

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION, d/b/a
AVISTA UTILITIES,

Respondent.

DOCKETS UE-150204 and
UG-150205 (*Consolidated*)

BRIEF OF PUBLIC COUNSEL

November 4, 2015

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I. INTRODUCTION

1. Avista Corporation d/b/a Avista Utilities (Avista) has increased its rates every year since 2009, and nearly annually since 2004.¹ For the third consecutive general rate case, Avista has presented rate increase requests based on an attrition analysis.² While this Commission has allowed attrition adjustments under certain circumstances, it has recognized that such an adjustment is an extraordinary remedy.

2. In this case, Avista fails to demonstrate that it needs an extraordinary remedy in setting its rates. Avista requests an annual rate increase of \$3.6 million for electric service and \$10 million for natural gas service.³ Avista is over-earning with respect to its electric service and does not need a rate increase; instead, a rate decrease is necessary. For natural gas service, Avista is under-earning and a rate increase is justified, but only a modest increase. Public Counsel's analysis supports a rate decrease of \$29.7 million, or 5.9 percent, for electric service and a rate increase of \$3.3 million, 1.95 percent, for natural gas service.⁴

3. Avista also asks the Commission to pre-approve its proposal to implement Advance Metering Infrastructure (AMI) throughout the Company's Washington territory. In particular, Avista seeks an "affirmation" from the Commission, an accounting order addressing recovery of costs associated with its existing meters, and to bifurcate the Commission's prudence review.

Public Counsel recommends that the Commission decline to provide any sort of preapproval for

¹ 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), and UE-140188 and UG-14089.

² Avista presented requests based on attrition studies in UE-120436 and UG-120437, UE-140188 and UG-14089, and the current case.

³ Direct Testimony of Kelly O. Norwood, Exh. No. KON-1T at 18:17-21. Avista's original request for increases revenue requirements was \$33 million for electric service and \$12 million for natural gas service. Scott L. Morris, Exh. No. SLM-1T at 3:2 - 4:6. After incorporating the multi-party partial settlement and certain corrections and updates, Avista arrives at its updated revenue requirement requests.

⁴ Revised Direct Testimony of Donna M. Ramas, Exh. No. DMR-1CT at 5:12-15.

this future investment. Although an accounting order may be issued, the Commission should clearly express that any consideration of Avista's potential future AMI investment in this case should not be deemed preapproval or a prudence determination.

4. This brief discusses Avista's and Commission Staff's attrition analyses. Then, Public Counsel sets out the preferable basis for setting rates in this case using the Commission's modified historical test year methodology. Public Counsel then discusses AMI, followed by The Energy Project and Public Counsel's joint LIRAP funding proposal. Lastly, this brief addresses the multi-party settlement agreement and public comments received in this case.

II. THE COMMISSION SHOULD REJECT AVISTA'S REQUEST TO SET RATES USING AN ATTRITION ADJUSTMENT

5. Despite being a healthy company with healthy returns,⁵ Avista seeks an extraordinary ratemaking remedy.⁶ Avista anchors its rate request in its attrition analysis and seeks to set its rates based on the projections and trending analysis. The attrition analysis presented in Avista's direct case failed to establish circumstances that warrant an attrition adjustment, as noted by Staff witness Chris McGuire.⁷ Indeed, Public Counsel witness Donna Ramas concluded, "Avista is not experiencing the earnings attrition that it alleges in its case."⁸

6. Commission Staff conducted an attrition study, presented by Mr. McGuire. Mr. McGuire noted that Avista's rapid growth in plant might warrant "extraordinary rate treatment," but that Avista's attrition study was not useful in determining whether such extraordinary treatment was necessary. He expressed concern about Avista's growth in plant, stating that "Staff has no idea why plant is growing at such a rapid pace." Moreover, Mr. McGuire states, "Avista is simply

⁵ Norwood, TR. at 97:3.

⁶ Testimony of Christopher S. Hancock, Exh. No. CSH-1T at 16:17-18.

⁷ Chris McGuire, Exh. No. CRM-1T at 16:1-17.

⁸ Ramas, Exh. No. DMR-1CT at 10:11.

investing too heavily in distribution infrastructure for Staff and the Commission to continue to operate blindly when trying to determine whether that investment is providing worthwhile benefit to the Company's ratepayers." Additionally, Mr. McGuire criticized Avista for erroneously using speculative future test year results as a basis for its growth trends and significantly overstating its projected attrition. Nevertheless, Mr. McGuire concludes that Avista might under-recover in the rate year if rates are set using the Commission's well-established modified historic test period approach.

7. In its rebuttal case, Avista abandoned its attrition analysis and adopted Mr. McGuire's analysis, with certain modifications.⁹ The largest difference between Avista and Staff's presentation is the O&M escalation factor. For electric operations, Avista used a 5.16 percent escalation factor, whereas Staff used an escalation factor of 2.41 percent for O&M, resulting in a \$7 million difference between Avista's attrition analysis and Staff's analysis.¹⁰ Additional differences include the year each party chose as the appropriate starting year for the historical trend analysis (2007 versus 2009) and treatment of the capital expense related to Project Compass (Staff advocates for a disallowance while Avista includes all of the cost). For natural gas operations, Avista accepts Staff's escalation factor for O&M, but includes 100 percent of the total cost for Project Compass, begins the analysis with 2007 data, and other minor changes.¹¹

8. Both Staff and Avista's attrition analyses are flawed and fail to produce fair, just, reasonable, and sufficient rates, and neither analysis demonstrates that Avista is experiencing

⁹ Rebuttal Testimony of Elizabeth M. Andrews, Exh. No. EMA-5T at 2:17-20 (explains Avista's final, revised attrition study that reflects corrections and updates as well as changes in assumptions "that closely align" Avista's attrition studies with Mr. McGuire's analysis).

¹⁰ Andrews Rebuttal, Exh. No. EMA-5T at 15:17-18 and 30:13-14; TR. 189:4-14.

