

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET UG-121501
TRANSPORTATION COMMISSION,	)	
	)	ORDER 02
Complainant,	)	
	)	
v.	)	ORDER DISMISSING COMPLAINT
	)	AND ORDER SUSPENDING
AVISTA CORPORATION,	)	TARIFF REVISIONS; ALLOWING
	)	TARIFF REVISIONS ON A
Respondent.	)	PERMANENT BASIS
.....	)	

**BACKGROUND**

- 1 On September 13, 2012, Avista Corporation (Avista or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-29, designated as Fifteenth Revision of Sheet No. 155 Canceling Fourteenth Revision of Sheet No. 155; and Seventeenth Revision of Sheet 156 Cancelling Sixteenth Revision of Sheet 156. The stated effective date of the tariff revisions was November 1, 2012. The revisions constituted Avista’s annual Purchased Gas Adjustment (PGA) and Deferred Gas Cost Amortization filing, the combined effect of which would reduce annual revenue from natural gas service in this state by \$6.5 million or approximately 4.4 percent.
  
- 2 On October 31, 2012, the Commission entered a Complaint and Order Suspending Tariff Revisions, but allowed the reduced rates to go into effect on a temporary basis pending a Staff investigation of the filing. Staff proposed to investigate a practice of Avista’s known as “hedging” by which the Company agrees to fix the price of a future gas supply contract rather than paying market prices at the time that gas supply

is delivered. All four natural gas companies providing service in Washington engage in hedging using various approaches to implement the practice.<sup>1</sup>

- 3 Staff presented the results of its investigation at a recessed Open Meeting on March 22, 2013. Staff concluded that Avista's hedging practices comply with Company policies and that recovery of hedging costs in this docket would be consistent with prior annual filings before the Commission. Staff accordingly recommended that the Commission enter an Order dismissing the Complaint and Order Suspending Tariff Revisions. This would allow the reduced rates Avista filed on September 13, 2012, to become permanent. Staff also recommended that the Commission initiate separate proceedings to examine broadly, on a forward-looking basis, the natural gas hedging practices and policies of all Commission-regulated natural gas companies.
- 4 The Public Counsel Section of the Office of the Washington Attorney General (Public Counsel) agreed that the Commission should initiate a forward-looking examination of hedging practices, but objected to Staff's recommendation to dismiss the complaint. Instead, Public Counsel recommended that the Commission impose a moratorium on hedging pending the outcome of a formal adjudicative proceeding to determine whether the Commission should disallow approximately \$2.7 million of purchased gas costs related to hedging that Avista incurred during the period covered by the tariff filings in this docket (November 1, 2011 through October 31, 2012). In separate dockets, Public Counsel recommended hedging disallowances for the remaining three investor-owned natural gas companies under the Commission's jurisdiction.
- 5 Following further discussion from Staff, Public Counsel, Avista, and representatives from other utility companies, the Commission deferred a decision on the competing recommendations for two weeks to permit Staff and Public Counsel to obtain

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<sup>1</sup> Hedging is a means to dampen the effects of price swings in the wholesale natural gas market, which has exhibited extreme price volatility at times in the past and remains volatile today. In markets characterized by increasing prices, hedging provides benefits to customers because the gas company will pay less for its gas supply overall than it would pay by purchasing on a short term basis in the spot market. That is, the company experiences hedging gains, which it passes through to its customers. In markets characterized by falling prices, hedging means the gas company and its customers will pay more than current spot market prices. During recent periods, natural gas prices fell dramatically, meaning companies such as Avista suffered hedging losses. These, too, are passed through to customers.

additional information from the Company that would help determine whether an adjudicative proceeding is required.

