

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. AVISTA CORPORATION, d/b/a AVISTA UTILITIES, Respondent</p>	<p>DOCKETS UE-220053, UG-220054, UE-210854 (<i>Consolidated</i>) FINAL ORDER 10/04</p>
<p>In the Matter of the Electric Service Reliability Reporting Plan of AVISTA CORPORATION, d/b/a AVISTA UTILITIES.</p>	<p>REJECTING TARIFF SHEETS; GRANTING PETITION; APPROVING AND ADOPTING FULL MULTIPARTY SETTLEMENT STIPULATION SUBJECT TO CONDITIONS; AUTHORIZING AND REQUIRING COMPLIANCE FILING</p>

Synopsis: The Washington Utilities and Transportation Commission (Commission) approves and adopts subject to conditions a full multiparty settlement stipulation (Settlement) that resolves all contested issues and is agreed to by all Parties except the Public Counsel Unit of the Washington Attorney General’s Office (Public Counsel), which contests some portions of the Settlement.

Public Counsel opposes the Settlement’s resolution of power costs, insurance expense balancing account, wildfire-related issues, cost of capital, and the overall revenue requirement, but either supports or does not oppose all other terms of the Settlement, including: cost of service, rate spread, and rate design; the Residual Tax Customer Credit; Colstrip investments, tracker, and Tariff Schedule 99; the escalation study; capital planning; distributional equity analysis; capital projects review; natural gas transition issues; transportation electrification; performance-based ratemaking; low-

income issues; the Climate Commitment Act; small business energy efficiency; electric service reliability report plan; depreciation rates and regulatory amortizations; annual filing dates; annual reporting obligations of Docket U-210151; software licensing; and the decoupling earnings test.

The Commission finds that the Settlement is lawful, supported by an appropriate record, and consistent with the public interest, subject to the conditions outlined in paragraphs 78, 85, 99, 112, and 146 of this Order. Accordingly, the Commission determines that approval of the Settlement, subject to conditions and in concert with other findings, will establish rates, terms, and conditions for Avista's electric and natural gas service to Washington customers that are equitable, fair, just, reasonable, and sufficient.

The Settlement is results-focused and provides a results-only resolution for Avista's overall revenue requirement.¹

By approving the Settlement, the Commission authorizes revenue requirement increases for Avista over a multi-year rate plan (MYRP) covering the upcoming two-year period. The Settlement returns Residual Tax Customer Credit amounts of approximately \$27.6 million and \$12.5 million to electric and natural gas customers, respectively, over the term of the MYRP. Prior to the impact of the Residual Tax Customer Credit, the Settlement provides a \$38.0 million annual increase to the Company's electric revenues, and a \$7.5 million in natural gas revenues in Rate Year 1, and, in Rate Year 2, an additional increase of \$12.5 million to the Company's electric revenues, and \$1.5 million in natural gas revenues.

As a result of the Settlement, a typical residential electric customer using 932 kWhs per month will pay \$4.47 more per month in Rate Year 1, for an average monthly bill of \$89.99, and a typical residential electric customer using 932 kWhs per month will pay \$2.24 more per month in Rate Year 2, for an average monthly bill of \$92.23. A typical residential natural gas customer using 67 therms per month will pay \$0.20 more per month in Rate Year 1, for an average monthly bill of \$65.06; and a typical residential natural gas customer using 67 therms per month will pay \$0.52 more per month in Rate Year 2, for an average monthly bill of \$65.58.

¹ The Commission is working to adopt more inclusive language in its documents, and therefore describes a settlement as "results-focused" or "results-only" when underlying components of a settlement are not enumerated or supported by calculations. We encourage all investor-owned utilities, parties to proceedings, and interested persons to do the same. Please refer to footnote 239 for a more detailed explanation.

Other noteworthy terms the Commission approves as part of the Settlement include the establishment of a new Tariff Schedule 99 (the Colstrip Tracker) with an annual true-up to separately track and recover certain costs related to the Colstrip generating plant.

The Commission's approval of the Settlement also results in the historic first set of performance metrics (Attachment B to the Settlement and two metrics related to transportation electrification plus the commitment to develop additional reliability metrics) that will track data agreed to by the Settling Parties related to Avista's performance during the MYRP. The results of these metrics will be published, maintained, and tracked on Avista's website for public access and reported to the Commission. The metrics will be reported on either a quarterly or annual basis beginning 45 days after the end of the first quarter of 2023.

In addition to approving the Settlement, the Commission fulfills its obligation under RCW 80.28.425(7) to determine a set of performance measures to use in assessing Avista's operations during the MYRP. In particular, the Commission adopts nine performance measures related to operational efficiency, earnings, affordability, and energy burden for the purpose of assessing how much expense Avista incurs for every dollar it earns; the efficient use of Avista's assets to generate revenue, maintaining liquidity; how much net profit Avista gains through the revenues it earns; the amount of earnings retained by Avista vis-à-vis its total equity; and tracking affordability for, and the energy burden of, residential customers.

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BACKGROUND

- 1 This case concerns Avista Corporation's d/b/a Avista Utilities (Avista or Company) 2022 electric and natural gas general rate case (GRC) and its electric service reliability reporting plan.
- 2 On November 11, 2021, Avista filed with the Washington Utilities and Transportation Commission (Commission) its Electric Service Reliability Reporting Plan in Docket UE-210854 pursuant to Washington Administrative Code (WAC) 480-100-393, modifying its previous plan.
- 3 On January 21, 2022, Avista filed with the Commission revisions in Docket UE-220053 to its currently effective electric service tariff, Tariff WN U-28, and in Docket UG-220054 to its natural gas service tariff, Tariff WN U-29 (Avista 2022 GRC). The Company proposed a two-year rate plan with increases for electric and natural gas operations for Rate Year 1 effective December 21, 2022, and for Rate Year 2 effective December 21, 2023, as depicted in Table 1, below.
- 4 Concurrent with the effective date of its 2022 GRC, Avista proposes to partially offset the Company's requested increases, and return to customers the estimated incremental customer tax Accumulated Deferred Income Tax (ADIT) benefits of approximately \$25.5 million for electric and \$12.5 million for natural gas over a two-year amortization period through separate Tariff Schedules 78 (electric) and 178 (natural gas).² We refer to this return of tax benefits as the "Residual Tax Customer Credit" throughout this Order.³ Rate Year 1 rates are offset by this tax credit to result in an increase of 7.4 percent to *billed* rates for electric operations and 2.5 percent for natural gas operations.⁴ Rate Year 2 rates, as proposed by Avista, already embed the tax credit in base rates, but Avista notes that the resulting increase to *billed* rates is 3.0 percent for electric operations and 1.1 percent for natural gas operations.⁵

² Andrews, Exh. EMA-1T at 5:29-6:7. The amount of ADIT benefits to be returned to customers was updated during these consolidated proceedings to \$27.6 million for electric.

³ Avista refers to this return of tax benefits as the "Tax Customer Credit" under its initial proposal. Vermillion, Exh. DPV-1T at 18:18-23.

⁴ *Id.* at 18:23-19:14.

⁵ *Id.* at 19:5-14; *see* Avista Electric Summaries for Rate Year 1 & Rate Year 2 (filed Mar. 28, 2022) and Natural Gas Summaries for Rate Year 1 & Rate Year 2 (filed Jan. 21, 2022).

5 **Table 1. Avista’s Initial Proposal for Net Revenue Increases (in millions)**

	Electric		Natural Gas	
<i>Rate Year 1</i>	\$ 52.9	9.6%	\$ 10.9	9.5%
Residual Tax Customer Credit ⁶	\$ (12.8)		\$ (6.3)	
Net Increase	\$ 40.1	7.4%	\$ 4.6	2.5%
<i>Rate Year 2</i>	\$ 17.1	2.8%	\$ 2.2	1.7%
Residual Tax Customer Credit ⁷	\$ (0.0)		\$ (0.0)	
Net Increase	\$ 17.1	2.8%	\$ 2.2	1.7%

6 On January 27, 2022, the Commission entered Order 01, consolidating Dockets UE-220053 and UG-220054, suspending the tariff revisions, and setting the matters for adjudication.

7 The Commission entered a Protective Order, Order 02, in Dockets UE-220053 and UG-220054 (Consolidated) on January 31, 2022.⁸

8 On February 14, 2022, the Commission convened a virtual prehearing conference before Administrative Law Judge Andrew J. O’Connell.

9 On February 16, 2022, the Commission issued Order 03, Prehearing Conference Order; Notice of Hearing, adopting with minor modifications the agreed procedural schedule and setting a hearing to begin on September 21, 2022. Order 03 also granted intervention to the Alliance of Western Energy Consumers (AWEC), the NW Energy Coalition (NVEC), The Energy Project (TEP), Sierra Club, and Small Business Utility Advocates (SBUA).

⁶ Amortized over two years, Avista’s initial proposal for the Residual Tax Customer Credit of approximately \$25.5 million for electric would result in approximately \$12.8 million annually, and of approximately \$12.5 million for natural gas would result in approximately \$6.3 million annually.

⁷ Amortization of the Residual Tax Customer Credit is embedded in year two base rates.

⁸ The Commission would later consolidate these dockets with Docket UE-210854 by Order 07/01.

- 10 On February 16, 2022, Walmart, Inc., (Walmart) filed a late-filed petition to intervene.
- 11 On February 28, 2022, the Commission convened a second virtual prehearing conference to address processes, procedures, and applications for participatory funding. Pursuant to RCW 80.28.430, utilities must enter into funding agreements with organizations that represent broad customer interests. The Commission is directed to determine the amount of financial assistance, if any, that may be provided to any organization; the way the financial assistance is distributed; the way the financial assistance is recovered in a utility's rates; and other matters necessary to administer the agreement.⁹
- 12 The Commission's Policy Statement on Participatory Funding for Regulatory Proceedings (Policy Statement) provides "high-level guidance regarding the amount of financial assistance that may be provided to organizations, the manner in which it is distributed to participants and recovered in the rates of gas or electrical companies, and other matters necessary to administer agreements."¹⁰ In Docket U-210595, the Commission approved and adopted an interim agreement on participatory funding, subject to certain modifications.¹¹
- 13 On March 1, 2022, the Commission entered Order 04, Second Prehearing Conference Order, granting Walmart's unopposed late-filed petition to intervene and adopting the schedule discussed at the February 28, 2022, conference. Order 04 required organizations seeking a fund grant to file a request for case certification and notice of intent to request a fund grant by March 9, 2022.
- 14 By March 9, 2022, AWEC, TEP, NWECA, and SBUA had each filed with the Commission a request for case certification and notice of intent to request a fund grant.
- 15 On March 16, 2022, the Commission issued a Notice of Bench Requests Nos. 1 and 2, requesting additional information relevant to participatory funding from NWECA, TEP, and SBUA. NWECA, TEP, and SBUA each filed its response with the Commission on March 18, 2022.

⁹ RCW 80.28.430(2).

¹⁰ *In re Examination of Participatory Funding Provisions for Regulatory Proceedings*, Docket U-210595, Policy Statement, ¶ 3 (Nov. 19, 2021) [hereinafter *Participatory Funding Policy Statement*].

¹¹ *In re Petition of Puget Sound Energy, et al.*, Docket U-210595, Order 01 (Feb. 24, 2022).

- 16 On March 24, 2022, the Commission entered Order 05, Granting Requests for Case Certification. Order 05 granted case certification to AWEC, NVEC, TEP, and SBUA, and directed each to file a proposed budget within 30 days.
- 17 AWEC, TEP, NVEC, and SBUA all timely filed with the Commission proposed budgets by April 25, 2022.
- 18 On May 27, 2022, the Commission entered Order 06, Approving and Rejecting Proposed Budgets for Fund Grants. Order 06 approved the proposed budgets of AWEC, NVEC, and TEP, but rejected the proposed budget of SBUA, finding that SBUA failed to establish a sufficient connection to Washington ratepayers.
- 19 Also on May 27, 2022, the Commission entered Order 07/01, consolidating Dockets UE-220053 and UG-220054 with Docket UE-210854 pursuant to Commission staff's (Staff) unopposed motion to consolidate.
- 20 On June 6, 2022, SBUA filed with the Commission a petition for interlocutory review, requesting the Commission modify Order 06 and approve SBUA's proposed budget.
- 21 On July 11, 2022, the Commission entered Order 08/02, Granting Petition for Interlocutory Review, In Part; Approving Proposed Budget Subject to Condition (Order 08). Order 08 approved SBUA's proposed budget in the amount of \$20,000 to be used for attorney fees and expert witness fees only, subject to the condition that SBUA file a confidential list of its members concurrent with its request for reimbursement later in these consolidated proceedings.¹²
- 22 On June 13, 2022, the Commission suspended the procedural schedule in these consolidated matters pursuant to a joint request from the parties, indicating that the parties had reached a full multiparty settlement.
- 23 On June 22, 2022, the Commission issued a Notice Adopting Agreed Procedural Schedule and Notice of Hearing, setting a virtual hearing on the full multiparty settlement

¹² Order 08 found that requiring the confidential submission of its membership list is neither unusual nor extraordinary, observing that other organizations have provided confidential membership lists in other proceedings and would assist the Commission with evaluating SBUA's connection to Washington ratepayers (citing AWEC's confidential filing of its membership lists in Cascade Natural Gas Corporation's general rate case, Docket UG-210755, in support of its proposed budget and in Puget Sound Energy's general rate case, Dockets UE-220066 and UG-220067 (*Consolidated*), in support of its petition to intervene). Order 08 at 6, ¶ 20, n. 4.

for September 21, 2022. Avista, Staff, AWEC, NWECA, TEP, Sierra Club, SBUA, and Walmart (Settling Parties) agreed to the full multiparty settlement.

24 On June 28, 2022, the Settling Parties filed with the Commission their Full Multiparty Settlement Stipulation (Settlement). The Settlement and Attachment A to the Settlement are attached to this Order as Appendix A.

25 On July 8, 2022, the Settling Parties filed with the Commission their joint testimony in support of the Settlement.

26 On July 29, 2022, the Settling Parties filed with the Commission their supplemental joint testimony in support of the Colstrip Tracker and Tariff Schedule 99, one of the items addressed by the Settlement.

27 Also on July 29, 2022, the Public Counsel Unit of the Washington Attorney General's Office (Public Counsel) filed with the Commission its testimony opposing the Settlement.

28 On August 19, 2022, Avista filed with the Commission rebuttal testimony responding to Public Counsel's opposition testimony.

29 On September 7, 2022, the Commission issued Order 09/03, granting an unopposed motion by Avista to revise Attachment C to the Settlement.

30 Also on September 7, 2022, the Commission held a virtual public comment hearing in these consolidated matters. No person offered comments.

31 On September 21, 2022, the Commission held a virtual settlement hearing and received testimony from a panel of witnesses representing the Settling Parties and Avista witnesses. At the hearing, the parties stipulated to the admission of all exhibits into the record. Due to time constraints, the Commission continued a portion of the hearing until a later date.

32 On September 23, 2022, the Commission issued a notice reconvening the virtual settlement hearing for September 30, 2022, to receive testimony from Avista witnesses whose testimony could not be heard on September 21, 2022.

33 On September 30, 2022, the Commission reconvened the virtual settlement hearing and received all remaining testimony from witnesses.

- 34 On October 14, 2022, Public Counsel filed with the Commission its response to Bench Request No. 3, which contained all public comments received in these consolidated dockets. Over the course of the proceeding, including the public comment hearing, the Commission and Public Counsel received 30 comments from Washington customers regarding the proposed rate increases. All comments opposed a rate increase.¹³ The comments focused on a variety of topics, including the unaffordability of residential rates (especially for those on fixed incomes), insufficient or inadequate programs, and rate design.¹⁴
- 35 On October 20, 2022, Avista filed with the Commission its responses to Bench Requests Nos. 4-6, which regarded details of how the Residual Tax Customer Credit was to be passed back to customers during the proposed two-year rate plan, the cumulative impact on net plant balances related to removing Colstrip Dry Ash from Rate Year 1 and Rate Year 2, and the resulting monthly bill for average electric and natural gas residential customers if the Settlement were approved, respectively.
- 36 On October 21, 2022, Avista, Staff, Public Counsel, AWEC, NVEC, TEP, and SBUA filed post-hearing briefs with the Commission. Walmart filed a letter with the Commission indicating it would not file a post-hearing brief.
- 37 Also on October 21, 2022, Avista filed with the Commission its 2022 Draft Electric Service Reliability Reporting Plan for informational purposes.
- 38 On November 23, 2022, Avista filed with the Commission its response to Bench Request No. 7 related to the Settling Parties' reference to Avista's updated cost of debt during the pendency of these consolidated proceedings and the source material for that update.
- 39 David J. Meyer, Vice President and Chief Counsel for Regulatory and Governmental Affairs, Spokane, Washington, represents Avista. Sally Brown, Senior Assistant Attorney General, Jeff Roberson, and Nash I. Callaghan, Assistant Attorneys General, Olympia, Washington, represent Staff.¹⁵ Nina Suetake, Ann Paisner, and Lisa Gafken, Assistant

¹³ Public Comments, Exh. BR-3.

¹⁴ *See id.*

¹⁵ In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

Attorneys General, Seattle, Washington, represent Public Counsel. Tyler Pepple and Sommer J. Moser, Davison Van Cleve, P.C., Portland, Oregon, represent AWEC. Irion Sanger, Joni Sliger, and Ellie Hardwick, Sanger Law P.C., Portland, Oregon, represent NWEA. Yochanan Zakai and Stacy Lee, Shute, Mihaly & Weinberger LLP, San Francisco, California, represent TEP. Gloria D. Smith, Managing Attorney, Sierra Club Environmental Law Program, Oakland, California; James M. Van Nostrand, Oakland, California; and Jim Dennison, Colorado, represent Sierra Club. Jeff Winmill, James M. Birkelund, and Jennifer Weberski, San Francisco, California, represent SBUA. Vicki M. Baldwin, Parsons Behle & Latimer, Salt Lake City, Utah, represents Walmart.

DISCUSSION AND DECISION

- 40 The Commission’s statutory duty is to establish rates, terms, and conditions for electric and natural gas services that are equitable, fair, just, reasonable, and sufficient. In doing so, the Commission must balance the needs of the public to have safe, reliable, and appropriately priced service with the financial ability of the utility to provide that service. The rates thus must be equitable, in that the distribution of burdens and benefits should reduce, rather than perpetuate, ongoing systemic harms; fair to both customers and the utility; just, in that the rates are based solely on the record in this case following the principles of due process of law; reasonable, in light of the range of potential outcomes presented in the record; and sufficient, to meet the financial needs of the utility to cover its expenses and attract capital on reasonable terms.
- 41 The Commission is presented with a Settlement that proposes to resolve all disputed issues. The Commission approves settlements “when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.”¹⁶ The Commission may approve the Settlement, with or without conditions, or reject it. We determine that, subject to conditions, the Settlement is lawful, its terms are supported by an appropriate record, and its result is consistent with the public interest in light of all the information available. We explain our reasoning, below.
- 42 In the decisions we make in this Order, we also consider recent federal legislative action that will impact Washington investor-owned utilities. On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act (IIJA), which provides a strategic opportunity to upgrade the nation’s energy infrastructure for a clean, resilient,

¹⁶ WAC 480-07-750(1).

and secure energy future.¹⁷ The IIJA funds over 350 programs to be overseen through more than a dozen federal departments and agencies.¹⁸ On August 16, 2022, President Biden signed the Inflation Reduction Act (IRA) into law.¹⁹ The IRA is a fiscal policy instrument enacted by the federal government to counterbalance the effects of inflation in specific areas of the economy. It also represents the United States' single largest investment to date to modernize its energy system.²⁰

43 The impacts of these laws on rates are not yet known, but it is apparent that both could greatly impact Avista's utility operations during the multi-year rate plan (MYRP) agreed by the Settling Parties. Many aspects of Avista's operations, costs, funding, and financial health may be impacted by these new laws including extension of investment tax credits, creation of new tax credits, accelerated depreciation of clean electricity facilities, and extension of tax credits for investment in certain energy properties, among other aspects.²¹ The Biden administration announced additional funding to provide increased

¹⁷ Infrastructure Investment and Jobs Act of 2021, Pub. L. No. 117-58, 135 Stat. 429 (2021) [hereinafter IIJA].

