BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. AVISTA CORPORATION d/b/a AVISTA UTILITIES, Respondent.	DOCKET UE-240006 and UG-240007 *(Consolidated)*

POST-HEARING BRIEF OF THE ENERGY PROJECT

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Yochanan Zakai
Josh Kirmsse
SHUTE, MIHALY & WEINBERGER LLP
(415) 552-7272
yzakai@smwlaw.com
jkirmsse@smwlaw.com

Attorneys for The Energy Project

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I. Introduction

1 This case presents an opportunity for the Utilities and Transportation Commission (Commission) to stabilize costs for customers. Low-income household budgets are on the razor's edge, as inflation has spiked the cost of necessities, which comprise a disproportionately high level of low-income household expenses. The collision of rising costs, minimal savings, and financial inflexibility has left low-income households in a state of acute economic precarity. Avista Corporation (Avista) requests major rate increases, and if approved, Avista's customers will struggle to afford them.

2 The Commission should review Avista's requests with low-income customers' financial reality front of mind. For instance, the Commission should decline to award a rate of return to Avista's shareholders for power purchase agreements (PPA). Avista has not carried its burden to show that a self-build bias exists, it will procure more clean energy if awarded a return, or ratepayers should bear a second cost of capital for these PPAs, particularly when low-income customers need relief. Further, the Commission should reject Avista's proposals to modify the Energy Recovery Mechanism and increase the residential basic charge because they represent a significant transfer of risk from shareholders to ratepayers.

3 Avista has similarly failed to demonstrate that its Disconnection Policies are equitable. The Energy Project (TEP) thanks Avista for agreeing to conduct an equity review of its Disconnection Policies. Nevertheless, Avista penalizes past-due customers for a history of energy insecurity. Once a customer is past due, Avista and its vendor Total Solutions Inc. assign the customer a "credit code" based on several criteria, including recent instances of missing bills, facing disconnection for non-payment, or owing a prior obligation. If a customer scores poorly, Avista applies a lower disconnection dollar threshold and a shorter disconnection timeline. The

Company's approach violates the Commission's equity lens by disproportionately burdening marginalized and vulnerable customers and subjecting them to a vicious cycle of poverty and disconnection. TEP strongly recommends requiring Avista to reform these policies by eliminating historical criteria, and Avista's arguments to the contrary fail to justify both its existing policies and its opposition to TEP's proposals.

4 TEP also recommends the Commission order Avista to annually report energy burden and undertake a new low-income needs assessment. In its reports and its metrics, Avista should report low-income saturation rates separated by fuel type and household.

5 Next, the Commission should extend future iterations of the provisional capital review process to six months, prohibit including new business cases, and conclude its review with a formal Order.

6 Finaly, TEP thanks Avista for agreeing to adopt a language access plan, and encourages the Commission to direct Avista to complete this task by a date certain.

II. Avista requests major rate increases while low-income customers are struggling.

A. Inflation and existing financial burdens are already weighing on low-income customers.

7 Low-income customers are living under severe financial strain. About three of every four households in Avista's service territory live in census tracts with average incomes under $61,000, about 200 percent of the federal poverty line.[1] These households are already hamstrung by existing arrearages, which are disproportionately higher and older in low-income census tracts.[2] For many,

[1] Colton, Exh. RDC-1T at 32, Table 8, 44, Table 15.

[2] Colton, Exh. RDC-1T at 36:5-11.

arrearages have compounded into disconnections, which similarly harm low-income households more than others.[3]

8 Inflation has compounded these struggles. As the Federal Reserve has explained, low-income households spend a greater share of income on necessities, which often prevents them from cutting expenses as prices rise. These same households are also less likely to have preexisting savings to make necessary purchases in times of inflation.[4] These cross-pressures—rising prices, less flexibility to reduce spending, and lower preexisting savings—severely strain low-income household budgets. The opening statement of Public Counsel highlighted the measures low-income customers take as a result, like setting thermostats as low as 55 degrees, heating homes with gas stoves, or bill balancing to avoid arrearages.[5] Witness Colton presents national data showing that low-income customers use similar coping tactics in response to high bills, demonstrating that these public comments are representative (and not merely anecdotal).[6] These stories abound across Avista's service territory, and have only been made more pressing by inflation's impact on low-income households.

