BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. AVISTA CORPORATION, d/b/a AVISTA UTILITIES, Respondent.	DOCKETS UE-170485 and UG-170489 (*Consolidated*)

POST-HEARING BRIEF OF PUBLIC COUNSEL

February 22, 2018

DESIGNATED INFORMATION IS CONFIDENTIAL PER PROTECTIVE ORDER IN DOCKETS UE-170485 AND UG-170486 (*CONSOLIDATED*)

REDACTED VERSION

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I. INTRODUCTION

1. Avista Corporation, d/b/a Avista Utilities (Avista or Company) continues to bring annual rate cases before the Utilities and Transportation Commission (Commission). In this case, Avista requests a multi-year rate plan with rates escalated using escalation factors derived from trend analysis. While the Company does not squarely request an attrition adjustment, the analysis they present in this case follows a familiar pattern. As with prior cases, Avista offers several different rate studies and calculate escalation factors to project rates. The primary difference is applying the escalation to future years rather than to the first rate year after this rate case.

2. Avista presents four studies, which they name Traditional Pro Forma Study, End of Period Study, K-Factor Study, and Rate Year Study. As discussed in this brief, these studies do not conform to standard ratemaking analysis.

3. As in prior cases, looking back at Avista's earnings performance shows a healthy utility that continues to meet or exceed its authorized earnings levels. Avista is anticipating a combined return on equity of 9.7 percent for both electric and natural gas services.[1] For electric service, Avista's initial calculation is that they will experience a return on equity just below the current authorized 9.5 percent, and for natural gas, Avista's initial calculation is that they will experience

[1] Thies, TR. 379:15-23. The Company informed the Commission and the parties that information recorded in confidential session during the evidentiary hearing and submitted in confidential exhibit MTT-13C no longer requires confidential treatment.

a return on equity of 11.4 percent.[2] Avista's earnings results remain healthy, despite being denied increased rates in its last general rate case.[3]

4. Ratepayers rely on the Commission to take a hard look at Avista's filing and its continued requests for rate increases. A company that continues to over-earn does not have a strong case for large rate increases at the scale being requested here.

5. In this brief, Public Counsel discusses its proposals regarding cost of capital, revenue requirement, Avista's natural gas line extension and fuel conversion programs, and the Industrial Customers of Northwest Utilities' (ICNU) proposals regarding demand side management (DSM) programs. Public Counsel also highlights customer comments that have been made in the docket.

II. THE COMMISSION SHOULD REJECT AVISTA'S REQUEST FOR AN INCREASED RETURN ON EQUITY AND REDUCE THE AUTHORIZED RETURN ON EQUITY TO APPROPRIATELY REFLECT RISK

6. Public Counsel recommends a capital structure consisting of 51.5 percent long-term debt and 48.4 percent common equity, with an authorized return on equity of 9.0 percent.[4] Unlike the Company's proposal, Public Counsel's proposal properly balances safety and economy, and is consistent with the Commission's policies. Additionally, Public Counsel witness David J. Garrett uses models to analyze Avista's return that have been widely accepted and used by regulatory commissions for many years, including the Discounted Cash Flow Model (DCF) and

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[2] Thies, TR. 378:22 – 379:23; Exh. No. MTT-13C.
[3] Dockets UE-160228 and UG-160229.
[4] Response Testimony of David J. Garrett, Exh. No. DJG-1T at 4:1-18.

the Capital Asset Pricing Model (CAPM).[5] Each of these models have been used in proceedings before this Commission.

A. A utility's authorized capital structure for ratemaking purposes must balance safety and economy because cost of capital heavily impacts the rates customers pay.

7. The Commission's determinations regarding a utility's overall rate of return significantly impacts the rates customers pay.[6] Ratepayer interests must be considered when determining the appropriate capital structure of a regulated utility when setting rates.[7] In considering ratepayer interests, the Commission weighs the need for safety and economy. The cost of equity is more significant than debt. As a result, a capital structure with relatively more debt than equity can result in lower costs to the customer.[8] The lower cost of debt reducing the overall cost of capital and lowering customer rates is commonly referred to as "economy."[9]

8. Conversely, a capital structure containing relatively more equity than debt can result in higher rates for customers, but also increased financial integrity. This increased financial integrity resulting from higher amounts of equity in the capital structure is commonly referred to as "safety."[10] The tension between economy and safety factors into the Commission's decision regarding a utility's capital structure in setting rates.

9. Generally, the Commission weighs the evidence presented on cost of capital and determines a reasonable range from which to set the utility's cost of capital.[11] In this case,

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[5] David Garrett, Exh. DJG-1T at 13:17 – 14:2.

[6] *WUTC v. PacifiCorp*, Docket UE-130043, Order 05, Final Order Rejecting Tariff Sheets; Resolving Contested Issues; Authorizing and Requiring Compliance Filing, ¶ 17 (Dec. 4, 2013).

[7] *PacifiCorp*, Docket UE-130043, Order 05, ¶ 25.

[8] *PacifiCorp*, Docket UE-130043, Order 05, ¶ 25.

[9] *PacifiCorp*, Docket UE-130043, Order 05, ¶ 25.

[10] *PacifiCorp*, Docket UE-130043, Order 05, ¶ 25.

[11] *PacifiCorp*, Docket UE-130043, Order 05, ¶ 27.

Avista, Commission Staff, Public Counsel, and ICNU present cost of capital testimony.[12] Avista proposes to use a capital structure with 50 percent equity, while Commission Staff and Public Counsel recommend using 48.5 percent equity. ICNU recommends using 48.4 percent equity. Additionally, Commission Staff and ICNU specifically set out short-term debt.[13]

10. The cost of equity proposed by Public Counsel, Commission Staff, and ICNU is comparable. Public Counsel recommends return on equity of 9.0 percent, and both Commission Staff and ICNU recommend return on equity of 9.1 percent. Avista's current authorized return on equity is 9.5 percent, and the Company requests an increase to 9.9 percent. In balancing safety with economy, proposals set forth by Public Counsel, Commission Staff, and ICNU demonstrate that Avista's higher request is unnecessary to achieve an appropriate level of safety.

B. Flaws in Avista witness Adrien McKenzie's analysis results in an excessive recommendation on return.

11. Risk is the most important factor in determining the allowed return for Avista.[14] Return on equity should be set commensurate with the utility's risk. Public Counsel witness David J. Garrett noted, "The public utility industry is one of the least risky industries in the entire country."[15] The return on equity should reflect the lower risk faced by utility investors, and Mr. Garrett's analysis of Avista's return on equity fairly reflects Avista's risk. As a result, the Commission should lower Avista's return on equity to 9.0 percent, which also reduces Avista's overall rate of return to 7.26 percent.[16]

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[12] Rebuttal Testimony of Mark T. Thies, Exh. MTT-6T at 12:1 – 13:7.
[13] Thies, Exh. MTT-6T 12:1 – 13:14.
[14] David Garrett, Exh. DJG-1T at 12:12 – 13:4.
[15] David Garrett, Exh. DJG-1T at 12:18-19.
[16] David Garrett, Exh. DJG-1T at 5, Figure 1.

12. Avista witness Mr. McKenzie conducts analysis that results in highly inflated return results. For example, Mr. McKenzie's long-term growth rates used in his DCF analysis are much too high, skewing the results from that study.[17] Mr. McKenzie's CAPM analysis is likewise flawed. He relies on an unrealistic equity risk premium, which is one of the key factors in CAPM analysis.[18]

13. Additionally, Mr. McKenzie argues that firm-specific risks justify increasing Avista's return. The two primary types of risks that companies face are market risk, which affect all firms to varying degrees, and firm-specific risk, which affect individual companies.[19] Although Mr. McKenzie suggests that firm-specific risks, such as operating risks, should increase the cost of equity, Mr. David Garrett explains that firm-specific risks are not rewarded by the market.[20] Investors can mitigate firm-specific risk through diversification of investments. Thus, firm-specific risks have no meaningful effect on cost of equity.[21]

14. Mr. McKenzie argues that Avista's relatively small size should result in a premium increasing its return on equity. However, size premiums were popular in the two years following a study conducted in 1981. The size premium identified in the study reversed after 1983 as small-cap stocks began to underperform relative to large cap stocks.[22] Applying a size premium to Avista's returns would not be appropriate, not only because the size premium is an invalid

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[17] David Garrett, Exh. DJG-1T at 6:1-5, 33:11 – 35:9.
[18] David Garrett, Exh. DJG-1T at 49:4-10.
[19] David Garrett, Exh. DJG-1T at 54:11-12.
[20] David Garrett, Exh. DJG-1T at 54:12-15.
[21] David Garrett, Exh. DJG-1T at 54:15 – 55:2.
[22] David Garrett, Exh. DJG-1T at 55:3 – 57:4.

concept, but also because Avista may soon become part of a larger entity if its proposed merger with Hydro One is completed.[23]

15. Mr. McKenzie argues that floatation costs increase Avista's required return. Floatation costs are the underwriter's compensation for services related to securities offerings.[24] However, floatation costs are not typically paid as an out-of-pocket cost because underwriters are typically compensated through the difference between the price they pay to purchase shares from the company and the price they sell the shares to investors.[25]

16. Avista has not offered sufficient evidence to justify its request for a high return on equity of 9.9 percent. The Commission should reject Avista's request and set the return on equity and the overall rate of return consistent with Public Counsel's recommendations.

