**BEFORE THE WASHINGTON**

**UTILITIES AND TRANSPORTATION COMMISSION**

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| WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,  Complainant,  v.  AVISTA CORPORATION d/b/a AVISTA UTILITIES,  Respondent.  . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | )  )  )  )  )  )  )  )  )  )  )  )  ) | DOCKETS UE-140188 and UG-140189 (*Consolidated)*  ORDER 05  FINAL ORDER REJECTING TARIFF FILING, ACCEPTING WITH CONDITIONS FULL SETTLEMENT STIPULATION, AUTHORIZING TARIFF FILING, AND REQUIRING COMPLIANCE FILING |

***Synopsis:*** *The Commission rejects the tariff sheets Avista Corporation d/b/a Avista Utilities (Avista or Company) filed on February 4, 2014, by which the Company requested to increase electric base rates by $18.2 million, or 3.8 percent, and natural gas base rates by $12.2 million, or 8.1 percent. Instead, the Commission approves, with conditions a settlement filed by Avista, Commission Staff, Public Counsel, ICNU, NWIGU, and The Energy Project on August 18, 2014, and as amended on September 8, 2014.*

*We approve the agreed upon increase in electric revenues by approximately $4 million or 0.8 percent, which includes the impact of a $3 million credit from the existing Energy Recovery Mechanism (ERM) deferral balance. In addition, the Commission approves an electric low income rate assistance program (LIRAP) funding increase of $0.4 million. To partially offset the rate impact of the expiration of the current period’s ERM credit and Bonneville Power Administration transmission credits totaling approximately $13.7 million, the Commission approves a settlement that would rebate approximately $8.6 million of Renewable Energy Credit revenues to electric customers over 18 months. In addition, the Commission approves an increase in natural gas revenues by approximately $8.9 million or 5.58 percent, including a natural gas LIRAP funding increase of $0.42 million or 0.14 percent.*

*The Commission also approves the settling parties’ request to implement electric and gas decoupling mechanisms for five years, as well as the use of a third-party evaluation, paid for by Avista shareholders and to be completed following the end of the third full year of the implementation of the mechanisms. We require the Company to consult with its Conservation Advisory Group in the development of the request for proposals (RFP) and the selection of the consultant to perform the evaluation. After incorporating input from its advisory group, Avista must file its draft RFP, including the scope of the evaluation query, with the Commission for its approval. At a minimum, we expect the evaluation to address decoupling’s effect on revenues, its impact on conservation, the extent to which the allowed revenues are recovering their allocated cost of service by customer class, and the extent to which fixed costs are recovered in fixed charges for the customer classes excluded from the decoupling mechanisms.*

*The Commission orders that the LIRAP funding increase proposed in the Settlement be doubled, for a total electric LIRAP funding increase of $400,000 and a total natural gas LIRAP funding increase of $428,000 and encourages parties to file mutually agreed upon additions to the LIRAP program at the same time as any mutually agreed-upon modifications without waiting until the following year as contemplated by the Settlement. If the parties cannot agree upon modifications or additions to the program by June 1, 2015, they should file alternative or competing proposals with the Commission at that time*

*The Settlement proposed a separate forum in which the parties could discuss attrition and other rate making policy issues. We direct Staff to open an investigatory docket to discuss attrition and other rate making policy issues.*

*With the above additional requirements and conditions, we approve the Settlement Stipulation.*

# SUMMARY

1. **PROCEEDINGS:** On February 4, 2014, Avista Corporation d/b/a Avista Utilities (Avista or the Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-28, Electric Service in Docket UE-140188, and its currently effective Tariff WN U-29, Gas Service in Docket UG-140189. In its filings, Avista requested authority to increase charges and rates for electric service by approximately $18.2 million or 3.8 percent. The overall electric increase Avista proposed is 5.5 percent, including the above-mentioned 3.8 percent base rate increase, a Renewable Energy Credit Revenue Mechanism rebate of 1.1 percent, and the expiration of two rebates currently received by electric customers totaling 2.8 percent, effective January 1, 2015.
2. The Company also requested a natural gas rate increase of $12.1 million, or 8.1 percent. On February 14, 2014, the Commission suspended operation of the tariffs and consolidated the dockets for hearing.
3. **PARTY REPRESENTATIVES:** David J. Meyer, Vice President and Chief Counsel for Regulatory and Governmental Affairs, Spokane, Washington, represents Avista. Brett P. Shearer, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Staff or Commission Staff).[[1]](#footnote-1) Lisa W. Gafken, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington State Attorney General’s Office (Public Counsel).
4. Melinda J. Davison and Joshua D. Weber, Davison Van Cleve, P.C., Portland, Oregon, represent the Industrial Customers of Northwest Utilities (ICNU). Ronald L. Roseman, Attorney, Seattle, Washington, represents The Energy Project. Chad M. Stokes and Tommy A. Brooks, Cable Huston, Portland, Oregon, represent the Northwest Industrial Gas Users (NWIGU).
5. **COMMISSION DETERMINATIONS:** The Commission approves and adopts the proposed Settlement Stipulation (Settlement) with the following conditions:

*Decoupling Mechanisms and Third-Party Evaluator*

* Avista must consult with its Conservation Advisory Group when developing the request for proposal (RFP) for the third-party evaluator tasked with reviewing the Company’s five-year electric and natural gas decoupling mechanisms as well as the selection of the evaluator.
* After incorporating input from its advisory group, Avista must file its RFP with the Commission, including the scope of the evaluation query, for approval.
* At a minimum, the third-party evaluation must address decoupling’s effect on revenues, its impact on conservation, the extent to which the allowed revenues are recovering their allocated cost of service by customer class, and the extent to which fixed costs are recovered in fixed charges for the customer classes excluded from the decoupling mechanisms.

*LIRAP*

* Avista must double funding for the low income rate assistance program (LIRAP) from the amount proposed in the Settlement.
* Using Staff’s proposed pilot program as a basis, the parties should work together to file mutually agreed upon additions and modifications to the LIRAP. If the parties cannot agree upon modifications or additions to the program they should file alternative or competing proposals with the Commission no later than June 1, 2015.

