BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION, d/b/a AVISTA UTILITIES,

Respondent.

DOCKETS UE-220053, UG-220054 and UE-210854 (*Consolidated*)

POST-HEARING BRIEF OF AVISTA CORPORATION IN SUPPORT OF SETTLEMENT

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WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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1 COMES NOW, Avista Corporation (hereinafter "Avista" or the "Company"), by and through its undersigned attorney, and respectfully submits this Post-Hearing Brief in Support of the Full Multi-Party Settlement.

I. INTRODUCTION

2 The Full Multiparty Settlement Stipulation was entered into by Avista Corporation ("Avista" or the "Company"), the Staff of the Washington Utilities and Transportation Commission ("Staff"), Alliance of Western Energy Consumers ("AWEC"), NW Energy Coalition ("NWEC"), The Energy Project ("TEP"), Sierra Club, Walmart, and Small Business Utility Advocates ("SBUA"), jointly referred to herein as the "Settling Parties." These parties represent all parties to the case with the exception of the Public Counsel Unit of the Washington Attorney General's Office ("Public Counsel"), who did not join the Settlement Stipulation.

3 Public Counsel's position on revenue requirement is simply not credible in light of what the new Multiyear Rate Plan legislation was designed to accomplish: that is, to minimize the frequency of rate cases while providing a reasonable opportunity for Avista to earn a fair return over the duration of the Rate Plan. Even the Settlement level of agreed-upon revenue requirement may prove to be woefully inadequate, given higher inflation and interest rate increases that have

occurred since the filing of this case.

4 The Settling Parties represent every constituency of Avista's customer base: residential, commercial, industrial, low-income, vulnerable populations, and renewable and conservation interests. Public Counsel does not represent an interest that is not already represented among the Settling Parties. The Settlement is comprehensive in scope and includes the addition of 92 different performance metrics. It also addresses equity considerations.

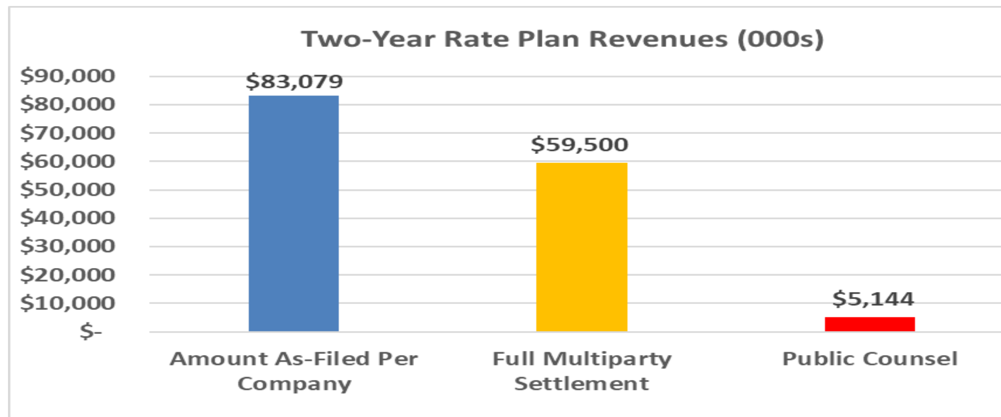
II. THE COMPREHENSIVE SETTLEMENT MEETS THE OBJECTIVES OF THE RATE PLAN LEGISLATION

5 **A. Public Counsel's Position Is Unreasonable On Its Face and Incompatible With the Objectives of the Rate Plan Legislation.**

6 Public Counsel has proposed a meager $5.1 million of revenue requirement in total over the Two-Year Rate Plan, approximately $78 million below the Company's as-filed request, and $54.4 million below that agreed to in the Settlement. More specifically, Public Counsel is proposing an electric revenue requirement of $0.4 million (Year 1) and $2.8 million (Year 2). For natural gas, Public Counsel is proposing a Year 1 increase of $1.7 million, and for Year 2 – $0.2 million.[1] The total revenue increase supported by Public Counsel is only $5.1 million, as compared to the Company's original request of $83.1 million, and the settlement revenue requirement of $59.5 million. The following chart is illustrative:

[1] Exh. SC-1CT, 10:11-15

Chart No. 1 – Two-Year Rate Plan Revenues[2]



7 Public Counsel supports a total revenue increase that is only 8.6% of that supported by the Settling Parties. As testified to by Mr. Ehrbar, ". . . such a low level of increase is simply not supported nor credible."[3]

8 Approval of the recommended revenue increases proposed by Public Counsel would result in no greater than a return on equity (ROE) of 6.5% in 2023 and 5.9% in 2024, or 290 – 350 basis points lower than the currently authorized 9.4% for electric. For natural gas, the result would be no greater than an ROE of 7.6% in 2023 and 7.3% in 2024, or 180 to 210 basis points, lower than the currently authorized 9.4%.[4]

9 Expressed in terms of Rate of Return (ROR), if the Commission were to approve Public Counsel's proposed revenue requirement over the Two-Year Rate Plan, this would result in an ROR of 5.64% in 2023 and 5.35% in 2024, versus the Settlement's agreed-upon ROR of 7.03%. For natural gas, the result would be an ROR of 6.18% in 2023 and 6.03% in 2024, versus the Settlement's agreed-upon ROR of 7.03%. Finally, even the 7.03% agreed to by the Settling Parties,

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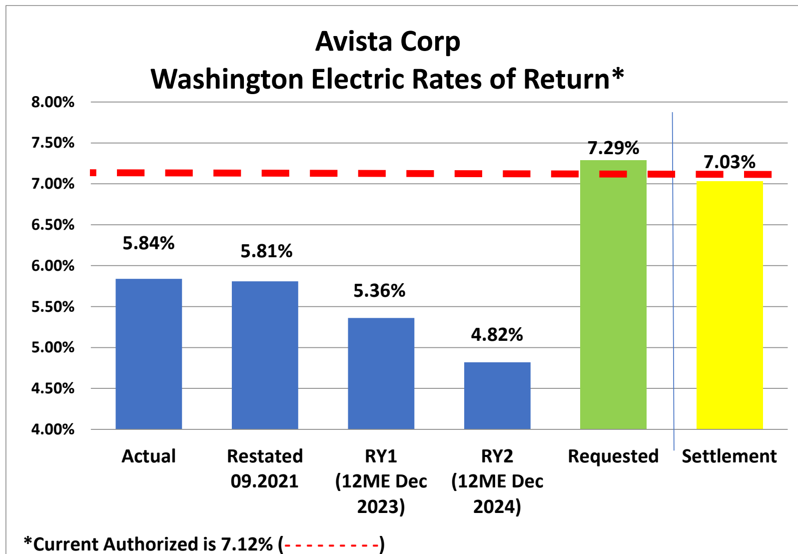
2 See Exh. EMA-7T, 10:1-10.
3 Exh. PDE-2T, 6:19-21.
4 Id. at 7:6-10.

in and of itself, is a reduction from the current authorized ROR of 7.12%.[5]

10 The following tables, excerpted from Mr. Ehrbar's Rebuttal Testimony, compare: (1) the actual rate of return earned by the Company during the 09.30.2021 test period, (2) the Restated 09.30.2021 results for the historical test period, (3) the adjusted rate of return for Rate Year 1 (effective December 2022) and for Rate Year 2 (effective December 2023), (4) the originally requested ROR at 7.29%, and (5) the agreed-upon ROR of 7.03%. The returns for Washington operations are provided below in Illustration No. 1 (electric) and No. 2 (natural gas)[6]:

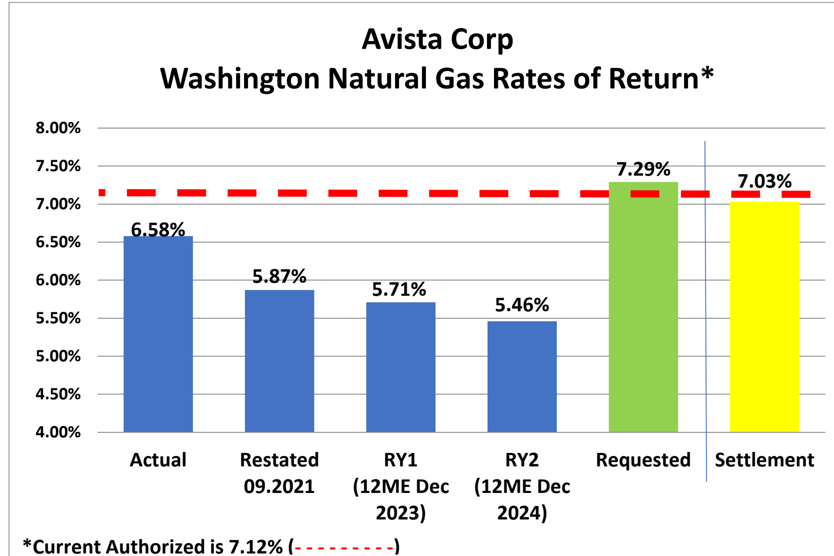
Illustration No. 1: Two-Year Rate Plan - Electric Rates of Return



[5] To mitigate the overall increase under the Settlement, the Residual Tax Customer Credit of approximately $27.6 million (electric) and $12.5 million (natural gas) would be returned to customers through separate Tariff Schedules 78 (electric) and 178 (natural gas) over a two-year amortization period beginning December 21, 2022 through December 20, 2024. As discussed by Ms. Andrews in Exh. EMA-1T, at pages 52 - 55, these additional tax credits are in addition to the tax credits being returned to customers over the two-year period October 1, 2021 through September 2023 per Order 08/05 in Dockets UE-900200 et. al. That benefit will serve to mitigate the billed increase for customers. The Company's response to Bench Request No. 5 provides information on customer impacts.

[6] Exh. PDE-2T, at 10:1 – 11:10.

Illustration No. 2: Two-Year Rate Plan - Natural Gas Rates of Return



11 Clearly, Avista has been substantially under-earning in the State of Washington and would continue to significantly under-recover its costs, absent necessary rate relief, as noted by Mr. Ehrbar.[7] Public Counsel's position would do nothing to alleviate that. The Settlement is a step in the right direction.

12 Mr. Ehrbar expressed his view that the framers of the Multi-Year Rate Plan Legislation did not intend the result produced by Public Counsel's recommendations:

13
> No, I certainly do not. In exchange for lessening the frequency of rate filings, a process was laid out for the affected utilities to layout a "roadmap" for rate relief over the period of the proposed Rate Plan. Checks and balances were built into the process to ultimately assure that only used and useful and prudently incurred costs were recovered. And, if all else failed, there was an earnings test to protect customers (and notably, not an earnings floor). To make this new regulatory regime work, all participants must do their part, and the Settling Parties have done just that.[8] (Emphasis added.)

14 As noted, there are various protections and safeguards for customers reflected in the Settlement. In addition to the earnings test that was embedded in Senate Bill 5295, Avista would

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[7] Id. at 12:18-20.
[8] Id. at 12:4-11.

not have the opportunity to update its power supply baseline costs beyond those included in the original filing, notwithstanding the variability of power supply costs. While this is risky for Avista, the nature of the Energy Recovery Mechanism also provides protections to customers by way of the dead band and sharing bands. Should costs and benefits vary from that filed originally in this case, depending on where the deferred balance resides, any benefits will flow to customers, especially in the 90% customer, 10% Company sharing band.

15 Moreover, there is protection for customers in terms of capital additions during the Rate Plan, and the filings Avista must make to prove they are used and useful. It otherwise would have to refund to customers any revenue not justified. Finally, the balancing accounts for Wildfire (existing) and Insurance (proposed) expense ensure that customers pay no more, and no less, than the actual, prudently incurred costs, all of which the parties in this case and the Commission would have the opportunity to review.[9]

16 Since the filing of the Company's case in January 2022, new pressures have come to bear. As testified to by Dr. Forsyth, inflation has greatly increased, which cuts across the board, affecting all goods and services and even the labor the Company employs.[10]/[11] Likewise, interest rates have risen dramatically over the past several months. So far this year, there have been multiple increases in the Federal Funds Rate, with the most recent being 75 basis points on September 21, 2022, bringing the current Federal Funds Discount rate to 3.25% as compared to 0.5% prior to March 15, 2022.[12]/[13] This will affect not only the cost of borrowing for Avista, but the cost of all goods

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[9] Id. at 12:14 – 13:9.

[10] Dr. Forsyth observes, "that Stage 2 producer inflation has been higher than consumer inflation…year-over-year inflation associated with goods inputs (excluding food and energy), service inputs, and construction inputs averaged approximately 20%, 10%, and 13%, respectively." (Exh. GDF-3T, 7:5-10)

[11] Exh. GDF-3T, 6:21 - 7:5.

[12] TR. 276:18-21 https://en.wikipedia.org/wiki/History_of_Federal_Open_Market_Committee_actions

[13] TR. 150:11-1 – 152:4.

purchased by the Company.[14] Finally, as noted by Mr. Ehrbar, "a recession is either here or at our doorstep. All of this makes for an extremely challenging environment in which to craft a Rate Plan."[15]

17 Mr. Ehrbar also spoke to the difficulty of implementing rate plans spanning several years during such tumultuous times, noting that "our collective task would have been easier if our initial implementation of rate plans has occurred during a steady state environment more like we experienced prior to 2020." He concludes that Public Counsel's position makes the implementation of a successful rate plan almost impossible. Indeed, in the midst of all of this turbulence since the filing of its case, the Company, in retrospect, did not ask for enough rate relief.[16]

18 Finally, Commissioner Rendahl noted that Puget Sound Energy (PSE) will have a Settlement brought to the Commission that contains a two-year plan; they had originally filed a three-year plan that would have served to "stagger" Avista and PSE rate cases in the next round of general rate filings.[17] While it would not be appropriate to "condition" the Avista settlement to require a "staggering" with another utility's filing, given the unique circumstances of each, Avista does understand the value of "staggered" filings in terms of administrative workload and efficiency, and will reach out to other jurisdictional utilities, in good faith efforts, to coordinate the timing of filings, to the extent reasonably possible.

B. The Settlement Process Was Based on Extensive Discovery and Participation by the Full Spectrum of Customer Interests.

19 All parties in the settlement process were well-informed and Public Counsel had an opportunity to participate throughout, which Public Counsel does not claim otherwise.

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14 Exh. PDE-2T, 13:12 – 14:3.
15 Id. at 14:8-18.
16 Ibid.
17 TR. at 148 – 151.

20 The discovery process performed by Staff, Public Counsel, and the other parties was also extensive, and covered virtually every issue addressed in the Settlement. In short, the validity of nearly every item now contested by Public Counsel was the subject of discovery. The Parties asked 655 data requests over 40 different topic areas. The range of topics included those listed in Table No. 5 in Mr. Ehrbar's testimony.[18]

21 Moreover, every constituency was represented by parties to the Settlement. Mr. Ehrbar observed that:

22
> There is always some overlap in the representation of customer groups and interests in general rate proceedings, and that is to be expected. The good news is that there is no customer group or interest represented by Public Counsel that is not already represented in some fashion among the parties to the Settlement:[19]

23
> This broad mix of participants should give the Commission comfort that this all-inclusive settlement represents the comprehensive needs of Avista's customer base.[20]

24 The settlement process also produced numerous concessions on the part of Avista. These were catalogued by Mr. Ehrbar[21] and include, but are not limited to:

25
- A reduction in Revenue Requirement of approximately $42 million of fully supported and substantiated prudent costs over the Two-Year Period.

26
- A reduction in Cost of Capital (ROR reduced from 7.12% to 7.03%).[22]

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[18] Exh. PDE-2T, 16:1-10.

[19] Commission Staff, of course, represents the broad array of customer interests, including residential and small commercial customers. The Energy Project represents low-income customers and vulnerable populations. NWEC represents interest in clean and affordable energy resources, and services that meets the needs of low-income customers. Likewise, Sierra Club represents environmental interests, and how those interests intersect with its membership base. Finally, AWEC, Small Business Utility Advocates, and Walmart, represent a broad array of business interests.

[20] Exh. PDE-2T, 16:11-17:23.

[21] Id. at 18:23 – 20:20.

[22] On May 18, 2022, Avista in a supplemental response to AWEC Data Request 053 provided all parties with an updated cost of debt based on the most recent debt issuance conducted since the filing of the original case. In addition, in footnote 8 of Exh. JT-1T, the Joint Parties stated that while various formulations could be used to arrive at this Rate of Return, and no Settling Party has agreed upon any precise formulation of the components, a 7.03 percent Rate of Return could be derived using Avista's currently authorized Return on Equity of 9.4 percent,

27 ● Elimination of Increases in the Basic Charge.

28 ● A write-off of $4.1M of the Dry Ash Disposal Project at Colstrip.[23]

29 ● Avista bears the risk of not performing a 60-day power cost update.

30 ● Avista will make compliance filings demonstrating how the Board and Management have incorporated equity into decision-making, and business cases will demonstrate how equitable outcomes will be achieved.

31 ● A Distributional Equity Analysis will be developed.

32 ● The reduction and ultimate elimination of natural gas line extension allowances, and inclusion of a decarbonization plan in the 2023 natural gas IRP.

33 ● The Company's proposed low-income recommendations were revised, and limits placed on recovery of labor and other expenses. Additional low-income conservation and weatherization funding levels were also provided.

34 In short, settlement discussions resulted in many concessions on the part of Avista, and the final result is comprehensive in scope, addressing the needs of a broad constituency.[24]

35 **C. <u>The Settlement is Comprehensive in Scope, Embracing Performance Metrics and Equity Measures</u>.**

36 In lieu of the eleven (11) performances incentive measures proposed by the Company, this Settlement adopts ninety-two (92) performance metrics covering a broad array of areas. Indeed, even Witness Crane, on behalf of Public Counsel, agrees:

37
> . . . that the performance metrics included in the settlement are reasonable. These metrics encompass a broad range of areas and are much more comprehensive than the 11 metrics proposed in the Company's original application.[25]

38 The Settlement also incorporates <u>equity consideration</u>, into a whole host of areas:

1. Fair and Reasonable Revenue Requirement – Affordability has been balanced with a reduced revenue requirement and tax customer credit offsets.
2. Customer Safeguards.

48.5 percent equity layer, 51.5 percent debt layer, and a 4.8 percent cost of debt that was updated during the case. This would produce a result within the zone of reasonableness.

[23] <u>See</u> Avista response to Bench Request No. 5.

[24] Exh. PDE-2T, 18:23 – 20:20.

[25] Exh. ACC-1T, 216:17-19.

3. Equitable Rate Spread.
4. Business Planning Processes.
5. Distributional Equity Analysis.[26]
6. Performance Based Ratemaking.
7. Low-Income Program Modifications regarding implementation of the Company's proposed bill discount program.
8. Development of renewable projects for the direct benefit of low-income customers.
9. Increased levels of low-income weatherization.[27]

39 And Staff agrees that, "the Settlement is in the public interest because it addresses the equitable distribution of benefits and Avista agreed to further incorporate equity into the Company's decision-making processes going forward."[28] For his part, the Energy Project Witness Cebulko concurs that "there are multiple provisions in the Settlement specifically designed to assist low-income customers and vulnerable populations, and otherwise promote equity."[29]

40 Chairman Danner inquired about whether the ninety-two (92) metrics, embedded in Attachment B to the Stipulation, complied with RCW 80.28.425(7).[30]/[31] The views expressed by Mr. Ehrbar, Mr. Cebulko and Ms. McCloy consistently answered that question in the affirmative.[32] For his part, Company Witness Ehrbar stressed the importance of creating a "baseline" to measure

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26 Commissioner Doumit inquired about the use of an independent facilitator to help address "distribution equity." TR. 139-141. Should unresolved issues arise over the results of a "distributional equity analysis," the Company envisioned bringing competing proposals back to the Commission for resolution. TR. 144:7-20. While the parties to the Settlement wanted an independent facilitator, the actual process was not fully defined. While the Settlement envisioned that this process would play out in the context of an Avista docket, it may be more appropriate for this to be a broader Commission-led collaborative, involving more than only Avista; it will be a matter affecting all jurisdictional utilities. This would be responsive to the concerns expressed by Commissioner Rendahl, as well. TR. 142:6-22.

27 Exh. PDE-2T, 21:4-18.

28 Exh. JT-1T, 44:18-21.

29 Exh. BTC-1T, 11:10-12.

30 RCW 80.28.425(7) reads: "The Commission must, in approving a multiyear rate plan, determine a set of performance measures that will be used to assess a gas or electrical company operating under a multiyear rate plan."

31 TR. 114:1-5.

32 TR. 114-119.

against.[33]/[34] Just because the 92 metrics do not have penalties or incentives attached, does not make them any less a "performance measure." Mr. Cebulko likewise stressed the importance of gathering information "to track now" in order to better assess how the Company is performing.[35] Ms. McCloy felt likewise.[36]

41 Moreover, while not clearly addressed in the Settlement Stipulation, Mr. Ehrbar affirmed the Company's willingness to provide the metric information directly to the Commission.[37] The Company also expressed its belief that these metrics were not "static set-it-and-forget-it for perpetuity."[38] They can and should be revisited and revised as appropriate. In the words of Mr. Ehrbar, "we can then augment, truncate, add to, whatever makes the most sense to get the right data that the Commission is interested in."[39] In the end, the Commission should take comfort that the Commission's approval of the 92 performance metrics satisfy RCW 80.28.425, and to provide further comfort to the Commission, Avista would be supportive of the requirement to file the metric results with the Commission, whereby the Commission could further assess Avista's performance and determine if any procedural actions or review is necessary, during the multiyear rate plan.

III. PUBLIC COUNSEL'S ADJUSTMENTS ARE NOT WELL-FOUNDED AND LACK EVIDENTIARY SUPPORT

42 ### A. Introduction: Costs and Financial Pressures Have Increased Since Date of Filing.

43 There are four primary areas in which Public Counsel proposes to adjust Avista's as-filed case to produce its revenue requirements over the Two-Year Rate Plan, as shown in Table No. 4,

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33 Mr. Ehrbar did note that the Company had initially proposed metrics with penalties and incentives attached, but the parties preferred establishing a "baseline" first. TR. 119:19-20.

34 TR. 114:22-24.

35 TR. 115:20-25.

36 TR. 117:2-11.

37 TR. 124:17-23.

38 TR. 128:2-4.

39 TR. 123:13-17.

reproduced from Ms. Andrews' Rebuttal Testimony:[40]

	Public Counsel Proposed Revenue Requirement				
		Electric		Natural Gas	
	Public Counsel Proposed Adjustments:	**RY1**	**RY2**	**RY1**	**RY2**
	Amount As Filed Per Company	**$ 52,852**	**$ 17,133**	**$ 10,922**	**$ 2,172**
	Public Counsel Adjustments:				
1)	Cost of Capital - 6.46%	$ (23,024)	$ (898)	$ (5,794)	$ (227)
2)	Rate Base &	$ (7,242)	$ (8,662)	$ (1,425)	$ (774)
	O&M Offsets Reversal	$ 234	$ 170	$ 37	$ 11
3)	EIM Revenues	$ (12,065)			
4)	O&M Reductions	$ (10,373)	$ (4,894)	$ (2,064)	$ (945)
	Public Counsel Proposed Revenue Requirement	**$ 382**	**$ 2,849**	**$ 1,676**	**$ 237**

44 It is well to remember, at the outset, that costs included for capital investment and O&M reflect amounts as filed by the Company (and considered in the Settlement electric and natural gas revenue requirement) and do not include recent expectations of increased costs impacting 2022, or those in 2023 and 2024. Certain costs have increased after the Company's original filing and will be higher through the rate-effective periods. As noted by Dr. Forsyth, in the first half of 2022 (through June), inflation year-over-year associated with goods inputs (excluding food and energy), service inputs, and construction inputs averaged approximately 20%, 10%, and 13%, respectively. Further increases in inflation related to fuels, such as vehicle fuel costs, in 2021 and the first half of 2022 (through June), year-over-year for regular gasoline were 67% and 65%, respectively, and diesel price increases averaged 80% and 78%, respectively.[41] Further increases in interest rates and market risk have also occurred as discussed by Mr. McKenzie, as has volatility in the power supply market, as discussed by Mr. Kinney.

45 According to Ms. Andrews:

46 . . . the Settling Parties have agreed to revenue requirement increases for

[40] Exh. EMA-7T, 13:8-18.
[41] Exh. GDF-3T, 7:5-10.

> the Two-Year Rate Plan. These levels, given the economic environment and known changes in costs, will require Avista to manage its costs over the Two-Year Rate Plan in order to achieve the authorized returns approved by this Commission – and it will be a challenge to do so. By no means will it be an easy task."[42]

47 As noted by Ms. Andrews, the as-filed revenue requirement – filed in January of 2022, reflected costs known as of December 2021. Significant changes have occurred since the Company's original filing, and were the Company to file today, its revenue requirement would be much higher.[43]

48 When the Company filed its case, inflationary pressures were a fraction of what they are today. As explained by Ms. Andrews:

49
> But given the fact that the Company did not include any of that kind of inflationary pressure within our direct-filed case, I can't tell you that we provided support of that, because we didn't include those inflationary pressures in our filed case, and they're certainly not in our settlement. I think that's part of our concern is the fact that we have a settlement amount, and we will continue to have this inflationary pressure over the multiyear rate plan that we will have to manage.[44]

50 She goes on to explain that these pressures have driven the Company's electric ROE in Washington down to 6.75% at the end of June of 2022:

51
> We know that there are inflationary pressures, as we have seen from our own workforce labor increase changes and what we are seeing in the market as we try to hire. We've seen increases in debt costs. We've seen increases in IS/IT. And we expect to experience additional increases.

52
> And I would argue that it's in part why – for example, at the end of June of 2022, for our electric – Washington electric operations, I think our ROE earnings is like 6.75 percent.[45]

53 It is also important to understand what use of either the CPI or the PPI was actually made

[42] Exh. EMA-7T, 22:13-17.
[43] Id. 21:13 – 22:10.
[44] TR. 186:17-22.
[45] TR. 185:4-13.

by Avista in this case. Avista made use of neither in the development of its revenue requirement; only Public Counsel Witness Coppola seeks to interject CPI as a way to capture inflationary cost increases for capital and certain expense items. This is clearly inappropriate for several reasons: (1) CPI is typically associated with expenses, not capital investment; it is a look at what customers pay, hence "Consumer Price Index"; (2) as explained more fully by Dr. Forsyth on behalf of the Company, if one were to look at any index, PPI ("Producer Price Index") is more pertinent; it is the price a producer pays for the "inputs" to production; and (3) it is only referenced by the Company to more broadly depict the likely impact of inflation through 2023 and 2024 – as such, it describes the inflationary "headwinds" faced by the Company.[46] No additional adjustment was made to account for this.

54 But most importantly, Mr. Coppola simply uses CPI adjustments to historical levels of capital and expenses – and ignores all evidence of spending levels during the Rate Plan. That fundamental error permeates his testimony.

55 **B. Cost of Capital.**

56 The Settlement supports a "black box" 7.03% ROR. Although the components of the agreed-upon rate of return were not explicitly agreed to, the proposed lower rate of return of 7.03% could be simply calculated including the same 48.5% equity layer and 9.4% ROE currently authorized, and a cost of debt of 4.8%.[47] For Avista, accepting a lower ROR of 7.03% was part of

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[46] The Settlement provides Avista with recovery of only 2021/2022 existing regulatory lag – but does little for the incremental 2023 amounts – in fact, it excludes $7.8M WA total of expected costs as filed. This does not even consider incremental costs now known, such as increases in labor (described in Exh. EMA-18CX), IS/IT expenses (Exh. EMA-9 and EMA-20X) and cost of investing in capital (Exh. EMA-24X), or the incremental impact on expense due to inflation (discussed by Dr. Forsyth and Exh. EMA-19X) – none of which were included in the Company's filed case or reflected in the Settlement. (See TR., pp. 167-168)

[47] There is recent precedent for Commission approval of a "black box" settlement, over Public Counsel's objection, in an Avista general rate case. In WUTC v. Avista Corp., Dkt. No(s). UE-190334, UG-190335 and UE-190222 (Consolidated), the Commission approved a Partial Multipart Settlement Stipulation establishing a "black box" revenue requirement. (Final Order 09 at §§ 31-33). In doing so, the Commission observed that it approves settlements "when doing so is lawful, the settlement terms are supported by an appropriate record, and when the

the give-and-take by Avista to reach Settlement with the Settling Parties.

57 By comparison, Public Counsel's proposed ROR of 6.46% is clearly unreasonable. It reduces Public Counsel's proposed revenue requirement an incremental $19.1 million, in and of itself, over the Two-Year Rate Plan, over and above the revenue requirement reduction already included as a result of the Settlement ROR of 7.03%.[48]

58 Mr. McKenzie's rebuttal testimony confirms that the 9.4% ROE implied by the Settlement actually understates Avista's cost of equity under current capital market conditions and demonstrates that Public Counsel Witness Garrett's ROE recommendation of 8.75% falls below a fair and reasonable level for the Company's utility operations. Moreover, his estimate of the "actual" cost of equity of 7.9% is simply not credible on its face. "This result is extreme and falls far below the lowest ROE awarded by any state regulatory commission in modern history," according to Mr. McKenzie.[49]

59 Mr. McKenzie compared the 7.90% ROE supported by Mr. Garrett's analysis and his 8.75% recommendation to the benchmarks supported in his own rebuttal testimony:

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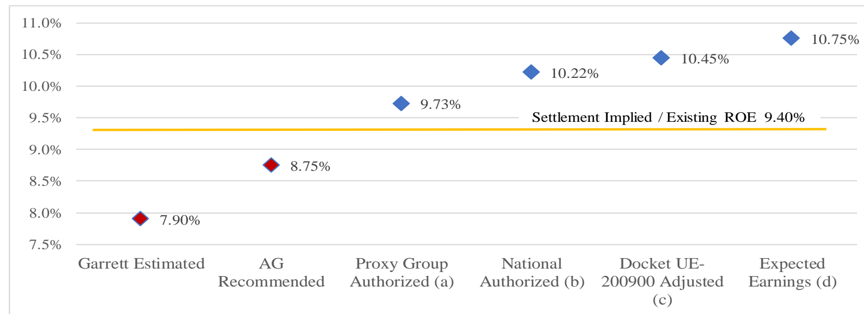
result is consistent with the public interest, in light of all the information available to the Commission." (Id. at para. 25) Accordingly, while Public Counsel may take issue with various terms, the Settlement, taken as a whole, is well supported by the entire record and is in the public interest.

48 Exh. EMA-7T, 15:6-15.

49 Exh. AMM-15T, 2:1-10.

FIGURE AMM R-1
ROE BENCHMARK COMPARISON[50]



(a) Average currently authorized ROE for Garrett proxy group from Exhibit AMM-16.
(b) Average of national ROEs adjusted for current interest rates from Exhibit AMM-17.
(c) Average of adjusted range from Exhibit AMM-18.
(d) Average of expected earned returns for Garrett proxy group from Exhibit AMM-19.

60 This shows that his recommended ROE for Avista of 8.75% falls almost 100 basis points below the currently-authorized ROEs for a proxy group of utilities that Mr. Garrett himself agrees are of comparable risk to Avista (9.73%). As Figure AMM R-1 also shows, investors' forward looking ROE expectations for similar risk utilities are 200 basis points higher than Mr. Garrett's recommended ROE of 8.75% for Avista. This prompted Mr. McKenzie to conclude:

61
> These benchmarks amply illustrate that Mr. Garrett's 8.75% ROE recommendation is an extreme outlier that violates the economic and regulatory standards underlying a fair ROE, while confirming the reasonableness of the 9.4% ROE implied by the provisions of the Settlement.[51]

62 Mr. McKenzie also notes that there has been a fundamental upward shift in long-term capital costs since the time that the analyses presented in his direct testimony were prepared. Average 'Baa' public utility bond yields have increased almost 190 basis points from the 3.26% referenced in his earlier direct testimony to 5.15% in July 2022.[52] A material increase in interest rates, rising inflation, and heightened market volatility indicate that, were he to update the results of his analyses, Mr. McKenzie's ROE recommendation would exceed the 10.25% supported in his

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50 Id. at 3:1-10.
51 Ibid.
52 Exh. AMM-15T, 4-11.

direct testimony.[53]/[54]

63 Mr. Garrett's 8.75% recommendation is also well below the average 9.44% ROE allowed by other state commissions in the past five years for electric utilities.[55] (See Table AMM-R-1 above). Mr. Garrett's ROE recommendation also falls far below the 9.40% ROE most recently approved by this Commission for Avista.[56] And, his recommendation is also below the currently allowed returns reported to investors for the companies in Mr. Garrett's own proxy group. (As shown on Exhibit AMM-15, these averaged 9.73%.[57])

64 Even more telling is the fundamental shift in Federal Reserve monetary policies and investors' expectations over the first half of 2022 (since the filing of this case), and a material increase in the cost of capital. According to Mr. McKenzie, a review of trends in key indicators since 2021 supports a finding that capital market conditions have changed dramatically, and recent historical allowed ROEs significantly understate investors' current required returns.[58] As stated by Mr. McKenzie:[59]

65
> The twin threats posed by inflation and military conflict in Ukraine have led to extreme volatility in the capital markets as investors have been forced to dramatically revise their risk perceptions and return requirements in the face of the severe disruptions to commerce and the world economy.

66 The risks posed by inflation are particularly acute for Avista, given that its rates will be fixed over the 2023-2024 Rate Plan period, as observed by Mr. McKenzie. The evidence presented in his rebuttal testimony is consistent with the findings of Company witness Dr. Forsyth, who

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53 For example, updating the risk premium analysis presented on page 1 of Exh. AMM-11 using average bond yields for July 2022 produces an implied cost of equity of 10.32%, versus the 9.18% value presented on page 1 of Exh. AMM-11 to his direct testimony.
54 Exh. AMM-15T, 4:1-7.
55 Id. at 5:1-10.
56 Dockets UE-200900, UG-200901, Final Order 08 / 05 (Sep. 27, 2021).
57 Exh. AMM-15T, 5:6-10.
58 Id. at 6:7-10.
59 Id. at 6:18-21.

concluded from his review of stage-of-production inflation rates based on the Producer Price Index that Avista "should expect a much higher, and more persistent, level of inflation affecting the Company's O&M costs throughout the Rate Plan."[60] (Emphasis added.)

67 While the cost of equity is unobservable, the yields on long-term bonds provide a widely referenced benchmark for the direction of capital costs, including required returns on common stocks. With respect to utility bond yields—which are the most relevant indicator in gauging the implications for the Company's common equity investors—average yields are now approximately 180 basis points above 2021 levels.[61] All of this suggests that long-term capital costs—including the cost of equity—have increased substantially and will continue to increase over the 2023-2024 Rate Plan period, during which Avista's rates will remain fixed.

68 As if to punctuate the impact of rising interest rates, Mr. McKenzie, at time of hearing, also observed that the Federal Reserve Board took action that very day to raise the benchmark Federal Funds Rate by another 75 basis points – for a total of 300 basis points this year, and since Avista's last case.[62]

69 As shown in Mr. McKenzie's Exhibit AMM-16, adjusting historical average allowed ROEs to reflect current capital market conditions results in an implied cost of equity in the 9.79% to 10.45% range. Thus, a consistent comparison with allowed ROEs shows that the 9.4% implied by the Settlement is understated, according to Mr. McKenzie. This provides further confirmation that the 8.75% ROE recommended by Mr. Garrett is insufficient and unreasonable.[63]

70 In addition, Mr. McKenzie, in Exhibit AMM-17, computed the implied equity risk premium associated with the most recent ROE range approved by the Commission for Avista, as

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60 Exh. GDF-3T at 9.
61 Exh. AMM-15T, 11:3-11.
62 TR. 276:18-22.
63 Exh. AMM-15T, 15:6-21.

measured against the yields on Baa-rated public utility bonds. As shown there, after accounting for the inverse relationship between equity risk premiums and interest rates, adjusting the range determined in Avista's last rate proceeding results in an implied ROE under current capital market conditions in the range of 10.05% to 10.85%. This provides additional confirmation that the 9.4% ROE implied by the provisions of the Settlement is understated.

71 All of this prompted Mr. McKenzie to conclude:

72
> These fundamental misconceptions underlying Mr. Garrett's ROE evaluation render it virtually meaningless. His final ROE recommendation of 8.75% is not supported by analysis or documentation; his base ROE determination of 7.9% is extreme, unprecedented, and so far out of the mainstream that it would cause serious harm to the financial integrity and ability of the Company to attract capital under reasonable terms; and, his position that firm-specific risks do not matter in the regulatory process is irrational. Taken together, these flaws undermine any ability to rely on Mr. Garrett's findings and recommendations.[64]

73 Moreover, there are fundamental technical flaws in Mr. Garrett's application of DCF theory. Mr. Garrett relies exclusively on generic estimates of growth in GDP for his growth term. This is inconsistent with constant growth DCF theory. There are several reasons why GDP growth is not relevant in applying the single stage DCF model: (1) practical application of the DCF model does not require a long-term growth estimate over a horizon of 25 years and beyond—it requires a growth estimate that matches investors' expectations; (2) evidence supports the conclusion that investors do not reference long-term GDP growth in evaluating expectations for individual common stocks, including those in the electric utility industry; and (3) the theoretical proposition that growth rates for all firms immediately converge to overall growth in the economy over the very long horizon does not guide investors' views, and growth rates for electric utilities can and do exceed GDP growth.[65]

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[64] Id. at 25:6-13.
[65] Id. at 26:7-16.

74 In short, there is no demonstrable evidence that investors look to GDP growth rates in the far distant future in assessing their expectations for common stocks. This is simply at odds with the practical circumstances in which real-world investors operate. Mr. Garrett's single stage DCF analysis is not valid, and the results of this approach should be given no weight.[66]

75 The only relevant growth rate is the growth rate used by investors. Investors do not have clarity to see far into the future, and there is little to no evidence to suggest that investors share the view that growth in GDP must be considered a limit on earnings growth over the long-term, as explained by Mr. McKenzie.[67]/[68] Mr. McKenzie concludes as follows:

76
> Investors do not consider long-term growth in GDP to be a limiting factor in their ROE estimation process, and so it is wholly inappropriate to use long run growth as the growth rate input in the single stage DCF model. The growth rate in the single stage DCF model should be a proxy for investors' expectations of the growth potential for each firm in a DCF analysis. Nowhere does Mr. Garrett consider analysts' estimates for growth, like I do. He effectively assumes that utility growth will be limited to 3.8% (his GDP growth rate) for every company in the proxy group from now into perpetuity. This is clearly a nonsensical assumption.[69]

77 Mr. Garrett's application of the CAPM Model fares no better. As with the DCF model, Mr. Garrett fails to critically test the end-result of his application of a theoretical model. At 8.3%, his CAPM result is below any practical measure of the Company's cost of equity.[70]

78 A fundamental difference between Mr. McKenzie's approach and that of Mr. Garrett is that, while Mr. McKenzie's analysis looks to the future return expectations of investors in the capital markets, Mr. Garrett's CAPM under his "implied equity risk premium" methodology is

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66 Id. at 26:1-22.
67 Id. at 27:11-23.
68 Long-term GDP growth rates are simply not discussed within the context of establishing investors' expectations for individual firms. For example, Value Line reports are routinely relied on as an important guide to apply the DCF model to utilities. But despite Mr. Garrett's suggestion that GDP has a fundamental role in shaping investors' growth estimates, Value Line does not even mention trends in GDP in its evaluation of the firms in the electric utility industry. (Id. at 28:1-6)
69 Exh. AMM-15T, 32:3-10.
70 Id. at 37:3-9.

based on historical data.[71] As Mr. Garrett explained, the inputs to his calculations are based on data "for the S&P 500 over the past six years."[72] In other words, the actual return on the market is completely backward-looking. As a result, this methodology is inconsistent with the assumptions of the CAPM, which is predicated on the forward-looking expectations of investors.[73]

79 Mr. Garrett also recommends a hypothetical capital structure that employs a common equity ratio of 45.6%[74], which is well below average equity ratios authorized for utilities. Table AMM-R-3 in Mr. McKenzie's testimony[75] presents the common equity ratios approved for electric utilities over the past eight quarters, as reported by RRA Regulatory Focus, and shows an average range of 47% - 54.12%, with an overall averaged 51.09%. The 48.5% common equity ratio requested by Avista falls well within the range of capital structures approved for other electric utilities, and below the average of 51.08%. More importantly, it is also consistent with the actual capital structure anticipated by the Company during the Two-Year Rate Plan.[76]

80 As explained by Mr. McKenzie, the common equity ratio requested by Avista is consistent with the Company's need to maintain its credit standing and financial flexibility, with the range of capitalizations for other operating utilities, and with the importance of an adequate equity layer to accommodate the pressures of funding significant capital investments.[77]

81 And, finally, as explained by Mr. McKenzie, Mr. Garrett's simplistic comparison completely ignores the implications of higher debt ratios on overall investment risk. Many of the firms included in the industry groups surveyed by Mr. Garrett have credit ratings that fall well

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71 Id. at 39:17-20.
72 Id. at 53.
73 Id. at 40:1-4.
74 Id. at 42:12 – 43:5.
75 Exh. AMM-15T, 43:8-9.
76 See Exh. MTT-1T, 8:11-12.
77 Exh. AMM-15T, at 44:4-9.

below investment grade. There is a fundamental disconnect between the equity layer that is required to support Avista's existing credit standing and those that are associated with firms characterized by high-risk, speculative grade debt ratings.[78]

82 **C. Rate Base Adjustments.**

83 **(1) Introduction.**

84 (a) The Subsequent Capital Review Process Is an Essential Part of the Rate Plan.

85 For its part, Public Counsel supports the Colstrip and Capital Project Review process components.[79] However, Witness Coppola includes a reduction to rate base related to 16 specific capital projects, impacting its proposed revenue requirements over the Two-Year Rate Plan. These will be addressed later. The Provisional Capital Review Process agreed to by the Settling Parties (and supported by Public Counsel) will, however, provide protection for customers; all approved capital additions included during the Rate Plan, will be subject to review and refund, if applicable (and this includes all items now contested by Mr. Coppola). This review process requires Avista to file annually its support of its prior year capital investments, to validate that such plant is, in fact, in-service, is used and useful, at what cost (after any offsetting benefits), and prudently incurred. This will provide the Commission with assurance that capital included prior to the rate effective period (for 2022 capital) and during Rate Year 1 (2023 capital) and Rate Year 2 (2024 capital) is in-service for customers during the rate-effective periods, or will be subject to refund, with interest.[80]

86 Current guidance from the Commission's January 31, 2020 "Policy Statement on Property

[78] Id. at 48:1-4.
[79] Exh. CJD-1T, 25:17 – 26:24.
[80] Exh. EMA-7T, 18:16 – 19:5.

That Becomes Used and Useful After Rate Effective Date" ("Policy Statement")[81], as well as the Engrossed Substitute Senate Bill 5295 (RCW 80.28.425), signed into law in May of 2021 (and effective in July 2021), supports the capital review process discussed above. The Commission's Policy Statement provided, in pertinent part, that:

87 > With the changes to RCW 80.04.250(3), we find that the requirements for pro forma adjustments discussed above hold true for requests for rate-effective period property, although they cannot be reviewed completely prior to rates going into effect. Accordingly, we must replace the traditional prospective review with a retrospective review for rate-effective period property requests. (Emphasis added) (para. 27, p. 10)

88 Public Counsel's positions on "provisional" property entering rate base in 2023 or 2024, still hews to "the traditional model of prospective review" and not a "retrospective review for the rate-effective period property requests," as envisioned by the Policy Statement. (Supra) Their criticisms of future rate period rate base as being insufficiently known and measurable and completely documented are "out of step" with the Rate Plan legislation. The agreed-upon and legislatively-required after-the-fact review will answer in a definitive way these concerns.

89 (b) Public Counsel Arbitrarily Removed Electric and Natural Gas Items of Rate Base.

90 Public Counsel Witness Coppola removed, over the Two-Year Rate Plan, a total of $86.9 million of rate base and $15.9 million of associated revenue requirement for Washington electric, and a total of $10.1 million of rate base and $2.2 million of revenue requirement for natural gas. He simply applies a "default setting" or arbitrary averaging methodology to escalate Rate Year 1 and Rate Year 2 investment beyond test period or 2022 actual investment levels. That is to say, he simply averages plant investment over a three-year period (2019-2021) and misapplies a modest CPI adjustment to arrive at capital levels for 2022-2024. As shown below, this substantially

[81] Docket No. U-190531.

understates capital and bears no relationship to the level that will be in service during the Rate Plan. Ms. Andrews explains why a three-year average is not representative of the specific provisional capital additions.[82] Even a cursory explanation of seven of the Business Cases that account for 92% of the proposed adjustment by witness Coppola for capital additions, proves the point. Those seven Business Cases will be discussed below in order to illustrate the fallacy of his "default" position.

91 The underlying conceptual shortcomings of this "default approach" are apparent. First of all, while the use of "averaging" expenditures has occasionally been used to arrive at a representative rate year level over time where there is considerable variability in the "ups" and "downs" each year,[83] this is typically for variable expense items – not distinct capital projects. Witness Coppola applies this averaging approach, even though there are substantial increases in the level of spending for the period 2022 through 2024 – sometimes dramatically so. Below, by way of example, Illustration No. 1 shows why this historical "averaging" approach makes no sense for the Business Cases addressed by Witness Coppola, especially those with substantial increases in spending levels year over year.

92 Illustration No. 1 below, excerpted from Ms. Andrews' testimony, demonstrates that the actual and planned transfers to plant for the periods (2018 – 2024) increase substantially during the planned 2022 – 2024 periods.[84] It should be apparent that his use of a prior three-year average (even escalated) does not reflect the levels of plant investment during the Rate Period.

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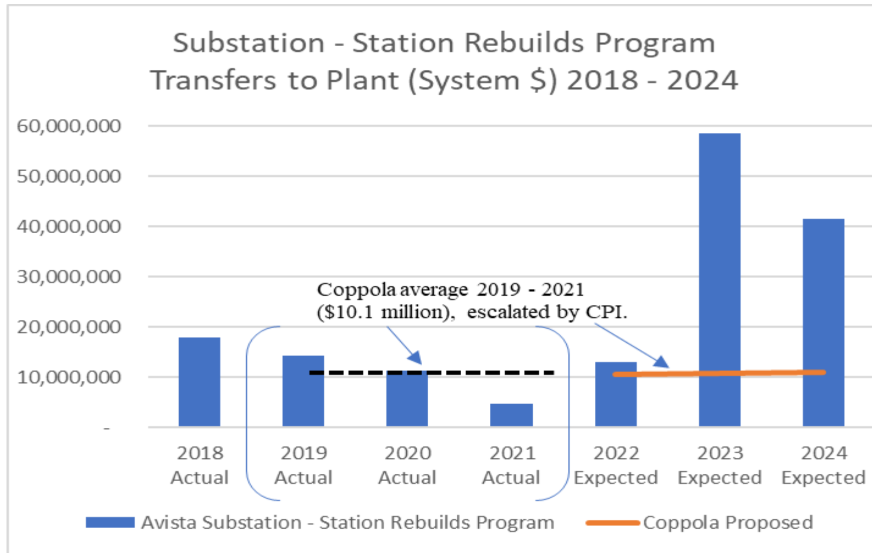
82 Exh. EMA-7T, 59:6 – 66:26.

83 A good example is the 6-year average used for injuries and damages for Avista which uses an average to normalize these amounts over a period of years.

84 Exh. EMA-7T, 55:1-22.

Illustration No. 1 – Substation Rebuilds Program System



93 On cross-examination, Ms. Andrews was asked about the illustration set forth above for actual and estimated capital investment in "substation rebuild" projects.[85] Her response nicely illustrates the fallacy of Public Counsel's approach:

> 94 But I think it also illustrates completely our argument of why a CPI average that Mr. Coppola is proposing is – why it does not work under many circumstances with our business cases.
>
> 95 This is a perfect example where we have capital investments that historically is the level as you see in both illustrations[86] and show the average that Mr. Coppola said that here is the average over the historical levels, and so, therefore, as CPI of the – what he used would show – would be appropriate.
>
> 96 Where we have business cases and we have expected transfers to plants that show considerable variability, that if this Commission was to agree with Coppola's version, that would essentially eliminate – just looking at the first – <u>the first picture there, Coppola is suggesting that the Commission approve 30 million of capital, which would eliminate 80 million of capital that we do expect is necessary over the rate plan</u>.
>
> 97 Now these are system numbers. But I think this spells out actually very clearly why we do not agree with Coppola's suggested CPI use for capital

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[85] TR. 234:15 – 235:18.

[86] Avista provided a similar illustration for "New Distribution" Substations.

investment. (Emphasis added).

98 Witness Coppola's premise assumes the absence of <u>any</u> meaningful support for any increased level of capital spending in the 2022 – 2024 time periods. As referenced in each of the capital-specific pages summarized in Table No. 10 of Ms. Andrews' testimony,[87] there is a specific level of anticipated spending – and transfers-to-plant – over time, included in Business Cases and other documentation. As testified to by Ms. Andrews:

99
> Seemingly, instead of making use of the information already provided in this case and through discovery, Witness Coppola chose the convenient path of simply resorting to a "default" position, without any attempt to follow up on Business Cases of particular concern.[88]

Public Counsel was, in fact, provided with a wealth of information on each Business Case for capital spending.

100 It should be noted that the Company has responded to over 100 data requests pertaining to capital additions during the discovery process, 82 of which were from Public Counsel, not including multiple subparts. As Witness Coppola mentions, the Company responded to Public Counsel's Data Request Nos. 208, 210, 211, and 212, included by Witness Coppola as Exh. SC-21.[89] The Company's response to these data requests included multiple references to testimony and exhibits for supporting documentation, as well as transfers-to-plant on a system basis by Business Case as contained in Exh. JBB-3 for the period of 2018-2024 (actuals for 2018-2021, expected for 2022-2024). As shown on page 1 of Exh. SC-21, the Company responded to the data request, providing the requested transactional data to allow Public Counsel to perform their calculation of variances on the 134 Business Cases included by the Company. What is noteworthy, is that during the process of the case, Public Counsel <u>requested specific follow-up clarification on</u>

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[87] Exh. EMA-7T, 57:6-22.
[88] <u>Id</u>. at 56:4-10.
[89] Exh. SC-1CT, 44:26-27.

only two of the challenged Business Cases: Wildfire Resiliency Plan and the Outage Management System & Advanced Distribution Management System (OMS & ADMS). It could have, but did not, follow up on the Company's invitation to supply additional information on any of the other 134 Business Cases, including most of the capital projects at issue in this case.[90] That unanswered invitation was extended approximately two months before their testimony was due.

101 Public Counsel seeks to make much of the level of documentation provided by the Company in support of its capital investment, ignoring the wealth of information that was provided: it was in the form of 134 separate Business Cases, each with their own level of support (784 pages in the record in and of themselves). This was backed up by descriptive testimony offered by multiple witnesses supporting each and every Business Case. (Indeed, a "roadmap" of documentation was provided in Table No. 10, at page 57 of Ms. Andrews' rebuttal testimony.[91]) In addition, Public Counsel's own cross-examination exhibit (EMA-21X) provided "granularity" surrounding each Business Case, showing year-by-year spending or budget information (2018-2024).[92]

102 **(2) Substation Rebuild Program/New Substation Capacity.**

103 There are significant increases in capital additions between 2019-2024 due to the rebuilding of existing substations and construction of new ones. Discussed above was the significant investment of new capital associated with "rebuilt" substations. The same can be said for the construction of "new" substations to meet reliability needs.[93]

104 Illustration No. 4 in Ms. Andrews' testimony charts the planned spending for "new

[90] Exh. EMA-7T, 58:1-14.
[91] See also TR. 262:14 – 263:14.
[92] Exh. EMA-21X, pages 22-26.
[93] The Substation Rebuild Program addresses the need to replace or upgrade existing substation apparatus and equipment, while the New Distribution Station Capacity Program addresses the need for new substations for load growth and reliability.

distribution station capacity."[94] As with substation "rebuilds," the level of capital spending dramatically increases between 2022 and 2025. Again, Mr. Coppola's use of a CPI-trended level of 2019-21 capital expense bears no relationship to levels of planned expenditures.

105 **(3) Distribution System Enhancements.**

106 The Distribution System Enhancements Business Case[95] includes work to solve performance and capacity issues driven by system-wide electric load growth, as well as to address power quality mitigation, reliability improvements, operational flexibility, system protection improvements, and safety enhancements. This includes capital investment to mitigate peak load events.

107 Again, as with substations, Witness Coppola's use of an historical average (2019-2021) with CPI inflation dramatically understates the planned levels of expected capital additions of $7.0 million in 2023 and again in 2024.[96]

108 **(4) Gas Facilities Replacement Program (GFRP) Aldyl-A Pipe Replacement.**

109 In addition to using a historical, CPI-adjusted level of plant (see above), Witness Coppola makes yet another computational error. He compares the roughly $14 million of Washington annual additions and argues this is well short of the expected range of $24 million to $28 million of annual additions as estimated by Avista within the Company's rate case.[97] This comparison, however, is faulty, as witness Coppola is comparing Washington additions (roughly $14 million annually) to system additions of $24 million to $28 million (Washington, Idaho, and Oregon).

110 **(5) Energy Delivery Modernization & Efficiency.**

111 Although Witness Coppola correctly stated that the additions for the Energy Delivery

[94] Exh. EMA-7T, 62:11-24.
[95] Exh. HLR-2, pp. 39-47
[96] Exh. SC-21, p. 4.
[97] Exh. SC-1T, p. 70

Modernization & Operation Efficiency showed no additions for the period of 2018 through 2020, it was noted in Mr. Kensok's testimony that the Energy Delivery Operational Efficiency & Shared Services Business Case was merged with the Energy Delivery Modernization and Operational Efficiency Business Case.[98] The historical capital additions for these merged Business Cases range from $2.0 million to $5.2 million. But using an overly simplistic historical average and only providing an inflation adjustment does not, in and of itself, predict likely additions, in light of the Company's planned expenditures, as explained above.

112 Of course, all of this ignores the bigger point: To the extent that overall capital additions do not materialize at levels reflected in the revenue requirement, an adjustment will be made through the capital "true-up" process.

113 **(6) Outage Management Systems & Advanced Distribution Management Systems.**

114 Specific to the Outage Management Systems & Advanced Distribution Management Systems ("OMS & ADMS"), Public Counsel contends that the cost of assets that will transfer-to-plant are unknown rough estimates, and that none of the expected systems will be operational within either 2023 or 2024.[99] However, as discussed in DR-PC-227, subpart (b) (Exh. SC-23) the expected additions were determined both by discussion with other utilities, vendors, as well as Avista's experience with projects of similar scope and scale and are well-supported.

115 **(7) A Concluding Thought on Capital Additions**.

116 The Company's annual actual expenditures generally meet or exceed the levels budgeted for as we meet the needs of its customers. This suggests a high likelihood that the amounts meant for capital additions in 2022 through 2024 will be spent as shown in Illustration No. 5 below,

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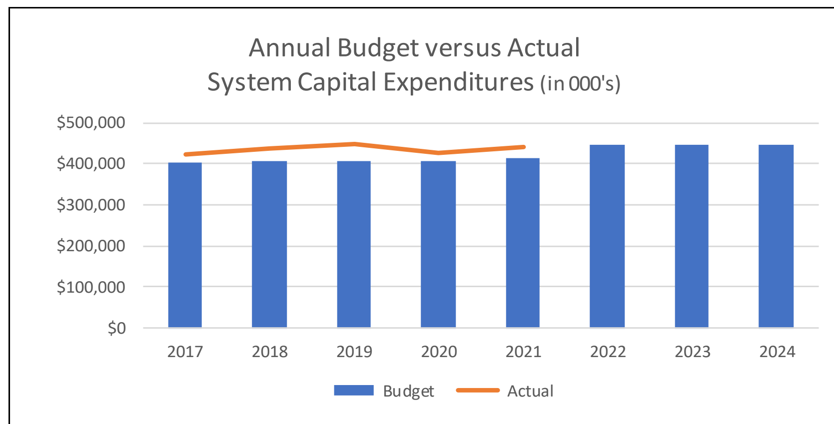
[98] Exh. JMK-2, p. 1.
[99] Exh. SC-1T, p. 48.

excepted from Ms. Andrews' testimony:[100]

<u>Illustration No. 5 – Annual Budget Versus Actual System Capital Expenditures</u>



117 This attests to the high probability that budgeted capital expenditures <u>will be spent</u>; if not, the after-the-fact true-up and refund procedures will provide protections.

118 **D. <u>Wildfire Resiliency Plan</u>.**

119 As discussed by Mr. Howell in his direct testimony,[101] the ten-year Wildfire Resiliency Plan indicates a ramping up of capital investment to ensure safe and reliable delivery of energy to Washington customers until levelling out to a consistent amount in 2025. In addressing Witness Coppola's concerns, Mr. Howell reiterates that Avista's wildfire capital program began in late 2020 and is expected to largely be completed in 2029. In order to upgrade facilities in high fire threat areas and to protect critical infrastructure from the impact of wildfires in the meantime, Avista is ramping up design, materials, and labor resources in the 2021-2023 timeframe with more levelized spending in the 2024-2029 period.[102] Simply referencing back to prior historical averages, before the "ramping up," would not serve to capture the increased level of spending.

120 **(1) <u>Accelerated Near-Term Capital Spending</u>.**

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[100] Exh. EMA-7T, 68:1-10.
[101] Exh. DRH-1T p 13.
[102] Exh. DRH-5T, p. 5.

121 Witness Coppola, however, proposes to use the $24.5 million system spending level in 2022, adjusted by inflation to $25.1 million in 2023, and $25.7 million in 2024.[103] This is compared to the level included by the Company in 2023 and 2024, of $27 million and $29 million, respectively.[104] As discussed by Mr. Howell, however, to meet the Wildfire Plan objectives, the Company must accelerate its wildfire investment over the first years of the Plan. Reducing the Company's Wildfire investment to reflect levels proposed by Witness Coppola would undermine the objectives of our Wildfire Plan – something the Company will not do. Witness Coppola's use of an average of historical investment (2019-2020) with his CPI escalator, "is untenable and would understate and underfund our Wildfire capital needs in 2023 and 2024, not allowing the Company to meet its Wildfire Plan objectives," according to Mr. Howell.[105]/[106]

122 Contrary to the assertions of Public Counsel, for 2023 and 2024 Avista does know the miles of distribution capital projects (327 miles) and the average costs for grid hardening on a mile of distribution.[107] That information has been provided. The estimates of $27 million and $29 million of capital spent in 2023 and 2024, respectively, also include other identified specific upgrades to

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[103] Exh. SC-1CT, 83:10-15.

[104] Exh. DRH-5T, 6:5-9.

[105] Mr. Howell describes, with specificity, the nature of the planned work:

> . . . in order to align design resources, material supply, and labor, in 2020 Avista completed 61 miles of distribution grid hardening, increasing to 146 miles in 2021, and we are expecting to complete 210 miles in 2022. This number jumps to 327 miles in 2023 and remains at that level through 2029. Completing this body of work will require several years, hundreds if not thousands of miles of reconductor work along with thousands of wood crossarm upgrades to fiberglass, the installation of animal guards, select conversion of overhead lines to underground cable, and other work as defined in the Grid Hardening scope and as required by each project. (Exh. DRH-5T at 7:7-14)

Mr. Howell continues:

> The result of this work was that the transmission pole replacement plans were re-prioritized for 2023. For 2023 planned construction, Avista's transmission design group has identified 81 structures that will be replaced with steel at an estimated cost of $3,360,500, or a per structure estimate of $41,488 using this new study as a basis for their planned work. All of this is further evidence of the need to be flexible in our planning and execution. (Exh. DRH-5T, 11:6-11)

[106] Id. at 7:14-17.

[107] TR. 340:17 – 341:15.

substations for remote switching and the installation of midline reclosures.[108] The projected level of spend is not just a "placeholder."

123 **(2) Wildfire Metrics are Continually Being Developed and Refined.**

124 The Settling Parties included 92 metrics that Avista will track, including 16 related to wildfire.[109] The wildfire metrics are supported by Public Counsel's Witness Tam. Mr. Tam does argue, however, that Avista's Performance Metric (PIM) around vegetation management work does not compel the Company to do more for wildfire mitigation than it is already doing.[110]

125 To the contrary, the total risk inspection mileage in 2022 is more than two and a half times the mileage from 2021. According to Mr. Howell, "This is a stretch goal for the Company that we feel is extremely important in reducing vegetation-related outages and fires and is the reason we initially asked for consideration of a performance based financial incentive."[111]

126 Witness Tam also argues, however, that Avista should track pole fires and fiberglass cross-arm replacements alongside one another.[112] These metrics are already tracked by Avista. These items are presented in the Company's Wildfire 2021 Year End Report.[113]

127 Avista's Wildfire Team has developed, in May of 2022, an automated method (a Dashboard) for tracking fire activity in proximity to electric system assets, correlating that information to system activity. This new tool should provide much of the tracking information needed as it is rolled out, tested, utilized, and refined.[114] Witness Tam, therefore, is incorrect in asserting that "The Company has no further plans outlined in its 2022 Wildfire Plan to track spark

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[108] See also TR. 344:23 – 345:17.
[109] Exh. JT-2, Attachment B, Items 50-66.
[110] Exh. AT-1T, Section III, 9:1-10.
[111] Exh. DRH-5T, 13:19-22.
[112] Exh. AT-1T, Section IV, 18:5-7.
[113] Exh. DRH-3, pp. 3-4.
[114] Exh. DRH-5T, 18:1-13.

or fire ignition data."[115] As part of the in-house developed tracking tool mentioned above, tracking fire ignition events is now very much a part of the Plan.

128 Avista's Fire Weather Dashboard is the Company's primary tool for identifying fire risk on our system. The Dashboard is a risk-based model developed using system performance data based on our service territory. This tool allows insights into each circuit in the distribution system, providing a risk level based on a robust spectrum of information including wind speed and direction, sustained winds, humidity level, type of vegetation, temperature, condition of equipment, mode of operation, and more.[116]/[117]

129 In addition to the above, Witness Tam recommends several new metrics or measures used by the California utilities, doing so without due regard to cost or differing conditions. The characteristics of the California utility systems vary greatly from what is faced by Avista. Avista has 13 customers per square mile compared to 363 customers per square mile for SDG&E, roughly 3.5% of the density.[118]/[119]

130 The use of various tools (e.g., drones, cameras, satellite-based technology) are useful, but they can add significant cost, which must be considered so Avista customers will not end up facing the high energy and wildfire costs faced by the customers in California.[120] For comparison of

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[115] Exh. AT-1T, Section V, 23:1-3.

[116] When combined with the dynamic operating capability provided by automation equipment, it guides the decision to enable various levels of operations (Dry Land Mode operations) to mitigate risk. The Dashboard also indicates the status of Dry Land Mode equipment and also indicates whether the circuit is enabled for Dry Land Mode operations. The dynamic approach offered by the Dashboard allows system operators to better understand timing and extent of the risk, providing notice for the Company to take action in order to mitigate potential spark-ignition events.

[117] Exh. DRH-5T, 20:1-5.

[118] Exh. DRH-5T, 23:1-11.

[119] Cost can become a real issue. For example, Witness Tam recommends that Avista install fire cameras. PG&E is paying as much as $700,000 to operate wildfire cameras per year; SDG&E indicates that one wildfire camera costs about $5,000 and setting it up can cost between $20,000 - $80,000 (Celina Tebor, "Wildfire Camera Networks Spread Across California," *San Diego Union-Tribune*, Oct. 24, 2019, https://www.sandiegouniontribune.com/news/environment/story/2019-10-24/wildfire-camera-networks-spread-across-california. (Exh. DRH-5T, 23:1-10)

[120] From tables in DRH-1T - 01-21-22.

wildfire program costs, PG&E customers face three-year average costs per customer of $981.40, SDG&E of $448.95, and Avista of $52.53.[121]

131 **(3) Wildfire Community Outreach is Occurring.**

132 Lastly, Witness Tam argues that, "Avista currently conducts no further outreach to identify customers with access and functional needs (AFN).[122] He further implies that the Company needs to partner with local and regional entities to identify more AFN customers.[123]

133 This is not accurate. As part of Avista's current wildfire community outreach initiative, the Company is actively working to identify and establish or enhance partnerships with local and regional organizations. These organizations include those directly involved in responding to emergencies as well as those who support communities and community members when an emergency arises.[124]

134 Finally, Avista will also continue to leverage our long-time external partnerships to serve those most vulnerable when they need us most. This includes enhanced coordination with organizations that provide services and programs for elder adults, those living with disability and/or long-term health care needs, resource constrained and underserved groups, as well as emergency management services and public health.[125]

135 **(4) Use of "Preemptive Shut Offs."**

136 Mr. Howell explained the use of "preemptive shut offs" on Avista's system, distinguishing

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[121] Exh. DRH-5T, 24:6-10.
[122] Exh. AT-1T, Section VI, 38:15-19.
[123] Id. at Section VI, 37:13-15.
[124] Current wildfire-specific community outreach includes a series of telephone town hall meetings with customers in high fire threat areas. One of our messages during these meetings is to encourage our customers with special needs to call customer service and let us know. Avista recognizes the need for additional strategies to overcome barriers such as language. The Company is currently working with a third-party vendor, Public Participation Partners (P3) (https://publicparticipationpartners.com/) to develop a public participation and communication plan that will be utilized for the Company's Clean Energy Implementation Plan ("CEIP").
[125] Exh. DRH-5T, 37:15-20.

between (1) shut offs to protect first responders and (2) other shutoffs in anticipation of a weather event that could trigger a wildfire.[126] Avista understands the hardships on its customers, especially the vulnerable populations, when this occurs. To that end, Mr. Howell explained the "outreach" that occurs:

137 We did recently complete some community outreach to a number of our highly impacted fire districts, the areas where we have significant wildland urban interface, and reached out to community stakeholders. We also then followed that up with some town hall meetings in four of our different locations and counties. And one of our appeals was to get phone numbers for customers that may have functional needs. And so that we can properly communicate with them in the event that we were going to elevate our protection system. That would be the path that we would follow where a proactive notification would be sent to our customers if we're going to change operations.[127]

138 And, as the Company continues to implement its CEIP, it will strengthen its channels of communication with the particularly vulnerable populations.

139 **(5) <u>Several Suggestions of Public Counsel Witness Tam Will, However, Be Adopted</u>.**

140 Public Counsel Witness Tam provided several helpful and constructive ideas for improving the Wildfire Plan, and the Company will make use of several of them in upcoming Wildfire reports, starting with the 2022 Wildfire Year End Report.

141 The Company will be adding his recommendation for a "glossary of terms" into our annual Wildfire Year End Reports, starting with the 2022 Report which will be released early in 2023. We will also make a concerted effort to use the same terminology in most Wildfire documents. This will promote better consistency and understanding. In addition, the Company will be more mindful of definitions used by other utilities and entities as we work with them in order to fold in those which are useful, improve our communications, and promote greater comprehension. The

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[126] TR. 331-335.
[127] TR. 334:16 – 335:4.

ideas around including tables summarizing the benefits of programs are also beneficial and will be incorporated in our 2022 Wildfire Year End Report.[128]

142 **E. <u>O&M Reductions</u>.**

143 **(1) <u>Insurance Expense</u>.**

144 Public Counsel argues that, although "the Company experienced significant increases in insurance costs during 2021 and 2022," insurance costs will moderate in 2023 and 2024."[129] Witness Coppola, therefore, accepts the Company's 2022 expense levels, but again uses certain inflation factors of 2.4% in 2023 and 2.3% in 2024 to project the insurance expense levels in each year (just as it did with capital). Furthermore, Witness Coppola's adjustments result in revenue requirement reductions of approximately $2.2 million in Rate Year 1 and $1.8 million in Rate Year 2 for electric, and $42,000 for Rate Year 1 and $102,000 for Rate Year 2 for natural gas.[130]

145 As shown in Ms. Andrews' Table No. 7, below, actual system insurance expense levels have increased approximately 107% in 2022, versus current authorized levels, based on 2020 actual system expense approved in Docket UE-200900, et. al. The increase in 2022 is an approximate increase of 48% above test period levels ending 09.30.2021. The Company anticipates incremental system increases above 2022 actual expense of approximately 13% and 11% in 2023 and 2024, respectively.[131]

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[128] Exh. DRH-5T, 4:1-7.
[129] Exh. SC-1CT, 24:20–23.
[130] <u>Id</u>, at 24:12-14.
[131] Exh. EMA-7T, 25:16 – 26:4.

Table No. 7 – Insurance Expense 12/2020 through 12/2024[132]

Insurance Expense (000s)					
				PF RY1*	PF RY2*
	Authorized Level	Test Period Level	Invoiced Levels*	Expected Levels	Expected Levels
	12.31.2020	09.30.2021	12.31.2022	12.31.2023	12.31.2024
System Expense	$ 6,655	**$ 9,282**	$ 13,760	**$ 15,534**	**$ 17,171**
Growth in Expense		**39.5%**	**48.2%**	12.9%	10.5%
Percent Increase in Insurance 2022 versus Authorized			**106.8%**		
Percent Increase in Insurance 2023 Expected versus Authorized				**133.4%**	
Unrecovered Expense in 2022 (System)			$ 7,105		
Washington Share of Unrecovered Insurance in 2022			**$ 5,305**		
*These balances were updated Q'1 of 2022 with final invoices, revising the amounts slightly to reflect actual 2022 invoices.					