9 Meanwhile, Avista and its shareholders enter this rate case in robust financial shape. Despite a global pandemic and accompanying economic challenges, the Company has grown its rate base 60 percent over the course of a decade and distributed nearly $1 billion in dividends to shareholders.[7]

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[3] Colton, Exh. RDC-1T at 38, Table 12.

[4] Colton, Exh. RDC-1T at 25:14-26:9.

[5] O'Neill, TR. 82:10-18, 83:13-18

[6] Colton, Exh. RDC-1T at 74-75 *citing* National Energy Assistance Directors Association, National Energy Assistance Survey (2018).

[7] O'Neill, TR. 83:20-25.

10 The Commission must weigh many issues in this case, from reforming Avista's Disconnection Policies to considering Avista's proposal to provide shareholders profit for a power purchase agreement without demonstrating that such profit provides customers any benefits. As the Commission deliberates, it must remember that low-income customers, not Avista, are financially struggling and in need of assistance.

B. Low-income customers are disproportionately vulnerable to rate increases proposed by Avista.

11 Low-income customers are in a particularly concerning position because, as witness Colton demonstrated in his testimony, low-income customers are particularly vulnerable to rate increases.[8] Avista disputes this fact. At hearing, Public Counsel asked witness Bonfield whether he would disagree if witness Colton testified that low-income customers are less able to adapt to rate increases. Witness Bonfield stated that he "would disagree in the fact that [witness Colton] did not consider the effects of our [bill discount rate] in his analysis."[9] Witness Bonfield's disagreement is incorrect for three reasons.

12 First, rate increases still present a major affordability concern for low-income customers who have not applied for energy assistance. At last count, 64% of eligible Washington customers do not participate in Avista's energy assistance programs.[10] In other words, the majority of low-income customers do not receive energy assistance, and will be hit hardest by Avista's proposed rate increases.

[8] Colton, Exh. RDC-1T at 11:13-22:9.

[9] Bonfield, TR. 351:8-14.

[10] Dkts. UE-UG-240006-07, Avista 2024 GRC, Exh. SJB-12X at 11, Avista Bill Assistance Monthly Update (Sep. 20, 2024).

13 Second, many customers that are not eligible for the bill discount rate—or are only eligible for a limited amount of assistance—are still financially constrained. Energy assistance programs do not cover moderate income customers who are financially constrained but ineligible for energy assistance. Unenrolled or minimally supported low-income customers and unprotected moderate-income customers will struggle to adapt to rate increases. Third and relatedly, the bill discount rate does not offset rising costs for non-energy necessities caused by inflation. Low-income households will pay some or all of Avista's rate increases while *also* shouldering increased costs of non-energy goods and services.

14 Any new rate increases will stretch low-income customers' budgets. Bill discounts are a crucial source of support for many low-income customers, but will not prevent Avista's proposed rate increases from draining already-limited resources from customers still struggling to recover from inflation.

III. Avista's Disconnection Policies are inequitable and its arguments to the contrary are unavailing.

A. TEP has identified clear inequity in Avista's Disconnection Policies.

15 In response testimony, witness Stokes analyzed Avista's Disconnection Policies and concluded that the Policies are inequitable because they penalize customers for a history of energy insecurity.[11] In short, Avista uses a third-party credit coding system to assign a 0-3 behavioral score to past-due customers based on a variety of criteria, including the number of times a customer was past due in the last 12 months, the number of months since the customer was last eligible for disconnection for non-payment, and whether a customer has a prior obligation balance.[12] If a

[11] Stokes, Exh. SNS-1T at 6:17-13:16.

[12] Stokes, Exh. SNS-1T at 8:20-9:12.

customer receives a 0 or 1 credit code, two elements of the disconnection process disadvantage them: first, the customer is eligible for disconnection at a lower dollar threshold than a high-coded customer, and second, the customer is afforded two fewer weeks before potential disconnection.[13]

16 Avista's criteria are worrisome because research clearly shows that the rate of disconnection is disproportionately high among households with low incomes, in mobile homes, with children, without college degrees, and in communities of color.[14] By penalizing a history of energy insecurity, Avista's Disconnection Policies disproportionately threaten these communities with power shutoffs. Avista also considers length of time as a customer at the current premises, which disproportionately harms renters, who will score worse on this criteria simply by dint of moving more frequently than homeowners.[15] To rectify these inequitable criteria, TEP proposed that Avista remove any criteria unrelated to a customer's present amount of arrearages and time in arrearages.[16]

17 In testimony, Avista witness Bonfield criticized TEP's proposal. His arguments rest on misinterpretations and sidestep the inequity of Avista's Disconnection Policies. First, witness Bonfield states that TEP's proposal "would require the Company to send a past due notice to all customers with arrears regardless of their behavior score, which would have resulted in more than 28,000 past due notices each month."[17] This assertion assumes that Avista would treat all

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[13] Stokes, Exh. SNS-1T at 9:13-10:7.