¹¹ Andrews Rebuttal, Exh. No. EMA-5T at 15:9 – 16:8.

extraordinary events that warrant such a shift in traditional ratemaking. The Commission should not set rates in this case based on either attrition analysis for the reasons discussed below.

A. Commission's use of attrition requires the utility to demonstrate extraordinary circumstances.

9. An attrition adjustment "is one among several possible responses the Commission could make to address a demonstrated trend of under-earning due to circumstances beyond the Company's ability to control."¹² Importantly, an attrition adjustment is "an extraordinary measure, not generally included in general rate relief," and a request for attrition "should be based on extraordinary circumstances."¹³ Extraordinary circumstances recognized by the Commission include high inflation, periods of high capital growth, and deteriorating financial integrity.¹⁴

10. Indeed, the Commission has stated that an attrition adjustment is appropriate when the evidence supporting the adjustment demonstrates that not allowing the adjustment "will jeopardize the company's financial integrity and adversely affect the ability of the company to render required service to its customers at reasonable rates."¹⁵ Such adjustments are considered on a case-by-case basis.¹⁶

11. Attrition occurs in a situation where a utility's earnings are eroded over time due to circumstances in which "key assumptions that underlie ratemaking theory fail to hold in

¹² *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-111048 and UG-111049, Order 08 ¶ 489 (May 7, 2012) (PSE 2011 GRC Order).

¹³ *WUTC v. Wash. Natural Gas*, Docket UG-920840, Fourth Supplemental Order, 1993 WL 500058, at 20 (September 27, 1993).

¹⁴ *WUTC v. Pacific Power & Light Co.*, Cause No. U-86-02, Second Supplemental Order, 1986 Wash. UTC Lexis 7; *WUTC v. Wash. Water Power Co.*, Dockets U-81-15 and U-81-16, 1981 Wash. UTC LEXIS 3; *WUTC v. Puget Sound Power & Light Co.*, Docket U-82-38, Order 03, 1983 Wash. UTC LEXIS 39.

¹⁵ *WUTC v. Wash. Water Power Co.*, Dockets U-81-15 and U-81-16, 1981 Wash. UTC LEXIS 3, 41.

¹⁶ *Id.*

reality.”¹⁷ In traditional ratemaking, the relationship between rate base, expenses, and revenues is used to determine prospective rates, and a key assumption is that test-period relationships will accurately represent relationships in the future.¹⁸ Attrition is the change in relationship between revenues, expenses, and rate base that is to occur in future time period after rates based on historic pro forma test year are in effect.¹⁹

12. Commission Staff defines attrition similarly in this case. Mr. McGuire testified that attrition “typically refers to the erosion of a company’s rate of return over time because the historical test period relationship in revenues, expenses and rate base does not hold during a future rate year. If this erosion occurs, it can deprive the utility of a reasonable opportunity to earn a fair rate of return.”²⁰ Under Staff’s definition, earnings erosion is a threshold question for applicability of an attrition adjustment. Despite acknowledging Avista’s over-earning during the test year, Staff recommends an attrition adjustment.

13. In a general rate proceeding, the Commission’s duty is to determine an appropriate balance between the needs of the public to have safe and reliable electric services at reasonable rates, and the financial ability of the utility to provide such services on an ongoing basis.²¹ The Commission sets rates using a modified historic test year that has several forward-looking components.²² The forward-looking components include pro forma adjustments to test year costs, allowing base power costs to be calculated based on costs projected for the rate year based

¹⁷ PSE 2011 GRC Order, ¶ 490 (May 7, 2012).

¹⁸ *Id.*

¹⁹ Ramas, Exh. No. DMR-1CT at 12:26-28 (citing *WUTC v. Wash. Natural Gas*, Cause No. U-86-02, Second Supplemental Order, 1986 Wash. UTC Lexis 7, at 21.).

²⁰ Testimony of Chris R. McGuire, Exh. No. CRM-1T at 28:19-23.

²¹ *WUTC v. Pacific Power & Light Co.*, Docket UE-140762, Order 08 ¶ 18 (March 25, 2015) (Pacific Power 2014 GRC Order).

²² *Id.* at ¶ 20.

on data at the beginning of the rate year, allowing plant additions that extend past the test year, allowing end-of-period rate base when appropriate, allowing CWIP in rate base, and approving hypothetical capital structures.²³ Under the modified historic test year methodology, actual test year results are adjusted for known and measurable changes to reflect conditions that will be present during the rate year.²⁴

14. Attrition adjustments stray from this traditional method in that they are determined through trend analysis, and there is less certainty that the revenues, expenses, and rate base assumptions will actually occur during the rate year. Indeed, the attrition analyses presented by both Avista and Commission Staff present only “an estimate of what will happen in the future based on a combination of historic trends and projected escalations.”²⁵ Further, an attrition adjustment cannot be a known and measurable change because slight changes in time periods or assumptions used to derive the escalation trends significantly impact the results.²⁶ Without extraordinary circumstances, a utility’s rates should be set using the Commission’s long-standing ratemaking methodology rather than unreliable “projections or estimations of what may, or may not, transpire between the end of the test year and the end of [the rate year].”²⁷

B. Avista is not experiencing extraordinary circumstances.

15. The fundamental defect in both Avista and Staff’s attrition analyses is that Avista is not experiencing earnings erosion. Mr. Norwood testified at hearing that “Avista’s definitely financially healthy.”²⁸ Indeed, Avista has earned in excess of its last authorized return on equity

²³ *Id.*

²⁴ Ramas, Exh. No. DMR-1CT at 13:19 – 14:25.

²⁵ Ramas Cross-Answering, Exh. No. DMR-26T at 5:19-20.

²⁶ Ramas Cross-Answering, Exh. No. DMR-26T at 5:15-17; Andrews, TR. 163:12-15.

²⁷ Ramas Cross-Answering, Exh. No. DMR-26T at 3-6.

