U-230161

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Received
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Sep 7, 2023

September 7, 2023

Ms. Kathy Hunter
Acting Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

RE: Docket U-230161 - Avista's Comments Regarding Commission-led Workshop Series on Climate Commitment Act

Dear Ms. Hunter:

Avista Corporation, dba Avista Utilities (Avista or the Company), submits the following comments in accordance with the Washington Utilities and Transportation Commission's (Commission) Notice of Workshop and Opportunity to Provide Comments (Notice) issued in Docket U-230161 on August 30, 2023, regarding the Commission-led workshop series on the Climate Commitment Act (CCA). Avista notes that the timeframe to provide these comments was limited, given there were a mere eight days to get them completed, with a long holiday weekend in that timeframe. Given the importance of the questions posed, Avista requests more time be given to critically think through and respond to future requests for comments relating to CCA compliance.

The following are the Company's responses to the specific questions posed in the Notice:

1. **What are the necessary elements for an equitable, fair, and reasonable risk-sharing mechanism, as required by Order 01 in Docket UG-230470?**

   Response:

   The introduction of a potential risk-sharing mechanism for natural gas utilities is a concept that warrants further thought and discussion before contemplating the elements that would comprise such a mechanism. At this juncture, Avista does not believe a risk-sharing mechanism is necessary or warranted, as it is not required or called for in statute and instituting such a mechanism may be outside of the Commission's authority, given compliance with the CCA is already mandated by state law, and as the Commission noted in the referenced order, "CCA costs are imposed on the utility and are mandatory." Further, risk to the utilities is already built into the CCA through compliance risk and prudency risk. First, if a utility fails to meet their CCA compliance obligation, they will face a penalty paid for by their shareholders. Second, if a utility does not pursue the lowest reasonable cost of compliance, there may be a prudency issue such that the Commission does not allow the utility to fully recover their compliance costs.

However, if the Commission believes a risk-sharing mechanism is truly necessary and can be instituted under the CCA, before it contemplates the necessary elements for an equitable, fair, and reasonable mechanism, it must first consider if now is the time for developing such a mechanism. We are in the first year of one of the most complex and transformational laws impacting the utility industry in Washington. More time is needed to fully understand the impacts of the CCA on customers and utilities; ideally it makes sense to get through at least the first compliance period, 2023-2026, before considering if a risk-sharing mechanism is necessary or warranted. Then if a risk-sharing mechanism is deemed necessary, a public process, including ways for customers and stakeholders to weigh in on such a mechanism should be provided.

Prior to considering the elements of a risk-sharing mechanism, a better understanding of what the true nature and drivers of all compliance risks are, is necessary. For example, some drivers of compliance may include the following:

- Weather – variability in weather leads to swings in customer loads and emissions, which is outside the control of the utility.
- Allowance availability – depending on when the State of Washington links with other carbon markets, allowance availability may or may not be an issue in the future.
- Reliance on the lowest cost of compliance – if all utilities rely on the lowest cost of compliance, which at present time is purchasing allowances, allowance availability may make compliance difficult.
- Availability of compliance mechanisms – compliance options include purchasing allowances, expanded energy efficiency, alternative fuels, electrification, etc. If a utility relies on these options and they are not available to the extent they are relied upon, it may result in compliance risk.

We have yet to develop a common understanding of what "compliance risks" means, what it entails, and the extent to which it can even be managed by a utility if it involves factors beyond its control. Until a better understanding of what contributes to "compliance risk" is achieved, it is premature to discuss the elements of any risk-sharing mechanism. And when considering any risk-sharing mechanism, it is imperative to determine what is in the utility's control and what is not. It would not be fair to hold utilities accountable for compliance risks that are outside of their control, when as noted above, compliance with the CCA has been imposed on the utility and is mandatory, with penalties for non-compliance already attached.

Before weighing in on the elements that would lead to an equitable, fair, and reasonable risk-sharing mechanism, the Commission must first give consideration to the elements discussed above.

2. At what frequency, and under what conditions, should utilities be required to file CCA forecast updates, as required by Order 02 in Docket UE-220797?

