Service Date: December 10, 2020

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of AVISTA CORPORATION, d/b/a AVISTA UTILITIES, For an Order Approving Deferral of Costs Associated with the COVID-19 Public Health Emergency	DOCKETS UE-200407 and UG-200408 ORDER 01 GRANTING ACCOUNTING PETITION SUBJECT TO CONDITIONS

BACKGROUND

1 On April 17, 2020, Governor Inslee issued Proclamation 20-23.2, which prohibits all energy companies from (1) disconnecting residential service due to nonpayment, (2) refusing to reconnect residential customers who were disconnected due to nonpayment, and (3) charging late fees or reconnection fees. Proclamation 20-23.4, issued on May 29, 2020, also requires utilities to develop COVID-19 Customer Support Programs consistent with state guidance from the Governor's office and that will address payment plan options for residential customers who are in arrears due to the COVID-19 pandemic.

2 In June, the Commission formed a COVID-19 response workgroup of stakeholders in Docket U-200281 to facilitate development of guidelines for ensuring that customers experiencing economic hardship as a result of the COVID-19 pandemic maintain access to essential services after Proclamation 20-23 expires and the moratorium on disconnections and late fees is no longer in effect. Workgroup members exchanged proposed term sheets and participated in several workshops. The participants agreed on some of the issues presented but were unable to reach consensus on a single proposed set of guidelines or requirements. Accordingly, Commission staff (Staff) prepared a term sheet that reflected the terms on which the workgroup agreed and Staff's recommended resolutions of the disputed issues (Term Sheet).

3 On October 6, 2020, the Commission conducted a recessed open meeting to address the Term Sheet. Staff revised the Term Sheet to reflect the Commission discussion during the recessed open meeting (Revised Term Sheet). The Commission heard additional comment on the Revised Term Sheet at its regularly scheduled open public meeting on October 15, 2020.

4 On October 20, 2020, the Commission entered Order 01 in Docket U-200281, which adopted the Revised Term Sheet with several modifications. As relevant here, the Commission adopted guiding principles related to COVID-19 deferred accounting for "use in evaluating the deferred accounting petitions the utilities have filed or intend to file with respect to their recovery of costs related to responding to the COVID-19 pandemic."[1] The Commission expressly adopted the following four guiding principles:

- Petitions must identify specific categories of expenditures and certain revenues and must not be overly broad.

- Companies must establish regulatory asset accounts that provide for specific expenditure and revenue categories and regulatory liability accounts for identified benefits, but are not required to provide in their petitions estimated deferral amounts.

- Recovery of any deferred costs will be subject to a prudence review per the Commission's standard practice.

- Companies must file reports that itemize their costs approved for deferral in the docket in which their accounting petition was filed. The first report should be filed by December 1, 2020, and should cover the period from March 1, 2020, to September 30, 2020. Subsequent reports should be filed 30 days after the close of each quarter and must include information from the previous quarter to continue until the conclusion of the proceeding in which the company seeks recovery of the deferred costs or until such time as the Commission determines the reports are no longer beneficial.

5 The Commission declined, however, to adopt Staff's proposed categories of costs appropriate for deferred accounting treatment. Those categories are: (1) specific, incremental COVID costs, (2) bad debt expense, (3) late payment fees, (4) reconnections charges, and (5) costs associated with bill payment assistance programs. The Commission determined instead that it will consider each utility's deferred accounting petition in the docket in which it was filed, and that "[u]ltimately, the Commission will consider each

---

[1] *In the Matter of Response to the COVID-19 Pandemic*, Docket U-200281, Order 01 ¶23 (Oct. 20, 2020).

petition on its merits and render a decision based on the record compiled in each docket."[2]

6 On May 4, 2020, Avista Corporation, d/b/a Avista Utilities, (Avista or Company) filed a Petition for an Order Approving Deferral of Costs Associated with the COVID-19 Public Health Emergency. The Company filed a revised petition on October 21, 2020, consistent with the requirements set out in the Revised Term Sheet (Revised Petition).

7 In its Revised Petition, Avista seeks to defer:

- Direct costs incurred as a result of the COVID-19 pandemic, including incremental costs associated with personal protective equipment (PPE), cleaning supplies and services, contact tracing, medical testing, financing costs to secure liquidity, IT updates, equipment for remote work, and the administrative costs of implementing the Revised Term Sheet. Direct costs are net of savings, credits, payments, or other benefits received by the Company from a federal, state, or local government that are directly related to a COVID-19 direct cost, including federal, state, or local tax credits or benefits.

