

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 246

In the Matter of

AVISTA CORPORATION, dba
AVISTA UTILITIES,

Request for a General Rate Revision.

PREHEARING CONFERENCE
MEMORANDUM

On September 18, 2013, the Public Utility Commission of Oregon held a prehearing conference in this docket. Representatives appeared on behalf of Commission Staff, Avista Corporation, dba Avista Utilities, the Citizens' Utility Board of Oregon (CUB), and the Northwest Industrial Gas Users (NWIGU).

Petitions to Intervene

Before the conference, a petition to intervene was filed by NWIGU. Upon review of the petition, I find that NWIGU has sufficient interest in the proceedings to participate and that its participation will not unreasonably broaden the issues, burden the record, or delay the proceedings.¹ The petition to intervene is therefore granted. In addition, CUB filed a notice of intervention on August 20, 2013 in compliance with ORS 774.180.

Procedural Schedule

The parties were not able to agree to a procedural schedule. Their main point of contention was whether the schedule should provide for three or five rounds of testimony. After a lengthy off-the-record discussion they presented two alternate schedules encompassing both views.² After oral argument, I took the matter under submission.

As between three rounds or five, the primary point of argument was whether the five rounds are necessary to preserve the rights of parties to respond fully to each other. While I appreciate their concerns, the Commission also has concerns that must be taken into account in adopting a procedural schedule in a rate case.

A serious concern for the Commission is the amount of time allowed for the Commission to deliberate and reach its decision, before the end of the statutory suspension period. In terms of the two proposed schedules, the three round version provides eight more days from the date of oral argument to the target date for a Commission decision.

¹ See OAR 860-001-0300.

² They also offered a third alternate schedule, with four rounds of testimony. Upon due consideration, I abandoned the four round schedule because it does not fit with the filing of pre-hearing briefs.

Another serious concern for the Commission is when a settlement might be filed, relative to the filing of testimony. The Commission prefers to have the benefit of responsive testimony when reviewing a settlement.

The proposed three round schedule provides for four settlement conferences before the filing of Staff/Intervenor testimony. The proposed five round schedule provides for Staff/Intervenor testimony to be filed nearly a month before the last scheduled settlement conference. Between the two proposed schedules, the five round schedule is more likely to result in the filing of Staff/Intervenor testimony prior to settlement.

For that reason, I adopt a five round schedule, but modify it to provide for more time for Commission resolution. Both schedules provide for the last round of testimony on March 3, 2014. The three round proposal has the parties filing prehearing briefs on March 17, 2014, with hearings on March 20, 2014. The five round proposal has prehearing briefs on March 18, 2014, with hearings on April 3, 2014. There is no explanation why the parties would require an extra two weeks from the filing of their pre-hearing briefs on account of adoption of a five round schedule.

Consequently, the adopted schedule is a hybrid of the parties' proposed schedule. I provide for five rounds of testimony on the dates agreed to by the parties, but accelerate the dates for hearing and submission to the dates proposed in the three round schedule to provide more time for the Commission deliberations.

I remind the parties that the scope of their testimony in each of the last three rounds is limited by the substance of the earlier testimony, and that I will entertain motions to enforce that rule.

It is the practice of the Commissioners to review testimony as it is filed. Based on their review it may be necessary to modify the schedule to address new issues or receive additional evidence.

This ruling is not intended to suggest that proposals for three rounds of testimony will not be entertained in future proceedings. Proponents of three rounds would be well advised to formulate their proposed schedules to provide for the filing of Staff/Intervenor testimony before the settlement conferences.

The adopted schedule is as follows:

| EVENT | DATE |
|--|--------------------------|
| Deadline for Petitions to Intervene | October 1, 2013 |
| Budgets Due for Intervenor Funding | October 31, 2013 |
| Staff/Intervenor Settlement Package ³ | November 13, 2013 |
| Initial Settlement Conferences | November 21 and 26, 2013 |
| Staff/Intervenors Opening Testimony | December 12, 2013 |
| Second Settlement Conferences | December 23, 2013 |
| | January 9, 2014 |

³ Between the parties; not filed with the Commission.

