corporation d/b/a Avista Utilities (Avista or Company) filed in Dockets UE-210826 and UG-210827, its 2022-2023 Biennial Conservation Report (Biennial Conservation Report or BCR) for both its electric and gas services.² The gas conservation targets must meet the requirements of Order 05 in consolidated Dockets UE-140188 and UG-140189, as well as Order 09 in consolidated Dockets UE-190334, UG-190335, and UE-190222. The Company’s gas conservation target achievements as outlined in the Company’s Biennial Conservation Report are summarized in the table below:

¹ The exception for electric companies is contained in RCW 19.285.040(1)(e).

² *In the Matter of Avista Corp. d/b/a Avista Utils. 2022-2023 Biennial Acquisition Target Under RCW 80.28.380*, Docket UG-210827, 2022-2023 Biennial Conservation Report at 5 (May 31, 2024) (Avista’s BCR).

Table 1: Avista’s Natural Gas Targets and Savings (Therms)

A	Total Conservation Goal (B+C)	2,302,056
B	Conservation Target	2,192,434
C	Decoupling Penalty Threshold	109,622
D	Total Reported Savings	1,263,481
E	% of Conservation Target Achieved (D / B X 100%)	58%
F	% of Total Conservation Goal Achieved (D / A X 100%)	55%

2 In sum, the Company achieved 1,263,481 therms of its 2022-2023 biennial conservation target of 2,302,056 therms, achieving a deficit of 64,485 therms. Avista applied 0 therms to its 2022-2023 decoupling commitment of 109,622 as its Two-Year Conservation Goal which falls short of the Company’s decoupling penalty threshold.

3 Regarding decoupling, Staff recommends penalties according to Order 09 in consolidated Dockets UE-190334, UG-190335, and UE-190222.³ Staff’s recommendation is due to Avista’s deficit of 109,622 therms being less than 3.75% of its incremental commitment. In its BCR, the Company acknowledged that it failed to achieve its 2022-2023 decoupling commitment, agreeing to pay the penalty of \$75,000.⁴ Staff did not believe a penalty exemption was present in either Order 05 or Order 09.

4 Following filing of Staff’s comments on July 24, 2024, Avista filed comments on August 21, 2024. In its comments, Avista strongly contests Staff’s penalty recommendations

³ *Wash. Utils. & Transp. Comm’n v. Avista Corp. d/b/a Avista Utils.*, Dockets UE-190334, UG-190335, and UE-190222, Order 09 at 34, ¶ 98 (March 25, 2020).

⁴ Avista’s BCR at 6.

stemming from RCW 19.285.040 but has agreed to pay the prescribed \$75,000 penalty, which will be funded by Avista's shareholders.

5 Staff recommended that Avista cannot not be "considered in compliance" with its gas biennial acquisition target for cost-effective conservation pursuant to RCW 19.285.040(1)(e), and recommended a penalty, pursuant to RCW 80.04.380.

6 This matter came before the Commission at its August 22, 2024, Recessed Open Meeting. The Commission heard comments from Staff and Avista.⁵ The Company argued against Staff's recommendation and expressed that conservation is important and that the Company took every adaptive management option reasonably available.

DISCUSSION AND DECISION

7 We appreciate Staff's careful review of the requirements in prior Commission orders for compliance with biennial gas conservation targets and the provisions for decoupling targets. However, we decline to adopt Staff's recommendations to assess Avista with penalties for noncompliance with Commission Order 05 in consolidated Dockets UE-140188 and UG-140189, pursuant to the penalty provisions of Order 09 in consolidated Dockets UE-190334, UG-190335, and UE-190222. As a preliminary matter, we find that Avista has complied with the biennial reporting requirements in Order 01,⁶ Docket UG-210827, by timely filing a biennial conservation report with sufficient detail to allow the Commission to determine how Avista is performing compared to its conservation targets.

8 We acknowledge that, as stated in Staff's comments on gas biennial conservation reports, 2022-2023 were difficult years for conservation achievement.⁷ We find that the lingering economic effects of the COVID-19 pandemic have persisted to cause challenges, outside of the Company's reasonable control, such as customer financial challenges; changes in customer demand; and labor and supply chain shortages. These elements added to the

⁵ The Commissioners present at the August 22, 2024, Recessed Open Meeting included Chair Dave Danner, who has since retired as the issuance of this decision, but voted to approve this Order 02, at the August 22, 2024, Recessed Open Meeting.

⁶ *In the Matter of Avista Corp. d/b/a Avista Utils. 2022-2023 Biennial Acquisition Target Under RCW 80.28.380, Docket UG-210827, Order 01 at 6, ¶ 23 (Jan 18, 2022).*

⁷ Dockets UE-190905, UE-190912 & UE-190908, Commission Staff Comments Regarding Electric Utility Conservation Achievements Under the Energy Independence Act (Staff Comments) (July 1, 2022).

already significant challenges utilities faced in achieving the remaining conservation in the region.