[14] Stokes, Exh. SNS-1T at 11:5-13:16.

[15] Stokes, Exh. SNS-1T at 9:5.

[16] Stokes, Exh. SNS-1T at 14:12-14.

[17] Bonfield, Exh. SJB-5T at 15:11-14.

customers the way that it treats customers with the *worst* credit scores today. Not so; Avista can simply treat all customers in the way it treats customers with the *best* credit scores today.

18 Second, witness Bonfield focuses on the fact that early intervention with resource-constrained customers who are past due enables payment before arrears become "insurmountable."[18] According to witness Bonfield, eliminating criteria other than present arrearage amount and time would undermine equity and harm Avista's early outreach efforts for vulnerable customers.

19 TEP's proposal, however, would not require or encourage ending early or targeted communication. TEP's fundamental concern is that Avista prioritizes customers for *disconnection* based on a history of energy insecurity, and uses its communications to threaten disconnection based in part on that history. Avista could first communicate with customers about past due status *without threatening disconnection*, like the Commission ordered PSE to do.[19] In fact, Avista can and should communicate early and often with past-due customers. It simply should not threaten these customers with disconnection earlier and shorten their disconnection timeline merely because they have a history of energy insecurity or are a renter.

B. Energy justice principles support TEP's proposal to remove criteria that punish a history of energy insecurity and counsel against Avista's current approach.

20 The reality is that Avista's current practices, not TEP's proposal, violate the Commission's equity lens and the energy justice principles it uses to assess utility policy. The Commission's equity lens provides consideration to characteristics "for which groups of people have historically,

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[18] Bonfield, Exh. SJB-5T at 14:22.

[19] *Wash. Utils. & Transp. Commn. v. Puget Sound Energy*, Dkts. UE-220066 and UG-220067, Order 32/18 Granting Petition: Amending Final Order 24/10, Subject to Condition, ¶ 56 (May 16, 2024).

and are currently, marginalized."[20] The Commission specifically seeks to ensure that utility policy is "addressing historic underinvestment and *exclusionary policies and practices that have allowed inequity to flourish*."[21]

21 Applying the Commission's equity lens requires analyzing equity in disconnection policies by *both* identifying and addressing existing exclusionary practices, and developing more equitable policies in their place. In other words, rectifying inequity is a necessary condition of achieving equity. Energy justice and its core tenets, including distributional, procedural, recognition, and restorative justice, are integral standards and sources of insight as the Commission applies its equity lens.[22] Each element of energy justice guides an analysis of disconnection policy.

22 First, witness Bonfield is mistaken that only distributional equity supports TEP's proposal. Procedural justice "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."[23] Procedural justice underscores that equitable disconnection policies are a matter of outcome *and* process, both in terms of developing new disconnection policies and implementing those policies on a day-to-day basis.

23 TEP's proposal will advance procedural justice by creating a fairer and more inclusive process to resolve past-due bills. In addition, TEP thanks Avista for agreeing to review its

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[20] *Wash. Utils. & Transp. Commn. v. Cascade Natural Gas Corp.*, Dkt. UG-210755, Final Order 09, ¶ 58 (Aug. 23, 2022) (citing RCW 43.06D.010(4)).

[21] *Id*. ¶ 57 (citing Executive Order 22-04: Implementing the Washington State Pro-Equity Anti-Racism (PEAR) Plan and Playbook) (emphasis added).

[22] *Id*. ¶ 56.

[23] *Id*.

Disconnection Policies in consultation with the Equity Advisory Group and the Energy Assistance Advisory Group, further promoting procedural justice.[24]

24 Recognition justice requires an "understanding of historic and ongoing inequalities and prescribes efforts that seek to reconcile these inequalities."[25] Restorative justice recognizes the need to "disrupt and address distributional, recognitional, or procedural injustices, and to correct them through laws, rules, policies, orders, and practices." TEP's proposal recognizes the ongoing inequity in energy insecurity and seeks to disrupt that inequity. As TEP has explained in this proceeding, research clearly demonstrates the distributional inequity inherent in penalizing a history of disconnection.[26] Restorative justice entails unwinding those inequities by eliminating the criteria that punish customers for historical burdens.