146 Witness Coppola also speculates that "as insurance companies get past their initial reaction to the apparent higher risk of insurance losses and are able to better assess real losses versus perceived losses for specific companies, insurance premiums will tend to moderate."[133] This speculation is several steps removed from any actual interaction with, or understanding of, the insurance market.[134] As discussed by Mr. Brandkamp,[135] when determining its expected increases, the Company relied primarily on direct discussions with insurance brokers and their outlook about potential future increases in premiums.[136] In short, Mr. Brandkamp is "in the market"; Mr. Coppola is not.[137]

147 As testified to by Ms. Andrews, the overall insurance expense included by the Parties to

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132 Table No. 7 reflects Table No. 11 included in Exh. EMA-1T, p. 66, updated to reflect actual 2022 invoices.

133 Exh. SC-1CT, 21:5-8.

134 Exh. EMA-7T, 25:16 – 26:4

135 Mr. Brandkamp graduated from the University of Illinois, earning a Master of Business Administration degree and holds certifications as an Associate of Risk Management and a Certified Internal Auditor. His professional background includes a mix of insurance and auditing work. Prior to his tenure with Avista, he worked in the insurance industry for 10 years. In this capacity, he worked 8 years as an insurance underwriter, and two years as both a state rates filing and insurance portfolio analyst. He is also founder and past President of the Spokane Risk and Insurance Management Society (RIMS) chapter in Spokane, WA and participates on numerous and industry advisory committees: These include AEGIS Insurance Loss Control Task Force (2017 to present), State of Oregon Workers' Comp Advisory Committee (2015 to present), American Gas Association (AGA) Risk Committee (2015 to present), Edison Electric Institute (EEI) Risk Committee (2015 to present). (Exh. REB-1CT, 1:8 – 2:21)

136 "Avista does not make these estimates in a vacuum. We consult with our insurance brokers who have a number of utility clients across the industry to identify overall trends they are currently seeing, as well as projected movements in future premiums in the industry in the future years." (Exh. REB-7T, 4:3-6)

137 Exh. EMA-7T, 27:5-10.

the Settlement are estimated expense amounts, and recent history has shown the increases in the last few years have been extraordinary (107% between 2020 and 2022). Furthermore, recent unrecovered insurance levels have been costly to the Company, as noted by the lost recovery of $5.3 million in expense for Washington alone in 2022. This is notwithstanding the Company's best efforts under the Wildfire Resiliency Plan.

148 Avista has also experienced increased costs for cyber insurance. The 64% increase in cyber insurance at the October 2022 renewal was the result of a premium increase related to industry-wide losses, and not a result of any loss history specifically related to Avista. Several variables include Company exposures, Company loss history, and industry - related loss activity. All cyber-insureds received significant premium increases in 2022, many incurring premium increases of over 100%. This was due to several significant cyber losses within the industry in 2022, including the ransomware loss at Colonial Pipeline. Avista's favorable loss experience and significant Information Technology (IT) controls resulted in the Company receiving a lower than industry average premium increase in 2022.[138]

149 The proposed insurance balancing account included in the Settlement will ensure actual insurance expense, which will vary up or down from that included in the established baseline, will be deferred for later rebate or surcharge.[139] This ensures that customers "pay no more and no less" than the actual insurance expense paid by the Company.[140]

150 Mr. Brandkamp nicely sums up to what he terms as "a new phase of the insurance cycle":

151 In a market where general change has led to increased wildfire activity and

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[138] Exh. REB-1T, 9:12-20.

[139] To counter the suggestion that deferrals are always later reflected in rates, Ms. Andrews spoke to recent examples of where costs that were deferred for later review were, in fact, deemed imprudent and written-off by the Company: e.g., $4.2M of Smartburn technology at Colstrip, and $4M of Coal Ash Pond investment. TR. p. 182.

[140] Mr. Brandkamp explained that the Company's casualty insurance renews at the end of every year; no mid-year premium adjustments are made. Therefore, any wildfire claims made during this year have yet to be reflected in the new premium. And for that reason as well, future premiums may, if anything, be understated. TR. 360:2-16.

> is projected to result in an increase in frequency and severity of hurricanes, all of which will continue to add to significant variability in general liability and property rates over which insureds will have little control. The cyber market continues to see increases and severity in the nature of cyber breaches and ransomware events. This is not expected to decline, and premium insurance increases are likely to be elevated for the foreseeable future. We are in a new phase of the insurance cycle, in which increased variability in rates is likely.[141] (Emphasis added.)

152 **(2) Vegetation Management Expense.**

153 Public Counsel argues that in 2023, Avista will avoid at least 10% of on-going vegetation management expense as the Company shifts more of its risk-tree management efforts to the Wildfire Resiliency Plan.[142] Any deferral of wildfire expense is tracked incrementally to the Wildfire Expense Balancing Account baseline and will also ensure it is incremental to the routine maintenance expense included in base rates. The vegetation management program has two components: Routine maintenance and Risk Tree Wildfire mitigation.[143]

154 As for Routine Maintenance, the Company did not pro form additional incremental expense in its filed case. With respect to wildfire-related Risk Tree expenses, however, the Company pro formed an incremental $3.0 million of added wildfire-related expense in its as-filed case to arrive at the total of $5.1 million. The Company separately accounts for these two necessary programs. To the extent there are any savings as suggested by Witness Coppola, such savings would be

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[141] Exh. REB-1T, 12:1-7.

[142] Witness Coppola calculates an adjustment by taking 10% of the average of vegetation management expense between 2021 ($5 million) and planned future levels ($5.7 million) or $5.350 million, thus removing $535,000 of vegetation management expense. (Exh. SC-1CT, 26:20 – 27:8)

[143] As discussed by Mr. Howell in his direct testimony (Exh. DRH-1T, starting at page 19) Avista has had a robust vegetation management program in place for many years, consisting of a routine maintenance 5-year cycle-trimming and risk-tree inspection and mitigation plan, focused on about 1,500 miles (20% of the system) annually. In 2020 this existing program was separated into two programs based on the new Wildfire Resiliency Plan: Routine Maintenance (20% of the system) annually and Risk-Tree Identification and Mitigation (“Risk-Tree”) – enhanced measures that will include 100% of the system, risk-tree identification, on an annual basis versus a five-year cycle, as well as transmission LiDAR and distribution satellite data collection in order to identify risk-trees and existing or potential vegetation issues. The Company believes both programs are necessary to meet its vegetation management and Wildfire Resiliency goals.

reflected through the Wildfire Balancing Account tracking mechanism – making Witness Coppola's arbitrary adjustment unnecessary.

155 **(3) Customer Service Labor Expense.**

156 Public Counsel argues that customer service expense included in Rate Year 1 and Rate Year 2 does not reflect a decline in CSR workload and related expense,[144] and proposes overall CSR labor reductions of approximately $825,000 in Rate Year 1 and $361,000 in Rate Year 2 (system).[145]

157 First, the significant decline in live contacts from 2019 to 2020 was primarily due to the COVID-19 pandemic and the Washington disconnection moratorium put in place in early March 2020. As a result of the disconnection moratorium, the Company stopped all collections processes, which historically has been a significant portion of the live contacts that CSRs receive. The Company has since seen an increase in 2022 live contacts compared to 2021, which aligns with the ending of the Washington disconnection moratorium in October 2021.[146]

158 As testified to by Ms. Andrews, just because live contacts with CSRs have declined, it does not mean that Customer Service labor costs will see the same rate of decline. Due to new and changing processes, additional customer outreach and other factors, the Company does not expect its Customer Service labor costs to decline over time.[147] Company Witness Magalsky concluded:

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> When the Two-Year Rate Plan was developed and the case was filed, inflationary cost pressures, a changing workplace and workforce, and COVID ramifications were not yet well understood. As a result, I would be

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144 Exh. SC-1CT, 28:14 - 29:10 - 30:5.

145 Specific adjustments to O&M expense applicable to the Washington jurisdiction are $394,024 in Rate Year 1 and $172,264 in Rate Year 2 for electric, and $124,427 for Rate Year 1 and $54,399 for Rate Year 2 for natural gas. This results in a reduction in revenue requirement of $412,001 for Rate Year 1 and $180,124 for Rate Year 2 for electric, and $130,104 for Rate Year 1 and $56,881 for Rate Year 2 for natural gas. See Exh. SC-1CT, 29:9 – 30:5.

146 Exh. EMA-7T, 31:2-10.

147 Mr. Magalsky provides additional examples of COVID-19 impacts on the CSR workforce, impacting hiring, increasing labor wages, increasing call volumes, etc., and ultimately, increasing our labor expenses. In summary, the impacts described above, highlight that. (EMA-7T, 32:5-8)

> surprised if our previous cost estimates built into the case were not exceeded, notwithstanding our best ongoing efforts to control costs.[148]

160 **(4) Pension and Medical Expense.**

161 In the Company's direct case, it included 2023 and 2024 Pro Forma Employee Benefit adjustments to reflect the expected electric and natural gas pension and medical expenses over the Two-Year Rate Plan, adjusted from test period 12ME 09.2021 actual expense. For pension and medical costs, an update was necessary after calendar 2021 actual results and returns were available, and a year-end final actuarial report was available. These updates were provided to Public Counsel.

162 The Company provided updated Pro Forma Benefit adjustments for 2023 and 2024 in April 2022 in response to Staff DR 71 and provided the updated adjustments and actuarial report information in response to PC DR 276. The updated results reflected in Staff DR 71 and PC DR 276, based on year-end information, supported 2023 and 2024 pension costs at $11.9 million and $11.2 million respectively, while medical costs for 2023 and 2024 were revised to $8.6 million and $8.5 million, totaling $40.2 million (capital and expense) over the Two-Year Rate Plan.[149]

163 At the end of the day, the fact remains that total pension costs are higher in 2023 and 2024 than what was included in the case.[150] 2023: $14.4 million (vs) $12.3 million; 2024: $14.2 million (vs) $12.3 million. For the two-year Rate Plan, Avista would underrecover $4.0 million of Pension Costs. The most recent OPEM (Medical) actuarial runs show, however, a slightly lower level of expense than included in the case.[151] 2023 and 2024: $6.6 million (vs) $9.2 million each year. The net of Pension and Medical, however, is quite close to overall levels proformed into the case:

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[148] Exh. KEM-3T, 6:1-5.
[149] Exh. EMA-7T, 35:3-13.
[150] This is based on the Company's most recent actuarial run, as of June, 2022. (See Exh. MTT-12CX, 1:28 and 1:30)
[151] Id. at p. 2.

$43.2M (as filed) (vs) $41.8M (most recent estimate).[152]

164 Witness Coppola, however, utilized outdated information on pension and medical costs, even though he was provided with more recent information in response to Staff DR 71 and PC 276.[153] This error – use of stale information - substantially understated the pension and medical costs as reported by the actuarial reports for 2023 and 2024.[154]

165 **(5) Miscellaneous O&M.**

166 Public Counsel's use of forecasted inflation rates of 4.2% for 2021, 3.7% for 2022 and 2.3% for 2024 for miscellaneous O&M does not adequately represent increases for Avista's operations and are not the best measure of O&M inflationary pressures. Dr. Forsyth, on behalf of Avista, shows in the first half of 2022 (through June), year-over-year inflation associated with goods inputs (excluding food and energy), service inputs, and construction inputs averaged approximately 20%, 10%, and 13%, respectively. Finally, Dr. Forsyth observes that the inflationary pressures currently being experienced by the Company will not soon return to pre-2021 levels, "taking as long as 23 to 40 months."[155] Ms. Andrews concludes:

> These inflationary pressures are significantly above the approximate 7% O&M growth adjustment requested by the Company and suggests that the Company should expect significant upward pressure on O&M expenditures to continue for a period of time. This means Avista will likely have to manage above-average inflation pressures for the next 2 to 3 years – well beyond the Two-Year Rate Plan approved in this rate case - affecting the Company's O&M costs and presenting real challenges to the Company,

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[152] Exh. EMA-7T, 37:4-8.

[153] Avista's response to PC 276 appears in the record as Coppola Exh. SC-13.