¹⁸ The White House, *A Guidebook to the Bipartisan Infrastructure Law for State, Local, Tribal, and Territorial Governments, and Other Partners* (May 2022), <https://www.whitehouse.gov/wp-content/uploads/2022/05/BUILDING-A-BETTER-AMERICA-V2.pdf>.

¹⁹ Inflation Reduction Act of 2022, Pub. L. No. 117-169, 136 Stat. 1818 (2022) [hereinafter IRA].

²⁰ Jessie Ciulla, Gennelle Wilson, and Rachel Gold, *What Utility Regulators Needs to Know about the Inflation Reduction Act: How to Ensure the Biggest Boon to the Energy System in US History Supports Affordable, Reliable Electric Service*, Rocky Mountain Institute, 2022, <https://rmi.org/insight/what-utility-regulators-need-know-about-ira/>.

²¹ Several sections of the law are included for reference:

Modifies and extends through 2024 the tax credit for producing electricity from renewable resources. IRA at § 13101.

Creates a new clean electricity investment tax credit for investment in qualifying zero-emissions electricity generation facilities or energy storage technology. IRA at § 13702.

Allows a five-year recovery period for the depreciation of clean electricity facilities placed in service after 2024. IRA at § 13703.

Extends through 2024 the tax credit for investment in certain energy properties (*e.g.*, solar, fuel cells, waste energy recovery, combined heat and power, small wind property, microturbine property, and microgrid controllers). Increases credit rate for projects that pay prevailing wages and meet registered apprenticeship requirements. Allows a bonus credit amount for facilities that meet domestic content requirements for steel, iron, and manufactured projects and for facilities located in an energy community. IRA at § Sec. 13102.

Modifies the energy tax credit to allocate 1.8 gigawatts for environmental justice solar and wind capacity credits in low-income communities and Indian lands in 2023 and 2024. Facilities

support for low- and moderate-income families, and complementary tax credits that families and building owners can use under the IRA to install energy-saving equipment and to make building upgrades.²² More specifically, new resources have been allocated for the federal Low-Income Home Energy Assistance Program (LIHEAP), which has funds that will go to states, territories, and Tribes.²³

44 Other regulatory commissions have taken action to engage in participative processes to allow interested parties to discuss their thoughts on implementation and to take advantage of the benefits that the laws provide.²⁴ The impacts of tax credits and other financial provisions will result in changes that impact utility revenue requirement and, ultimately, changes in customers' bills. The IRA could bring significant reductions to energy costs

receiving allocations must be placed in service within four years after the allocation date. IRA at § 13103.

Creates a new tax credit for qualified commercial clean vehicles. IRA at § 13403.

²² The White House, *FACT SHEET: White House Announces Additional \$385 Million to Lower Home Energy Bills for American Families* (Apr. 21, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/21/fact-sheet-white-house-announces-additional-385-million-to-lower-home-energy-bills-for-american-families/>.

²³ *Id.*; Department of Energy, *Biden-Harris Administration Announces State and Tribe Allocations for Home Energy Rebate Program* (Nov. 2, 2022), <https://www.energy.gov/articles/biden-harris-administration-announces-state-and-tribe-allocations-home-energy-rebate>.

²⁴ *See In re Utility Infrastructure Improvements from the Federal Funding Available Under the Infrastructure Investment and Jobs Act of 2021: Alpena Power Co., et. al.*, Order, Docket U-21227, Mich. Pub. Serv. Comm'n (May 12, 2022), available at <https://mi-psc.force.com/sfc/servlet.shepherd/version/download/0688y000002tmfNAAQ>; *In re Infrastructure Investment and Jobs Act Investigation*, Order Requesting Comment Regarding the Infrastructure Investment and Jobs Act, Docket PU-22-143, N.D. Pub. Serv. Comm'n (Mar. 9, 2022), available at <https://www.psc.nd.gov/database/documents/22-0143/002-020.pdf>; *In re Consideration of the Federal Funding Available Under the Infrastructure Investment and Jobs Act*, Order Allowing Comments Regarding Federal Funding for Utility Service in North Carolina, Docket M-100, Sub 164, N.C. Utils. Comm'n (Feb. 1, 2022), available at <https://starw1.ncuc.gov/NCUC/ViewFile.aspx?Id=ee9659cf-dbd6-4ce6-b34f-e8073fcf744e>; *In re Investigation into the Implementation of the Federal Infrastructure Investment and Jobs Act*, Docket 22-755-AU-COI, Pub. Utils. Comm'n of Ohio (Aug. 10, 2022), available at <https://dis.puc.state.oh.us/ViewImage.aspx?CMID=A1001001A22H10B43213C01798>; *In re Petition to Open an Administrative Docket to Consider the Federal Infrastructure Investment and Jobs Act of 2021*, Directive Order Establishing Procedural Schedule for Written Comments and Reply Comments, Docket 2022-168-A, Pub. Serv. Comm'n of S.C. (Jun. 9, 2022), available at <https://dms.psc.sc.gov/Attachments/Matter/3f9d6c58-65f7-41c5-989c-7de70ef7cd2c>.

for customers, up to \$500 in energy bills savings per year.²⁵ At least one utility, the Florida Power & Light Company, is planning to phase in nearly \$360 million in additional federal tax savings for future planned solar projects starting in 2023 and through 2025. Other, more immediate, savings to customers will be provided in a one-time refund of \$25 million in the month of January 2023.²⁶

45 All testimony and exhibits were prefiled prior to the enactment of the IRA except for Avista's rebuttal testimony in support of the Settlement. The parties to these consolidated proceedings had no opportunity to consider any of the possible impacts of the IRA and IJA while negotiating, drafting, or presenting the Settlement to the Commission. Because these changes are significant, we make minor, prudent modifications to the Settlement where necessary to include the impacts of the IRA and IJA in our retrospective review of provisional plant. In addition, for any other IRA and IJA benefits unmentioned or unaddressed by this Order, we expect Avista will file with the Commission an accounting petition requesting to defer those benefits.

A. FULL MULTIPARTY SETTLEMENT STIPULATION²⁷

46 The Settlement submitted by the Settling Parties proposes to resolve all disputed issues in the proceeding. The Settlement's resolutions of many issues are uncontested or supported by Public Counsel. In its opposition testimony filed with the Commission on July 29, 2022, Public Counsel affirmatively states that many of the Settlement's terms are in the public interest.²⁸ These issues include:

- Performance Metrics;

²⁵ Jessie Ciulla, Gennelle Wilson, and Rachel Gold, *What Utility Regulators Needs to Know about the Inflation Reduction Act: How to Ensure the Biggest Boon to the Energy System in US History Supports Affordable, Reliable Electric Service*, Rocky Mountain Institute, 2022, <https://rmi.org/insight/what-utility-regulators-need-know-about-ira/>.

²⁶ *FPL proposes plan to refund customers nearly \$400 million in federal corporate tax savings*, News Releases, NEXtera Energy (Sep. 23, 2022), available at <https://www.investor.nexteraenergy.com/news-and-events/news-releases/2022/09-23-2022-133107538>.

²⁷ The Settlement is included as Appendix A to this Order. Appendix A is incorporated into, and made part of, this Order by this reference. In this Order, we briefly summarize the Settlement's proposed commitments. To the extent any arguable inconsistency exists between our summary and the terms of the Settlement, the terms of the Settlement control.

²⁸ Dahl, Exh. CJD-1T at 5:17-18.

- Colstrip Cost Recovery: investments in the Dry Ash Disposal System, Colstrip Tracker – Tariff Schedule 99;
- Low-Income Programs;
- Capital Projects Review;
- Residual Tax Customer Credit;
- Cost of Service, Rate Spread, and Rate Design;
- Climate Commitment Act (CCA);
- Small Business Energy Efficiency;
- Natural Gas Transition;
- Distributional Equity Analysis; and,
- Transportation Electrification.

47 However, Public Counsel argues that the Settlement as a whole is not in the public interest, and contests several of the Settlement’s terms.²⁹ Public Counsel asserts that “many components of the Settlement are unreasonable and lack the evidence necessary to support the included terms.”³⁰ Public Counsel recommends that the Commission accept its proposals to resolve certain issues differently than the Settlement.³¹ Those contested issues include:

- Overall Revenue Requirement;³²
- Cost of Capital;
- Projected Energy Imbalance Market (EIM) Benefits;
- Insurance Balancing Account; and,
- Wildfire Issues.

²⁹ *Id.* at 5:15-20.

³⁰ *Id.* at 5:18-19.

³¹ *Id.* at 5:21-6:2.

³² Public Counsel witness Dahl includes “Rate Escalation Study Terms” in Public Counsel’s list of Settlement terms it contests. Dahl, Exh. CJD-1T at 8:11. Upon further examination, we understand that Public Counsel’s opposition to the rate escalation study is tethered to its opposition to the Settlement’s revenue requirement, which Public Counsel argues are derived by use of the rate escalation study. *See* Brief of Staff at 3, n. 3. Public Counsel witness Coppola testifies that Public Counsel agrees with the Settling Parties that the escalation study filed by Avista is not reasonable and should not be used in future rate cases. Coppola, Exh. SC-1CT at 35:3-6. Because this reflects the Settlement’s terms regarding the rate escalation study, we consider this an uncontested issue in the remaining discussion of this Order but will consider Public Counsel’s arguments as part of its opposition to the Settlement’s revenue requirement.

48 It is clear from testimony supporting the Settlement that the Settling Parties entered into an agreement through a complex negotiating process that required them to give and take in different areas to arrive at a combination of resolutions that, taken as a whole, they support as consistent with the public interest.³³ Ultimately, Public Counsel's recommendations would require the Commission to upset the balance struck by the Settling Parties and reject the Settlement as a whole, including the many terms that Public Counsel asserts are in the public interest.³⁴ We decline to take such action. Instead, in review of the entire record before the Commission, we determine that the Settlement strikes an appropriate balance among the varied and diverse interests presented and find that it meets the standard for the Commission's approval, subject to certain conditions.

49 We address the uncontested and contested issues of the Settlement, in turn, below.

1. UNCONTESTED TERMS

50 Although a number of elements in the Settlement were uncontested, our statutory obligation to regulate in the public interest requires us to evaluate whether the Parties' agreed resolution of issues complies with applicable legal requirements, is supported by an appropriate record, and is consistent with the public interest based on all of the information available to the Commission. Upon review, we find that the Settlement's proposed resolutions of the uncontested issues are lawful, supported by an appropriate record, and consistent with the public interest.

i. Cost of Service: Rate Spread, Rate Design

51 The Settling Parties agree to Avista's rate design proposal in its initial filing but agree not to change the basic charge for Schedules 01/02 (electric) and Schedules 101/102 (natural gas).³⁵ Public Counsel supports the rate design agreed by the Settling Parties and believes it is in the public interest.³⁶ The Settling Parties agree to the rate spread illustrated in Table 2 and Table 3, below.³⁷ Public Counsel neither supports nor opposes the electric

³³ Settling Parties, Exh. JT-2 at 5, 20, ¶¶ 10, 29-30 [hereinafter Settlement].

³⁴ See Dahl, Exh. CJD-1T at 5:15-6:2.

³⁵ Settlement at 7, ¶ 12(b). Attachment A to the Settlement provides a summary of the current and revised rates and charges for electric and natural gas services.

³⁶ Dahl, Exh. CJD-1T at 28:8-29:2; Brief of Public Counsel at 44, ¶ 96.

³⁷ Settlement at 5-6, ¶ 12(a).

rate spread terms of the Settlement but does support and believe the natural gas rate spread is in the public interest.³⁸

52

Table 2. Electric Rate Spread

Electric Rate Schedule	Increase in Base Rates		Increase in Billing Rates	
			<i>before Offset</i>	<i>with Offsets</i>
<i>Rate Year 1</i>	<i>(in thousands)</i>			
Residential Service, 01/02	\$ 26,025	10.3%	10.8%	5.5%
General Service, 11/12	\$ 3,264	4.0%	3.7%	3.7%
Large General Service, 21/22	\$ 5,247	4.0%	3.7%	3.7%
Extra Large General Service, 25	\$ 823	2.0%	2.0%	2.0%
Extra Large Special Contract	\$ 435	2.0%	2.0%	2.0%
Pumping Service, 31/32	\$ 1,497	10.3%	9.5%	4.9%
Street & Area Lights, 41-48	\$ 709	10.3%	10.0%	5.1%
<i>Overall (Rate Year 1)</i>	\$ 38,000	6.9%	6.8%	4.3%
<i>Rate Year 2</i>	<i>(in thousands)</i>			
Residential Service, 01/02	\$ 6,318	2.3%		2.5%
General Service, 11/12	\$ 1,919	2.3%		2.1%
Large General Service, 21/22	\$ 3,087	2.3%		2.1%
Extra Large General Service, 25	\$ 420	1.0%		1.0%
Extra Large Special Contract	\$ 222	1.0%		1.0%
Pumping Service, 31/32	\$ 362	2.3%		2.2%
Street & Area Lights, 41-48	\$ 172	2.3%		2.3%
<i>Overall (Rate Year 2)</i>	\$ 12,500	2.1%		2.2%

³⁸ Dahl, Exh. CJD-1T at 27:12-28:7; Brief of Public Counsel at 44, ¶ 96.

53

Table 3. Natural Gas Rate Spread

Natural Gas Rate Schedule	Increase in Base Rates		Increase in Billing Rates	
			<i>before Offset</i>	<i>with Offsets</i>
<i>Rate Year 1</i>	<i>(in thousands)</i>			
General Service, 101/102	\$ 5,931	6.6%	4.3%	0.7%
Large General Service, 111/112/116	\$ 1,325	6.6%	3.1%	0.5%
Interruptible Service, 131/132	\$ 15	6.6%	2.8%	0.5%
Transportation Service, 146	\$ 229	6.6%	7.1%	1.2%
<i>Overall (Rate Year 1)</i>	<i>\$ 7,500</i>	<i>6.6%</i>	<i>4.0%</i>	<i>0.7%</i>
<i>Rate Year 2</i>	<i>(in thousands)</i>			
General Service, 101/102	\$ 1,185	1.2%		0.8%
Large General Service, 111/112/116	\$ 265	1.2%		0.6%
Interruptible Service, 131/132	\$ 3	1.2%		0.6%
Transportation Service, 146	\$ 47	1.2%		1.4%
<i>Overall (Rate Year 2)</i>	<i>\$ 1,500</i>	<i>1.2%</i>		<i>0.8%</i>

Commission Determination

54

We find the Settlement’s proposed rate spread and rate design are appropriate and in the public interest. The Settling Parties’ agreement moves the electric schedules gradually closer towards cost of service parity by allocating a larger share of the electric rate increase to residential customers – a consideration in cost of service that we discussed at length in Avista’s 2020 GRC Final Order.³⁹ While this attributes more of the electric revenue requirement increase to residential customers, the Settling Parties relieve some of this burden by agreeing to return a larger share of the Residual Tax Customer Credit, discussed in detail later, to residential customers, as can be seen by comparing the percentage increase attributed to the residential schedules identified in the column labeled

³⁹ Miller, Exh. JDM-1T at 7:20-8:3; see *Wash. Utils. & Transp. Comm’n v. Avista Corp., d/b/a Avista Utils.*, Dockets UE-200900, UG-200901, and UE-200894 (Consolidated), Final Order 08/05, 109-13, 116, 120-21, ¶¶ 307-20, 328-29, 341-42 (Sep. 27, 2021) [hereinafter 2020 Avista GRC Final Order].

“before Offset” with the column labeled “after Offsets” in Table 2 and Table 3, above.⁴⁰ Prior to offsets, which include the Residual Tax Customer Credit, residential customers will see a 10.8 percent increase in billing rates in Rate Year 1, while the average increase in billing rates across all electric customers is 6.8 percent. After offsets including the Residual Tax Customer Credit, the increase in billing rates is reduced to 5.5 percent for residential customers and an average 4.3 percent increase across all electric customers.

- 55 All parties support the electric rate design, natural gas rate design, and natural gas rate spread. The Settling Parties’ agreement removes Avista’s initially proposed increase to all electric basic charges and residential natural gas basic charges but maintains increases to the natural gas basic charge for some non-residential schedules.⁴¹ Lastly, all parties support the agreed natural gas rate spread terms that will share an equal percentage of margin increase to the schedules.
- 56 As a result of the Settlement, in Rate Year 1 a typical residential electric customer using 932 kWhs per month will pay \$4.47 more per month, for an average monthly bill of \$89.99. In Rate Year 2, a typical residential electric customer using 932 kWhs per month will pay \$2.24 more per month, for an average monthly bill of \$92.23. In Rate Year 1, a typical residential natural gas customer using 67 therms per month will pay \$0.20 more per month, for an average monthly bill of \$65.06. In Rate Year 2, a typical residential natural gas customer using 67 therms per month will pay \$0.52 more per month, for an average monthly bill of \$65.58.⁴²
- 57 We find the Settlement’s resolution of the cost of service issues, including the electric and natural gas rate spread and rate design, appropriate and in the public interest. Accordingly, we determine that the cost of service, rate spread, and rate design terms should be approved.

⁴⁰ Joint Testimony, Exh. JT-1T at 17:21-18:2. While stating that it does not oppose or support the Settlement’s electric rate spread terms, Public Counsel recognizes that the Settling Parties’ agreement provides a larger share of the tax refund amounts to residential customers and “is intended to offset a portion of the increased rates allocated to residential customers.” Dahl, Exh. CJD-1T at 27:7-11.

⁴¹ Joint Testimony, Exh. JT-1T at 16:12-17:20, 18:9-19:7, 20:7-21:5.

⁴² Response to BR-6.

ii. Residual Tax Customer Credit

- 58 On March 11, 2021, the Commission entered Order 01 in Dockets UE-200895 and UG-200896, which granted Avista's petition requesting the Commission (1) authorize changing the Company's accounting method from normalization to flow-through for regulatory purposes for federal income tax expense associated with Industry Director Directive No. 5 (IDD #5) and meters, and (2) allow Avista to defer for later ratemaking treatment the tax benefits associated with the change. That change in methodology resulted in amounts due to be returned to customers of approximately \$58.1 million, electric, and \$28.2 million, natural gas (Tax Customer Credit).⁴³ In the Final Order of Avista's 2020 GRC, the Commission determined that the Tax Customer Credit amounts should be returned to customers through Tariff Schedules 76 and 176 over a two-year period beginning October 1, 2021, according to the rate spread approved in the 2020 Avista GRC Final Order to offset exactly, in conjunction with the AFUDC Deferral established by the settlement agreement in the 2020 Avista GRC, the rate increase approved by the 2020 Avista GRC Final Order.⁴⁴
- 59 A portion of the Tax Customer Credit remains unreturned to ratepayers.⁴⁵ This unused portion is approximately \$27.6 million, electric, and \$12.5 million, natural gas (Residual Tax Customer Credit).⁴⁶ In the 2020 Avista GRC Final Order, the Commission stated it would reexamine the Residual Tax Customer Credit amount and how to appropriately return it to customers in this current GRC.⁴⁷
- 60 The Settling Parties agree that Avista will return the Residual Tax Customer Credit of approximately \$27.6 million, electric, and \$12.5 million, natural gas, to customers through separate Tariff Schedules 78 (electric) and 178 (natural gas) over a two-year amortization period beginning December 21, 2022. Public Counsel supports accelerating the pass-through of tax benefits to customers.⁴⁸

⁴³ 2020 Avista GRC Final Order at 44, ¶ 115.

