**BEFORE THE**

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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| WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, | ) | DOCKETS UE-170485 and UG-170486 (*Consolidated*) |
| Complainant, | ) | NORTHWEST INDUSTRIAL GAS USERS' POST-HEARING BRIEF |
| v. | ) | |
| AVISTA CORPORATION d/b/a AVISTA UTILITIES | ) | |
| Respondent. | ) | |

February 22, 2018

## I. INTRODUCTION

1. Pursuant to the Prehearing Conference Order dated July 5, 2017, Northwest Industrial Gas Users ("NWIGU") submits this Post-Hearing Brief.

2. NWIGU is a party to the Multiparty Settlement Stipulation ("Multiparty Settlement") filed with the Washington Utilities and Transportation Commission ("Commission") on November 1, 2017. NWIGU urges the Commission to approve the Multiparty Settlement, which resolves gas cost of service, gas rate spread and rate design, and the development of a new gas transportation service option for smaller commercial and industrial customers.

3. Avista Corporation d/b/a Avista Utilities ("Avista" or "Company") has requested a return on equity ("ROE") of 9.9%[1] and a capital structure comprising 50% debt and 50% equity.[2] The Commission should reject Avista's request for an above-market ROE and adopt a more reasonable ROE such as that proposed by the Industrial Customers of Northwest Utilities ("ICNU"), Staff of the Washington Utilities and Transportation Commission ("Staff"), and the Public Counsel Unit of the Washington Office of Attorney General ("Public Counsel"). ICNU recommends an ROE of 9.10% and a capital structure comprising 48.4% equity and 51.6% debt.[3] Staff also recommends an ROE of 9.10%, but a capital structure comprising 48.5% debt and 51.5% equity.[4] Public Counsel recommended an ROE of 9.19% and a capital structure comprising 60% debt and 40% equity.[5]

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1 Thies, Exh. MTT-6T at 16.
2 Thies, Exh. MTT-6T at 12-13.
3 Gorman, Exh. MPG-1T at 2.
4 Parcell, Exh. DCP-1T at 21, 36.
5 Garrett, Exh. MEG-13T at 13.

4. In its original filing, Avista presented three different sets of revenue requirement calculations to develop its rate proposal and Rate Plan in this matter.[6] Under the traditional revenue requirement methodology using a modified historical test period, Avista calculates a revenue requirement deficiency of $4,531,000[7] for gas services. Under a second methodology, the End-of-Period ("EOP") Study, Avista calculates a revenue requirement deficiency of $8,269,000[8] for gas services. Finally, Avista developed a modified attrition study its calls the "K-Factor Study" to support a proposed rate plan, the purpose of which is to provide additional revenue increases of $4,294,927 beginning on May 1, 2019, and $4,494,440, beginning on May 1, 2020.[9] As a result of its proposal, Avista is seeking total revenue increases of $16,906,116 for its gas operations, which would increase current gas rates by approximately 19.03%.[10] In its rebuttal testimony, Avista modified its originally filed revenue requirement models by incorporating a number of adjustments for corrections and updates, including other adjustments proposed by the parties to which Avista agrees, and a revised position on the appropriate level of certain 2017 capital additions.[11]

5. The Commission should reject Avista's request to depart from traditional Washington ratemaking, including Avista's EOP Study and its K-Factor Study, and instead establish rates using a modified historical test period. Using that traditional revenue requirement methodology, but including the adjustments supported by NWIGU witness Brad Mullins and the adoption of a reasonable return on equity and capital structure, the result is a revenue <u>sufficiency</u> in the amount of $530,231

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6 Andrews, Exh. EMA-1T at 7:9-8:31.
7 Andrews, Exh. EMA-6 at 1.
8 Andrews, Exh. EMA-7 at 1.
9 Andrews, Exh. EMA-8 at 10.
10 Mullins, Exh. BGM-1T at 3.
11 Andrews, Exh. EMA-10T at 6-7.

(approximately 0.6%) for gas services. That sufficiency exists even before consideration of the change in the corporate tax rate Avista will experience as a result of changes in federal tax laws.[12]

6. NWIGU also urges the Commission to reject Avista's proposed Rate Plan. It is clear that Avista has not justified the need for, nor the amount of, its requested Rate Plan. Despite Avista's argument that it will not have the opportunity to earn its authorized rate of return in the absence of its requested rate relief, the record demonstrates that Avista is a healthy utility, and in fact has been over earning.[13] This fact is particularly noteworthy because Avista was denied a rate increase in 2017, yet still managed to over earn since that time. As acknowledged by Avista at the hearing, the Company over earned on the electric side with an ROE of nearly 9.5% and earned a normalized ROE of 11.4% for gas operations for 2017.[14] Further, even ignoring the fact that Avista is over earning, the Rate Plan should be rejected outright because Avista failed to file an update to its deprecation study as it repeatedly promised in its rate filing.[15] Setting rates for an extended period of time with an outdated depreciation study could provide a windfall to Avista to the detriment of its ratepayers. In the event the Commission is inclined to adopt a rate plan, it should adopt the adjustments proposed by NWIGU witness Mr. Mullins,[16] as described in more detail below.