III. THE COMMISSION SHOULD REJECT AVISTA'S REQUEST FOR A MULTI-YEAR RATE PLAN

17. Avista requests that the Commission establish a multi-year rate plan extending through April 2021. Although Avista states that it is not basing its multi-year rate plan on an attrition analysis, it proposes to escalate rates in Year 2 and Year 3 based on escalation factors.[26] Avista is not proposing multi-year implementation of a rate increase derived from a standard modified historic test year analysis, spreading the impact of such a rate increase over a number of years.

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[23] *See,* Joint Application from Avista and Hydro One seeking approval of their proposed merger. Docket U-170929.

[24] David Garrett, Exh. DJG-1T at 57: 6-7.

[25] David Garrett, Exh. DJG-1T at 58:7-13.

[26] Indeed, Avista witness Elizabeth M. Andrews notes, "[The] EOP Rate Base Study and the K-Factor Study in particular, incorporate some of the ratemaking 'tools' previously employed by this Commission to arrive at an end result that is fair to both customers and the Company for the rate periods." Direct Testimony of Elizabeth M. Andrews, Exh. EMA-1T at 4.

Rather, Avista requests rates for Year 1 that are calculated based on analysis it suggests is similar to the modified historic test year methodology, then new, escalated rates for Years 2 and 3.

18. Commission Staff supports the request for a multi-year rate plan and argues that it is not an attrition adjustment because rates in Year 1 are not escalated.[27] Public Counsel strongly believes that setting rates for Avista based on escalation is not justified and that Avista's rates in this case should be set for a single rate year. This is particularly true due to upcoming events that may significantly alter Avista's costs and expenses. Moreover, Public Counsel continues to harbor concerns that escalation of rates is unlawful to the extent that rate base is escalated.[28]

19. The full impact of Avista's initial multi-year rate request totals over $264 million for both electric and natural gas services. On rebuttal, Avista's combined electric and natural gas request decreases to $235 million. Table 1 shows the impact of Avista's initial and rebuttal filings.

Table 1: Avista's Proposed Rate Increases (Initial Filing and Rebuttal Filing)

Initial Filing

	Year 1	**Year 2**	**Year 3**	**TOTAL**
Electric Rate Increase	$61.4M	$61.4M	$61.4M	$184.2M
Additional Rate Increase		$14.0M	$14.0M	$28.0M
Additional Rate Increase			$14.4M	$14.4M
Total Electric Increase	**$61.4M**	**$75.4M**	**$89.8M**	**$226.6M**
Gas Rate Increase	$8.3M	$8.3M	$8.3M	$24.9M
Additional Rate Increase		$4.2M	$4.2M	$8.4M
Additional Rate Increase			$4.4M	$4.4M
Total Gas Increase	**$8.3M**	**$12.5M**	**$16.9M**	**$37.7M**

[27] Hancock, TR. 242:2-16.

[28] Avista's 2015 general rate case order from Dockets UE-150204 and UG-150205 is currently pending on judicial review. Public Counsel challenged the order, in part, due to escalation of rate base through an attrition adjustment, arguing that such escalation violated RCW 80.04.250 and was beyond the Commission's statutory authority.

	Year 1	Year 2	Year 3	TOTAL
Total Electric and Gas Increase	**69.7M**	**$87.9M**	**$106.7M**	**$264.3M**
		Rebuttal Filing		
	Year 1	**Year 2**	**Year 3**	**TOTAL**
Electric Rate Increase	$54.4M	$54.4M	$54.4M	$163.2M
Additional Rate Increase		$13.5M	$13.5M	$27.0M
Additional Rate Increase			$13.8M	$13.8M
Total Electric Increase	**$54.4M**	**$67.9M**	**$81.7M**	**$204.0M**
Gas Rate Increase	$6.6M	$6.6M	$6.6M	$19.8M
Additional Rate Increase		$3.7M	$3.7M	$7.4M
Additional Rate Increase			$3.8M	$3.8M
Total Gas Increase	**$6.6M**	**$10.3M**	**$14.1M**	**$31.0M**
Total Electric and Gas Increase	**$61.0M**	**$78.2M**	**$95.8M**	**$235.0M**

20. Public Counsel urges the Commission to decline Avista's request to establish a rate plan allowing for automatic rate increases over three years. Avista does not use a modified historic test year analysis as its starting point, but rather presents a future test year analysis by another name in its Traditional Pro Forma Study.[29] Avista bases its rate request on a separate study that escalates costs through the end of 2018, along with an escalation factor that set rates for Years 2 and 3 of the proposed rate plan. The Commission should reaffirm standard regulatory principles in this case because Avista fails to demonstrate that it requires anything other than standard ratemaking.

A. Avista presents flawed studies in support of its rate request.

1. Avista's Traditional Pro Forma Study is not consistent with the Commission's modified historic test year methodology.

[29] *See* Response Testimony of Mark E. Garrett, Exh. MEG-1T at 4:18-23.

21. Avista's Traditional Pro Forma Study does not follow the Commission's modified historic test year ratemaking methodology. Under the Commission's modified historic test year methodology, the analysis begins with actual expenses and revenues. Limited pro forma and restating adjustment are used to accurately reflect expenses and revenues closer to what the utility will experience in the rate effective period. Those limited adjustments must be to known and measurable changes, meaning the changes were known to have occurred during the test period or soon after, and the effect of the change will take place during the rate effective year.[30] Additionally, the changes must be measurable, meaning that "the amount typically cannot be an estimate, a projection, the product of a budget forecast, or some similar exercise of judgment – even informed judgment – concerning future revenue, expense or rate base."[31] All adjustment must meet the matching principle, which requires that all factors affecting a pro forma adjustment be considered.[32] Adherence to strict regulatory requirements properly balance the interests of the utility and its customers, particularly when the utility has not demonstrated that alternative treatment is necessary or desirable.

22. Avista's Traditional Pro Forma Study is more accurately recognized as a future test year presentation. Adjustments made in this study extend expenses such as labor, property taxes, and benefits two years past the end of the 2016 test period.[33] Avista extends rate base additions a full year beyond the 2016 test period.[34] While Avista captures escalated costs by extending its

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[30] *WUTC v. Puget Sound Energy*, Dockets UE-090704 & UG-090705, Order 11, Rejecting Tariff Sheets; Authorizing and Requiring Compliance Filing, ¶ 26 (Apr. 2, 2010) (*PSE 2009 GRC*).
[31] *PSE 2009 GRC*, Order 11, ¶ 26; *see also*, WAC 480-07-510(3)(e).
[32] *PSE 2009 GRC*, Order 11, ¶¶ 27-30.
[33] Mark Garrett, Exh. MEG-1T at 4:10-23.
[34] Mark Garrett, Exh. MEG-1T at 4:24 – 5:3.

analysis into a partially projected test year, Avista ignores potential savings that may occur in those periods. Ignoring potential savings while capturing costs violates the matching principle.[35] Commission Staff, in its recommendation to use end-of-period rate base without including an adjustment to capture any offsetting revenue associated with the end-of-period balances, also violates the matching principle.[36]

2. Avista's End of Period Study improperly includes amounts for rate base extending through 2017 and ignores the Commission's materiality standard.

23. Avista does not base its rate request on the Traditional Pro Forma Study. Rather, Avista bases Year 1 rates on its End of Period Study (EOP Study). As noted by Public Counsel witness Mark E. Garrett, the EOP Study is not a traditional end of period rate base analysis. Typically, EOP analysis updates plant balances through the end of a test period rather than valuing rate base using an average of monthly averages methodology. Here, Avista includes plant through the end of the following year – 2017.[37]

24. Moreover, whereas Avista included only rate base projects that exceeded one-half of one percent of rate base through the end of 2017 in its Pro Forma Study, Avista includes all plant through the end of 2017.[38] This is contrary to the Commission's requirement that pro forma plant additions be material. Avista's plant additions included in its EOP Study that are not greater than one-half of one percent of rate base fail to meet the materiality standard. Further, the EOP Study is based on a projected test year as expenses such as payroll and property taxes

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[35] Mark Garrett, Exh. MEG-1T at 5:4-13.
[36] Scanlan, TR. 259:12 – 261:3.
[37] Mark Garrett, Exh. MEG-1T at 5:14-19.
[38] Mark Garrett, Exh. MEG-1T at 5:20-22.

are projected out through 2018.[39] Avista's EOP Study is not an appropriate study on which to base its rate request.