*Attrition*

* Staff will open an investigatory docket to facilitate discussion of attrition and other rate making policy issues.

# MEMORANDUM

## **I. Background and Procedural History**

1. On February 4, 2014, Avista filed revisions to its currently effective Tariff WN U-28, Electric Service, and Tariff WN U-29, Gas Service. The Company requested authority to increase charges and rates for electric service by approximately $18.2 million, or 3.8 percent. The Company also requested a natural gas rate increase of $12.1 million, or 8.1 percent. On February 14, 2014, the Commission suspended operation of the tariffs and consolidated the dockets for hearing.
2. Avista based its initial request on a test year from July 1, 2012, through June 30, 2013. The filing included proposals for the following:

* An overall rate of return (ROR) of 7.71 percent.[[2]](#footnote-2)
* A return on common equity (ROE) of 10.1 percent.[[3]](#footnote-3)
* A capital structure consisting of 49.0 percent equity and 51.0 percent debt.[[4]](#footnote-4)

1. On March 7, 2014, the Commission conducted a prehearing conference before Administrative Law Judge Marguerite E. Friedlander. On July 22, 2014, Staff, Public Counsel, The Energy Project, NWIGU, and ICNU filed response testimony and exhibits. Following notification from the parties that they had reached a full settlement, the Commission suspended the remaining procedural schedule on August 14, 2014. The Commission held public comment hearings in both Spokane and Spokane Valley, Washington, on August 26, 2014, and August 27, 2014, respectively. Collectively, 15 members of the public spoke at the public comment hearings. In total, the Commission and Public Counsel received 179 comments regarding the proposed rate increase from Washington customers, with 158 comments opposing the increase, one comment supporting the increase, and 20 comments neither supporting nor opposing.[[5]](#footnote-5)
2. On August 18, 2014, Avista, Staff, Public Counsel, ICNU, NWIGU, and The Energy Project filed a Settlement, attached to this Order as Appendix A. The settling parties also filed joint testimony in support of the Settlement on August 29, 2014. On September 8, 2014, the settling parties filed certain amendments to the Settlement and Joint Testimony to reflect corrections to the level of LIRAP funding increases. On September 23, 2014, the Commission convened a settlement hearing in Olympia, Washington. Chairman David W. Danner, Commissioner Philip B. Jones, and Commissioner Jeffrey D. Goltz were assisted at the bench by Judge Friedlander. Altogether, the record includes more than 200 exhibits entered during the settlement hearing. The transcript of this proceeding exceeds 250 pages in length.
3. On November 12, 2014, Avista filed, in compliance with conditions in the Settlement, an updated power supply revenue requirement increase of $5.6 million, an amount lower than the $6.3 million originally requested.

## **II. Settlement Stipulation**

### A. Introduction

1. The Commission’s statutory duty, in the context of a general rate case, is to balance the needs of the public to have safe and reliable gas and electric service at reasonable rates with the financial ability of the utility to provide such service prospectively. In fulfilling its statutory duty, the Commission must establish rates that are “fair, just, reasonable and sufficient.”[[6]](#footnote-6) The rates must be fair to both customers and the utility; just, in that the rates are based solely on the record in this case following the principles of due process of law; reasonable, in light of the range of potential outcomes presented in the record; and sufficient, to meet the financial needs of the utility to cover its expenses and attract capital on reasonable terms.[[7]](#footnote-7)
2. Pursuant to WAC 480-07-750(1), the Commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the Commission. Ultimately, in settlements, as in litigated rate cases, the Commission must determine that the resulting rates are fair, just, reasonable, and sufficient, as required by state law.
3. Thus, the Commission considers the individual components of the settlement under a three-part inquiry. We ask:

* Whether any aspect of the proposal is contrary to law.
* Whether any aspect of the proposal offends public policy.
* Whether the evidence supports the proposed elements of the settlement as a reasonable resolution of the issues at hand.

1. The Commission must reach one of three possible results:

* Approve the proposed settlement without condition.
* Approve the proposed settlement subject to one or more conditions.
* Reject the proposed settlement.

### B. Terms and Conditions

1. **Summary**
2. On August 18, 2014, the Company filed a Settlement on behalf of all parties. The agreement itself is a “black box” Settlement. This means that the settling parties agree on some important components in the rate case, such as revenue requirement, decoupling mechanisms with a third-party evaluator, and rate spread and rate design, but the Settlement does not articulate the “give and take” process that produced these results. Put another way, the settling parties agree to firm end-result numbers without indicating which parties’ adjustments or issues have been included in the final numbers.
3. Some of the contested issues that the Settlement proposes to resolve are:

* Rate increases for 2015 (both electric and natural gas);
* Five-year electric and natural gas decoupling mechanisms and third-party evaluations;
* Determination of power supply costs;
* Rate spread and rate design (both electric and natural gas); and
* Increased LIRAP funding.

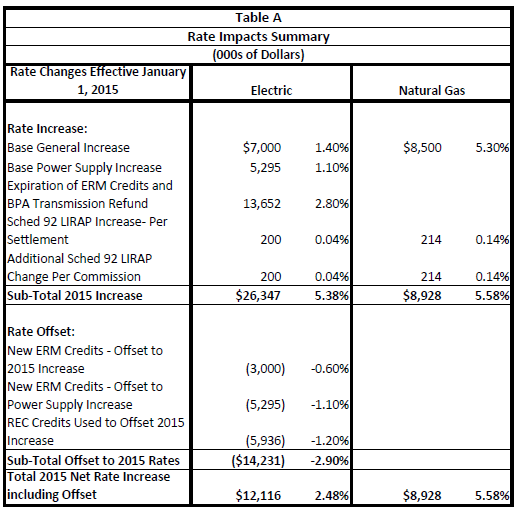
The settling parties propose a January 1, 2015, effective date for the rate increases.[[8]](#footnote-8) They indicate that this provision is an integral part of the Settlement.[[9]](#footnote-9)

1. **Discussion**
   1. **Rate Increases**
2. Effective January 1, 2015, the Settlement provides for an increase in Avista’s annual electric revenues of $7.0 million, or 1.4 percent.[[10]](#footnote-10) The overall net billed impact of this Settlement is an increase of $11.9 million, or 2.48 percent, consisting of an increase in base rates and the following revenue increases and credits due to:

* The January 1, 2015, expiration of the current Energy Recovery Mechanism (ERM)[[11]](#footnote-11) and Bonneville Power Authority transmission[[12]](#footnote-12) credits, increasing electric rates by $13.7 million or 2.8 percent.
* Mitigation of the increase in electric rates by using $3 million from the ERM deferral account, resulting in increased electric rates of only 0.8 percent.[[13]](#footnote-13)
* Rebates to customers over 18 months using $8.6 million from the Renewable Energy Credit (REC) deferral account, lowering electric rates by $5.9 million annualized or 1.2 percent.[[14]](#footnote-14)
* An increase in LIRAP funding by $0.2 million or 0.04 percent.

1. The Settlement reflects a net electric rate increase impact, including offsets from credits and refunds, of approximately $11.9 million (2.48 percent).[[15]](#footnote-15) The settling parties also agree that natural gas base revenues would increase by approximately $8.5 million (5.58 percent overall) over existing 2014 levels.[[16]](#footnote-16)
2. On November 12, 2014, Avista filed its updated power supply costs in compliance with the Settlement.[[17]](#footnote-17) The Company’s update reflects a total base power supply increase of approximately $5.6 million that will be fully offset by an available credit from the ERM deferral balance.[[18]](#footnote-18) Under the terms of the Settlement, if the update which includes updated natural gas and electricity market prices, new short term contracts for gas and electric, updated power and transmission service contracts, $0.5 million power supply expense reduction, and $0.7 million 2015 REC expenses, results in an increase in net power supply costs, the increase will be offset with available ERM deferral balance.[[19]](#footnote-19)
3. Table A below, which was originally presented in the Joint Testimony in support of the Settlement,[[20]](#footnote-20) has been modified to take into account the Company’s updated power supply impacts as well as the Commission decision to double the Settlement’s proposed LIRAP increases, which are discussed below.

**Revised Table A**



1. *Decision.* The Settlement’s proposed rate increases result from compromises among the parties and reflect a negotiated, comprehensive package and were not necessarily determined by any agreed to specific ratemaking methodology. After extensive discussions and scrutiny, the parties were able to resolve their revenue requirement differences. In their Joint Testimony, the settling parties contend they have achieved a reasonable balancing of interests that is supported by sound analysis and sufficient evidence.[[21]](#footnote-21) After consideration of all the relevant factors, we determine that the agreed revenue changes result in rates that are fair, just, reasonable, and sufficient, and that approval is in the public interest.
   1. **Decoupling[[22]](#footnote-22)**
2. The Settlement adopts revenue-per-customer full decoupling mechanisms for all fixed costs of Avista’s electric and natural gas systems for the next five years.[[23]](#footnote-23) The electric decoupling mechanism applies to revenues attributed to distribution systems costs as well as the fixed-cost portion of production costs.[[24]](#footnote-24) The decoupling mechanisms commence on January 1, 2015, and terminate on December 31, 2019 and do not apply to certain customer classes including electric Schedules 25, and 41-48, or natural gas Schedules 112, 122, 132, and 146.[[25]](#footnote-25) At hearing, Avista clarified that the decoupling deferral balances will accrue interest at the Federal Energy Regulatory Commission’s (FERC) rate which is presently 3.25 percent.[[26]](#footnote-26) The parties also offered clarifications regarding the decoupling mechanisms’ earnings tests, conservation commitments, and third-party reviews, which are each described below.
3. The decoupling mechanisms include an earnings test that the settling parties intend to operate as a benefit to Avista’s customers.[[27]](#footnote-27) For example, if volumetric rates produce a surplus of revenue (i.e., sales revenue is above the product of the number of customers in the rate year times the revenue per customer), all of the surplus will be returned to the customers. In addition, if Avista’s achieved ROR, as determined in the Company’s annual Commission Basis Report exceeds 7.32 percent, the rebate to customers will be increased by half the revenue causing the excess ROR.[[28]](#footnote-28)
4. Alternatively, if the decoupling mechanisms produce a revenue deficit (i.e., sales revenue is below the product of the number of customers in the rate year times the revenue per customer) and Avista’s ROR is less than 7.32 percent, a bill surcharge is applied to customer bills to recover the full deficit amount. However, should that condition arise, to the extent Avista’s ROR is greater than 7.32 percent, the surcharge on customer bills will be decreased by half the revenue causing the excess ROR.[[29]](#footnote-29)
5. At hearing, the settling parties made three clarifications regarding the earnings test. First, Avista indicated that the Settlement’s use of the term “one-half the rate of return in excess of 7.32%” in paragraph 13(c) has the same meaning as the term “one-half the *revenue causing* the excess ROR.”[[30]](#footnote-30) Second, Mr. Norwood clarified that if Avista’s ROR is exactly 7.32 percent, there will be no adjustment to any surcharge or rebate.[[31]](#footnote-31) Third, Mr. Norwood specified that the earnings test applies to all of the Company’s earnings, and is not limited to the amount of decoupling surcharges or rebates.[[32]](#footnote-32)
6. Avista also agrees in the Settlement to increase its electric conservation achievement by 5 percent over its biennial target.[[33]](#footnote-33) At hearing, Avista specified that its 2014-2015 biennial conservation target is currently 64,956 megawatt-hours (MWh), 5 percent of which is 3,248 MWh.[[34]](#footnote-34) Thus, the Settlement commits Avista to achieving 68,204 MWh of conservation in the 2014-2015 biennium. If the electric decoupling mechanism is in effect for any portion of a subsequent biennium, Avista commits to increasing its electric conservation achievement by 5 percent for the entire biennium. In other words, the 5 percent will not be reduced or pro-rated because decoupling is not in effect for the full biennium.[[35]](#footnote-35) If this decoupling mechanism is in effect when Avista files a biennial conservation plan, that plan should state the 5 percent of additional conservation in MWh and the sum of Avista’s biennial conservation target, plus this five percent commitment, in MWh.
7. Finally, Avista clarified that the Settlement obligates its shareholders to pay for a third-party evaluation of the decoupling mechanisms after three years.[[36]](#footnote-36) The Settlement does not include specific requirements regarding the scope or contents of this evaluation, though Avista plans to consult with stakeholders as it develops the scope of the evaluation.[[37]](#footnote-37) Mr. Schooley testified for Staff that the evaluation should include, at a minimum:

* an analysis of the mechanism’s impact on conservation achievement,
* an analysis of the mechanism’s impact on Company revenues (i.e., whether there has there been a stabilizing effect), and
* an analysis of the extent to which fixed costs are recovered in fixed charges for the customer classes excluded from the decoupling mechanisms.[[38]](#footnote-38)

1. *Decision.* We find that the decoupling mechanisms presented in the Settlement are in the public interest, will promote the policy goals of increased conservation, and will result in fair, just, reasonable, and sufficient rates. We require that any review of the mechanisms should, at a minimum, include the three above-referenced analyses Mr. Schooley described. Additionally, we require Avista’s decoupling evaluation to analyze if allowed revenues from the following rate classes are recovering their cost of service: residential class, non-residential class, and customers not subject to decoupling. Finally, to ensure that the evaluation’s scope is sufficient to provide the Commission and stakeholders with a meaningful review of the new mechanisms, we require Avista to:

* consult with its conservation advisory group in the development of the evaluation’s request for proposals (RFP), and incorporate the input from its advisory group in a draft RFP;
* file a draft RFP for Commission approval that includes the scope of evaluation query, allowing sufficient time for Commission consideration; and
* consult with its conservation advisory group on the selection of the entity to perform the evaluation.
  1. **Power Supply**

1. The base power costs for the Energy Recovery Mechanism (ERM) proposed in the Settlement are derived from the Company’s power cost modeling with two additional out-of-model adjustments. At the time of the filing of the Settlement, the Company estimated base power costs to increase by approximately $6.3 million. The Settlement proposed that the Company re-run its power cost model on November 1, 2014.[[39]](#footnote-39) At hearing, the Company agreed to include in this filing its level of planned hedging for the rate year, and its level of hedged positions included in the update base power costs.[[40]](#footnote-40) On November 12, 2014, Avista filed updated power costs based on the November 1, 2014, model run.[[41]](#footnote-41) That filing decreased total power supply costs to $5.6 million.
2. The Settlement provides two additional out-of-model adjustments to base power costs. First, base power costs will include 2015 renewable energy credit (REC) expenses.[[42]](#footnote-42) In Avista’s future filings, REC expenses will be included in base power supply costs and subject to the ERM’s dead band and sharing bands.[[43]](#footnote-43) Second, base power supply costs will also include Staff’s proposed $500,000 expense reduction.[[44]](#footnote-44)
3. Additionally, the settling parties agreed to allow Avista to recover the costs of improving dissolved oxygen levels in Lake Spokane.[[45]](#footnote-45)
4. *Decision.* The proposed modifications are reasonable as a part of the whole Settlement. The ERM currently includes both fixed and variable costs. The Settlement removes fixed costs from the ERM and from the application of the Retail Revenue Credit adjustment.[[46]](#footnote-46) The removal of fixed costs is appropriate because Avista will recover the fixed costs through the decoupling mechanism.[[47]](#footnote-47)
   1. **Rate Spread/Rate Design**
5. In the Settlement, the settling parties agreed to a uniform percentage increase for purposes of spreading among customer classes the final electric base revenue increase approved by the Commission, as well as the ERM rebate amount.[[48]](#footnote-48) With regard to the natural gas increase, the settling parties did not agree on utilization of the results of a single cost of service study for purposes of allocating the final natural gas base revenue increase. Instead, the settling parties agreed to a negotiated rate spread specifically described and set forth in paragraph 15(a) of the Settlement.[[49]](#footnote-49) The overall result is a modest increase in base rates across most schedules.[[50]](#footnote-50)
6. *Decision.* The rate spread proposed in the Settlement results in fair, just, and reasonable allocation of costs among customer classes. The rate design proposed in the Settlement is basically unchanged from current rates, except for modest increases in basic charges in most schedules resulting in fair, just, reasonable, and sufficient rates.
   1. **LIRAP**
7. The Settlement increases annual electric and natural gas LIRAP funding by twice the proposed Schedule 1 increase, for a total increase of $200,000 (5 percent) for electric LIRAP funding and $214,000 (11.6 percent) for natural gas LIRAP funding.[[51]](#footnote-51) The Energy Project estimates that the increased LIRAP funding will provide assistance to an additional 400 households within the Company’s service area.[[52]](#footnote-52) At hearing, Avista and the Energy Project indicated that they would be amenable to the Commission approving even more LIRAP funding than set forth in the Settlement, by doubling the Settlement’s proposed LIRAP increase.[[53]](#footnote-53) Staff did not take a position, but did not oppose an increase in funding above the increase set forth in the Settlement.[[54]](#footnote-54)
8. In Avista’s 2012 general rate case, the Commission approved a multiparty settlement in which Avista committed to discuss potential program design options with Staff and other interested parties, and to propose changes to LIRAP in its next general rate case, if necessary.[[55]](#footnote-55) In September 2013, Avista and Staff hosted a meeting on this topic with representatives of other investor-owned utilities, Commission Staff, the Energy Project, Public Counsel and other stakeholders.[[56]](#footnote-56) In May 2014, Avista participated in a Commission-led workshop on low-income assistance programs.[[57]](#footnote-57)
9. Avista did not propose any changes to LIRAP in this case, a decision Staff noted and opposed in its response testimony.[[58]](#footnote-58) Staff proposed that Avista create a pilot program offering rate discounts for low-income electric and natural gas customers,[[59]](#footnote-59) and develop a data collection plan to determine the impact of low-income assistance in its service territory.[[60]](#footnote-60)
10. The Settlement does not include any modifications to the design of LIRAP, or any additional low-income assistance programs. Instead, Avista agrees to continue to meet with Staff, the Energy Project, and other interested parties to develop mutually agreed-upon modifications or additions to LIRAP, and establish a filing schedule.[[61]](#footnote-61)
11. We find that it is difficult for the parties to evaluate and manage LIRAP effectively due to insufficient data.[[62]](#footnote-62) Staff recommended that the Commission facilitate more effective management of the program by ordering Avista to adopt express goals for LIRAP.[[63]](#footnote-63) In the Settlement, the parties agree that the primary intention of any additions or modifications to LIRAP should be to keep low-income customers connected to services, and serve more customers who need assistance. [[64]](#footnote-64) At hearing, the parties also expressed support for the goal of reducing low-income customers’ energy burden.[[65]](#footnote-65) We agree that it is important to identify program goals before attempting to redesign a program.[[66]](#footnote-66) We find that the program goals discussed in the Settlement and at hearing are appropriate for Avista’s low-income assistance programs.
12. The Settlement requires the parties to meet no later than 30 days after the effective date of this order, and at least every other month thereafter to explore additional program options.[[67]](#footnote-67) The Settlement provides a filing deadline of June 1, 2015, for modifications to the existing LIRAP and June 1, 2016, for any additions to LIRAP.[[68]](#footnote-68)
13. The Settlement requires that Avista’s shareholders pay for a third-party facilitator acceptable to all the parties to help manage this process.[[69]](#footnote-69) We believe that the Community Action Agencies administering LIRAP are essential stakeholders in this process, and recognize that agencies located outside of the Spokane area may lack the resources needed to attend meetings.
14. *Decision.* We are concerned that the LIRAP funding set forth in the Settlement is not sufficient to meet existing and increasing low income customers’ needs while also implementing needed program reforms and additions. At the public comment hearing in Spokane, we heard comments from several low-income customers and advocates stating that the overall rate increases in the Settlement would be burdensome to Avista’s low-income customers. Specifically, the Spokane Neighborhood Action Partners (SNAP) stated that it did not support the Settlement, and encouraged us to consider further expanding LIRAP funding to serve more eligible customers.[[70]](#footnote-70)
15. We find that the program goals discussed in the Settlement and at hearing are appropriate for Avista’s low-income assistance program. When proposing additions to the LIRAP program or pilot projects, the parties should consider collecting appropriate data necessary both to evaluate the effectiveness of the program and inform ongoing policy discussions.[[71]](#footnote-71)
16. Further, the record in this case shows that the poverty rate in Avista’s service territory is higher than the statewide average,[[72]](#footnote-72) and that the majority of customers eligible for LIRAP assistance are not served by the current program.[[73]](#footnote-73) We are sensitive to the needs of low income consumers and recognize that as energy prices increase to all consumers so must the available funding to those portions of the Company’s customer base that are most affected by such increases. Although we are pleased the settling parties agreed to increase LIRAP funding for electric and natural gas consumers, we find the new proposed annual LIRAP funding levels to be inadequate and modify that portion of the Settlement. We therefore find that it is in the public interest to double the increase in LIRAP funding provided for in the Settlement, to a total increase of $400,000 for electric LIRAP funding and $428,000 for natural gas LIRAP funding.
17. We believe that it is in the public interest to avoid further delay in developing LIRAP program options to increase low income customer participation in the program. At hearing, the parties consented to file an agreed-upon proposal for modifications and additions by June 2015; or file competing proposals, if no consensus is reached.[[74]](#footnote-74)
18. We therefore require Avista to file agreed-upon proposals for modifications *and additions* to LIRAP by June 1, 2015. We recognize that additional meetings or teleconferences may be necessary to comply with this timeline. If the parties do not reach consensus, they may file separate proposals containing program modifications and additions for the Commission’s consideration by July 1, 2015.
19. Finally, at hearing, Avista agreed also to pay for the travel and lodging expenses of Community Action Agencies located in its service territory to participate in meetings.[[75]](#footnote-75) We recognize and commend Avista’s continued commitment to improving its low-income assistance programs, and we find that it is in the public interest for shareholders to bear these costs. In addition to paying for a third-party facilitator, we also require Avista to pay for any reasonable travel and lodging expenses incurred by Community Action Agencies participating in the meetings.
    1. **Attrition**
20. In its filing, Avista maintains that it is experiencing attrition of earnings and that the decline in earnings is expected to be an ongoing phenomenon.[[76]](#footnote-76) In support of its claim, the Company prepared an attrition study that trends the impact of attrition, by expense class, on its earnings, which it then uses to derive its revenue deficiency. Staff, in its response testimony, adopted a similar trending method identifying projected expense levels which Staff proposed the Commission use to set rates.[[77]](#footnote-77) Public Counsel strongly opposed the trending methodology used by Avista and Commission Staff, arguing that, although it appears the trending approach used in the prior case “…is working and [is] quite precise,” upon closer examination, the apparent precision is not due to the trending. Instead, Public Counsel suggests the attrition study results are due to the Company’s decisions to accelerate capital expenditures before the end of the test period.[[78]](#footnote-78) ICNU also opposed the use of the attrition study by pointing out that the proposed methodology has not been approved by the Commission nor has the Company satisfied the burden necessary to justify the Commission changing from its normal practice of setting revenue requirements.[[79]](#footnote-79)
21. Since the parties do not agree that an attrition adjustment is included within the Settlement or whether an attrition adjustment is appropriate at all, we do not deliberate on the merits of any position on the issue presented in this case.[[80]](#footnote-80) The settling parties do, however, recommend that the Commission establish a separate forum to discuss attrition and other general rate making policy issues.[[81]](#footnote-81) Clearly there is a consensus among the parties regarding the need for a formalized discussion of attrition along with other possible ratemaking mechanisms that may address attrition’s effects on earnings.[[82]](#footnote-82)
22. In addition to the forum, Avista agrees to provide semi-annual reporting of 2014 and 2015 capital expenditures with actual data by expenditure request, in the categories provided in its *pro forma* “cross check” plant adjustments.[[83]](#footnote-83) The settling parties agree to meet no later than January 31, 2015, to establish any additional details of the capital reporting requirements.[[84]](#footnote-84)
23. *Decision.* We direct Commission Staff to open an investigatory docket for the purpose of convening a forum to address attrition consistent with the Settlement. We expect the forum to be inclusive, open to participation by not only the parties in this proceeding but also the broader community of commission-regulated utility companies and interested consumer groups.
    1. **Cost of Capital**
24. The parties have not formally agreed to capital structure ratios or the elements that make up the Company’s authorized cost of capital including ROE or overall ROR.[[85]](#footnote-85) However, despite the lack of formal agreement on the individual components of cost of capital, the parties have agreed to a 7.32 percent ROR for certain purposes including the determination of Allowance for Funds Used During Construction (AFUDC).[[86]](#footnote-86) The Settlement also uses a 7.32 percent ROR as the potential trigger for future earnings tests associated with any decoupling deferral based on the company’s reported annual earnings.[[87]](#footnote-87) Appropriately, the Settlement recognizes that the 7.32 percent ROR will be changed to reflect any future ROR authorization that may be established by the Commission.[[88]](#footnote-88)
25. *Decision.* The settling parties note that they undertook extensive negotiations over many components of the Company’s filing including the various components of cost of capital. The settlement discussions produced a reasonable balancing of interests with each party making certain concessions on matters which would not have been resolved or agreed to if the parties were to proceed to evidentiary hearings.[[89]](#footnote-89) We accept the 7.32 percent ROR to be used for AFUDC purposes and for the earnings test to be applied for decoupling purposes.

# FINDINGS OF FACT

1. Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the parties and the reasons therefore, the Commission now makes and enters the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:
2. (1) The Washington Utilities and Transportation 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 gas and electrical companies*.*
3. (2) Avista is a “public service company,” an “electrical company,” and “gas company” as those terms are defined in RCW 80.04.010 and used in Title 80 RCW. Avista provides electric and natural gas utility service to customers in Washington.
4. (3) On February 4, 2014, Avista filed certain revisions to its currently effective tariffs for electric and natural gas services.
5. (4) The Commission suspended the operation of the proposed tariff revisions pending an investigation and hearing and consolidated the Company’s proposed tariff revisions.
6. (5) On August 18, 2014, the parties filed a Settlement Stipulation that, if approved, would resolve the contested issues raised in Avista’s initial filing.
7. (6) On September 23, 2014, the Commission convened a settlement hearing to hear the parties’ views on why the Settlement should be approved and adopted and to clarify portions of the Settlement.

# CONCLUSIONS OF LAW

1. Having discussed above all matters material to this decision, and having stated detailed findings, conclusions, and the reasons therefore, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:
2. (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and parties to, these proceedings.
3. (2) The rates proposed by tariff revisions filed by Avista on February 4, 2014, and suspended by prior Commission order, were not shown to be fair, just or reasonable and should be rejected.
4. (3) Avista’s existing rates for electric service provided in Washington are insufficient to yield reasonable compensation for the service rendered.
5. (4) Avista requires relief with respect to the rates it charges for electric and natural gas services provided in Washington.
6. (5) The Settlement filed by the parties to this proceeding on August 18, 2014, and revised on September 8, 2014, if approved with conditions, would result in rates that are fair, just, reasonable, and sufficient, and are neither unduly preferential nor discriminatory.

1. (6) The Settlement, which is attached to this Order as Appendix A, and subject to the conditions in paragraph 5, should be approved by the Commission as a reasonable resolution of the issues presented.
2. (7) The Low Income Rate Assistance Program portion of Schedules 91 and 191 should be increased in Avista’s electric and natural gas tariffs to levels double those listed in the Settlement.
3. (8) The Settlement is lawful and approval and adoption of it, subject to the conditions set forth in paragraph 5, is in the public interest.
4. (9) Avista should be required to make such compliance and subsequent filings as are necessary to effectuate the terms of this Order.
5. (10) The Commission Secretary should be authorized to accept by letter, with copies to all parties to this proceeding, a filing that complies with the requirements of this Order.
6. (11) The Commission should retain jurisdiction over the subject matters and the parties to this proceeding to effectuate the terms of this Order.

# ORDER

THE COMMISSION ORDERS:

1. (1) The proposed tariff revisions Avista Corporation, d/b/a Avista Utilities, filed on February 4, 2014, and suspended by prior Commission order, are rejected.
2. (2) The Settlement filed by the parties on August 18, 2014, and revised on September 8, 2014, which is attached to this Order as Appendix A and subject to the conditions listed in paragraph 5, is approved and adopted as being in the public interest.
3. (3) Avista is required to make a compliance filing including such new and revised tariff sheets as are necessary to implement the requirements of this Order. The stated effective date of the revised tariff sheets shall be January 1, 2015, in accordance with the terms of the Settlement. Avista must make its compliance filing, assuming conditions are accepted, as soon as possible, but no later than December 15, 2014, , to afford Staff a reasonable opportunity to review the filing and to inform the Commission whether Staff finds the revised tariff sheets fully conform to the requirements of this Order.
4. (4) Within 10 days from the date of this Order, Avista must file notification with the Commission if it accepts the conditions imposed by the Commission.
5. (5) The Commission Secretary is authorized to accept by letter, with copies to all parties to this proceeding, such filings as Avista makes to comply with the terms of this Order.
6. (6) The Commission retains jurisdiction over the subject matters and parties to this proceeding to effectuate the terms of this Order.

Dated at Olympia, Washington, and effective November 25, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner

**NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.**

# 

# APPENDIX A

**SETTLEMENT STIPULATION**

**DOCKETS UE-140188 and UG-140189 (consolidated)**

1. In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455. [↑](#footnote-ref-1)
2. Morris, Exh. No. SLM-1T, at 3:18. [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. *Id.* [↑](#footnote-ref-4)
5. Exh. No. 5. [↑](#footnote-ref-5)
6. RCW 80.28.010(1); RCW 80.28.020. [↑](#footnote-ref-6)
7. *Federal Power Commission v. Hope Natural Gas,* 320 U.S. 591 (1944); *Bluefield Water Works & Improvement Company v. Public Service Commission of West Virginia,* 262 U.S. 679 (1923). *See People’s Organization for Washington Energy Resources v. Washington Utilities & Transportation Comm’n*, 104 Wn.2d 798, 807-13, 711 P.2d 319 (1985) (describing rate setting process in Washington). [↑](#footnote-ref-7)
8. Exh. No. 5, ¶ 22. [↑](#footnote-ref-8)
9. *Id*. [↑](#footnote-ref-9)
10. Settlement, ¶ 4. [↑](#footnote-ref-10)
11. Credit of approximately $9.2 million originated in Docket UE-120436 as an ERM refund. [↑](#footnote-ref-11)
12. Credit of approximately $4.4 million stems from a settlement with the Bonneville Power Administration implemented in Docket UE-130536. [↑](#footnote-ref-12)
13. *Id*. [↑](#footnote-ref-13)
14. *Id.*, ¶ 5(b). [↑](#footnote-ref-14)
15. Joint Testimony, at 34:14. [↑](#footnote-ref-15)
16. Settlement, ¶4. [↑](#footnote-ref-16)
17. *Id.*, ¶6. [↑](#footnote-ref-17)
18. November 2014 Update, Appendix 2. [↑](#footnote-ref-18)
19. The ERM deferral balance as of June 30, 2014 is $16.7 million, and is currently estimated to be $13.9 million by December 31, 2014. Settlement, ¶6. [↑](#footnote-ref-19)
20. Joint Testimony, at 34 at 34:1-14. [↑](#footnote-ref-20)
21. Joint Testimony at 1:16-24. [↑](#footnote-ref-21)
22. Decoupling allows for the utility’s recovery of the fixed costs it incurs independent of the amounts of electricity and natural gas it sells. Decoupling removes the so-called throughput incentive and is intended to promote more aggressive pursuit of cost-effective conservation. [↑](#footnote-ref-22)
23. Settlement, ¶ 13. The decoupling mechanisms agreed to by the parties are based on Avista’s original proposal, as modified by the Settlement. Ehrbar, Exh. No. PDE-1T, at 49-78. For a complete description and discussion of the Commission’s decoupling policy see *In re WUTC Investigation into Energy Conservation Incentives,* Docket U-100522, Report and Policy Statement on Regulatory Mechanisms, including Decoupling, To Encourage Utilities To Meet or Exceed Their Conservation Targets (Nov. 4, 2010) (Decoupling Policy Statement). [↑](#footnote-ref-23)
24. Exh. No. 4, at 18-19. The mechanisms accomplish this by removing the fixed-cost portion of production costs from the ERM and the application of the Retail Revenue Credit in the decoupling mechanisms. [↑](#footnote-ref-24)
25. Settlement, ¶ 13(b). The mechanism specified in this Settlement supersedes Avista’s currently-effective natural gas decoupling mechanism. Exh. No. 4, at 17, note 13. The electric schedules omitted from the decoupling mechanism include Extra Large General Service (Schedule 25) and Street and Area Lighting (Schedules 41-48). Appendix 2 to Settlement at 3. The natural gas schedules omitted from the decoupling mechanism include Large General Service – Firm (Schedule 112), High Annual Load Factor Large General Service – Firm (Schedule 122), Interruptible Service (Schedule 132), and Transportation Service for Customer-owned Gas (Schedule 146). [↑](#footnote-ref-25)
26. Norwood, TR 181:16-183:12; Ehrbar, Exh. No. PDE-9, at 4, line 35; Ehrbar, Exh. No. PDE-10, at 4, line 17. The Settlement did not specify if or when the interest rate will be adjusted to reflect the current FERC rate. Avista must update the interest rate to the current FERC rate on January 1 of each year the mechanisms are in effect. [↑](#footnote-ref-26)
27. Settlement, ¶ 13; TR 179:24-181:7 (exchange between Commissioner Goltz and Mr. Norwood); Exh. No. 4, at 46:10-15. [↑](#footnote-ref-27)
28. Settlement, ¶ 13(c)(ii); TR 178:12-179:2. [↑](#footnote-ref-28)
29. Settlement, ¶ 13(c)(iii). [↑](#footnote-ref-29)
30. Norwood, TR 178:12-179:2; Settlement, ¶ 13(c). [↑](#footnote-ref-30)
31. Norwood, TR 179:3-6. [↑](#footnote-ref-31)
32. TR 179:24-181:7 (exchange between Commissioner Goltz and Mr. Norwood). [↑](#footnote-ref-32)
33. Settlement, ¶ 13(f); RCW 19.285.040(1)(b). [↑](#footnote-ref-33)
34. Norwood, TR 179:16-23; *Avista Corp*., Docket UE-132045, Order 01, Order Approving Avista Corporation's 2014-2023 Achievable Conservation Potential and 2014-2015 Biennial Conservation Target, Subject To Conditions, ¶ 9 (Dec. 19, 2013). [↑](#footnote-ref-34)
35. Norwood, TR 181:11-15. [↑](#footnote-ref-35)
36. Settlement Stipulation, ¶ 13(a); TR 186:2-13. [↑](#footnote-ref-36)
37. Settlement Stipulation, ¶ 13(a); TR 184:25-185:15; TR 186:14-17. [↑](#footnote-ref-37)
38. TR 186:18-187:3; TR 187:22-188:11. [↑](#footnote-ref-38)
39. *Id.* This update will provide more recent: three-month average natural gas and electricity prices, short-term contracts, transmission contract prices. *Id.* Based on this update, the Company will file with the Commission revised appendices to the Settlement Stipulation by November 17, 2014. [↑](#footnote-ref-39)
40. Norwood, TR 233:22. [↑](#footnote-ref-40)
41. November 2014 Update, Appendix 2; Settlement, ¶6. [↑](#footnote-ref-41)
42. November 2014 Update, Appendix 2. Ms. Fisher provides Public Counsel’s rationale for moving these expenses from the REC Revenue Tracker to the ERM. Fisher, Exh. No. LF-1CT, at 15:1-13. [↑](#footnote-ref-42)
43. *Id.*, ¶ 5(b). [↑](#footnote-ref-43)
44. *Id*. Staff proposed this adjustment in Ball, Exhibit No. JBL-2, at 8:8-10:4. [↑](#footnote-ref-44)
45. Settlement, ¶ 8. [↑](#footnote-ref-45)
46. *Id.*, ¶ 13(e). [↑](#footnote-ref-46)
47. Ball, Exhibit No. JLB-1T, at 10:1-13. [↑](#footnote-ref-47)
48. Settlement, ¶ 14. [↑](#footnote-ref-48)
49. *Id.*, ¶ 15. [↑](#footnote-ref-49)
50. *Id.* At hearing, Avista clarified that the proposed basic charges for Schedules 111 and 121 remove the natural gas commodity costs, consistent with a prior Commission decision. Ehrbar, TR 229:22-230:9. [↑](#footnote-ref-50)
51. Settlement, ¶ 18. [↑](#footnote-ref-51)
52. Joint Testimony, 57:21-28:2. [↑](#footnote-ref-52)
53. TR 253:17-25, 254:1-23 (Exchange between Commissioner Jones and Mr. Norwood) (September 23, 2014). [↑](#footnote-ref-53)
54. Schooley, TR 254:11-13 (September 23, 2014). [↑](#footnote-ref-54)
55. *Utilities & Transp. Comm’n v. Avista Corp*., Dockets UE-120436 and UG-120437, Order 09 (December 26, 2012). [↑](#footnote-ref-55)
56. Williams, Exh. No. JMW-1T, 5:14-19. [↑](#footnote-ref-56)
57. *Id.*, 6:1-15. [↑](#footnote-ref-57)
58. Kopczynski, Exh. No. DFK-1T, at 17:14-16. Williams, Exh. No. JMW-1T, 7:1-3. [↑](#footnote-ref-58)
59. Williams, Exh. No. JMW-1T, 11:14-17, 17:9-10. [↑](#footnote-ref-59)
60. *Id.*, 20:1-2. [↑](#footnote-ref-60)
61. Settlement, ¶ 17. [↑](#footnote-ref-61)
62. Williams, Exh. No. JMW-1T, 7:5-21, 8:1-10; Eberdt, Exh. No. CME-1T, 7:7-11. [↑](#footnote-ref-62)
63. Williams, Exh. No. JMW-1T, 2:13-16. [↑](#footnote-ref-63)
64. Settlement, ¶ 17. [↑](#footnote-ref-64)
65. TR 271:1-272:20 (Exchange between Chairman Danner and Mr. Eberdt) (September 23, 2014). [↑](#footnote-ref-65)
66. *Id.* [↑](#footnote-ref-66)
67. Settlement, ¶ 17. [↑](#footnote-ref-67)
68. *Id.* [↑](#footnote-ref-68)
69. Settlement, ¶ 17. [↑](#footnote-ref-69)
70. Honekamp, TR 96:7-12, 98:1-5 (August 27, 2014). SNAP is an independent community action agency, represented by the Energy Project in this proceeding, and the largest of the community action agencies administering Avista’s LIRAP. Mr. Eberdt, on behalf of the Energy Project, clarified at hearing that he didn’t understand SNAP’s objection to be anything other than concern “that there are a lot of people that are hurting and we’re not getting to enough of them.” Eberdt, TR 256:12-13. [↑](#footnote-ref-70)
71. For example, Aging and Long-term Care of Eastern Washington proposes using the Elder Economic Security Index to qualify customers for low-income energy assistance instead of the Federal Poverty Guidelines; TR 66:5-7 (August 26, 2014); TR 261:22-264:20 (September 23, 2014). [↑](#footnote-ref-71)
72. Honekamp, TR 93:4-22 (August 27, 2014). [↑](#footnote-ref-72)
73. Eberdt, Exh. No. CME-1T, 7:8-18; Williams, Exh. No. JMW-1T, 7:8-10, 17-19; TR 261:15-20 (Exchange between Commissioner Goltz and Mr. Eberdt) (September 23, 2014). [↑](#footnote-ref-73)
74. Jones, TR 268:8-16 (September 23, 2014). [↑](#footnote-ref-74)
75. TR 269:2-12 (Exchange between Commissioner Jones and Ms. Gervais). [↑](#footnote-ref-75)
76. Norwood, Exh. No. KON-1T, at 11:6-8. [↑](#footnote-ref-76)
77. McGuire, Exh. No. CRM-1CT. [↑](#footnote-ref-77)
78. Dittmer, Exh. No. JRD-1CT, at 25:3-18. [↑](#footnote-ref-78)
79. Mullins, Exh. No. BGM-1T, at 2:15-26. [↑](#footnote-ref-79)
80. Settlement, ¶ 11. [↑](#footnote-ref-80)
81. *Id.*, ¶ 21. [↑](#footnote-ref-81)
82. Fisher, TR 213:11-18. [↑](#footnote-ref-82)
83. Settlement, ¶ 20. [↑](#footnote-ref-83)
84. *Id.* [↑](#footnote-ref-84)
85. Settlement, ¶ 10 and 24 and Joint Testimony, Exh. No. 4, at 1:19-20, 11:14-19 and 43:3-6. [↑](#footnote-ref-85)
86. Settlement, ¶ 10, n. 7. [↑](#footnote-ref-86)
87. Settlement, ¶ 13 Part c. [↑](#footnote-ref-87)
88. Settlement, ¶ 13 Part c.ii.1, n. 10. [↑](#footnote-ref-88)
89. Joint Testimony, Exh. No. 4, at 11, 14-19. [↑](#footnote-ref-89)