7. Finally, the Commission should include in its final order the impact of the Tax Cuts and Jobs Act ("TCJA"), HR 1 of the 115$^{th}$ Congress, that was signed into law on December 22, 2017. Based upon Mr. Mullins' analysis on behalf of NWIGU, the impact of the TCJA will further reduce Avista's revenue requirement for its gas operations by $5,489,628.[17]

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12 *See* Mullins, Exh. BGM-4 at 3-4.

13 Mullins, Exh. BGM-1T at 7.

14 Thies, Tr. at 378: 22-25 and at 379: 22-23.

15 Mullins, Exh. BGM-1T at 3.

16 Mullins, Exh. BGM-1T at 20. *See also* Mullins, Exh.BGM-6.

17 ICNU-NWIGU Response to Bench Request 1 at 2.

## ARGUMENT

### A. The Commission Should Approve the Multiparty Settlement.

*8.* NWIGU is a party to the Multiparty Settlement filed with the Commission on November 1, 2017. Avista, Staff, Public Counsel, NWIGU and the Energy Project (collectively "Settling Parties") have reached a Partial Settlement that includes cost of service, rate spread and rate design, and the development of a new gas transportation service option for smaller commercial and industrial customers.[18] The Commission should approve the Multiparty Settlement because it is in the public interest.[19]

*9.* The Multiparty Settlement provides that any revenue changes approved by the Commission will be spread using an equal percent of margin increase or decrease to each schedule (except for Schedule 148, Special Contracts).[20] If the Rate Plan is approved, the revenue changes will be administered through Schedule 196 as originally proposed by Avista.[21] For rate design, the Company will spread the revenue increases or decreases for each schedule, except Schedule 148, on a uniform percent of margin basis to the variable energy rates.[22]

*10.* The Multiparty Settlement is consistent with the final order in Avista's last general rate case, where the Commission ordered Staff to open a generic proceeding to investigate the appropriate methodology the Commission should use for cost of service.[23] Rather than have all parties presenting the Commission with competing cost of service studies in this case, the parties have agreed to spread the increase on an equal percent of margin basis to maintain the status quo, which

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18 Finklea, Exh. EAF-1T at 2.
19 Finklea, Exh. EAF-1T at 3-4.
20 Finklea, Exh. EAF-1T at 2.
21 Finklea, Exh. EAF-1T at 3.
22 Finklea, Exh. EAF-1T at 3.
23 *Washington Utilities and Transp. Comm'n v. Avista Corp.*, Dockets UE-160228 and UG-160229, Order 06 (Dec. 15, 2016) ("Docket UE-160228, Order 06") at ¶¶94-100.

is a reasonable result based on Avista's cost of service study.[24] The Settlement will preserve the status quo and allow the parties to participate in the collaborative generic proceeding, which is intended to better inform the Commission on the differing views on cost of service.

*11.* In addition, the Settling Parties have agreed to add a transportation service schedule for smaller commercial and industrial customers.[25] This new schedule will give smaller customers more flexibility in how they operate their facilities, which is currently an option available to customers of Puget Sound Energy.[26] Many customers find that purchasing gas through a marketer is more economical than purchasing bundled service through a local distribution company like Avista.[27] Currently, Transportation Schedule 146 is available only for larger commercial and industrial customers - those transporting more than 250,000 therms per year. The arbitrary 250,000 therm threshold currently in Schedule 146 precludes many smaller customers from purchasing their own gas and transporting that gas on Avista's system, which limits customer choice and opportunities for smaller customers to save money and operate more efficiently.[28]

*12.* The new transportation schedules will make no changes to the eligibility provisions of Schedule 146. Instead, customers presently served on sales Schedules 111/112 and 121/122 may elect to take service, for a minimum of one year, under new transportation service Schedules 116 or 126, respectively.[29] Sales customers currently served under Schedules 111/112 must have a minimum annual average usage of 30,000 therms to qualify for transportation service under new service Schedule 116.[30] All Schedule 121/122 sales customers will qualify for transportation service on

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24 Finklea, Exh. EAF-1T at 3-4.
25 Finklea, Exh. EAF-1T at 4.
26 Finklea, Exh. EAF-1T at 4.
27 Finklea, Exh. EAF-1T at 4.
28 Finklea, Exh. EAF-1T at 4-5.
29 Finklea, Exh. EAF-1T at 5.
30 Finklea, Exh. EAF-1T at 5.