25. Indeed, this Commission has expressed concerns about using projected future levels of expenses, rate base, and revenues to set rates. In its Final Order in Avista's 2015 general rate case, the Commission identified a potential "self-fulfilling prophecy" of creating an incentive to meet capital expenditure budgets to match earlier projections.[40] In Avista's 2016 general rate case, the Commission noted that the self-fulfilling prophecy had been realized in rejecting Avista's rate filing.[41] The Commission has also expressly rejected using a future test year approach to ratemaking.[42]

3. Avista's K-Factor Study should be rejected.

26. In this case, Avista requests rates for Years 2 and 3 of its three-year, multi-year rate plan. To calculate rates for Years 2 and 3, Avista offers its K-Factor Study, which uses an annual escalator to escalate rates from its EOP Study for Year 2.[43] The same annual escalator is used to escalate rates from Year 2 to Year 3.

4. Although proponents argue that the multi-year rate plan is distinct from attrition analysis, the multi-year rate plan suffers from the same fatal flaw.

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[39] Mark Garrett, Exh. MEG-1T at 5:22 – 6:1.

[40] *WUTC v. Avista Corp.*, Dockets UE-150204 & UG-150205, Final Order No. 05 at 44 (Jan. 06, 2016).

[41] *WUTC v. Avista Corp.,* Dockets UE-160228 & UG-160229, Order 06, Final Order Rejecting Tariff Filing ¶ 68 (Dec. 15, 2016) (Avista's results in recent years appears to be the realization of the Commission's earlier expressed concern that authorizing a practice that simply projects future levels of expense and capital expenditures may become a self-fulfilling prophecy where capital expenditures are driven by an effort to match earlier projections.).

[42] *WUTC v. Pacific Power & Light Co.,* Docket UE-140762 (*Consolidated*), Final Order 08, ¶ 8 (Mar. 25, 2015); *WUTC v. Puget Sound Energy*, Dockets UE-111048 & UG-111049, Final Order 08, ¶¶ 96-98 (May 7, 2012).

[43] Andrews, Exh. EMA-1T at 4:1-2.

27. Commission Staff argues that application of an escalator in Years 2 and 3 differentiate the multi-year plan proposal from an attrition adjustment.[44] The primary difference between the proposals made by Avista and Staff and an attrition adjustment is Year 1 rates are not escalated, and only rates for Years 2 and 3 are calculated using an escalator. Presumably, there needs to be a decision that escalation is necessary for Years 2 and 3, then a calculation is performed to determine trends to use in developing the escalation factor. This analysis and calculation is similar to an attrition adjustment analysis and calculation, and rates for Years 2 and 3 include estimated amounts associated with rate base.[45]

28. Even if the EOP Study and K-Factor Study are distinct from attrition analysis, Avista is proposing to set rates based on escalation. That escalation includes escalation of rate base, which poses a legal issue under RCW 80.04.250. RCW 80.04.250 requires that utility rate base be used and useful before being included in rates. Escalated amounts of rate base are not used and useful because the amounts are not associated with specific plant. The Commission is prohibited from setting rates that includes amount associated with non-existent plant because to do so would be outside of the Commission's statutory authority.[46]

29. To be used and useful, utility property must be employed for utility service to customers in Washington and be capable of being put to use for service.[47] Additionally, the utility must

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[44] Cross-Answering Testimony of Christopher S. Hancock, Exh. 7T at 3:11-15.

[45] Hancock, TR. 240:1-21.

[46] Agencies may exercise only those powers "expressly granted by statute or necessarily implied therein." *Wash. Indep. Tel. Ass'n v. Telecomms. Ratepayers Ass'n for Cost-Base and Equitable Rates*, 75 Wn. App. 356, 363, 880 P.2d 50 (1994) (internal quotes omitted). If it acts beyond the powers granted to it in statute, the Commission exceeds its statutory authority. *See People's Org. for Wash. Energy Res. (POWER) v. Wash. Utils. & Transp. Comm'n*, 101 Wn.2d 425, 679 P.2d 922 (1984) (hereinafter "*POWER 84*").

[47] *POWER 84*, 101 Wn.2d at 430.

demonstrate quantifiable benefits to ratepayers for each resource to be included in rates.[48] Avista is unable to demonstrate such quantifiable benefits associated with escalated rate base.

30. *POWER 84* is dispositive of the used and useful issue. In that case, the Commission approved rates that included construction work in progress (CWIP). The Washington Supreme Court determined that the Commission exceeded its statutory authority by including CWIP in rates because RCW 80.04.250 required plant to be used and useful before being included in rates. The Legislature answered *POWER 84* by establishing a narrow exception to the used and useful standard for CWIP. The analysis in *POWER 84* still stands, though, because the Legislature preserved the used and useful standard, except for plant that falls in the narrow exception for CWIP.

31. In this case, escalated amounts associated with rate base does not fall within the CWIP exception to the used and useful requirement of RCW 80.04.250. As a result, the escalated rate base in both Avista and Commission Staff's proposals are unlawful, and the Commission should reject the proposals.

5. The Commission should recognize the standard articulated in Avista's 2015 general rate case requiring the utility to demonstrate that costs are escalating beyond its control to justify rates set based on escalation factors, to the extent such rates are lawful.

32. Avista's multi-year rate plan proposal incorporates many of the same characteristics of an attrition analysis. The Commission articulated a new standard to apply to attrition adjustments in Avista's 2015 general rate case. Specifically, the Commission requires utilities to demonstrate

[48] *Pacific Power & Light Co.*, Docket UE-140762 (*Consolidated*), Order 08 ¶ 166.

that costs are increasing such that they have no opportunity to earn a fair return and that the costs are escalating beyond the utilities' control.[49] Avista failed to meet the standard with respect to its electric operations in its 2015 case.[50] Avista was unable to meet the standard in its 2016 general rate case for either electric or natural gas operations, and the Commission rejected Avista's rate request.[51]

33. Public Counsel witness Mark Garrett notes in his testimony, "[A]s long as the utility believes it is beneficial to argue that a traditional cost of service regulatory approach is no longer effective, then the utility will continue to [create] new, innovative ways to seek revenue increases, rather than finding meaningful ways to control its costs."[52] We see this creativity and innovation with Avista. Avista has brought attrition adjustment rate cases before the Commission since 2012, and the Company now presents a new iteration of escalated rates in this case. Creativity and innovation are not negative on their face, but rates should be set using methodologies that fairly balance the interests of utilities and ratepayers.

34. In this case, Avista proposes to escalate costs for items that are squarely within management's control to calculate rates for Years 2 and 3.[53] Thus, Avista again falls short of the Commission's standard of demonstrating that costs are increasing due to circumstances beyond the utility's control. Additionally, Avista's earnings are strong and have been for several years. The Commission has noted that strong earnings factor against setting rates based on

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[49] *WUTC v. Avista Corp.,* Dockets UE-150204 & UG-150205, Order 05, Final Order, ¶¶ 110, 119 (Jan. 6, 2016).

[50] *WUTC v. Avista Corp.,* Dockets UE-150204 & UG-150205, Order 05, ¶ 127.

[51] *WUTC v. Avista Corp.,* Dockets UE-160228 & UG-160229, Order 06, Final Order Rejecting Tariff Filing, ¶ 68 (Dec. 15, 2016).

[52] Cross Answering Testimony of Mark E. Garrett, Exh. MEG-13T at 9:21 – 10:2.

[53] Mark Garrett, Exh. MEG-13T at 11:16 – 12:3.

projections.[54] As a result, Avista has not established a need to set rates using the Company's proposed methodology.