25 Additionally, while witness Bonfield claims TEP only bases its recommendations on the principle of distributional equity, witness Bonfield does not offer a defense of Avista's policies on those same grounds. Instead, witness Bonfield rests his defense of Avista's policies on recognition justice.[27] Certainly, as witness Bonfield states, recognition justice requires recognizing that "identifying, acknowledging, and understanding that each customer is unique."[28] But recognizing that each customer is different does not validate penalizing customers with a history of energy insecurity. In fact, it compels the opposite: fashioning a process that rectifies, not recycles, the

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[24] Bonfield, Exh. SJB-5T at 18:30-32.

[25] *Wash. Utils. & Transp. Commn. v. Cascade Natural Gas Corp.*, Dkt. UG-210755, Final Order 09, ¶ 56 (Aug. 23, 2022) (citing RCW 43.06D.010(4)).

[26] Stokes, Exh. SNS-1T at 11:5-13:16.

[27] Bonfield, Exh. SJB-5T at 11:4-20.

[28] Bonfield, Exh. SJB-5T at 11:11-12.

inequities that cause utility debt and disconnection. TEP's proposals are offered to that end, and Avista's grounds for opposing them are in error.

IV. The Commission need not and should not award Avista's shareholders a rate of return on power purchase agreements.

26 Avista proposes to provide its shareholders a return on three power purchase agreements, (PPAs) presenting the Commission its first opportunity to interpret RCW 80.28.410.[29] The first PPA is with Chelan PUD for a portion, or slice, of its legacy hydroelectric projects' output.[30] The second PPA is with Clearwater III, a 97.5 MW traditional land-based wind project located in eastern Montana.[31] The third PPA is with Columbia Basin Hydro for the output of legacy hydroelectric projects located in canals owned by irrigation districts.[32] Avista seeks a return on these contracts, with shareholders earning $659,000 in 2024, $1.499 million in 2025 and $2.335 million in 2026.[33]

A. The Clean Energy Transformation Act empowers the Commission to refuse a rate of return on power purchase agreements.

27 The Commission is not legally obligated to grant Avista a rate of return on PPAs. RCW 80.28.410(1) states that electrical utilities may "account for and defer for later consideration by the commission" costs incurred in connection with major projects in the company's clean energy plan.[34] One such cost that the company "may account for and defer for later consideration"

[29] Kinney, Exh. SJK-1T at 49:13-20.

[30] Kinney, Exh. SJK-1T at 26:16-27:10.

[31] Kinney, Exh. SJK-1T at 35:9-37:1.

[32] Kinney, Exh. SJK-1T at 35:11-36:16.

[33] Schultz, Exh. KJS-2 Tab E-3, 5.

[34] RCW 80.28.410(1)

includes "all operating and maintenance costs, depreciation, taxes, cost of capital associated with the applicable resource or the execution of a power purchase agreement."[35]

28 While utilities may account for these costs, the statute states clearly that "[c]reation of such a deferral account does not by itself determine the actual costs of the resource or power purchase agreement, *whether recovery of any or all of these costs is appropriate*, or other issues to be decided by the commission in a general rate case or other proceeding."[36] According to the statute, the Commission has discretion as to whether "any" cost recovery is appropriate. The permissive language in the statute empowers the Commission to lawfully reject Avista's request.

B. Awarding a rate of return here would overcompensate shareholders at the expense of ratepayers without providing demonstrable clean energy benefits.

29 Providing shareholders a rate of return is not appropriate here for three reasons.[37] First, approving a rate of return would force Avista ratepayers to pay twice for the capital costs of each project.[38] When Avista signs a PPA, it commits to paying a third party for any remaining capital costs of a resource. For example, the Chelan and Columbia Basin Hydro PPAs provide power from legacy hydroelectric projects that have been in service for decades. Accordingly, Chelan PUD and the irrigation districts likely have minimal, if any, outstanding capital costs remaining. What remains of those project's capital costs are included in the power cost rates paid by Avista's customers. For the new Clearwater III wind project, the PPA price includes all the project's capital costs. In other words, Avista customers are already on the hook for the cost of capital (if any for the legacy hydroelectric projects) included in the PPA contract price, and Avista requests a second

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[35] RCW 80.28.410(2).

[36] RCW 80.28.410(1) (emphasis added).

[37] *See* Gehrke, Exh. WG-1T at 3:20-7:12; O'Neill, TR 88:4-19

[38] Gehrke, Exh. WG-1T at 6:5-9.

charge for a phantom cost of capital through its proposed incentive.[39] As described above, Avista ratepayers are already struggling to make ends meet. Avista should not burden them with a second charge for a phantom cost of capital.

30 Second, approving a rate of return would raise the cost of contracting for clean energy, which is contrary to the state's clean energy policy. Avista is obligated to demonstrate that its investments are prudent, *i.e.*, that it selected the lowest reasonable-cost resource.[40] Avista must procure these resources in a time when state and federal policy, shifting economic dynamics, and electrification are spurring clean energy investment across the Northwest and related utility acquisition of clean energy resources.[41] Here, providing Avista a return on its PPAs would increase their costs without commensurately increasing clean energy resource production or incenting decarbonization. In other words, Avista's proposal would artificially increase clean energy contracting costs for ratepayers.[42]

31 Third, Avista has not demonstrated any convincing basis for overcompensating shareholders at the expense of customers. In rebuttal testimony, witness Andrews states that receiving a rate of return on these three PPAs would not be an unjustifiable windfall because "an incentive rate of return will help drive adoption of clean energy PPAs and/or remove bias towards selecting self-build options."[43] Witness Gehrke's citation to the Oregon Public Utilities

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[39] Gehrke, Exh. WG-1T at 6:5-9.

[40] Gehrke, Exh. WG-1T at 7:6-12.

[41] Gehrke, Exh. WG-1T at 6:20-7:6.

[42] Gehrke, Exh. WG-1T at 6:5-9; *see also Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Dkts. UE-240004/UG-240005, Exh. SNS-1T at 57:2-58:4 (discussing similar reasons for opposing approval for phantom cost of capital).

[43] Andrews, Exh. EMA-6T at 51:4-6.

Commission preemptively responded to this point; the Oregon Commission concluded it could not determine whether rewarding a PPA rate of return would "mitigate the [self-build] bias without improperly rewarding the utilities and unfairly harming customers."[44] But witness Andrews dismisses the Oregon discussion as "stale" and argues that it "should not be used to supplant the legislature['s] intent upon passage of CETA, that allows for an incentive rate of return."[45]

32 Witness Andrews' argument misses the crucial point, despite using language that shows its own error. As witness Andrews says, the legislature created a provision that "*allows* for an incentive rate of return."[46] It is the Commission's province to determine "whether recovery of any or all of these costs is appropriate."[47] Like any discretionary determination, the Commission must weigh the evidence and considerations on each side. On one side, the Commission has clear evidence that additional costs to ratepayers will be harmful, and that the Company will already be compensated for the cost of the PPA. On the other, Avista provides no evidence that awarding a rate of return will bolster clean energy procurement. Further, as was case in the Oregon docket cited by Witness Gehrke, here the utility fails to carry its burden to convincingly demonstrate that there is any self-build bias.

33 Avista must offer compelling rationale to justify its request, given both the financial constraints ratepayers face and the policy considerations that militate against approving a rate of return for the Chelan, Clearwater III, and Columbia River Basin PPAs. It has not done so here. The Commission should decline to pay a rate of return for these PPAs.

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[44] Gehrke, Exh. WG-1T at 4:8-5:7.

[45] Andrews, Exh. EMA-6T at 51:9-20.

[46] Andrews, Exh. EMA-6T at 51:20 (emphasis added).

[47] RCW 80.28.410(1).

V. Avista should undertake yearly energy burden analyses and conduct a new low-income needs assessment.

34 TEP advocates that Avista undertake a yearly energy burden analysis ("EBA") and conduct a new low-income needs assessment ("LINA").[48] In response, witness Bonfield states that Avista "recognizes the importance of the information contained within LINAs/EBAs" but casts doubt on the distinction between these two documents.[49] TEP reaffirms its recommendations that the Commission order Avista to undertake annual EBAs and conduct a new LINA. The EBA and LINA are distinct documents that serve two different purposes.

35 An EBA is an analysis of energy burdens at a more granular level of detail than provided in metrics or customer benefit indicators. For example, in 2022, PSE conducted an EBA that includes several elements not typically found in a LINA. First and foremost, the EBA focuses on quantifying and assessing energy burdens, not just low-income needs. PSE's EBA found that nearly half of households qualified as low-income, but only 16% qualified as energy-burdened.[50] Second, the EBA studies the relationship between energy burdens, income, geography, and energy use.[51] It also focuses on energy burdens within specific populations, like Highly Impacted Communities and Vulnerable Populations.[52] EBAs may not include any discussion of low-income and energy-assistance program eligibility and need.[53]

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[48] Colton, Exh. RDC-1T at 49:13-54:8; Stokes, Exh. SNS-1T at 33:20-34:5.

[49] Bonfield, Exh. SJB-5T at 23:17-21.

[50] *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Dkts. UE-240004/UG-240005, Exh. BDJ-3r at 14 (March 4, 2024).

[51] *Id*. at 14-23.

[52] *Id*. at 35-31.

[53] *Id*. at 24-25, 42.

36 As the PSE example shows, the EBA covers several areas of analysis that both extend beyond low-income customers and delve deeper into energy burden considerations than a typical low-income program analysis in a LINA. The EBA undertakes granular data analysis to inform Commission, interested parties, and utility consideration of proposals and efforts to reduce energy burdens. Because an EBA does not involve program evaluation, it can be prepared in-house (or by a consultant) without the risk of internal bias.

37 The LINA is a more comprehensive evaluation of low-income customer demographics, program and policy impacts, and program needs. In fact, Avista's last LINA is clearly different from a typical EBA in several fashions. The LINA centers around two groups: customers receiving energy assistance and customers eligible to receive energy assistance.[54] These universes are largely defined by income, but also include customers eligible for energy assistance due risk of disconnection or other non-income factors.[55] The LINA then determines penetration by program and compares penetration by group, including renters, households with children, and households with seniors.[56] Unlike an EBA, a LINA requires program evaluation, and should be conducted by an outside consultant for that reason. In general, a LINA is not assessing energy burdens; it is providing data to make conclusions about the success or shortcomings of low-income programs, both at a broad level and with respect to specific groups of customers.

38 As these two examples demonstrate, the EBA and LINA serve two different purposes. Each analysis is independently valuable and contains crucial information. As recommended by TEP

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[54] Dkt. UE-010436/UG-010437 010437 ("Dkt. UE-010436"), Low-Income Rate Assistance Program Report, Avista Low Income Needs Assessment (Dec. 29, 2020) at 7.

[55] *Id*. at 6.

[56] *Id*. at 32.

witnesses Stokes and Colton, Avista should perform an annual Energy Burden Assessment,[57] and should conduct a new LINA, which it has not done since 2020.[58]

39 The primary reason TEP recommends Avista perform a LINA is to refine the reporting of saturation rates to identify estimated low-income customers by household and fuel type, by January 1, 2026.[59] Avista indicated that it is "willing to include this level of detail in future LIRAP Reports," but did not commit to a date certain for providing this information, nor to include it when reporting performance metrics.[60] TEP thanks Avista for its openness to providing this detail. TEP would prefer that Avista report this data in both its LIRAP report and performance metrics. However, TEP can accept Avista reporting it in only one place so long as there is a date certain by which it will provide this information.

VI. Future iterations of the provisional capital review process should extend to six months, prohibit new business cases, and conclude with a formal order.

40 TEP thanks the Commission for its scrutiny of Avista's 2023 Washington Annual Provision Capital Report during this proceeding, and for requesting briefing on how to improve process in Bench Request 2. TEP provides three suggestions for the provisional capital review process.

A. The annual provisional capital review process requires significant party resources and should extend at least six months.

41 The annual provisional capital reports are significant utility filings that impact rates and require a significant amount of documentation. Staff describes these filings as "comparable to a

[57] Colton, Exh. RDC-1T at 49:13-54:8.

[58] Stokes, Exh. SNS-1T at 29:1-14, 33:20-34:5.

[59] Stokes, Exh. SNS-1T at 30:13-17.

[60] Bonfield, Exh. SJB-1T at 27:3-6, 27:40-28:3.

miniature, plant-only rate case."[61] The Commission's Used and Useful Policy Statement clearly describes the wide scope of challenges that parties can make to the utility's filing:

> The review will not, however, simply be a matter of matching identified rate base to the rate base provided in rate-year Commission Basis Reports. The review process must provide adequate opportunity for parties to review, and, if necessary, challenge the recovery of provisional pro forma adjustments previously included in rates.[62]

42 It goes on to identify some of the standards that the Commission will use in its decision-making:

> Any rate-effective period investment amounts found during the review process not to be used and useful, known and measurable, adequately matched to offsetting factors, and prudently incurred, will be refunded to customers.[63]

43 Considering the Commission's expectation for this process, the typical compliance filing process is inappropriate for provisional capital reports. Acknowledging this, Avista proposes a four-month review period, and Staff responds by requesting six months.[64] TEP supports extending the amount of time available for parties to review the reports to six months.

44 Yet even with more time, reviewing the provisional capital reports presents a significant incremental workload, with logistical and administrative challenges for parties. For example, in calendar year 2024 parties and the Commission are responsible for reviewing three and half years of Avista's costs and businesses cases. This includes the 2023 provisional plant review, and the rate case filing including: expenses for the July 2022 - June 2023 test year, pro forma adjustments for July 2023 - December 2023, pro forma adjustments for January 2024 - December 2024, rate year 1 expenses for 2025, and rate year 2 expenses for 2026. It strains the time and resources

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[61] Erdahl, Exh. BAE-1T, at 11:10-11.

[62] Dkt. U-190531, Policy Statement on Property that Becomes Used and Useful After Rate Effective Date, ¶ 41 (Jan. 31, 2020) (Used and Useful Policy Statement).

[63] Used and Useful Policy Statement, ¶ 45.

[64] Erdahl, Exh. BAE-1T, at 11:1-11.

available for revenue requirement experts when they must examine so many different years of costs, in multiple cases, for a single utility. Reviewing *three and half years* of Avista's costs and business cases in one calendar year, for a rate plan that will potentially include just two years, does not present less work for parties than an annual rate case without a provisional capital process.

45 Further, there is an additional administrative burden associated with having rate cases that persist across state budget biennia because many consultant contracts with state entities automatically expire at the end of the biennium. This causes additional logistical and administrative work for public agencies that need to secure contracts with revenue requirement experts to review utility filings.

B. TEP opposes including new business cases in provisional capital filings.

46 The Commission should not permit utilities to add to parties' workload during these "miniature, plant-only rate cases" by allowing utilities to include new business cases in the filing. TEP understood the portfolio review process to include only the portfolio of projects supported by business cases vetted through general rate case testimony and exhibits. Avista has not identified, and TEP is not aware of, any Commission Order or Policy Statement that authorized utilities to add business cases in the annual provisional capital review process. The Commission should not allow new business cases in provisional capital filings, as this type of prudence review is more appropriate for a general rate proceeding in which parties have additional time and devote significantly more resources.

C. The Commission should consider concluding its review of provisional capital filings, and party responses, with a formal Order.

47 TEP raised concerns about the procedure used to conclude Avista's 2023 Washington Annual Provision Capital Report in a letter filed on July 29, 2024, in dockets UE-220053 and UG-

220054. Avista filed its report on March 29, 2024, and the review period ended July 29, 2024.[65] On July 25, 2024, Commission Staff filed a letter responding to Avista's 2023 Washington Annual Provision Capital Report. The next day on July 26, 2024, the Commission's Executive Director issued an acknowledgement letter concerning the report. On July 29, 2024, the last day of the review period, Public Counsel and TEP filed responses to Avista's provisional capital report. TEP's response noted that the Executive Director issued the Commission's July 26, 2024, acknowledgement letter before the end of the review period, and requested that the Commission issue a revised acknowledgement letter considering Public Counsel's timely-filed response. The Commission issued a revised acknowledgement letter on July 31, 2024.

48 With the benefit of hindsight, the shortcomings of the short and informal process used for provisional capital reviews to date are now apparent. The Commission should improve the process for parties and in its chambers. The Commission should consider concluding its review of provisional capital filings, and any responses provided by parties, by issuing a formal Order.