Response: As discussed in Avista's petition for approval of its four-year supply and demand forecast filed in Docket UE-220770, Avista provided the following related to the requirement for filing CCA forecast updates:

> *Avista does not currently see a need for revisiting CCA forecasts annually. Ecology's final rules envision a true-up mechanism each year whereby if more or fewer allowances are required relative to the forecast of allowances, an adjustment for the difference is granted for the next compliance year. This provision, combined with a 4-year compliance period, should in most cases ensure Avista customers are not burdened by varying hydro, load, and other unanticipated conditions.*
>
> *An exception might occur in the final year of a compliance period. Where hydro or load conditions differ materially in the last year of the compliance period as compared to the forecast, relief granted in the form of additional allocations in the following year would not protect utility customers from no-cost allowance shortages in the last year of the compliance period. As a result, the utility would need to purchase allowances from auction to cover the shortfall. With high load and hydro correlations across the Northwest, buying allowances in this situation could occur at a premium. For this reason, Avista recommends the Commission not require annual updates, rather provide a means whereby utilities could propose to update their Commission approved forecasts when material deficiencies or surpluses are expected to occur and are outside of the control of the utility. If a utility were to propose such an update, the Commission would retain authority to determine if the updated forecast should be approved or not.*
>
> *Finally, differences between forecasts and actuals created by early emissions reduction should not cause utility allocations to be lowered in an annual or other adjustment outside of the standard 4-year compliance period forecasting processes, as such reductions would severely reduce or eliminate incentives for early emissions reductions.*

The Company believes its prior comments are still accurate and that regular forecast updates should not be required. This being said, depending on how Ecology ultimately defines how the "true-up" mechanism under WAC 173-446-230(2)(g) works, updates might end up being appropriate.

3. Under what circumstances should utilities create separate tariffs for recovery and pass-back of CCA costs and proceeds?

Response: Avista believes it is appropriate in all circumstances to recover CCA costs and pass-back any proceeds through separate tariff riders, with proceedings outside of a general rate case. CCA costs will grow to be significant, may be volatile due to the price of allowances and compliance mechanisms, and are outside of the Company's control. For these reasons, it is appropriate for CCA compliance costs to be recovered through a tariff rider, at least in the near term.

One issue that may be raised regarding tariff riders relates to the ability for the Commission and other stakeholders to review the prudency of CCA costs that utilities seek to recover. Similar to other tariff riders, the Commission and stakeholders will have the full ability to review the prudency of CCA compliance costs, and in most cases, has many months to do so. In addition, there is a significant amount of time for the Commission and others to review the prudency of the Company's plan for complying with the CCA within the confines on an Integrated Resource Plan (IRP) proceeding.

4. Under what circumstances should utilities incorporate CCA costs and proceeds into general rate cases?

Response: At this stage, it may be too early to incorporate CCA costs and proceeds into base rates through general rate cases due to the CCA being in its first year of implementation and first compliance period. As time goes by and there is a greater understanding of CCA costs and proceeds, it may make sense to consider incorporating these CCA costs and proceeds into base rates through the general rate case process with a tariff rider for annual true up of actual costs and proceeds.

5. **In Workshop 2, interested persons indicated that utility Low-Income Advisory Groups were best situated to discuss the requirements concerning low-income customers under the CCA. Should the Commission convene a "Joint Low-Income Advisory Group," which could convene, discuss outstanding issues relating to low-income customers under the CCA, and submit a proposal to the Commissioners? The outstanding issues include those identified in the agenda for Workshop 2 and discussed in comments in this docket.**

Response: While a Joint Low-Income Advisory Group may have some usefulness, it is likely not necessary to achieve the result the Commission may desire. Utilities do share some similarities when it comes to low-income matters, but there are differences in the low-income offerings and services provided by the utilities. As such, individual advisory groups remain appropriate. It is important to note that Avista customers may have characteristics that are unique to our service territory and Eastern Washington. We believe it is important for feedback to reflect our unique customer needs and wants.