6. Eliminating regulatory lag from the economic regulation of utilities is not desirable.

35. Regulatory lag, along with the threat of disallowance, serve as a proxy to competition in utility regulation.[55] Additionally, regulatory lag also encourages utilities to control costs.[56]

36. Regulatory lag injects appropriate risk into utility operations and provides the justification to allow the opportunity for utilities to earn a rate of return above a "risk-free" rate of return.[57] Without the risk of regulatory lag, utility rates of return would be much closer to a risk-free rate of return. It would be unjust to allow higher rates of return while also reducing the risk of regulatory lag because the utility is compensated for assuming the risk of regulatory lag.[58]

IV. AVISTA'S REVENUE REQUIREMENT SHOULD BE SET USING STANDARD METHODOLOGIES

37. Because Public Counsel believes that special rate treatment is not needed, Public Counsel focuses its analysis on Avista's Traditional Pro Forma Study, which most closely approximates the Commission's preferred modified historical test year ratemaking methodology.[59] Although, as discussed above, Avista's Traditional Pro Forma Study is more akin to a future test year presentation, routine adjustments can bring the study to a form that is reasonable to set rates in

[54] *WUTC v. Avista Corp.,* Dockets UE-160228 & UG-160229, Order 06 ¶ 66.
[55] Mark Garrett, Exh. MEG-13T at 8:19 – 9:2; Testimony of Christopher S. Hancock, Exh. CSH-1Tr at 10:8-13.
[56] Mark Garrett, Exh. MEG-1T at 11:17-22.
[57] Mark Garrett, Exh. MEG-13T at 7:18-22.
[58] Mark Garrett, Exh. MEG-13T at 8:6-8.
[59] Mark Garrett, Exh. MEG-1T at 22:11 – 23:5.

this case.[60] Public Counsel presents five adjustments addressing Avista's cost of capital, power costs, labor, property taxes, and directors' fees.[61] Before considering the impact of new federal tax legislation, the Tax Cuts and Jobs Act (TCJA), Public Counsel's analysis indicates that Avista's revenue requirement for electric service should increase by $7.5 million. Avista's natural gas revenue requirement, before incorporating the impact of the TCJA, should increase by $1.6 million with Public Counsel's adjustments. Additional adjustments to Avista's revenue requirement will be necessary to incorporate the TCJA, which was signed into law on December 22, 2017.

A. Public Counsel's adjustments to Avista's revenue requirements for electric and natural gas services demonstrates that Avista is not in need of large rate increases.

38. Avista's Traditional Pro Forma Study presents an electric revenue requirement increase of $37.5 million. Public Counsel's analysis reduces the electric revenue requirement by approximately $30 million, resulting in a modest increase in rates of $7.5 million. Public Counsel estimates that the effect of the TCJA will further reduce Avista's revenue requirement, resulting in a reduction in rates of approximately $18.5 million for electric rates.[62]

39. Regarding natural gas service, Avista's Traditional Pro Forma Study presents a revenue requirement increase of $4.5 million. Public Counsel's analysis reduces the natural gas revenue requirement by approximately $3 million, resulting in a modest increase of $1.6 million. The

[60] Mark Garrett, Exh. MEG-1T at 11:9-14.
[61] Mark Garrett, Exh. MEG-1T at 23:5-7; Exh. MEG-11 (electric); Exh. MEG-12 (natural gas).
[62] Public Counsel's Comments on Avista's Response to Bench Request 1, Attachment A, at 1.

TCJA tax rate reduction will decrease Avista's revenue requirement and will likely result in an overall reduction in natural gas rates.[63]

1. Avista's projected payroll costs should be rejected.

40. Public Counsel reduces Avista's payroll costs. Avista proposes to include projected costs through 2018, two years past the 2016 test year. Adjustments to wages are allowed if known and measurable, however, projected wage increases fail to meet the standard. In addressing test year labor costs, including employee levels and wage increases in its order in a general rate case docket involving Pacific Power, Docket UE-140762 (*Consolidated*), the Commission stated:

> As Pacific Power is fully aware, Washington uses a hybrid test year approach that allows pro forma adjustments only for known and measurable changes –not budgeted or projected changes– that occur, generally within a reasonable time after the end of the test year and, with some exceptions, almost never more than 12 months after the end of the test year.[64]

In a footnote to the above quoted section, the Commission also stated:

> We note that it is even exceptional for the Commission to allow pro forma adjustments beyond a few months after the end of the test year. The Commission has relaxed this careful approach somewhat during recent years, risking violation of the matching principle, in an effort to address concerns that regulatory lag has been increasingly problematic during a period of unusually high capital investment. The Commission also has used other approaches, such as use of EOP rate base instead of the preferred AMA approach, and allowance of attrition adjustments, to address this problem. Nevertheless, companies we regulate continue to file regularly for general rate increases. Pacific Power, for example, has filed one general rate case after another, year after year, as exemplified by its filing of this case only five months after the Commission authorized rate increases in Docket UE-130043 in 2013.[65]

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[63] Avista will file additional information regarding the anticipated impacts of the TCJA on February 28, 2018.
[64] *WUTC v. Pacific Power & Light Co.*, Docket UE-140762, Order 08 ¶ 44 (Mar. 25, 2015).
[65] *Id.* at 21 n.57.

41. Avista's request to include the forecasted 2018 salary and wage increases for both union and non-union employees should be rejected as they are not known and measurable and extend well beyond the timeframe previously considered by the Commission for pro forma adjustments. Mr. Mark Garrett's adjustment reducing wage expenses by one-half is intended to allow an increase for 2017 wage increases, but not 2018 increases.[66] Avista's Pro Forma Labor Non-Exec adjustment should be reduced by approximately $931,000 (NOI) and $1,503,000 (revenue requirement) for electric operations.[67] Avista's Pro Forma Labor Non-Exec adjustment should be reduced by approximately $284,000 (NOI) and $458,000 (revenue requirement) for natural gas operations.[68]

2. Avista's Directors' Fees should be removed from rates.

42. Public Counsel removes Directors' Fees as a pro forma expense because such fees are generally a shareholder expense rather than a ratepayer expense, especially since Board of Directors are charged with a fiduciary duty to put the interests of the corporation above other interests, including customers' interest. Eliminating Avista's Pro Forma Director's Fee adjustment results in approximately $244,000 (NOI) and $394,000 (revenue requirement) for electric operations.[69] Avista's Pro Forma Directors' Fee adjustment should be reduced by approximately $70,000 (NOI) and $113,000 (revenue requirement) for natural gas operations.[70]

3. Avista's property tax expense should be reduced.

[66] Mark Garrett, Exh. MEG-1T at 23:20 - 24:8.
[67] Garrett, Exh. MEG-11 at 2-3.
[68] Garrett, Exh. MEG-12 at 2-3.
[69] Garrett, Exh. MEG-11 at 2 and 5.
[70] Garrett, Exh. MEG-12 at 2 and 5.

43. Similar to Avista's wages adjustment, Avista includes property taxes through 2018. Mr. Garrett removes one-half of the property tax adjustment to synchronize the property tax expense with plant additions. For those 2017 additions that are greater than 0.5 percent of rate base, Mr. Garrett's adjustment allows a property tax increase that coincides with the same period.[71]

44. Avista's Pro Forma Property Tax adjustment should be eliminated, approximately $799,000 (NOI) and $1,290,000 (revenue requirement) for electric operations.[72] Avista's Pro Forma Property Tax adjustment should be reduced by approximately $154,700 (NOI) and $249,000 (revenue requirement) for natural gas operations.[73]

4. Avista's adjustment to increase electric net power costs should be rejected.

45. Based on Public Counsel witness Rachel S. Wilson's testimony, Mr. Mark Garrett removes Avista's adjustment increasing its net power costs in base rates.[74] The result is a reduction to Avista's Pro Forma Power Supply and Transmission Revs adjustment of approximately $10,288,000 (NOI) and 16,609,000 (revenue requirement).[75]

5. The TCJA reduces Avista's income tax burden significantly and will impact Avista's Accumulated Deferred Income Tax and Excess Accumulated Deferred Income Tax.

46. The Commission should address two major issues raised by the new federal tax legislation, the TCJA. First, the Commission should give effect to the reduction in Avista's

[71] Garrett, Exh. MEG-1T at 24:9-16.
[72] Garrett, Exh. MEG-11 at 2 and 4.
[73] Garrett, Exh. MEG-12 at 2 and 4.
[74] Mark Garrett, Exh. MEG-1T at 23:13-19.
[75] Mark Garrett, Exh. MEG-11 at 2 and 6.

income tax rate, which significantly reduces Avista's tax burden. Second, the Commission should address how Avista's Excess Accumulated Deferred Federal Income Tax (ADFIT) should be returned to ratepayers. Collectively, Public Counsel estimates that the impact on Avista's electric revenue requirement will be a reduction of approximately $25.9 million.[76] This impact reduces Public Counsel's calculation of electric revenue requirement from a positive $7.5 million to a negative $18.5 million. The TCJA will also affect natural gas rates.[77]

a. The TCJA reduces Avista's tax burden.

47. The reduction in Avista's tax burden resulting from recent changes in federal income tax laws should be reflected in the Commission's order in this case. The TCJA reduced Avista's income tax burden from 35 percent to 21 percent, effective January 1, 2018. As a result, Avista will not pay the taxing authority 35 percent in income taxes. If the tax rate imbedded in rates is left at 35 percent, Avista would continue to over-collect amounts for taxes from its customers. This is unfair and excessive, and Avista acknowledges the need to reflect the benefits of the TCJA in rates.[78] Public Counsel estimates that Avista's annual tax liability will be reduced by approximately $17.5 million.

b. Excess ADFIT should be returned to ratepayers.

