BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. AVISTA CORPORATION d/b/a AVISTA UTILITIES, Respondent.	DOCKETS UE-090134 and UG-090135 (consolidated)
In the Matter of the Petition of AVISTA CORPORATION d/b/a AVISTA UTILITIES, For an Order Authorizing Implementation of a Natural Gas Decoupling Mechanism and to Record Accounting Entries Associated with the Mechanism.	DOCKET UG-060518 (consolidated)

BRIEF OF NW ENERGY COALITION

November 10, 2009

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INTRODUCTION

1. The NW Energy Coalition (Coalition) files this brief pursuant to Judge Torem's directive on October 9, 2009, at the close of the final hearing day.

2. The Coalition's focus in this proceeding[1] is on Avista's Decoupling Pilot Mechanism (Mechanism) – and specifically, whether the Mechanism should continue and, if so, upon what terms. We ask the Commission to continue the Mechanism with the incentive-based amendments that our witness, Nancy L. Glaser, has recommended.[2] Approval of these amendments will motivate Avista to further enhance its DSM acquisition and activity for the benefit of the company's limited income customers as well as its full customer base.

3. This Brief is organized as follows:

- We begin by discussing the compelling policy rationale that supports decoupling; the genesis behind the Mechanism and its features; and the standard that the Commission adopted to evaluate whether the Mechanism should continue.
- We review the evidence that Avista put forth to support the Mechanism's continuation, including enhanced natural gas DSM acquisition since the Mechanism began; the development of successful non-programmatic measures such as Avista's Every Little Bit campaign; and the evolution of a culture at the company that seems more attuned than before to energy conservation. After considering this evidence, we conclude that the standard for continuing the Mechanism has been met.

[1] After the hearings closed, the Coalition submitted a response (Exh. No. B-15) to Bench Request No. 12, which had asked the parties to discuss whether Chapter 80.80 RCW, WAC 480-100-405, and WAC 480-100-415 apply to the Lancaster Power Purchase Agreement. We concluded that they do apply. Except for Exh. No. B-15, the Coalition does not take a position in this proceeding on any issue other than decoupling.

[2] The Commission has stated that there are several possible outcomes when this proceeding concludes. These outcomes include continuation of the Mechanism on a permanent basis (possibly with amendments) as well as continuation of the existing or amended Mechanism for an additional trial period if the Commission determines that more study is necessary. *WUTC v. Avista Corporation, d/b/a Avista Utilities*, Docket Nos. UE-090134, UG-090135, and UG-060518, Order 07 at ¶ 16 n. 18 (June 30, 2009).

- We then turn to the amendments that Ms. Glaser has recommended. They would embed, within the Mechanism, an incentive structure that is consistent with Washington law regarding the development of incentives that promote energy efficiency.[3] The amendments would create an even greater motivation for Avista to pursue energy conservation generally, as well as expand upon the company's conservation efforts that target limited income customers. The amendments should be approved.
- Next, we respond to the parties who want to abandon the Mechanism outright. Two of these parties take this position even though one "generally supports the kind of modifications to the Decoupling Mechanism proposed by Ms. Glaser" (*e.g.*, Staff)[4] and the other describes Ms. Glaser's proposal as "welcome" (*e.g.*, The Energy Project).[5] We discuss their position in this Brief, including Staff's proposal to replace the Mechanism with much higher customer charges that (unlike the Mechanism) do not in any way incent Avista to enhance its conservation efforts.
- We conclude with an overview of the Coalition's proposal and the actions that we believe should occur.

[3] RCW 19.285.060(4) ("the commission … may consider providing positive incentives for an investor-owned utility to exceed targets established in RCW 19.285.040"). *See also* RCW 80.28.260 (support for policies that provide financial incentives for energy efficiency programs).
[4] Reynolds, Exh. No. DJR-3T at 4:15-16.
[5] Alexander, Exh. No. BRA-2T at 4:10 and 11:5.

THE BACKGROUND TO THIS PROCEEDING

A. A Compelling Policy Rationale Supports Decoupling

4. On behalf of the Coalition, Ms. Glaser presented a compelling policy rationale in her response testimony[6] for the development and adoption of a decoupling mechanism. She noted that traditional rate design – which ties recovery of fixed costs directly to commodity sales -- creates a "disincentive to choose conservation resources, to encourage efficiency investments by customers or to support policies that cause therm sales to decline (*e.g.*, building codes [and] federal efficiency standards)."[7] In contrast, a decoupling mechanism can help overcome the disincentives to conserve energy that are embedded in traditional regulation, by breaking the link between a utility's commodity sales and its revenues. Such a mechanism can, according to Ms. Glaser, promote a corporate culture that values and implements substantial investment in cost-effective conservation. Ultimately a well-designed decoupling mechanism is an "important tool for regulators to deploy to better align ratemaking with stated policy goals and customer interests."[8]

5. Several state regulatory commissions have agreed that decoupling mechanisms serve important policy objectives.[9] For example, the Oregon Public Utility Commission (OPUC) approved a pilot electric decoupling program that Portland General Electric Company had proposed. In declining a party's request to make extensive changes to the program, the OPUC stated earlier this year: "We still firmly believe that *decoupling mechanisms are an*

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[6] Glaser, Exh. No. NLG-1T at 7:11 - 8:26.
[7] *Id.* at 7:22-24.
[8] *Id.* at 8:21-22.
[9] *See generally* Pamela G. Lesh, *Rate Impacts and Key Design Elements of Gas and Electric Utility Decoupling: A Comprehensive Review* (June 30, 2009) for a survey of the 28 local distribution gas utilities and 12 electric utilities, across 17 states, that had decoupling programs in place as of mid-2009. Ms. Lesh is an energy consultant who prepared her survey for the Natural Resources Defense Council. She has more than 25 years of utility experience in the Pacific Northwest, including as Vice President Regulatory Affairs and Strategic Planning for Portland General Electric Company. We thank Ms. Lesh for permitting us to attach her survey to this Brief as Appendix A.

integral part of overall energy policy for the purpose of removing utility disincentives to assist in the acquisition of cost-effective energy efficiency."[10]

6. Similarly, the Idaho Public Utilities Commission (IPUC) considered a proposal by Idaho Power Company to implement a pilot electric decoupling program (the Fixed Cost Adjustment or FCA program). In approving the FCA program, the IPUC stated: "*Promotion of cost-effective energy efficiency and demand-side management (DSM), we find, is an integral part of least-cost electric service* … The Company-proposed FCA mechanism removes a Company-identified financial disincentive to energy efficiency and DSM investment and is designed to reduce on a per-customer basis the utility's dependence on revenue from stable kilowatt-hour sales."[11]

7. Other state regulatory commissions have cited this policy rationale and found that it supports gas decoupling mechanisms as well. In a 2007 decision, the Arkansas Public Service Commission (APSC) approved a request by Arkansas Oklahoma Gas Corporation to implement a pilot gas decoupling mechanism. The APSC stated: "The BDA [Billing Determinant Adjustment] should reduce the frequency of AOG's rate increase applications, but at the same time, *it should further the Commission's conservation and energy efficiency policy objectives…and benefit both AOG and its customers*."[12]

8. Also during 2007, the Colorado Public Utilities Commission (CPUC) approved a request by Public Service Company of Colorado to implement a pilot gas decoupling mechanism (the Partial Revenue Decoupling Adjustment). The CPUC concluded: "The proposal aids in addressing the issue of fixed cost recovery for Public Service in an

[10] *In the Matter of Portland General Electric Company*, UE-197, Order No. 09-176 at p. 5 (May 19, 2009) (emphasis added).
[11] *In the Matter of the Investigation of Financial Disincentives to Investment in Energy Efficiency by Idaho Power Company*, Case No. IPC-E-04-15, Order No. 30267 at p. 13 (March 12, 2007) (emphasis added).
[12] *In the Matter of the Application of Arkansas Oklahoma Gas Corporation for Approval of a General Change in Rates and Tariffs*, Docket No. 07-026-U, Order No. 7 at pp. 13-14 (November 29, 2007) (emphasis added).

environment of declining average residential demand for natural gas, and could certainly reduce the number and cost of future rate cases."[13]

9. Perhaps the most extensive discussion of gas decoupling can be found in a recent Illinois decision. Two local distribution gas utilities in that state – North Shore Gas Company and Peoples Gas Light and Coke Company – proposed to adopt decoupling mechanisms called the Rider VBA. The Illinois Commerce Commission (ICC) reviewed and approved these mechanisms in a lengthy analysis. The ICC concluded: "Both the utilities' embrace of energy efficiency programs, and our recognition of customer gas-savings initiatives, compel the view that these developments need to be balanced with appropriate adjustments. *In our view, energy efficiency is an underutilized resource. All market participants, including the Utilities, need to be part of a concerted effort to change the status quo. And in the process, the current regulatory structure may also have to be re-examined and better tuned to accept new factual realities and policy objectives. We have on record in this case, solid reason to find Rider VBA a proper regulatory response for all of the changing realities reflected in these premises*."[14]

10. In Washington State, this Commission has issued several decisions that have acknowledged the compelling policy rationale that supports decoupling mechanisms. In considering a request by Puget Sound Energy to adopt a gas decoupling mechanism, the Commission stated: "We acknowledge that improved energy savings from cost-effective conservation, which we strongly support, is a *highly appealing rationale for decoupling on*

[13] *Re the Investigation and Suspension of Tariff Sheets Filed by Public Service Company of Colorado*, Docket No. 06S-65G, Decision No. CO7-0568 at pp. 21-22 (June 18, 2007).
[14] *North Shore Gas Company and Peoples Gas Light Company Proposed General Increases in Natural Gas Rates*, 07-0241 and 07-0242 at p. 151 (February 5, 2008) (emphasis added).

its face."[15] The Commission continued: "Some parties argue that decoupling is an important tool in shaping corporate culture so that utilities will aggressively implement, or at least be open to pursuing conservation measures. This makes sense in the abstract, and may prove to be true in the case of individual companies."[16]

11. Though appealing for policy reasons, as the Commission has stated, decoupling is not necessarily appropriate for all Washington utilities. The Commission has declined to adopt a blanket approach to decoupling.[17] In the Puget Sound Energy proceeding discussed above, the Commission observed that decoupling is but "one regulatory tool in a larger toolbox of devices that we might use to promote greater conservation." Decoupling is a "means to an end [increased energy conservation], according to the Commission, "not an end in itself."[18]

12. In sum, the point of this section is to present a complete picture regarding the policy rationale for decoupling in general and for the Mechanism in particular. We understand that this rationale, though compelling, is not determinative in this proceeding. But unlike those who reflexively oppose *any* form of decoupling under *any* circumstances, we believe that the best approach to the issues is a considered approach – one that (a) acknowledges the policy rationale and regulatory precedent for decoupling; (b) recognizes that Avista must

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[15] *WUTC v. Puget Sound Energy, Inc.*, Docket Nos. UE-060266 and UG-060267, Order 08 at ¶ 54 (January 5, 2007) (emphasis added). *See also In the Matter of the Petition of Avista Corporation, d/b/a Avista Utilities*, Docket No. UG-060518, Order 04 at ¶ 10 (February 1, 2007) ("promoting energy conservation is a goal that we strongly support, and provides a highly appealing rationale for decoupling"); *WUTC v. Cascade Natural Gas Corporation*, Docket No. UG-060256, Order 05 at ¶ 71 (January 12, 2007) (same); *WUTC v. PacifiCorp d/b/a/ Pacific Power & Light Company*, Docket No. UE-050684, Order 04 at ¶ 108 (April 17, 2006).

[16] *WUTC v. Puget Sound Energy, Inc.*, Docket Nos. UE-060266 and UG-060267, Order 08 at ¶ 66 (January 5, 2007).

[17] *Rulemaking to Review Natural Gas Decoupling*, Docket No. UG-050369, Notice of Withdrawal of Rulemaking (October 17, 2005) ("[t]he wide variety of alternative approaches to decoupling make it more efficient to address these issues in the context of specific utility proposals included in general rate case filings rather than through a generic rulemaking").

[18] *WUTC v. Puget Sound Energy, Inc.*, Docket Nos. UE-060266 and UG-060267, Order 08 at ¶¶ 54 and 65 (January 5, 2007).

still make a case to continue the Mechanism; (c) acknowledges Avista's success to date with the Mechanism; and (d) builds upon that success with amendments to the Mechanism such as the ones we propose.

B. The Commission Approved A Comprehensive Decoupling Program

13. The Mechanism was presented to, and approved by, the Commission pursuant to a multiparty settlement agreement among Avista, Commission Staff, the Coalition, and Northwest Industrial Gas Users. Key features of the Mechanism[19] included the following:

- *Term*: Avista began recording deferred revenue on January 1, 2007. The deferral period is scheduled to end when a decision is reached in Avista's general rate case.[20]
- *Application*: The Mechanism applies to Avista's Schedule 101 customers.
- *New Customer Adjustment*: This adjustment removes the usage associated with new customers added since the corresponding month of the test year.
- *Deferrals*: Avista defers 90% of the margin difference, either positive or negative, for potential later recovery (or rebate).
- *Recovery*: Avista may not earn more than its authorized rate of return (via deferral recovery), and recovery depends upon the achievement of conservation targets.[21]
- *Rate Changes*: Rate changes due to the Mechanism are limited to 2% annually.

[19] In his direct testimony regarding the Mechanism, Avista's witness, Brian J. Hirschkorn, explained how the original features work in practice. Hirschkorn, Exh. No. BJH-1aT at 13:16 - 19:4. Since the Mechanism was approved, Avista has proposed to adjust actual monthly customer usage to remove the net effect of customers switching between Schedules 101 and 111. *Id.* at 12:7 - 13:12. Avista has also proposed in its rebuttal case to implement various changes to the deferral recovery. Norwood, Exh. No. KON-1T at 31:17 - 32:3.

[20] The deferral period was originally set to end on June 30, 2009. Avista received an extension on an interim basis in order to permit the Commission to consider the Mechanism during the company's pending general rate case. *WUTC v. Avista Corporation, d/b/a Avista Utilities*, Docket Nos. UE-090134, UG-090135, and UG-060518, Order 07 at ¶ 33 (June 30, 2009).

[21] Avista currently recovers 60% to 90% of its deferrals. The recovery level varies depending upon the actual DSM savings that the company achieves relative to its target savings. For example, the maximum recovery level (90%) is now tied to 100% achievement of target savings – which means that the Mechanism does not give Avista any incentive to achieve DSM savings that exceed this target. *In the Matter of the Petition of Avista Corporation, d/b/a Avista Utilities*, Docket No. UG-060518, Order 04 at ¶ 15 (February 1, 2007).

C. The Commission Adopted A Standard To Evaluate The Program

14. The Commission adopted a standard for evaluating the Mechanism in the Final Order Approving Decoupling Pilot Program. The Commission stated: "The settling parties should consider our approval as an opportunity to demonstrate that decoupling mechanisms do indeed increase utility sponsored conservation and that the potential flaws do not outweigh the program's benefits. We will carefully evaluate the mechanism, and will only consider an extension upon a convincing demonstration that *the mechanism has enhanced Avista's conservation efforts in a cost-effective manner*."[22]

15. What constitutes enhanced conservation efforts is informed by the Commission's decisions. In rejecting one proposed decoupling mechanism, the Commission cited the company's failure to identify and commit to incremental conservation measures as a counterbalance to its potential reduction in risk.[23] Another decision referred to the need for performance measures to evaluate whether or to what extent a decoupling mechanism actually promotes incremental amounts of conservation.[24] The Commission has also commented on the need for a decoupling mechanism to "infuse corporate culture" and "promote a more positive company attitude toward conservation."[25]

16. This standard, then, will guide the Commission in reviewing Avista's experience with the Mechanism. As discussed below, we believe that the standard has been met.

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[22] *Id.* at ¶ 33 (emphasis added).
[23] *WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket No. UE-050684, Order 04 at ¶ 108 (April 17, 2006).
[24] *WUTC v. Puget Sound Energy, Inc.*, Docket Nos. UE-060266 and UG-060267, Order 08 at ¶ 68 (January 5, 2007).
[25] *Id.* at ¶¶ 55 and 66. The Idaho Public Utilities Commission took much the same approach when it approved the FCA decoupling program for Idaho Power Company. The IPUC required Idaho Power to demonstrate an "enhanced commitment to energy efficiency and DSM" in return for receiving the FCA program. *In the Matter of the Investigation of Financial Disincentives to Investment in Energy Efficiency by Idaho Power Company*, Case No. IPC-E-04-15, Order No. 30267 at pp. 13-14 (March 12, 2007).

AVISTA HAS MET THE COMMISSION'S STANDARD

A. The Company Enhanced its Conservation Efforts

17. Avista has introduced evidence in this proceeding to suggest that the Mechanism led to increased DSM acquisition and activity during the pilot period. Overall therm savings increased by a substantial degree during this period as compared to preceding years. The Decoupling Evaluation Report noted a 54% increase in total Washington therm savings across all rate classes; a 205% increase in therm acquisition in the Washington Schedule 101 class; and a 13% increase in the Washington limited income sector.[26] In addition, Avista achieved 137% and 128% of its yearly therm acquisition goal in the company's Integrated Resource Plan for 2007 and 2008, respectively.[27] Avista's witnesses, Jonathan Powell and Kelly O. Norwood, discussed the success of Avista's energy conservation efforts in their direct and rebuttal testimony, respectively.[28]

18. Further, Avista has undertaken non-programmatic DSM efforts in the last few years that have likely led to a decline in energy use per customer. These efforts are demonstrated by the Every Little Bit campaign that the company launched at the start of the pilot period.[29] This campaign provides information to Avista's customers regarding available DSM programs and rebates, as well as low- and no-cost steps that the company's customers can take to reduce their energy use. Thus, the non-programmatic actions that Avista takes, such as through the Every Little Bit campaign, directly affect its customers' energy efficiency decisions and their energy usage.

[26] Exh. No. BJH-2a at p. 3.
[27] Powell, Exh. No. JP-3T at 2:7.
[28] Powell, Exh. No. JP-1T at 2:1-18; Norwood, Exh. No. KON-1T at 38:12 - 39:10.
[29] Norwood, Exh. No. KON-1T at 34:1-17; Exh. No. JP-10-X; Exh. No. BJH-2a at pp. 25-26.

19. State regulatory commissions have recognized that non-programmatic actions such as Avista's Every Little Bit campaign and the company's involvement with local community conservation events influence customers' energy efficiency decisions and energy usage. In the Final Order Approving Decoupling Pilot Program, the Commission considered the argument that, with the decoupling program, Avista could continue to encourage customers to conserve natural gas through education, as well as through programmatic DSM measures. The Commission stated: "*[I]t is reasonable to assume, as the Joint Parties do, that company-sponsored educational efforts have an effect on individual efficiency decisions*."[30]

20. The Oregon Public Utility Commission has agreed that non-programmatic conservation efforts have an effect upon utility customers. In approving Portland General Electric Company's decoupling program earlier this year, the OPUC rejected the argument that PGE has only limited influence over its customers' energy efficiency decisions. The OPUC stated: "*We find this position unpersuasive because PGE does have the ability to influence individual customers through direct contacts and referrals to the ETO. PGE is also able to affect usage in other ways*, including how aggressively it pursues distributed generation and on-site solar installations; *whether it supports improvements to building codes; or whether it provides timely, useful information to customers on energy efficiency programs*."[31] Similarly, Avista's Every Little Bit campaign provides timely and useful information to its customers that help them make informed energy efficiency decisions and reduce their energy usage.

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[30] *In the Matter of the Petition of Avista Corporation, d/b/a Avista Utilities*, Docket No. UG-060518, Order 04 at ¶¶ 22 and 25 (February 1, 2007) (emphasis added).

[31] *In the Matter of Portland General Electric Company*, UE-197, Order No. 09-020 at p. 27 (January 22, 2009) (emphasis added). The OPUC later clarified and modified certain aspects of Order No. 09-020 upon a request for reconsideration, but did not change its core position that a utility's non-programmatic conservation actions do affect a customer's energy efficiency decisions and his or her energy usage. *In the Matter of Portland General Electric Company*, UE-197, Order No. 09-176 (May 19, 2009).

21. With regard to Avista's attitude towards energy conservation, the Mechanism appears to have spurred management to ramp up DSM acquisition efforts, push for tougher building and appliance codes, and in general increase the company's support for conservation measures. Mr. Norwood discussed the history of Avista's approach to energy conservation in his rebuttal testimony.[32] Therefore, and despite concerns that Ms. Glaser initially expressed regarding the corporate ethos at Avista,[33] we now believe that the Mechanism encouraged the company to pursue additional conservation actions.

22. In light of this evidence, we conclude that the Mechanism did enhance Avisa's conservation efforts during the trial period. In reaching this position, however, we do not suggest that the company's approach to measuring its efforts is by any means ideal. In her cross-answering testimony, Ms. Glaser agreed with Public Counsel and Staff that Avista needs to measure future DSM performance much more effectively in order to ensure the cost-effective delivery of programs and benefits to customers. The need for a more precise and comprehensive evaluation of DSM performance will become critically important as energy savings assume a larger role in Avista's resource portfolio.[34] Avista acknowledges a need for improvement in the area of measurement and verification of DSM savings.[35]

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[32] Norwood, Exh. No. KON-1T at 36:18-21 (citing the "increased emphasis on DSM by the Company in the last couple of years"), 40:17-19 (citing Avista's efforts to ramp up energy efficiency in anticipation of the Mechanism), and 41:20 - 42:2 (citing Avista's recovery of intra-rate case fixed costs related to reduced usage as "placing greater management emphasis on DSM acquisition"). Mr. Norwood went on to discuss Avista's creation of departmental performance metrics, including new monthly tracking statistics that focus on whether the company has actually achieved the Mechanism's targets for deferral recovery. *Id.* at 42:3-9.

[33] Ms. Glaser stated in her response testimony that "Avista has not yet provided clear evidence that the Decoupling Mechanism, per se, has materially contributed to its decision-making with regards to energy efficiency." Glaser, Exh. No. NLG-1T at 15:7-9. She was concerned when she prepared her testimony that Avista had not shown that the Mechanism affected the company's approach to conservation in a meaningful way – especially since Avista was involved in conservation activities before the Mechanism was adopted. Since then, however, Avista has introduced evidence in Mr. Norwood's rebuttal testimony to show that the Mechanism did incent the company to pursue additional conservation efforts.

[34] Glaser, Exh. No. NLG-5T at 1:10-15 and 2:8 - 3:2.

[35] Norwood, Exh. No. KON-1T at 46:12 - 47:7.

B. The Conservation Efforts Were Cost-Effective

23. We also believe that the Mechanism enhanced Avista's efforts in a cost-effective manner. The Mechanism's impact to date on average customer bills has been modest according to the Decoupling Evaluation Report.[36] The annual deferral amounts have not been significant enough to have a negative impact on customer decisions or to dissuade them from participating in Avista's programs, including energy efficiency measures.[37]

24. With regard to Avista's DSM acquisition, Staff's witness, Deborah J. Reynolds, concluded in her response testimony that the company acquired its DSM resources in a cost-effective manner. Ms. Reynolds stated that Avista maintained program-wide benefit-to-cost ratios during 2007 and 2008 that were significantly below avoided cost. The same ratios exceeded 1.0 for both the Utility Cost Test and the Total Resource Test, according to Ms. Reynolds.[38] Thus, Avista acted prudently during the pilot period with respect to the costs of DSM resources.[39]

25. Finally, and with regard to the costs of Avista's non-programmatic efforts such as the Every Little Bit campaign, Public Counsel's witness, Michael L. Brosch, characterized that campaign as a "modestly funded program."[40] Avista's efforts to disseminate conservation information and to inform customers about steps to reduce their energy usage were thus taken at a level appropriate for complementary education and information programs.

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[36] Exh. No. BJH-2a at p. 4; Glaser, Exh. No. NLG-1T at 16:7-9.
[37] Glaser, Exh. No. NLG-1T at 14:14-20.
[38] Reynolds, Exh. No. DJR-1T at 10:4-10 and 11:8-10.
[39] The increased therm acquisition did come at a higher cost as Avista acquired progressively more expensive DSM resources. Mr. Norwood explained the reasons for the higher cost in his rebuttal testimony. Norwood, Exh. No. KON-1T at 39:16 - 40:9.
[40] Brosch, Exh. No. MLB-1T at 20:3-4.

C. Both Parts Of The Standard Have Been Satisfied

26. For the above reasons, therefore, the Coalition believes that Avista has satisfied both parts of the Commission's standard. The Mechanism enhanced the company's conservation efforts during the trial period, and it did so in a cost-effective manner.

27. As we argued earlier in this Brief, however, the fact that Avista met this standard should not end the analysis. It is important to build upon Avista's experience and success with the Mechanism by introducing appropriate amendments that respond to key issues in this proceeding. We propose three such amendments and discuss them below.

THE COALITION PROPOSES THREE KEY AMENDMENTS

28. In her response testimony, Ms. Glaser laid out the three key amendments to the Mechanism that she recommended and that the Coalition proposes in this proceeding:[41]

- *First*, Avista's maximum deferral would be reduced from 90% to 70% of the fixed cost margin difference (either positive or negative).
- *Second*, Avista could recover deferred amounts if it meets not one, but two DSM targets: an overall DSM target as is currently the case, and a DSM target for Washington limited income customers.
- *Third*, the Mechanism would contain structured incentives in order to encourage Avista to achieve DSM savings that exceed Commission-approved target levels.

A. The Maximum Deferral Should be Reduced

29. The reduction that we propose to the deferral cap would reduce somewhat the dollars that the Mechanism could return to Avista. But a reduction in the deferral cap from 90% to 70% would still serve to remove the financial disincentive for Avista to pursue increased DSM acquisition and activity, including non-programmatic DSM efforts such as education,

[41] Glaser, Exh. No. NLG-1T at 6:6-15.

energy efficiency information and outreach, and other actions that are not tied directly to programmatic offerings. In this regard, we urge the Commission to affirm that non-programmatic DSM activities represent an integral part of a utility's conservation efforts.

30. Such a reduction would offer other advantages. Under the Mechanism as designed, Avista was able to recover four and six times the lost margin attributable to its Washington Schedule 101 DSM programs in 2008 and the 2007-2008 biennium, respectively.[42] In the Final Order Approving Decoupling Pilot Program, the Commission expressed a concern regarding the potential proportion of margin lost to company-sponsored DSM relative to the amount that is subject to recovery under the Mechanism.[43]

31. Consequently, the reduction in the deferral cap that the Coalition proposes – from 90% to 70% -- would strike a better balance between and among Avista's interest in recovering, via the Mechanism, a portion of the company's Commission-approved fixed costs that are not otherwise recoverable due to a decline in sales; the Commission's interest in ensuring that Avista does not over-recover; and the public's interest in removing disincentives to invest in and advance energy efficiency. Staff and Avista agree with this position. Ms. Reynolds stated in her cross-answering testimony that "Staff generally supports the kind of modifications to the Decoupling Mechanism proposed by Ms. Glaser if it is retained."[44] Mr. Norwood stated in his rebuttal testimony that the Mechanism should be amended to include a 70% deferral cap rather than the current 90% cap.[45]

[42] Exh. No. BJH-2a at p. 2 table 1; Glaser, Exh. No. NLG-1T at 9:29 - 10:11.
[43] *In the Matter of the Petition of Avista Corporation d/b/a Avista Utilities*, Docket UG-060518, Order 04 at ¶ 26 (February 1, 2007).
[44] Reynolds, Exh. No. DJR-3T at 4:15-16.
[45] Norwood, Exh. No. KON-1T at 31:19 and 35:18.

32. Whether 70% is the most appropriate deferral cap has drawn considerable attention in this proceeding. Ms. Glaser explained how she arrived at this figure in her response testimony; in a response to a Public Counsel data request; and in answers to questions from the bench during the hearings.[46] The Coalition believes that her analysis is solid and her position is reasonable. As Avista's customers experience financial challenges in the current economic climate, according to Ms. Glaser, "a more equitable sharing of financial risk between Avista and its customers should be built into the Mechanism."[47] The 70% cap that the Coalition proposes, therefore, represents a more equitable and appropriate figure if the Commission decides to continue the Mechanism.

33. We concede, though, that there is no magic attached to the 70% figure. The figure is necessarily approximate due to the difficulty involved in precisely identifying, segregating, and quantifying each of the various factors that cause energy usage to decline. For example, Ms. Reynolds recommended that the Mechanism account for *all* reductions in energy use, not just the reductions that are associated with company-sponsored DSM activity. That is because, according to Ms. Reynolds, "Staff believes it is very difficult to accurately identify Company-sponsored versus non-direct reductions in energy use."[48]

34. Ms. Glaser and Mr. Powell agreed that it is difficult if not impossible to isolate and quantify, with a substantial degree of precision, the various factors that cause energy usage to decline. In her response testimony, Ms. Glaser stated that "it is difficult to precisely determine how much overall usage change is actually related to energy efficiency efforts," and that "forecasting explicit estimates of the energy efficiency investments attributable to

[46] Glaser, Exh. No. NLG-1T at 13:23 - 14:7; Exh. No. NLG-7-X.
[47] Glaser, Exh. No. NLG-1T at 11:20-23.
[48] Reynolds, Exh. No. DJR-1T at 19:21 - 20:2.

education, information, and outreach programs is very difficult."[49] Similarly, Mr. Powell stated in a response to a Public Counsel data request that "it is not possible to precisely determine the degree to which Avista's outreach investments have enhanced the throughput of Avista's DSM programs or the realization of energy savings through non-programmatic measures and behaviors."[50]

35. Still, and with an eye towards balancing all of the interests and concerns in this proceeding, we have developed an analysis and presented what we believe is a reasonable deferral cap to include in the Mechanism. The 70% figure can be regarded as a surrogate or proxy, then, for the point at which Avista can recover, via the Mechanism, the maximum portion of its Commission-approved fixed costs that are not otherwise recoverable due to a decline in sales, assuming that the company also achieves or exceeds the highest target under the Mechanism for DSM savings (120% or more under the Coalition's incentive-based proposal) as well as the limited income DSM target that we propose.

36. The Commission may of course decide that a figure other than 70% is more appropriate for the Mechanism's deferral cap. Regulatory precedent is available on the subject of capping margin recovery in a gas decoupling mechanism. In a 2006 decision, the Indiana Utility Regulatory Commission (IURC) approved such a mechanism that contained an 85% cap on the recovery of lost margins.[51] The IURC first listed all of the diverse groups that, at the time, had publicly announced support for decoupling margin recovery from sales revenue, including NARUC, the AGA, the NRDC, the American Council for an Energy-

[49] Glaser, Exh. No. NLG-1T at 13:26-27 and 14:29-31.
[50] Exh. No. JP-10-X at p. 3.
[51] *Verified Petitions of Indiana Gas Company, Inc. and Southern Indiana Gas and Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc.*, Cause Nos. 42943 and 43046 (December 1, 2006).

Efficient Economy, the Midwest Gas Initiative, and efficiency experts.[52] The IRUC then stated that "the 15% adjustment [to the recovery mechanism] reflects the expectation that *some reduction in usage may occur with or without the Program*."[53] Finally, the IRUC rejected the position that the "SRC should be redesigned to allow recovery only of lost margins attributable to Vectren Energy's efficiency programs."[54]

37. However this Commission proceeds in this proceeding with regard to the deferral cap, we again reiterate the importance of removing the financial disincentive to increased DSM acquisition and activity and encouraging Avista to increase its investments in cost-effective DSM. Removal of this disincentive, and the creation of structured incentives for desired performance that lower the cost of Avista's overall energy portfolio, are both essential if Avista is to continue laudable efforts such as the Every Little Bit campaign.

B. There Should Be A DSM Target For Limited Income Customers

38. The second amendment that the Coalition proposes would create a limited income DSM target within the Mechanism. Avista would have to achieve this target in addition to the overall DSM target that the Mechanism now contains. If the company does not achieve both targets, then the deferral associated with the lower performance target would prevail and determine Avista's margin recovery. Ms. Glaser described in her response testimony how the targets would work together.[55]

39. We recommend this amendment in order to encourage Avista to pursue additional conservation investments for Washington limited income customers. Such an incentive-based approach is appropriate due to the fact that the limited income sector lags other

[52] *Id.* at p. 42.
[53] *Id.* at p. 44 (emphasis added).
[54] *Id.*
[55] Glaser, Exh. No. NLG-1T at 6:19 - 7:3.

customer sectors in terms of DSM growth. The Decoupling Evaluation Report stated that Washington limited income DSM growth is slower than the overall DSM growth in the state, which in turn is less than Washington Schedule 101 growth.[56]

40. Ms. Glaser considered the statements in the Decoupling Evaluation Report and concluded: "Schedule 101 customers are receiving considerable benefits from increased investments in DSM programs while limited income customers who are most in need of the benefits of DSM program investments continue to face obstacles that are interfering with the delivery of energy efficiency programs to them. If Avista must meet ambitious energy targets for its limited income customer as well as its full customer base (*e.g.*, by bringing a limited income efficiency target into the Mechanism), then the company will place a stronger priority on achievement of both performance measures."[57]

41. Ms. Glaser then listed the various criteria that would inform the limited income target in response to an Energy Project data request. The target would be "ambitious yet achievable," according to Ms. Glaser, and would include appliance and equipment service and upgrades and low-cost/no-cost measure installation. The target would be based upon an appropriate delivery rate for weatherization services in the service territory. Further, the target would be informed by Avista's Integrated Resource Plan and affected stakeholders, including the company's External Energy Efficiency Advisory Group and the community action agencies that deliver services to the limited income sector.[58]

42. No serious objections have emerged to Ms. Glaser's proposal. Ms. Reynolds stated that Staff generally supports the modifications that Ms. Glaser recommended (which include

[56] Exh. No. BJH-2a at p. 3.
[57] Glaser, Exh. No. NLG-1T at 11:27 - 12:2.
[58] Exh. No. NLG-6-X.

a limited income proposal).[59] The Energy Project's witness, Barbara R. Alexander, described Ms. Glaser's proposal as "welcome."[60] Public Counsel did not file cross-answering testimony on the subject of a limited income target.

43. In his rebuttal testimony for Avista, Mr. Norwood stated that the company now supports including a limited income target in the Mechanism.[61] But Mr. Norwood did not support Ms. Glaser's proposal.[62] Instead, the company wants to tie deferral recovery to the percentage of gas DSM savings from the limited income sector. So for example, if Avista achieves less than 5% of total DSM savings from this sector, then a reduction in deferral recovery would occur. But there would be no reduction in recovery under Avista's test if the company achieves 5% or more of total savings from the limited income sector.[63]

44. There are several problems with Avista's proposal. First, the company conceded in response to an Energy Project data request that its test would have had no impact on deferral recovery had it been in effect during the pilot period. More than 5% of total DSM savings came from limited income customers during 2006, 2007, and 2008 – which means that Avista would have satisfied its test during each of those years.[64] The 5% threshold did not represent anything close to a "stretch goal" for the company. Thus, adoption of Avista's proposed test would likely have no effect on Avista's future delivery of DSM services to limited income customers and the company's deferral recovery under the Mechanism. This

[59] Reynolds, Exh. No. DJR-3T at 4:15-16.
[60] Alexander, Exh. No. BRA-2T at 4:10 and 11:5.
[61] Norwood, Exh. No. KON-1T at 48:13.
[62] Mr. Norwood claimed that "Ms. Glaser does not clearly define the mechanics of the proposed test." *Id.* at 48:18-19. He missed the point of her testimony. What Ms. Glaser envisioned is a collaborative approach that would bring stakeholders together, solicit their input, and thereby develop an ambitious and achievable target for the delivery of conservation services to the limited income sector. Her approach would involve the community action agencies in this process and set "stretch goals" for DSM programs. Avista's approach would do neither.
[63] Norwood, Exh. No. KON-1T at 49:1-19.
[64] Exh. No. KON-4-X.

does not alleviate our concerns regarding the historical under-delivery of DSM services to the limited income sector generally, and to Avista's limited income customers specifically.[65]

45. Second, the test that Avista proposes is not incentive-based. Avista would receive no credit for achieving more than 5% of total DSM savings from the limited income sector. This means that Avista would have no financial incentive to pursue enhanced conservation measures for limited income customers. The Coalition does not support such an outcome.

46. Lastly, the company's test does not build in an adequate financial disincentive to the under-delivery of DSM services to the limited income sector. If Avista achieves less than the 5% threshold, for example, then its test would reduce recovery by only a small amount using the multiplier that Mr. Norwood described.[66] This does not provide sufficient financial incentives to motivate the desired outcomes for limited income customers.

47. In sum, the limited income test that we propose will be more effective than Avista's test in stimulating an increase in energy savings from the company's limited income customers. We recommend that the Commission amend the Mechanism to include our test.

C. The Mechanism Should Include Substantial Performance Incentives

48. Our third proposed amendment focuses on performance incentives. Just as our limited income test would encourage Avista to achieve more DSM savings from the limited income sector, the incentives that we propose would encourage the company to achieve even greater DSM savings from its full customer base.

[65] Mr. Norwood stated in his rebuttal testimony that Avista has no control over the acquisition of DSM savings from the limited income sector. Norwood, Exh. No. KON-1T at 49:3-4. During the hearings, however, Mr. Norwood clarified that the company does exercise control over DSM acquisition, and that it is not merely a "passive actor" vis-à-vis the limited income sector. Avista can and should become more involved in this area.
[66] Norwood, Exh. No. KON-1T at 49:12-19.

49. Ms. Glaser discussed these incentives in her response testimony.[67] Unlike the current Mechanism, which calculates the deferral recovery based upon achievement of DSM savings of 100% of the target, our proposal would create three incentive tiers tied to different recovery levels. If Avista achieves overall DSM savings that exceed the DSM target by 120% or more, then it could recover 70% of its deferrals. If Avista achieves more than 110% but less than 120% of target savings, then it could recover 60% of deferrals. If Avista achieves more than 100% but less than 110% of target savings, then it could recover 50% of deferrals.

50. As Ms. Glaser stated, these incentives would "encourage and reward performance in excess of Commission-approved targets."[68] Ms. Reynolds with Staff agreed during the hearings that the Coalition's proposal encourages and rewards such performance. An incentive-based approach, moreover, is consistent with Washington law regarding the creation of incentives, by the Commission, that encourage investor-owned utilities to exceed the energy efficiency targets that are set forth in Chapter 19.285 RCW.[69]

51. Neither Public Counsel nor The Energy Project addressed the incentive-based part of Ms. Glaser's testimony, and Staff has already commented favorably on that aspect of our proposal. Avista's position on rebuttal, however, preserves the 100% target when calculating deferral recovery.[70] We do not agree with this position. While Avista has demonstrated success in achieving DSM savings, there is room for improvement. We believe that the Mechanism should be amended to incent the company, each and every year, to achieve even higher levels of total cost-effective DSM savings.