Also, speaking for Avista, we currently have an Equity Advisory Group, Energy Assistance Advisory Group, Energy Efficiency Advisory Group, electric Technical Advisory Committee, natural gas Technical Advisory Committee, Distribution Planning Advisory Group and are a participant in the joint utility transportation electrification advisory group. Adding another advisory group that Avista and/or its current advisory groups are a member of may be a challenge from a time and scheduling perspective. The Commission's current public processes of workshops, investigations, and rulemakings seem to provide the outlets needed to inform the Commissioners with proposals or recommendations regarding CCA issues.

6. **What guidelines should the Commission issue to ensure long-term utility plans are consistent with CCA rules? For example:**

   What should the ramifications be if a utility's long-term plans:

   1) **Exceed the emissions ceiling set by RCW 70A.45.020,**
   2) **Require purchasing excessive price ceiling units pursuant to RCW 70A.65.160, or**
   3) **Model allowance purchases that are greater than a utility's proportional share of statewide allowances?**

   In the case of the scenarios above, how should utilities demonstrate that decarbonization, or other methods for CCA compliance, are NOT the least reasonable cost pathway?

Response: The CCA legislation clearly articulates the State's mechanism to reduce emissions through the economy-wide cap-and-trade program. The program is designed to create a financial disincentive to emit greenhouse gases through the most efficient means. Due to this fact, industries or emitters with higher alternative costs will be the buyers of allowances. Avista's 2023 natural gas IRP found this to be the case, where forecasted emission prices would be a lower cost to comply than electrification.

As a part of developing an IRP, Avista runs a transparent process with input from its Technical Advisory Committee (TAC). Members of the TAC can help guide assumptions and inputs as a way to maintain expectations and comply with regulations and guidelines. Each utility has its own unique constraints and costs expectations, which may follow a similar pattern, but may not be directly comparable to one another. Establishing guidelines and/or setting expectations should come within action items for each IOU and through the IRP development process itself.

Finally, resource selection is vetted internally and through the TAC to garner feedback and considerations for alternative pathways or resource selection methodologies. The IRP process should guide the reasonableness versus the analysis outcome, as it is a snapshot in time and will change based on new information. This process can be done routinely, in time, based on the most up to date information which can then inform strategies based on least cost and risk.

In terms of ramifications, if a utility's plan shows it will exceed the emissions ceiling set in RCW 70A.45.020, or it will require purchasing price ceiling units pursuant to RCW 70A.65.160, or if it models allowance purchase that are greater than a utility's proportional share of statewide allowances – there should be no ramifications from a planning standpoint as there may be justifiable reasons for the utility facing any of these circumstances. For example, a third-party market has already developed for the purchase and sale of allowances, which will allow a utility to procure more than its proportional share of statewide allowances. Also, if the State of Washington links with other carbon markets, it will provide another source of allowances beyond what are provided by Washington. Further, price ceiling units should be recognized as a potential cost mitigation strategy to the extent that the utility has managed their allowance obligations prudently.

Importantly, if a utility fails to meet its CCA compliance obligation, as noted above, they will face a penalty for non-compliance paid for by their shareholders. Further, if the Commission determines that a utility's CCA compliance costs were not prudently incurred, the Commission may not allow the utility to recover all of its compliance costs. Those are the "ramifications" that would ensue.

7. Are there any other priority issues that have arisen since comments were last filed?

Response: One issue that arose that warrants further discussion comes from Puget Sound Energy's (PSE) natural gas filing to begin charging and passing back credits associated with CCA compliance.[1] In Order 01, the Commission forbid PSE from including a line item on customers' bills to show any charges associated with the CCA. Avista believes this issue remains important to its customers and requires further dialogue involving all utilities on the merits of including such a charge. As has been discussed in the workshop series, the potential rate increases due to the CCA are quite large, likely larger than any increases customers have experienced before. Customers have a right to understand what is driving the rate increases and how much of their bill

[1] UG-230470.

is going towards CCA compliance. While it is true that customers cannot control the price of allowances and the rates they are charged for CCA compliance, knowing how much of their bill goes towards covering their emissions remains important.

If you have any questions regarding these comments, please contact me at 509-495-2782 or shawn.bonfield@avistacorp.com.

Sincerely,

/s/ *Shawn Bonfield*

Shawn Bonfield
Sr. Manager of Regulatory Policy & Strategy