²⁸ Norwood, TR. at 97:3.

in each of the last two years (2013 and 2014) and enjoyed a subsequent rate increase that went into effect on January 1, 2015.²⁹ On a combined electric and natural gas basis, Avista earned an overall return on equity of 9.5 percent in 2013 and 9.9 percent in 2014.³⁰ When Avista's electric and natural gas operations are separated, Avista's adjusted return on equity for electric operations was 9.9 percent in 2013 and a remarkable 10.6 percent in 2014.³¹ This growth in earnings cannot be re-characterized as erosion establishing the potential need for an attrition adjustment. Avista's request for an attrition adjustment is simply not appropriate because there is no threshold earnings erosion. Even accepting its low load growth and rapid capital expenditures, Avista is not experiencing financial distress.

16. With respect to natural gas operations, Avista has under earned in recent periods. However, an attrition adjustment is not necessary to provide Avista with a fair opportunity to earn its authorized return because other alternative methods that are more consistent with the Commission's long-standing ratemaking methodology are available to address Avista's under-earning. These alternative methods will be discussed later in this brief.

C. Attrition analyses offered by Avista and Commission Staff do not result in fair, just, reasonable, and sufficient rates for the utility.

17. Both Avista and Commission Staff offer an attrition analysis that produces rates based on inherently unreliable projected and estimated data. Both parties present analysis that essentially sets rates using data more appropriate under a future test year analysis.

²⁹ Ramas, Exh. No. DMR-1CT at 10:12-15.

³⁰ Norwood, Exh. No. KON-1T at 16:10-20 (Illustration 1).

³¹ Norwood, Cross Exh. No. KON-5; TR. 83:6-16. These earnings levels are not disputed.

18. Avista's attrition analysis as presented in its February 2015 filing is not appropriate because it used a selective approach rather than a consistent trended approach.³² Ms. Ramas for Public Counsel discussed in her testimony several ways in which Avista's analysis failed to present a consistent trended approach.³³ She concluded that "if a clean and consistent approach had been taken, the result would not be an increase in current rates for the electric operations under the Attrition approach."³⁴ Avista has since abandoned its original analysis and moved closer to Mr. McGuire's attrition analysis, but modified the analysis to produce a positive result.
19. Mr. McGuire used a more consistent trending approach in his attrition analysis. However, trends still do not result in rates based on known, historical data, but rather still uses projections and estimates.³⁵ Indeed, Mr. McGuire used regression analyses and correlation statistics that are not well-understood and well-recognized methodologies for ratemaking.³⁶ To determine Staff's attrition adjustment amount, Mr. McGuire took the difference between the attrition study results and the results of Staff's modified historic test year analysis presented by Christopher Hancock,³⁷ thus creating a comparison of non-traditional methods to the traditional analysis typically relied upon by the Commission.
20. Staff calculated a substantial attrition adjustment for both electric and natural gas operations and recommends that the Commission set rates based on Staff's attrition analysis. As

³² Ramas, Exh. No. DMR-1CT at 16:15-16; McGuire, Exh. No. CRM-1T at 18:18 – 19:7.

³³ *Id.* at 16:13 – 22:10.

³⁴ *Id.* at 22:8-10.

³⁵ Ramas Cross-Answering, Exh. No. DMR-26T at 5:3-6. Examples of how Staff's attrition analysis uses projections include basing retail revenues in the attrition studies on projected billing determinants and on various load growth projections. Additionally, to determine an escalation factor for operating expenses, Staff used the average of the actual growth rate between 2013 and 2014 and a rate used by Avista that Staff stated it could not determine as reasonable. Ramas Cross-Answering, Exh. No. DMR-26T at 6:5 – 7:19.

³⁶ Bradley G. Mullins, TR. at 610:17-24.

³⁷ Ramas Cross-Answering, Exh. No. DMR-26T at 3:12-14.

a result, analysis of individual adjustments had no particular impact because they simply increase or decrease the attrition adjustment.³⁸

21. Staff's attrition analysis assumes that historical trending of relationships between various components of the revenue requirement equation will continue and forecasts each of the separate components into a future period.³⁹ The result is essentially a future test year based on various escalations and projections,⁴⁰ and the Commission has consistently rejected requests to move to a future test year methodology to set rates in Washington.⁴¹

22. Avista's modifications to Staff's attrition analysis further demonstrate the infirmity of setting rates using an attrition adjustment under circumstances that are not extraordinary. Avista's treatment of the O&M escalation factor for electric operations is a stark example of how attrition study results can vary significantly, depending the assumptions and time frame used. Initially, Avista used a three percent escalation factor for O&M in its attrition study even though O&M expenses had grown at an annual rate of 5.7 percent for the years 2007 through 2014.⁴² Avista chose a three percent escalation factor to reflect the Company's recent cost-cutting measures and the expectation that Avista will manage the growth in these expenses to a lower level in future years.⁴³

³⁸ *Id.* at 3:20 – 4:13.

³⁹ *Id.* at 8:3-9.

⁴⁰ *Id.* at 8:9-11.

⁴¹ Most recently, the Commission rejected Pacific Power's "efforts to have us determine rates using methods that push too far in the direction of regulatory policies and practices suitable to states that use a future test year approach to ratemaking instead of a hybrid test year approach." *WUTC v. Pacific Power & Light*, Docket UE-140762, Order 08 ¶ 8 (March 25, 2015).

⁴² Andrews, Exh. No. EMA-1T at 28:3-9.

⁴³ *Id.* at 28:3-5.

23. Commission Staff used an escalation factor of 2.42 percent for O&M expenses in its electric attrition study.⁴⁴ In rebuttal, Avista criticized Staff's O&M escalation factor as "unreasonably low" and used an escalation factor of 5.16 percent in the Company's revised attrition study.⁴⁵

24. As noted by Ms. Andrews during the hearing, "So there's a lot of different O&M escalation categories that we could – be used."⁴⁶ She is correct. For example, in Avista's response to Staff's Data Request No. 142, Avista indicated that it expected its operating expenses to increase annually from 2014 to 2016 by an average of 4.85 percent due to the projected planned maintenance costs associated with Colstrip and Coyote Springs II generation plants.⁴⁷ Excluding the planned maintenance costs for Colstrip and Coyote Springs II results in an annual average increase in operating expenses of 3.8 percent.⁴⁸ However, Avista used a weighted average of expenses from 2007-2014 and from 2013-2014, excluding benefits, to derive its 5.16 escalation factor.⁴⁹ If the weighted average of expenses from those same years is calculated, but measuring the growth rates to include benefits, the escalation factor would be 3.21 percent.⁵⁰ While there were many O&M escalation factors that Avista could choose from, Avista selected one that resulted in a rate increase, even though it contradicted earlier testimony in this case.