⁴⁴ *Id.* at 45, ¶ 120.

⁴⁵ Miller, Exh. JDM-1T at 31:14-17.

⁴⁶ *See id.* at 31:17-32:2; Settlement at 7, ¶ 13.

⁴⁷ 2020 Avista GRC Final Order at 46, ¶ 121.

⁴⁸ Coppola, Exh. SC-1CT at 13:13-14:11.

Commission Determination

61 We find the Settlement’s proposed treatment of the Residual Tax Customer Credit to be in the public interest. The Residual Tax Customer Credit will be amortized over the two-year rate plan to provide a substantial reduction to customer bills as illustrated in Table 2 and Table 3, above. No party opposes this treatment. As the Commission reasoned in the 2020 Avista GRC Final Order, we likewise find the Settling Parties’ proposal to return the Residual Tax Customer Credit through separate Tariff Schedules 78 (electric) and 178 (natural gas) appropriate because it will allow the Commission to best track the return of these benefits to customers. We also find that beginning the process of returning these benefits to customers on the effective date of December 21, 2022, to coincide with the MYRP proposed by the Settlement, will appropriately offset a significant portion of the revenue requirement increases we approve with this Order. Accordingly, we determine that the Settling Parties’ agreed treatment of the Residual Tax Customer Credit should be approved.

iii. Colstrip Cost Recovery: Investments in the Dry Ash Disposal System, Colstrip Tracker – Tariff Schedule 99

62 The Settlement contains two terms, in addition to their incorporation into the agreed rate spread and rate design, related to the Colstrip generation plant: the Dry Ash Disposal System, and a new Colstrip Tracker using Tariff Schedule 99.⁴⁹ First, the Settling Parties agree that the Settlement’s revenue requirement does not include any costs related to the Dry Ash Disposal System.⁵⁰

63 Second, the Settling Parties propose a mechanism with an annual true-up to separately track and potentially recover, subject to a prudence review, certain costs through Tariff Schedule 99 (Colstrip Tracker).⁵¹ The Colstrip Tracker will allocate costs to the rate schedules using a proportional allocation of the first rate year’s base revenue spread

⁴⁹ Settlement at 7-9, ¶ 14. Regarding Schedule 99’s rate spread and rate design, the Settling Parties agree that the costs removed from base rates will be allocated to the rate schedules through Schedule 99 using a proportional allocation of the Rate Year 1 base revenue spread and that the revenue will be recovered through volumetric charges on a uniform cent per kWh basis. *Id.*

⁵⁰ Joint Testimony, Exh. JT-1T at 21:18-20; Joint Testimony, Exh. JT-3T at 4:16-5:1.

⁵¹ Joint Testimony, Exh. JT-1T at 22:2-6; Joint Testimony, Exh. JT-3T at 3:1-5, 4:6-11.

recovered through volumetric charges.⁵² The following Colstrip costs, totaling approximately \$23.9 million, will be removed from base rates and tracked, reported, and recovered, subject to review, through the Colstrip Tracker:

- a. Colstrip Unit 3 and 4 utility plant net of accumulated depreciation (A/D) and ADFIT, excluding all costs associated with the Dry Ash Disposal System project as agreed in the Settlement;
- b. Colstrip Regulatory Asset and Liability balances related to decommissioning and remediation (D&R) costs, as first agreed by the settling parties in the 2019 Avista GRC;⁵³
- c. Production O&M;
- d. Depreciation and amortization expense, including the recovery of plant and the Colstrip Regulatory Asset/Liability for D&R costs; and
- e. Other costs, including the amortization expense of the Deferred Colstrip Transition Fund, Federal income tax expense, and the tax benefit of debt interest.⁵⁴

64 The Colstrip Tracker will begin December 21, 2022, with the effective date authorized by this Order, and Avista will make an annual filing every October 31 to true up and reset the mechanism effective each January 1.⁵⁵ Parties will have 60 days to review Avista's Colstrip Tracker filing and any new Colstrip capital investment for prudence.⁵⁶ The Settlement prohibits opposition to either a request for an adjudication or an extension of the 60-day review period.⁵⁷

⁵² Joint Testimony, Exh. JT-3T at 5:4-10, 9:27-32. The proportion of Tariff Schedule 99 allocated to each rate schedule is the same as the proportion of revenue being removed from the base rates of each schedule. *Id.* The Settling Parties agree that this allocation will be used for the life of Tariff Schedule 99. *Id.* Tariff Schedule 99's rate design recovers the revenue through the volumetric charges on a uniform cent per kWh basis. *Id.*

⁵³ *Wash. Utils. & Transp. Comm'n v. Avista Corp., d/b/a Avista Utils.*, Dockets UE-190334, UG-190335, UE-190222 (Consolidated), Final Order 09, ¶¶ 47-50 (Mar. 25, 2020).

⁵⁴ Joint Testimony, Exh. JT-3T at 3:1-12, 4:6-6:5, 8:6-9:19; Joint Testimony, Exh. JT-1T at 22:2-6. The costs removed do not include Dry Ash Disposal costs (which will not be recovered according to the Settlement), or the transmission investment and costs included in the Energy Recovery Mechanism, which would both remain in base rates.

⁵⁵ Joint Testimony, Exh. JT-3T at 6:7-10.

⁵⁶ *Id.* at 10:13-15.

⁵⁷ *Id.*

- 65 According to the Settlement, the review of Avista’s Colstrip Tracker filing will include a prudence review of incurred costs; O&M and other expense items (production O&M and amortization expense) on the test period/restated basis during the two-year rate plan agreed in this case and forecasted thereafter; updated lifetime D&R cost estimates; actual non-O&M costs from the filing year through August 31 and estimated through December 31 (which creates a one-year lag in the recovery of these actual costs), and a true-up to actuals of any forecasted amounts.⁵⁸
- 66 Finally, the Settlement outlines how it accommodates the requirements of Washington’s Clean Energy Transformation Act (CETA) to remove the total costs for Colstrip capital investment and operating expenses, excluding Colstrip transmission investments and ongoing D&R costs, from customer rates after December 31, 2025.⁵⁹ The Settling Parties state that “after December 31, 2025, the net Colstrip rate base balances included within Tariff Schedule 99 on a 2025 AMA basis and the appropriate Colstrip expenses would be removed from Tariff Schedule 99.”⁶⁰ Thus, beginning January 1, 2026, the Colstrip Tracker will include only annually-updated ongoing D&R net rate base balances and Colstrip Regulatory amortization expense (items b. and d. from the above list of costs to be removed from base rates).⁶¹ While the Colstrip D&R cost accounting was included in this GRC, it will not be included in future GRCs because the Settlement removes the costs from base rates.⁶² Instead, the accounting for these D&R costs will continue according to the settlement approved in Avista’s 2019 GRC, but the recording and tracking will be included in the annual Colstrip Tracker.⁶³ Public Counsel supports the Settlement’s Colstrip terms.

Commission Determination

- 67 We find the Settlement’s agreement related to Colstrip reasonable and appropriate. Public Counsel argues that the Settlement’s terms regarding Colstrip are in the public interest

⁵⁸ *Id.* at 6:11-21.

⁵⁹ *Id.* at 12:8-13, 13:11-23.

⁶⁰ *Id.* at 12:10-13.

⁶¹ *Id.* at 13:1-4.

⁶² *Id.* at 13:24-26, 14:18-20.

⁶³ *Id.* at 14:20-23; *Wash. Utils. & Transp. Comm’n v. Avista Corp., d/b/a Avista Utils.*, Dockets UE-190334, UG-190335, UE-190222 (*Consolidated*), Final Order 09, ¶ 49 (Mar. 25, 2020). Avista’s share of these D&R costs is currently estimated at \$28 million, \$4.0 million of which has been incurred by Avista through September 30, 2021. Joint Testimony, Exh. JT-3T at 15:1-2.

because “they will assist in the Company’s CETA compliance obligations” and will “assist the Commission and other [interested persons to] identify which Colstrip-related costs should and should not be included in customer rates as the clean energy transition proceeds.”⁶⁴ We agree.

68 CETA requires each Washington electric utility to “eliminate coal-fired resources from its allocation of electricity” exclusive of “costs associated with decommissioning and remediation of” coal-fired facilities.⁶⁵ The Settling Parties’ agreement will aid the Commission and all interested parties in identifying and tracking costs appropriately recovered from Washington ratepayers. In addition, the Settlement establishes expectations and procedures that will ensure a transparent and fair review of the amounts to be recovered through the Colstrip Tracker. Accordingly, we determine that the Settling Parties’ agreements regarding Colstrip should be approved.

iv. Escalation Study

69 In its initial filing, Avista presented an escalation study with a growth rate methodology to use “for the purposes of escalating certain regulatory balances in the determination of future revenue requirements during multi-year rate plans, and beyond first or second year pro forma study levels.”⁶⁶ The escalation study is described in Avista’s initial filing by its witness Andrews and utilizes Dr. Forsyth’s Escalator Growth Rates.⁶⁷ The Settlement provides that “[t]he Settling Parties do not agree that the escalation study filed by Avista is reasonable or should be used in future rate cases.”⁶⁸ Public Counsel agrees with the Settling Parties.⁶⁹

Commission Determination

70 We find the Settlement’s agreement related to Avista’s escalation study reasonable. Accordingly, we determine that the Settling Parties’ agreement regarding Avista’s escalation study should be approved.

⁶⁴ Dahl, Exh. CJD-1T at 25:17-26:5.

⁶⁵ RCW 19.405.030(1)(a).

⁶⁶ Andrews, Exh. EMA-1T at 76:5-8.

⁶⁷ *Id.* at 75:1-79:5; Forsyth, Exh. GDF-1T at 5:5-8:9.

⁶⁸ Settlement at 9, ¶ 17.

⁶⁹ Coppola, Exh. SC-1CT at 35:4-6; *see supra* n. 32.

v. Capital Planning

- 71 As a term of the Settlement, Avista agrees to make a compliance filing in these Dockets by the end of the MRYP, demonstrating how it considers equity in its capital planning process.⁷⁰ Specifically, Avista will include in its compliance filing a process or procedure for how its Board of Directors and senior management will incorporate equity into its business planning, including how Avista will plan for equitable outcomes when evaluating business cases.⁷¹ Avista will also include templates to be used in its business cases.⁷² These templates will require sponsors to demonstrate how they planned for equitable outcomes in each business case.⁷³ In addition, Avista will work with its Equity Advisory Group (EAG) and interested persons to develop new equity-related measures, costs, and benefits to be included in its benefit and cost analysis, including qualitative and non-qualitative measures related to societal impacts, non-energy benefits and burdens, indoor and outdoor air quality, the Social Cost of Carbon, and Named Communities.⁷⁴
- 72 Avista will also include in its post-MYRP compliance filing a plan for measuring and tracking the impacts from each business case after the project’s completion, “with a specific eye towards identifying equitable outcomes, and how the Company will engage in adaptive management to correct course during Business Cases when it is necessary to avoid inequitable outcomes.”⁷⁵ The plan for measuring and tracking impacts must include assessments of impacts from business cases and, wherever possible, feedback from interested persons and communities impacted by the business case.⁷⁶ The plan for measuring and tracking impacts should also demonstrate the importance of the issues to Named Communities along with “a holistic picture of the current conditions faced in those communities.”⁷⁷

⁷⁰ See Settlement at 10, ¶ 18.

⁷¹ Settlement at 10, ¶ 18.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.* “Named Communities” refers to highly impacted communities and vulnerable populations.

⁷⁵ Settlement at 10, ¶ 18.

⁷⁶ *Id.*

⁷⁷ *Id.*

Commission Determination

73 We find the Settlement’s terms related to Avista’s capital planning and the inclusion of equity considerations in that planning appropriate. As we stated in our final order in Cascade Natural Gas Company’s most recent general rate case (Cascade Final Order), “Recognizing that no action is equity-neutral, regulated companies should inquire whether each proposed modification to their rates, practices, or operations corrects or perpetuates inequities.”⁷⁸ Accordingly, the Settlement terms requiring Avista to make a compliance filing demonstrating changes to its capital planning to include equity considerations will provide an opportunity for Avista to demonstrate its progress towards addressing the principles identified in the Cascade Final Order, and in particular a comprehensive understanding of the ways systemic and historical inequities are present and continue to operate. We therefore approve the terms.

74 The processes or procedures Avista considers for all capital planning should consider and implement energy justice and its core tenets. The core tenets of energy justice are:

- Distributional justice, which refers to the distribution of benefits and burdens across populations. This objective aims to ensure that marginalized and vulnerable populations do not receive an inordinate share of the burdens or are denied access to benefits.
- Procedural justice, which focuses on inclusive decision-making processes and seeks to ensure that proceedings are fair, equitable, and inclusive for participants, recognizing that marginalized and vulnerable populations have been excluded from decision-making processes historically.
- Recognition justice, which requires an understanding of historic and ongoing inequalities and prescribes efforts that seek to reconcile these inequalities.
- Restorative justice, which is using regulatory government organizations or other interventions to disrupt and address distributional, recognitional, or procedural injustices, and to correct them through laws, rules, policies, orders, and practices.⁷⁹

⁷⁸ *Wash. Utils. & Transp. Comm’n v. Cascade Natural Gas Corp.*, Docket UG-210755, Order 09, 19, ¶ 58 (Aug. 23, 2022) (citing RCW 80.28.425(1) [hereinafter Cascade Final Order]).

⁷⁹ *Id.* at 18, ¶ 56.

vi. Distributional Equity Analysis

75 To better incorporate equity into its capital planning processes, the Settling Parties agree to develop methods and standards for distributional equity analysis (consistent with guidance provided in the New York University Institute for Policy Integrity, 2022), and to file those methods and standards for Commission approval within 24 months of this Order.⁸⁰ The Settlement provides that Staff will direct this process and select a facilitator for Avista to hire.⁸¹ If the Settling Parties disagree regarding these methods and standards, the Settling Parties agree that each will file separate proposals for Commission consideration and approval.⁸² Public Counsel agrees with the Settling Parties that the agreement to develop methods and standards for distributional equity analysis is in the public interest.⁸³

Commission Determination

76 There is a clear need for a process to develop methods and standards for distributional equity analysis. Additionally, we agree that of all the Settling Parties, Staff possesses an expertise and impartiality that makes its selection as the directing party in the proposed process appropriate. We disagree, however, that the process proposed by the Settling Parties is the most appropriate option and find that it is appropriate for the Commission to establish a Commission-led collaborative proceeding to address these issues.

77 The issue of equity, broadly, and the need to consider distributional equity in planning processes affects all utility companies regulated by the Commission. The development of a plan for distributional equity requires input, collaboration, and buy-in from persons and parties not included or represented in Avista's general rate case. Lastly, the importance of this work demands a shared burden of responsibilities and a process that shares and allocates power inclusively. For the above reasons, the Commission finds it appropriate to require the modification of the Settling Parties' agreement for distributional equity analysis and determines that it will facilitate a broader Commission-led collaborative involving all regulated utilities and interested persons. In their post-hearing briefs, both

⁸⁰ Settlement at 11, ¶ 19.

⁸¹ *Id.*; Joint Testimony, Exh. JT-1T at 27:19-20.

⁸² Settlement at 11, ¶ 19.

⁸³ Dahl, Exh. CJD-1T at 24:12-13.

Staff and Avista conveyed comfort with and support for a Commission-led collaborative or generic proceeding.⁸⁴

78 Accordingly, we determine that approving the Settlement should be conditioned on certain modifications to the process outlined by the Settling Parties' agreement to develop methods and standards for distributional equity analysis.

Condition. We condition our approval of the Settlement on the modification of the portion regarding distributional equity analysis. Instead of the process the Settling Parties have agreed (that Staff will direct this process and select a facilitator for Avista to hire), we determine that the Commission should establish a broad, Commission-led collaborative process to establish methods and standards for distributional equity analysis and that Avista should be required to participate, as is the expectation for all Washington investor-owned utilities. Subject to this condition, we determine that the Settling Parties' agreement regarding distributional equity analysis is in the public interest and should be approved.

vii. Capital Projects Review

79 The Settling Parties agree to the reporting process for reviewing capital projects outlined in Avista witness Andrews's testimony, with certain changes.⁸⁵ Avista's provisional capital reporting will include assurance that the "provisional capital included prior to the rate effective period (for 2022 capital) and during [Rate Year 1] (2023 capital) and [Rate Year 2] (2024 capital) is in service for customers during the rate effective periods, or will be subject to refund."⁸⁶ The Settling Parties' proposed changes extend the review period from three to four months to allow parties to review and respond to Avista's annual capital report filing. Within 30 days of completing the capital projects review, Avista would be required to file with the Commission an accounting petition to provide refunds, and create a separate tariff through which rate refunds to customers will be returned and spread to schedules based on an equal share of base rate revenues, exclusive of tax credit refunds.⁸⁷ For the purposes of the Capital Projects Review only (*i.e.*, for the comparison of provisional capital additions included in Rate Year 1 and Rate Year 2), the Settling Parties further agree that Rate Year 1 and Rate Year 2 capital additions and rate base are

⁸⁴ Brief of Staff at ¶ 23; Brief of Avista at ¶ 38, n. 26.

⁸⁵ Settlement at 11-12, ¶ 20; Andrews, Exh. EMA-1T at 45:10-48:2.

⁸⁶ Andrews, Exh. EMA-1T at 46:1-4.

⁸⁷ Settlement at 11-12, ¶ 20.

adopted as initially filed by Avista except with the exclusion of the Dry Ash Disposal System.⁸⁸ Table 4, below, illustrates the updates from the Settlement to net plant balances for Rate Year 1 and Rate Year 2.⁸⁹ Public Counsel supports the terms regarding Capital Project Review and believes they are in the public interest.⁹⁰

80 **Table 4. Two-Year Rate Plan Net Plant After ADFIT Balances (in thousands)⁹¹**

	Electric Rate Base	Natural Gas Rate Base
Test Period	\$ 1,797,278	\$ 438,149
<i>Adjustments</i>	\$ 189,878	\$ 71,999
Rate Year 1	\$ 1,987,156	\$ 510,148
Dry Ash Disposal System	\$ (3,123)	---
Settlement Balances⁹²	\$ 1,984,033	\$ 510,148
<i>Adjustments</i>	\$ 80,506	\$ 22,198
Rate Year 2	\$ 2,067,662	\$ 532,346
Dry Ash Disposal System	\$ (2,112)	---
Settlement Balances⁹³	\$ 2,065,550	\$ 532,346

Commission Determination

81 We find the Settlement’s agreement related to Capital Projects Review reasonable for the resolution of the issues presented in this GRC.

82 We expressly limit our approval, however, to this GRC and emphasize that our decision should not be considered precedential for future proceedings. Some impacts from the

⁸⁸ Joint Testimony, Exh. JT-1T at 28:13-16.

⁸⁹ Compare with Andrews, Exh. EMA-1T at 31:17-22.

⁹⁰ Brief of Public Counsel at 43-44, ¶ 96.

⁹¹ Net Plant for each calendar year represents “all actual additions, retirements, offset by Accumulated Depreciation (A/D) and [ADFIT].” Andrews, Exh. EMA-1T at 46:10-15.

⁹² Net Plant balance for Rate Year 1 effective 12/31/2022.

⁹³ Net Plant balance for Rate Year 2 effective 12/31/2023.

