

**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*)

In the Matter of Electric Service
Reliability Reporting Plan of

AVISTA CORPORATION, d/b/a/
AVISTA UTILITIES

**INITIAL POST-HEARING BRIEF
OF PUBLIC COUNSEL**

October 21, 2022

**Shaded Information is Designated as Confidential per WAC 480-07-160 and the Protective Order
in Dockets UE-220053, UG-20054, and UE-210854 (*Consolidated*)**

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I. INTRODUCTION

1. On January 21, 2022, Avista Corporation (Avista or the Company) filed the first rate case since the adoption of the “Multiyear rate plan” statute in 2021.¹ In its initial filing, Avista requested to increase electric and gas rates over a two-year rate plan in which its electric rates would increase by approximately \$52.9 million effective December 21, 2022, (Rate Year 1 or RY1) and \$17.1 million effective December 21, 2023 (Rate Year 2 or RY2), for a cumulative increase of 12.4 percent.² Avista requested to increase its gas rates by \$10.9 million in RY1, and \$2.2 million in RY2, for a cumulative increase of 11.2 percent.³ On June 28, 2022, the Company and some of the parties⁴ to this case jointly filed a Full Multiparty Settlement Stipulation (Settlement). The Company and the other settling parties filed supporting testimony on July 8, 2022. Among other terms in the Settlement, the parties agreed to a lower revenue requirement increase for Avista’s electric service of \$38 million in RY1 and \$12.5 million in RY2, and to Avista’s gas service of \$7.5 million in RY1 and \$1.5 million in RY2.⁵
2. While the Public Counsel Unit of the Washington State Office of the Attorney General (Public Counsel) supports a number of terms of the Settlement, Public Counsel opposes certain terms because they lack sufficient support as required by law and are therefore contrary to the public interest. Specifically, Public Counsel opposes the revenue requirement term of the Settlement and proposes a series of adjustments, which reduce the excessive revenue requirement to reasonable levels. Public Counsel also opposes the Settlement’s proposed cost of

¹ See Engrossed Substitute S. B. 5295, 67th Leg., 2021 Reg. Sess., § 2(7) (Wash. 2021) ; see also RCW 80.28.425.

² Direct Testimony of Dennis P. Vermillion, Exh. DPV-1T at 18:7–17.

³ *Id.*

⁴ The parties to the Full Multiparty Settlement Stipulation are Avista, Commission Staff, Alliance of Western Energy Consumers (AWEC), NW Energy Coalition, The Energy Project, Sierra Club, WalMart, and Small Business Utility Advocates.

⁵ Full Multiparty Settlement Stipulation ¶ 10 (filed on June 28, 2022).

capital, insurance balancing account, and Energy Imbalance Market (EIM) benefits and proposes adjustments to the Settlement’s proposed revenue increases for these items. Additionally, Public Counsel proposes several modifications and improvements to Avista’s Wildfire Resiliency Plan.

3. In total, Public Counsel’s proposed adjustments would reduce the Company’s revenue requirement to the revenue deficiency that is actually demonstrated in the record, which should be \$0.4 million in RY1 and \$2.8 million in RY2 for electric service, and \$1.7 million in RY1 and \$0.2 million in RY2 for natural gas service.⁶

II. STANDARD OF REVIEW

4. A utility seeking to modify its tariff rates bears the burden of proving the requested rates are fair, just, reasonable, and sufficient.⁷ The company must include in its initial testimony and exhibits, including those addressing accounting adjustments, sufficient detail, calculations, information, and descriptions necessary to meet its burden of proof.⁸ The Commission must determine utility rates that are fair, just, reasonable, and sufficient,⁹ and the Commission’s findings shall be based exclusively on the evidence in the record.¹⁰

5. In reviewing a proposed settlement, under WAC 480-07-750(2), the Commission “will approve a settlement if it is lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the commission.”¹¹ The Commission must judge the reasonableness of a settlement under its statutory standards, and may approve the settlement, approve subject to conditions, or reject the settlement if it fails the standard.¹² When

⁶ Response Testimony of Sebastian Coppola, Exh. SC-43.

⁷ RCW 80.04.130(4); *see also* RCW 80.28.010(a); RCW 80.28.020.

⁸ WAC 480-07-510(3)(a).

⁹ RCW 80.28.010(a); RCW 80.28.020.

¹⁰ RCW 34.05.461(4).

¹¹ WAC 480-07-750(2).

¹² *Id.*

determining the public interest, RCW 80.28.425(1) provides that the Commission may consider equity.¹³

6. The parties filing the settlement bear the burden to provide “supporting documentation sufficient to demonstrate that the settlement is consistent with the law and the public interest.”¹⁴ Moreover, because this Settlement proposes to modify existing rates, Avista and the other parties to the Settlement bear an additional burden of proof to justify the requested rate change in the proposed Settlement.¹⁵ As a non-settling party, Public Counsel has the right to offer evidence and argument in opposition to the Settlement.¹⁶

7. The Commission must also resolve the issues in this case based on the record, while determining whether it will accept, reject, or modify a multiparty settlement.¹⁷ The Commission “weighs the evidence offered in support of the common positions advocated by the settling parties against the evidence opposing the results advocated by the settling parties and evidence offered by non-settling parties in support of the alternative results that they advocate.”¹⁸ The Commission’s decision on each “contested issue is decided on its merits considering the full record.”¹⁹

III. CAPITAL STRUCTURE AND COST OF CAPITAL

8. In a competitive industry, a company’s return on equity (ROE) is determined through the competitive market for its goods and services. Public utilities, however, are natural monopolies that provide essential services without the presence of market competition, and it is inappropriate

¹³ RCW 80.28.425(1).

¹⁴ WAC 480-07-740(3); *see also* WAC 480-07-750(2).

¹⁵ WAC 480-07-540.

¹⁶ WAC 480-07-740(2)(c).

¹⁷ *In re Puget Sound Energy*, Dockets UE-121373, UE-121697 & UG-121705 (*consol.*), and UE-130137 & UG-130138 (*consol.*), Order 07/06/06: Order Rejecting Multiparty Settlement, ¶ 17 (June 25, 2013).

¹⁸ *Id.* ¶ 20.

¹⁹ *Id.*

to permit monopoly utilities to set their own prices. Regulation serves as a substitute for market competition and seeks to establish rates that are fair to consumers, sufficient to meet the operating and capital costs of the utility, and provide an adequate opportunity to earn a fair return for investors. A utility's authorized return should be based on actual market conditions to promote prudent and efficient management²⁰ and reduce the excess transfer of wealth from customers to shareholders.²¹

9. The Settlement proposes an authorized rate of return of 7.03 percent.²² The Settlement does not specify the components of the proposed rate of return, but the Joint Testimony in support of the Settlement²³ and the rebuttal testimony of Avista witness, Adrien M. McKenzie,²⁴ impute a return on equity of 9.4 percent, 4.8 percent cost of debt, and proposed capital structure of 51.5 percent debt and 48.5 percent equity. The Joint Testimony states those implied components would “produce a result within the zone of reasonableness.”²⁵

10. Public Counsel opposes the Settlement's proposed rate of return and implied return on equity and capital structure because they are overly generous to utility shareholders, grossly exceed the Company's estimated market-based cost of capital, and will unjustly transfer wealth from customers to shareholders. Public Counsel proposes a more appropriate overall rate of return of 6.46 percent based on David J. Garrett's analysis of Avista's cost of capital, capital structure, and the Company's originally filed cost of debt of 4.54 percent.²⁶ Garrett's analysis

²⁰ See Response Testimony of David J. Garrett, Exh. DJG-1T at 18:20.

²¹ See *id.* at 6:18.

²² Full Multiparty Settlement Stipulation ¶ 11.

²³ Full Multiparty Settlement Stipulation Revised Joint Testimony, Exh. JT-1Tr at 14 fn.8.

²⁴ Rebuttal Testimony of Adrien M. McKenzie, Exh. AMM-15T at 2:3.

²⁵ *Id.*

²⁶ Garrett, Exh. DJG-1T at 3:1–7, 3:29 (Figure 1), & 28:1–44:20.

indicates the appropriate return on equity for Avista is 8.75 percent²⁷ and the fair ratemaking capital structure for Avista should be 54.4 percent debt and 45.6 percent equity.²⁸

A. The Settlement’s Proposed Capital Structure is Unreasonable

11. The Settlement does not specify the capital structure underlying the proposed 7.03 percent rate of return, but the Joint Testimony implies that the reasonableness of the proposed ROR is based on a capital structure of 51.5 percent debt and 48.5 percent equity.²⁹ A review of Avista’s actual capital structure and an analysis of the capital structures of the utility proxy group indicate that the Settlement’s implied capital structure is not supported by the evidence. Public Counsel recommends the Commission authorize a ratemaking capital structure consisting of 54.4 percent debt and 45.6 percent equity.

12. The Commission has maintained Avista’s hypothetical capital structure at 51.5 percent debt and 48.5 percent equity since at least 2015.³⁰ In Avista’s last rate case, the Commission noted that the Company’s actual cost of capital reported in its 2020 Commission Basis Report of 52.8 percent debt and 47.37 percent equity supported a lower authorized share of equity.³¹ The Commission also noted that an analysis of the proxy groups used by Avista in its cost of capital estimates also supported a lower authorized share of equity.³² The Commission, however, stated that no party had argued to decrease Avista’s equity ratio based on those facts,³³ indicating that

²⁷ *Id.* at 3:8–16.

²⁸ *Id.* at 3:17–26.

²⁹ Revised Joint Testimony, Exh. JT-1Tr at 14 fn.8.

³⁰ *See Wash. Utils. & Transp. Comm’n. v. Avista Corp.*, Dockets UE-150204 and UG-150205 (consol.), Order 05: Final Order, ¶ 5 (Jan. 6, 2016).

³¹ *Wash. Utils. & Transp. Comm’n. v. Avista Corp.*, Dockets UE-200900, UG-200901, and UE-200894 (consol.), Order 08/05: Final Order, ¶ 91 (Sept. 27, 2021) (hereinafter Avista 2020 GRC Final Order).

³² *Id.*

³³ *Id.*

both the proxy group analysis and the Commission Basis Report could be used as evidence to support a modification of the Company's equity ratio.

13. Public Counsel's witness, Garrett, examined the capital structures of the proxy group of utility companies to determine a more reasonable capital structure than Avista's status quo.³⁴ The proxy group reported an average debt ratio of 54.4 percent, which is notably higher than Avista's implied debt ratio.³⁵ Because regulated utilities do not have a natural incentive to minimize their cost of capital by including a sufficient amount of debt in their capital structure,³⁶ Garrett also checked the results of the proxy group analysis against the capital structures of competitive industries to assess the overall reasonableness of the resulting debt ratio.³⁷ The competitive industries had an average debt ratio of 61 percent.³⁸ This information, coupled with the debt ratios observed for the proxy group, indicates that Avista's ratemaking debt ratio should be higher than 51.5 percent.³⁹

14. Avista's 2021 Commission Basis Report provides additional support for modifying the Company's debt ratio. The Company's actual capital structure for 2021 was 52.44 percent debt and 47.56 percent equity.⁴⁰ The report indicates that continuing to apply a ratemaking debt ratio of 51.5 percent is unreasonable. Public Counsel therefore recommends that the Commission adopt the results of the proxy group analysis and authorize a ratemaking capital structure consisting of 54.4 percent debt and 45.6 percent equity.

³⁴ Garrett, Exh. DGJ-1T at 61:12–16.

³⁵ *Id.* at 61:17–19.

³⁶ *Id.* at 61:1–11.

³⁷ *Id.* at 61:1–16.

³⁸ *Id.* at 62:11.

³⁹ *Id.* at 64:3–7.

⁴⁰ Avista Utils. 2021 Electric Comm'n. Basis Report at 5, *In re Avista Utils. CBR Pursuant to WAC 480-100-257*, Docket UE-220288 (filed Apr. 25, 2022); Avista Utils. 2021 Gas Comm'n. Basis Report at 5, *In re Avista Utils. CBR Pursuant to WAC 480-100-257*, Docket UG-220289 (filed Apr. 25, 2022).