- Any amount of bad debt incurred in 2020-2022 above the bad debt baseline, defined as the amount currently being collected from customers for bad debt, as determined in the Company's last general rate proceeding, as of October 1, 2020.

- For calendar year 2020, the average amount of reconnection charges collected over the previous five years (2015-2019) less the actual amount collected by the company from January 1 to March 1, 2020.

- Costs to fund a COVID-19 bill payment assistance program, as described in Order 01 in Docket U-200281.

- Benefits associated with the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which allows companies with a net operating loss (NOL) for tax years 2018-2020 to carry that loss back to the five prior tax years. Avista estimates this benefit to be approximately $6.5 on a system-wide basis and estimates the Washington portion to be approximately $4 million. Avista seeks to

[2] *Id.* at ¶26.

defer the benefits associated with the CARES Act to offset its increased expenses due to COVID-19.

8 Avista proposes to record the costs identified above as a regulatory asset in Federal Energy Regulatory Commission (FERC) Account 182.3 (Other Regulatory Assets) and credit FERC Account 407.4 (Regulatory Credit). Avista does not propose that interest should accrue on the unamortized balance.

9 Staff reviewed Avista's Revised Petition and recommends the Commission grant it subject to the condition that Avista defer its costs to FERC Account 186 (Miscellaneous Deferred Debits) rather than Account 182.3 (Other Regulatory Assets) because it is uncertain these costs will be shown to be incremental and, therefore, appropriate for recovery. Staff further notes that utilities may be legally precluded from recovering some of the costs that Avista seeks to defer. Staff contends that FERC Account 182.3 is more appropriate for recording costs when it is probable the amounts will be approved for recovery in future rates, and that FERC Account 186 is appropriate for recording costs when the final disposition is uncertain.

10 On November 19, 2020, the Office of the Washington Attorney General Public Counsel Unit (Public Counsel) and The Energy Project (TEP) (together, Joint Commenters) filed a joint response to the accounting petitions filed by each regulated energy company. The Joint Commenters argue that the companies' petitions each propose accounting deferrals that would "insulate shareholders from responsibility for a variety of costs and reduced revenues … and further burden Washington residents with such costs in the future, while providing immediate financial benefits to the utilities' shareholders, with no showing of financial need or hardship to justify" the requested relief.[3] The Joint Commenters argue that the utilities should view any authorized deferral and future cost recovery with the "spirit of shared sacrifice,"[4] and urge the Commission to significantly narrow the scope of any deferrals.

11 The Joint Commenters further argue that only two categories are appropriate for deferred accounting treatment: (1) customer assistance programs and (2) bad debt. The Joint Commenters expressly advocate that the Commission decline to approve: (1) lost revenues arising from customer usage due to the COVID-19 pandemic; (2) late fees,

---

[3] Joint Comments ¶3.

[4] *Id.*

disconnection fees, and reconnection fees that were not charged during the moratorium; (3) direct costs related to the COVID-19 pandemic, such as personal protective equipment and cleaning supplies, which should be offset by reduced costs related to decreased employee travel and training, among other items; (4) COVID-19 relief cost savings, including any benefits received from federal, state, or local government relief programs; (5) labor costs or payroll taxes, because normalized, ongoing levels of employee labor and benefits expenses are fully recovered in currently effective rates; and (6) carrying charges or interest on authorized regulatory deferrals.

12 In the event that the Commission allows the deferral of direct costs, the Joint Commenters request the Commission adopt a rebuttable presumption that direct costs are offset by savings, thus requiring utilities to present evidence in future proceedings demonstrating that realized cost reduction offsets did not exceed such incremental costs incurred in 2020 or 2021, and that the Commission require a broad tracking of offsetting cost savings. Finally, the Joint Commenters recommend that any deferred accounting petition the Commission approves should be subject to an earnings test and specific reporting requirements.