9 The Commission has discretion to impose or not impose penalties.⁸ Our intent in approving decoupling goals is to encourage conservation. Although Avista failed to meet its decoupling target, we find that there exist sufficient circumstances to allow Avista to be “considered in compliance.” We therefore find it appropriate to exercise such discretion for Avista’s decoupling targets in a manner that is consistent with the standard provided in RCW 19.285.040(1)(e).

10 As a result, notwithstanding the Company’s failure to comply with Order 05 in consolidated Dockets UE-140188 and UG-140189, the Commission finds it appropriate to forgo issuing a penalty here due to the totality of the circumstances.

11 On this point, and for future clarity, we find it appropriate to amend Order 09 in consolidated Dockets UE-190334, UG-190335 and UE-190222, and Order 01 in this matter, to clarify that it is our intent that not only might the penalty provisions associated with the EIA apply to decoupling targets, but so too do the exemptions under RCW 19.285.040(1)(e).⁹ Notice shall be issued to interested parties so as to allow an opportunity to comment on these proposed amendments.

FINDINGS AND CONCLUSIONS

12 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies.

13 (2) Avista is a gas company and a public service company subject to Commission jurisdiction. Avista is subject to the conservation reporting requirements of RCW 80.28.380; Order 01 in Docket UG-210827; and to Order 09 in consolidated Dockets UE-190334, UG-190335, and UE-190222.

⁸ *MCI Metro Access Transmission Servs., Inc. v. U.S. West Commc’n, Inc.*, Docket UT-971063, Commission Decision and Final Order Denying Petition to Reopen, Modifying Initial Order, in Part, and Affirming, in Part (1999).

⁹ The Commission proposes amending paragraph 98 in Dockets UE-190334, UG-190335, & UE-190222, and paragraph 22 of Order 01 in this Docket.

- 14 (3) On May 31, 2024, Avista filed its Biennial Conservation Report, which showed that Avista complied with the biennial reporting requirements in Order 01 of Docket UG-210823.
- 15 (4) Avista achieved 1,263,481 therms of its 2022-2023 biennial conservation target of 2,302,056 therms, a deficit of 1,263,481 therms. As a result, Avista is not in compliance with the biennial conservation targets accepted in Order 01 of this docket, in accordance with RCW 80.28.380
- 16 (5) For the 2022-23 biennial, after applying 0 therms to its 2022-2023 decoupling commitment of 109,622 therms, Avista has a deficit of 109,622 therms. Therefore, Avista has not complied with its natural gas conservation decoupling mechanism, pursuant to Order 09 in consolidated Dockets UE-190334, UG-190335, and UG-190222.
- 17 (6) The Commission is not required to penalize a Company for violation of an order; the Commission finds it appropriate to exercise this discretion for gas companies using a standard equivalent to the one used for electric companies in RCW 19.285.040(1)(e).
- 18 (7) Pursuant to the standard set in RCW 19.285.040(1)(e), the Commission may determine that a utility is considered in compliance with its biennial acquisition target for cost-effective conservation if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the conservation target.
- 19 (8) The COVID-19 pandemic, and the changes to the economic landscape that followed, created circumstances beyond the control of Avista that interfered with the Company's ability to meet its conservation targets.
- 20 (9) After reviewing Avista's report and Staff's comments, and giving due consideration to relevant matters, the Commission finds that Avista took adequate adaptive measures to attempt to ameliorate the effect of the pandemic on its gas conservation efforts. Because the Commission would find these efforts sufficient given the circumstances if this matter was for an electric utility governed by RCW 19.285.040(1)(e), the Commission finds that no penalty is warranted at this time for Avista's failure to meet its decoupling commitment in the 2022-23 biennial period.

- 21 (10) This matter came before the Commission at a recessed open meeting on August 22, 2024.
- 22 (11) In order to clarify the Commission's discretion, it is appropriate to modify inconsistent mandatory language contained in Order 09 in consolidated Dockets UE-190334, UG-190335, and UE-190222, and Order 01 in this matter. Notice shall be given to interested parties prior to such amendments go into effect.

ORDER

THE COMMISSION ORDERS:

- 23 (1) The Commission accepts Avista Corporation d/b/a Avista Utilities' 2022-2023 Biennial Report of Conservation Accomplishments and determines that it complies with the conditions of Order 01.
- 24 (2) The Commission shall reject Staff's recommendation to assess Avista Corporation d/b/a Avista Utilities with penalties for its failure to comply with Commission Order 01 of this docket and shall not assess Avista Corporation d/b/a Avista Utilities any penalties for noncompliance.
- 25 (3) The Commission shall issue notice to amend Order 09 in consolidated Dockets UE-190334, UG-190335 and UE-190222, and Order 01 in this matter, to clarify that it is our intent that similar provisions to RCW 19.285.040(1)(e) apply to the gas conservation targets and natural gas decoupling commitment.
- 26 (4) This Order shall not affect the Commission's authority over rates, services, accounts, valuations, estimates, or determination of costs, on any matters that may come before it.

DATED at Lacey, Washington, and effective January 31, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



ANN E. RENDAHL, Commissioner

A handwritten signature in blue ink, appearing to read "Milton H. Doumit". The signature is fluid and cursive, with the first name "Milton" being the most prominent.

MILTON H. DOUMIT, Commissioner