B. A Cost of Debt of 4.8 Percent is Not Supported by the Record

15. The Joint Testimony suggests that a rate of return based on a 4.8 percent cost of debt would “produce a result within the zone of reasonableness,” and states that the Company’s cost of debt was updated during the case.⁴¹ Public Counsel notes, however, that the Company did not file an update to its original filing or provide documentation to support this claim. While the rate of return is a “black boxed” term,⁴² Public Counsel questions the appropriateness of basing the reasonableness of the Settlement’s proposed rate of return on implied components that are not part of the record of this proceeding. The black box nature of the settlement term should not circumvent the requirement for the Commission’s determination on a settlement to be supported by the record.⁴³ Public Counsel’s recommended rate of return is based on the 4.54 percent cost of debt Avista used in its original filing.⁴⁴ This cost of debt is reasonable and supported by the record and should be the basis for the rate of return set by this rate case.

C. The Settlement’s Implied Return on Equity is Excessive, Unsupported by Evidence, and Inequitable

16. Regulators are tasked with providing regulated utilities with the opportunity to earn a fair return within the guiding principles established in two seminal United States Supreme Court cases, *Hope*⁴⁵ and *Bluefield*.⁴⁶ Through *Hope* and *Bluefield*, the Court recognized that rates for regulated monopoly utilities must incorporate a fair rate of return on equity that is comparable to returns investors would expect to receive on other investments of similar risk,⁴⁷ sufficient to assure confidence in the utility’s financial integrity, and adequate to maintain and support the

⁴¹ Revised Joint Testimony, Exh. JT-1Tr at 14 fn.8.

⁴² *Id.* at 13:18–14:1.

⁴³ WAC 480-07-750(2).

⁴⁴ Garrett, Exh. DJG-1T at 3:1–7, 3:29 (Figure 1), & 28:1–44:20.

⁴⁵ *Federal Power Comm’n. v. Hope Nat. Gas Co.*, 320 U.S. 591, 64 S. Ct. 281 (1944).

⁴⁶ *Bluefield Waterworks & Improvement v. Pub. Serv. Comm’n. of W. Va.*, 262 U.S. 679, 43 S. Ct. 675 (1923).

⁴⁷ *Id.* at 662–93.

company's credit and to attract capital at reasonable costs.⁴⁸ The Court in *Hope* was clear that the allowed return should be based on the utility's actual cost of capital.⁴⁹ Economic models used by cost of capital experts seek to use market-based information to set an appropriate return on equity for regulated utilities.⁵⁰ Garrett uses the two most widely used and accepted financial models, the Discounted Cash Flow (DCF) Model and the Capital Asset Pricing Model (CAPM), to calculate Avista's market-based cost of capital.⁵¹ Garrett also identifies flaws in Avista's return on equity analysis that underlie the Settlement's proposed rate of return.⁵²

1. Financial modeling supports reducing Avista's return on equity.

17. To develop a recommended rate of return, Garrett conducted the cost of capital analysis on a proxy group of companies that are comparable to Avista and used the same proxy group of utility companies used by Avista's cost of capital witness, McKenzie.⁵³ Conducting the cost of capital analysis on a proxy group has advantages over conducting the analysis on an individual, publicly traded company because it is better to assess the financial soundness of a utility by comparing it to a group of other financially sound utilities. Additionally, using a proxy group provides more reliability and confidence in the overall results because there is a larger sample size for the analysis. Finally, the use of a proxy group is necessary when the target company is a subsidiary that is not publicly traded, as is the case with Avista, because the financial models require information from publicly traded firms such as stock price and dividends. Garrett

⁴⁸ *Hope* at 603.

⁴⁹ Garrett, Exh. DJG-1T at 11:1–12:2. The term “cost of capital” includes both debt and equity. The overall awarded rate of return should be based on the utility's cost of capital, and the awarded ROE should be based in the utility's cost of equity.

⁵⁰ *Id.* at 4:15–17. Unlike the known, contractual, and embedded cost of debt, there is no explicitly quantifiable “cost” of equity. Instead, the cost of equity must be estimated through various financial models.

⁵¹ *Id.* at 19:8–10; *see also id.* at 5:6–11.

⁵² *See id.* at 28:1–56:14.

⁵³ *Id.* at 20:10.

conducted both the DCF and CAPM analyses on the selected proxy group, resulting in a cost of equity range of 7.5 percent⁵⁴ to 8.3 percent,⁵⁵ respectively, with an average result of 7.9 percent.⁵⁶

Table 1: ROEs Derived from DCF and CAPM Models

DCF	CAPM	Average
7.5	8.3	7.9

18. An awarded return as low as 7.9 percent, however, would arguably represent a stark movement in the awarded return on equity considering Avista’s current authorized ROE is 9.4 percent. The legal standards set forth in *Hope* and *Bluefield* do not mandate the awarded return on equity be set exactly equal to the cost of equity.⁵⁷ In *Hope*, the Court found that, although the awarded return should be based on a utility’s cost of equity, the “end result” should be just and reasonable.⁵⁸ While generally reducing awarded returns on equity for utilities would move the awarded returns closer to market-based costs and reduce the excess transfer of wealth from ratepayers to shareholders, Public Counsel acknowledges the need to do so gradually.⁵⁹

19. In this instance applying the ratemaking concept of “gradualism,” usually applied to minimize rate shock for ratepayers, would strike a balance between the Court’s indications that awarded returns should be based on a utility’s market-based cost of equity and the requirement that the end result be just and reasonable under the circumstances.⁶⁰ Given the results of the financial models and the need for gradualism, Public Counsel recommends a return on equity of

⁵⁴ Garrett, Exh. DJG-1T at 44:20.

⁵⁵ *Id.* at 54:6.

⁵⁶ *Id.* at 56:6.

⁵⁷ *Id.* at 6:9–10.

⁵⁸ *See Hope*, at 591, 603. (The Court states, “Here, the Court states that it is not mandating the various permissible ways in which the rate of return may be determined, but instead indicates that the end result should be just and reasonable. This is sometimes called the “end result” doctrine.”)

⁵⁹ *See* Garrett, Exh. DJG-1T at 7:10–12.

⁶⁰ *Id.* at 7:19–22; *see also* Avista 2020 GRC Final Order ¶ 97. The Commission stated that it must consider factors such as gradualism in its evaluation of the cost of capital evidence.

8.75 percent for Avista.⁶¹ Although 8.75 percent is still clearly above Avista’s market-based cost of equity estimate, it represents a gradual yet meaningful move toward market-based cost of equity.

a. Public Counsel’s recommendations take current capital market conditions into account.

20. The Commission should disregard Avista’s assertion that Public Counsel’s recommendations are inconsistent with current capital market conditions due to increasing interest rates and inflation.⁶² Avista’s witness, McKenzie, hyperbolically suggests “extreme volatility in the capital markets”⁶³ should shift the Company’s ROE even higher⁶⁴ based on an alternate risk premium analysis⁶⁵ that the Commission expressly disfavored in Avista’s previous rate case.⁶⁶ Public Counsel’s witness, however, incorporated current market conditions such as inflation within the CAPM analysis, stating that the inclusion of current conditions “has resulted in higher indicated CAPM cost of equity than would have occurred in prior years, all else held constant.”⁶⁷ As a result, it would be unreasonable to double-count the effects of inflation that are already incorporated into the cost of equity models.⁶⁸

21. Additionally, although market risk affects all firms in the market, it affects different firms to varying degrees. Public utility stocks are considered less sensitive to market risk and are

⁶¹ Garrett, Exh. DGJ-1T at 3:8–16.

⁶² McKenzie, Exh. AMM-15T at 2:12–19.

⁶³ *Id.* at 6:19.

⁶⁴ *Id.* at 4:5–7

⁶⁵ *Id.* at 4 fn.5.

⁶⁶ Avista 2020 GRC Final Order ¶ 99.

In addition, we afford little or no weight to McKenzie’s risk premium model due to its inclusion of ROE data dating back to 1974 under market and regulatory circumstances that have little comparability and use of prospective bond yields as risk-free because actually realizing those future yields with higher rates has greater risk.

⁶⁷ Garrett, Exh. DJG-1T at 55:5–12.

⁶⁸ *Id.* at 55:12–56:2.

relatively insulated from market conditions,⁶⁹ and the utility industry is one of the least risky industries in the U.S. market.⁷⁰ When the business cycle enters a recession, consumers can be assured that utility companies will be able to maintain normal business operations and provide safe and reliable service under prudent management.⁷¹ Likewise, utility investors can be confident that utility stock prices will not fluctuate widely.⁷² The fact that utilities experience little market risk and are relatively insulated from market conditions should also be appropriately reflected in Avista's awarded return.

2. The Commission should give the results of Avista's ECAPM little weight in determining the appropriate return on equity.

22. In Avista's last general rate case, consolidated Dockets UE-200900, UG-200901 and UE-200894, Avista's cost of capital witness, McKenzie, used an Empirical CAPM (ECAPM) approach as an alternative method of estimating the cost of equity. The Commission assigned little weight to the results of this approach stating, "We assign little weight to McKenzie's ECAPM due to its replacement of actual betas from electric utilities with calculated, hypothetical betas that are biased, and also due to its inclusion of a size adjustment that would be appropriate for determining the ROE for an unregulated company."⁷³ In this rate case, McKenzie again attempts to include the ECAPM results as a potential upper range for the cost of equity.⁷⁴ Avista did not address the Commission's prior concerns nor justified the absurd result of 13.1 percent. The Commission should place little weight on the results of this model in this instance and should not rely upon the results as an indicator of the Company's cost of capital.

⁶⁹ Garrett, Exh. DJG-1T at 25:7-26:9.

⁷⁰ *Id.* at 26:16.

⁷¹ *Id.* at 27:3-5.

⁷² *Id.* at 27:6-7.

⁷³ Avista 2020 GRC Final Order ¶ 99.

⁷⁴ McKenzie, Exh. AMM-1T at 49:11-23.
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3. The Commission’s reliance on the results of DCF analyses support reducing Avista’s return on equity.

23. In Avista’s last rate case the Commission also assigned less weight to the results of CAPM models presented by the cost of capital witnesses because the “CAPM models presented suffer from high variability due to the individual selections of variables.”⁷⁵ The Commission gave greater weight to the cost of capital witnesses’ DCF results noting,

In arriving at a specific point value, we first find it appropriate to assign greater weight to the witnesses’ DCF results relative to the considerations we give to the other models. All three witnesses use the DCF approach. Since at least 1988, “the DCF method has become the most popular technique of estimating the cost of equity, and it is generally accepted by most commissions. Virtually all cost of capital witnesses use this method, and most of them consider it their primary technique.”⁷⁶

While Public Counsel supports the results of Garrett’s CAPM analysis, placing more weight on the DCF results would even more strongly indicate that Avista’s current and proposed return on equity are too high. Garrett’s DCF analysis of the utility company proxy group estimates a cost of equity of 7.5 percent, 190 basis points lower than the Settlement’s implied return on equity. Even accounting for gradualism, it is clear that Avista’s return on equity should be reduced to a more reasonable level.

24. Avista’s witness takes issue⁷⁷ with Garrett’s choice of growth projections⁷⁸ for the DCF analysis. McKenzie’s own DCF analyses, however, suffer from the same issues the Commission disfavored in the Company’s last rate case.⁷⁹ In particular, the Commission noted McKenzie’s

⁷⁵ Avista 2020 GRC Final Order ¶ 100.

⁷⁶ Avista 2020 GRC Final Order ¶ 103 (quoting James C. Bonbright, *et al.*, Principles of Public Utility Rates, 317–18 (2nd ed. 1988)).

⁷⁷ McKenzie, Exh. AMM-15T at 2:21–24.

⁷⁸ See Garrett, Exh. DJG-1T at 32:10–44:20 for a discussion of growth rates and their impact on the DCF results with a particular emphasis on page 42:10–21 for the problems with relying on analysts’ short-term growth rate projections.

⁷⁹ See Avista 2020 GRC Final Order ¶ 104.

reliance on analysts' short-term growth rates for the DCF analyses.⁸⁰ In this case, however, even applying McKenzie's preferred short-term growth projections from institutional analysts such as Value Line, IBES, and Zacks results in DCF cost of equity estimates of 9 percent, 9 percent, and 8.7 percent, respectively.⁸¹ Avista's own results indicate that the proposed 9.4 percent return on equity is too high.