25. If Avista's electric attrition study presented on rebuttal had relied on Avista's original O&M escalation factor of three percent, it would have resulted in a reduction of electric rates of

⁴⁴ McGuire, Exh. No. CRM-1T at 40:7-17. Mr. McGuire used a 2.17 escalation rate for O&M expenses in his natural gas attrition study. Avista accepted the O&M escalator used in the natural gas attrition study.

⁴⁵ Norwood, Exh. No. KON-1T at 2:37-41; TR. 81:4-6.

⁴⁶ Andrews, TR. 162:22-23.

⁴⁷ Andrews, Cross Exh. No. EMA-9; TR. 158:10 – 159:9.

⁴⁸ Andrews, Cross Exh. No. EMA-9; TR. 159:10-19.

⁴⁹ Andrews Rebuttal, Exh. No. EMA-5T at 32:7-16 (Table 6).

⁵⁰ Andrews, Cross Exh. No. EMA-10.

approximately \$2.2 million, and using Staff's 2.41 escalation factor, the rate reduction would have been greater at approximately \$3.8 million.⁵¹ The results of any attrition study depend heavily on what assumptions and escalation factors are used.⁵²

26. With either Avista's or Staff's attrition analysis, the Commission would be required to approve capital investments that have not been demonstrated to be used and useful and trends that are not known and measurable.⁵³

27. The Commission should not set rates in this case using either Avista's or Commission Staff's attrition analyses for either electric or natural gas operations. Avista seeks an extraordinary remedy without demonstrating a clear need to deviate from well-established ratemaking methodologies that properly balance the need of the company to maintain its financial health and the right of the customer to pay rates that are fair, just, reasonable, and sufficient. In essence, Avista seeks to replace the Commission's modified historical test year methodology with a routine application of attrition adjustments year after year.⁵⁴ The Commission should not allow this to occur. Rather, rates set using the modified historic test year with pro forma adjustments provide Avista with a reasonable opportunity to earn its authorized return.

D. ADFIT balances reflected in attrition studies are significantly understated.

28. The proposed attrition adjustments are also not reasonable because the amount of Accumulated Deferred Federal Income Tax (ADFIT) offset to rate base reflected in both Avista's attrition studies and Staff's attrition studies result in ratepayers not receiving the benefit

⁵¹ Andrews, TR. 161:13 – 162:2.

⁵² Andrews, TR. 163:12-15.

⁵³ Mullins, TR. 612:3-9.

⁵⁴ Norwood, TR. 97:12-25, 124:12 – 126:3, 126:4 – 127:25.

of the bonus depreciation Avista has taken on its 2014 income tax return. Similarly, the attrition studies presented by Avista and Staff also significantly understate the impact of the Repairs Tax Deduction (RTD) Avista has taken on its 2014 income tax return and does not reflect the full impacts of the RTD deduction as required by this Commission of Pacific Power in Docket UE-100479. A full discussion of ADFIT and RTD is included below in Section IV.B.7.

29. Avista did not record the impacts of 2014 bonus depreciation on its books until December 2014. Both Staff's attrition studies and the revised attrition studies presented by Avista in its rebuttal filing begin with the calendar year 2014 AMA balances for ADFIT, which would only incorporate a very small fraction of the impacts of bonus depreciation realized by Avista for plant placed into service during 2014.

30. Avista's response to Bench Request No. 15, Attachment A, identifies the amount of ADFIT offset to rate base based on December 31, 2014, EOP approach as \$297,464,000 plus an additional ADFIT true-up of \$3,896,000 for the electric operations. This would result in an ADFIT offset to rate base of \$301,360,000 for the electric operations as of December 31, 2014, and would reflect the impacts of the 2014 bonus depreciation and the full impacts of the RTD taken by Avista.

31. The electric attrition study submitted by Avista with its rebuttal testimony shows the amount of ADFIT offset to rate base reflected is \$281,451,000,⁵⁵ which is \$19.9 million less than the ADFIT amount already experienced by Avista as of December 31, 2014. The electric attrition study submitted by Staff shows the amount of ADFIT offset to rate base reflected is

⁵⁵ Andrews, Exh. No. EMA-6 at 5:45.

\$279,790,000,⁵⁶ which is \$21.57 million less than the \$301,360,000 amount already experienced by Avista as of December 31, 2014. Under the attrition study approaches taken by both Avista and Staff, therefore, ratepayers would not receive the benefits of the bonus depreciation realized by Avista in rates in the ADFIT offset to rate base or full recognition of the RTD deduction. This would result in a windfall for Avista and excessive rates for ratepayers.

III. RATES SHOULD BE SET IN THIS CASE USING THE COMMISSION'S WELL-ESTABLISHED MODIFIED HISTORIC TEST YEAR METHODOLOGY

32. The Commission's preferred ratemaking methodology is the modified historic test year ratemaking methodology,⁵⁷ which and provides sufficient opportunity for Avista to earn its authorized return. Under the Commission's ratemaking methodology, companies must start with a historic test year. The Commission has identified a "fundamental reason" for this starting point: "costs, revenues, loads, and all other pertinent factors are known and can be measured with a high degree of certainty because they have, in fact, occurred."⁵⁸

33. The test year offers a snapshot in time, usually ending with a period of time with the most recent auditable results of operations, and the Company continues to operate during the pendency of the rate proceeding and into the rate effective year.⁵⁹ As a result, certain expenses or investments that occur after the test year are included in the ratemaking formula as restating or pro forma adjustments.⁶⁰ Adjustments to the test year must be known and measurable. The adjustment "cannot be an estimate, a projection, the product of a budgeted forecast, or some similar exercise of judgment – even informed judgment – concerning future revenue, expense or

⁵⁶ McGuire, Exh. No. CRM-2 Revised at 5:45.