IRA and IJA will affect capital investment and could provide immediate customer savings, as we highlighted previously.⁹⁴

83 The Commission intends to initiate a collaborative or generic proceeding to include all affected, or potentially affected, utilities as well as interested persons to discuss, address, and plan for benefits and opportunities resulting from the IRA and IJA that may impact the companies' costs. This is not a condition of our approval of the Settlement, but an indication of action tangential to this GRC that the Commission will take to appropriately address impacts to all regulated utilities, not only Avista.

84 As it concerns the Settling Parties' agreement for capital projects review during the MYRP, we take a particular interest in how the IRA and IJA may impact the retrospective review of provisional plant (capital projects). The precise impacts and extent of those impacts is currently unknown. However, it is apparent that there are opportunities for benefits to Avista for planning of capital projects, and more urgently in capturing any changes that will result in immediate customer savings. We find it imperative that Avista pursue what opportunities the IRA and IJA might offer during the time the MYRP is effective. For that purpose, we find it appropriate for Avista to record and share its efforts for identifying opportunities for rate mitigation, its efforts in seeking federal benefits, as well as those benefits it actually receives under the federal programs.

85 Accordingly, we determine that approval of the Settlement should be conditioned on certain modifications to the Settling Parties' agreement for the review of capital projects during the MYRP.

Condition. We condition our approval of the Settlement on the modification of the capital projects review, requiring that Avista must demonstrate all offsetting benefits received or for which it has applied for through the IRA and IJA for all retrospective review of provisional plant (capital projects). Further, we require Avista's reporting to include all funding for which it has applied and the reasons justifying any decision not to pursue IRA and IJA funding options for which it may be eligible. Subject to this condition, we determine that the Settling Parties' agreement regarding capital projects review is in the public interest and should be approved.

⁹⁴ *Supra* paragraphs 42-45.

viii. Natural Gas Transition Issues

86 The Settling Parties agree to several terms related to natural gas transition, including terms regarding line extension allowances, non-pipe alternatives, customer reporting requirements, and the development of a natural gas decarbonization plan.⁹⁵ In particular, the Settlement establishes a timeline to phase out the Natural Gas Line Extension Allowance by January 1, 2025.⁹⁶ It also requires Avista to consider “non-pipe alternatives” in its gas distribution planning process and to discuss this consideration in future natural gas integrated resource plans.⁹⁷ Avista must also provide quarterly reporting on the number of new gas customers relative to new electric customers.⁹⁸ Last, in its 2023 Natural Gas IRP, Avista must include a plan for complying with the CCA.⁹⁹ Public Counsel supports the Settlement’s natural gas transition terms and believes that they are in the public interest.¹⁰⁰

Commission Determination

87 We find the Settling Parties’ agreements regarding natural gas transition issues appropriate. The CCA implements a statewide cap-and-invest program that will make Washington carbon-neutral by 2050, cut Washington’s carbon emissions by 95 percent compared to 1990 emission levels by 2050, and offset the remaining 5 percent using carbon reduction, removal, or avoidance projects.¹⁰¹ The CCA sets a limit on overall carbon emissions in the state and requires emitters to obtain “emission allowances” equal to their covered greenhouse gas (GHG) emissions.¹⁰² Avista, as an electric and natural gas utility, must comply with the CCA.

⁹⁵ Settlement at 12-13, ¶ 21.

⁹⁶ *Id.* Line extension allocation will be based on the net present value methodology using a two-year timeframe for 2023 and one-year timeframe for 2024. Joint Testimony, Exh. JT-1T at 29:6-19.

⁹⁷ Settlement at 12-13, ¶ 21(b). The Settlement provides that at minimum, “non-pipe alternatives” include demand-side management measures, envelope efficiency measures, electrification, and gas demand response. *Id.*

⁹⁸ Settlement at 13, ¶ 21(c).

⁹⁹ *Id.* ¶ 21(d); Joint Testimony, Exh. JT-1T at 29:6-31:3.

¹⁰⁰ Brief of Public Counsel at 43-44, ¶ 96; Dahl, Exh. CJD-1T at 30:1-7.

¹⁰¹ *See* RCW 70A.65.005(2)-(7).

¹⁰² RCW 70A.45.020; RCW 70A.65.060; RCW 70A.65.070; RCW 70A.65.080; RCW 70A.65.200.

88 The Settling Parties' agreement will promote prudent planning and, in many ways, will aid Avista's compliance with the requirements of the CCA. Accordingly, we determine that the Settlement's natural gas transition terms agreed by the Settling Parties are reasonable, in the public interest, and should be approved.

ix. Transportation Electrification

89 Consistent with RCW 80.28.360, the Settling Parties agree that Avista's request for an incentive rate of return (ROR) on transportation electrification investments is embedded within the revenue requirement for the duration of the MYRP subject to the establishment of two performance metrics.¹⁰³ The transportation electrification performance metrics are: (a) percent of utility-owned and supported electric vehicle supply equipment (EVSE) by use case located within and/or providing direct benefits and services to Named Communities; and, (b) percent of load shifted to off-peak periods attributable to transportation electrification tariff offerings by use case, including electric vehicle load subject to managed charging.¹⁰⁴ The Settling Parties also agree to minimum payment method requirements for publicly-accessible charging stations and agree that any party can oppose or propose alternative approaches to incentive return on equity (ROE) for transportation electrification in future cases.¹⁰⁵ The Settlement does not establish any performance incentive mechanisms. Public Counsel supports the Settlement's transportation electrification terms and believes that they are in the public interest.¹⁰⁶

Commission Determination

90 We find the Settlement's transportation electrification terms, including authorizing an incentive rate of return (ROR) on transportation electrification investments, to be reasonable. It is appropriate that the terms of the Settlement do not prevent parties from opposing or proposing new and alternative solutions related to incentivizing transportation electrification in the future.

91 In addition, the incentive ROR included in revenue requirement for transportation electrification investments is subject to the establishment of the related performance

¹⁰³ Settlement at 13-14, ¶ 22; *see* RCW 80.28.360.

¹⁰⁴ Settlement at 14, ¶ 22.

¹⁰⁵ Settlement at 13-14, ¶ 22.

¹⁰⁶ Brief of Public Counsel at 43-44, ¶ 96; Dahl, Exh. CJD-1T at 30:15–31:10.

metrics.¹⁰⁷ As we describe in further detail below regarding the Settlement's agreed performance metrics, we accept the establishment of the performance metrics proposed by the Settling Parties related to Avista's transportation electrification investments. We also find it important to note that the Settling Parties' agreement incorporates the incentive ROR for transportation electrification into the results-only revenue requirement and is not *in addition to* the agreed results-only revenue requirement agreement.¹⁰⁸ We find it appropriate that, in the context of a results-only revenue requirement agreement, the agreed amount of the incentive ROR for transportation electrification is not in addition to the agreed revenue requirement. Accordingly, we determine that the Settlement's transportation electrification terms agreed by the Settling Parties are reasonable, in the public interest, and should be approved.

x. Performance Based Ratemaking

92 The Settling Parties agree to 92 performance metrics included in Attachment B, which includes two metrics related to transportation electrification plus the commitment to develop additional reliability metrics.¹⁰⁹ The Settling Parties' agreement does not include the proposal by Avista in its initial filing regarding financial performance incentive mechanisms (PIMs).¹¹⁰ The 92 metrics identified in Attachment B to the Settlement regard numerous topics, which are categorized by Table 5, below.

¹⁰⁷ Settlement at 13, ¶ 22.

¹⁰⁸ See Joint Testimony, Exh. JT-1T at 31:17-19.

¹⁰⁹ Settlement at 14-15, ¶ 23.

¹¹⁰ *Id.*; Joint Testimony, Exh. JT-1T at 32:1-6, 32:11-14, 34:6-7; Settlement Stipulation Attachment B.

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Table 5. Settlement Performance Metrics by Topic and Sub-Topic

Topic	Sub-Topic	# of Metrics
Affordable Service		15
Capital Formation		2
Equitable Service		17
Satisfy Customer Needs	Electric Reliability	15
	Wildfire	17
	Customer Experience	6
Advance Societal Outcomes	Pollution, GHG Emissions Reduction	7
	Electric Grid Benefits	10
Natural Gas System Benefits		3
Total		92

94 The metrics listed in Attachment B will be used for tracking purposes.¹¹¹ As part of the Settlement, Avista agrees to report and publish, on either a quarterly or annual basis starting 45 days after the first quarter of 2023, the results of each metric on its website and to maintain and make public the historical results.¹¹² Each metric will be reported in real terms while “using an appropriate measure of inflation.”¹¹³ Additionally, the Settling Parties propose to develop by March 31, 2023, reliability metrics to be tracked and reported by the beginning of Rate Year 2.¹¹⁴

95 Public Counsel supports the Settlement’s terms regarding performance-based ratemaking and believes that they are in the public interest.¹¹⁵

¹¹¹ Settlement at 14-15, ¶ 23.

¹¹² Joint Testimony, Exh. JT-1T at 31:17-19, 32:14-34:4.

¹¹³ *Id.* at 34:5-6.

¹¹⁴ *Id.* at 34:6-9; *see supra* Section ix., above, for the two metrics established for transportation electrification.

¹¹⁵ Public Counsel Brief at 43-44, ¶ 96; Crane, Exh. ACC-1T at 10:11-18:16.

Commission Determination

96 We find the Settlement’s agreed performance metrics appropriate but find that Avista should be required to report all of the Settlement’s metrics to the Commission. The Commission finds that the performance metrics are measures consistent with RCW 80.28.425, that these metrics will be informed by the Commission’s performance-based regulation proceeding in Docket U-210590, and that establishing metrics and measures for performance-based ratemaking is an iterative process. In Docket U-210590, a Performance Metric or Performance Measure is defined as measurable and quantifiable data used to track specific actions, outcomes, or results. It is often expressed in terms of standard power system measures or consumer impact measures. Additionally, we agree with Public Counsel who, in brief, explains that:

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” and “a step planned or taken as a means to an end.” 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-two separate metrics, are an action intended to collect and track utility performance in nine different performance categories through the multiyear rate plan.¹¹⁶

97 The terms of the Settlement provide that these performance metrics are for tracking purposes and do not state whether these metrics should be used to evaluate the MYRP.¹¹⁷ The Settlement lacks detailed information identifying or directing how the Commission might use these metrics to evaluate the MYRP or the agreed calculations for all metrics under RCW 80.28.425(7). The Commission therefore finds it necessary to meet its statutory obligation under RCW 80.28.425(7) by adopting a limited number of performance measures, described later in Section C of this Order, that it will use to

¹¹⁶ Brief of Public Counsel at 45, ¶ 98 (citing MacMillian Education Limited: MacMillian Dictionary.com, *MacMillian Dictionary* https://www.macmillandictionary.com/us/dictionary/american/measure_1 (last accessed Oct. 20, 2022); Merriam-Webster, Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/measure> (last accessed Oct. 20, 2022)).

¹¹⁷ Settlement at 14-15, ¶ 23.

evaluate Avista's operations during the MYRP. The Settling Parties do not oppose adding requirements for Avista to report the performance metrics to the Commission, and we determine that such reporting will be useful as the Commission and parties refine their use of performance metrics over time. Further, the Settlement's agreed performance metrics are not binding on the Commission, and we expressly determine that our approval of the Settlement should not impute precedential value to their continuation should the Commission determine that other or additional metrics or measures are more appropriate in the future for the same or other purposes.

98 Last, the Commission declines to provide guidance on PIMs in this Order. These issues and their relation to the statutory requirements of RCW 80.28.425(7) will be explored in Phase 3 of the Commission's performance-based ratemaking proceeding in Docket U-210590. Staff and all other parties are invited to provide comments and proposals in that proceeding.

99 Accordingly, we determine that approval of the Settlement should be conditioned on certain modifications to the Settlement's agreed performance metrics.

Condition. We condition our approval of the Settlement on the inclusion of requirements for reporting the performance metrics to the Commission. Avista must report each of the performance metrics in a filing with the Commission within 45 days of the conclusion of the relevant reporting period. We also require the Settling Parties to review reported performance metrics and provide feedback and recommendations for the Commission to consider within 45 days from the filing date of the report. Subject to these conditions, we determine that the Settling Parties' proposed metrics and proposal for performance-based ratemaking is reasonable, consistent with applicable law, in the public interest, and should be approved.

xi. Low-Income

100 The Settling Parties agree to several terms affecting Avista's low-income programs.¹¹⁸ First, the Settling Parties agree to recommend that the Commission not approve certain proposals in Avista's initial filing, and that the proposals will be further discussed and developed in consultation with the Company's Energy Assistance Advisory Group (EAAG), with Avista filing the resulting proposals with the Commission on July 1,

¹¹⁸ Settlement at 15-17, ¶ 24.

2023.¹¹⁹ Specifically, Avista agrees to consult and seek consensus with its EAAG concerning program design and implementation issues, including the joint administration of enrollment by Avista or the Community Action Agencies (CAAs); the use of self-attestations of income along with random audits instead of verifying all participating customers' income, and, the management of overlap between the federal Low-Income Home Energy Assistance Program (LIHEAP) and Avista's Bill Discount program.¹²⁰

101 Second, the Settling Parties agree that Avista's proposal for the administration and program support budget apportioned to the CAAs is the minimum amount that will be made available for the 2023-2024 and 2024-2025 Low-Income Rate Assistance Program (LIRAP) years.¹²¹ Avista agrees to collaborate with its EAAG to determine the appropriate method, amounts, and administrative structure for future LIRAP years.¹²² Any funding increases proposed by its EAAG will be included in the July 1, 2023, filing , and Avista's 2024 annual filing in September.¹²³

102 Third, the Settling Parties agree that Avista may only recover the following expenses through Schedules 92 and 192: Direct Services to customers, CAA Administration and Program Delivery, CAA Conservation Education Staff and Labor, Avista Conservation Education, and LIRAP Outreach.¹²⁴

103 Fourth, Avista agrees that it will work with its EAAG to identify a new renewable energy project or projects for the direct benefit of low-income customers.¹²⁵ In addition, the Settling Parties agree that Avista may identify a new renewable energy project or projects

¹¹⁹ Settlement at 15, ¶ 24(a).

¹²⁰ Settlement at 15, ¶ 24(a)(i).

¹²¹ Settlement at 15, ¶ 24(b); *see* Bonfield, Exh. SJB-1T.

¹²² Settlement at 15-16, ¶ 24(b).

¹²³ Settlement at 16, ¶ 24(b).

¹²⁴ Settlement at 16, ¶ 24(c). The Settling Parties agree that Avista cannot recover other expenses through Schedules 92 and 192, including Avista's associated labor; EAAG expenses, including facilitator and participant payments; labor or other costs associated with the reporting of metrics concerning low-income customers and energy burden pursuant to CETA or performance-based regulation metrics, and labor and other costs associated with reporting to the Washington Department of Commerce. *Id.*; *but cf.* Settlement at 16-17, ¶ 24(d).

¹²⁵ Settlement at 16, ¶ 24(d). The Settling Parties agree that funding may come from Schedules 92 or 192 but may only fund projects benefitting eligible low-income customers. Settlement at 16-17, ¶ 24(d). *See* Cebulko, Exh. BTC-1T at 9:12-18.

for the direct benefit of customers residing in Named Communities.¹²⁶ Avista agrees to file with the Commission a work plan describing its plan to facilitate the development of a new renewable energy project or projects, including the budget, funding sources, timeline, and community partners, by December 1, 2023.¹²⁷

104 Last, Avista agrees to low-income conservation and weatherization terms, including increasing low-income conservation and weatherization funding through Schedules 91 and 191 up to \$4.0 million in 2023 and \$4.25 million in 2024; developing a pilot program in consultation with its EEAG to overcome the inability to weatherize homes because of deferred maintenance or large repairs, and surveying actual installed measure costs and, based on the results of the survey, adjusting the rebate amounts if warranted and fully funding low-income conservation measures.¹²⁸

105 Public Counsel supports the Settlement's low-income terms and believes that they are in the public interest.¹²⁹

Commission Determination

106 We find that the Settlement's low-income terms are positive steps designed to remove barriers to access and seek greater engagement with Highly-Impacted Communities and Vulnerable Populations. As the Commission determined in the Cascade Final Order, advancing energy justice is integral to achieving equity in Washington's energy regulation. Among other things, energy justice focuses on ensuring that individuals have access to energy that is affordable, safe, sustainable, and affords them the ability to sustain a decent lifestyle. Here, the low-income provisions of the Settlement propose that

¹²⁶ Settlement at 16, ¶ 24(d). The Settling Parties agree that funding may come from Avista's Named Communities Investment Fund. *Id.*

¹²⁷ Settlement at 17, ¶ 24(d). The Settling Parties agree that this requirement is independent of and incremental to condition 10 of Avista's CEIP. *Id.* Condition 10 of Avista's CEIP states:

By December 1, 2022, in collaboration with its EAG and EAAG and per WAC 480-100-640(5)(a) and (c), Avista agrees to identify at least one specific action that will serve a designated subset of Named Communities, to be funded by the Named Communities Investment Fund, and to identify and track all CBIs relevant to this specific action. The location identified for the specific action will be at the granularity of the designated Named Communities subset.

Cebulko, Exh. BTC-1T at 9, n. 13.

¹²⁸ Settlement at 17, ¶ 24(e).

¹²⁹ Brief of Public Counsel at 43-44, ¶ 96; Dahl, Exh. CJD-1T at 18:10-23:4.

the Company work with its EAAG to make significant changes to Avista's low-income programs that will increase access to, and enrollment in, those programs. Specifically, the Settlement increases the EAAG's involvement in program design and implementation, demonstrates a deeper understanding of the flexibility necessary for certain budgeting structures, and demonstrates the Settling Parties' intent to proactively incorporate considerations for including low-income and Named Communities in new renewable energy projects. Consistent with our decision on the retrospective review of provisional plant, we find it imperative that Avista seek out IRA and IJA funding opportunities related to supporting and promoting low-income programs, projects, and interests.

107 Public Counsel, while not a party to the Settlement, highlights several barriers that the Settlement will, or at least will attempt to, remove. Regarding barriers to enrolling customers in need of assistance, Public Counsel witness Dahl explains that

removing barriers to customers qualifying for and receiving energy assistance funds has been a major point of conversation among stakeholders. Determining how to use and assess the accuracy of self-attested income to demonstrate qualifications is an important step toward reducing the administrative barriers customers with high energy burdens face. These assessments should strike a balance between gathering information necessary to determine compliance rates and creating new, unintended barriers to program participation.¹³⁰

108 We agree and find that the Settlement's terms requiring Avista and its EAAG to engage in consensus-seeking consultations on the new program design, including self-attestation of income with random audits, should remove barriers and result in increased enrollment. We also find that the terms requiring Avista to file the resulting design recommendations will create a fair procedure, an appropriate timeline, and incentives for productive engagement.

¹³⁰ Dahl, Exh. CJD-1T at 19:19-20:4. The Commission is working to eliminate from its documents the non-inclusive and historically problematic term "stakeholders" and instead use terms like "interested persons," "participants," "persons," or "non-company parties," depending on the situation. We urge others to do the same.

109 Regarding low-income weatherization, witness Dahl explains that

In many cases, weatherization measures are unable to be installed or would be ineffective without addressing maintenance issues in customers' homes. This is an issue agencies who coordinate funding and implementation of low-income weatherization projects raise regularly. Piloting a program to remove this important obstacle to completing projects is in the public interest.¹³¹

We agree. While some programs do not require a pilot, we find that the Settling Parties' agreement to begin a pilot program for these purposes is appropriate because it will likely expedite its implementation.

