

**BEFORE THE WASHINGTON  
UTILITIES & TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Complainant,

v.

AVISTA CORPORATION, d/b/a AVISTA UTILITIES

Respondent.

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DOCKETS UE-240006 and UG-240007 (*Consolidated*)

**CROSS-ANSWERING TESTIMONY OF DR. ROBERT L. EARLE  
ON BEHALF OF THE  
WASHINGTON STATE OFFICE OF THE ATTORNEY GENERAL  
PUBLIC COUNSEL UNIT**

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**EXHIBIT RLE-17T**

August 16, 2024

**CORSS-ANSWERING TESTIMONY OF DR. ROBERT L. EARLE  
DOCKET(S) UE-240006 AND UG-240007 (*Consolidated*) EXHIBIT**

**RLE-17T**

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**I. INTRODUCTION AND SUMMARY**

**Q. Please state your name and business address.**

A. My name is Robert Earle. My business address is 1388 Haight St. #49, San Francisco, CA, 94117.

**Q. Are you the same Robert L. Earle who previously filed testimony in this proceeding?**

A. Yes. On March 28, 2024, I filed Response Testimony on behalf of the Public Counsel Unit of the Washington Attorney General’s Office (Public Counsel) which was designated as Exhibit RLE-1CT.

**Q. On whose behalf are you testifying?**

A. I am testifying on behalf of the Public Counsel Unit of the Washington State Attorney General’s Office.

**Q. Please give an overview of your testimony.**

A. My Cross-Answering testimony addresses the response testimony of UTC Staff (Staff) witness John D. Wilson <sup>1</sup> and Alliance for Western Energy Consumers (AWEC) witness Bradley G. Mullins.<sup>2</sup> With respect to Mr. Wilson’s testimony I address his recommendations concerning dead and sharing bands in the Energy Recovery Mechanism (ERM), prudency review of Climate Commitment Act (CCA) allowance costs in the annual ERM review, and adjustments to energy imbalance market (EIM) benefits. With respect to Mr. Mullins’ testimony, I address his recommendation that there be an update in August 2025 for Rate Year

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<sup>1</sup> Resp. Test. of John D. Wilson, Exh. JDW-1CT.  
<sup>2</sup> Resp. Test. of Bradley G. Mullins, Exh. BGM-1T.

1 Two (RY2). In addition, I provide an update to forecasted EIM benefits based on  
2 second quarter 2024 results from the California Independent System Operator  
3 (CAISO).

4 **II. STAFF'S ERM RECOMMENDATION**

5 **Q. Please describe Staff's recommendation concerning the ERM.**

6 A. Staff witness Mr. Wilson proposes to shrink the dead band to \$3 million from \$4  
7 million and to have a single symmetric sharing band that assigns 90 percent of the  
8 risk to consumers.<sup>3</sup>

9 **Q. How does Staff justify its recommendation?**

10 A. Mr. Wilson says his proposal "simplifies" the ERM,<sup>4</sup> but provides no reasons why  
11 simplification is good, or why increasing customers' risk exposure and decreasing  
12 Avista's (the Company) risk exposure is reasonable. The designs for dead band  
13 and sharing bands across all three investor-owned utilities (IOUs) in Washington  
14 are similar. Each has a dead band, with two sharing bands on each side of the  
15 dead band. The current sharing bands reasonably change the sharing as the  
16 excursion, either up or down, of the actual from the authorized grows. The outer  
17 sharing band is reasonably less than the one after the dead band because the closer  
18 the actual is to the authorized, the more control the Company likely had over  
19 costs.

20 The design of the dead and sharing bands for the IOUs in Washington  
21 comports with the economics of mechanism design and principal-agent problems.

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<sup>3</sup> Wilson, Exh. JDW-1CT at 37:2-12.

<sup>4</sup> *Id.* at 5:4-5, 37:2-4.

1 In a principal-agent problem, the principal knows less than the agent. The  
2 principal in this case is the Washington Utilities and Transportation Commission  
3 (Commission) standing in for the ratepayers, while the agents are the IOUs. The  
4 mechanism design problem is to devise incentives for the agents who know more  
5 than the principal about how to reduce power costs. If the IOUs did not know  
6 more than the Commission, the Commission (the principal) could simply direct  
7 the IOUs in the details of their operations to reduce costs.

8 Firms try hardest when the incentives are greater, and it is appropriate that  
9 the incentives be greater when the firm has more control over the outcome. That  
10 is, incentives should be graduated to reflect the degree of control the firm has over  
11 the outcome. This is an important reason why having two sharing bands is  
12 superior to having only one. The Commission should reject Mr. Wilson's  
13 simplification of the sharing bands because doing so would make the dead and  
14 sharing band mechanism less effective.

15 Mr. Wilson justifies reducing the dead band because he is solicitous of  
16 Avista's exposure to a dead band that is relatively larger than PacifiCorp's.<sup>5</sup>  
17 However, he does not express any concern for exposing Avista's customers to  
18 higher risk over which, unlike the Company, they have no control.

19 Mr. Wilson's comparison of Avista's dead band to PacifiCorp's fails in at  
20 least two ways. First, even if Avista's dead band is relatively large compared to

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<sup>5</sup> *Id.* at 37:7–12.

1 PacifiCorp's, this could equally mean that PacifiCorp's dead band is too small.<sup>6</sup>  
2 Mr. Wilson does not address this, perhaps because he is simply an advocate of  
3 eliminating dead bands and putting more risk on utility customers.<sup>7</sup> Faced with  
4 the Commission decision in PacifiCorp's General Rate Case, Mr. Wilson seeks to  
5 shrink dead bands because he cannot eliminate them. Second, Mr. Wilson  
6 provides no reason why the dead band width should be based on proposed power  
7 costs alone. Avista and PacifiCorp are utilities with very different resource mixes  
8 and market exposures, therefore, it is not clear that simply using the proposed  
9 power costs, much less the approved power costs, is appropriate.

10 **Q. What is your recommendation?**

11 A. The Commission should reject both Avista and Staff's proposals as unwarranted  
12 and unsupported by the factual record and maintain the current ERM dead band  
13 and sharing bands.

14 **III. STAFF'S RECOMMENDATION TO REVIEW ALLOWANCE COSTS IN**  
15 **THE ANNUAL ERM PROCEEDING**

16 **Q. Please describe Staff's recommendation to review CCA-related activities in**  
17 **the annual ERM proceeding.**

18 A. Staff's witness Wilson asserts that "the annual ERM proceeding is the most  
19 reasonable proceeding in which to review the prudence of Avista's

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<sup>6</sup> AWEC makes a convincing case for this in its testimony in PacifiCorp's most recent GRC. Cross-Answering Test. of Brad G. Mullins, Exh. BGM-10T at 3:1–10, *Wash. Utils. & Transp. Comm'n v. PacifiCorp d/b/a Pacific Power & Light Co.*, Dockets UE-230172 and UE-210852 (*Consolidated*) (filed Oct. 27, 2023).

<sup>7</sup> See also, Resp. Test. of John D. Wilson, Exh. JDW-1CT at 36:14–15, *Wash. Utils. & Transp. Comm'n v. PacifiCorp d/b/a Pacific Power & Light Co.*, Dockets UE-230172 and UE-210852 (*Consolidated*) (filed Sept. 14, 2023).

1 implementation of CCA-related activities.”<sup>8</sup> In contrast, in the Puget Sound  
2 Energy (PSE) risk sharing mechanism (RSM) docket, Staff recommends that  
3 CCA allowance costs be addressed in PSE’s GRC.<sup>9</sup> While the discussion in Mr.  
4 Wilson’s testimony concerns CCA allowance costs for Avista’s electric utility,  
5 and the CCA allowance costs for the PSE docket concern those for PSE’s gas  
6 utility, it is unclear why two different approaches are suggested by Staff.

7 Public Counsel will not address Staff’s proposal in the PSE RSM Docket  
8 here. However, there are complications to Mr. Wilson’s proposal for review of the  
9 prudence of CCA allowance costs in the annual ERM review. As Mr. Wilson  
10 admits: “compliance requirements do not occur at the end of each calendar year  
11 but require partial and then final surrender of required allowances over a four-year  
12 compliance period.”<sup>10</sup>

13 Despite extensive discussion, Mr. Wilson does not square the circle on  
14 why establishing prudence on an annual basis is reasonable for ratepayers or the  
15 utility. Avista has both the four-year compliance period plus 10 months after it to  
16 comply with CCA allowance requirements. Therefore, the cost of compliance can  
17 only be determined after the compliance period and the 10-month balancing  
18 period is over. A prudence determination on an annual basis is like declaring a  
19 winner after only one quarter of a basketball game is over.

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<sup>8</sup> Wilson, Exh. JDW-1CT at 4:17–19.

<sup>9</sup> Resp. Test. of Kody McConnell, Exh. KM-1T at 10:5–10, *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Docket UG-230968 (filed July 18, 2024).

<sup>10</sup> Wilson, Exh. JDW-1CT at 23:5–7.

1                   While review of CCA allowance costs in the annual ERM review may be  
2                   useful to provide guardrails, full determination of prudence cannot be reasonably  
3                   determined until the compliance period and 10-month balancing period is over.  
4                   The Commission should only provide a final determination of prudence after the  
5                   four-year compliance period and 10-month balancing period is over.