⁵⁷ *Pacific Power* 2014 GRC Order ¶¶ 17-20.

⁵⁸ *WUTC v. Avista Corp. d/b/a Avista Util.*, Dockets UE-090134 and UG-090135, Order 10 ¶ 41 (December 22, 2009) (Avista 2009 GRC Order).

⁵⁹ *Avista 2009 GRC Order* ¶ 42.

⁶⁰ *Avista 2009 GRC Order* ¶ 43.

rate base.”⁶¹ If the adjustment is to add new plant to rate base, the new plant must be shown to be used and useful to serve Washington customers and must be shown to be prudent.⁶²

34. Additionally, adjustments must be matched with offsetting factors under the matching principle. Without adherence to the matching principle, adjustments could be over- or understated, distorting the test year relationships among revenues, expenses, and rate base.⁶³

35. The well-established modified historic test year ratemaking methodology used by this Commission provides the most fundamentally sound basis on which to set utility rates. The modified historic test year methodology produces fair, just, reasonable, and sufficient rates because each adjustment is carefully considered, rate base determinations are made, and the matching principle is maintained.

36. In this case, the non-company parties that include a modified historical test year analysis present very similar revenue requirement numbers. In the chart below, the revenue requirement results from Public Counsel, Commission Staff (modified historical test year analysis presented by Christopher Hancock), and Industrial Customers of Northwest Utilities (ICNU) are presented. For natural gas, Northwest Industrial Gas Users (NWIUGU) recommends no change in rates, but did not prepare a modified historical test year analysis.

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⁶¹ *Avista 2009 GRC Order* ¶ 45.

⁶² *Avista 2009 GRC Order* ¶ 48.

⁶³ *Avista 2009 GRC Order* ¶ 46.

| Party | Electric rate recommendation | Natural gas rate recommendation |
|---|------------------------------|---|
| Public Counsel ⁶⁴ | (\$29.7 million) | \$3.3 million |
| Commission Staff (Mr. Hancock's analysis) ⁶⁵ | (\$21 million) | \$3.6 million |
| ICNU ⁶⁶ | (\$24.8 million) | ---- |
| NWIGU ⁶⁷ | ---- | No change, but if AVA's attrition methodology is accepted, \$6.69 million |

A. The historical test period and rate base considerations.

37. The test period in this case is the 12 months ended September 30, 2014. With respect to rate base, it is important to consider whether the favored Average of Monthly Average (AMA) approach or the End of Period (EOP) approach should be taken when determining the level of plant to include in rate base.⁶⁸ This is particularly true when the utility claims to suffer from negative impacts from regulatory lag or earnings attrition. In this case, Avista claims that it requires an attrition adjustment. Because Avista has not shown that it is suffering from negative impacts regarding its electric operations, the AMA approach is sufficient. With respect to Avista's natural gas operations, the Company has under-earned in recent years, and using an EOP approach can assist in providing a reasonable opportunity to earn its authorized return.

⁶⁴ Ramas, Exh. No. DMR-1CT at 5:12-15.

⁶⁵ Hancock, Exh. No. CSH-1T at 6:8-9 (Table 1). Although Mr. McGuire concludes otherwise, Mr. Hancock clearly states that his *pro forma* revenue requirement analysis is "intended to stand alone as an independent analysis to determine the revenues sufficient for the Company to have an opportunity to achieve its settled rate of return." Exh. No. CSH-1T at 2:13-15.

⁶⁶ Mullins Cross-Answering, Exh. No. BGM-5T at 2:6 (Table 1-CA).

⁶⁷ Response Testimony of Michael P. Gorman, Exh. No. MPG-1T at 1:19 – 2:3. Mr. Gorman presents certain modifications to Avista's originally filed attrition study, but did not include the effects of the cost of capital settlement in this case. Thus, the attrition revenue requirement presented in Mr. Gorman's testimony includes Avista's original higher cost of capital request.

⁶⁸ Ramas, Exh. No. DMR-1CT at 28:10-13.

38. Public Counsel has advocated for adoption of an EOP approach in several recent cases, including the last two Avista general rate case proceedings.⁶⁹ The primary reason for the prior recommendations was to be responsive to the utility's concerns regarding negative effects of regulatory lag and earnings erosion. The Commission has recognized that EOP is an appropriate regulatory tool to be used under circumstances including abnormal growth in plant, inflation or attrition, to mitigate regulatory lag, and to address a failure of the utility to earn its authorized rate of return over a historical period.⁷⁰ In this case, however, for electric operations in particular, Avista's circumstances have changed such that using an EOP approach to value rate base is unnecessary. As a result, there is no need for the Commission to grant an exception to its preferred AMA approach for electric rate base.

39. On the other hand, Public Counsel recommends using an EOP approach to value natural gas rate base because Avista continues to under-earn in its natural gas operations. Care should be taken to avoid or minimize the impact on matching when using an EOP approach.⁷¹ Additionally, the EOP approach used for natural gas rate base should only extend to the end of the test period, or as of September 30, 2014. The plant balances should not be extended to December 31, 2014, for calculating the End of Period rate base because to do so would exacerbate the matching issues created by using an EOP approach.⁷² Under some circumstances, projects outside of the test period may be included in rate base if they are major plant additions.⁷³

⁶⁹ Dockets UE-120436 and UG-120437; Dockets UE-140188 and UG-140189.

⁷⁰ *Pacific Power 2014 GRC Order* ¶ 145.

⁷¹ Ramas, Exh. No. DMR-1CT at 64:9-17.

⁷² Ramas, Exh. No. DMR-1CT at 64:17 – 65:2; Hancock, TR, 488:19 – 489:14.

⁷³ Ramas Cross-Answering, Exh. No. DMR-26T at 2:1-6. This is true with both electric and natural gas rate base. If the Commission elects to use the EOP approach for electric rate base, the calculation should be limited to the 12 months ended September 30, 2014. Ramas, Exh. No. DMR-1CT at 62:34 – 64:8.