48. Excess ADFIT is essentially over-collection of Avista's tax expense based on the change in the federal income tax rate. Avista, like other regulated utilities, has recorded ADFIT to

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[76] Public Counsel's Comments on Avista's Response to Bench Request 1, ¶ 4. $25.9 million is derived from adding the estimated income tax reduction of $17.5 million and the estimated excess ADFIT amount of $8.4 million.

[77] Precise calculations of both electric and natural gas revenue requirements may shift as the Company will provide additional information by February 28, 2018.

[78] Avista's Response to Bench Request 1, p. 1.

reflect timing differences between book and tax income.[79] Avista's current ADFIT balance is based on the prior 35 percent federal income tax rate. Because the tax rate has decreased, a balance will remain in the ADFIT account that will never reverse, and this amount must be returned to customers.[80]

49. Because excess ADFIT will be returned to customers over time, a tracker mechanism used to track and return the excess ADFIT would be appropriate. A tracker mechanism will ensure that the full amount of the over-collection is returned to ratepayers, which is fair and reasonable because the monies are in excess of Avista's tax burden. An appropriate tracker mechanism would extend into the future and track the difference between the actual level of excess deferred taxes and the amount returned to ratepayers.[81]

50. Other jurisdictions are addressing the impact of the TCJA, and several are implementing tracker mechanisms to ensure full return of benefits to ratepayers. For example, Texas and Oklahoma are both using tracking mechanism to return amounts to ratepayers.[82]

V. THE COMMISSION SHOULD REJECT AVISTA'S REQUEST TO INCREASE THE POWER COSTS REFLECTED IN BASE RATES

51. Avista requests an increase of $16 million in power supply cost from the level in current base rates for Washington in the May 2018 through April 2019 pro forma period.[83] Public Counsel recommends that the Commission deny this requested increase because Avista's AURORA$_{XMP}$ power cost modeling and subsequent adjustments to the test period power supply

[79] Public Counsel's Comments on Avista's Response to Bench Request 1, ¶ 7.
[80] *Id*.
[81] Public Counsel's Comments on Avista's Response to Bench Request 1, ¶¶ 10-11.
[82] Public Counsel's Comments on Avista's Bench Request 1 at 5; *see also*, Attachments B and C.
[83] Direct Testimony of William G. Johnson, Exh. WGJ-1T at 3, Table 1.

revenues and expenses do not accurately reflect actual dispatch of Avista's generating units or the costs and revenues associated with Avista's power system. Additionally, Avista has not proven that the requested increase in power supply cost is necessary. The Company has attributed over 80 percent of its requested increase to the expiration of the capacity sale contract with Portland General Electric (PGE).[84] However, Avista's actual power costs are still below the current authorized baseline even without revenues from the PGE contract.

A. Avista's modeling fails to accurately reflect the dispatch of its generation resources and the associated costs and revenues.

52. Avista uses a two-step process to calculate its pro forma net power supply expense. Avista witness Clint G. Kalich describes the first step, which involves using the $AURORA_{XMP}$ electric dispatch model to project the regional dispatch of power plants during the pro forma period. Avista uses $AURORA_{XMP}$ to then calculate the resulting resource fuel costs and net system balancing market purchase and sale costs.[85]

53. Avista uses on- and off-peak energy futures contracts traded on the Intercontinental Exchange (ICE) at the Mid-C hub as "target prices" for the $AURORA_{XMP}$ model. The Company used the average price of all on- and off- peak trades at the Mid-C hub made between December 8, 2016, and March 3, 2017 (the most recent three-month period prior to the date at which Avista's analysis was performed) with settle dates[86] that occur during the pro forma period of May 1, 2018, and April 30, 2019. The result is a set of monthly prices, divided into on-

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[84] Johnson, Exh. WGJ-1T at 5:12-21.
[85] Supplemental Testimony of Clint G. Kalich, Exh. CGK-3T at 6:1-12.
[86] "Settle dates" are the dates for delivery of energy.

and off-peak periods, which Avista tries to match as closely as possible through its own dispatch modeling and through the $AURORA_{XMP}$ tool.

54. To achieve $AURORA_{XMP}$ output electricity prices that match the average Mid-C future prices, Avista must change the resource dispatch margins associated with its generators. As explained by Avista witness Mr. Kalich, these resource dispatch margins "add a premium to the dispatch margin a generation resource requires before it will dispatch,"[87] and, if high enough, "can cause resources to dispatch in a manner not consistent with history."[88] Avista selects a starting value of five percent for the resource dispatch margin and iterates until average modeled prices match forward prices.[89]

55. If Avista is unable to sufficiently match the average modeled prices to the forward prices by changing the resource dispatch margins, Avista changes Northwest loads using the same type of iterative process to achieve the desired result.[90] For this filing, Avista increased the loads in Washington, Oregon, Idaho, and Montana by zero to 10 percent, depending on the month. Often the largest percentage increases were applied in the months that already have higher loads, with December loads increasing by eight percent and January and February loads each increasing by 10 percent.[91] Figure 1, below, shows Avista's 2016 weather normalized load compared to the Company's adjusted load.

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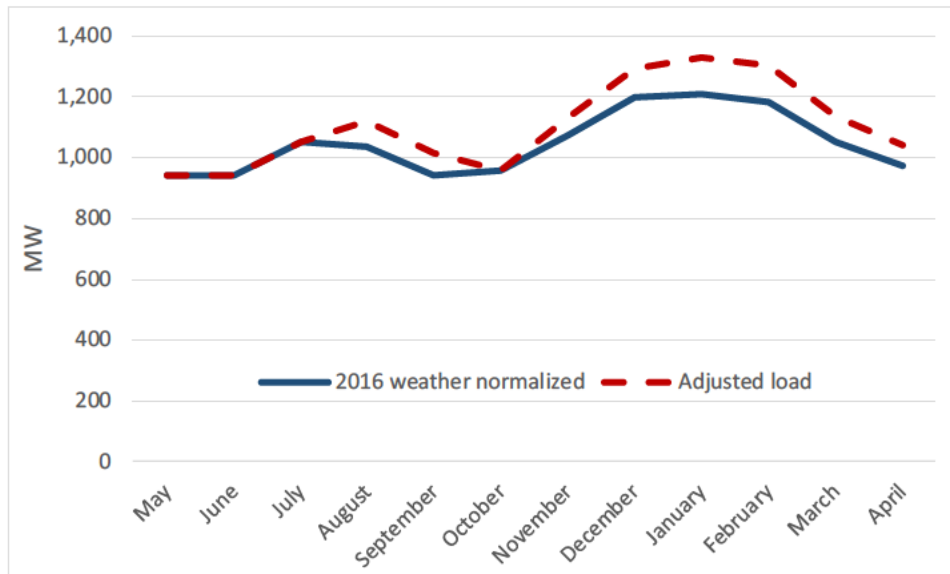
[87] Kalich, Exh. CGK-3T at 10:8-9.
[88] Kalich, Exh. CGK-3T at 9:20-21.
[89] Rachel S. Wilson, Exh. RSW-3, Avista's Response to Staff Data Request 202.
[90] Wilson, Exh. RSW-4, Avista's Response to Staff Data Request 203.
[91] Kalich, Exh. CGK-3T at 11, Table 3.