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|---|-------------------|
| Avista Reply Testimony | January 15, 2014 |
| Staff/Intervenor Responsive Testimony | February 14, 2014 |
| Avista Surrebuttal Testimony | March 3, 2014 |
| Simultaneous Pre-hearing Briefs | March 17, 2014 |
| Cross-Examination Statements and Exhibit Lists | March 17, 2014 |
| Hearing (First Day Allows for Commission Examination) | March 20-21, 2014 |
| Simultaneous Reply Briefs | April 17, 2014 |
| Closing Oral Argument | April 24, 2014 |
| Commission Decision Target Date | June 11, 2014 |
| Company Files Compliance Tariffs | June 13, 2014 |
| End of Tariff Suspension | June 16, 2014 |

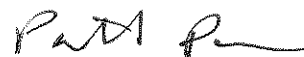
The parties agreed to respond to data requests within 7 calendar days (after January 15, 2014).

The schedule includes a requested date for petitions to intervene. By statute, a person may petition to intervene at any time before the close of the record.⁴ But because it is helpful if parties are identified early in the proceedings, the Commission requests that petitions to intervene be filed by the date identified above.

Settlement conference dates are included in the schedule for the parties' convenience. The parties do not need Commission approval to reschedule settlement conferences.

Parties are reminded that attorneys not licensed in Oregon wanting to appear before the Commission in this docket must file an application for admission to appear pro hac vice.⁵

Dated this 23rd day of September, at Salem, Oregon.



Patrick Power
Administrative Law Judge

Attachment: Notice of Contested Case Rights and Procedures

⁴ See ORS 756.525.

⁵ See UTCR 3.170, OAR 860-001-0320.

NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

Oregon law requires state agencies to provide parties written notice of contested case rights and procedures. Under ORS 183.413, you are entitled to be informed of the following:

Hearing: The time and place of any hearing held in this proceeding will be noticed separately. The Commission will hold the hearing under its general authority set forth in ORS 756.040 and use procedures set forth in ORS 756.518 to 756.610 and OAR Chapter 860, Division 001. Copies of these statutes and rules may be accessed via the website at www.puc.state.or.us. The Commission will hear issues as identified by the parties.

Right to Attorney: As a party to this hearing, you may be represented by counsel. Should you desire counsel but cannot afford one, legal aid may be able to assist you; parties are ordinarily represented by counsel. The Commission staff, if participating in the case, will be represented by the Department of Justice. Once a hearing has begun, you will not generally be allowed to postpone the hearing to obtain counsel.

Administrative Law Judge: The Commission has delegated the authority to preside over hearings to Administrative Law Judges (ALJs). The scope an ALJ's authority is defined in OAR 860-001-0090. The ALJ make evidentiary and other procedural rulings, analyze the contested issues, and present legal and policy recommendations to the Commission.

Hearing Rights: You have the right to respond to all issues identified, and present evidence and witnesses on those issues. See OAR 860-001-0450 to OAR 860-001-0490. You may obtain discovery from other parties through depositions, subpoenas, and data requests. See ORS 756.538 and 756.543; OAR 860-001-0500 to 860-001-0540.

Evidence: Evidence is generally admissible if it is of a type relied upon by reasonable persons in the conduct of their serious affairs. See OAR 860-001-0450(1)(b). Objections to the admissibility of evidence must be made at the time the evidence is offered. Objections are generally made on grounds that the evidence is unreliable, irrelevant, repetitious, or because its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay. The order of presenting evidence is determined by the ALJ. The burden of presenting evidence to support an allegation rests with the person raising the allegation. Once a hearing is completed, the ALJ will not generally allow the introduction of additional evidence without good cause.

Record: The hearing will be recorded, either by a court reporter or by audio/digital tape, to preserve the testimony and other evidence presented. Parties may contact the court reporter about ordering a transcript or request the Commission for a copy of the tape for a fee set forth in OAR 860-001-0060(3)(e)(B). The hearing record will be made part of the evidentiary record that serves as the basis for the Commission's decision and, if necessary, the record on any judicial appeal.

Final Order and Appeal: After the hearing, the ALJ will prepare a draft order resolving all issues and present it to the Commission. The ALJ's draft order is not open to party comment. The Commission will make the final decision in the case and may adopt, modify, or reject the ALJ's recommendation. If you disagree with the Commission's decision, you may request reconsideration of the final order within 60 days. See ORS 756.561 and OAR 860-001-0720. You may also file a petition for review with the Court of Appeals within 60 days. See ORS 756.610.