40. Public Counsel recognizes that the Commission has noted its reluctance to use an EOP approach when utilities continue to file back-to-back rate proceedings. The Commission stated in a recent order that with back-to-back rate filings, it is not able to evaluate whether using EOP rate base is an improvement over the preferred AMA approach in terms of reducing regulatory lag.⁷⁴ Moreover, the Commission stated, “If we cannot meaningfully observe some benefit over time to allowing the EOP exception to our preferred approach, we are less inclined to grant the exception.”⁷⁵ Because Avista has confirmed that it will likely file rate proceedings in Washington annually for the next five years, with the expectation that it will file requests based on attrition analyses, Public Counsel acknowledges that the Commission could very well reject allowing the EOP exception in this case. This case can be distinguished from the Pacific Power case, though, because Avista’s prior general rate proceedings have been resolved through settlement since 2009 while Pacific Power has litigated its last two general rate cases. This case presents the Commission with the opportunity to evaluate whether EOP is an appropriate tool to use with Avista.

41. With respect to post test year plant additions, Public Counsel does not oppose including certain major plant additions that have actually been placed into service after the end of the test year.⁷⁶ Ms. Ramas evaluated the post test year plant additions proposed by Avista and Commission Staff to be included in rates, and concluded that only three projects met the requirements of being a major project and used and useful.⁷⁷ The projects Public Counsel recommends the Commission include in Avista’s rates are: 1) capital costs closed to plant in

⁷⁴ *Pacific Power 2014 GRC Order* ¶ 149.

⁷⁵ *Id.*

⁷⁶ Ramas, Exh. No. DMR-1CT at 57:17-20.

⁷⁷ Ramas, Exh. No. DMR-1CT at 57:20 – 58:5; Ramas Cross-Answering, Exh. No. DMR-26T at 16:10-20.

service associated with the Clark Fork Protection, Mitigation and Enhancement (“PM&E”) measures under the Clark Fork Settlement Agreement (electric operations); 2) Project Compass plant additions closed to plant in service (electric and natural gas operations); and 3) Aldyl – A Pipe Replacement capital additions (natural gas operations).⁷⁸

42. Staff included certain projects that are more typical blanket-type work orders rather than major plant additions in the projects included in their analysis.⁷⁹ For example, Staff included costs associated with the Technology Refresh to Sustain Business Process, among others.⁸⁰ With respect to the Technology Refresh project, approximately 100 projects were planned for 2015 and included items such as monitor replacements, printer replacements, cell phone replacements or upgrades, and software upgrades.⁸¹ Certain assets included in the project replace existing assets.⁸² This type of blanket-type project is not consistent with a major addition that is appropriate to be included in rates as a post test year addition. Blanket projects may consist of numerous small projects instead of major plant additions. Allowing blanket-type projects may encourage utilities to bundle smaller projects together in order to include them in rate base when the fall outside the test year. Ensuring that all of the impacts of numerous smaller projects would be increasingly difficult, jeopardizing the matching principle.⁸³ Similarly, certain O&M offsets proposed by Avista should be excluded as they relate to post test year additions excluded by Public Counsel’s analysis.⁸⁴

⁷⁸ Ramas, Exh. No. DMR-1CT at 57:20 – 58:2.

⁷⁹ Ramas Cross-Answering, Exh. No. DMR-26T at 13:23 – 14:1.

⁸⁰ Ramas Cross-Answering, Exh. No. DMR-26T at 14:1-7.

⁸¹ Ramas Cross-Answering, Exh. No. DMR-26T at 14:1-4; Kensok, TR. 292:11 – 293:18.

⁸² James M. Kensok, TR. 293:19-22.

⁸³ Ramas Cross-Answering, Exh. No. DMR-26T at 14:14 – 16:9.

⁸⁴ Ramas, Exh. No. DMR-1CT at 71:22 – 73:3.

B. Avista's revenue requirement should be reduced by \$29.7 million for electric service and should be increased modestly by \$3.3 million for natural gas service.

43. Public Counsel's modified historical test year analysis demonstrates that Avista's electric rates should be reduced by \$29.7 million annually and natural gas rates should increase by \$3.3 million annually. Ms. Ramas for Public Counsel began her modified historical test year analysis with Avista's updated electric and natural gas pro forma study dated June 18, 2015.⁸⁵ As an initial matter, Ms. Ramas does not reflect the adjustment used by Avista to reconcile its cross check study with its attrition study.⁸⁶ Because Public Counsel recommends against adopting the attrition adjustments, Public Counsel also recommends that any reconciliation adjustment to align results with an attrition study should also be rejected.

44. In addition to rejecting reconciliation adjustments, Public Counsel also removes adjustments associated with planned plant additions for 2016. Such plant additions are not known and measurable or used and useful. As a result, they should be removed from rate base. Similarly, Avista projected property taxes, insurance expense, and various components of labor to forecasted 2016 levels, and such projections should also be rejected.⁸⁷

45. Below, this brief addresses specific adjustments made to ensure rates are set based on historical data and known and measurable changes consistent with the Commission's long-standing ratemaking methodology.

⁸⁵ This analysis was presented in response to Staff Data Request No. 131 Revised, Attachment B. Avista's revised response to Staff Data Request No. 131 is contained in Ramas, Exh. No. DMR-8.

⁸⁶ Ramas, Exh. No. DMR-1CT at 27:8 – 28:2.

⁸⁷ Ramas, Exh. No. DMR-1CT at 31:7-17.