25. The Settlement's implied return on equity of 9.4 percent makes no move toward a more fair result. If the Commission does not adjust Avista's authorized return on equity downward, especially in light of the Company's own evidence, the resulting rate of return will be at odds with the long held standard of *Hope* that the allowed return be based on a utility's actual cost of capital⁸² and state law requiring rates to be sufficient for utilities to operate while also being fair, just, and reasonable for customers.⁸³

IV. REVENUE REQUIREMENT

26. The Settlement proposes to increase rates for electric customers by \$38 million, or 6.9 percent, in Rate Year 1 (RY1), with an additional \$12.5 million in Rate Year 2 (RY2), for a cumulative increase of nine percent over the two-year rate plan.⁸⁴ For natural gas customers, the Settlement would increase rates by \$7.5 million in RY1 and by an additional \$1.5 million in RY2 for a cumulative increase of 4.8 percent.⁸⁵ Public Counsel opposes the requested increases to the revenue requirement because the record in this Docket lacks sufficient evidence to justify the proposed increases. The proposed increases are neither fair, just, nor reasonable because they

⁸⁰ *Id.*

⁸¹ McKenzie, Exh. AMM-1T at 48:3, Table 2.

⁸² Garrett, Exh. DGJ-1T at 11:1-16.

⁸³ See RCW 80.28.10(1).

⁸⁴ Full Multiparty Settlement Stipulation ¶ 10; Revised Joint Testimony, Exh. JT-1Tr at 3:7-16; Revised Joint Testimony, Exh. JT-2r.

⁸⁵ Full Multiparty Settlement Stipulation ¶ 10.

would impose excessive rate increases in two successive years on all Avista’s customers.

Further, the increases are inequitable because they would disproportionately impose additional burdens on highly impacted communities and vulnerable populations. Therefore, consistent with WAC 480-07-740, WAC 480-07-750(2), and RCW 80.28.425(1), the Commission should reject the proposed unsupported increases in the Settlement implement.

27. The Commission has stated that settlements “are by nature compromises of more extreme positions *that are supported by evidence and advocacy.*”⁸⁶ The Commission has also stated that “ratemaking is not an exact science” and that it may accept a settlement where “the overall result in terms of revenue requirement is reasonable and well supported by the evidence.”⁸⁷ In this Docket, however, the proposed revenue requirement increases in the filed request and in the Settlement are unsupported by the record and are therefore unreasonable. Over and over, Avista’s filing explains that they will need substantially more revenue in RY1 and RY2 for programs already in place without explaining with any more detail than broad programmatic goals to give the Commission insight on what additional work justifies the large increases.

28. The Settlement is a “black box,” which does not provide a full accounting and disclosure of costs and revenue, and identifies only an overall rate of return of 7.03 percent as a component of the revenue requirement. Because the Settlement does not specify rate base or other revenue requirement components, Public Counsel witness Sebastian Coppola’s analysis recommends adjustments to the Settlement in the context of Avista’s initial request filing to enable the Commission to determine reasonable rate increases for RY1 and RY2.

⁸⁶ *Wash. Utils. & Transp. Comm’n v. Cascade Nat. Gas Corp.*, Docket UG-060256, Order 05: Final Order, ¶¶ 23–24 (Jan. 12, 2007) (emphasis added) (citing *Wash. Utils. & Transp. Comm’n v. Pacific Power & Light Co.*, Docket UE-032065, Order 06, ¶ 59 (Oct. 2004)) (internal quotations omitted).

⁸⁷ *Id.* ¶ 24.

29. Coppola identifies specific cost items that are not sufficiently justified.⁸⁸ Avista provides scant detail for much of its requested revenue increases. The record is devoid of information that would otherwise enable the Commission and members of the public to determine whether the request for multiyear rate increase for electric and natural gas service is reasonable, fair, or justified. Thus, the Company has neither met its burden of producing evidence to justify the rate increase nor can it meet its burden of proving the requested increase is reasonable.⁸⁹ The Company is therefore not entitled to receive its requested revenue increase. The total adjustments to the Company's original filing demonstrate the rate increases requested in the Settlement remain excessive and unreasonable. Furthermore, the revenue proposed in the Settlement is based upon Avista's originally requested increases and cannot be found to be reasonable if the underlying evidence is insufficient.

30. Public Counsel therefore recommends the Commission limit Avista's electric base revenue increase to Avista's revenue deficiency that is actually demonstrated in the record, which should be for electric service \$0.4 million in RY1 and \$2.8 million in RY2, and for natural gas service \$1.7 million in RY1 and \$0.2 million in RY2.⁹⁰

A. Rate of Return Adjustment to Revenue Requirement

31. The Settlement proposes to reduce Avista's requested 7.31 percent rate of return (ROR) to 7.03 percent. This alone reduces Avista's initial request for electric service by \$7.6 million for RY1 and \$0.3 million for RY2, and reduces natural gas service by \$1.9 million for RY1 and \$0.1 million for RY2.⁹¹

⁸⁸ See Full Multiparty Settlement Stipulation ¶ 11.

⁸⁹ See WAC 480-07-540.

⁹⁰ Coppola, Exh. SC-1CT at 10:7–15; Coppola, Exh. SC-43.

⁹¹ Coppola, Exh. SC-4.

32. As previously discussed, Public Counsel’s analysis shows that a much lower ROR of 6.46 percent is justified. Applying the 6.46 percent ROR and 8.75 percent ROE, without any other adjustments, would lower the Company’s initial requested revenue increase by an astonishing \$23 million for electric service and \$5.8 million for the natural gas service. In other words, \$23 million of the Company’s requested \$52.9 million for RY1 electric, alone, would be devoted solely to shareholder profit, and that omits the amounts for electric RY2 and natural gas.

33. Despite the reduction in the ROR from 7.31 percent to 7.03, the Settlement ROR is still excessive. The Company has not explained why or how the excess profit is fair, just, or reasonable. The excessive ROR does not meet the legal standards set forth by the Supreme Court in *Hope* and *Bluefield* or Washington law. The Commission must disallow it as contrary to the public interest.

B. O&M Expense Adjustments

34. Avista’s initial request contains excessive unjustified forecasted expenses for operations and maintenance (O&M). Public Counsel witness Coppola identifies eight expense items that should be adjusted downward to correct for Avista’s inflated O&M costs in its initial filing. Witness Coppola’s adjustments total \$10.4 million in RY1 and \$4.9 million in RY2 for electric, and \$2.1 million for RY1 and \$0.9 million for RY2 for gas.⁹²

1. Insurance Expense (PF Adjustments 3.12 & 5.05) and Insurance Balancing Account

35. Public Counsel does not oppose the increased insurance costs Avista provided for 2021 and 2022, but Avista’s increased insurance expense projections of 13 percent for RY1 and an

⁹² Coppola, Exh. SC-1CT at 17:9–18; Coppola, Exh. SC-44.

additional 10 percent in RY2 (2023 and 2024) are unsupported.⁹³ The Commission should also reject the proposal to establish an insurance balancing account, which would create a pass-through mechanism for insurance expenses and eliminate incentives for Avista to control insurance costs.⁹⁴

36. Avista relies on [REDACTED]
[REDACTED]⁹⁵ Avista also references wildfires and recent incidents of corporate cyberattacks as the primary drivers of the increases.⁹⁶ However, estimates of future premium amounts that have yet to be determined are necessarily inexact and involve some degree of uncertainty. Further, none of the costs Avista incurred due to insurance claims from 2016 to 2021 were due to any confirmed losses from fires or cyber-attacks.⁹⁷ To the extent any pending claims may fault Avista and lead to additional insurance costs not specifically identified in the current rate case, it would seem unfair to force ratepayers to pay for Avista's negligent actions. Avista's insurance expense estimates for RY1 and RY2 also fail to account for wildfire prevention benefits that Avista alleges will accrue to customers.⁹⁸

37. For these reasons, Public Counsel opposes the proposed insurance expense increases for RY1 and RY2. Public Counsel recommends a more reasonable increase by applying the Company-provided inflation factor of 2.4 percent to Avista's 2022 forecasted insurance costs of

⁹³ Direct Testimony of Elizabeth M. Andrews, Exh. EMA-1T at 63:19–148:18, 117:1–17, 148:3–18; *See* Coppola, Exh SC-6C (Avista's Supplemental Confidential Response to Public Counsel's Data Request No. 103C, with Attachment A).

⁹⁴ Coppola, Exh. SC-1CT at 25:6–15.

⁹⁵ *Id.* at 20:13–15; Coppola, Exh. SC-6C (Avista's Supplemental Confidential Response to Public Counsel's Data Request No. 103C, with Attachment A).

⁹⁶ Coppola, Exh. SC-1CT at 20:16–18.

⁹⁷ *See* Coppola, SC-7C (Avista's Response to Public Counsel's Data Request No. 265C, and Data Request No. 105C with Attachment A, on insurance claims); Robert Brandkamp, TR 353:19–386:7.

⁹⁸ *See* Coppola, Exh. SC-1CT at 18:3–25:17; *see generally* Howell, Exh. DRH-1T.

\$13,750,799 to calculate \$14,090,034 for 2023 (RY1), and by applying the inflation factor of 2.3 percent to the 2023 RY1 amount to get \$14,414,105 for 2024 (RY2).⁹⁹

38. Avista provided these inflation factors as a combination of the Consumer Price Index-Urban (CPI-U) and the Personal Consumption Expenditures Index (PCEI), which is the Federal Reserve-preferred measure of consumer inflation for determining appropriate monetary policy.¹⁰⁰ In rebuttal, Avista argues that the Producer Price Index (PPI) is a better measure of inflation pressures that Avista will be facing in the future.¹⁰¹ Avista's rebuttal position on PPI contradicts its response to discovery. Public Counsel requested the Company's CPI and PPI rates, but Avista stated that it primarily tracks inflation forecasts for CPI-U and PCEI and failed to provide the requested data.¹⁰² Coppola used these inflation rates to forecast future costs for other adjustments to Avista's request as well.

39. Public Counsel also opposes the insurance expense balancing account because the baseline funding amounts have not been justified and such an accounting approach is not necessary or appropriate for the insurance expense item. As Avista confirmed at the September 21, 2022, hearing, an insurance balancing account would allow the Company to cover potential increases in insurance expense versus Avista's wildfire balancing account, which allows Avista to cover expenses to prevent devastating fires.¹⁰³ Avista has not demonstrated that insurance expense has been or will be insufficiently addressed through its rate cases. By rejecting the proposal to create a balancing account for insurance expense, the Commission would also avoid

⁹⁹ See Coppola, Exh. SC-8.

¹⁰⁰ See Coppola, Exh. SC-1CT at 23:1-14; Coppola, Exh. SC-9.

¹⁰¹ See Rebuttal Testimony, Grant D. Forsyth, Exh. GDF-3T at 3:16-6:3.

¹⁰² Coppola, Exh. SC-91; see Grant Forsyth, TR. 280:11-287:20; Coppola, Exh. SC-9.

¹⁰³ See Elizabeth Andrews, TR. 175:3-178:12.

setting a low standard for approving similar pass-through mechanisms for other expense items that are better addressed through rate cases.¹⁰⁴

2. Vegetation Management (PF Adjustment 4.04)

40. As discussed in greater detail in Coppola’s analysis, Avista fails to identify an amount for duplicative risk-tree work in vegetation management and wildfire expenses. Therefore, Public Counsel recommends at least a 10 percent reduction to vegetation management expense to avoid a duplication of costs for brush or tree-clearing Avista will also perform under the Wildfire Resiliency program.¹⁰⁵ Due to the lack of specificity in Avista’s filing and data request responses on activities associated with the additional pro-formed amounts, Coppola averaged vegetation management expense for 2021 with the ongoing annual expense to calculate average annual cost of \$5.35 million.¹⁰⁶ Coppola recommends that 10 percent of this amount, or \$535,000, should be removed from RY1 from vegetation management expense.¹⁰⁷

3. Customer Service Expense (PF Adjustments 3.14 & 5.07)

41. Avista is spending \$1.0 million annually to install new information technology (IT) systems to shift customer inquiries and services to self-service tools.¹⁰⁸ Avista references financial benefits to justify the increase, but fails to identify any reduced current or future customer service costs that should result from the substantial investment.¹⁰⁹ In data request responses, rebuttal, and at the September 21, 2022, settlement hearing, Avista confirms a downward trend in customer service interactions, which is expected to continue as Avista

¹⁰⁴ See Andrews, TR. 175:3–178:12.