- 6 At a recessed Open Meeting on April 5, 2013, Staff presented the results of its further investigation. Staff reviewed hundreds of pages of additional documentation and provided representative examples, including minutes of Company meetings in which hedging decisions were formulated by the appropriate internal oversight committee and personnel. The purpose of this additional review was to enable Staff to determine whether or not Avista executed its hedging policy in a reasonable manner based on relevant information it knew or should have known at the time its hedging decisions were made. Staff concluded that the documentation demonstrated that Avista reasonably implemented its hedging policy only after thorough review of information that impacts natural gas prices and informs potential changes in hedging strategies, including projections of supply and demand, the current and future state of the economy, shale gas expansion, weather, storage, production, rig counts, and forward market prices. Accordingly, Staff continued to recommend that the Commission dismiss the complaint and initiate a generic proceeding to address hedging practices.
- 7 Although retreating from its proposal for a moratorium on hedging, Public Counsel maintained its preference for the Commission to consider disallowances related to hedging for all four natural gas companies through formal adjudicative proceedings. In the alternative, Public Counsel withdrew its proposed disallowance for Avista, but nevertheless asked the Commission to proceed with an adjudicative proceeding so that the tools of formal discovery under the Administrative Procedure Act (RCW 34.05) and the Commission's procedural rules (WAC 480-07-400 – 425) can be used in conjunction with a separate proceeding to explore all natural gas company hedging practices. Public Counsel is concerned that much of the information produced informally by the four companies is redacted and fails to provide a complete picture of the companies' hedging practices or a satisfactory justification for the losses that resulted in recent periods. The Northwest Industrial Gas Users supported Public Counsel's recommendation.
- 8 Staff and other utility company representatives explained that only information unrelated to hedging was redacted from the documents produced and that no additional information would have been provided even under formal discovery rules.

Staff and Avista urged the Commission to address hedging issues in a separate, generic proceeding that is forward-looking, rather than through further review of past Company decisions.

### **DISCUSSION**

- 9 We appreciate Staff bringing natural gas companies' hedging practices to the Commission's attention and the efforts of Staff, Public Counsel, and Avista to provide the Commission with data and analysis of these complex issues. As a member of the public stated at the April 5, 2013, recessed Open Meeting, the Commission's ultimate objective is to serve the public interest. The active participation of all interested parties in this open meeting process has better enabled us to achieve this goal.
- 10 Avista and the other utilities have developed and implemented policies and practices for hedging that necessarily rely on predictive judgment based on a variety of factors that impact natural gas prices over the short, intermediate and long-term. Based on its thorough review of voluminous Company documentation, Staff concluded that Avista reasonably followed its policies in evaluating these factors when making its hedging decisions. Accordingly, because there is no indication that Avista used poor decision-making or relied on flawed policies, we do not believe that further investigation in this docket is warranted.
- 11 We are mindful of Public Counsel's concerns about having access to information, but we find that Staff and the Company have adequately addressed them. We have no reason to doubt that Avista was cooperative in providing the data requested or that any redactions in the produced documents excised only information unrelated to hedging. We do not see the need for further investigation of the filings in this docket when the voluminous materials the Company provided indicate that additional inquiry would not be fruitful.
- 12 The Commission accepts the results of Staff's investigation and agrees that a forward-looking examination of hedging policies and practices would be more productive than continuing to investigate past Company practices in this docket. Accordingly, the Commission dismisses the Complaint and allows the proposed rates to go into effect on a permanent basis. The Commission intends to initiate a generic, forward-looking, proceeding on gas utility hedging practices in the near future.

13 We remind the parties, however, that our decision to allow the proposed rates to become effective permanently does not prejudice issues related to hedging in future gas cost tariff filings submitted by Avista. Nor should our decision be construed to mean that Avista's current hedging policies and practices leave no potential room for improvement for regulatory purposes. However, any such improvements are better left addressed in the forward looking examination of hedging policies and practices the Commission intends to initiate separately for all four natural gas companies we regulate.

### **FINDINGS AND CONCLUSIONS**

- 14 (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, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including gas companies.
- 15 (2) Avista Corporation is a gas company and a public service company subject to Commission jurisdiction.
- 16 (3) This matter came before the Commission at its recessed open public meetings of March 22, 2013, and April 5, 2013.
- 17 (4) After reviewing the tariff revisions Avista filed in Docket UG-121501 and giving due consideration to the record, the Commission finds it is consistent with the public interest to dismiss the Complaint and Order Suspending Tariff Revisions in Docket UG-121501, dated October 31, 2012, and allow the tariff revisions to Tariff WN U-29 to become effective on May 1, 2013, on a permanent basis.

### **ORDER**

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

- 18 (1) The Complaint and Order Suspending Tariff Revisions in Docket UG-121501, entered on October 31, 2012, is dismissed.

- 19 (2) The tariff revisions Avista Corporation filed in this docket on September 13, 2012, shall become effective on a permanent basis on May 1, 2013.

DATED at Olympia, Washington, and effective May 1, 2013.

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner

**[Service Date May 1, 2013]**