1. Test year levels of O&M expense for Colstrip and Coyote Springs II are reflective of normal operations.

46. Avista included budgeted increases in major maintenance expenses planned for 2016 at hydro, thermal, and other generating plants, but excluded planned maintenance at the Colstrip and Coyote Springs II (CS2) generating plants. The planned maintenance expense for Colstrip and CS2 were included in Avista's power supply adjustment. As part of the Multi-Party Settlement in this case, those expenses were removed from the power supply adjustment and were addressed in the contested portion of the proceeding.⁸⁸ Avista's proposed adjustment for the projected expenses increases the historic test year expenses on a Washington electric basis by \$4,952,000.⁸⁹

47. Avista provided the total operations and maintenance expenses for both Colstrip and CS2 by month from January 2008 through 2014 because it does not track the expenses by major and non-major activity.⁹⁰ Exhibit No. DMR-2, Schedule 7 provides the annual O&M expenses per year from 2008 through 2014, along with the actual expenses for the test year ended September 30, 2014, and Avista's estimated 2016 expenses.⁹¹ The exhibit also provides the three-year average, four-year average, and five-year average expense levels based on periods ending 2014.⁹²

⁸⁸ Ramas, Exh. No. DMR-1CT at 48:5-15.

⁸⁹ Ramas, Exh. No. DMR-1CT at 49:1-2.

⁹⁰ Ramas, Exh. No. DMR-1CT at 50:15-22; Exh. No. DMR-18.

⁹¹ Ramas, Exh. No. DMR-1CT at 50:22 – 51:4.

⁹² Ramas, Exh. No. DMR-1CT at 51:4-5

48. Major maintenance on CS2 occurs approximately every four years.⁹³ As shown in Exhibit No. DMR-2, Schedule 7, the four-year average expense level for CS2 is only \$445,086 higher than the test year expense and considerably less than Avista's projected O&M expense.⁹⁴
49. Similarly, major maintenance for Colstrip occurs approximately every three years.⁹⁵ As shown in Exhibit No. DMR-2, Schedule 7, the three-year average expense level for Colstrip is \$857,623 lower than the test year expense. As with CS2, Avista's projected 2016 O&M expense for Colstrip far exceeds the three-year, four-year, and five-year average of historic costs.⁹⁶
50. Because the historic average O&M expenses for both CS2 and Colstrip are comparable to the test year levels, a normalization adjustment does not appear to be warranted. Normalization is often used when costs are too far removed from normal operating levels to better reflect normal conditions in rates.⁹⁷
51. On rebuttal, Avista removed the Colstrip and CS2 major maintenance expense from power supply amounts, per the settlement agreement, but then proposed a deferral mechanism to true-up future costs for "hours-based" thermal maintenance projects.⁹⁸ Not only does Avista propose to include Colstrip and CS2 major maintenance in the deferral mechanism, but they also propose to include additional generation units of Rathdrum and Boulder Park.⁹⁹ Because the proposed O&M expenses are not known and measurable and historic averages are similar to test

⁹³ Ramas, Exh. No. DMR-1CT at 49:1-18.

⁹⁴ Ramas, Exh. No. DMR-1CT at 51:7-12. Avista's projected 2016 O&M expense for CS2 greatly exceeds the three-year, four-year, and five-year averages of historic costs.

⁹⁵ Ramas, Exh. No. DMR-1CT at 49:10-12.

⁹⁶ Ramas, Exh. No. DMR-1CT at 51:13-20.

⁹⁷ See Ramas, Exh. No. DMR-1CT at 50:2-11 and 51:21 - 2.

⁹⁸ Norwood, Exh. No. KON-1T at 45:15 - 46:21.

⁹⁹ Norwood, Exh. No. KON-1T at 45:15 - 46:21.

year O&M levels, the Commission should decline to normalize the O&M expenses for Colstrip and CS2. Also, the Commission should reject Avista's proposed tracker mechanism.

2. Avista's Long Term Incentive Plan Expense should be excluded from rates.

52. A select group of Avista executive officers and key employees participate in a Long Term Incentive Plan ("LTIP") in which the LTIP awards are based 25 percent on restricted common stock unit awards and 75 percent on performance based stock equity awards.¹⁰⁰ Avista excluded 100 percent of the LTIP costs in each of its last five general rate cases.¹⁰¹

53. In September 2014, the last month of the test year, Avista reclassified the Restricted Stock portion of the LTIP on its books, moving the costs from non-utility operations to a utility operations account, Account 920.¹⁰² Despite 100 percent of the LTIP costs being excluded by Avista in each of its five most recent prior Washington rate cases and Avista recording the costs in non-utility operations until the very last month of the test year, Avista is seeking to recover the Restricted Stock Unit award portion of its LTIP costs from ratepayers in this case.¹⁰³ The Restricted Stock Unit award portion encompasses 25 percent of the LTIP costs. The test year expenses incorporated in Avista's Cross Check Studies include approximately \$325,000 for the electric operations and \$97,000 for the natural gas operations for the Restricted Stock Unit awards.¹⁰⁴

¹⁰⁰ Ramas, Exh. No. DMR-1CT at 32:7-12; Smith, Exh. No. JSS-1T at 21:4-10.

¹⁰¹ Ramas, Exh. No. DMR-1CT at 33:7-11; Exh. No. DMR-14.

¹⁰² Ramas, Exh. No. DMR-1CT at 33:11-19; Exh. No. DMR-15.

¹⁰³ Ramas, Exh. No. DMR-1CT at 33:7-19.

¹⁰⁴ Rebuttal Testimony of Jennifer S. Smith, Exh. No. JSS-4T. Presumably, an even higher amount would be included in the electric and natural gas attrition studies as the amount recorded in utility operating accounts on Avista's books during the calendar year ended December 31, 2014, and would be included with an escalation factor applied thereto. This would result in improper expenses being included.

54. In describing the Restricted Stock Units (RSU) portion of the LTIP to its shareholders in its 2015 Annual Proxy Statement, Avista stated, “The Company awards RSU’s to improve retention and link compensation to the value of the Company common stock.”¹⁰⁵ The Restricted Stock Units portion of the LTIP links a portion of the recipients’ compensation to the value of the Company’s common stock, which benefits shareholders as it places the participants’ focus on Avista’s stock value. Avista’s attempt to transfer the costs of the Restricted Stock Units from shareholders to the captive Washington ratepayers should be rejected and the associated expenses, totaling \$325,000 for the electric operations and \$97,000 for the natural gas operations, should be removed from the test year.