13 On December 4, 2020, Earthjustice, on behalf of Puget Sound Sage and Front and Centered, filed comments recommending the Commission deny the accounting petitions filed by each regulated energy company. Earthjustice argues that public interest considerations weigh strongly in favor of denial due to the impact of the COVID-19 pandemic on Washington consumers. Earthjustice echoes the Joint Commenters' request that the Commission should issue a statement calling for "shared sacrifice" between utilities and their customers.[5]

14 On December 7, 2020, the Alliance of Western Energy Consumers (AWEC) filed comments expressing support for the Joint Commenters' proposals. Specifically, AWEC supports the Joint Commenters' recommendation that only certain categories of costs should be deferred, and that the Commission should require an earnings test prior to allowing recovery of any deferred amounts. In the event the Commission allows utilities to defer incremental bad debt expense, AWEC recommends the Commission make clear that such incremental amounts will not factor into the historical average that is included

---

[5] Earthjustice Comments, p. 7.

in base rates in future rate cases because these are outlier amounts for which the utilities will have received full recovery.

15 On December 8, 2020, the NW Energy Coalition (NWEC) filed comments expressing support for the Joint Commenters' proposals.

16 The Commission also received 483 comments from interested persons who are opposed to the accounting petitions filed by each utility. The commenters raised various issues, most commonly noting that the financial hardship created by the COVID-19 pandemic has been much greater for consumers than for utilities. Other commenters noted that rate increases disproportionately impact individuals with fixed incomes, that many small businesses have been forced to close due to the pandemic, and that local foodbanks are experiencing an increased need. Finally, commenters criticized the petitions for being overly broad, for seeking reimbursement for discriminatory fees prohibited by the Governor, and for failing to track savings as closely as they track costs.

DISCUSSION

17 We grant Avista's Revised Petition subject to the conditions described herein. Many of the Joint Commenters' positions, addressed in more detail below, are concerned with the recovery of deferred amounts rather than the deferrals themselves. Accordingly, those arguments should be raised at the time Avista seeks to recover the deferred costs in rates. As the Joint Commenters correctly observe, this Order does not pre-approve or guarantee recovery of any of the costs we approve for deferral in this docket. Moreover, this Order does not approve any specific methodology for measuring the costs and revenue identified in the Revised Petition. Any future recovery is subject to prudence review; the utility bears the burden of proving not only that the costs in question were prudently incurred, but also that it was confronted with extraordinary hardship at the time the deferral was recorded. We address each of the parties' proposals, including their proposed conditions, in turn.

Direct Costs

18 Staff supports the Company's request to defer direct costs, including PPE and cleaning supplies, for actions taken in response to the COVID-19 pandemic. The Joint Commenters oppose the deferral of direct costs, arguing that these costs are reasonably presumed to be fully offset by pandemic-related cost reductions for expenses such as employee travel, training, office supplies, and office cleaning. In the alternative, the Joint

Commenters recommend the Commission adopt a rebuttable presumption that direct costs were offset by such savings. Finally, the Joint Commenters urge the Commission to require broad tracking of offsetting operational cost savings.

19 We agree with Staff that the Company should be allowed to defer direct costs related to actions taken to respond to the pandemic because they are unusual and extraordinary, and decline to adopt a rebuttable presumption that these direct costs were offset by savings. Instead, we adopt the Joint Commenters' recommendation that Avista track all its operational COVID-19 related savings as a regulatory liability in FERC Account 253 (Other Deferred Credits), which may offset any or all of the direct costs the Company incurs. At the time Avista seeks recovery of deferred costs, it should simultaneously present its tracked savings and demonstrate how it has used those savings to offset its costs, which will inform the Commission's prudence review. Rather than impose an evidentiary presumption, we require the Company to present a holistic view of its costs and savings for Commission consideration.

Bad Debt

20 Consistent with Staff's recommendation in its Revised Term Sheet, Avista seeks deferral of bad debt expense accrued in 2020, 2021, and 2022 above the bad debt baseline established in the Company's last general rate case. The Joint Commenters object to the timing of the deferral, recommending the Commission allow the Company to defer these amounts only for 2020 and 2021. The Joint Commenters further recommend refining how bad debt is measured for deferral. We decline to adopt the Joint Commenters' recommendation. It is premature at this juncture to speculate about when the economy, let alone consumers, will recover from the financial impacts of the COVID-19 pandemic. Because we authorize only the deferral and not the recovery of these amounts, the Commission can evaluate the appropriate timeframe for deferring bad debt retrospectively at the time Avista seeks to recover those costs. Such retrospective analysis – rather than prospective speculation – is more appropriate in uncertain, unprecedented circumstances like those created by the current pandemic. Additionally, as stated above, this Order does not approve any specific methodology for measuring deferred costs and revenue. Accordingly, AWEC's request that the Commission make clear that such incremental amounts will not factor into the historical average that is included in base rates in future rate cases is beyond the scope of the issues presented for resolution in this Docket. AWEC may offer its recommendation in the context of any future proceeding in which the Company seeks to recover these deferred amounts.