[67] Glaser, Exh. No. NLG-1T at 6:22-31.
[68] Glaser, Exh. No. NLG-1T at 6:14-15 and 16:23-24.
[69] RCW 19.285.060(4).
[70] Norwood, Exh. No. KON-1T at 31:20 and 50:16.

THE COALITION'S RESPONSE TO THE OTHER PARTIES

A. The Mechanism Should Not Be Abandoned

52. Against the weight of evidence, Public Counsel and The Energy Project want to abandon the Mechanism altogether. This position is hardly surprising considering that Public Counsel has opposed decoupling in every recent case before the Commission, and both parties opposed the Mechanism when it came up for review in Docket No. UG-060518.

53. The Coalition does not agree with their position. Nor do we agree with statements such as the one made by Mr. Brosch, to the effect that decoupling mechanisms generally -- and Avista's Mechanism specifically – "effectively punish ratepayers."[71] That is not the case as Ms. Glaser and Ms. Reynolds have stated (and the Commission observed in the Final Order Approving Decoupling Pilot Program). By making this statement, moreover, Mr. Brosch displayed an underlying bias against decoupling that limits the merit of his analysis and proposals in this proceeding.[72]

54. The fact remains that Avista has achieved success with the Mechanism, and can achieve even more success if the Mechanism is continued with our amendments. Without the Mechanism, though, Avista would not be able to recover its intra-rate case fixed costs related to reduced energy usage, and the company would face a financial disincentive to push for programmatic DSM; argue for tougher building and appliance codes; and enhance the pursuit of non-programmatic DSM actions. That outcome would be a step backward for energy efficiency.

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[71] Brosch, Exh. No. MLB-1T at 33:3-6.

[72] Mr. Brosch testified in the Illinois proceeding that we discussed earlier in this Brief, at ¶ 9. *North Shore Gas Company and Peoples Gas and Light and Coke Company Proposed General Increases in Natural Gas Rates*, 07-0241 and 07-0242 at p. 4 (February 5, 2008). Predictably, Mr. Brosch opposed the decoupling mechanism at issue in that proceeding. The Illinois Commerce Commission nonetheless approved the mechanism.

55. We expect Public Counsel to argue that the solution to Avista's cost recovery dilemma is simple: more frequent rate cases. But the Oregon Public Utility Commission did not accept this position in the proceeding that involved Portland General Electric Company's request for a decoupling program. The OPUC rejected the argument that there are "alternative means to deal with margin losses due to energy efficiency and conservation, *e.g.*, by filing more frequent rate cases or including expected savings in load forecasts." The OPUC reasoned: "Even with more frequent rate cases, however, PGE would still lose the margins from energy conservation activities until rates could be reset, and the load forecast in a rate case does not include any savings beyond the test year. Even for savings recognized in the load forecast, the disincentive for energy efficiency remains because, once rates are set, the Company loses margin if those savings actually occur."[73]

56. Further, a fundamental problem with Public Counsel's and The Energy Project's position on the Mechanism is that they fail to recognize the importance of, and need for, non-programmatic DSM actions. Ms. Alexander mischaracterized the Mechanism when she claimed that the Mechanism reflects the potential for lost revenues due just to the "implementation of efficiency programs" – in other words, programmatic DSM.[74] That is not true as Ms. Reynolds pointed out in her cross-answering testimony.[75] As we argued earlier in this Brief, non-programmatic measures such as the Every Little Bit campaign play a critical role in disseminating important conservation information to customers and influencing them to make informed energy decisions and reduce their energy usage. Such actions represent a vital part of effective DSM activity.

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[73] *In the Matter of Portland General Electric Company*, UE-197, Order No. 09.020 at p. 28 (January 22, 2009).
[74] Alexander, Exh. No. BRA-1T at 5:11.
[75] Reynolds, Exh. No. DJR-3T at 2:21 - 3:5 (the Mechanism was intended to "increase investment in conservation, and the decoupling mechanism, as designed, recovers all reductions in usage other than weather").

57. Faced with this evidence, Mr. Brosch and Ms. Alexander resort to belittling the Every Little Bit campaign, describing it as either a "modestly funded program" (Mr. Brosch) or an "expensive media campaign" (Ms. Alexander)[76] that has not yielded much in the way of energy savings. We first note that it is not clear how the Every Little Bit campaign can be both "modestly funded" *and* "expensive." Further, we agree with Avista that the program did lead to its customers undertaking no- and low-cost steps towards improving energy efficiency. Mr. Norwood described in his rebuttal testimony how these customer decisions – including adjusting thermostats, replacing dirty furnace filters, turning down how water tank temperatures, reducing hot water usage, and installing low-flow showerheads and aerators – all lead to an "overall reduction in natural gas consumption, well beyond that which is specifically measured in the Company's DSM programs."[77]

58. In sum,[78] and in response to the position that Public Counsel and The Energy Project have taken in this proceeding, the Coalition points to what Ms. Glaser stated in her cross-answering testimony: "[D]ecoupling serves an important purpose, both in general – as a means to recover a utility's fixed costs – and as specifically applied to Avista. Elimination of the Mechanism would take away decoupling to the detriment of an important objective in Washington State – energy conservation – that state law recognizes and the Commission strongly supports."[79] Ms. Glaser concluded: "*Continuation of the Mechanism – with the*

[76] Brosch, Exh. No. MLB-1T at 20:3-4; Alexander, Exh. No. BRA-1T at 4:11.
[77] Norwood, Exh. No. 1T at 34:11-16.
[78] We have not attempted to respond at length to every argument by Public Counsel and The Energy Project. Regarding the Mechanism's New Customer Adjustment, the Coalition refers to the statements on this point by Ms. Glaser, Mr. Norwood, and Mr. Hirschkorn. Glaser, Exh. No. NLG-5T at 6:12-16; Norwood, Exh. No. KON-1T at 44:2 - 45:7; Hirschkorn, Exh. No. BJH-8T at 2:2 - 6:2. Regarding the Mechanism's alleged complexity, the Coalition refers to the statements on this point by Ms. Glaser and Mr. Norwood. Glaser, Exh. No. NLG-5T at 9:9-17; Norwood, Exh. No. KON-1T at 42:11 - 43:23. On the latter issue, it would be unfortunate if Public Counsel's sound bite during the last hearing day – referring to the Mechanism's evaluation process as Avista's "12-Step Program" – were to distract the Commission from considering all of the benefits that the Mechanism offers, especially if the Mechanism is amended as we propose.
[79] Glaser, Exh. No. NLG-5T at 3:17 - 4:2.

modifications that I recommended in my direct testimony – would more directly and effectively address these issues as compared to the draconian approach of simply eliminating the Mechanism."[80]

B. The Commission Should Reject Staff's Inflated Customer Charge

59. Staff took a different path in this proceeding compared to the other parties. Staff proposed to phase out the Mechanism between now and 2011, which is functionally equivalent to elimination. But Staff also recommended that the Commission replace the Mechanism with a very significant increase in the Schedule 101 basic charge – to $8 per month effective January 1, 2010, and then to $10 per month effective January 1, 2010. This would amount to a 74% increase in just over a year compared to the current $5.75 charge.

