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 Avista's Update of its Base Power Supply and Transmission Costs	)	DOCKET NO. UE-061411

ANSWER OF AVISTA CORPORATION TO MOTION FOR EXTENSION OF TIME

1 COMES NOW, Avista Corporation (hereinafter "Avista" or "the Company"), by and through its undersigned attorneys, and respectfully answers and objects to the Motion for Extension of Time filed in this proceeding. On December 13, 2006, The Industrial Customers of Northwest Utilities ("ICNU") and the Public Counsel Section of the Attorney General's Office ("Public Counsel") submitted a motion to this Commission for an extension of time of approximately two months—ie., until March 12, 2007—for Staff, Public Counsel and ICNU to file response testimony in the above-captioned proceeding. That testimony is presently scheduled to be submitted on January 12, 2007, in accordance with existing procedural schedule. For the following reasons, Avista strongly objects to this requested extension.

2 At the outset, it should be noted that ICNU and Public Counsel do not satisfactorily explain in their Motion why they waited until October to attempt to retain an expert, when Avista's filing was made by the end of August; nor do they explain why,

after making contact with their expert in early October, they did not take steps to then immediately firm-up that engagement, or failing that, to seek alternatives.

3 When Avista made the instant filing on August 31, 2006, in order to update certain base power supply and transmission costs, it intentionally limited the scope of the filing, in an attempt to narrow the issues, so that the filing could be processed expeditiously. It will be recalled that this filing was made on the heels of Avista's recently-concluded general rate case (Docket Nos. UE-050482 and UG-050483), which put rates into effect January 1, 2006. Because of the recent review of cost issues through the general rate case (as well as a subsequent review of the ERM Mechanism), the Company did not believe that it would be administratively efficient or necessary to re-litigate many of the same issues that the Commission had so recently decided.[1] To that end, the Company proposed an effective date of February 1, 2007, for any rate adjustment resulting from this "Production/Transmission Update" filing, believing that the filing could reasonably processed within a five month time-frame.[2]

4 As a result of the pre-hearing conference held in this docket on September 27, 2006, the procedural schedule was established after argument on the record by the parties. It called for, inter alia, the filing of responsive testimony by January 12, 2007, with a hearing scheduled for February 12—15, 2007, followed by briefs on March 6,

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[1] The Company did not propose any changes to the capital structure, the cost of equity, or O&M and A&G expenses. Nor did the Company propose to update distribution-related investment or expenses, thereby limiting the scope of the case to enable the opportunity to quickly process the Company's request. Moreover, with regard to hydroelectric generation and the determination of wholesale electric and natural gas prices, the Company employed methodologies that were previously approved by the Commission in recent cases.

[2] The Company clearly understands that this Commission is not bound by schedules used to process other cases for other companies, recognizing that each case presents its own circumstances. It is, nevertheless, true that Puget Sound Energy's Power Cost Only Rate Case (PCORC), which serves to update the base costs related to its power cost tracking mechanism, as well as the cost of new resources, envisions only a five month review and approval process. Interestingly enough, both Public Counsel and ICNU joined in this Settlement.

2007, and leading to a possible Order in early April of 2007—approximately seven months from the date of the Company's filing. [See "Pre-hearing Conference Order", Order 03, (Docket UE-061411) (September 29, 2006).]

5 A brief review of the give-and-take occurring at the time of the pre-hearing, with respect to the schedule, will illustrate why the existing schedule, itself already represents a substantial departure from what the Company had requested. At the time of the pre-hearing conference, Avista sought to find common ground on scheduling issues, recognizing the press of business at the Commission and the needs of the parties. To that end, it was willing to support Staff's proposed schedule, which provided for the filing of Staff and Intervener testimony on December 13, 2006, Company rebuttal on January 4th, with hearings to occur January 24th through the 26th. (See transcript of pre-hearing, p. 13, ll. 15—25) The Company believed that this schedule might have accommodated an order as early as mid-March of 2007. (Id. at p. 14, ll. 5—11). With that in mind, the Company was willing to support Staff's schedule, even though it extended well beyond what was initially envisioned by the Company.