Schedule 126 because the minimum annual usage threshold for Schedule 121/122 is 60,000 therms.[31]

*13.* The base rates for Transportation Schedules 116 and 126 will be the same as the base rates on Schedules 111/112 and 121/122, respectively.[32] For purposes of cost of service studies, rate spread and rate design proposals, and all future additions to the rate schedules (e.g., Demand Side Management, Decoupling, Low Income Rate Assistance Program), Schedule 116 will be grouped with Schedules 111/112 and Schedule 126 will be grouped with Schedules 121/122.[33] Further, customers served on Transportation Schedules 116 and 126 will be subject to the Company's natural gas decoupling mechanism.[34] Schedules 116 and 126 will contain the same provisions contained in the Company's tariff sheets 146A through 146D, which relate to the transportation of customer-owned natural gas.[35]

*14.* Transportation Schedules 116 and 126 are designed to protect the Company's margin and also designed to not shift costs between rate schedules, so other customers are held harmless by the addition of the new schedules.[36] Allowing smaller customers the ability to purchase commodity from third parties, while preserving the Company's margin and protecting other customers, is in the public interest.[37]

### B. The Commission Should Reject Avista's Request for an Above Market Cost of Capital.

*15.* Avista has requested an ROE of 9.9%,[38] and a capital structure comprising 50% debt and 50%

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[31] Finklea, Exh. EAF-1T at 5.
[32] Finklea, Exh. EAF-1T at 5.
[33] Finklea, Exh. EAF-1T at 5-6.
[34] Finklea, Exh. EAF-1T at 6.
[35] Finklea, Exh. EAF-1T at 6.
[36] Finklea, Exh. EAF-1T at 6.
[37] Finklea, Exh. EAF-1T at 4.
[38] Thies, Exh. MTT-6T at 16.

equity.[39] Avista's request is for an above market ROE and is not supported by the record. Several different witnesses provided substantial evidence that a 9.9% ROE is far above what should be awarded to Avista. ICNU recommends an ROE of 9.10% and a capital structure comprising 48.4% equity and 51.6% debt.[40] Staff also recommends an ROE of 9.10%, but a capital structure comprising 48.5% debt and 51.5% equity.[41] Public Counsel recommended an ROE of 9.19% and a capital structure comprising 60% debt and 40% equity.[42]

*16.* NWIGU relied on ICNU witness Michael Gorman's ROE in its revenue requirement models. Mr. Gorman's recommended ROE is the approximate midpoint of his recommended range of 8.80% to 9.30%.[43] Mr. Gorman concluded that the return on equity will fairly compensate Avista for its current market cost of common equity, and fairly balances the interests of all stakeholders.[44] While Avista is asking for a capital structure comprising 50% equity and 50% debt, Mr. Gorman determined that the actual capital structure at year-end 2016 was based on 48.4% equity, and 51.6% long-term and short-term debt.[45] This capital structure is also reasonably in line with Avista's capital structure approved in its last rate case in Washington.[46] Using the cost of capital recommendations of ICNU witness Mr. Gorman in NWIGU's revenue requirement model results in a $3,004,000 downward adjustment to the gas revenue requirement.[47]

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39 Thies, Exh. MTT-6T at 12-13.
40 Gorman, Exh. MPG-1T at 2.
41 Parcell, Exh. DCP-1T at 21, 36.
42 Garrett, Exh. MEG-13T at 13.
43 Gorman, Exh. MPG-1T at 2.
44 Gorman, Exh. MPG-1T at 2.
45 Gorman, Exh. MPG-1T at 2.
46 Gorman, Exh. MPG-1T at 2.
47 Mullins, Exh. BGM-1T at 22.

### C. Avista has not demonstrated a need for rate relief.

17. The Commission should reject Avista's proposal for a combination of rate increases and a proposed Rate Plan that will increase rates by nearly twenty percent for gas services.[48] A review of the record in this case demonstrates that Avista's request is unjustified and, if approved, would provide a windfall to Avista to the detriment of its gas customers.[49] Avista supports its rate filing by relying on several different ratemaking theories. The reason for this is obvious – when Avista's rate filing and financials are viewed under Washington's traditional ratemaking methodology, it is apparent that Avista is financially healthy, overearning, and not in need of rate relief.[50] Only by relying on alternative ratemaking methodologies can Avista begin to make a case for rate relief. However, there is simply no basis in the record to support rate increases of nearly twenty percent as Avista requests.

#### 1. The Commission Should Set Rates Using an Historic Test Year Modified with Limited Pro Forma Adjustments to Reflect Known and Measurable Changes.

18. The Commission typically sets rates using an historic test year modified with limited pro forma adjustments to reflect known and measurable changes.[51] NWIGU supports the Commission's use of a modified historic test year for purposes of general ratemaking, and there is no reason to depart from that approach in this proceeding. A fundamental principle of ratemaking is that rates should provide the utility with a reasonable opportunity to recover prudently incurred costs for providing

[48] Mullins, Exh. BGM-1T at 3.