Figure 1. Avista 2016 Weather Normalized Load Compared to Adjusted, Modeled Load[92]



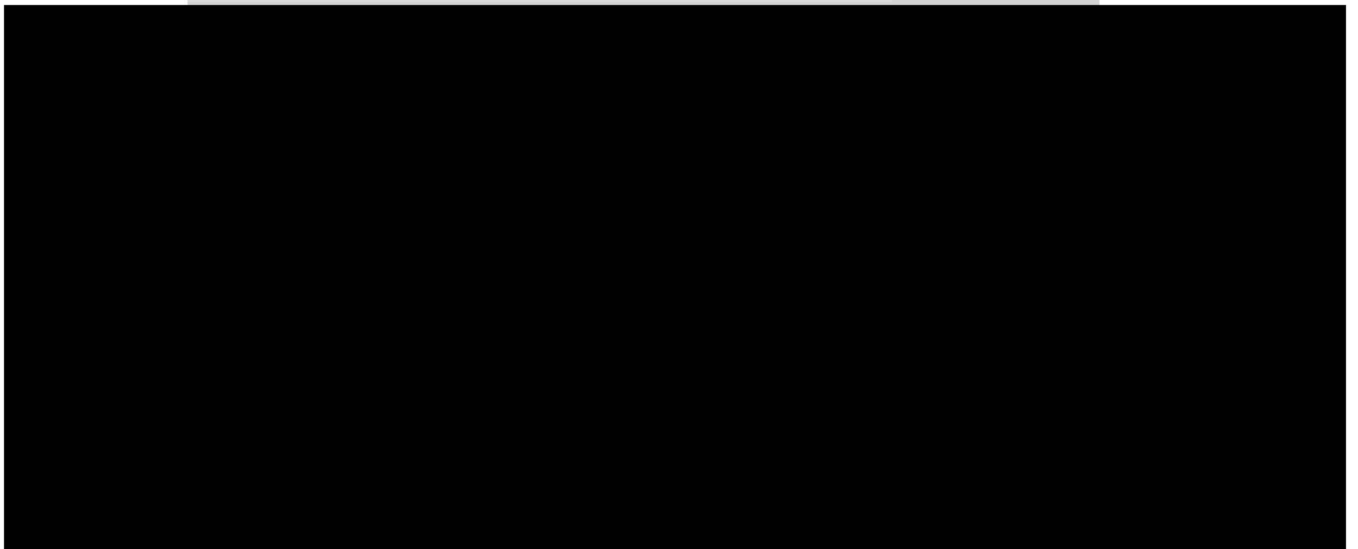
The process used by Avista is contrary to normal electric utility dispatch modeling practices, as noted by Public Counsel witness Rachel S. Wilson. Typically, when a utility runs a dispatch model, it takes the best available known and forecasted data for variables such as load, unit operating costs and characteristics, fuel price forecasts, etc. and uses an electric system dispatch model like $\text{AURORA}_{\text{XMP}}$ to generate an hourly nodal price for electricity over a specific period. Avista, however, conducts the process in reverse when it takes Mid-C futures as its known variable and instead makes arbitrary adjustments to the dispatch margin of its units and regional electric loads to generate prices that closely match the Mid-C futures.[93]

56. Avista witness Mr. Kalich confirmed during the evidentiary hearing that, "if you increase loads across the region, you would expect to have to dispatch higher-cost resources, and,

[92] Kalich, Exh. CGK-1T at 9, Table 2 and Exh. CGK-3T at 11, Table 3; Wilson, Exh. RSW-1CT at 13:8-9.
[93] Response Testimony of Rachel S. Wilson. Exh. RSW-1T at 9:7-16.

therefore, market prices would rise."[94] Thus, increasing Avista's load by up to 10 percent across the region will cause the model to increase the dispatch of the highest cost generating resources.[95] In fact, Avista's modeling shows resources generating in ways that are inconsistent with historic generation. **Confidential Figure 2** shows the generation from the gas-fired peaking units on a standalone basis, with generation in the pro forma year being more than four times the 2016 historical generation.

Figure 2. Historical versus Projected Generation from Avista's Natural Gas-fired Peaking Units



57. There are several reasons why Mid-C energy futures are not appropriate to use as target prices for the AURORA$_{XMP}$ modeling. The AURORA$_{XMP}$ modeling generates electricity sufficient to meet load, subject to line losses and instances of dump energy. On the other hand, Mid-C futures are not required to result in any physical delivery of electricity and thus, is not representative of actual bilateral sales in the region. Rather, these electrical futures can be mere financial instruments used by various producers and consumers to manage short-term price risk

[94] Kalich, TR. 172:18-21.
[95] Wilson, Exh. RSW-1CT at 13:10 – 14:2.

in electricity markets and, in the case of speculators, to profit from miscalculations of electricity companies and price volatility.[96]

58. Further, the goal of AURORA$_{XMP}$ modeling and Mid-C hub prices are not similar. The goal of modeling with AURORA$_{XMP}$ is to determine a generation pattern that produces the lowest set of hourly electricity prices subject to various constraints, whereas the prices at the Mid-C hub are often the result of profit-maximizing behaviors.

59. Mid-C energy futures prices are set based on actual expectations about future electricity prices at some future date. Mid-C futures prices are also set based on actual expectations about what prices will look like vis-a-vis market expectations of participants looking to manage risk and maximize profits. In his rebuttal testimony, Mr. Kalich attempts to support Avista's methodology with Ms. Wilson's testimony. However, Mr. Kalich omits recognition of the point regarding market expectations and the motivation of participants when he cites Ms. Wilson's recognition of prices being based on expectations of future prices, taking her testimony out of context.[97]

60. Additionally, Mid-C energy futures from ICE represent an incomplete data set for the AURORA$_{XMP}$ model, which looks at 8,760 hours each year. However, the ICE data does not contain trades made on every day of the pro forma year, as there are some days of the year on which there were no contracts for electricity futures at the Mid-C hub.[98] Further, energy futures contracts do not fully capture the variability of real electricity prices. In his rebuttal testimony, Mr. Kalich emphasizes the reality and importance of hydro oversupply events, which result in

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[96] Wilson. Exh. RSW-1T at 9:14-20 and 10:1-9. *See also* Exh. RSW-6.
[97] Kalich. Exh. CGK-4T at 24:21-22 and 25:1-8.
[98] Kalich, TR. 183:7-22.

negative electricity prices as he shows the number of historical instances of negative power prices, with a low of 26 in 2015 and a high of 569 in 2012.[99] However, there are no instances of negative prices in ICE contracts for electricity futures.

61. Because Avista's modeling does not reflect a reasonable approximation of its resource generation, it cannot be relied upon to accurately reflect the dispatch of Avista's generation resources and the associated costs and revenues. As a result, Avista's modeling cannot support changing the net power costs embedded in base rates.

B. The expiration of Avista's PGE contract does not support increasing net power supply cost.

62. In the second step of Avista's pro forma power supply cost calculation, Avista witness Mr. William G. Johnson values the average dispatched energy quantities from the $AURORA_{XMP}$ model at their contract prices and calculates the costs of physical and financial natural gas contracts.[100] The combined costs resulting from the $AURORA_{XMP}$ model and Mr. Johnson's valuation constitute Avista's net power supply expense.

63. Mr. Johnson's valuation considers the expired capacity sale contract with Portland General Electric, and he states that "[t]he loss of net revenue from this contract is one of the primary factors increasing power supply expenses."[101] Indeed, Avista has attributed over 80 percent of its requested increase to the expiration of the Portland General Electric contract.[102]

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[99] Kalich. Exh. CGT-4T at 17:4-19.
[100] Kalich, Exh. CGK-1T at 6:10-12.
[101] Johnson, Exh. WGJ-1T at 6:1-2.
[102] Johnson, Exh. WGJ-1T at 5:12-21.

However, according to the Monthly Power Cost deferral reports for 2017, Avista's actual power costs remain below the current authorized baseline – even without the PGE contract revenues.

64. According to Commission Staff witness David C. Gomez:

> One only need to look at the most recent rejected case to see that the proposed increase not happening has not resulted in any kind of harm to the Company. It has, in fact, continued to result in credit deferral balances, although this year it will be well within the deadband.[103]

65. Avista fails to prove a need to modify the net power costs that are embedded in base rates. It would be more prudent to leave the net power costs unchanged until Avista's modeling of resource generation more accurately reflects actual generation and the associated costs and revenues. Thus, Public Counsel recommends that the Commission deny Avista's requested increase in net power supply expenses. Any adjustment to power costs should be considered only after Avista provides updated modeling with revised methodology in support of power supply expense calculations.

VI. THE COMMISSION SHOULD APPROVE CONTINUATION OF AVISTA'S LEAP PROGRAM AND DENY THE PROPOSAL TO DISCONTINUE THE FUEL CONVERSION PROGRAM

66. Staff witness Jennifer E. Snyder recommends that the Commission should approve continuation of Avista's Line Extension Allowance Program (LEAP) pilot program, but only if several conditions are met. One of the conditions is to discontinue Avista's Fuel Conversion Program.[104] Public Counsel disagrees with Staff's approach and recommends the Commission approve continuation of the LEAP pilot and reject the proposal to discontinue the Fuel

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[103] Gomez, TR. 290:3-8.
[104] Response Testimony of Jennifer E. Snyder, Exh. JES-1T at 2:20-3:7.

Conversion Program.[105] Any modifications to the Fuel Conversion Program should be accomplished through Avista's Advisory Group.[106]

67. Avista's Biennial Conservation Plan (BCP) was to be filed in October 2017. The usual planning that occurs prior to filing the BCP had been underway since the second quarter of 2017, with the participation of its Conservation Advisory Group members (Advisory Group). On October 23, 2017, Staff informed the regulated utilities that it would not accept Plans that included natural gas fuel conversion programs. This news came without previous discussion among Advisory Group stakeholders and was largely viewed as a surprise.