110 TEP, a party to the Settlement, filed separate testimony in support of the Settlement, addressing its support of many of Avista's low-income proposals. In particular, TEP witness Cebulko discussed Avista's proposed five-tier bill discount program as it is paired with programs that address arrearages. Witness Cebulko explains that

TEP strongly supports the use of a five-tier bill discount program, where customers with the lowest incomes receive the largest bill discount in the first tier, customers with slightly higher incomes receive a slightly lower bill discounts in the second tier, and so on. Similarly, TEP strongly supports the Past Due Payoff (PDP) program immediately forgiving past due balances for the customers with the lowest incomes, and the Arrearage Management Plan (AMP), which forgives past due balances for other low-income customers who sustain regular payments. Taken together the five-tier bill discount program and PDP/AMP show promise as a cornerstone strategy to reduce household energy insecurity and retain access to essential utility service in Washington.¹³²

111 We agree that reducing household energy insecurity and retaining access to essential utility services in Washington are important equity considerations that are consistent with the public interest. It appears, however, from the absence of terms in the Settlement

¹³¹ Dahl, Exh. CJD-1T at 23:16-20.

¹³² Cebulko, Exh. BTC-1T at 6:19-7:7.

outlining the PDP, AMP, or five-tier bill discount program, that more discussion is needed regarding these programs and their designs. We support the Settlement's terms under which Avista will further engage with the EAAG to collaboratively develop program designs that promote equity and access to those in need of its energy assistance programs.

112 We find the low-income terms in the Settlement remarkable for the progress they make towards reducing barriers and promoting equity and access.¹³³ However, we find that some elements are missing, albeit due to circumstances and timing beyond the parties' control. Funding available through the IRA and IJA might be attainable for supporting and promoting many programs, including low-income programs, projects, and interests. Critically, we find that considerations of what funding may be available cannot wait and should be undertaken immediately in appropriate forums. Here, we find that Avista's consultations with its EAAG is an appropriate forum. We observe, unfortunately, that the Settlement lacks any indication of how the IRA and IJA might be beneficial for low-income considerations. Accordingly, we determine that approval of the Settlement should be conditioned on certain modifications to the Settlement's low-income terms.

Condition. We condition our approval of the Settlement on the inclusion in Avista's consultations and consensus-seeking with its EAAG, as well as its July 1, 2023, and September filings with the Commission, of its considerations for how funds through the IRA and IJA might be used to support and promote low-income programs, projects, and interests. Further, Avista will report in future low-income annual filings during the MYRP its actions to seek funding through the IRA and IJA to support and promote low-income programs, projects, and interests. Subject to this condition, we determine that the Settling Parties' agreed low-income terms are reasonable, consistent with applicable law, in the public interest, and should be approved.

¹³³ Neither Avista, nor any other regulated company, should consider the equity considerations in this Order comprehensive, as we will continue to expand upon this discussion of equity in future proceedings. We decline to provide specific programmatic guidance, as our discussion of equity and the low-income terms of this Settlement is only the beginning of a broader understanding and expectation of equity considerations in Washington's energy regulation going forward. For now and the near future, we reiterate our expectation set out in the Cascade Final Order that Avista, and all other regulated investor-owned utility companies, must integrate considerations of equity into every proposal through an energy justice lens.

xii. Climate Commitment Act

113 The Settlement provides that, within 60 days of the adoption of the final Department of Ecology rules implementing the CCA (Chapter 173-446 WAC), Avista will begin consulting with its applicable advisory groups to develop plans for compliance with the CCA, including reporting requirements, proper treatment of revenues from the consignment of allowances, and the investment of any proceeds from the sale of allowances during the MYRP.¹³⁴ Public Counsel supports the Settlement's CCA terms and believes that they are in the public interest.¹³⁵

Commission Determination

114 We find the Settlement's terms related to the CCA appropriate. At hearing, Commissioner Doumit inquired whether the parties would find it helpful and if they would support Commission efforts to schedule consultative and collaborative meetings to discuss utility compliance with the CCA, generally.¹³⁶ Both Avista and NWECA stated that work sessions around compliance with the CCA would be helpful.¹³⁷

115 We agree with the Settling Parties that Avista should begin consulting with its advisory groups concerning the requirements of the CCA, CCA allowances, and the accounting treatment of proceeds under the CCA. Additionally, the Commission intends to schedule meetings, workshops, or collaborative work sessions as described by Commissioner Doumit during these consolidated proceedings' hearing to discuss utility compliance, generally, with the CCA. Accordingly, we determine that the Settlement's CCA terms are in the public interest and should be approved.

xiii. Small Business Energy Efficiency

116 The Settling Parties agree that Avista will begin, by June 30, 2023, discussions with its Energy Efficiency Advisory Group (EEAG) and other interested persons concerning eligibility criteria for small business customers in its energy efficiency offerings.¹³⁸ Avista will also further explore mirroring residential customer offerings for small

¹³⁴ Settlement at 17-18, ¶ 25.

¹³⁵ Brief of Public Counsel at 43-44, ¶ 96; Dahl, Exh. CJD-1T at 31:3-10.

¹³⁶ Commissioner Doumit, TR at 146:9-24.

¹³⁷ Ehrbar, TR at 147:2-7; McCloy, TR at 147:9-11.

¹³⁸ Settlement at 18, ¶ 26.

business customers.¹³⁹ The Settlement provides that discussions must begin no later than June 30, 2023, and must include a conversation of budget impacts, which will be funded through Schedules 91 and 191, and a timeline for completing the pursuit of additional program offerings for small business customers no later than December 31, 2023.¹⁴⁰ Public Counsel supports the Settlement’s terms regarding small business energy efficiency and believes that they are in the public interest.¹⁴¹

Commission Determination

117 We find the Settlement’s small business energy efficiency terms appropriate. It is equitable, reasonable, fair, just, and in all cases appropriate that small business customers should be included in considerations regarding how they also can participate in and benefit from energy efficiency efforts. This is both for their benefit as well as Avista’s because the Company must maintain compliance with statutory requirements for energy efficiency, conservation, and for providing energy to its customers while reducing GHG emissions. Accordingly, we determine that the terms regarding small business energy efficiency are timely, reasonable, and should be approved.

xiv. Electric Service Reliability Report Plan

118 Avista also agrees that it will include its final electric service reliability reporting plan with the compliance filing in these consolidated proceedings.¹⁴² The Settlement proposes two terms regarding Avista’s electric service reliability report plan: first, Avista agrees to clarify its presentation and distinction of “Washington-only” metrics as compared with “system-wide” metrics, including with the presentation and distinction of System Average Interruption Frequency Index (SAIFI), System Average Interruption Duration Index (SAIDI), and Customer Average Interruption Duration Index (CAIDI) performance and historical trends; second, Avista agrees to participate in any multi-party collaborative seeking to establish common measures and reporting formats among Washington’s investor-owned utilities for electric distribution system reliability.¹⁴³

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ Public Counsel Brief at 43-44, ¶ 96; Dahl, Exh. CJD-1T at 29:16-21.

¹⁴² Settlement at 18, ¶ 27.

¹⁴³ *Id.*

Commission Determination

119 We find the Settlement’s agreement related to Avista’s electric service reliability report plan appropriate. No party opposes this portion of the Settlement. Clarifying and differentiating the metrics of service reliability to exclude Avista’s system performance in other states from Washington holds unquestionable value. Service reliability provided by Avista in Idaho or Oregon is only tangentially relevant, due to the unique and different circumstances in those jurisdictions for Avista’s service to its customers residing there, for our consideration of the reliability of service provided by Avista to Washington customers. Accordingly, we determine that the Settlement’s electric service reliability report plan terms are equitable, reasonable, just, and should be approved.

xv. Miscellaneous Uncontested Terms

120 The Settling Parties agree to several other terms identified in the Settlement as “miscellaneous.” We summarize and address these terms together.

a. Depreciation Rates and Regulatory Amortizations

121 The Settling Parties agree to terms regarding the depreciation rates and regulatory amortizations as included in Avista’s initial filing for certain adjustments, which are detailed in Attachment D to the Settlement.¹⁴⁴ These relate to the amortization of deferrals and remaining balances previously approved by the Commission.¹⁴⁵ Without Commission authorization, the Company would be unable to amortize or depreciate these balances.¹⁴⁶

b. Annual Filing Dates

122 The Settling Parties agree to the proposals in Avista’s initial filing to change the rate effective dates for several annual filings. First, the Settling Parties agree to move the annual Schedule 98 Renewable Energy Credit (REC) filing from July 1 to August 1 to coincide with other rate changes.¹⁴⁷ Second, the Settling Parties agree to move the proposed low-income rate assistance program (LIRAP) Schedule 92/192 effective dates

¹⁴⁴ Settlement at 19, ¶ 28(a); see Settlement at Attachment D.

¹⁴⁵ Settlement at 19, ¶ 28(a) and accompanying notes.

¹⁴⁶ *Id.*

¹⁴⁷ Settlement at 19, ¶ 28(b); see Miller, Exh. JDM-1T, 34:10-14.

from October 1 to November 1.¹⁴⁸ Last, the Settling Parties agree to move the Wildfire Deferral filing date from July 31 to September 1 and to also move the effective date from October 1 to November 1.¹⁴⁹

c. Annual Reporting Obligations of Docket U-210151¹⁵⁰

123 Avista agrees to provide recommendations in its initial filing of its next GRC regarding how it will streamline its existing required annual reporting obligations (provided in Docket U-210151).¹⁵¹ Avista also agrees to provide a detailed matrix of all reporting obligations annually along with a matrix of any recommendations for streamlining, as provided in Docket U-210151.¹⁵²

d. Software Licensing

124 Avista agrees to provide templates and vendor contact information for any vendor software licensing agreements, such as Energy Exemplar, with each filing.¹⁵³

e. Decoupling Earnings Test

125 The Settling Parties agree to replace the current earnings test with the earnings test provided in RCW 80.28.425(6).¹⁵⁴

Commission Determination

126 We find the Settlement's miscellaneous terms, described above, appropriate. No party opposes any of the agreements contained in these terms. We find the Settling Parties' agreement to continue authorization of depreciation rates and regulatory amortizations previously authorized by the Commission reasonable. In addition, we find nothing

¹⁴⁸ Settlement at 19, ¶ 28(b); *see* Bonfield, Exh. SJB-1T, 36:9-17.

¹⁴⁹ Settlement at 19, ¶ 28(b); *see* Andrews, Exh. EMA-1T, 63:6-17.

¹⁵⁰ In error, the Settling Parties refer in the Settlement and in their Joint Testimony to Docket U-210501. Settlement at 19, ¶ 28(c); Joint Testimony, Ext. JT-1T at 40:7-11. The relevant docket is U-210151. We have made this ministerial correction to the Settlement's referenced docket throughout this Order.

¹⁵¹ Settlement at 19, ¶ 28(c).

¹⁵² *Id.*

¹⁵³ Settlement at 19, ¶ 28(d).

¹⁵⁴ Settlement at 19, ¶ 28(e); *see* Ehrbar, Exh. PDE-1T, 37:14-38:25, describing how the existing earnings test conflicts with the earnings test provided in RCW 80.28.425(6).

objectionable to the Settlement's terms allowing Avista to modify certain filing dates and effective dates to create greater efficiencies, those terms encouraging streamlining in reporting obligations, and those requiring the sharing of vendor contact information. Each of these terms are reasonable and will promote greater efficiency for the Commission's regulation and review, as well as that of interested persons. Lastly, recently enacted legislation requires the deferral of earnings that are more than 0.5 percent higher than the ROR authorized by the Commission and reported annually through a company's Commission Basis Report (CBR).¹⁵⁵ The Commission authorizes replacing the existing decoupling earnings test with the earnings test provided in RCW 80.28.425(6). Further, the Commission clarifies that the decoupling deferral must include accruing ROR on the balance of the deferral. Lastly, the Commission determines that Avista should be authorized and required to defer any earnings greater than 0.5 percent above its authorized ROR, consistent with this Order, the Settlement, and RCW 80.28.425(6).

127 Accordingly, we determine that the Settlement's miscellaneous terms – regarding depreciation rates and regulatory amortizations, modifications to filing and effective dates, recommendations for streamlining reporting obligations, sharing of contact information for vendor agreements, and the decoupling earnings test – are reasonable, not contrary to law, in the public interest, and should be approved.

2. POWER COSTS

128 The Settling Parties agree to two terms regarding power costs. First, the Settling Parties agree to accept the 2023 Pro Forma Power Supply expense and Energy Recovery Mechanism (ERM) Baseline included in Avista's initial filing.¹⁵⁶ Second, they agree that Avista will not perform the 60-day power cost updates that it had proposed in its initial filing.¹⁵⁷ Instead, the ERM Baseline will remain as indicated in Avista's initial filing for the duration of the MYRP and is included as Attachment C to the Settlement.¹⁵⁸ Public Counsel generally supports the Settlement's power cost terms.¹⁵⁹ It takes issue, however,

¹⁵⁵ RCW 80.28.425(6). On April 25, 2022, during the pendency of these consolidated proceedings, Avista filed its 2021 electric and natural gas CBRs in Dockets UE-220288 and UG-220289, respectively, indicating the Company's actual cost of capital as of December 31, 2021.

¹⁵⁶ Settlement at 9, ¶ 15.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*; see Kalich, Exh. CGK-6.

¹⁵⁹ Earle, Exh. RLE-1T at 2:9-10.

with the energy imbalance market (EIM) benefit projections embedded in Avista's initially-filed ERM baseline and revenue requirement because they are based on a 2017 study by Energy and Environmental Economics (2017 E3 Study).¹⁶⁰ Public Counsel, therefore, contests this term of the Settlement and proposes that the Commission either annualize one month of the California Independent System Operator's (CAISO) estimated benefits amounts or direct Avista to update the 2017 E3 Study prior to the effective date in these consolidated proceedings.

Commission Determination

- 129 We find that the power supply terms proposed by the Settlement are reasonable and supported by the record. To calculate the EIM benefits included in the ERM baseline, Avista relies on the 2017 E3 Study that estimates benefits of approximately \$5.8 million on a system basis.¹⁶¹ Public Counsel argues that the study should not be used to approximate the EIM benefits because the study is denominated in 2017 dollars.¹⁶² Instead, Public Counsel recommends that the study be updated based on actual data from Avista's participation in the market.¹⁶³ In the absence of an updated study, Public Counsel recommends using the results from CAISO's benefits estimation. Because only one month of results was available at the time testimony was filed, Public Counsel annualizes one month of benefits to derive an annual amount.¹⁶⁴ Public Counsel's revenue requirement proposal incorporates this alternative position.
- 130 Public Counsel's preferred proposal is that the 2017 E3 Study be updated using more recent input data.¹⁶⁵ Avista argues in rebuttal that it is impossible for the 2017 E3 Study to be updated before the statutory deadline in these consolidated proceedings.¹⁶⁶ We agree. Directing Avista to update its 2017 E3 Study prior to the effective date of these consolidated proceedings is impractical and we decline to set such a requirement.
- 131 In the alternative, Public Counsel proposes annualizing the March 2022 EIM benefits from CAISO's benefits study to estimate the benefits in all of 2023. Avista opposes

¹⁶⁰ See Kinney, Exh. SJK-3.

¹⁶¹ Kinney, Exh. SJK-1T at 8:5-7.

¹⁶² Earle, Exh. RLE-1T at 7:12-16.

¹⁶³ *Id.* at 9:18-21.

¹⁶⁴ *Id.* at 10:1-12.

¹⁶⁵ *Id.* at 9:18-10:3.

¹⁶⁶ Kinney, Exh. SJK-13T at 6:13-20.

Public Counsel’s proposal, arguing that “[w]ithout any operating experience it is too early for the Company to tell whether the CAISO benefit calculation methodology . . . will accurately reflect estimated benefits for Avista. . . .”¹⁶⁷ Further, at hearing and in prefiled written testimony, Avista witness Kinney explained a number of factors that either influenced CAISO’s benefits study in the beginning of 2022 or will present an unknown degree of influence, including the amount of hydro, price volatility, transmission interconnection, availability, the CCA and its potential interaction with California markets, Bonneville’s entrance into the EIM market, and a new, long-term power purchase agreement that will begin during the MYRP.¹⁶⁸

- 132 We agree with Avista. We find that annualizing amounts into rates based on one month of data is not a sound methodology, cannot account for the unknown influences of a number of factors in 2023, and is more flawed than retaining the current 2017 E3 Study’s estimates. Public Counsel’s proposal is also problematic due to the uncertain timing of how and when EIM benefits will accrue.
- 133 While the 2017 E3 Study is not without flaws, its selection by the Settling Parties is supported by the record and reasonably balanced by the terms of the Settlement. The 2017 E3 Study was conducted several years ago, and while supported in this record and that of prior GRCs, the Settlement does not propose any update or comparison with any additional data. We find, however, that the flaws and associated risks of the Settling Parties’ selection of the 2017 E3 Study are balanced by Avista’s negotiated risk to forgo a 60-day power cost update, which will maintain the power cost level established in Avista’s initial filing for the entirety of the MYRP.
- 134 We accept the Settling Parties’ agreement to use the 2017 E3 Study to estimate EIM benefits included in the ERM baseline and reject Public Counsel’s proposals to either annualize one month of CAISO’s estimated benefits amounts or direct the Company to update the 2017 E3 Study prior to the effective date in these consolidated proceedings. None of the three options advanced are ideal, but the Settlement’s proposal is reasonable and a well-balanced resolution to the issue.
- 135 Further, there is a balance struck by the Settlement between Avista and its customers. Avista argues that Public Counsel “cherry-picks” one element of Avista’s power supply levels by updating for a decrease in the ERM baseline, while ignoring updates to different

¹⁶⁷ *Id.* at 7:2-4.

¹⁶⁸ *Id.* at 3:8-11; Kinney, TR at 295:11-298:14.

offsetting factors that could increase the baseline.¹⁶⁹ We acknowledge the risk Avista explains in testimony that it has agreed to as part of the give and take of negotiations. In addition, we agree that the Settling Parties have reached a balanced result with shared risk and some protection for both the Company and its customers, via the ERM, should power supply components vary from the baseline levels.¹⁷⁰

136 Ultimately, we find that in lieu of using a more recent or updated benefits study, Avista's agreement to incur additional risk by agreeing to not include a 60-day power cost update prior to new rates going into effect for each year of the MYRP is supported by the record and is a fair, reasonable, and balanced resolution of this issue. Accordingly, we determine that the Settlement's power costs terms are in the public interest and should be approved.

3. INSURANCE BALANCING ACCOUNT

137 The Settling Parties agree to two balancing accounts: a Wildfire Expense Balancing Account; and an Insurance Expense Balancing Account.¹⁷¹ We address the former later in this Order, along with other wildfire-related issues.

138 The Settling Parties agree to the proposal in Avista's initial filing to create an Insurance Expense Balancing Account for the MYRP.¹⁷² The Settling Parties recognize that Avista will bear the burden of supporting deferrals for the account when seeking recovery in a future rate proceeding.¹⁷³ The Settling Parties specify that the establishment of an Insurance Expense Balancing Account is not precedential and its continued existence may be challenged by any party in a future proceeding.¹⁷⁴ The Insurance Balancing Account Baseline over the MYRP will be approximately \$8.3 million for electric and \$1.7 million for natural gas.¹⁷⁵

¹⁶⁹ Kinney, Exh. SJK-13T at 4:3-7.

¹⁷⁰ *See id.* at 2:10-3:23.

¹⁷¹ Settlement at 9, ¶ 16.

¹⁷² Settlement at 9, ¶ 16(b).

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ Joint Testimony, Exh. JT-1T at 25:7-11; Andrews, Exh, EMA-1T at 64:23; Coppola, Exh. SC-6Cr (Public Counsel Data Request No. 103C).

139 Public Counsel opposes the creation of an insurance balancing account, including any establishment of a baseline.¹⁷⁶ Instead of the Settlement’s proposal to accept Avista’s expected insurance expense amounts of approximately \$8.3 million for electric and \$1.7 million for natural gas for each year of the MYRP and use them to establish a baseline for the balancing account, Public Counsel proposes to identify its own insurance expense adjustment within the revenue requirement authorized in this GRC but not allow that amount to be used as a baseline in a balancing account.¹⁷⁷ We address Public Counsel’s expense adjustment later in this Order, in our discussion of the Settlement’s agreed revenue requirement, but as part of our consideration of the Settlement’s insurance balancing account terms we note the amounts presented by Public Counsel in this section.

Commission Determination

140 We find the Settlement’s terms establishing a non-precedential Insurance Balancing Account appropriate, subject to a documenting and reporting condition. We agree with the principle underpinning Public Counsel’s opposition to the creation of the Insurance Balancing Account: generally, authorizing a pass-through such that a company is guaranteed recovery of its costs in a certain area removes the business incentive for the company to control those costs. However, we find that the record supports the creation of an Insurance Balancing Account, as agreed to in the Settlement, in particular because of the unique circumstances and terms presented.

141 Namely, we find that Avista has demonstrated unprecedented increases and volatility in its insurance costs.¹⁷⁸ We agree that Avista has shown the insurance expense increases in recent years are “extraordinary” and “volatile” and caused an under-recovery of approximately \$5.3 million in 2022.¹⁷⁹ We also find that Avista has demonstrated that it has taken and is taking appropriate steps to try to control these costs, but has shown unprecedented recent increases in insurance that are largely out of its control. These increases have been driven primarily by the Company’s general liability premiums, which cover wildfire risk and property insurance premiums, and which tend to react to insurance industry losses due to natural disasters.¹⁸⁰ In addition, we agree that these costs

¹⁷⁶ Brief of Public Counsel at 17, ¶ 35; Coppola, Exh. SC-1T at 24:19.

¹⁷⁷ See Coppola, Exh. SC-1T at 23:15-24:16; Coppola, Exh. SC-8.

¹⁷⁸ This results from significant increases in insurance expenses in recent years, which have increased approximately 107 percent from 2020 to 2022. Andrews, Exh. EMA-7T 25:16-18.

¹⁷⁹ Andrews, Exh. EMA-1T at 66:16-19 and Exh. EMA-7T 28:5-11.

¹⁸⁰ See Andrews, EMA-1T at 64:2-74:19; Brandkamp, Exh. REB-1CT at 3:22-8:12.

have increased due to factors outside the Company's control and despite the Company's best efforts under its Wildfire Resiliency Plan.¹⁸¹

142 We also observe that the amounts proposed as a baseline by the Settlement and as insurance expense calculated by Public Counsel are similar,¹⁸² but find that Public Counsel's methodology would present risks, flaws, and precedent that strongly disfavor its adoption. Public Counsel disagrees with Avista's method of projecting its insurance expense, preferring to use a Consumer Price Index (CPI) inflation factor.¹⁸³ We are unpersuaded by Public Counsel's arguments to adopt an unrelated inflation factor to calculate projections for insurance costs during the MYRP. Public Counsel's proposal to use inflation factors projecting growth in this area is incongruous with its support for the Settlement's terms excluding escalation factors projecting growth – a portion of the Settlement supported by all parties. In addition, as Avista notes in the record, the insurance market does not generally correlate with CPI factors, as shown by increases in recent years.¹⁸⁴

143 Conversely, Avista's estimates are based on consultations with insurance brokers to identify overall trends and projected movements in future premiums in the industry.¹⁸⁵ We agree with Avista that the inflation factors projecting growth in this area are unrelated to insurance or utility costs and have no bearing on the insurance risks being borne by Avista or its expected insurance premiums.¹⁸⁶ The Settlement proposes a balancing account baseline representing increases to Avista's total system invoiced 2022 insurance levels of 12.9 percent (electric and natural gas). After allocation, this results in an increase of 6.7 percent (WA electric) and 0.6 percent (WA natural gas) above invoiced 2022 levels.¹⁸⁷ Public Counsel proposes increases to Avista's total system invoiced 2022 insurance expense levels during the MYRP of 2.4 percent (electric and natural gas) in 2023 and 2.3 percent (electric and natural gas) in 2024.¹⁸⁸ Thus, we find the method supported by Avista and the Settlement to establish the Insurance Balancing Account

¹⁸¹ Andrews, Exh. EMA-1T at 67:16-68:2.

¹⁸² *Compare* Coppola, Exh. SC-8 with Coppola, Exh. SC-6Cr.

¹⁸³ Coppola, Exh. SC-1T at 22:1-20.

¹⁸⁴ Forsyth, Exh. GDF-3T at 9:24-10:3.

¹⁸⁵ Brandkamp, Exh. REB-1CT at 3:22-4:6; Andrews, Exh. EMA-7T at 27:7-10.

¹⁸⁶ Andrews, Exh. EMA-7T at 27:15-28:2.

¹⁸⁷ *See* Coppola, Exh. SC-6Cr.

¹⁸⁸ Coppola, Exh. SC-1T at 23:17-24:16; Coppola, Exh. SC-8.

baseline is appropriate, and the method proposed by Public Counsel for calculating the insurance expense, or to substitute it as the baseline, is not.

- 144 Last, we find that the Settlement reasonably addresses the concerns from both perspectives as it counterbalances the creation of the account as a protection for both customers and the Company as well as with non-precedential treatment and a limited timeframe of two years. The proposed balancing account would protect ratepayers and the Company from over- or under-collection, by deferring actual insurance expense above or below the baseline amount (the amount included in base rates), similar to that approved in the 2020 Avista GRC for the Company's wildfire expense balancing account. The deferred accounting mechanism would ensure that customers pay no more and no less than the actual expenses incurred over the two-year rate plan. Recovery or refund of any deferred balance would be made through an annual compliance filing beginning September 1, 2023, to become effective November 1, 2023, where the insurance expense deferred balance as of July 31 would be rebated or surcharged through a separate tariff.
- 145 We emphasize that this is not precedential, but for this case only, and the authorization granted by this Order will cease at the conclusion of the MYRP. In addition, we find a condition necessary to underpin and safeguard the delicate balance in this term of the Settlement to ensure Avista will continue to seek the best insurance at the best price and any savings below the baseline will be returned to customers.
- 146 Accordingly, we determine that approval of the Settlement should be conditioned on a modification to this term to ensure Avista takes appropriate action to negotiate and attain the best insurance at the lowest costs.

Condition. We condition our approval of the Settlement on the modification of this term to include the requirement that Avista document its action to seek out, negotiate, and attain the best insurance at the lowest costs and file with the Commission such documentation, with explanatory narratives, in Avista's annual filing beginning September 1, 2023. Subject to this condition, we determine that the Settling Parties' agreement to create an Insurance Balancing Account, including the proposed baselines for electric and natural gas, is in the public interest and should be approved.

4. WILDFIRE

- 147 As previously discussed, the Settling Parties agree to 16 performance metrics related to wildfires and to move the filing date for the Wildfire Deferral from July 31 to September 1 as well as the effective date for the Wildfire Deferral from October 1 to November 1.¹⁸⁹ In addition to these terms already discussed, the Settling Parties agree to accept Avista's proposal to update its Wildfire Expense Balancing Account baseline to \$5.1 million, as initially filed by Avista, for the duration of the MYRP.¹⁹⁰
- 148 Public Counsel does not oppose any of the above terms of the Settlement. Instead, Public Counsel proposes several general modifications to Avista's Wildfire Plan. In particular, Public Counsel recommends that the Commission require Avista to clarify the definitions, purpose, and cost basis of wildfire activities in order to provide the Commission and ratepayers information on what wildfire activities customers are paying for with supporting evidence for cost recovery.¹⁹¹ Public Counsel also proposes adjustments to decrement wildfire expenses and capital additions.¹⁹²

Commission Determination

- 149 Public Counsel proposes revenue requirement adjustments to Avista's wildfire expenses and capital additions.¹⁹³ While the Settling Parties agree to update the Wildfire Balancing Account baseline, the Settlement does not accept Avista's initially-filed proposals related to wildfire adjustments for purposes of calculating an agreed revenue requirement.¹⁹⁴ We find it sufficient and appropriate, therefore, to further address Public Counsel's proposed adjustments to Avista's wildfire expenses and capital additions only as part of this Order's discussion of the Settlement's revenue requirement agreements.¹⁹⁵ Below, we turn to Avista's Wildfire Resiliency Plan and Public Counsel's proposed modifications.

¹⁸⁹ *Supra* Sections A.1.x., A.1.xv.b.

¹⁹⁰ Settlement at 9, ¶ 16(a) and accompanying notes; *see* Andrews, Exh. EMA-1T, 57:16-59:17.

¹⁹¹ Tam, Exh AT-1T at 11:19-12:2.

¹⁹² Tam, Exh. AT-1T at 10:16-19; Coppola, Exh. SC-1CT at 25:22-26:19, 80:9-12.

¹⁹³ *See* Brief of Public Counsel at 19, 33-34, ¶¶ 40, 74-75; Tam, Exh. AT-1T at 10:16-19; Coppola, Exh. SC-1CT at 25:22-26:19, 80:9-12.

¹⁹⁴ *See* Settlement at 4-5, 9, ¶¶ 10, 16(a).

¹⁹⁵ *See infra*, Section A.6.

150 We find the Settlement’s wildfire-related terms appropriate and find insufficient cause to condition our approval of these terms. Avista’s Wildfire Resiliency Plan was first published in May of 2020. It has four major categories: grid hardening, enhanced risk-based vegetation management practices, grid control and monitoring technology and use of Dry Land Mode, and emergency operations and planning.¹⁹⁶ In the 2020 Avista GRC Final Order, the Commission approved a two-way balancing account to track variability in wildfire expenses, setting the initial baseline at \$3.065 million.¹⁹⁷ The Settlement proposes to update the account’s baseline to \$5.1 million for the duration of the MYRP.¹⁹⁸

151 Public Counsel recommends that the Commission require several changes 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.”¹⁹⁹ Regarding terminology, Public Counsel requests that the Commission issue specific guidance, in these consolidated proceedings or in Docket U-210254, regarding wildfire plan elements including a glossary of terms for standardization purposes.²⁰⁰ Public Counsel further asserts that Avista could improve mitigation components of the Plan by having the Company specify the exact purpose of each wildfire program component and what risk each component attempts to mitigate.²⁰¹ Public Counsel recommends that Avista track and report additional wildfire metrics related to risk events, ignition events, reliability, and communications and outreach.²⁰²

¹⁹⁶ Howell, Exh. DRH-1T at 7:10-20.

¹⁹⁷ 2020 Avista GRC Final Order at 81-91, ¶¶ 231-259 and accompanying notes; Joint Testimony, Exh. JT-1T at 24:5-8.

¹⁹⁸ Settlement at 9, ¶ 16(a) and accompanying notes.

¹⁹⁹ Public Counsel Brief at 38-39, ¶ 85; Tam, Exh AT-1T at 11:19-12:2. As the Commission has become aware that the term “stakeholder” is non-inclusive and historically problematic, we are working to substitute terms like “interested persons,” “participants,” “persons,” or “non-company parties,” depending on the situation. We urge others to do the same.

²⁰⁰ Public Counsel Brief at 39, ¶ 86; Tam, Exh AT-1T at 16:11-16.

²⁰¹ Public Counsel Brief at 40, ¶ 87; Tam, Exh AT-1T at 16:19-20.

²⁰² Public Counsel Brief at 40-43, ¶¶ 88-95; Tam, Exh AT-1T at 30:17-31:9; 32:7-9; 37:13-39. Public Counsel’s requests include one that the Commission adopt 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.” Brief of Public Counsel at 41, ¶ 90; *see* Tam, Exh. AT-1T at 31:17-32:4.

- 152 Avista indicates that it will be incorporating many of Public Counsel's recommendations as helpful and constructive improvements.²⁰³ Avista agrees to add a glossary of terms into its reports and will make an effort to use the same terminology in most wildfire documents to promote consistency and understanding.²⁰⁴ In addition, Avista contends it cannot enforce standardization of terminologies with other utilities, but agrees to be open to updating, improving, and refining its own definitions and descriptions in light of these interactions.²⁰⁵ Avista also updated and provided a new table to better describe how programs will mitigate wildfires, detailing the work category, program, primary purpose, and mitigation value.²⁰⁶ Avista provided a second table to detail the distributed grid hardening treatment with the risk reduction outcome expected.²⁰⁷
- 153 For Public Counsel's other critiques, Avista responds that it is either currently working on or improving numerous aspects of its Wildfire Resiliency Plan, including: equipment replacement; wildfire metrics for performance measures; tracking of pole fires and fiberglass cross-arm replacements alongside each other; limitations of existing Outage Management System; the need for geographic tracking of risk events and ignitions; additional metrics used by California utilities; tracking of outages and ignitions from trees outside the utility corridor; tracking outages during different Dry Land Mode settings; tracking wildfire-related communication and outreach metrics; improve Access and Functional Needs outreach; provide translated wildfire-related materials; and engaging with community-based organizations related to special-needs and limited English proficiency customers.²⁰⁸ Avista explains that some of the improvement areas are due to technical constraints during the transition of new programs.
- 154 We are satisfied with Public Counsel's and Avista's dialogue in these consolidated proceedings and Avista's adoption of many of Public Counsel's recommendations. We find that the record demonstrates Avista's openness to feedback and willingness to adopt constructive suggestions. Many of Public Counsel's suggestions have either already been adopted or will be adopted by Avista when technically feasible. We decline to require or condition approval of the Settlement upon Avista adopting additional proposals but

²⁰³ Howell, Exh. DRH-5T at 3:18-22.

²⁰⁴ *Id.* at 3:23-27, and 26:6-9.

²⁰⁵ *Id.* at 26:14-27:6.

²⁰⁶ *Id.* at 28:1-23.

²⁰⁷ *Id.* at 29:1-30:1.

²⁰⁸ *Id.* at 3:18-27, 10:4-15:9; 16:1-19:14; 21:15-25:22; 26:6-27:6; 28:1-37:20.

expect Avista to remain open to more improvements going forward and to continue its involvement and participation in Docket U-210254, which is a more appropriate forum for pursuing many of Public Counsel's recommendations.²⁰⁹ We encourage Public Counsel to redeliver its suggestions and recommendations, in particular those that have universal effect for Washington's investor-owned utilities, in Docket U-210254 to help promote, among other things, standardization of wildfire terminology and risk event and ignition reporting concerns that might aid further development of utility preparedness.

155 Accordingly, we determine that the Settlement's wildfire terms, exclusive of the expense and capital additions that we include in our discussion of the Settlement's revenue requirement terms, should be approved without condition.

5. COST OF CAPITAL

156 The Settling Parties agree to an ROR of 7.03 percent for both years covered by the Settlement.²¹⁰ Like the revenue requirement for both electric and natural gas operations discussed later in this Order, this term of the settlement is a results-only agreement. The Settlement identifies no component of the cost of capital used to calculate the agreed ROR, namely: return on equity (ROE), cost of debt, and capital structure. In a footnote to their joint testimony (Footnote 8), however, the Settling Parties provide hypothetical components illustrating how the agreed ROR "could be derived using Avista's currently-authorized Return on Equity of 9.4 percent, 48.5 percent equity layer, 51.5 percent debt layer, and a 4.8 percent cost of debt that was updated during the case."²¹¹ The Settling Parties state that this would produce "a result within the zone of reasonableness."²¹²

157 Public Counsel opposes the Settlement's proposed ROR of 7.03 percent. In addition, Public Counsel opposes all hypothetical components of the proposed ROR that are implied by Footnote 8: the capital structure, ROE, and cost of debt. Table 6, below, illustrates Avista's currently authorized cost of capital, Avista's actual cost of capital reported to the Commission in its 2021 Commission Basis Report, and the cost of capital positions presented in this proceeding.

²⁰⁹ Docket U-210254 is the Commission's docket for utility wildfire preparedness.

²¹⁰ Settlement at 5, ¶ 11.

²¹¹ Joint Testimony, Exh. JT-1T at 14, n. 8.

²¹² *Id.*

Table 6. Cost of Capital Positions

Component	Current	Settlement	Public Counsel	<i>Initial Filing</i> ²¹³	<i>2021 CBR</i> ²¹⁴	<i>Footnote 8</i> ²¹⁵
Equity	48.5 %	-	45.6 %	48.5 %	47.56%	48.5 %
ROE	9.4 %	-	8.75%	10.25%	9.4 %	9.4 %
Weighted Cost	4.56%	-	3.99%	4.97%	4.47%	4.56%
Debt	51.5 %	-	54.4 %	51.5 %	52.44%	51.5 %
Cost	4.97%	-	4.54%	4.54%	4.78%	4.8 %
Weighted Cost	2.56%	-	2.47%	2.34%	2.51%	2.47%
ROR	7.12%	7.03%	6.46%	7.31%	6.98%	7.03%

Commission Determination

158 We find the Settlement’s agreed ROR of 7.03 percent appropriate. The record supports the cost of capital terms agreed by the Settling Parties and we find that the Settlement’s agreed ROR falls within a range of reasonableness. In this case, the Commission received three cost of capital testimonies: Avista’s initial testimony, Public Counsel’s opposition testimony, and the Settling Parties’ rebuttal testimony (Avista’s witnesses).²¹⁶ Ultimately, we find that the Settlement’s agreed ROR is supported by the record and falls within a

²¹³ With its support of the Settlement and the Settling Parties’ proposal to a results-only ROR of 7.03 percent, Avista no longer supports the testimony and evidence it initially filed regarding cost of capital.

²¹⁴ See Avista’s 2021 Electric & Natural Gas CBRs, Dockets UE-220288 and UG-220289 (Apr. 25, 2022).

²¹⁵ The cost of capital elements provided as hypothetical illustration only are not agreed to by the Settling Parties and are not included as a term in the Settlement. Settling Parties provide the information in Footnote 8 only as a hypothetical illustration of how the ROR *could be derived* using Avista’s currently authorized capital structure, ROE, and updated cost of debt. See Response to BR-7.

²¹⁶ See, e.g., Garrett, Exh. DJG-1T at 9:1-12, stating “In my opinion, an authorized ROE greater than the 8.75 percent ROE I recommend would be unreasonable.” See, e.g., McKenzie, Exh. AMM-1T at 6:1-4, stating “Based on the results of my analyses shown on Exh. AMM-4, and giving less weight to extremes at the high and low ends of the range, I conclude that the cost of equity for the proxy group of utilities is in the 9.5 percent to 10.9 percent range.”

range of reasonableness and find Public Counsel's arguments unconvincing that the agreed ROR is unsupported and unreasonable.

159 Public Counsel's arguments regarding cost of capital, like most of its opposition testimony, are presented in contrast to Avista's initial filing. Specifically, Public Counsel focuses its testimony on components of cost of capital not specified in the Settling Parties' agreement. Public Counsel's argument might have been more persuasive if it were focused more on its opposition to the Settlement terms that we must evaluate.²¹⁷ Public Counsel's proposed cost of capital would reduce the initial filing's revenue requirement in the first rate year by \$23.0 million for electric and \$5.8 million for natural gas, and in the second rate year by \$0.9 million for electric and \$0.2 million for natural gas.²¹⁸ Public Counsel's direct recommendation regarding the Settlement's ROR is that the Commission should reject it because it fails to reduce the initial filing's revenue requirement *as much as* Public Counsel's.²¹⁹ We find this argument unpersuasive.

160 Public Counsel focuses its arguments on ROE and capital structure, while accepting the initial filing's cost of debt. Public Counsel witness Garrett argues that the agreed ROR is unreasonable because it is derived from an implied ROE of 9.68 percent.²²⁰ Garrett also argues that the level of equity in the capital structure proposed by Avista in its initial filing is too high.²²¹ Again these arguments focus opposition on Avista's initial filing, instead of the Settlement, which is what we must evaluate and consider. This flaw is particularly fatal given the lack of ROE, capital structure, or cost of debt enumerated in

²¹⁷ Public Counsel witness Coppola testifies that

Public Counsel's lower cost of capital represents the largest adjustment to Avista's proposed revenue requirement, reflecting primarily the excessive ROE rate of 10.25 percent the Company proposed and an inflated equity ratio of 48.5 percent. The Commission should not accept the Company's overstated rate of return, and instead should accept Public Counsel's proposed overall cost of capital

Coppola, Exh. SC-1CT at 16:13-14.

²¹⁸ *Id.* at 16:4-7.

²¹⁹ The Settlement ROR would reduce the initial filing's revenue requirement in the first rate year by only \$7.6 million for electric and \$1.9 million for natural gas, and in the second rate year by only \$0.3 million for electric and \$0.1 million for natural gas. *Id.* at 16:18-17:8.

²²⁰ Garrett, Exh. DJG-1T at 9:1-4; 15, Figure 3. Garrett uses Avista's currently authorized capital structure and the cost of debt in the initial filing. *Id.* Garrett also argues that an ROE of 9.4 percent is unreasonable. *Id.* at 56:3-14.

²²¹ *See* Garrett, Exh. DJG-1T at 57:2-64:7.

the Settlement. The only element of cost of capital agreed by the Settling Parties is the resulting ROR, which they present as a fair end result that falls within the range of reasonableness supported by the testimony in these consolidated proceedings and as the result of a negotiated settlement. Nevertheless, we examine the evidence presented by Public Counsel and explain our determinations.

161 Public Counsel employs CAPM and DCF models supporting ROE results of 7.5 percent and 8.3 percent.²²² Avista witness McKenzie, on behalf of the Settling Parties, critiques Public Counsel's analyses, arguing that they misapply risk philosophies and are undermined by methodological flaws.²²³ We agree and note, first, flaws with Public Counsel's over reliance on long-term forecast of Gross Domestic Product (GDP) from the Congressional Budget Office (CBO) due to CBO's own characterization of its projections as "very uncertain" and exacerbated by the unknown effects of the pandemic, and, second, Public Counsel's reliance on a market risk premium based upon the assumption that a long term growth rate would equal the then-current yield on United States' Treasury bonds.²²⁴ During these consolidated proceedings, the CIP inflation increased to over 9 percent.²²⁵ In part due to changing economic conditions since its filed testimony, Public Counsel's proposals based upon assumptions of a 3.8 percent nominal growth rate are simply too tenuous to be persuasive.²²⁶ Thus, we determine the Settlement's agreed ROR should not be modified based upon Public Counsel's ROE arguments and proposal.

162 We are likewise unpersuaded by Public Counsel's arguments that the Settlement's agreed ROR should be modified by Public Counsel's proposed capital structure. Public Counsel recommends a capital structure with an equity ratio of 45.6 percent, which is less than Avista's current authorized ratio of 48.5 percent.²²⁷ Public Counsel argues that a utility, like Avista, would have an incentive to keep less equity and fund its operations with a greater portion of debt than reflected in its authorized capital structure because equity

²²² Garrett, Exh. DJG-1T at 56:4-6.

²²³ McKenzie, Exh. AMM-15T at 5:6-10, 25:6-13, 26:3-28:8, 32:3-36:16, 37:7-38:2, 47:15-48:1; Ehrbar, Exh. PDE-2T at 4:9-11.

²²⁴ See Garrett, Exh. DJG-1T at 36:3-46:21, 50:11-53:12; Garrett, Exh. DJG-6, Garrett, Exh. DJG-8; McKenzie, Exh. AMM-15T at 35:10-36:2, 39:5-13.

²²⁵ McKenzie, Exh. AMM-15T at 8:15-19.

²²⁶ See *id.*; Garrett, Exh. DJG-1T at 43:3-44:4; McKenzie, Exh. AMM-15T at 35:19-36:2 and accompanying notes.

²²⁷ Garrett, Exh. DJG-1T at 64:9-11.

receives a larger return than debt, and debt has a lower cost.²²⁸ We are reassured by testimony supporting the Settlement that establishes Avista's intent and practice of maintaining a level of equity near its authorized level. We find no concern at this time that Avista is manipulating its level of equity in the ways Public Counsel says are possible.²²⁹ Further, due to the terms' results-only nature, the level of equity and debt is undefined and, therefore, impossible for us to determine without upsetting the Settlement. In addition, Avista's recent CBRs add support to the conclusion that Avista is not at this time manipulating its authorized level of equity. The CBRs show the Company's actual equity ratio as of December 31, 2021, at 47.56 percent, which is closer to Avista's authorized equity ratio than Public Counsel's proposed equity ratio.²³⁰ Thus, we determine the Settlement's agreed ROR should not be modified based on Public Counsel's capital structure proposal.

163 The resulting ROR that Public Counsel recommends is 6.46 percent and would represent a 66 basis point decrement upon Avista's currently-authorized ROR if adopted.²³¹ Public Counsel's recommendation is based upon a 7.9 percent ROE, 4.45 percent cost of debt, and an equity ratio of 45.6 percent. The Settling Parties argue that Public Counsel's proposal is unreasonably low. Avista witness McKenzie, on behalf of the Settling Parties, provides the most updated five-year average ROE of 9.44 percent and a median of 9.49 percent approved by state utility commissions.²³² With this context, the Settling Parties argue that Public Counsel's estimate of Avista's cost of equity as 7.9 percent is not credible, fails to meet accepted benchmarks, and would be an extreme result falling "far below the lowest ROE awarded by any state regulatory commission in modern history."²³³ We agree, but recognize that basing our approval of ROE on the results of other state utility commissions represents a circular and self-fulfilling argument because those commissions may be making decisions the same way. Public Counsel's recommendation to set an ROR of 6.46 percent based, in part, upon decrementing Avista's currently authorized ROE by approximately 150 basis points below the average

²²⁸ See Garrett, Exh. DJG-1T at 56:16-60:15.

²²⁹ Thies, TR at 433:7-438:2.

²³⁰ See Avista's 2021 Electric & Natural Gas CBRs, Dockets UE-220288 and UG-220289 (Apr. 25, 2022).

²³¹ Garrett, Exh. DJG-1T at 3:1-7; Coppola, Exh. SC-1CT at 11:3-4.

²³² McKenzie, Exh. AMM-15T at 5:3-5. McKenzie's data is taken from S&P Global Market Intelligence, Major Rate Case Decisions – January-June 2022.

²³³ Ehrbar, Exh. PDE-2T at 3:19-24 (citing McKenzie, Exh. AMM-15T); see McKenzie, Exh. AMM-15T at 4:11-19:9.

allowed ROE for other electric utilities in the first half of 2022 would be a shock to Avista's financial integrity and impact its ability to attract capital on reasonable terms.²³⁴ The record's demonstrated and explained economic circumstances scarcely justify any consideration of authorizing an unprecedented decrement to Avista's authorized ROR. Ultimately, we find Public Counsel's analyses and recommendations unconvincing and unpersuasive because they are too speculative and unreliable.

164 ROR is the most important element of cost of capital for regulatory purposes. For example, the ROR is reported in Avista's annual CBR and used in Avista's decoupling mechanism to trigger a refund to customers. Prior to this GRC, that earnings test would return half the Company's earnings that exceeded its authorized ROR (currently 7.12 percent).²³⁵ The Settlement replaces this earnings test with language from RCW 80.28.425(6), triggering a refund to customers of *all* earnings more than one-half percent above Avista's authorized ROR.²³⁶

165 The Settlement's agreement would reduce Avista's currently authorized ROR from 7.31 percent to 7.03 percent. Using Avista's currently authorized ROR would create a refund threshold of 7.81 percent, but the Settlement lowers the threshold for a refund of *all* earnings to 7.53 percent. While the Settlement increases Avista's revenue requirement, the agreed decrement to Avista's ROR is a gradual step that benefits Avista's ratepayers. The give and take of the Settling Parties through negotiation of this term is, therefore, readily apparent in achieving a fair balance of opposing interests. Accordingly, we determine that the Settlement's agreed ROR is a fair end result that falls within a range of reasonableness, that it is supported by the record, and that it should be approved.

6. OVERALL REVENUE REQUIREMENT

166 As described above in Table 1, Avista proposed in its initial filing an annual revenue increase for Rate Year 1 for its electric operations of approximately \$52.9 million, or 9.6 percent, and for its natural gas operations of approximately \$10.9 million, or 9.5 percent. For Rate Year 2, Avista proposed an annual revenue increase for its electric operations of

²³⁴ See McKenzie, Exh. AMM-15T at 20:18-21:21.

²³⁵ Avista Tariff Schedules 75 (electric) and 175 (natural gas).

²³⁶ Settlement at 20, ¶ 28(e); Ehrbar, Exh. PDE-1T at 37:14-38:24. One-half percent above the agreed ROR of 7.03 percent.

approximately \$17.1 million, or 2.8 percent, and an increase for its natural gas operations of \$2.2 million, or 1.7 percent.²³⁷

167 The Settlement provides for a \$38.0 million annual increase to Avista’s electric revenues, and a \$7.5 million annual increase to its natural gas revenues in Rate Year 1. In Rate Year 2, the Settling Parties agree to an additional \$12.5 million annual increase to Avista’s electric revenues, and \$1.5 million to its natural gas revenues.²³⁸ The Settlement also includes a proposal to return the Residual Tax Customer Credit of \$25.5 million for electric (approximately \$12.8 million annually) and of \$12.5 million for natural gas (approximately \$6.3 million annually) to partially offset the revenue increases.

168 The Settling Parties’ agreement regarding Avista’s revenue requirement during the MYRP is a “results-only” settlement.²³⁹ The Settling Parties agree that the overall resulting rate increases in the MYRP are equitable, fair, just, reasonable, and sufficient, and with the exception of certain items (*e.g.*, ROR), do not agree to any specific adjustments necessary to reach the agreed revenue requirement. Specifically, no individual adjustments made to net operating income or rate base were enumerated to calculate the revenue requirement. The parties attest that the results-only Settlement represents a give-and-take on multiple issues that characterizes settlement discussions and reflects a reasonable balance of differing interests.²⁴⁰

169 While Public Counsel accepts nearly all the Settlement’s terms, it contests the overall revenue requirement and argues that the Commission should adopt a revenue requirement that relies on its adjustments to the revenue requirement models presented in Avista’s initial filing.

170 In general, the revenue requirement is the increase or decrease in additional or reduced annual revenue derived from a calculation using a modified historical test year based on

²³⁷ Vermillion, Exh. DPV-1T at 18:11-17.

²³⁸ Joint Testimony, Exh. JT-1T at 2:15-22.

²³⁹ Previously, the Commission has described such agreements as “black-box” settlements. However, as we have become aware that this description has negative connotations that reinforce anti-Blackness by using colorist language, we intend to reference such agreements as “results-only” or “results-focused” settlements. Similarly, as noted above, we intend to substitute for the historically problematic term “stakeholder” terms such as “interested persons,” “participants,” “persons,” or “non-company parties,” depending on the situation. We urge parties before the Commission to adopt the same or similarly informed and updated language.

²⁴⁰ Joint Testimony, Exh. JT-1T at 12:3-9.

adjustments to a company’s currently authorized ROR to its rate base, expenses, and revenues. A results-focused Settlement means that its revenue requirement components are neither articulated in a way that allows others to reproduce the calculation nor identified for purposes of allowing any numerical increase or decrease.

171 Table 7, below, summarizes the revenue requirement proposals and adjustments presented by Avista’s initial filing, Public Counsel’s opposition testimony, and the Settlement.

172 **Table 7. Revenue Requirement Summary (before Residual Tax Customer Credit)**
(in millions)

Position		Electric		Natural Gas	
		Rate Year 1	Rate Year 2	Rate Year 1	Rate Year 2
Initial Filing		\$ 52.9	\$ 17.1	\$ 10.9	\$ 2.2
Public Counsel Adjustments to Initial Filing	<i>ROR Reduction</i>	\$ (23.0)	\$ (0.9)	\$ (5.8)	\$ (0.3)
	O&M Reductions	\$ (10.4)	\$ (4.9)	\$ (2.1)	\$ (0.9)
	Rate Base Reductions	\$ (7.2)	\$ (8.7)	\$ (1.4)	\$ (0.8)
	O&M Offsets Reversal	\$ 0.2	\$ (0.2)	\$ (0.04)	\$ (0.01)
	EIM Benefit	\$ (12.1)	-	-	-
Public Counsel		\$ 0.4	\$ 2.8	\$ 1.7	\$ 0.2
Settlement		\$ 38.0	\$ 12.5	\$ 7.5	\$ 1.5

Commission Determination

173 Ultimately, we find the revenue requirement Settlement terms balance appropriately with all terms of the Settlement, are supported by the record, and result in rates across the MYRP that are equitable, fair, just, reasonable, and sufficient. We are not troubled by the results-only nature of the Settlement’s revenue requirement terms. Results-only revenue requirement agreements that propose fair and just end results without specifying most, or any, underlying adjustments used to arrive at the resulting revenue requirement would be troubling only if the record, and Settlement, lacked sufficient support demonstrating that

the revenue requirement are equitable, fair, just, reasonable, and sufficient. Here, the Settlement's terms are supported sufficiently, including explanations of the delicate balance struck between the Settling Parties in consideration of the revenue requirement and the non-revenue related terms.

- 174 In evaluating settlements, we consider the entire record. Here, the record for our consideration includes all initial testimony and exhibits, the Settlement and supporting testimony and exhibits, and the testimony and exhibits opposing the Settlement. The Settlement's proposed revenue requirement provide no indications as to any adjustment that may be included in or excluded from the resulting revenue requirement calculations. Considering Public Counsel's opposition, this has two consequences. First, a results-only revenue requirement provides approval for no investment or adjustment for which Avista sought recovery in this case. By approving the proposed revenue requirement, the rate base approved in Avista's most recent rate case remains undisturbed and no determination relating to prudence or any party's proposed adjustments would be affected.
- 175 Second, should we agree with Public Counsel on any of its proposed adjustments to the revenue requirement, we would be unable to identify whether the adjustment advocated for had already been incorporated into and made part of the results-only revenue requirement terms and would, therefore, be unable to effectuate any single adjustment. Taking into consideration our rejection of Public Counsel's cost of capital proposals, the revenue requirement proposed by Public Counsel is similar enough to the agreed revenue requirement that it could be calculated by selecting and rejecting some, but not all, of Public Counsel's adjustments. This illustrates the probability that some, but perhaps not all, of the considerations raised by Public Counsel to arrive at its proposed revenue requirement may already have been considered by the Settling Parties. We cannot, however, speculate upon which issues the Settling Parties entered into negotiated agreements and, ultimately, determined to resolve their further disputes by agreeing to the results-only revenue requirement. All the Settling Parties agree the revenue requirement amounts are fair even if they are unable to enumerate the specific adjustments agreed to in order to arrive at the fair, just, and reasonable end results.
- 176 This is different and distinct from our recent Cascade Final Order. That case presented a settlement that adopted much of the company's initial filing, including the enumeration of adjustments to arrive at an agreed revenue requirement. The Commission was able to determine in that case which revenue requirement adjustments the settling parties adopted that could be modified. Here, we cannot. Instead, we must consider the aggregate and

whether the results-only revenue requirement to which the Settling Parties agreed represents, when considered as part of the Settlement as a whole and balanced by the numerous non-revenue terms, a fair, just, and reasonable end result. Here, we determine that the end-results revenue requirement is supported by an appropriate record and, in the context of the entirety of the Settlement, is in the public interest and should be approved. We explain in greater detail, below.

177 Rather than responding to the merits of the resulting revenue requirement in the context of the entire Settlement, which contains many terms Public Counsel asserts are in the public interest, Public Counsel responds primarily to the merits of the proposals and adjustments presented in Avista's initial testimony, relying on its adjustments to Avista's revenue requirement models to present its own revenue requirement recommendations. Public Counsel's proposed revenue requirement reductions stem from adjustments to the Settlement's cost of capital, which we have previously addressed in this Order, eight expense items in the Company's initial filing, and 16 capital additions included in the Company's initial filing.

178 The specific expense items Public Counsel recommends adjusting are: Insurance Expense, Vegetation Management, Customer Service Expense, Pension Expense and Other Post-Employment Benefits Expense, Miscellaneous Operations and Maintenance Expense, Information Systems and Information Technology Expense, and CETA Labor Expense.²⁴¹ The capital additions Public Counsel recommends adjusting are: Distribution Management System, Gas Non-Revenue Program, EV Transportation, Customer Experience Platform, Customer Transaction Systems, Distribution System Enhancements, Electric Relocation and Replacement Program, Energy Delivery Modernization, Energy Resources Modernization, Gas Aldyl-A Pipe Replacement Program, Gas Meter Change Program, Substation – New Distribution Station Capacity Program, Substation – Station Rebuilds Program, Wildfire Resiliency Plan, Wood Pole Management, and Enterprise and Control Network Infrastructure.²⁴²

179 Public Counsel opposes the Settlement's agreed revenue requirement on two bases. First, Public Counsel argues that the proposed revenue requirement is excessive given current economic conditions and, if the Commission were to accept the Settlement's revenue

²⁴¹ Coppola, Exh. SC-1CT at 18:1-25:17, 25:18-27:8, 27:9-30:5, 30:8-32:9, 33:3-36:3, 36:7-38:12, 38:14-41:4.

²⁴² *Id.* at 46:14-49:9, 49:11-50:18, 51:2-53:18, 54:3-57:16, 57:18-60:12, 60:14-63:9, 63:13-68:4, 68:6-72:3, 72:5-74:13, 74:18-79:4, 79:6-84:3, 84:5-86:14, 86:16-89:4.

requirement, the resulting bill impacts would unfairly compound the effects of inflation on customers.²⁴³ Further, Public Counsel argues that growing corporate profit margins are partially responsible for inflation growth and that the Company seeks to earn excessive profits at a time when its customers are struggling.²⁴⁴ Second, Public Counsel argues that the proposed revenue requirement is inequitable. Referencing the relevant statute for MYRPs, Public Counsel argues that the revenue requirement and resulting rate increase will disproportionately burden low-income and marginalized customers who are already experiencing the impacts of high inflation and other economic challenges.²⁴⁵ Because of this, Public Counsel argues that the Settlement does not result in equitable rates.²⁴⁶

180 Public Counsel's presentation is neither persuasive nor well-founded. The Settling Parties' revenue requirement agreements are results-focused and provide no detail as to which adjustments may have been negotiated by the Settling Parties to reach the resulting agreements. Public Counsel's strategy of recommending adjustments to a results-only revenue requirement makes it difficult, if not impossible, for the Commission to effectuate any of Public Counsel's positions because we cannot determine which, if any, of Public Counsel's positions were already adopted or considered in the negotiations of the Settling Parties when arriving at the agreed revenue requirement. Thus, contrary to Public Counsel's arguments, we find its presentation cannot serve as an appropriate basis to decrement the Settlement's revenue requirement. We decline to break the results-only terms of the Settlement's revenue requirement in order to specify or enumerate any of the adjustments proposed by Public Counsel that might be considered in a fully litigated proceeding or a settlement that enumerated specific adjustments.

181 Avista's initial filing and Public Counsel's adjustments to that filing are record evidence that provide essential context for our evaluation of what balance the Settling Parties have struck between their revenue requirement agreements and the Settlement's other non-revenue terms. However, Avista no longer supports the revenue requirement proposed in its initial filing. That filing does not provide insight into the formulation of the Settling Parties' results-only revenue requirement agreements. Likewise, Public Counsel's arguments against Avista's initial filing provide no insight into what reductions to the

²⁴³ Dahl, Exh. CJD-1T at 13:9-14:2.