[49] Mullins, Exh. BGM-1T at 33.

[50] Mullins, Exh. BGM-1T at 7.

[51] *See e.g. WUTC v. Wash. Water Power Comp.*, Cause Nos. U-81-15 and U-81-16 (Consolidated), 1981 WL 721420, Second Suppl. Order (Nov. 25, 1981) ("Cause No. U-81-15, Second Suppl. Order") (rejecting a "projected budget" in favor of using the traditional historical test year approach, after Staff pointed out that "[f]orecasts tend to be self-fulfilling prophecies").

service.[52] When determining a utility's costs of providing service, the most accurate results come from an analysis of the actual, verifiable costs incurred in an historical test year.[53]

*19.* As the Commission has explained, if pro forma adjustments are to be added to the historic test year, those adjustment should not be based on "budgeted or projected changes," and they typically account for changes that will occur within a short, reasonable time after the test year.[54] A future test year, in contrast, requires rates to be based on budgeted amounts, which are necessarily speculative, and can become self-fulfilling prophecies.[55] Because Avista is unable to show that a rate increase is warranted using the modified historic test year, Avista's rate filing and Rate Plan rely entirely on speculative and unverifiable amounts.

*20.* While there may be conditions where it is appropriate to depart from the modified historic test year, Avista is experiencing no such conditions. Based on the evidence in the record, Avista is healthy and overearning. As demonstrated in the testimony of Mr. Mullins, Avista's revenues should be <u>reduced</u> by $530,231 for gas services, before taking into account the impacts of the TCJA.[56] This equates to a negative 0.35% decrease to existing rates.[57]

### 2. The Commission Should Reject Avista's EOP Study.

*21.* In Avista's EOP Study, the Company calculates a revenue requirement deficiency of $8,269,000[58] for gas services, which was revised in its rebuttal case to $6,630,000.[59] The Commission should

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52 *WUTC v. Pacific Power and Light Company*, Docket UE 140762, Order 8 (Mar. 25, 2015) ("Docket UE 140762, Order 8") at ¶19.

53 *See e.g.* Cause No. U-81-15, Second Suppl. Order (holding that a "projected budget" test year approach was not "reliable and reasonably subject to intelligent examination and scrutiny upon which we can base an informed judgment").

54 Docket UE 140762, Order 8 at ¶44.

55 *See generally* Cause No. U-81-15, Second Suppl. Order (rejecting a "projected budget" in favor of using the traditional historical test year approach, after Staff pointed out that "[f]orecasts tend to be self-fulfilling prophecies").

56 Mullins, Exh. BGM-1T at p. 21.

57 Mullins, Exh. BGM-1T at p. 21.

58 Andrews, Exh. EMA-7 at 1.

59 Andrews, Exh. EMA-12 at 1.

reject Avista's EOP Study because it departs significantly from past Commission practice. As explained in detail in Mr. Mullins' testimony, it is important to recognize that Avista's EOP Study is materially different than EOP rate base, which the Commission has used.[60] EOP rate base uses plant balances at the end of the test period, rather than relying on the traditional approach of using average-of-monthly-average ("AMA") plant balances.[61] In contrast, Avista's EOP Study uses a forecast of capital expenditures to develop an estimate of future plant balances as of December 31, 2017.[62] In other words, Avista's EOP Study proposal extends plant balances significantly beyond the end of the test period and ignores the Commission's historical methodology for performing rate base valuation.[63]

22. Not only is the EOP Study inconsistent with past Commission practice, the Commission should reject the EOP Study because Avista did not update its depreciation study and the estimate of future plant balances in the EOP study may need to be revised significantly when the study is completed.[64] Customers should not be harmed from Avista's failure to update its depreciation study. The plant balances may also need to be revised if the merger with Hydro One is approved.

### 3. The Commission Should Reject Avista's K-Factor Study.

23. Avista also offers what it calls a K-Factor Study to support its proposed Rate Plan. The K-Factor Study can be properly characterized as a less precise version of the attrition studies Avista has relied on in past cases.[65] The K-Factor Study starts with a review of historical trends in Avista's costs and uses that information to forecast revenue growth.[66] The primary distinction between the K-Factor Study and Avista's former attrition studies is that the escalation factors were considered

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60 Mullins, Exh. BGM-1T at p. 12.
61 Mullins, Exh. BGM-1T at p. 11.
62 Mullins, Exh. BGM-1T at p. 11.
63 Mullins, Exh. BGM-1T at p. 11.
64 Mullins, Exh. BGM-1T at p. 12.
65 Mullins, Exh. BGM-1T at p. 13-14.
66 Mullins, Exh. BGM-1T at p. 13.