6                   While Staff’s proposal on including review of CCA allowance costs was  
7                   formulated before the Commission’s just released “Policy Statement Addressing  
8                   the Issues and Impacts of the Climate Commitment Act,” Staff’s proposal appears  
9                   to contradict the Policy Statement:<sup>11</sup>

10                   Until the [sic] it develops further rules or provides direction in  
11                   separate proceedings, the Commission provides guidance to IOUs  
12                   and interested parties that CCA allowance costs should continue to  
13                   be addressed through individual tariffs, for now, with the remaining  
14                   administrative and program implementation costs included in the  
15                   IOUs’ GRCs.

16                   **IV.    AWEC’S RECOMMENDATION ON AN UPDATE TO FORECAST NPE**  
17                   **FOR RATE YEAR TWO**

18                   **Q.    What has AWEC recommended concerning forecast NPE for Rate Year**  
19                   **Two?**

20                   A.    AWEC recommended an update of forecast net power expense (NPE) in August  
21                   2025. This updated NPE would be further updated using forward market prices  
22                   effective November 1, 2025.<sup>12</sup> This update should be limited to new contracts and

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<sup>11</sup> Policy Statement Addressing the Issues And Impacts Of The Climate Commitment Act ¶ 27, *In re Proceeding to Develop a Policy Statement Addressing the Impacts of the Climate Commitment Act*, Docket U-230161 (filed Aug. 15, 2024).

<sup>12</sup> Mullins, Exh. BGM-1T at 56:5–8.



1 new resources that will be in service in RY2, along with updated forward price  
2 curves.<sup>13</sup>

3 **Q. What reasons does AWEC give for an update to forecast NPE for Rate Year**  
4 **Two in 2025?**

5 A. AWEC points out that Avista’s mark-to-market calculation to account for the  
6 removal of Colstrip in RY2 is unreasonable because there are many other factors  
7 that will affect NPE in RY2, such as actual market prices at the time and dispatch  
8 of other resources.<sup>14</sup>

9 **Q. Do you support AWEC’s recommendation to update the NPE forecast in**  
10 **August 2025 for RY2?**

11 A. Yes, I do. Avista complained in its initial filing in this docket that “authorized  
12 power supply expenses are determined using forward market prices as much as 35  
13 months prior to the actual operating day with a multi-year rate filing...and  
14 therefore managing the forecast error is outside of the Company’s control.”<sup>15</sup> One  
15 way to address this complaint for RY2 is to implement AWEC’s  
16 recommendation, and update the forecast NPE in August 2025 with a refresh of  
17 forward market prices in November. This would reduce the forecast lag to 2 to 14  
18 months.

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<sup>13</sup> *Id.* at 56:11–17.

<sup>14</sup> *Id.* at 55:16–22.

<sup>15</sup> Direct Test. of Scott J. Kinney, Exh. SJK-1T at 50:11–15.

1 **V. UPDATE TO FORECAST EIM BENEFITS**

2 **Q. Have you updated your forecast of EIM benefits based on second quarter**  
3 **2024 benefits estimates from the CAISO?**

4 A. Yes, I have. CAISO released its estimate of second quarter 2024 EIM benefits on  
5 July 30, 2024.<sup>16</sup> I incorporated the new data from the second quarter 2024 into my  
6 calculations as I indicated I would in my Response Testimony.<sup>17</sup>

7 **Q. What did you conclude from incorporating the new data?**

8 A. There is little change in the estimated EIM benefits. The average across all  
9 months yields \$1.99 million in monthly benefits.<sup>18</sup> Applying the same outlier  
10 methodology as in my Response Testimony results in monthly benefits of \$1.90  
11 million, a 3.1 percent decline. The outlier methodology results in excluding a  
12 large number of months, so it might be preferable to use the \$1.99 million in  
13 monthly benefits rather than \$1.90 million. However, to be consistent with my  
14 previous testimony, I use the calculation removing the outliers to obtain an  
15 updated Avista EIM benefit forecast of \$20.1 million.

16 **Q. Does this conclude your testimony?**

17 A. Yes, it does.

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<sup>16</sup> Cal. Indep. Sys. Operator, *Western Energy Imbalance Market Benefits Report: Second Quarter 2024* (July 30, 2024) <https://www.westerneim.com/Documents/iso-western-energy-imbalance-market-benefits-report-q2-2024.pdf>.

<sup>17</sup> Resp. Test. of Robert L Earle, Exh. RLE-1CT at 31, fn.58.

<sup>18</sup> The \$1.99 M in average monthly benefits was confirmed by an updated bootstrap analysis as demonstrated in my workpapers.