²⁴⁴ *Id.* at 14:9-19.

²⁴⁵ RCW 80.28.425 permits the Commission to consider environmental health and greenhouse gas emissions reductions, health and safety concerns, economic development, and equity in determining whether rates are in the public interest.

²⁴⁶ Dahl, Exh. CJD-1T at 17:10-18:2.

results-only revenue requirement agreements could be justified. In consideration of all the record evidence, we are persuaded that the many terms in the Settlement are fair, just, and reasonable and represent an appropriately negotiated balance between the needs of the Company and the needs of its customers.

182 In addition, we are not merely approving rates that will remain static without oversight of Avista's performance. We assure Public Counsel and Avista's customers that the regulation of Avista going forward will be quite the opposite. For all capital additions during the MYRP, Avista will annually file in these consolidated dockets support for the additions that will be reviewed by the parties and the Commission to determine if any refunds are due customers. We accept and adopt the Settlement's many performance metrics, requiring that Avista file reports on these metrics with the Commission, and place additional assessment measures (pursuant to RCW 80.28.425(7)) for evaluating the MYRP going forward. We address and explain this in greater detail in Section C of this Order. We fully expect, encourage, and welcome Public Counsel's and other ratepayer representatives' engagement in the evaluating investments in the provisional capital review process, evaluating Avista's performance during the MYRP reporting periods, in the Docket U-210590 performance-based ratemaking collaborative, as the regulation of Washington's investor-owned utilities continues to move towards more performance-based regulation as required by statute.

183 Accordingly, for the reasons explained above, we determine that the Settlement's revenue requirement terms should be approved. Based on the decisions we make in this Order for the purposes of authorizing rates that are equitable, fair, just, reasonable, and sufficient, we authorize an increase to Avista's revenue requirement prior to the inclusion of the Residual Tax Customer Credit as set forth in the Settlement of approximately \$38.0 million, or 6.9 percent over base rates, for the Company's electric operations in Rate Year 1 of the MYRP, and \$12.5 million, or 2.1 percent over base rates, for the Company's electric operations in Rate Year 2 of the MYRP. For the Company's natural gas operations, we authorize an increase of \$7.5 million, or 6.6 percent over base rates, in Rate Year 1 of the MYRP, and \$1.5 million, or 1.2 percent over base rates in Rate Year 2.

B. SETTLEMENT DETERMINATION

184 Having reviewed the Settlement, its supporting evidence, and all evidence in the record, we conclude that the Settlement is lawful, supported by an appropriate record, and consistent with the public interest, subject to the conditions outlined in this Order.

Accordingly, we determine that approval of the Settlement subject to conditions in concert with the other findings we have made and explained, above, will establish rates, terms, and conditions for Avista's electric and natural gas service to Washington customers that are equitable, fair, just, reasonable, and sufficient. We therefore approve the Settlement subject to the conditions outlined in paragraphs 78, 85, 99, 112, and 146.

185 The Commission's procedural rules require, if we condition our approval of a settlement on terms that are not included in the settlement agreement, as we do here, that we provide the Settling Parties with an opportunity to accept or reject the Commission's conditions.²⁴⁷ If any of the Settling Parties reject any of the conditions or does not unequivocally and unconditionally accept all of the conditions of our approval of the Settlement as set out in this Order, the Commission will notify the parties that it deems the Settlement to be rejected and will return the adjudication to its status at the time the Commission suspended the procedural schedule for the purpose of considering the settlement subject to compliance with any statutory deadline.²⁴⁸ Because the statutory deadline in this case is December 21, 2022, the Commission would be unable to complete this proceeding absent the Company's agreed extension of the suspension date.²⁴⁹ Accordingly, if any of the Settling Parties objects to any of the conditions of our approval of the Settlement in this Order, the Settlement will be deemed denied on the basis that it proposes rates that are not equitable, fair, just, reasonable, or sufficient.

186 We authorize and require Avista to make a compliance filing by December 14, 2022, consistent with the Settlement's terms, our directions and conditions in this Order in these consolidated dockets to recover in prospective rates its revenue deficiency.

C. PERFORMANCE MEASURES PURSUANT TO RCW 80.28.425(7)

187 The Commission must, by law, "determine a set of performance measures that will be used to assess a gas or electrical company operating under a multiyear rate plan."²⁵⁰ This statutory obligation is placed on the Commission, not any company or party to a GRC. Measures that the Commission might determine appropriate *may* be based on a company's filing, record testimony and evidence, or the proposals made by a company or

²⁴⁷ WAC 480-07-750(2)(b).

²⁴⁸ WAC 480-07-750(2)(b)(ii); WAC 480-07-750(2)(c).

²⁴⁹ WAC 480-07-750(2)(c).

²⁵⁰ RCW 80.28.425(7) (emphasis added).

other party throughout the proceeding.²⁵¹ The Commission’s determination, therefore, need not be based upon a company’s initial filing, the record testimony and evidence, or the proposals made by a company or party throughout the proceeding. It is not only within the Commission’s authority and its discretion to determine a set of performance measures to assess an MYRP, but a requirement of law.

188 As the Settling Parties noted during hearing, the Commission has initiated a proceeding in Docket U-210590 to examine and establish performance metrics, performance incentives and penalties.²⁵² The Commission’s efforts in that docket are proceeding in parallel with the efforts to establish performance measures in this and other general rate case proceedings. Because the Settlement was filed before the Commission issued a Notice of Opportunity to File Written Comment in Docket U-210590 on August 5, 2022, the Settlement’s 92 performance metrics do not necessarily reflect the Commission’s regulatory goals and desired outcomes or design principles provided in Docket U-210590, which is the Commission’s collaborative proceeding concerning performance-based ratemaking.

189 The Settlement proposes 92 performance metrics to be recorded and tracked, but these metrics are not specifically measures appropriate for evaluating Avista’s operations under the MYRP. The Settlement’s 92 performance metrics also fail to aid the Commission in meeting its statutory obligation because the Settlement lacks detailed information related to how the Commission should use the 92 metrics to evaluate Avista’s MYRP or provide all the agreed metric calculations.

190 We therefore determine that certain measures, independent and aside from the 92 metrics included in the Settlement, are necessary for the Commission’s future assessment of Avista’s operations under the MYRP. We adopt the measures outlined in Table 8, below, regarding operational efficiency, company earnings, affordability, and energy burden. All required reporting should use the same formatting for reporting usage by kilowatt-hours and therms as identified in paragraph 56, above.

²⁵¹ RCW 80.28.425(7).

²⁵² Section (1) of Engrossed Substitute Senate Bill 5295, Chapter 188, Laws of 2021, directs the Commission initiate a proceeding to address performance based regulation, among other things: “To provide clarity and certainty to stakeholders on the details of performance-based regulation, the utilities and transportation commission is directed to conduct a proceeding to develop a policy statement addressing alternatives to traditional cost of service rate making, including performance measures or goals, targets, performance incentives, and penalty mechanisms.”

Table 8. MYRP Performance Measures and Outcomes

Topic	Measure/Calculation	Outcome²⁵³
Operational Efficiency	O&M Total Expense <i>divided by</i> Operating Revenue	Assesses how much expense was incurred for every dollar earned. Results at 1.00 or greater might reflect reduced efficiency in controlling O&M spending.
	Operating Revenue <i>divided by</i> AMA Total Rate Base and ²⁵⁴	Assesses efficient use of rate base to generate revenue. Results less than 1.00 or excessively low results might reflect reduced efficiency in utilizing rate base to generate revenue.
	Operating Revenue <i>divided by</i> EOP Total Rate Base	Assesses liquidity of current assets covering current liabilities. Results less than 1.00 might reflect issues or concerns with liquidity.
Earnings	Current Assets <i>divided by</i> Current Liabilities ²⁵⁵	Assesses the amount of net profit gained through revenues earned. Results should be multiplied by 100, to calculate a percentage result, and compared to the authorized ROR.
	Retained Earnings <i>divided by</i> Total Equity	Assesses the amount of earnings retained by a company compared to its total equity. Excessively low or high deviations might indicate that the company is paying out more earnings than reinvesting or that the company is retaining more than it needs, respectively. This metric will require baseline information to understand reinvesting and payout patterns.
Affordability ²⁵⁶	Average Annual Bill Impacts (by Census Tract) Average Annual Bill Impacts (by Zip code)	Assesses the average annual residential bill impacts to better understand, over time and by location, affordability of residential rates using the same average energy usage from year to year for better comparability over time.
Energy Burden ²⁵⁷	Average Annual Bill <i>divided by</i> Average Median Income (by Census Tract) Average Annual Bill <i>divided by</i> Average Median Income (by Zip code)	Assesses the average energy burden of residential customers over time and by location. Results greater than 6 percent indicate energy burden concerns. ²⁵⁸

192 The measures we require Avista to track and report, outlined above, will provide essential and critically important business and customer equity data for the Commission's evaluation of Avista's performance during this MYRP. We also observe that the measures we require, outlined above, will likely continue to be consequential, even beyond this MYRP, for assessing the Company's performance during future MYRPs. Performance-based ratemaking is an iterative process and flexibility is critical. We encourage the parties to these consolidated proceedings to continue to participate in Docket U-210590 through collaboration with the Commission to further assess and define these metrics

193 Likewise, we would find extraordinary benefit from all the historical data related to these measures. At this time, we will not require Avista to search, collect, compile, and provide to the Commission *all* historical data it might have related to these measures. For now, we find that only recent history is necessary for our ability to understand and evaluate Avista's performance at the end of this MYRP. Thus, we require Avista to make a compliance filing within 45 days of this Order to provide the measures and calculations outlined in Table 8, above, for the years 2019-2022 (beginning January 1 and ending December 31 of each year) in order to establish a baseline for our understanding and evaluation. In addition, we require Avista to report the performance measures outlined in Table 8, above, for each year of the MYRP (beginning January 1 and ending December 31 of each year and within 45 days of the end of the reporting period). We will utilize the information gathered through these measures to evaluate the MYRP only, for now, at its conclusion and consider such in our determinations of Avista's next GRC and future MYRPs.

²⁵³ Outcome descriptions are approximate. Baseline data is required prior to a full understanding of outcomes and results.

²⁵⁴ Provide results for both calculations but indicate in report whether the Commission authorized the use of AMA or EOP.

²⁵⁵ "Current" means all current assets that can be converted into cash within one year and all current liabilities with maturities within one year.

²⁵⁶ These measures are similar to metric 1 in Attachment B to the Settlement. These measures track both by census tract and by zip code. Avista should provide separate results for electric-only customers, gas-only customers, and combined electric and gas customers.

²⁵⁷ These measures are similar to the metric 2 in Attachment B to the Settlement. These measures track both by census tract and by zip code. Avista should provide separate results for electric-only customers, gas-only customers, and combined electric and gas customers.

²⁵⁸ See Chapter 480-100 WAC.

FINDINGS OF FACT

Having discussed above in detail the evidence received in this proceeding concerning all material matters, and having stated findings and conclusions upon issues in dispute among the Parties and the reasons therefore, the Commission now makes the following summary of those facts, incorporating by reference pertinent portions of the preceding detailed findings:

- 194 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric and natural gas companies.
- 195 (2) Avista is a “public service company,” an “electrical company,” and “gas company” as those terms are defined in RCW 80.04.010 and used in Title 80 RCW. Avista provides electric and natural gas utility service to customers in Washington.
- 196 (3) Avista’s currently effective rates were determined by the Commission’s Final Order in *Wash. Utils. & Transp. Comm’n v. Avista Corp. d/b/a Avista Utils.*, Dockets UE-200900, UG-200901, and UE-200894 (Consolidated), Order 08/05 (Sep. 27, 2021).
- 197 (4) On January 21, 2022, Avista filed with the Commission revisions to its currently effective Tariffs WN U-28, Electric Service, and WN U-29, Natural Gas Service, proposing a two-year rate plan with increases for its electric and natural gas operations for Rate Year 1 effective December 21, 2022, and for Rate Year 2 effective December 21, 2023.
- 198 (5) Avista initially requested an increase in its annual electric revenue requirement of approximately \$52.9 million (9.6 percent) in Rate Year 1 and of approximately \$17.1 million (2.8 percent) in Rate Year 2, and an increase to its annual natural gas revenue requirement of approximately \$10.9 million (9.5 percent) in Rate Year 1 and of approximately \$2.2 million (1.7 percent) in Rate Year 2.
- 199 (6) Avista initially requested to partially offset its requested increases with the Residual Tax Customer Credit of approximately \$25.5 million for electric and \$12.5 million for natural gas. This modified Avista’s initial request for an increase

during Rate Year 1 to approximately \$40.1 million (7.4 percent) for electric and \$4.6 million (2.5 percent) for natural gas.

- 200 (7) On May 27, 2022, the Commission entered Order 07/01, consolidating Dockets UE-220053 and UG-220054 with Docket UE-210854 pursuant to Staff's unopposed motion to consolidate. Avista had filed in Docket UE-210854 its Electric Service Reliability Reporting Plan pursuant to Washington Administrative Code (WAC) 480-100-393, modifying its previous plan.
- 201 (8) On June 28, 2022, the Settling Parties filed the Settlement, which proposes to resolve all disputed issues and is attached to this Order as Appendix A. Public Counsel contests certain terms of the Settlement, but either supports or does not oppose the other terms.
- 202 (9) Subject to the conditions we outline in paragraphs 78, 85, 99, 112, and 146 of this Order, the Settlement proposes equitable, reasonable, fair, just, and well-balanced resolutions, supported by the record, to all disputed issues: overall revenue requirement; cost of capital; cost of service, rate spread, and rate design; the Residual Tax Customer Credit; Colstrip investments, tracker, and Tariff Schedule 99; power costs; the insurance expense balancing account; the escalation study; capital planning; distributional equity analysis; capital projects review; natural gas transition issues; transportation electrification; performance-based ratemaking; low-income issues; the CCA; small business energy efficiency; electric service reliability report plan; depreciation rates and regulatory amortizations; annual filing dates; annual reporting obligations of Docket U-210151; software licensing; decoupling earnings test; and wildfire issues including the wildfire expense balancing account.
- 203 (10) Avista's currently effective electric and natural gas rates do not provide sufficient revenue to recover the costs of its operations.
- 204 (11) The performance measures outlined in paragraph 191 and their related reporting requirements are fair, reasonable, consistent with applicable law, in the public interest, and will provide necessary information to allow the Commission to evaluate Avista's operations during the MYRP.

CONCLUSIONS OF LAW

Having discussed above all matters material to this decision, the Commission now makes the following summary conclusions of law, incorporating by reference pertinent portions of the preceding detailed conclusions:

- 205 (1) The Commission has jurisdiction over the subject matter of, and parties to, this proceeding.
- 206 (2) Avista is an electric company, a natural gas company, and a public service company subject to Commission jurisdiction.
- 207 (3) At any hearing involving a proposed change in a tariff schedule the effect of which would be to increase any rate, charge, rental, or toll theretofore charged, the burden of proof to show that such increase is just and reasonable will be upon the public service company. RCW 80.04.130 (4). The Commission's determination of whether the Company has carried its burden is adjudged based on the full evidentiary record.
- 208 (4) Avista's existing rates for electric and natural gas service are neither equitable, fair, just, reasonable, nor sufficient, and should be adjusted prospectively after the date of this Order.
- 209 (5) Subject to the conditions in paragraphs 78, 85, 99, 112, and 146, the rates, terms, and conditions in the Settlement are equitable, fair, just, reasonable, and sufficient.
- 210 (6) The Commission should approve the Settlement subject to the conditions in paragraphs 78, 85, 99, 112, and 146, because it is lawful, supported by an appropriate record, consistent with the public interest in light of all the information available to the Commission. The Settlement, subject to conditions, should be incorporated by reference into the body of this Order, as if set forth in full.
- 211 (7) The Commission is legally obligated by RCW 80.28.425(7) to determine a set of performance measures that will be used to assess Avista's operations under the MYRP.

- 212 (8) The Commission's determination of a set of performance measures need not be based upon a company's initial filing, the record testimony and evidence, or the proposals made by a company or party throughout the proceeding.²⁵⁹
- 213 (9) The Commission should adopt the performance measures outlined in paragraph 191 and Avista should be authorized and required to make necessary and sufficient future compliance filings in accordance with the directions and conditions of this Order.
- 214 (10) Avista should be authorized and required to make a compliance filing within 45 days of this Order to provide the measures and calculations outlined in paragraph 191 for the years 2019-2022 (beginning January 1 and ending December 31 of each year).
- 215 (11) Avista should be authorized and required to make an annual compliance filing to report the performance measures outlined paragraph 191 for each year of the MYRP (beginning January 1 and ending December 31 of each year and within 45 days of the end of the reporting period).
- 216 (12) Avista should be authorized and required to make a compliance filing by December 14, 2022, and make future compliance filings consistent with the directions and conditions in this Order in these consolidated dockets to recover in prospective rates its revenue deficiency prior to the inclusion of the Residual Tax Customer Credit of approximately \$38.0 million for its electric operations in Rate Year 1, \$12.5 million for its electric operations in Rate Year 2, \$7.5 million for its natural gas operations in Rate Year 1, and \$1.5 million for its natural gas operations in Rate Year 2.
- 217 (13) The Commission should authorize and require Avista to replace the existing decoupling earnings test with the earnings test provided in RCW 80.28.425(6), including accruing ROR on the balance of the decoupling deferral, and deferring any earnings greater than 0.5 percent above its authorized ROR, consistent with the Settlement and RCW 80.28.425(6).
- 218 (14) The Commission should authorize and require all Settling Parties to separately notify the Commission by December 19, 2022, by a letter to the Commission

²⁵⁹ See RCW 80.28.425(7).

Secretary filed in these consolidated dockets whether each accepts the conditions of approval set by this Order on the settlement stipulation.

- 219 (15) The Commission Secretary should be authorized to accept by letter, with copies to all Parties to this proceeding, filings that comply with the requirements of this Order.
- 220 (16) The Commission should retain jurisdiction over the subject matter and the Parties to effectuate the terms of this Order.

ORDER

THE COMMISSION:

- 221 (1) Rejects the proposed tariff revisions Avista Corporation d/b/a Avista Utilities filed in these dockets on January 21, 2022, and suspended by prior Commission order.
- 222 (2) Determines the settlement stipulation is lawful, supported by an appropriate record, and consistent with the public interest and therefore approves it subject to the conditions set by the Commission in paragraphs 78, 85, 99, 112, and 146.
- 223 (3) Authorizes and requires replacing the existing decoupling earnings test with the earnings test provided in RCW 80.28.425(6), including accruing a rate of return on the balance of the decoupling deferral, and deferring any earnings greater than 0.5 percent above its authorized rate of return, consistent with the settlement stipulation and RCW 80.28.425(6).
- 224 (4) Authorizes and requires all Settling Parties to separately notify the Commission by December 19, 2022, by a letter to the Commission Secretary filed in these consolidated proceedings whether each accepts the conditions of approval set by this Order on the settlement stipulation.
- 225 (5) Adopts the performance measures outlined in paragraph 191.
- 226 (6) Authorizes and requires Avista Corporation d/b/a Avista Utilities to make all compliance filings determined by this Order in these consolidated dockets, including all tariff sheets that are necessary and sufficient to effectuate the terms of this Order as well as including the compliance filing within 45 days of this

Order to provide the measures and calculations outlined in paragraph 191 for the years 2019-2022 (beginning January 1 and ending December 31 of each year).

- 227 (7) Authorizes the Commission Secretary to accept by letter, with copies to all Parties to this proceeding, filings that comply with the requirements of this Order.
- 228 (8) Retains jurisdiction to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective December 12, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

MILT DOUMIT, Commissioner

APPENDIX A

MULTIPARTY SETTLEMENT STIPULATION