on a percentage of revenue requirement basis to develop a singular revenue requirement escalator, which Avista refers to as the K-Factor.[67] In contrast, the prior attrition studies applied escalation factors for different components of the revenue requirement study to calculate the overall year-to-year change in revenue requirement.[68]

*24.* The K-Factor Study should be rejected for a number of reasons. First, the K-Factor Study is a less precise version of the attrition analysis Avista proposed and the Commission rejected in prior proceedings.[69] NWIGU disputed Avista's attrition studies because they were based on assumptions, projections and speculation, and the K-Factor Study is even less supportable.[70] Second, the K-Factor Study relies on historical trends that may not have any correlation to future results.[71] Third, any assumptions about future plant levels and depreciation expenses may prove to be inaccurate once Avista files its depreciation study.

*25.* Finally, consistent with Commission practice, the K-Factor should be rejected because it is not possible to understand whether the proposed rate increases are based on factors beyond Avista's control, since the analysis was performed at such a high level.[72] In Avista's 2015 general rate case, the Commission explained that claims of attrition should be based on factors beyond the control of the utility.[73] Since the K-Factor Study is similar to an attrition study, it is Avista's burden to

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67 Mullins, Exh. BGM-1T at p. 13.

68 Mullins, Exh. BGM-1T at p. 13.

69 *See* Docket UE-160228, Order 06 at ¶ 59.

70 *Id.* at ¶ 53.

71 Instead of detailing historical trends by major cost categories, Avista combines historical trending data into four categories: Depreciation, Operations and Maintenance ("O&M") Expenses, Taxes Other than Income Taxes, and Net Plant. Those historical trends are then used to develop an estimate of the rate of growth in these categories over the rate period. The rate of growth of these categories is then compared to the rate of growth of sales on a percentage of revenue requirement basis, to develop an estimate of the percentage change in revenue in future periods. *See* Mullins, Exh. BGM-1T at p. 13-4.

72 Mullins, Exh. BGM-1T at p. 15.

73 *Washington Utilities and Transportation Commission v. Avista*, Dockets UE-150204 and UG-150205 (Consolidated), Order 05 (Jan. 6, 2016) ("Docket UE-150204, Order 5") at ¶136.

demonstrate that its requested revenue increases are based on factors beyond its control. Avista did not carry this burden.

### 4. The Commission Should Reject the Rate Plan Outright Because Avista Failed to File a Depreciation Study.

*26.* Avista stated in its filing that it intended to file a new depreciation study by the end of 2017.[74] As of the close of the record, Avista has yet to file the promised depreciation study. Avista based its most recent depreciation study on plant balances as of December 31, 2010. That study was approved in Dockets UE-120436 and UG-120437.[75] Accordingly, Avista's depreciation accruals will be approximately seven years out-of-date by the rate effective period in this matter.[76]

*27.* It is not clear why Avista did not time the filing of its depreciation study to correspond to the timing of its general rate case - especially since Avista controls the timing of its filings. Typically, new depreciation rates are filed prior to, or as a part of, a utility's general rate filing. Failing to file a depreciation study, particularly with a three-year rate plan, is problematic. If depreciation rates decline as a result of the new study, that decline will provide a windfall to Avista if rates are based only on the prior study.[77]

*28.* Ratepayers should not be penalized simply because Avista failed to complete its depreciation study.[78] Accordingly, the rate plan should be rejected.

### 5. If the Commission Decides to Approve a Rate Plan, It Should Use the More Detailed Analysis Provided by Mr. Mullins.

*29.* NWIGU opposes Avista's proposed Rate Plan and disputes the K-Factor Study as discussed above. But if the Commission decides to adopt a rate plan, it should use the analysis of NWIGU's expert

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74 Mullins, Exh. BGM-7 at 3 (Avista's Response to ICNU DR 49).
75 Mullins, Exh. BGM-1T at 32.
76 Mullins, Exh. BGM-1T at 32.
77 Mullins, Exh. BGM-1T at 33.
78 Mullins, Exh. BGM-1T at 35.

Mr. Mullins. In Contrast to Avista's high level K-Factor Study, Mr. Mullins performed a historical review of each individual cost component included within Avista's results of operations to determine if the assumptions were reasonable. Mr. Mullins' analysis also analyzes whether the proposed K-Factor rate increases are based on factors beyond Avista's control, because only those items should properly be included in an attrition type adjustment. The results of this review are contained in the attrition analyses in Mullins, Exh. BGM-6 for gas services.

*30.* Mr. Mullins concludes that increasing depreciation expenses was a key driver of the revenue increases calculated in Avista's K-Factor Study. Avista expects depreciation expense to increase by 10.93% per year for gas services.[79] Mr. Mullins also discovered that Avista forecasts an escalation in operating expenses in the amount of 3.62% for gas services even though many of Avista's operating expenses categories have actually been declining in recent years.[80] For example, between 2015 and 2016, Administrative and General Operating Expenses declined by 5.1% for gas services.[81] Similar reductions to Operating Expenses can be identified for distribution operating expenses for gas services, which declined by 2.2% over the period 2015 to 2016.[82] Further, Avista assumes that net plant balances will grow by 5.2% per year for gas services even though the rates of change associated with net plant balances are also dependent on the depreciation reserve amounts, which will likely change when the depreciation study is completed.[83] Accordingly, it is clear that the historical data Avista relied upon is not a reasonable expectation of what will occur with respect to these plant balances into the future.[84] In addition, the K-Factor revenue increases do not represent discrete capital additions or revenue

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79 Mullins, Exh. BGM-1T at 16.
80 Mullins, Exh. BGM-1T at 16.
81 Mullins, Exh. BGM-6 at 20.
82 Mullins, Exh. BGM-6 at 15.
83 Mullins, Exh. BGM-1T at 16-17.
84 Mullins, Exh. BGM-1T at 17.

requirement items.[85] Thus, the Commission would have no way to validate the subsequent rate increases.

*31.* Based on the analysis explained in his testimony, Mr. Mullins' base model excludes any escalation for depreciation expenses or operating expenses because those expenses were not reasonable expectations of what will occur in the future. For gas services, the model calculates incremental revenue increases of $354,947 (0.41%) on May 1, 2019, and $305,667 (0.35%) on May 1, 2020.[86] Further, even if the escalation is applied to depreciation expenses and operating expenses, the incremental revenue increase for gas services would be $1,411,891 (1.58%) on May 1, 2019, and $1,350,801 (1.49%) on May 1, 2020.[87] Both of these models show results that are far below what Avista seeks in this proceeding.

*32.* To be clear, these are not results for which NWIGU advocates, but should be used only if the Commission decides to adopt a rate plan. The modified studies show that Avista's revenues should effectively remain flat over the rate plan period and, therefore, the rate plan is unreasonable.[88]

### 6. Avista Should Be Allowed to Include Only Major Pro Forma Plant Additions in Revenue Requirement.

*33.* As discussed above, the Commission should use an historic test year modified with limited pro forma adjustments to reflect known and measurable changes to set rates in this matter. Consistent with that approach, the Commission should reject Avista's pro forma plant adjustments because Avista's proposal conflicts with the Commission's standard practice of allowing only major pro forma plant additions, relative to test period results. NWIGU asks that Avista be allowed to include

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85 Mullins, Exh. BGM-1T at 19.

86 Mullins, Exh. BGM-1T at 20.

87 Mullins, Exh. BGM-1T at 20-21.

88 Mullins, Exh. BGM-1T at 21.

only major pro forma plant additions. The result of this is a negative $1,882,000 adjustment to the revenue requirement.[89]

*34.* Avista's original list of pro forma plant additions for its traditional revenue requirement study can be found at Exhibit No. KKS-2. In Rebuttal Testimony, however, Avista revised the list of pro forma plant additions included in the traditional revenue requirement study by categorizing net plant by functional group so that even projects as small as $24,000 are captured.[90] The new methodology offered in rebuttal had the effect of reclassifying capital projects, which were formerly only considered in the faulty EOP Study discussed above, into the traditional revenue requirement study. Using its EOP Study, Avista's original filing included forty-two gas projects, which was revised to seventeen on rebuttal.[91] To be clear, NWIGU recommends the Commission reject both the EOP Study and the functionalized threshold approach to group capital projects.

*35.* The Commission should also reject the vast majority of Avista's pro forma plant additions. While Mr. Mullins accepted the Aldyl-A Pipe replacement project, he determined that the majority of the projects should be excluded because they fail to meet the threshold for major plant additions, which are appropriately included in revenue requirement on a post-test-year basis.[92] When making this finding, Mr. Mullins used a general threshold of approximately $8,000,000 to $12,000,000 to determine whether a discrete project constituted a "major plant addition."[93] Mr. Mullins excluded projects which consisted of routine replacement of existing property.[94] Projects consisting of routine replacements cannot be effectively reviewed under the Commission's practice since the routine replacements consist of an aggregation of many small projects.[95] While these individual

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89 Mullins, Exh. BGM-1T at 28.
90 *See* Schuh, Exh. KKS-4 at p. 1.
91 Schuh, Exh. KKS-3T, p 14.
92 Mullins, Exh. BGM-1T at 25.
93 Mullins, Exh. BGM-1T at 25.
94 Mullins, Exh. BGM-1T at 25.
95 Mullins, Exh. BGM-1T at 25.

small projects might have been aggregated for reporting purposes, that is not a reason to consider those projects as a major, post-test-year plant addition.[96] Further, these projects are not representative of a project that can be singularly reviewed by applying the used and useful criteria. Rather, these projects primarily represent initiatives to replace existing mass property that is otherwise near to retirement.[97] The fact that a portion of these facilities might be near to retirement is a factor that is more appropriately considered in the context of Avista's depreciation study.[98] This is because as mass property is replaced with newer equipment, depreciation accruals tend to decline, corresponding to a longer average remaining life for equipment remaining in the account.[99] It is not proper to single out unspecified, small replacements with the mass property accounts as major post-test-period capital additions, since the effects of the expected retirements are already captured in depreciation accrual rates.[100]

### 7. The Commission Should Reject Avista's Directors Fee Expense.

*36.* The Commission should reject Avista's initial proposed directors fees expense because Avista removed 3% of the expense and the Commission's practice is to allow recovery of 50% of director fees from rate payers. The result of this adjustment is a reduction of $113,000 to the revenue requirement. Avista accepted this adjustment in its Rebuttal Testimony, stating that as a result of the pending merger, "[i]t would be inappropriate at this time to decide on the pro forma level of director fee expense proposed by the Company in its direct filing."[101]

*37.* Independent of Avista's concession, the Commission noted in Avista's 2015 general rate case that "Avista only removed three percent of the director fee expenses, while our practice is to allow

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[96] Mullins, Exh. BGM-1T at 25-26.
[97] Mullins, Exh. BGM-1T at 27.
[98] Mullins, Exh. BGM-1T at 27.
[99] Mullins, Exh. BGM-1T at 27.
[100] Mullins, Exh. BGM-1T at 27.
[101] Andrews, Exh. EMA-10T at 50.

Avista recovery of fifty percent of director fees from ratepayers."[102] Nevertheless, Avista initially proposed to remove only three percent of director fees from its results as a restating adjustment.[103] To support its approach, Avista conducted a survey suggesting that the time of each and every director is dedicated 97% to utility service and 3% to non-utility service.

*38.* Avista's initial proposal ignores the purpose of the Commission's prior decision on this issue. The fundamental question is whether the work performed by directors is for the benefit of shareholders or ratepayers. A director might be spending time on utility matters, but that time may be spent for the benefit of shareholders rather than ratepayers.[104] Applying a 50/50 split is appropriate because it assumes that half of a director's time is spent for the benefit of shareholders and the other half is spent for the benefit of ratepayers.[105]

**8. Avista's Pro Forma Labor Expense Should Be Rejected.**

*39.* Avista's pro forma labor expense – which includes 2018 wage escalation results – should be rejected. Avista escalates its overall labor expense corresponding to the actual wage increases that were put into effect as of March 2017, as well as wage increases that are expected to be implemented in March 2018. For both union and non-union employees, Avista assumes a three percent wage escalation in each year.[106]

*40.* NWIGU recommends that the escalation to labor expense be to only those wage increases that have actually been implemented for 2017 and exclude any wage escalation into 2018. While Avista might have approval to implement a wage increase in 2018, the ultimate effects of any such increases are not yet certain.[107] Accordingly, the 2018 wage increase should not be considered a

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102 Docket UE-150204, Order 5 at ¶ 220.
103 *See* Mullins, Exh. BGM-7 at 8-9 (the Company's Response to ICNU DR 107).
104 Mullins, Exh. BGM-1T at 29.
105 Mullins, Exh. BGM-1T at 29-30.
106 Mullins, Exh. BGM-1T at 30.
107 Mullins, Exh. BGM-1T at 30.

known and measurable adjustment.[108] It is possible that Avista might ultimately implement a smaller wage increase, or perform other actions which have the effect of reducing labor expenses.[109] Eliminating the 2018 wage escalation results in a reduction to the pro forma labor adjustment by $318,513.[110]

**D. The Commission Should Incorporate the Impact of the TCJA into the Base Rates for Gas Services at Issue in this Proceeding.**

*41.* The TCJA became effective on January 1, 2018. Among other things, the TCJA resulted in a reduction to the Federal corporate income tax rate from 35% to 21%.[111] NWIGU respectfully request that the Commission incorporate the impact of that, and other changes resulting from the TCJA, into the base rates for the benefit of Avista's rate payers. Based upon Mr. Mullins' analysis, the impact of the TCJA will reduce Avista's revenue requirement for its gas utilities by $5,489,628.[112]

*42.* The TCJA has significantly reduced Avista's corporate taxes during the rate year, and for the period beginning January 1, 2018 and ending upon issuance of the Commission's final order in this docket.[113] The record also contains evidence, including responses to the Commission's bench request, that the monetary impact of Avista's reduced tax rates is significant and can be effectively measured.