[154] As a result of the error, Witness Coppola has included proposed revenue requirement reductions for pension expense of approximately $818,000 in Rate Year 1 and $350,000 in Rate Year 2, for electric and $249,000 in Rate Year 1 and $107,000 in Rate Year 2 for natural gas. This error, also impacts Witness Coppola's proposed revenue requirement adjustments related to medical expense, reflecting reductions in error of approximately $350,000 in Rate Year 1 and $29,000 in Rate Year 2, for electric and $107,000 in Rate Year 1 and $9,000 in Rate Year 2 for natural gas. Combined, these reductions to expense total $2.0 million over the Two-Year Rate Plan for Washington electric and natural gas revenue requirement balances. Exh. SC-1T, p.32. (Exh. EMA-7T, 36:12-20)

[155] Dr. Forsyth, Exh. GDF-3T, 7:12 – 9:18.

even under the terms of the Settlement.[156]

167 Public Counsel's proposal to remove $5.52 million in Rate Year 1 and $2.95 million in Rate Year 2 for electric, and $1.3 million in Rate Year 1 and $0.7 million in Rate Year 2 for natural gas,[157] is arbitrary, unfounded and would result in significant under-recovery of expenses over the Two-Year Rate Plan, as further explained by Ms. Andrews.[158] No amount of cost cutting at these levels, under this level of inflationary pressure, could be "managed" to allow Avista to earn its authorized rate of return approved by this Commission.

168 **(6) Information Services / Information Technology (IS/IT) Expense.**

169 Witness Coppola has provided no support for the arbitrary assumption that annual increases in IS/IT expense are somehow directly tied to incremental IS/IT capital investment, or that Public Counsel's proposed 6% increase above test period levels for IS/IT capital investment alone is reasonable. While IS/IT expense is increasing annually due to new capital investment, it is also increasing annually due to existing software products and services, licensing, and maintenance fees, whose contractual agreements may be increasing due to inflationary pressures over time, incrementally increasing IS/IT expense.[159]

170 When pro forming the Company's non-labor IS/IT expenses, the Company was conservative, including incremental expenses for known and measurable items only that will be in place during the rate-effective period beginning in December 2022. The Company did not add additional incremental 2023 (Rate Year 1) expenses or for Rate Year 2 (2024) or escalate expenses further in Rate Year 1 or Rate Year 2 for expected increases beyond the 2022 contractual

156 Exh. EMA-7T, 39:19 – 40:10.
157 Exh. SC-1T, p.36, Table 7.
158 Exh. EMA-7T, 40:5-10.
159 Id. at 42:3-15.

arrangements.[160]

171 In fact, costs are now known to be higher than originally filed. If the Company were to update its costs today, known non-labor contractual expenses, and updated new employee requirements for TSA Security Directive No. 2 requirements, would result in an incremental increase in system IS/IT of approximately $766,000, an increase to Washington electric of $356,000 and $123,000 for Washington natural gas.[161]/[162]

172 **(7) CETA Labor Expense.**

173 Public Counsel proposes the Commission approve only one new position, rather than the three positions pro formed by the Company, resulting in a reduction in electric revenue requirement of approximately $249,000.[163]

174 In Avista's final approved CEIP, the Commission approved 38 conditions that will require a significant amount of new work.[164] Avista highlighted the need for even more resources in addition to the three positions included in this case within its CEIP Petition for Deferred Accounting, which the Commission approved on July 28, 2022.[165]/[166]

175 Ms. Andrews concluded that: "CETA is truly a transformational law and the compliance

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[160] The Company also included incremental labor expense for new employee requirements, driven by compliance of cyber security and application patching requirements dictated by the Department of Homeland Security's (DHS) Transportation Security Administration (TSA), to be hired in 2022 prior to Rate Year 1. The Company's as-filed Pro Forma IS/IT Adjustment, therefore, resulted in an incremental increase in system IS/IT expense of $2.6 million, or $1.26 million for Washington electric and $371,000 for Washington natural gas. (Exh. EWA-7T, 42:20 – 43:3)

[161] In contrast, Witness Coppola suggests a reduction in Rate Year 1 of approximately $759,000 for electric and $240,000 for natural gas. Witness Coppola's recommendation is based solely on an arbitrary escalation, versus actual known and measurable expense information, and therefore should be rejected. (Exh. EMA-7T, 43:13-16)

[162] Exh. EMA-7T, 43:9-16.

[163] Exh. SC-1T, 40:18 – 41:4.

[164] Docket UE-210628, Order 01, issued on June 23, 2022.

[165] Docket UE-220350, Order 01.

[166] Public Counsel participated in the development of Avista's CEIP and conditions, as well as numerous Commission proceedings related to requirements that utilities must comply with regarding CETA. It is quite surprising for Public Counsel to now claim that the work required to comply with CETA can be done by existing employees and anything more than a single employee to perform many tasks related to CETA compliance is excessive and not necessary.

requirements associated with this new law require a tremendous amount of new work, which the three positions described above represent only a fraction of what is needed now and in the future."[167]

IV. POWER SUPPLY AND EIM REVENUES

176 As discussed in the Settlement,[168] the Settling Parties agreed to the 2023 Pro Forma Power Supply expense, including the costs and revenues included in the Energy Recovery Mechanism ("ERM") and ERM baseline, as originally filed by the Company.[169] The Settling Parties also agreed that Avista will not perform a 60-day power cost update prior to new rates going into effect for each year of the Two-Year Rate Plan (prior to Rate Year 1 or Rate Year 2). In short, the ERM Baseline as originally filed will remain in effect through the entire Two-Year Rate Plan, with no opportunity for Avista to update the underlying baseline values.[170]

177 Witness Earle, while supporting the 2023 Pro Forma Power Supply expense included in the case (without the opportunity to perform a 60-day power cost update), suggests an annual EIM system revenue adjustment of $23.4 million. As described at Exh. RLE-1T, p. 10:8-12, Witness Earle's revenue adjustment is based on the assumption that the Company's EIM revenue for only the month of March 2022 ($1.95 million system) will apply, ratably, for all months of 2023. This adjustment would be an incremental $17.6 million of system revenues above that agreed to by the Settling Parties ($5.8 million system), resulting in an incremental Washington electric revenue requirement reduction of approximately $12.1 million, as discussed by Company witness Ms. Andrews.[171]

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167 Exh. EMA-7T, 45:18-20.
168 Exh. JT-2, ¶ 15.
169 Id. at p.8, para. 15.
170 ERM Baseline provided as Attachment C of Exh. JT-2.
171 Exh. SJK-13T, 9:1-12.

178 First of all, as explained by Mr. Kinney, it is not reasonable to separate out one component, EIM Revenues, and require that value to be updated while all other components are left unchanged. Separating out certain power supply components skews the balance of risk between the Company and customers.[172] The Company does not believe it is right to "cherry pick" only one component (EIM revenues) of the overall level of power supply included in this case and agreed to by the Settling Parties. Therefore, power supply costs need to be determined as a whole instead of being separated into pieces.

179 The Company also does not support Public Counsel Witness Earle's proposal to redo, at this time, the E3 study to determine future EIM benefits.[173] As explained by Mr. Kinney, it would simply not be feasible to contract with E3 to complete an updated assessment in sufficient time to inform EIM benefits for this case. E3 is currently focused on several other regional assessments and previous experience with it indicates that it takes at least 6 months to complete any new assessment. And, importantly, this assumes that E3 would even support doing another assessment so early into Avista's joining the Energy Imbalance Market ("EIM"), having only been in the EIM for 6 months as of the date of the rebuttal testimony.[174]

180 Moreover, it is premature to assume that the CAISO benefit studies, and Puget Sound Energy's ("PSE") EIM accounting methodology, are reliable indicators of Avista's EIM benefits.[175] Without any operating experience, it is too early for the Company to tell whether the CAISO benefit calculation methodology or the PSE accounting methodology will accurately reflect estimated benefits for Avista, as explained by Mr. Kinney. [176]

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172 Exh. SJK-13T, 3:2-11.
173 Exh. RLE-1T, 9:18.
174 Exh. SJK-13T, 6:7-22.
175 Exh. RLE-1T, 9:1-9.
176 Exh. SJK-13T, 7:1-3.

181 Not surprisingly, using a single month (March 2022) of operations to project benefits across all seasons of the year is not appropriate, according to Mr. Kinney.[177] When asked about "headwinds" that might prevent the Company from reaching the level of EIM benefits reflected in the first two quarterly reports of CAISO for 2022 (see Exh(s). SJK-14X and 15X), Mr. Kinney explained that this was not a good representation because: (1) Avista had extraordinary hydro availability (115-120% of average); (2) substantial price volatility occurred; (3) Avista will lose five (5) months of transmission availability during 2023 and 2024, hurting its ability to optimize the market; (4) the imputed cost of carbon under the Climate Commitment Act ("CCA") on the Company's thermal resources will reduce the value in the EIM; and (5) the recent participation of BPA, beginning in May of this year, when fully ramped up, will dwarf the level of Avista's hydro resources (10x) and is equal the size of all other Northwest EIM participants combined.[178] As such, there is simply not enough history for Avista's EIM participation to impute higher EIM revenues than the $5.8M included in the case (which represented the "mean" within the range estimated by E3).

182 It should also be remembered that PSE has taken multiple years to develop its EIM benefit calculation methodology. PSE joined the EIM in the fall of 2016, yet just recently finalized their benefit methodology because it needed several years of history to be able to verify that its assumptions and models did a decent job of predicting future opportunities. Avista should be granted a similar opportunity to utilize actual EIM results to verify EIM estimates.[179]

183 Finally, Public Counsel may argue that Avista failed to engage in a collaborative with other parties on EIM, before filing its case. (See Order No. 8, Dkt. No. UE-200900, et al., para. 39.)

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[177] Id. at 9:13-23.
[178] TR. 295:11 – 297:11.
[179] Exh. SJK-13T, 8:1-6.

Mr. Kinney explained the circumstances:

184 We actually had a meeting with the stakeholders, actually the day after this order came out, to discuss our power supply expense methodology that we had recently agreed to as a stakeholder group. And part of that conversation also included discussion around the order and the requirement to evaluate EIM benefit calculation.

185 So we did start that conversation during that workshop and had agreed to try to get together later that last fall to continue that conversation.

186 But unfortunately, we were not able to get all of the schedules together for the stakeholder group. So we did not – able to set up that next meeting. And then, unfortunately, as we shifted into the first part of this year, the Company's focus shifted to the parallel testing that we had to do to get ready for market as well as the initial operation in the market.[180]

187 Avista did, however, separately examine the estimated EIM benefits as otherwise required by the Order. Mr. Kinney explained:

188 We went back through the E3 study and looked at the results as well as the scenarios that we – that were used in conjunction with E3 to determine the baseline of $5.8 million that was included in the case.[181]

V. CONCLUSION

189 It is not often that a position of a party opposing a Full Multiparty Settlement (in this case Public Counsel) is so wide of the mark and in stark opposition to all other parties representing the full spectrum of interests. This is one of those cases. The salutary objectives of the new Rate Plan legislation would not be served by Public Counsel's position.

190 The Settlement, if approved, must result in rates that are fair, just, reasonable, and sufficient. (RCW 80.28.010) It must also be equitable. As such, the Commission must not only assure fair prices and services to customers, but also "provide the utility with rates sufficient to cover its prudently incurred costs and an opportunity to recover a return on its investment."

[180] TR. 290:25 – 291:17.
[181] TR. 291:18 – 292:6.

(WUTC v. Avista Corp., Docket Nos. UE-050482/UG-050483, Order No. 05 (December 21, 2005) at p. 10.) In the final analysis, it is the "end result" that matters, not the methods by which rates are determined. (Id. at p. 11) The Settlement represents the Settling Parties' best efforts at arriving at an end result that satisfies these requirements.

191 RESPECTFULLY SUBMITTED this 21st day of October, 2022.

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