¹⁰⁵ Coppola, Exh. SC-1CT at 25:18–26:19, 27:1–8; Coppola, Exh. SC-10.

¹⁰⁶ Coppola, Exh. SC-1CT at 25:18–26:19, 27:1–8; Coppola, Exh. SC-10; see also Andrews, Exh. EMA-7T at 29:1–30:11; Andrews, TR. 204:2–207:13.

¹⁰⁷ Coppola, Exh. SC-1CT at 25:18–26:19, 27:1–8; Coppola, Exh. SC-10; see also Andrews, Exh. EMA-7T at 29:1–30:11; Andrews, TR. 204:2–207:13.

¹⁰⁸ See Coppola, Exh. SC-1CT at 27:9–18.

¹⁰⁹ See *id.* at 27:19–28:22.

implements additional customer self-serve tools on its website and other technology platforms.¹¹⁰

As these trends continue through 2022–24, the customer service expense for RY1 and RY2 should reflect that trend.

42. Public Counsel proposes an adjustment to customer service expense to account for declining trends in CSR hours worked and live customer interactions. As discussed in witness Coppola’s testimony, Avista’s system-wide labor costs should decline by \$824,579 in RY1 and \$360,500 in RY2.¹¹¹ The result of these adjustments is a revenue requirement reduction of \$412,001 for RY1, and \$180,124 for RY2 for electric, and \$130,104 for RY1 and \$56,881 for RY2 for gas.¹¹²

4. Pension & OPEB Expense (PF Adjustments 3.09 & 5.03)

43. To account for the new forecasted expenses for pension and OPEB expense that Avista provided in response a data request,¹¹³ Public Counsel recommends adjusting those expenses as provided by witness Coppola.¹¹⁴ Although Avista alleges in rebuttal that Public Counsel used outdated information in calculating pension and OPEB cost adjustments, Avista confirms in data request responses and in testimony at the September 30, 2022, hearing that Coppola’s calculations are in line with Avista’s own actuarial estimates.¹¹⁵ Further, it remains unclear why pension costs should increase to the degree stated in Avista’s filings while OPEB costs decline consistent with increases in discount rates and expected return rates.¹¹⁶

¹¹⁰ Coppola, Exh. SC-11; Kelly Magalsky, TR. 300:5–326:7; Rebuttal Testimony Kelly E. Magalsky, Exh. KEM-3T at 2:9–6:4; Magalsky, Exh. KEM-4X.

¹¹¹ Coppola at 29:10–19; Coppola, Exh. SC-12.

¹¹² Coppola, Exh. SC-1CT at 29:10–30:3; Coppola, Exh. SC-12.

¹¹³ Coppola, Exh. SC-13.

¹¹⁴ Coppola, Exh. SC-1CT at 30:6–32:9; Coppola, Exhs. SC-13, SC-14, & SC-15.

¹¹⁵ See Andrews, Exh. EMA-7T at 32:9–37:15; Mark Thies, Exh. MTT-8X, MTT-9CX and Attachs. A–D, MTT-10CX and Attach. A, MTT-11X, & MTT-12CX; Thies, TR. 395:20–432:18.

¹¹⁶ See Andrews, Exh. EMA-7T at 32:9–37:15; Thies, Exh. MTT-8X, MTT-9CX and Attachs. A–D, MTT-10CX and Attach. A, MTT-11X, & MTT-12CX; Thies, TR. 395:20–432:18.

44. Pension costs should be adjusted for electric by \$782,097 for RY1 and \$335,184 for RY2, and for natural gas by \$238,494 for RY1 and \$102,212 for RY2.¹¹⁷ For OPEB, Public Counsel recommends adjustments for electric of \$335,184 for RY1 and \$27,932 for RY2. For natural gas, the adjustments should be \$102,212 for RY1 and \$8,518 for RY2.¹¹⁸

5. Miscellaneous O&M Expenses (PF Adjustments 3.14 & 5.07)

45. For miscellaneous O&M expenses for RY1 and RY2, Avista applied escalation rates of 7.05 percent for electric and 7.29 percent for gas based on cost increases that occurred from 2018 through 2020, before the historical test year period.¹¹⁹ These escalation percentage rates computed revenue increases for electric service for RY1 of \$9.8 million and \$4.3 million for RY2. For natural gas service, Avista calculated increases of \$2.2 million for RY1 and \$1.0 million for RY2.¹²⁰

46. As discussed in greater detail in witness Coppola's analysis, large fluctuations occurred in the 2018 through 2020 time period due to injuries and damages expenses, employee benefit costs, pension and benefit cost accounting modifications, which causes comparisons of expense items to these periods difficult and unreliable.¹²¹ Although Avista points to inflation increases in 2020 and 2021 to justify these escalation rates, these should already be captured in the historical test year that ended in September 2021. Inflation factors provided by Avista should therefore be used instead of the proposed escalation factors to estimate miscellaneous O&M expenses.¹²² A more appropriate calculation of future miscellaneous O&M expenses for RY1 and RY2 would use Avista's own forecasted inflation rates of 4.2 percent for 2021, 3.7 percent for 2022, 2.4

¹¹⁷ Coppola, Exh. SC-1CT at 31:12–32:9; Coppola, Exhs. SC-14 & SC-15.

¹¹⁸ Coppola, Exh. SC-1CT at 31:12–32:9; Coppola, Exhs. SC-14 & SC-15.

¹¹⁹ See Coppola, Exh. SC-1CT at 33:1–36:3.

¹²⁰ *Id.*

¹²¹ *Id.* at 34:1–14; see also Andrews, TR. 209:10–223:18; Andrews, Exhs. EMA-17X, EMA-18CX.

¹²² See Coppola, Exh. SC-1CT at 23:1–14.

percent for 2023, and 2.3 percent for 2024.¹²³ Consistent with Coppola’s analysis on this adjustment in Exhibits SC-16, SC-17, and SC-18, the adjustment amounts are found in Table 7 of witness Coppola’s testimony.¹²⁴

6. Information System and Information Technology (IS/IT) Expenses for RY1 (PF Adjustment 3.13)

47. Avista’s request for increased revenue for IS/IT costs is provided in witness James M. Kensok’s testimony, in which Kensok explains that the major contributors to Avista’s requested rate increase for IS/IT costs are software licenses and subscriptions.¹²⁵ However, as Public Counsel witness Coppola explains, software licenses and subscription costs are necessarily driven by the installation of new IS/IT systems, which declined for Avista significantly in 2022. Avista forecasts a \$10 million increase in 2023 for the OMS & ADMS system, which has not yet been fully developed, and without which, spending for 2023 is roughly the same as in 2022.¹²⁶ Because the 2023 (RY1) OMS & ADMS system costs represent a six percent increase in IS/IT expenses beyond the test year amount, applying a six percent increase to capital spending is only \$1,074,120 in comparison to the \$\$2,593,678, or 11 percent that Avista requests. The revenue impact of Coppola’s adjustments is stated in his testimony at page 38.¹²⁷

7. Clean Energy Transformation Act (CETA) Labor Expenses (PF Adjustment 3.06)

48. Avista requests a \$357,000 increase to hire three additional FTE to support CETA related activities. Public Counsel recommends reducing this amount to cover only one FTE, because the duties of the three new positions are either already covered by current positions or correspond to

¹²³ Coppola, Exh. SC-1CT at 34:1–14.

¹²⁴ Coppola, Exh. SC-1CT at 36:1–2; Coppola, Exhs. SC-16, SC-17, & SC-18.

¹²⁵ Direct Testimony of James M. Kensok, Exh. JMK-1T at 54:12–55:14; *see* Coppola, Exh. SC-1CT at 36:15–37:4.

¹²⁶ *See* Coppola, Exh. SC-1CT at 36:15–37:4; *see also* Andrews, TR. 223:19–226:24.

¹²⁷ Coppola, Exh. SC-1CT at 37:7–38:12, & fn.39–41.

activities that do not repeat or occur on multiyear cycles.¹²⁸ Much of the work Avista describes for these positions has been performed in the past by Avista’s current employees.¹²⁹ As described in greater detail in Coppola’s testimony, the associated adjustment would be \$237,801.¹³⁰

8. Summary of Revenue Requirement Adjustments for Expenses

49. To summarize, Avista’s proposed revenue requirement amounts for expense items should be adjusted downward for electric service for a total of \$10,372,624 in RY1 and \$4,893,821 in RY2, and for gas service \$2,063,713 in RY1 and \$944,801 in RY2.¹³¹ Greater detail for these calculations are provided in Public Counsel witness Coppola’s testimony and Exhibit SC-44.

C. Capital Addition Adjustments

50. Public Counsel witness Coppola identified 16 projects or programs where Avista failed to provide adequate support for its proposed capital additions for RY1 and RY2.¹³² Avista identifies capital programs and projects from 2022 through 2024, which it considers provisional and subject to review at the end of each year as part of a continuing proceeding of this multiyear rate case filing.¹³³ The assumption underlying these increases is the expectation that Avista will place the projects and programs in service by the end of the applicable year to comply with the Commission’s used and useful requirement for the rate year.¹³⁴

51. In discovery, Public Counsel asked Avista to define criteria for project and program selections included in calculating its requested increases for the 2022 to 2024 period. Public

¹²⁸ *Id.* at 38:13–40:17.

¹²⁹ *Id.* at 38:13–40:17; *see* Coppola, Exh. SC-19.

¹³⁰ *Id.* at 40:18–41:4.

¹³¹ *Id.* at 41:5–13.

¹³² *Id.* at 42:3–15; Coppola, Exh. SC-24.

¹³³ *See* Andrews, Exh. EMA-1T at 45:10–48:2; Full Multiparty Settlement ¶ 20.

¹³⁴ Coppola, Exh. SC-1CT at 42:16–43:9.

Counsel asked whether Avista included projects based on status as at the conceptual phase, past the engineering design phase, bid out to vendors, or having started construction.¹³⁵ Avista provided a lengthy response repeating its direct testimony describing the capital planning process, but failed to answer the question. Public Counsel asked again in follow up discovery,¹³⁶ to which Avista again failed to respond to the question. Public Counsel asked additional questions in three subsequent data requests to solicit further detail about these projects from the Company, such as units, quantities of work, information about historical variations in spending, and phases of projects in each year.¹³⁷ In response to the many questions, Avista points to several business case documents that also fail to provide necessary project or program detail to explain the requested increases.

52. The absence of detail on capital projects spending from one year to the next, shows that Avista believes it may include forecasted capital addition increases in rate base where it believes it can complete a vaguely described expansion of a project or program by the end of the year. This is an extremely broad and alarming standard that the Commission should reject to avoid open-ended acceptance of virtually any capital spending forecast a company can think to propose.¹³⁸ The use of a multiyear rate plan does not reduce the company's burden of proof.

53. Public Counsel witness Coppola compared historical three-year averages for each of Avista's projects and programs and to the forecasted amounts for 2022, 2023, and 2024 to identify significant variances for further analysis.¹³⁹ The following 16 projects or programs are only the most egregious examples of project or program forecasted spending for capital additions

¹³⁵ Coppola, Exh. SC-20.

¹³⁶ *Id.*

¹³⁷ Coppola, Exh. SC-21.

¹³⁸ Coppola, Exh. SC-1CT at 42:16–44:6.

¹³⁹ *Id.* at 45:17–46:12; Coppola, Exh. SC-22, Schedules A–C.

that were not sufficiently justified for inclusion in rate base and rates for RY1 and RY2.¹⁴⁰ More specific shortcomings of each of the 16 projects are identified below along with associated recommended cost disallowance adjustments. The subsection numbers 1 through 16 below correspond to the numbering of the adjustments in Coppola’s testimony and exhibits for ease of reference, with the discussion for multiple adjustments combined in some instances. Subsection 17 contains the summary of these adjustments.

1. Distribution Management System - ADMS/OMS

54. Public Counsel witness Coppola’s analysis shows that activities associated with the cost increases for Avista’s ADMS/OMS, which is its outage management tool and distribution management system, have only a marginal probability of being completed and put into service during RY1 and RY2.¹⁴¹ The record shows that the requested \$10 million and \$15 million for 2023 and 2024 are only preliminary rough order of magnitude estimates that do not cover the full cost of the project, that the project will likely continue beyond RY2, that Avista has not completed the system requirements phase of the project, and that Avista has yet to issue requests for proposal from vendors.¹⁴² The record fails to provide a discussion of benefits that comes anywhere near the costs of this project. Therefore, the Commission should disallow the amounts attributed to Washington electric of \$6,554,000 for RY1 and \$9,831,000 for RY2.¹⁴³

2. Gas Non-Revenue Program

55. Public Counsel witness Coppola’s analysis shows that Avista’s request for \$4.3 million for each of year from 2022 through 2024 for the gas non-revenue program is much greater than

¹⁴⁰ Coppola, at 45:17–46:12; Coppola, Exh. SC-22, Schedules A–C.

¹⁴¹ See Kensok, Exh. JMK-1T at 43:19–45:1; Kensok, Exh. JMK-2 at 256; Coppola, Exh. SC-1CT at 46:13–49:9; Coppola, Exhs. SC-23 & SC-24.

¹⁴² Coppola, Exh. SC-1CT at 47:12–22, 48:1–21.

¹⁴³ See Direct Testimony of Justin A. Baldwin-Bonney, Exh. JBB-1T at 28:7–15.

the historical amounts, even when those amounts are increased by Avista's inflation factors.¹⁴⁴

Coppola used Avista's own statements that it based its forecast on historical spending that is fairly steady from year to year.¹⁴⁵ Coppola estimates these costs at \$3,781,000 for 2022, \$3,872,000 for 2023, and \$3,961,000 for 2024, all of which are significantly less than \$4.3 million.¹⁴⁶ The result is a reduction of \$847,000 for RY1 and \$289,000 for RY2.¹⁴⁷

3. EV Transportation

56. Public Counsel recommends reducing capital spending amounts for Avista's Transportation Electrification Plan by \$2.2 million for 2022, \$3.1 million for 2023, and \$1.0 million for 2024 so that the revenue requirement for this project matches the net revenue from electric sales to EV customers.¹⁴⁸ This reduction would avoid over-burdening the cost of the project on non-participating customers.¹⁴⁹

4. Customer Experience Platform & 5. Customer Transactional Systems

57. Public Counsel recommends that the Commission remove capital additions related to the Customer Experience program and the Customer Transactional Systems project for 2022, 2023, and 2024, because Avista fails to justify the investment through quantifiable financial benefits or compelling non-financial benefits.¹⁵⁰ Avista failed to provide a cost/benefit analysis for either project. The broader scope of these projects indicates a Washington-attributable investment of nearly \$19 million from 2022–2024, and \$60 million dating back to 2018.¹⁵¹

¹⁴⁴ Coppola, Exh. SC-1CT at 49:10–50:18; Coppola, Exhs. SC-25 & SC-26.

¹⁴⁵ See Coppola, Exh. SC-25.

¹⁴⁶ Coppola, Exh. SC-1CT at 50:4–12.

¹⁴⁷ *Id.* at 50:4–18.

¹⁴⁸ *Id.* at 51:1–53:18.

¹⁴⁹ Coppola, Exh. SC-1CT at 52:2–53:18.

¹⁵⁰ See Coppola, Exh. SC-1CT at 54:1–57:16.

¹⁵¹ *Id.* at 55:1–10.

58. Avista provides only generic descriptions of the goals and objectives to meet customer expectations and avoid customer complaints, omitting any more specific detail on the problems Avista is trying to resolve with these expensive programs.¹⁵² For the Customer Experience Platform program Avista identifies only \$1 million of potential annual cost savings, compared to the expected investment of \$37 million.¹⁵³ In other words, it would take Avista 37 years to recover the investment, during which Avista will have likely made several system replacements. Avista's business case document for the Customer Transactional Systems project fails to identify any cost savings or other financial benefits.¹⁵⁴ Based on the lack of support for repeated annual investments for these programs, Public Counsel recommends disallowing these increases.

6. Distribution System Enhancements

59. Avista has proposed to increase annual spending on its Distribution System Enhancement Program by 42 percent and 44 percent for RY1 and RY2 when compared to the annual average from 2019–2022. Avista witness Heather Rosentrater describes the programs as involving electric system rebuilds, expansions, and additions, and providing safe and reliable service in an affordable manner referencing some O&M cost savings but no other details of the associated work.¹⁵⁵

60. Public Counsel repeatedly asked to no avail for more specifics on what sections of the distribution system are targeted for enhancement each year, expected feet of wire, number of units or portion of equipment to be replaced, quantities of work units, other work activities, or any other useful information to provide more insight about the actual work to be performed to support the cost projections.¹⁵⁶ Because Avista failed to adequately support its proposed these

¹⁵² *Id.* at 55:11–22.

¹⁵³ *Id.* at 56:2–9.

¹⁵⁴ *Id.*

¹⁵⁵ See Direct Testimony of Heather L. Rosentrater, Exh. HLR-1T at 28:18–29:23.

¹⁵⁶ See Rosentrater, Exh. HLR-2 at 39; Coppola, Exh. SC-21.

capital additions for 2022 through 2024, the Commission should not accept these amounts in RY1 and RY2 rates.

61. As provided in Exhibit SC-30, a more reasonable amount for forecasted capital additions for the 2022 to 2024 period would be the average amount from 2019 to 2021 adjusted by the Company's projected annual inflation. Although Avista cites its provisional review process and argues that these projects are subject to refund if they are not spent, these forecasted capital additions for RY1 and RY2 must be reasonable and justified based on actual evidence in the record to enable the Commission to determine that they are in fact justified and reasonable. Where the Company cannot provide such evidence, the Commission must reject the requested amounts as contrary to law.¹⁵⁷

7. Electric Relocation & Replacement Program

62. Avista's Electric Relocation and Replacement Program relocates and replaces electrical facilities in easements or public rights of way as requested by local jurisdictions due to construction projects in those areas.¹⁵⁸ Avista requests an annual amount of \$5.4 million for these projects, which is significantly higher than the three-year average amount for these projects observed from 2019–2021 of \$4,459,958, and higher than the business case projected annual spending of \$3.0 million.¹⁵⁹ Avista fails to provide any description of what relocation projects it expects to undertake each year, expected feet of wire, number of units or portion of equipment it will replace, or any other information about the work to support the increased spending.¹⁶⁰ Because Avista has not provided sufficient evidence to support its request, the Commission should reject it in its entirety.

¹⁵⁷ See RCW 34.05.461; WAC 480-07-740(3); WAC 480-07-750(2).

¹⁵⁸ Rosentrater, Exh. HLR-1T at 36:14–38:1.

¹⁵⁹ See Coppola, Exh. SC-1CT at 60:13–63:9; Rosentrater, Exh. HLR-2 at 88.

¹⁶⁰ See Coppola, Exh. SC-21; Coppola, Exh. SC-1CT at 62:1–11.

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**8. Energy Delivery Modernization & Operational Efficiency &
9. Energy Resources Modernization & Operational Efficiency Technology**

63. As described in greater detail in witness Coppola’s analysis, Avista does not provide enough detail to support its projected capital additions at the levels requested for the Energy Delivery Modernization and Operational Efficiency program or for the Energy Resources Modernization and Operational Efficiency Technology programs for RY1 and RY2.¹⁶¹ The former program supports existing and new technology for energy delivery including gas engineering and operations, asset management and supply chain, facilities, fleet operations, and metering. The latter program supports application related technology initiatives in energy resources business areas. However, in Avista witness Kensok’s testimony for either program, there is little additional detail about what system applications Avista plans to undertake in 2022–2024 or the related costs.

64. Witness Coppola observes discrepancies in the historical spending stated for these programs in witness Kensok’s testimony that appear to be 88 percent and 92 percent higher than the amounts provided for the same items in Avista’s responses to discovery.¹⁶² In addition, the program business case on page 153 of Kensok’s Exhibit JMK-2 omits detail about what applications Avista will target each year, the amount it will spend, or any other useful information about work activities that could lend support for its projected annual spending.¹⁶³ Avista also failed to provide that detail when asked in subsequent data requests.¹⁶⁴

¹⁶¹ Coppola, Exh. SC-1CT at 64:1–68:4.

¹⁶² See Coppola, Exh. SC-21.

¹⁶³ Coppola, Exh. SC-1CT at 65:22–66:21.

¹⁶⁴ See Coppola, Exh. SC-21.

65. In the absence of support for almost doubling spending for these items in two of the three years from 2022 through 2024, Coppola recommends a more reasonable estimate for 2022–2024 based on the historical amount for 2021 for the Energy Delivery Modernization program adjusted by Avista’s inflation estimates. There were no capital expense amounts in prior years for this item. Coppola used the three-year average for 2019–2021 for the Energy Resources Modernization program adjusted for inflation.¹⁶⁵ The adjustments are stated in Exhibit SC-32 and on pages 67 and 68 of Coppola’s testimony in Exhibit SC-1CT.

10. Gas Aldyl-A Pipe Replacement Program

66. Avista’s Gas Aldyl-A Pipe Replacement Program replaces plastic piping to address associated safety risks. Avista began work on this program in 2011 and expects to continue until 2032. A 2013 study estimated that the program would cost \$10 million annually. Avista states that the annual expense amounts for this program for 2018 to 2021 were much greater, and that the costs will more than double for each year from 2022 through 2024.

67. Avista witness Rosentrater’s discusses a generic benefit from this program of avoiding potential gas leaks that could migrate to customers’ homes or businesses, but fails to provide any other detail about the actual replacement work planned for the 2022–2024 period. While the program is undoubtedly necessary, it is puzzling that Avista does not provide any other information regarding the actual work planned for 2022–2024 to justify the increases for each year in this program. Due to the lack of detail, Public Counsel recommends cost disallowances as described in Coppola’s analysis in Exhibit SC-33 and described in greater detail on pages 68 through 72 of Coppola’s testimony in Exhibit SC-1CT.

¹⁶⁵ Coppola, Exh. SC-32.

11. Gas Meter Change Program

68. Under its Planned Meter Changeout Program (PMC), Avista tests and replaces customer natural gas meters that are not meeting the accuracy standards in Commission rules.¹⁶⁶ Avista forecasted capital additions for the PMC at \$3.5 million in 2022, \$3.8 million for 2023, and \$1.5 million in 2024. However, the average annual amount of capital additions for the PMC from 2019 through 2021 was \$2.2 million.¹⁶⁷

69. Avista does not explain or justify the increase in PMC spending for 2022 and 2023, nor do they explain the decline in 2024. The forecasts represent 60 and 73 percent increases over the average capital addition amount for the prior three years (2019–2021).¹⁶⁸ Since the 2024 amount is within the average range of the prior three years, Public Counsel recommends that the Commission disallow the increases for 2022 and 2023 in RY1 and RY2, for which Avista failed to provide support.¹⁶⁹ As provided in Exhibit SC-34, Coppola determined a more reasonable amount of forecasted capital additions for the PMC by using the historical amount during the three years from 2019–2021 and adjusted it for the Company’s projected inflation.¹⁷⁰

12. Substation – New Distribution Station Capacity Program & 13. Substation – Station Rebuilds Program

70. Avista’s Substation–New Distribution Station Capacity Program focuses on investments to add new electrical capacity to distribution substations in response to demand growth on feeder lines the substations support. Avista argues that this expansion provides greater operational flexibility, ease of maintenance, and service reliability.¹⁷¹ Avista’s Substation–Station Rebuilds

¹⁶⁶ See Rosentrater, Exh. HLR-1T at 93:14–94:3; Coppola, Exh. SC-1CT at 72:4–12.

¹⁶⁷ See Rosentrater, Exh. HLR-2 at 352; Coppola, Exh. SC-1CT at 72:13–23; Coppola, Exhs. SC-21 & SC-22 (Schedules A & B, line 44).

¹⁶⁸ See Coppola, Exh. SC-1CT at 73:1–21.