68. The Commission conducted open meetings on the utilities' BCPs, but notified parties that it would consider the Fuel Conversion Program issues in this general rate case proceeding. Public Counsel will address Staff's arguments regarding the Fuel Conversion Program, including the goal of the LEAP pilot compared to Fuel Conversions and inter-fuel competition.

A. The appropriate place for discussion of continuation of the Fuel Conversion Program is within Avista's Advisory Group.

Many opportunities existed for Commission Staff to present their Fuel Conversion Program proposal to the Advisory Group. Avista conducted many meetings and webinars dedicated to planning its 2018-2019 BCP. The Advisory Group process provides a collaborative setting, in which not only the Company's ideas can be discussed, but also those of all Advisory Group members. By presenting their request days before the BCP was to be filed and also providing their conditional recommendation in Avista's GRC, Staff bypassed Advisory Group,

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[105] Cross Answering Testimony of Carla A. Colamonici, Exh. CAC-1T at 10:19 – 11:4, and 5:8-15.
[106] Colamonici, Exh. CAC-1T at 5:16-18.

preventing stakeholders or the Company to discuss the issue and conduct analysis. Ultimately, Public Counsel agrees with Avista that the Fuel Conversion Program should be discussed in the Company's Advisory Group.[107]

B. Fuel Conversions Continue to Provide Benefits to Customers.

69. Public Counsel witness Carla A. Colamonici identified the direct and indirect benefits provided to both participating and non-participating Avista customers.[108] Participating customers benefit from a cheaper, more efficient heating source. Non-participating electric customers benefit from lower generation, distribution, and transmission costs. Non-participating natural gas customers benefit from lower natural gas and infrastructure costs.[109] The effect of terminating the Fuel Conversion Program of the direct and indirect benefits is unknown, and this should be studied before changes are made.[110]

70. Additionally, it may be more appropriate, after thorough analysis, to modify the Fuel Conversion Program rather than eliminate it. For example, it might be appropriate to continue the program under the electric DSM tariff with a smaller budget. Or, it might be appropriate to place fuel conversion incentives in a natural gas DSM tariff, create a new program outside of either DSM tariffs, or merge the program with the LEAP pilot program.[111]

C. The various incentives offered by Avista do not achieve the same results or address the same behavior.

[107] Colamonici, Exh. CAC-1T at 3; Rebuttal Testimony of Kevin J. Christie, Exh. KJC-2T at 2.
[108] Colamonici, Exh. CAC-1T at 12:10 – 17:2.
[109] Colamonici, Exh. CAC-1T at 13-15 and Exh. CAC-9.
[110] Colamonici, Exh. CAC-1T at 15:6 – 17:19.
[111] Colamonici, Exh. CAC-1T at 17:14 – 18:5.

71. Staff witness Ms. Snyder characterizes the LEAP pilot, the Fuel Conversion Program, and other incentives as providing incentives "to the same customers, for the same actions."[112] At hearing, Ms. Snyder specifically states, "They largely overlap. They are not exactly the same, but do benefit the same customers."[113] However, these programs only overlap in that they are natural gas programs, yet each program provides a distinct benefit. The LEAP pilot allows the customer who is interested in obtaining residential natural gas to receive a credit for installing the required natural gas infrastructure.[114] This credit may result in an excess allowance that can be used toward high-efficiency natural gas appliances. The Fuel Conversion program is an electric DSM program that provides an enhanced incentive to those customers seeking to switch their heating source from electricity to natural gas.

72. From Public Counsel's perspective, the programs are complementary and provide assistance for different stages of a customer's adoption of natural gas service. Ms. Snyder acknowledged at hearing that the programs do not do "exactly the same thing."[115] Adoption of natural gas service can provide a customer with access to a more efficient heating source. It appears that the programs acting in concert may have eliminated barriers for customers to switch to natural gas. More analysis should be done regarding the interplay between and among Avista's various programs.

73. Staff's concerns regarding the amount of overall benefit being received by customers can be explored in the Advisory Group, which is charged with evaluating and vetting DSM

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[112] Snyder, Exh. JES-1T at 13:9 – 14:3.
[113] Snyder, TR. 268:17-18.
[114] Colamonici, Exh. CAC-1T at 2-6.
[115] Snyder, TR. 268:10-22.

programs. The discussion of DSM incentives is better suited in the Conservation Advisory Group, than in a GRC, because the group was established to have such discussions.

D. Inter-Fuel Competition has not been established.

74. Staff argues that potential inter-fuel competition justifies discontinuing Avista's Fuel Conversion Program.[116] However, Staff acknowledged the following: "Staff does not assert that it has *found* significant distortion in the market, as the particular analysis has not been done. Rather, Staff finds that the Company is providing multiple similar incentives to promote fuel conversion to natural gas without consideration for the interactive effects and any additive consequences."[117] The interactive effects between the LEAP pilot and the Fuel Conversion Program require further study, but in any event, the intent and application of the programs are not the same.

75. Furthermore, Staff states, "Since Avista's electric and gas service territories do not perfectly align, and several incentives are available to fuel switching customers who are not currently Avista customers, Staff's concern about competition between fuels extends outside of Avista's electric service territory."[118] However, the majority of conversions are from Avista electric customers not from non-Avista customers.[119]

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[116] Snyder, Exh. JES-1T at 19:17-19.
[117] Snyder, Exh. JES-15X.
[118] Snyder, Exh. JES-15X.
[119] Snyder, Exh. JES-10.

E. Issues related to Avista's Fuel Conversion Program should be referred to Avista's Advisory Group for further analysis and recommendation.

76. More analysis and discussions with Avista's Advisory Group are needed to determine whether Fuel Conversions should be terminated. Public Counsel believes that Staff's recommendation to terminate the program is premature. Moreover, Staff has overlooked other possible adjustments to the LEAP, Fuel Conversion rebates, and the natural gas rebates that may address some of their issues, such as reducing the amount of the DSM incentives. Public Counsel believes that the Fuel Conversion Program should continue, but we believe that the program as proposed in the Company's 2018-2019 BCP is excessive. Nevertheless, we believe that the Fuel Conversion Program can and should continue with modifications.

VII. THE COMMISSION SHOULD REJECT ICNU'S PROPOSALS REGARDING DEMAND-SIDE MANAGEMENT.

77. Industrial Customers of Northwest Utilities' (ICNU) witness Robert R. Stephens argues that Schedule 25 customers should be permitted to opt out of Schedule 91, Demand-Side Management Rate Adjustment-Washington.[120] Alternatively, ICNU argues that the Commission could establish a self-direct program.[121] Schedule 91 applies to Avista's six major rate classes, but ICNU argues that Schedule 25 customers are "paying much more than they are receiving in direct benefits."[122] ICNU raised similar concerns in Avista's last general rate case, Dockets UE-160228 and UG-160229, but the Commission did not reach the issue as a result of rejecting

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[120] Testimony of Robert R. Stephens, Exh. RRS-1CTr at 40:11 – 41:2.

[121] Stephens, Exh. RRS-1CTr at 43:1-14. ICNU has withdrawn its proposal for a self-direct pilot program. Stephens, Exh. RRS-1CTr (filed January 11, 2018); Exh. RRS-12Tr (filed January 11, 2018). Public Counsel supports the withdrawal of this proposal as further discussion within the Advisory Group is appropriate.

[122] Stephens, Exh. RRS-1CTr at 39:3-4 and 39:10-14.

Avista's request for rates.[123] The Commission should reject proposals to modify DSM funding because Mr. Stephens's analysis is fundamentally flawed and all customers should continue to contribute to Avista's DSM program.

78. ICNU's arguments ignore the substantial system benefits and other benefits that accrue to all customers generally and to Schedule 25 customers specifically. All customers benefit from energy efficiency used as a system resource. When Avista uses energy efficiency to avoid or defer investments in capacity resources, all ratepayers avoid increased rate impacts.[124] ICNU's arguments ask the Commission to ignore the system benefits resulting from Avista's DSM program.

79. Schedule 25 customer benefit directly and indirectly from Schedule 91, and the benefits accruing Schedule 25 customers exceed the DSM contributions made by those customers. Cross Exhibit KJC-11X shows the funding levels contributed by Schedule 25 customers as well as the direct benefits received by Schedule 25 customers.[125] The incentives paid to Schedule 25 customers shown in Cross Exhibit KJC-11X only include direct electric incentives, but do not also include benefits associated with lower power costs or avoided cost benefits that also accrue to Schedule 25 customers.[126] Schedule 25 customers benefit from Schedule 91, and no change in funding is needed for equity. ICNU's request to establish opt out procedures for Schedule 91

[123] *WUTC v. Avista Corp.*, Dockets UE-160228 and UG-160229, Order 06, Final Order Rejecting Tariff Filing (Dec. 15, 2016).