6 For its part, however, Counsel for ICNU argued that it could not even support Staff's schedule. (Tr. p. 9, ll. 13—15). Counsel for ICNU, on the record, however, stated that "ICNU is willing to take Staff's schedule and move it out 30 days," although it had hoped for more time. (Id. at ll. 22—23) For its part, Public Counsel concurred with ICNU. Again, on the record, Ms. Krebs, on behalf of Public Counsel represented that "Staff's schedule plus 30 days is acceptable to us…." (Tr. p. 12, ll. 4—8)

7 In response, Avista argued that it could accept Staff's proposed schedule as a compromise, but would not support a further extension. The Company stated its belief

that, given the limited issues in the filing, the case could be efficiently processed to allow for timely cost recovery. (See Tr. p. 16, ll. 14-23). The Company has demonstrated a need for rate relief of $28.9 million, effective February 1, 2007. A further delay of, e.g., two months would result in an additional shortfall in excess of $4 million in the recovery of the revenue requirement.

8 Counsel for Avista emphasized the point that, by agreeing with Staff's schedule, it already voluntarily agreed to essentially slip the implementation date by another six weeks:

> So we can talk about accommodation, but we accommodated up front and then we gave some more. In discussions with Staff, they suggested that we delay it another couple of weeks to look for a mid-March order, and we agreed to that. So total it up, the Company has agreed to slip its proposed effective date by essentially six weeks, give or take, so there has been accommodation already on the part of the Company, and again, I want to stress that this takes us beyond the time that it would ordinarily take to resolve a Puget PCORC filing.(Tr. p 17, l 20—p. 18, l. 5)

9 After hearing argument of the parties, Judge Wallis did not accept the schedule originally proposed by Staff and supported by the Company; instead, he adopted the schedule referenced above which calls for the filing of Staff, Public Counsel, and Intervener responsive testimony on January 12th. (See Tr. p. 22, ll. 12—18)

10 He cautioned the parties that he did not expect them to "…wait until the entry of a Commission order resolving the motion [to dismiss] to begin preparation for the case but that they will take the opportunity to begin that preparation before the entry of that order" (Id. at p. 24, ll. 11-15). Judge Wallis concluded the pre-hearing conference by asking the parties whether the schedule was acceptable; in response, counsel for ICNU and Public Counsel both responded as follows:

> "MS. DAVISON: Your Honor, we appreciate your efforts with the schedule, and it is acceptable to ICNU. Thank you.
>
> JUDGE WALLIS: Very well.
>
> MS. KREBS: Yes, Your Honor, it's very acceptable to Public Counsel. Thank you.

(Emphasis supplied, Tr. p. 26, ll. 20—25)

11 In its Motion, ICNU and Public Counsel assert that Avista has not alleged the need for any "extraordinary or immediate rate relief" that would justify processing this case in less than the ten months. (See Motion at p. 3, para. 6) Avista has already discussed the limited scope of this filing and the reasons for proposing an expedited schedule, especially given the recently-concluded general rate case. Moreover, Judge Wallis, at the pre-hearing conference, appropriately recognized that the parties are not entitled, per se, to a ten month period to litigate a case, but rather any schedule must depend on the circumstances surrounding the filing:

> In particular, I do not believe that the statutory limitation of ten months means that parties are entitled to a ten-month period between the stated effective date and the entry of a Commission order, but that it is the maximum based on a complex proceeding and any evaluation of the schedule that the proceeding must itself meet its own challenges and other things that are going on at the time.
>
> Again, I firmly do not believe that a faster schedule is either prejudice as such or that it constitutes expedited relief. Expedited relief is an interim measure that has rules unto itself, and it does not refer to a situation in which we are seeking to resolve all of the contested issues in a proceeding on a schedule that is appropriate to the procedure that is required for that proceeding.

(Emphasis added) (Tr. p.23, l.16—p.24, l.6)

12 In summary, Avista objects to any further extension of the procedural schedule, believing that it has, in good faith, already attempted to work with the parties on an agreeable schedule. ICNU and Public Counsel expressly acknowledge, in their Motion, that their schedule will cover "approximately ten months." (Motion at p. 3, para. 6) They are not statutorily entitled to a ten month schedule; nor, more importantly, do the circumstances of this limited-issue case justify such a prolonged process. If the motion for extension is granted, Avista's ability to realize timely cost recovery will be frustrated.

13 If the Commission were inclined to grant an extension of the schedule, Avista would request that the filed-for rates be put into effect on the originally proposed tariff implementation date of February 1, 2007, subject to refund, based on the outcome of this proceeding. If the rates ultimately approved as just and reasonable were to be less than those placed into effect on February 1, 2007, the difference could be applied to offset the electric deferral balance, or alternatively refunded to customers.

Respectfully submitted this 18+4 day of December, 2006.

AVISTA CORPORATION

By: _____

David Meyer
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