Customer Bill Assistance

21 The Joint Commenters generally accept Avista's proposal to defer the costs of customer bill assistance, but recommend the Commission limit the deferral to the years 2020, 2021, and 2022 to reflect the temporary nature of these relief programs. We decline to adopt this limitation. As noted in the preceding paragraph, we are unable to speculate with any degree of certainty how long the pandemic will continue to negatively impact the economy. The appropriate time to establish the deferral timeframe will be when Avista seeks to recover these costs in rates.

Reconnection Fees

22 Avista proposes to defer the average amount of reconnection charges collected over the previous five years (2015-2019) less the actual amount collected by the company from January 1 to March 1, 2020. The Joint Commenters oppose this request, arguing that the Governor's Proclamations prohibit recovery of these revenues. In the event the Commission approves these revenues for deferral, the Joint Commenters request that Avista be required to offset the lost revenue by savings from avoided trips to disconnect and reconnect service.

23 Staff supports deferral of these revenues but notes that there is significant uncertainty about whether the Company will be able to recover them in light of the Governor's Proclamations. Staff argues, however, that such a determination can be made at a later date. We agree. Deferring revenues in no way guarantees their later recovery, and the Commission can revisit this issue at the time it performs its prudence review. The inclusion of such uncertain revenues lends further support to our requirement, discussed below, that Avista records all deferrals authorized by this Order in FERC Account 186.

Earnings Test and Reporting Requirements

24 We decline to adopt the Joint Commenters' recommendation to require an earnings test as a condition of authorizing deferred accounting treatment. The Joint Commenters propose that Avista "test" the financial impact of accounting deferral entries each month by calculating its average achieved return on equity on a rolling 12-month basis to quantify the financial impact of the proposed deferrals. Under this system, any deferral entry that would result in excessive earnings would "fail" the test, and Avista would either reduce the deferred amount or not record the deferral.

25 Staff disagrees with the Joint Commenters, arguing that an earnings test for the purpose of determining whether a cost can be deferred is administratively problematic. We agree. By this Order, the Commission authorizes Avista to defer certain costs, and we decline to condition that deferral on a future earnings state. Instead, the Commission will review the deferred costs at the time Avista seeks to recover those costs in rates. In the event Avista over-earns during the deferral period, the Company will be unable to demonstrate that it experienced extraordinary circumstances, or that, absent recovery of the deferred costs, the Company will experience extraordinary financial instability going forward.

26 We do, however, agree with the Joint Commenters that Avista should be required to segregate each category of monthly accounting deferrals within separate subaccounts for tracking purposes, maintain workpapers and documentation, and state any assumptions made and algorithms employed for each monthly entry to these subaccounts. Each entry should be recorded in sufficient detail to facilitate Commission review in later proceedings. Avista should also work with Commission Staff and other stakeholders to develop an appropriate methodology for tracking its normalized earnings during the deferral period, and should report those earnings at such time as the Company seeks to recover its deferred costs. Rather than require Avista to file with the Commission quarterly reports summarizing the monthly amounts of the deferrals for each cost category, indicating separately the amounts actually recorded within published financial statements, as the Joint Commenters propose, we require the Company to present that information at the time it requests recovery of the deferrals authorized by this Order. Such information will assist interested parties and the Commission with understanding the impact of COVID-19 on the Company and whether the Company has effectively managed its operations in response to the pandemic.

COVID-19 Relief Cost Savings

27 The Joint Commenters recommend that Avista be required to defer as a regulatory liability all operational cost savings in addition to all cost savings, credits, payments, or other benefits received by the Company from a federal, state, or local government that are directly related to COVID-19 relief programs, including but not limited to federal, state, or local tax credits or benefits. We agree. Tracking these savings will ensure that any deferred COVID-19 costs are appropriately offset, which will assist the Commission in its prudence review.