[124] Snyder, Exh. JES-12T at 2:16 – 3:8.

[125] Ehrbar, Exh. KJC-11X at 2 (direct incentives received by Schedule 25 customers from 2005 to April 2016); Ehrbar, Exh. KJC-11X at 2 at 3-4 (funding collected from customer classes, including Schedule 25; Schedule 25 funding is included in "Non-Residential."). Other customers included in "Non-Residential" include small commercial customers served through Schedule 11, commercial customers served through Schedule21, pumping customers served through Schedule 31, and street and area light customers. Ehrbar, TR. 226:2-8. Note, Exhibit KJC-11X was originally designated for Avista witness Kevin J. Christie. The exhibit was deferred to Mr. Ehrbar.

[126] Ehrbar, Exh. KJC-11X at 2; Ehrbar, TR. 225:2-20.

should be rejected.[127] "The Commission has long worked with regulated utilities to develop energy conservation and low-income assistance programs and to fund those programs through a portion of the rates all customers pay."[128]

80. Similarly, the Commission should decline to establish a self-direct program. Public Counsel agrees with Commission Staff that discussions regarding a self-direct program should take place in Avista's Energy Efficiency Advisory Group.[129]

VIII. LOW-INCOME WEATHERIZATION

81. Public Counsel supports The Energy Project's proposal to increase low-income weatherization funding by $350,000 with every annual increase to base rates.[130] Although Public Counsel does not support a multi-year rate plan, we support additional funding increases of $350,000 for each year of the rate plan, if the Commission accepts that proposal for rate increases.

82. No party has objected to increasing low-income weatherization funding, but the Company proposed less substantial budget increases to the program than the Energy Project's proposal. In response to The Energy Project, the Company suggests making weatherization budget increases commensurate to planned increases to the LIRAP program budget through

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[127] Commission Staff also argues for rejection of ICNU's opt out proposal. Staff witness Jennifer E. Snyder points to the requirement that utilities acquire all cost-effective conservation and to Avista's integrated resource plan, which identifies energy efficiency as a cost-effective conservation resource that is projected to serve significant portions of Avista's future load growth. Snyder, Exh. JES-12T at 4:16 – 5:2. Ms. Snyder aptly notes, "Customers do not get to pick and choose which utility resources they pay for, especially when the resource is an emissions-free resource that the utility is obligated to purchase." *Id.* at 4:21 – 5:2.

[128] *WUTC v. Puget Sound Energy*, Docket UE-161123, Order 06, Order Approving Settlement Agreement, ¶ 62 (Jul. 13, 2017).

[129] *See* Snyder, Exh. JES-12T at 5:13 – 6:7.

[130] Response Testimony of Shawn Collins, Exh. SMC-1T at 8:12-14.

2020.[131] The Company's counter-proposal would result in seven percent annual increases to the low-income weatherization budget, which equates to an increase of $140,000 in 2018, $149,800 in 2019, and $160,286 in 2020.[132] Each of these budget increases is less than half of what The Energy Project suggested.

83. Although the Company's proposal amounts to some funding increases, they provide no rationale as to why low-income weatherization funding should increase at the same rate as low-income rate assistance funding. Both programs serve a similar population, but the goals of each program are different. The Company's only reasoning for their proposal is that the LIRAP increases were "already approved by the Commission" and would "balance the interests to all ratepayers."[133] Beyond that, the Company does not explain why an energy efficiency program's budget should be increased at the same rate as a rate-relief program.

84. The Energy Project, on the other hand, provides evidence of a large unmet need for low-income weatherization[134] and a way to increase the low-income weatherization budget substantially without posing a major impact on rates.[135] Additionally, the Energy Project proposes use of shareholder funds to supplement ratepayer contributions in a manner similar to Puget Sound Energy's program.[136] As a result, ratepayers would not shoulder the full burden of low-income weatherization budget increases. The low-income weatherization funds would help

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[131] Christie, Exh. KJC-2T at 25:21-22.
[132] *Id.* at 26:1-4.
[133] Ehrbar, Exh. KJC-9X, Avista Response to The Energy Project Data Request 4.
[134] Collins, Exh. SMC-1T at 7:6-8.
[135] *Id*. at 8:12-20.
[136] *Id*. at 8:22-9:6.

mitigate the impact of rate increases for a burdened population whether the Commission orders a one-time increase or multiple increases over the course of three years.

IX. CUSTOMER COMMENTS

85. Avista's customers acutely experience rate increases and have borne rate increases almost annually since 2004.[137] The Commission must consider customer impacts as it contemplates whether a rate increase is necessary for Avista's electric and gas operations. Numerous customers have submitted written and oral comments in this proceeding describing the impact of the rate increase and concerns they have with continuously rising energy costs.

86. Several customers submit pleas to the Commission to deny Avista's requested rate increases because of the impact such increases will have on their everyday lives. One customer starkly noted, "Every single month I get an Avista bill is pretty much like hearing I'm going to be homeless every month."[138] Another customer describes her situation as "a single mother of 2 who works part time due to my youngest being disabled. I struggle to make the bills every month but we make them. While the raise of 3% may not seem like a lot in a month where the bill is only $80—what about winter when I need to keep my kids warm?"[139]

87. While rate increases impact all customers, it affects low-income households most drastically. Many low-income customers attempt to save money on their bill by conserving

[137] Avista rate case dockets: UG-041515 (gas only), UE-050482 and UG-050483, UE-070804 and UG-070805, UE-080416 and UG-080417, UE-090134 and UG-090135, UE-100467 and UG-100468, UG-110876 and UG-110877, UE-120436 and UG-120437 (resulting in a two year rate plan), UE-140188 and UG-140189, UE-150204 and UG-150205 (electric rate decrease but with substantial attrition adjustment, natural gas rate increase), and UE-160228 and UG-160229 (rate request rejected).

[138] Offer of Public Comment Exhibit Bench Response 7, UTC Comment Matrix at 3 (Zack Kennedy comments).

[139] Offer of Public Comment Exhibit Bench Response 7, Attachment "170485 Steffanie Shaw.pdf" (Steffanie Shaw comments).

energy; however, this population is unable to decrease their bill in response to an increase in the monthly basic charge. Julie HoneKamp, CEO of SNAP (Spokane Neighborhood Action Partners) voiced her concern: "[W]hile I can appreciate the need to maintain a strong structure and liability, I really do urge you to maintain a low monthly fixed charge. Fixed charges are not something low-income households can conserve their way out of, they can't cut their bill for that fixed charge."[140] One customer addressed this concern directly: "The poor should not be burdened with an enormous basic charge. By using less gas and electricity, those who cannot afford extra charges can still make ends meet."[141] If the basic charge increases too steeply, low-income customers may not be able to continue to make ends meet.

88. Avista's customers are also concerned about Avista's request for a three-year rate plan. One customer states, "Avista, indeed wanted a three-year rate plan, and the reasons given were aging infrastructure and dam renovations. The problem, these are the same reasons that have been given year after year after year."[142] Customers also express skepticism in light of the impending merger: "I'm amused that they're asking for a three-year request when we are also being told that they will be purchased by Hydro One…."[143] Sensing change, customers are left wondering whether implementing a three-year rate plan now is sensible.

89. Customers are sensitive to the increased burden of energy on their household budgets and want to see Avista doing more to contain its costs. One customer inquires, "Where is Avista

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[140] Julie HoneKamp, TR. 45:13-18.

[141] Offer of Public Comment Exhibit Bench Response 7, Attachment "1704785 Celina Thomas.pdf" (Celina Thomas comments).

[142] Margaret Herzog, TR. 29:24 – 30:3.

[143] Margaret Herzog, TR. 31:21-23.

tightening their belts?"[144] Customers look to the Commission to ensure that their rates are fair, just, and reasonable. One customer specifically echoes the Commission's obligation to ensure reasonable rates: "Please keep the utilities in check. Encourage them to make cost cuts and keep salaries low, so that they continue to give us good service at a reasonable rate."[145] Another customer states, "Here we go again, Avista is asking for another raise in the rates of both electricity and gas for their customers, when will this end?"[146]

X. CONCLUSION

90. For the reasons stated above, Public Counsel recommends that the Commission reject Avista's tariff sheets and set rates that incorporate Public Counsel's recommendations, including giving effect to the TCJA's reduction of federal income tax.

DATED this 22nd day of February 2017.

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[144] Offer of Public Comment Exhibit Bench Response 7, UTC Comment Matrix at 11 (Deanna Mallet comments).

[145] *Id.,* UTC Comment Matrix at 20 (George Goss comments).

[146] *Id.,* Attachment "170485 Cheryl Johnson.pdf" (Cheryl Johnson comments).