¹⁶⁹ See Rosentrater, Exh. HLR-1T at 93:14–95:5; Rosentrater, Exh. HLR-2 at 352; Coppola, Exh. SC-21.

¹⁷⁰ See Coppola, Exh. SC-1CT at 74:1–13.

¹⁷¹ Rosentrater, Exh. HLR-1T at 52:21–57:6.

Program focuses on rebuilding aging electrical substations by replacing and upgrading structures, equipment and other related items that are at the end of their operating life or are obsolete.¹⁷²

71. Avista provides only generic descriptions of the programs and omits specific detail regarding quantities or units of equipment planned for installations. Avista fails to state what other specific work activities are planned for the 2022–2024 period to justify its request for upwards of 170 percent and 476 percent for the two programs over the historical three-year average during 2019–2021.¹⁷³ Due to the large nature of the requested revenue increases for RY1 and RY2 for these two programs, Avista should explain with more detail than generic descriptions what is causing the increased demand for program activity than over past years. Otherwise, it is impossible to identify a rationale for the increases when the program description remains the same as the previous years.

72. Even the business case document provides only general descriptions for the need to undertake capacity expansions over time and identifies general targets for spending through 2026, and fails to identify specific work Avista plans to do each year to support such a large increase in capital spending in these programs.¹⁷⁴ Nowhere does Avista state the number and type of equipment and structures to be rebuilt, replaced, or upgraded to support the increased spending in the forecasts. For the Station Rebuilds Program, the business case document actually states only \$20 million of annual capital spending, which is significantly less than the \$58.4 million projected for 2023 and \$41.5 million for 2024. Avista also failed to provide that additional data in response to Public Counsel in subsequent data requests.¹⁷⁵

¹⁷² *Id.*

¹⁷³ Coppola, Exh. SC-1CT at 76:1–9; Coppola, Exh. SC-22, Schedules A-C, line 67.

¹⁷⁴ See Rosentrater, Exh. HLR-2 at 160, 178; Coppola, Exh. SC-1CT at 76:18–22.

¹⁷⁵ See Coppola, Exh. SC-21.

73. Without more information, neither Public Counsel nor the Commission may evaluate reasonableness and prudence of these project capital additions. As the requesting company, Avista bears the burden of proof to show its projected capital additions are supported by sufficient evidence so that the Commission can determine reasonableness and prudence. The fact that Avista provides these amounts as provisional and subject to later true-up does not negate the requirement that it adequately support its request for rate increase for RY1 and RY2. Similar to adjustments of other capital program increases requested in this case, Public Counsel recommends a more reasonable three-year average from 2019–2021 escalated by the Company’s inflation estimates as provided in greater detail by witness Coppola in Exhibit SC-35.

14. Wildfire Resiliency Plan Capital Additions

74. Avista also fails to identify specifically what equipment, structures, or facilities it plans to replace as part of its Wildfire Resiliency Plan from 2022–2024 to support the increased spending forecasted for RY1 and RY2.¹⁷⁶ While Avista witness David R. Howell provides repetitive information in testimony and exhibits stating the Company’s general plans to prevent wildfires through activities such as increased vegetation management, converting poles to steel, replacing wood crossarms, and upgrading circuit reclosers, Avista did not provide specific details or descriptions of the increased work. Avista admitted that specific detailed information would be “determined as [they] progress.”¹⁷⁷

75. Avista’s insufficient support for the capital spending increases for its Wildfire Resiliency Plan is further highlighted by discrepancies between costs stated in Howell’s testimony and

¹⁷⁶ See Direct Testimony of David R. Howell, Exhs. DRH-1T, DRH-2, DRH-3, DRH-4; Coppola, Exh. SC-21.

¹⁷⁷ Howell, Exh. DRH-5T at 5:13–23.

exhibits versus Avista’s response to data requests.¹⁷⁸ As a result, it is unclear how the Company arrived at the forecasted capital spending amounts, since work units and quantities are integral to developing a cost forecast.¹⁷⁹ Public Counsel recommends that the Commission approve only the 2022 spending amount of \$24.5 million, because Avista has not provided any reasoning through a description of additional work required to support the spending forecast increases for RY1 and RY2 beyond what was performed in 2022.¹⁸⁰

15. Wood Pole Management

76. Avista also fails to provide specific detail for its increased capital spending forecasts for RY1 and RY2 for its Wood Pole Management program. Avista requests \$13 million for each year from 2022 through 2024, in comparison to the \$11 million average annual spending for this program observed over three years from 2019 to 2021. Avista witness Rosentrater describes this program as annually replacing a portion of the Company’s electrical line wood poles and attached equipment, including transformers, cutouts, insulators, and cross arms.¹⁸¹ Rosentrater discusses alternatives to activities performed under the program and general benefits of the program to customers. Otherwise, Rosentrater provides no further detail on specific work Avista has performed or will perform under the program and omits additional information about number of poles replaced in any year or numbers or locations of transformers, crossarms, insulators, or cutouts to be targeted in this program. Avista also failed to provide this information when asked in multiple data requests.¹⁸² Public Counsel recommends that a more reasonable amount based on a historical average over the prior three years from 2019 through 2021 adjusted for inflation

¹⁷⁸ See Coppola, Exh. SC-1CT at 81:7–82:8; see Coppola, Exh. SC-305; see also Response Testimony of Aaron Tam, Exh. AT-4 (Wildfire Work Plan Analysis).

¹⁷⁹ See Coppola, Exh. SC-1CT at 81:1–6.

¹⁸⁰ See Coppola, Exh. SC-1CT at 82:14–84:3; Coppola, Exh. SC-36.

¹⁸¹ See Rosentrater, Exh. HLR-1T at 65:4–67:15; Rosentrater, Exh. HLR-2 at 217

¹⁸² See Coppola, Exh. SC-21.

be used to estimate the reasonable costs for this program for RY1 and RY2 in the absence of any other information to justify the increases beyond that amount. Coppola's adjustment for this item is in Table 19 on page 86 of Exhibit SC-1CT.

16. Enterprise & Control Network Infrastructure

77. Avista's requested capital spending increases for RY1 and RY2 for its Enterprise and Control Network Infrastructure program are also inadequately supported. Avista witness Kensok states that this program provides for network technology to allow for transmission of data to various systems within the Company, and explains that there is a need to upgrade and expand these networks over time and for business expansion.¹⁸³ Avista's provides only broad statements for the program goals and objectives and fails otherwise to specify equipment, work units or quantities, or other work activities associated with this program that would justify the projections for 2022 through 2024 underpinning the rate increases for RY1 and RY2.¹⁸⁴

78. For this reason, Public Counsel recommends the Commission adopt the more reasonable spending increases calculated by witness Coppola based on a historical average adjusted with the Company's inflation estimates. The three year average annual spending for this program from 2019 through 2021 is \$4.6 million, which is significantly less than Avista's requested amounts for 2022 through 2024, which range from \$6.7 million to \$7.5 million, and for which Avista fails to provide more detailed support beyond vague program descriptions.

17. Summary of Revenue Requirement Adjustment for Capital Additions

79. Public Counsel witness Coppola's proposed adjustments to capital additions by plant type are summarized in Exhibit SC-39. Coppola uses the information from Exhibit SC-39 in Exhibits

¹⁸³ Kensok, Exh. JMK-1T at 17:1-8.

¹⁸⁴ See Coppola, Exh. SC-1CT at 86:15-89:4.

SC-40 and SC-41 to determine adjustments to rate base, return on rate base, depreciation expense, and net operating income (NOI) and the associated adjustments to revenue requirement.¹⁸⁵ As provided in Coppola's Exhibit SC-40, Avista's requested revenue requirement for plant additions for electric should be reduced by \$7,242,000 for RY1 and \$8,662,000 for RY2. For gas, as provided in Coppola's Exhibit SC-41, the revenue requirement for plant additions should be reduced by \$1,425,000 for RY1 and \$774,000 for RY2.¹⁸⁶

D. O&M Adjustments Related to Capital Additions

80. Assuming witness Coppola's proposed disallowances to Avista's requested revenue requirement for RY1 and RY2, Avista is unlikely to achieve the same O&M cost offsets it provided in pro-forma adjustments 4.03 and 5.09 in Andrews' Exhibits EMA-2 and EMA-3. In Exhibit SC-42, Coppola removes the portion of the O&M offsets pertaining to Coppola's proposed disallowance of capital additions for 2022 through 2024. The portion of O&M Coppola calculated to be removed is based on the percentage of Coppola's proposed disallowances to the total amount of capital additions proposed by Avista for each respective project or program and is provided in Coppola's testimony at page 90 and in Exhibit SC-42.

E. Adjustment for EIM Benefits

81. The Settlement contains two provisions concerning power costs that Public Counsel supports,¹⁸⁷ but Public Counsel opposes Avista's estimate of the revenue expected to accrue from its participation in the Energy Imbalance Market (EIM) that is included in the ERM baseline. Under the approved settlement agreement in Avista's 2020 rate case, the parties agreed to include an annualized system EIM benefit of \$5.8 million, based on a 2017 EIM benefits

¹⁸⁵ See Coppola, Exhs. SC-39, SC-40, & SC-41.

¹⁸⁶ See Coppola, Exh. SC-1CT at 89:5–17.

¹⁸⁷ Response Testimony of Robert Earle, Exh. RLE-1T at 3:4–14.

assessment conducted by E3.¹⁸⁸ Avista also agreed to participate in a collaborative to address how the EIM benefits will be modeled going forward.¹⁸⁹ If the collaboration was not completed by the time Avista filed its next GRC, Avista was required to examine the accuracy of the estimated benefits in that next GRC.¹⁹⁰ Avista did not complete the collaborative prior to this rate case.¹⁹¹ Avista also continues to rely on an outdated estimate of the EIM benefits¹⁹² and refuses to update the estimate despite having actual results from the Company’s participation in the market.¹⁹³

82. Avista’s reliance on a five-year old study denominated in 2017 dollars is unreasonable. Public Counsel recommends the Commission direct Avista to update the EIM benefits included in the ERM baseline either by updating the 2017 E3 study¹⁹⁴ or by using the actual 2022 benefits.¹⁹⁵ Avista objects to updating the EIM benefits on the basis that doing so would “cherry pick only one component of the overall level of power supply included in the case,”¹⁹⁶ but Avista essentially conducted its own cherry-picking when it excluded EIM revenues from its update of ERM costs and revenues. Avista, it seems, is not adverse to the practice when it benefits the Company and shareholders.

83. Based on the actual benefits accrued by the time Public Counsel filed its responsive testimony, a more accurate and reasonable estimate would reduce the revenue requirement for RY1 by an additional \$12.1 million.¹⁹⁷ This estimate was based on the California Independent

¹⁸⁸ Avista 2020 GRC Final Order ¶ 32 & 34

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ Rebuttal Testimony of Scott J. Kinney, Exh. SJK-13T at 10:9–14.

¹⁹² Earle, Exh. RLE-1T at 7:11–8:6.

¹⁹³ Kinney, Exh. SJK-13T at 4:1.

¹⁹⁴ Earle, Exh. RLE-1T at 8:7–9:22.

¹⁹⁵ Earle, Exh. RLE-1T at 10:1–12.

¹⁹⁶ Kinney, Exh. SJK-13T at 4:3–4.

¹⁹⁷ See Earle, Exh. RLE-1T at 11:3–7; *see also* Coppola, Exh. SC-1CT at 91:1–10; Coppola, Exhs. SC-16 (PC-EIM RR Adjustment) & SC-45.

System Operator's (CAISO) report for Avista's single month of participation in March 2022, which accrued \$1.95 million in system benefits for Avista.¹⁹⁸ Avista argues that the March 2022 benefits were based on a higher than average hydropower production and that it would be unreasonable to apply the March results across all seasons.¹⁹⁹ Public Counsel generally agrees that there are challenges to using only partial year data to estimate an annual total benefit.²⁰⁰ However, the CAISO EIM Benefits Report from the second quarter of 2022 make it clear that the \$5.8 million currently estimated as Avista's EIM benefits significantly understates the true level of benefits customers should be receiving. The CAISO report shows that Avista accrued an additional \$1.98 million in April, \$1.72 million in May and \$1.46 million in June.²⁰¹ In four months of participation in the EIM, Avista has accrued \$7.11 million in benefits, significantly exceeding the currently estimated \$5.8 million in annualized benefits with an additional six months left in the year. While using a single month to estimate the annual total benefit may not be ideal, some adjustment must be made to the EIM benefits to account for the actual benefits Avista is accruing. It would be unreasonable and unfair to ratepayers to leave the outdated estimate as it currently stands for the next two years until Avista's next rate case.

84. Public Counsel therefore recommends that the Commission order Avista to update its estimates of EIM benefits either by updating the E3 benefits study or by calculating an updated benefit using Avista's actual benefits. Using the March 2022 benefit amounts to calculate a new EIM benefit reduces the revenue requirement for RY1 by an additional \$12.1 million.²⁰² Public Counsel included this adjustment in the overall revenue requirement recommendation.

¹⁹⁸ Earle, Exh. RLE-1T at 8:3–6; Kinney, Exh. SJK-14X at 5.

¹⁹⁹ Kinney, Exh. SJK-13T at 9:13–16.

²⁰⁰ Earle, Exh. RLE-1T at 10:13–14:2.

²⁰¹ Kinney, Exh. SJK-15X at 5.

²⁰² *See id.*; *see also* Coppola, Exh. SC-1CT at 91:1–10; Coppola, Exhs. SC-16 (PC-EIM RR Adjustment) & SC-45.

V. WILDFIRE RESILIENCY PLAN MODIFICATIONS

85. Public Counsel recommends several modifications to Avista’s Wildfire Resiliency Plan to clarify the use and definitions of terminology and purpose of activities; improve risk and fire event tracking; add reliability metrics; and improve communications, outreach, and stakeholder collaboration with a clear communications and outreach plan with associated metrics.

A. Clarification of Terminology and used of Standardized Language

86. In reviewing Avista’s current plan and supporting documentation, Public Counsel witness, Tam, encountered significant confusion due to unclear definitions of terms and lack of clarity regarding the specific purpose of identified activities.²⁰³ Public Counsel recommended Avista clarify its terminology with a glossary and work with peer utilities and stakeholders to come to a mutual agreement on wildfire mitigation plan terminology.²⁰⁴ Avista agreed that a glossary would be a useful addition to the Company’s wildfire plans and reports going forward.²⁰⁵ Avista explained that it could not enforce a standard set of definitions across different stakeholders, but stated the Company is open to updating, improving, and refining its own definitions and descriptions in light of interactions with other stakeholders.²⁰⁶ Public Counsel acknowledges that enforcing standard language without state legislative or agency-level input may be difficult, but supports Washington utilities’ efforts to collaborate about wildfire issues. A common language and terminology amongst stakeholders is crucial to ensuring the state as a whole is addressing these risks with similar understanding. Public Counsel recommends that the Commission issue specific guidance to the utilities regarding wildfire plan

²⁰³ Tam, Exh. AT-1T at 12:3–15:8.

²⁰⁴ *Id.* at 40:5–8.

²⁰⁵ Howell, Exh. DRH-5T at 26:2–9.

²⁰⁶ *Id.* at 26:10–27:6.

elements and direct the utilities to include a glossary of terms in their wildfire plans with an eye towards reaching a standardization of terms amongst the utilities.

B. Description of Goals of Wildfire Related Activities with Associated Metrics

87. In testimony, Public Counsel recommended Avista clarify its Wildfire Resiliency Plan by identifying the intended purpose or focus of programs included in the plan and explaining how each activity is intended to mitigate wildfires or reduce risk, using a table format.²⁰⁷ In response, Avista agreed to create such tables and included them in rebuttal testimony.²⁰⁸ Public Counsel recommends that Avista include this summarized information in its wildfire plans going forward. Public Counsel also recommends that Avista include metrics with each identified program in the table to measure the success or efficacy of investments over time as well as the cost-basis for each wildfire activity.²⁰⁹ The inclusion of this information would increase the transparency of Avista’s wildfire related investments and assist the Commission in determining whether specific investments are providing the intended benefits. Avista did not respond to this recommendation.

C. Additional Wildfire Metrics

88. In addition to the metrics included in the Settlement, Public Counsel also recommends that Avista track and report additional wildfire metrics related to risk events, ignition events, reliability, and communications and outreach.

1. Metrics related to risk events and ignition tracking

89. Public Counsel recommends that Avista standardize and formalize data capture and retrieval of risk events, ignitions, and impact. Avista stated it is in the process of acquiring

²⁰⁷ Tam, Exh. AT-1T at 16:17–18:1.

²⁰⁸ Howell, Exh. DRH-5T at 27:11–29:1.

²⁰⁹ Tam, Exh. AT-1T at 18:2–9.

geospatial data to track fire ignition events²¹⁰ and that the Company relies upon fire agencies to track wildfire ignition events.²¹¹ Avista discussed its ability to evaluate fire risk using the Fire Weather dashboard²¹², but did not commit to reporting risk event and ignition information at the level of detail recommended by Public Counsel.²¹³ Avista also admitted that dispatcher comments on fire events are “inconsistent” and “will still take some procedural changes in the field” even with a new OMS system.²¹⁴ Public Counsel recommends Avista track risk events and ignition tracking at a level of detail that includes specific information such as cause, sub-cause, weather conditions, fire threat tier, and risk event photos over time.²¹⁵

90. Additionally, Public Counsel recommends that the Commission adapt best practices from California Energy Safety and issue specific guidance in Docket U-210254 which should include uniform, regular risk event and ignition reporting requirements across all Washington investor-owned utilities.²¹⁶ This will improve accountability and transparency into the efficacy of wildfire mitigation measures across different utilities and under different conditions.

2. Wildfire-related reliability metrics

91. In testimony, Public Counsel recommended the following wildfire-related reliability metrics.²¹⁷

1. Number of and location of outages from tree fall-ins outside the utility corridor
2. Number of and location of ignition events from tree fall-ins outside the utility corridor
3. Electric reliability metrics (SAIDI, SAIFI, CAIDI, CEMI, etc.) in Non-Fire Season
4. Electric reliability metrics (SAIDI, SAIFI, CAIDI, CEMI, etc.) in Base Level DLM

²¹⁰ Howell, Exh. DRH-5T at 18:11–19:5.

²¹¹ *Id.* at 19:6–19:14.

²¹² *Id.* at 19:15–21:14.

²¹³ *Id.* at 21:15–24:10.

²¹⁴ *Id.* at 16:8–17:2.

²¹⁵ *See id.* at 27:13–28:15.

²¹⁶ Tam, Exh. AT-1T at 31:17–32:4.

²¹⁷ Tam, Exh. AT-2 at 4.

5. Electric reliability metrics (SAIDI, SAIFI, CAIDI, CEMI, etc.) in Elevated DLM: Fire 2 Shot
6. Electric reliability metrics (SAIDI, SAIFI, CAIDI, CEMI, etc.) in Elevated DLM: Fire 1 Shot

92. In response, Avista stated that it tracks risk trees that fall into powerlines from outside established powerlines corridors.²¹⁸ The Company also stated that it tracks tree grow-ins as separate outage incident codes.²¹⁹ Avista, however, did not commit to tracking reliability metrics at the level of detail that Public Counsel recommends. Avista simply reiterated its current methodology, which fails to distinguish between risk or ignition events due to tree fall-ins from inside versus outside the utility corridor.²²⁰ Avista also did not address the recommendation by Public Counsel to track how electric reliability metrics are affected by the addition of new Dry Land Mode settings. Public Counsel, therefore, continues to recommend that Avista track the wildfire-related reliability metrics listed, above.

3. Wildfire-related communications metrics

93. In testimony, Public Counsel recommended that Avista track wildfire-related communication and outreach metrics, improve AFN (Access and Functional Needs) outreach, provide translated wildfire-related materials, engage with community-based organizations related to special-needs and limited English proficiency customers as well as use multiple communication channels.²²¹ Avista stated that it uses multiple communication channels for customer outreach. Avista explained that it is in the process of identifying language needs and agreed to track the number of translated materials as a Customer Benefit Indicator (CBI) in the Company's Clean Energy Implementation Plan (CEIP), with the goal to reach additional

²¹⁸ Howell, Exh. DRH-5T at 24:11–16.

²¹⁹ *Id.* at 25:3–4.

²²⁰ *See id.* at 24:11–25:10.

²²¹ Tam, Exh. AT-1 at 33:12–39:16.

customers by overcoming language barriers in all Company communications.²²² Public Counsel recommended further outreach to identify AFN individuals, and Avista stated that it is already pursuing Public Counsel's recommendation.²²³

94. The Company stated that it will consider a CBI or measurement metric related to limited functional needs that will be evaluated for inclusion in the Biennial CEIP Update in November 2023.²²⁴ The Company also stated it is working with Public Participation Partners to develop a public participation and communications plan that will be utilized for the Company's CEIP and eventually used as a model for other Company programs including Wildfire.²²⁵ The Company discussed steps it is taking towards meeting Public Counsel's recommendations but made no further commitments other than adding a CBI on number of translated materials in their CEIP.

95. While Public Counsel acknowledges and appreciates the work Avista has been doing to increase communications and outreach, Public Counsel recommends the Commission direct Avista to include in their next Wildfire Resiliency Plan a wildfire communications and outreach section or appendix that addresses the concerns highlighted by Public Counsel. This wildfire communications and outreach plan should report metrics on translated wildfire-related materials, languages provided for written and telephonic customer support, customer reach and engagement via multiple channels, customer participation/feedback, number of identified AFN customers, and customers receiving service reliability and wildfire updates by text/SMS, email, or mobile app.

VI. SETTLEMENT TERMS PUBLIC COUNSEL SUPPORTS

²²² Howell, Exh. DRH-5T at 35:14–36:6.

²²³ *Id.* at 36:7–18.

²²⁴ *Id.* at 36:19–37:1.

²²⁵ *Id.* at 37:8–15.

96. Public Counsel is not a party to the Settlement Agreement. After reviewing the filed agreement, Public Counsel supports the following terms as being in the public interest.

- Low-income rate assistance²²⁶
- Low-income renewable energy projects²²⁷
- Changes to low-income conservation programs²²⁸
- Distributional equity analysis²²⁹
- Colstrip cost recovery²³⁰
- Electric rate design²³¹
- Natural gas rate spread and rate design²³²
- Climate Commitment Act terms²³³
- Small Business Energy Efficiency terms²³⁴
- Natural Gas Transition terms²³⁵
- Capital Projects Review²³⁶
- Transportation Electrification²³⁷
- Performance metrics²³⁸
- Adopting Avista’s filed Energy Recovery Mechanism (ERM) baseline with the exception of estimated EIM revenues²³⁹
- Eliminating the 60-day ERM baseline update²⁴⁰

Public Counsel takes no position on the electric rate spread terms included in the Settlement.

A. Compliance with Multiyear Rate Plan Statute

²²⁶ Response testimony of Corey Dahl, Exh. CJD-1T at 18:10–21:27.

²²⁷ *Id.* at 22:1–17.

²²⁸ *Id.* at 22:18–23:4.

²²⁹ *Id.* at 24:5–17.

²³⁰ *Id.* at 24:18–26:24.

²³¹ *Id.* at 28:8–29:2.

²³² Corey Dahl, Exh. CJD-1T at 27:14–29:2.

²³³ *Id.* at 29:9–15.

²³⁴ *Id.* at 29:16–21.

²³⁵ *Id.* at 30:1–7.

²³⁶ *Id.* at 30:8–14.

²³⁷ *Id.* at 30:15–31:2.

²³⁸ Response testimony of Andrea C. Crane, Exh. ACC-1T at 10:11–18:16.

²³⁹ Earle, Exh. RLE-1T at 4:1–5:12.

²⁴⁰ *Id.*

97. Under the Multiyear Rate Plan statute enacted in 2021,²⁴¹ general rate case filings made after January 1, 2022, by an electric or gas company must include a proposal for a multiyear rate plan.²⁴² The statute also requires that if a multiyear rate plan is approved, the Commission must determine a set of performance measures that will be used to assess a gas or electrical company operating under a multiyear rate plan. These performance measures may be based on proposals made by the gas or electrical company in its initial application, by any other party to the proceeding in its response to the company's filing, or in the testimony and evidence admitted in the proceeding. In developing performance measures, incentives, and penalty mechanisms, the commission may consider factors including, but not limited to, lowest reasonable cost planning, affordability, increases in energy burden, cost of service, customer satisfaction and engagement, service reliability, clean energy or renewable procurement, conservation acquisition, demand side management expansion, rate stability, timely execution of competitive procurement practices, attainment of state energy and emissions reduction policies, rapid integration of renewable energy resources, and fair compensation of utility employees.²⁴³

98. Under the proposed Settlement, Avista is required to track an extensive list of performance metrics,²⁴⁴ publish the results on the Company's website, and maintain and make available to stakeholders the historical results.²⁴⁵ Approval of these performance metrics and associated Company activities included in the Settlement meets the requirements of the Multiyear Rate Plan statute. The statute does not define "measure," but the dictionary definitions of the word include "an action to achieve something"²⁴⁶ and "a step planned or taken as a means to an end."²⁴⁷ The statute is not prescriptive as to the types of actions that constitute a "measure." The list of performance metrics, coupled to the requirement that Avista track each of the ninety-

²⁴¹ See Engrossed Substitute S. B. 5295, 67th Leg., 2021 Reg. Sess., § 2(7) (Wash. 2021).

²⁴² RCW 80.28.425(1).

²⁴³ RCW 80.28.425(7).

²⁴⁴ Full Multiparty Settlement Stipulation, Attachment B. 92 separate metrics in the following categories: Affordable Service, Capital Formation, Equitable Service, Reliability, Wildfires, Customer Experience, Pollution and Greenhouse Gas Emissions, Electric Grid Benefits, and Natural Gas System Benefits.

²⁴⁵ Full Multiparty Settlement Stipulation ¶ 23.

²⁴⁶ MacMillian Education Limited: MacMillian Dictionary.com, *MacMillian Dictionary* https://www.macmillandictionary.com/us/dictionary/american/measure_1 (last accessed Oct. 20, 2022).

²⁴⁷ Merriam-Webster, *Merriam-Webster.com Dictionary*, <https://www.merriam-webster.com/dictionary/measure> (last accessed Oct. 20, 2022).

two separate metrics, are an action intended to collect and track utility performance in nine different performance categories through the multiyear rate plan.

99. Establishing performance metrics are important in order to ensure that utility service does not deteriorate during a MYRP, when a utility may have a greater incentive to reduce costs.²⁴⁸ Performance metrics can therefore provide an objective measure of the impact of the MYRP on the Company's quality of service, as well as on other aspects of the Company's operations.²⁴⁹ Without the metrics and Avista's activities to track the metrics, it would not be possible to determine a baseline level of performance or deviations from that level of performance. Additionally, the statute does not dictate that performance incentive mechanisms (PIMs) be adopted with a multiyear rate case. While the statute clearly requires the establishment of performance measures as part of any MYRP, it separately references both incentive and penalty mechanisms.²⁵⁰ Accordingly, while the Commission must approve performance measures if it approves the MYRP, it is not required to implement PIMs. Finally, Public Counsel notes that the Commission has an active policy docket through which to provide guidance on Performance Based Ratemaking,²⁵¹ and recommends the Commission act conservatively on performance measures while that policy docket is still pending.

VII. CURRENT ECONOMIC CONDITIONS

100. Avista and Public Counsel²⁵² both offer evidence that inflation has increased dramatically and should be a factor in the Commission's decision in this rate case. Avista argues that inflation

²⁴⁸ Crane, Exh. ACC-1T at 17:14–22.

²⁴⁹ *Id.*

²⁵⁰ See RCW 80.28.425(7).

²⁵¹ See generally *In re Comm'n. Proceeding to Develop a Policy Statement*, Docket U-210590 (addressing alternatives to traditional cost of service ratemaking).

²⁵² Dahl, Exh. CJD-1T at 9:3–15:19, 15:4–19.

will have an impact on the cost of equity²⁵³ and that investors expect to be compensated for the effects of inflation.²⁵⁴ Avista also argues that rising inflation will increase operation and maintenance costs for the Company through the rate plan.²⁵⁵ These are factors that can be accounted for, however. Indeed, as explained by Public Counsel witness, Garrett, inflation is factored into the CAPM analysis and resulted in higher estimates of the cost of equity than would have occurred in prior years.²⁵⁶ Increased O&M costs between rate cases can also be accounted for through efficient management of the utility, as envisioned by the underlying tenants of monopoly utility regulation. Additionally, O&M costs are included in rates and passed on to ratepayers so the proper forecasting of such costs would insulate Avista's shareholders from that particular impact of inflation. Avista had the burden and opportunity to provide forecast increases in its costs across its rate case. The existence of the Settlement does not absolve the Company of its burden of proving its case with evidence in the record. It cannot now simply complain about inflation and expect increased compensation with insufficient evidence of the actual impacts of inflation on specific costs.

101. While Avista focused on the impact of inflation on investors and shareholders, the Company failed to address the impact of inflation on its own customers.²⁵⁷ As discussed in Public Counsel witness Corey J. Dahl's testimony, inflationary pressures are squeezing the average Avista customer through increased costs of gas, food, housing, education, communications, and medical care, to name a few.²⁵⁸ Further compounding the problem for

²⁵³ McKenzie, Exh. AMM-15T at 11:3-4.

²⁵⁴ *Id.* at 8:2-5.

²⁵⁵ *Id.* at 10:22-11:2.

²⁵⁶ Garrett, Exh. DJG-1T at 55:5-56:2.

²⁵⁷ Adrien M. McKenzie, TR. 271:23-272:4.

²⁵⁸ Dahl, Exh. CJD-1T at 9:3-15:19.

customers, inflation has outpaced rising wages.²⁵⁹ Energy costs make up a large component of overall inflationary pressures for individuals.²⁶⁰ Unlike the Company, however, customers cannot simply pass on these additional costs onto someone else.

102. The Settlement’s excessive and unjustified rate increase will fall on customers already facing these increased costs of living. In addition to the impacts of this rate case, Avista’s residential customers will be hit with a 2.1 percent increase in average bills due to the costs related to natural gas Demand Side Management,²⁶¹ a three percent bill increase due to the electric decoupling mechanism,²⁶² and a 12.3 percent increase due to increased purchased gas costs.²⁶³ All of these impacts come on the heels of a 12 percent increase in residential gas rates due to an out-of-cycle Purchase Gas Cost Adjustment approved by the Commission in June.²⁶⁴ These impacts will disproportionately impose additional burdens on highly impacted communities and vulnerable populations.

VIII. PUBLIC COMMENT

103. Avista’s customers understand that large rate increases will have tangible consequences. Numerous Avista customers have taken time to grapple with the issues in this case and have resoundingly expressed opposition to rate increases at this time. All of the comments submitted indicate concerns about the size of the proposed rate increase, the frequency of rate increases, increased rates in a period of rising consumer prices, and excess investor earnings and dividends.

²⁵⁹ *Id.* at 9:9–11

²⁶⁰ *Id.* at 9:12–10:2.

²⁶¹ Avista Cover Letter, *Tariff WN-U-29, Natural Gas Service Energy Efficiency Rate Adjustment, Schedule 191*, Docket UG-220373 (filed May 27, 2022). The rate increase went into effect October 1, 2022.

²⁶² Avista Cover Letter, *Tariff WN-U-29, Natural Gas Decoupling Rate Adjustment, Schedule 175*, Docket UE-220379 (filed May 27, 2022). The rate increase went into effect October 1, 2022.

²⁶³ Avista Cover Letter, *Tariff WN-29, Avista’s Annual Purchase Gas Cost Adjustment*, Docket UG-220670 (filed Sept. 2, 2022). The rate increase is scheduled to go into effect November 1, 2022.

²⁶⁴ Open Meeting Memo, *Avista Corp. Tariff No. WN U-29 Revision, Out-of-Cycle Purchased Gas Cost Adjustment*, Docket UG-220309 (filed June 27, 2022).

The Commission should carefully consider the time the customers took to understand Avista’s requested rate increases and submit comments about the real-world impacts of this decision.

104. Several customers pointed out the significant size and frequency of Avista’s rate requests. One customer described the proposed increases as an “outrageous amount”²⁶⁵ and this request is another in a series of requested increases of “10 percent or more.”²⁶⁶ Another customer indicated that basic charges place an “unfair burden on poor customers at time when they are already struggling” and the inability to meet “rising costs” is putting many at risk of “becoming homeless.”²⁶⁷ A customer expressed fear that this increase will cause them to “freeze this winter” because their heating bills will be unaffordable.²⁶⁸ In addition to the size and burden of rate increases, many commenters expressed frustration with the frequency of rate increases, even described as “constant.”²⁶⁹ Several customers expressed their appreciation for and support of Public Counsel’s position including significantly smaller rate increases.²⁷⁰ The effect of frequent rate increases causes one customer to declare, “The public cannot afford for these practices to continue.”²⁷¹

105. Customers are also frustrated by Avista’s profits, “record dividends,”²⁷² and increased executive pay and benefits.²⁷³ One customer expressed deep concern about the request being greedy “pure and simple,” all while customers are struggling to make ends meet. One customer

²⁶⁵ Bench Request No. 3, Exh. BR-3 Attach 1 at 9 (Comment of Carole Gauche).

²⁶⁶ *Id.* at 9 (Comment of Steven R. Bowman).

²⁶⁷ *Id.* at 4 (Comment of Celina Thoma).

²⁶⁸ *Id.* at 3 (Comment of Kathy Catalano).

²⁶⁹ *Id.*

²⁷⁰ Bench Request No. 3, Exh. BR-3 Attach 1 at 5 (Comment of Cassie Camerer), at 6 (Comment of Edward Wolfe), at 10 (Comment of Bernie Labrucherie).

²⁷¹ *Id.* at 6 (Comment of Sharyl McBride).

²⁷² *Id.* at 8 (Comment of Matthew Walton).

²⁷³ *Id.* at 4 (Comment of Gary Drexler).

sums up this concern and frustration aptly, “Keeping the heat turned to low and trying not to get pneumonia every single Winter while Utility companies are living well.”²⁷⁴

IX. CONCLUSION

106. In the fundamental ratemaking cases *Hope*²⁷⁵ and *Bluefield*,²⁷⁶ the United States Supreme Court established that utilities are entitled to charge customers rates that are fair, just, reasonable, and sufficient to earn a reasonable return on investment.²⁷⁷ The right to earn a reasonable return, however, does not entitle a utility to earn excess revenue that it has not supported with sufficient evidence in the record.²⁷⁸ The ability to extend a rate plan into multiple years does not reduce the utility's burden of proof. The utility must justify its requested revenue in all years of the rate plan.²⁷⁹ Avista and the settling parties have failed to meet their burden of proving the proposed Settlement is supported by the record²⁸⁰ and result in rates that are fair, just, and reasonable.²⁸¹ Public Counsel respectfully requests the Commission limit Avista's base revenue increase to the revenue deficiency that is actually demonstrated in the record. Accordingly, Public Counsel recommends an increase of \$0.4 million in RY1 and \$2.8 million in RY2 for electric service and an increase of \$1.7 million in RY1 and \$0.2 million in RY2 for natural gas service.²⁸² In doing so, Public Counsel requests that the Commission adopt its recommendations regarding capital structure, return on equity, debt cost, rate of return, and EIM benefits. Public Counsel also recommends the Commission reject the Settlement's proposed Insurance Expense Balancing

²⁷⁴ *Id.* at 11 (Comment of Laura Crafton).

²⁷⁵ *Hope* at 591.

²⁷⁶ *Bluefield* at 675.

²⁷⁷ *Hope* at 603; *Bluefield* at 690–92.

²⁷⁸ See WAC 480-07-740(3); WAC 480-07-540.

²⁷⁹ WAC 480-07-750(2).

²⁸⁰ See *id.*

²⁸¹ See RCW 80.28.010.

²⁸² Coppola, Exh. SC-1CT at 10:7–15; Coppola, Exh. SC-43.

Account. Finally, Public Counsel requests the Commission direct Avista to adopt the proposed modifications to its Wildfire Resiliency Plan and related metrics.

DATED this 21st day of October 2022.

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