*43.* In the event the Commission determines that the record is insufficient to support all of the TCJA's rate impacts, NWIGU recommends that the Commission include the TCJA's known tax benefits

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108 Mullins, Exh. BGM-1T at 30.
109 Mullins, Exh. BGM-1T at 30-31.
110 Mullins, Exh. BGM-1T at 31.
111 ICNU-NWIGU Response to Bench Request 1 at 12.
112 ICNU-NWIGU Response to Bench Request 1 at 2.
113 ICNU-NWIGU Response to Bench Request 1 at 3.

into rates, subject to refund. This approach would allow rates to be set and trued up once the Commission has determined all the rate benefits associated with the TCJA.[114]

44. NWIGU disagrees with the representations of Avista in its Bench Request 1 response where it argues that TCJA's revenue impacts are too complicated to be implemented in rates at this time.[115] These statements directly conflict with the testimony of Mr. Mullins, who explained that the determination of taxable income did not materially change as a result of the TCJA, and therefore it is a relatively straightforward process to consider the TCJA's impacts on revenue requirement.[116] Further, NWIGU disagrees with Avista's approach of incorporating the impacts of the TCJA through a rider. While riders may be appropriate for those utilities that are not currently in rate cases, using a rider here will only make the process more difficult. It is a perfect time to incorporate the impacts of the TCJA into base rates in this matter, since those rates are currently open for Avista.[117]

### 9. The Commission Should Account for and Pass the Benefits of The Reduction to Ratepayers in Avista's Tax Rates from January 1, 2018 through April 30, 2018.

45. For the rates charged over the period January 1, 2018 through April 30, 2018, NWIGU recommends that the Commission require the creation of a deferred account to hold the excess Federal income taxes that Avista is collecting in current rates. The deferred account need not be incorporated into revenue requirement results in this matter.[118] However, the deferral should remain on the Company's books—subject to carrying charges but no amortization—until the

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[114] ICNU-NWIGU Response to Bench Request 1 at 3.

[115] *See* Avista Response to Bench Request 1 at 1 (stating that "[d]ue to the lengthy and complex nature of the TCJA, it is not possible at this time to identify all specific changes in Avista's federal tax obligations that may be impacted by the passage of the TCJA law").

[116] ICNU-NWIGU Response to Bench Request 1 at 4-5.

[117] ICNU-NWIGU Response to Bench Request 1 at 5.

[118] ICNU-NWIGU Response to Bench Request 1 at 5.

effective date of Avista's next rate proceeding.[119] Under such an approach, Avista would be required to submit an amortization proposal for the deferral at the time of its next general rate case.[120] This approach is also reasonable because no additional process is necessary to implement such a deferral.[121]

## II. CONCLUSION

*46.* Based on the foregoing, NWIGU urges the Commission to approve the Multiparty Settlement, which resolves gas cost of service, gas rate spread and rate design, and the development of a new gas transportation service option for smaller commercial and industrial customers. Further, the Commission should reject Avista's request for an above-market ROE and adopt a more reasonable ROE such as that proposed by ICNU, Staff, and Public Counsel. With respect to revenue requirement, the Commission should reject Avista's K-Factor Study because it is a less precise version of the attrition analysis rejected by the Commission in prior proceedings, and the Commission should reject Avista's EOP Study because it extends plant balances significantly beyond the end of the test period and ignores the Commission's historical methodology for performing rate base valuation. The Commission can find that neither approach is supported in the record. Using the traditional revenue requirement methodology, but including the adjustments proposed by NWIGU, the Commission should determine that there is a revenue sufficiency in the amount of $530,231 (approximately 0.6%) for gas services.

*47.* Based on the foregoing, NWIGU also urges the Commission to reject Avista's proposed Rate Plan. Avista has not justified the need for, nor the amount of, its requested Rate Plan. Despite Avista's argument that it will not have the opportunity to earn its authorized rate of return in the absence of

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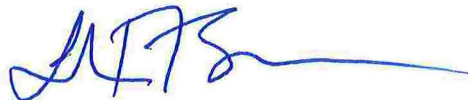
119 ICNU-NWIGU Response to Bench Request 1 at 5.
120 ICNU-NWIGU Response to Bench Request 1 at 5.
121 ICNU-NWIGU Response to Bench Request 1 at 5.

its requested rate relief, the record demonstrates that Avista is a healthy utility, and in fact has been over earning. In the event the Commission is inclined to adopt a rate plan, it should adopt the adjustments proposed by NWIGU witness Mr. Mullins in Exh. BGM-6.

*48.* Finally, the Commission should include in any final order the impact of the TCJA. Contrary to assertions by Avista, the revenue impacts of the TJCA are not too complicated to be implemented in rates at this time. The impact of the TCJA will further reduce Avista's revenue requirement for its gas operations by $5,489,628.

Dated: February 22, 2018

Respectfully submitted,



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