CARES Act Benefits

28 The CARES Act, which was passed by Congress and signed into law by President Trump on March 27, 2020,[6] allows companies that have a taxable net operating loss (NOL) for tax years 2018-2020 to carry that loss back to the five prior tax years. Avista explains in its Revised Petition that it projects an NOL with its 2019 tax return to be filed and intends to carry it back to all available open years. The NOL "carryback" to years prior to 2018 will reduce taxable income taxed at the previous 35 percent corporate rate, thereby creating a permanent benefit for the portion of the NOL that is recognized at the previous 35 percent tax rate. Avista estimates this benefit to be approximately $6.5 million, approximately $4 million of which will be allocated to its Washington electric and natural gas operations. Avista seeks to defer the benefits associated with the CARES Act to offset the increased expenses due to COVID-19. Staff supports the Company's request.

29 We grant Avista's request to defer any CARES Act benefits to offset the COVID-19 expenses approved for deferral in this Docket. Avista should record any deferred CARES Act benefits to FERC Account 253 (Other Deferred Credits).

FERC Accounts

30 Staff objects to Avista's proposal to record any deferred costs authorized by this Order to FERC Account 182.3, which is designated for regulatory assets, not includible in other accounts, that result from the ratemaking actions of regulatory agencies. These assets arise from specific revenues, expenses, gains, or losses that would have been included in net income determination in one period under the general requirements of the Uniform System of Accounts but for the probability that such items will be included in a different period(s) for purposes of developing rates the utility is authorized to charge for its services.[7] As such, recovery of costs recorded to this account is characterized as "probable."

31 By contrast, FERC Account 186 includes debits not provided for elsewhere, such as unusual or extraordinary expenses, the disposition of which is uncertain. We find that recovery of costs incurred due to the COVID-19 public health emergency is uncertain

---

[6] S. 3548 – 116th Congress, 2d Session (2019-2020).

[7] 18 C.F.R. § 367.1(38); 18 C.F.R. § 367.1823.

rather than likely because each category of costs will require a demonstration that they were incremental, appropriately offset by savings in other areas, prudently incurred for the safe and reliable provision of electric service, and confronted the Company with extraordinary circumstances, the final disposition of which is uncertain.

32 FERC Account 186 is also appropriate in this instance because Avista has not demonstrated that it will appropriately limit the costs it defers. Accordingly, Avista must record the deferrals authorized by this Order in FERC Account 186 (Miscellaneous Deferred Debits) because it is the appropriate account for recording the categories of costs at issue in this docket.

33 Finally, we deny Avista's request to defer these costs "net of benefits." As discussed above, in addition to deferring benefits received from federal, state, or local government relief programs, the Company must also track and defer operational savings.

Conclusion

34 Avista may defer the costs, revenues, and benefits identified in its Revised Petition from the date its original petition was filed, or May 4, 2020, subject to the conditions set out in this Order. With respect to Avista's proposal to defer the average amount of reconnection charges collected over the previous five years (2015-2019) less the actual amount collected by the Company from January 1 to March 1, 2020, we require Avista to reduce its deferral by the amount actually collected by the Company from January 1 to May 4, 2020, to coincide with the beginning of the deferral period.

FINDINGS AND CONCLUSIONS

35 (1) The Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, rules, regulations, practices, and accounts of public service companies, including investor-owned electric and natural gas companies.

36 (2) Avista is a public service company regulated by the Commission, providing service as an electric and natural gas company.

37 (3) The Commission has jurisdiction over the subject matter of this proceeding and over Avista.

38 (4) WAC 480-07-370(3) allows regulated companies to file petitions, including the Revised Petition Avista filed in these Dockets.

39 (5) Staff has reviewed the Revised Petition in Dockets UE-200407 and UG-200408.

40 (6) Staff recommends the Commission grant the Revised Petition subject to the conditions discussed in the body of this Order.

41 (7) This matter came before the Commission at its regularly scheduled meeting on December 10, 2020.

42 (8) After reviewing Avista's Revised Petition filed in Dockets UE-200407 and UG-200408 and giving due consideration to all relevant matters and for good cause shown, the Commission finds that the Revised Petition should be granted subject to the conditions as outlined in this Order.

ORDER

THE COMMISSION ORDERS:

43 (1) Avista Corporation's, d/b/a Avista Utilities, Revised Petition is granted subject to the conditions described in the body of this Order.

44 (2) 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. Nor shall this Order granting Petition be construed as an agreement to any estimate, determination of costs, valuation of property claimed or asserted or to the possible recovery of, or return on, the amounts deferred to the regulatory asset.

45 (3) The Commission retains jurisdiction to effectuate the provisions of this Order.

DATED at Lacey, Washington, and effective December 10, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner