

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 171(1)
Phase II

In the Matter of

AVISTA CORPORATION, dba AVISTA
UTILITIES,

SB 408 Tax Report for Calendar Year 2007.

RULING

DISPOSITION: MOTION TO CONSOLIDATE DENIED

On August 7, 2009, Staff of the Public Utility Commission of Oregon, the Citizens' Utility Board of Oregon, and the Northwest Industrial Gas Users (collectively Joint Movants) filed a motion to consolidate this docket with docket UG 186, which is a request for a general rate revision filed by Avista Corporation, dba Avista Utilities (Avista), on June 25, 2009. Avista filed its response to the motion to consolidate on August 17, 2009.

Under Senate Bill 408 (SB 408, codified primarily at ORS 757.268), public utilities must "true-up" the amount paid to taxing authorities with the amount collected in rates for taxes. ORS 757.268. If the amount collected differs by \$100,000 or more from the amount paid, then the utility must either refund to customers the amount in excess of taxes paid, or surcharge customers for the increased amount of taxes paid. ORS 757.268(4).

In accordance with SB 408, Avista filed its 2007 tax report in October 2008. The report showed that Avista collected \$1.98 million more in taxes than it paid to taxing authorities. In the first phase of this docket, we concluded that ORS 756.268(4) required the establishment of an automatic adjustment clause refunding the \$1.98 million to Avista's customers, but stated that Avista could file a request to terminate the automatic adjustment clause under ORS 756.268(9), which permits the Commission to terminate the clause if allowing it to become effective would have a "material adverse effect on customers." In response to the Commission's order, Avista filed a tariff implementing the automatic adjustment clause.

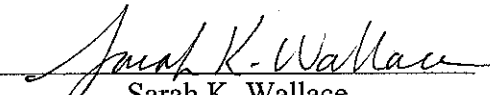
Avista filed its request to terminate the automatic adjustment clause on May 5, 2009. Avista asserts that allowing the automatic adjustment clause to go into effect would result in confiscatory rates, which would have a material adverse effect on customers. The Joint Movants assert that the effective period of the automatic adjustment clause overlaps with the effective period of the rates to be set in docket UE 186, and that the

question of whether rates would be confiscatory if the automatic adjustment clause is allowed to go into effect is dependent upon the outcome of docket UE 186. Thus, the dockets should be consolidated to promote administrative efficiency and to ensure a thorough and fully informed analysis of Avista's claims.

Avista responds that the parties have already presented sufficient evidence in this docket to determine whether rates would be confiscatory during the effective period of the automatic adjustment clause. Avista argues that even if it is granted its general rate revision request without alteration, the automatic adjustment clause would render rates confiscatory. Avista concludes that consolidation is therefore unnecessary.

I agree with Avista that consolidation is unnecessary, but not for the same reasons. Although certain aspects of the two dockets overlap, the fundamental issues in each case are significantly different. In the general rate revision, the Commission must set rates that are just and reasonable for the indefinite future. In this docket, the Commission must determine if the automatic adjustment clause has a material adverse effect on customers during the effective period of the clause. Although the effective period of the clause overlaps with the expected effective date of Avista's new rates, the period is not the same. In addition, ORS 757.268(9) and (10) require a hearing and findings specific to Avista's confiscatory rate claims regardless of whether the docket is consolidated with docket UE 186. Thus, rather than increasing administrative efficiency, consolidation unnecessarily complicates the general rate revision. The Joint Movants' motion to consolidate is therefore denied.

Dated this 20th day of August, 2009, at Salem, Oregon.


Sarah K. Wallace
Administrative Law Judge