VII. There is no dispute in this case concerning funding for Avista's low-income energy assistance programs.

49 Witness Bonfield describes Avista's low-income energy assistance program funding through Schedules 92 and 192.[66] No party contests or requests changes to Schedules 92 and 192, so there is no dispute in this case concerning the funding of Avista's low-income energy assistance programs. This is due in part to the collaborative process Avista uses to design and fund its low-income programs. TEP thanks Avista for the expert facilitation and collaboration it provides its Energy Assistance Advisory Group.

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[65] Pursuant to paragraph 20(a) of the Settlement agreement in those dockets, the review time for the provisional capital reports was four months.

[66] Bonfield, Exh. SJB-1T at 22-24.

50 Witness Bonfield also provides his interpretation of SB 5295's provisions concerning the 5 percent of revenue requirement and low-income program funding.[67] However, Avista has not yet had a complete conversation with its low-income advisory group concerning how to interpret and implement that provision of SB 5295.[68] Accordingly, the Commission should allow time for those conversations to run their course.

51 TEP recommends that the Commission refrain from including dicta concerning funding for low-income energy assistance programs in its Final Order for several reasons. First, no party opposes or requests changes to Schedule 92 and 192, so there is no tariff in dispute. Second, this is an issue of first impression for which there is no request for Commission action from any party. Third, the Commission is likely to modify Avista's revenue requirement in this case, which will also modify any calculation of a percentage of that revenue requirement. Fourth and finally, as described above, the Commission should allow time for the advisory group process to run its course.

VIII. Avista should adopt a language access plan.

52 Avista should develop a policy describing when and how it will provide services in a language that is not English, and then take steps to implement that policy.[69] This policy should be developed in tandem with the EAAG, which witness Thompson noted at hearing has not yet met to discuss language access.[70] TEP commends Avista's efforts to date to meet language access needs, but the Company does not have a comprehensive document or policy describing when and

[67] Bonfield, Exh. SJB-1T at 25:9-15; Bonfield, TR. 345:8-15.

[68] Bonfield, TR. 353:23-354:24.

[69] Stokes, Exh. SNS-1T at 34:6-39:19.

[70] Thompson, TR. 456:25-457:9.

how to provide services in a language that is not English. The development of such a policy document is the primary point of a language access plan, and what is missing from Avista's laudable first efforts at improving language access.

IX. Conclusion and recommendations.

53 TEP respectfully asks that the Commission order Avista to revise its credit and collection procedures as follows:

1. Remove any provision from the credit coding system that scores customers based on any metric except current arrearage amount and current length of time in arrearage;
2. Prioritize customers for disconnection based only on the two factors identified above; and
3. Conduct a robust equity review of the Disconnection Policies in consultation with the Energy Assistance Advisory Group and the Equity Advisory Group,
4. By March 2025, present Avista's Disconnection Policies to a joint meeting of the Energy Assistance Advisory Group and the Equity Advisory Group, soliciting verbal and written feedback on the equity impacts of its Disconnection Policies, and
5. By August 1, 2025, incorporate the feedback received and make a subsequent filing (pursuant to WAC 480-07-885) with new disconnection policies and procedures. The Commission should require the subsequent filing to discuss any feedback it did not incorporate and the reasons for declining to do so.

54 Second, the Commission is obligated to balance the interests of investors and ratepayers in setting reasonable rates. This includes the consideration of the interests of low-income customers when making decisions in this case concerning shareholders' profit and financial risk. Specifically, TEP requests that the Commission reject Avista's proposals to:

1. Provide shareholders a phantom rate of return on PPAs,

2. Modify the Energy Recovery Mechanism to shift financial risk from shareholders to customers, and

3. Increase the residential basic charge for electric and gas.

55 Third, TEP requests that the Commission direct Avista to perform an annual energy burden assessment, identify estimated low-income customers by household and fuel type by a date certain (TEP suggests January 1, 2026), and then report of energy assistance saturation rates by fuel type.

56 Fourth, future iterations of the provisional capital review process should extend to six months, prohibit new business cases, and conclude with a formal order.

57 Fifth, the Commission should order Avista to develop a language access plan.

58 Finally, TEP asks the Commission to direct Avista to report on the affordability and equity metrics contained in Exhibit SNS-10.

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By: */s/ Yochanan Zakai*
Washington State Bar No. 61935*
SHUTE, MIHALY & WEINBERGER LLP
396 Hayes Street
San Francisco, California 94102
(415) 552-7272
yzakai@smwlaw.com

Attorneys for The Energy Project

* Mr. Zakai is not a member of the State Bar of California.