60. To say that Staff's proposal received a "thumbs down" from the other parties would be an understatement. In their cross-answering and rebuttal testimonies, the Coalition, The Energy Project, and Avista opposed the proposal to significantly increase the customer charge in place of the Mechanism.[81] The arguments against such an inflated customer charge are legion. We summarize several of them below:

- It is not clear how Ms. Reynolds arrived at the specific figure of $10 for the monthly customer charge. Without support for this figure, it is difficult to understand why Staff now prefers such an inflated charge over the Mechanism.[82]
- A high fixed charge discourages conservation. With such a charge in place, a customer sees less reduction in his or her bills due to participation in energy efficiency programs and the effect of conservation actions. To the extent more fixed

[80] Glaser, Exh. No. NLG-5T at 4:4-19 (emphasis added) (referring to the key criteria to consider if Avista is to enhance its investments in cost-effective conservation).
[81] Surprisingly, Public Counsel did not take a position one way or the other in cross-answering testimony on Staff's proposal to inflate the customer charge. Whether Public Counsel's silence amounts to support or opposition will not be known until we read his brief.
[82] Glaser, Exh. No. NLG-5T at 7:12-19.

costs are collected in fixed charges and not in usage charges, the amount of the usage charge must go down – which undermines customers' incentives to use less energy.[83]

- Ms. Reynolds did not show how such an increase in customer charges would achieve the Mechanism's intended effect, *i.e.*, enhanced and cost-effective conservation.[84]
- The reduction that Ms. Reynolds proposed for limited income customers would provide some relief from the $10 charge, but would not tackle the underlying obstacles to the delivery of cost-effective DSM. Our proposal, with explicit DSM targets, is more effective in ensuring that the sector benefits from conservation.[85]
- In terms of cost recovery, a higher charge of $8-10 per month is not a substitute for the Mechanism as Mr. Norwood and Mr. Hirschkorn stated in their testimonies.[86]

61. In the Illinois decision that we discussed earlier, the Illinois Commerce Commission considered a rate design alternative that was conceptually similar to Staff's proposal. The ICC noted that a potential alternative to decoupling existed, *i.e.*, the recovery of fixed costs through higher fixed charges. Notably, though, and unlike Staff in this proceeding, the ICC's Staff did *not* advocate for higher charges or argue they were preferable to decoupling. The ICC reviewed the alternative and concluded: "*In our view, Rider VBA is a reasonable response because it simply involves the recovery of margin revenues that we have already established in this case. In terms of the mechanism itself, the record shows that Rider VBA is designed with symmetry, transparency, and accountability. In those respects, this rate mechanism works to the benefit of both the utilities and their customers*."[87]

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[83] *Id.* at 8:2-10.
[84] Alexander, Exh. No. BRA-2T at 6:6-8.
[85] Glaser, Exh. No. NLG-5T at 9:19 - 10:1-5.
[86] Norwood, Exh. No. KON-1T at 45:9-19; Hirschkorn, Exh. No. BJH-8T at 8:5 - 9:4.
[87] *North Shore Gas Company and Peoples Gas Light and Coke Company Proposed General Increases in Natural Gas Rates*, 07-0241 and 07-0242 at p. 151 (February 5, 2008) (emphasis added).

62. For these reasons, the Coalition cannot support the radical change to Avista's rate design that Staff proposed. Unlike the Mechanism with the amendments we recommend, Staff's proposal does nothing to incent Avista to pursue meaningful and cost-effective conservation. It is disappointing that Staff has decided to pursue such an approach. The Commission should reject it.

CONCLUSION

63. As we stated earlier,[88] we agree with Public Counsel and Staff that Avista needs to adopt a more effective measurement protocol in order to evaluate DSM savings. The Commission should require this protocol regardless of the action it takes on the Mechanism.

64. In all other respects, and with specific reference to the Mechanism, the Coalition's proposal represents the most comprehensive approach to the issues in this proceeding. Our proposal would:

- *Create* a limited income DSM target within the Mechanism to encourage Avista to pursue additional conservation savings for limited income customers.
- *Lower* Avista's deferral recovery to acknowledge the current economic climate and the need to achieve a more equitable sharing of financial risk between the company and its customers.
- *Create* an incentive structure within the Mechanism to encourage Avista to achieve even greater cost-effective DSM savings from the company's full customer base.
- *Allow* Avista to recover a share of its Commission-approved fixed costs that are not otherwise recoverable due to a decline in sales, because such recovery is necessary to remove the financial disincentive for increased DSM acquisition and activity.

[88] *See* discussion at ¶ 22 in this Brief.

- *Recognize* the need for Avista to pursue both programmatic *and* non-programmatic conservation efforts in order to influence its customers' energy efficiency decisions and their energy usage.

65. The question remains, though, how to best implement our proposal should the Commission decide to adopt it. Earlier we noted the Commission's observation that there are several possible outcomes for this proceeding. These include continuing the Mechanism on a permanent basis (possibly with amendments) or continuing the existing or amended Mechanism for a trial period if the Commission determines that more study is necessary.[89]

66. The Coalition believes that there is already sufficient evidence in the record to make the Mechanism permanent with the amendments we propose, subject of course to ongoing oversight of the Mechanism through Avista's future rate cases and the Commission's exercise of its general regulatory authority. That said, we would not oppose an outcome to this proceeding that implements the Mechanism (with our amendments) on a further trial basis in order to evaluate whether our proposal actually achieves what we believe it will achieve. While such an outcome would involve more process and postpone final resolution of the issues, the Coalition believes that it is most important to "get it right" with regard to the Mechanism. We welcome an outcome that achieves this objective.

Respectfully submitted,

NW ENERGY COALITION

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[89] *See* discussion at ¶ 2 n. 2 in this Brief (citing *WUTC v. Avista Corporation, d/b/a Avista Utilities*, Docket Nos. UE-090134, UG-090135, and UG-060518, Order 07 at ¶ 16 n. 18 (June 30, 2009)).