3. Post-test year wage expenses should be excluded because the expenses fail the known and measurable test.

55. In adjusting the historic test year salary and wages for non-executive employees, Avista included the impacts of several known and measurable salary and wage increases as well as a projected future salary and wage increase. The salary and wage level adjustments for non-executive employees include: 1) annualization of the impact of the three percent increase that was implemented for 2014 for both union and non-union employees; 2) the annualized impact of a three percent increase for both union and non-union employees for 2015; and 3) a 10 months-worth of a forecasted three percent salary increase for both union and non-union employees that is anticipated by Avista to be effective in March 2016.¹⁰⁶ The three percent increase for 2015 for non-union employees has already been granted, and the three percent increase for 2015 for union employees is provided for in the current union contract.¹⁰⁷

¹⁰⁵ Ramas, Exh. No. DMR-1CT at 34:1-15; Exh. No. DMR-16.

¹⁰⁶ Ramas, Exh. No. DMR-1CT at 35:16 – 36:10; Smith, Exh. No. JSS-1T at 25-26.

¹⁰⁷ Ibid.

Therefore, the 2015 wage increases incorporated in the filing are known and measurable and allowable in rates.

56. However, the projected 2016 union wage increase is not known and measurable as the current contract, which expires on March 27, 2016, does not provide for a 2016 wage increase.¹⁰⁸ While the Company asserts in rebuttal that the forecasted March 2016 wage increase for the non-union employees is known and measurable as it was approved by the Compensation and Organization Committee of the Board of Directors on May 7, 2015, this forecasted increase is too far beyond the test year ended September 30, 2014, to be incorporated in determining Avista's revenue requirements.

57. In addressing test year labor costs, including employee levels and wage increases in its recent order in Docket No. 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.¹⁰⁹

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

¹⁰⁸ Smith Rebuttal, Exh. No. JSS-4T at 33:15-17.

¹⁰⁹ *WUTC v. PacifiCorp d/b/a Pacific Power & Light Co.*, Docket UE-140762, Order 08 ¶ 44 (May 25, 2015).

filing of this case only five months after the Commission authorized rate increases in Docket UE-130043 in 2013.¹¹⁰

58. Avista's request to include the forecasted 2016 salary and wage increases for both union and non-union employees should be rejected as they are not known and measurable and extend approximately 18 months after the end of the test year in this case, which is well beyond the timeframe previously considered by the Commission. The proposed non-executive labor expense adjustment incorporated in Avista's electric cross check study should be reduced by \$939,682 to remove the impact of the projected 2016 wage increases.¹¹¹ Similarly, the proposed non-executive labor expense adjustment incorporated in the gas cross check study should be reduced by \$281,739 to remove the projected 2016 wage increases.¹¹²

4. Avista improperly shifts certain labor costs from capital to O&M expense.

59. In addition to the adjustments to reflect the actual and forecasted salary and wage increases discussed above, Avista made an additional revision to the test year non-executive labor costs. This additional revision was not disclosed in the non-executive labor adjustment description presented in Avista's direct testimony.¹¹³ Rather, the fairly significant additional labor adjustment could only be discovered through a close look at Avista's work papers.

60. The labor adjustment work papers provided by Avista showed an additional adjustment simply identified as "Plus Compass (see W/P)," which increased the test year labor expenses by an additional \$1,278,548 for the Washington electric operations and \$379,177 for the Washington natural gas operations. The work paper referenced identifies labor costs of \$2,478,942 that were recorded in FERC Account 107 - Construction Work in Progress and

¹¹⁰ *Id.* at 21 n.57.

¹¹¹ Ramas, Exh. No. DMR-1CT at 40:1-4 and Exh. No. DMR-2 at Schedule 4.

¹¹² Ramas, Exh. No. DMR-1CT at 40:7-10 and Exh. No. DMR-3 at Schedule 4.

¹¹³ Ramas, Exh. No. DMR-1CT at 36:10-13.

FERC Account 186200 during the test year. Those labor costs were increased by the wage increases approved for 2015 and projected for 2016, with the final amount totaling \$2,650,009. The resulting \$2,650,009 identified as “Total 2016 Compass Labor” was then allocated to the Washington electric and natural gas operations and transferred to expenses as part of the Company’s non-executive labor adjustment. Thus, costs that had previously been capitalized by the Company during the test year were shifted to expense as part of the non-executive labor adjustment without transparent disclosure.

61. In its rebuttal testimonies, Avista asserts that it is appropriate to reclassify the costs of employees that worked on Project Compass from capital to O&M expense. Avista contends that most of the employees “...returned to their normal utility roles and resumed charging O&M expense.”¹¹⁴ However, Avista has provided no evidence demonstrating that the ratio of labor going to capital and the ratio of labor going to expense during the test year is not reflective of normal on-going operations. Rather, Avista has asserted that it is in a capital intensive period, which is inconsistent with shifting costs from capital to expense.

62. Additionally, Avista has failed to demonstrate that the overall labor expense ratio will increase from that experienced during the test year upon the completion of Project Compass. Avista has failed to carry its burden to demonstrate that the attempted shifting of the labor costs from capital to expense in the non-executive labor expense adjustment is appropriate.¹¹⁵ Avista’s proposed non-executive labor expense adjustment should be reduced by \$1,278,548 for the

¹¹⁴ Smith Rebuttal, Exh. No. JSS-4T at 34:20-25.

¹¹⁵ Ramas, Exh. No. DMR-1CT at 39:4-19.

Washington electric operations and \$379,177 for the Washington natural gas operations to remove the unsupported shifting of costs from capital to expense.¹¹⁶

5. Avista improperly reflects insurance expense in its cross check study.

63. In the cross check studies, Avista increased the amount of general liability, Directors and Officers (“D&O”) liability, and property insurance expense from the actual test year level to projected 2016 expense levels. Avista did this by escalating the 2014 invoiced amounts by an overall increase of 13.4 percent, going from the test year expense level of \$4,917,693 to \$5,575,651. Avista then removed 10 percent of the projected 2016 D&O liability insurance expense, consistent with the 10 percent removal ordered in Docket UE-090134. The overall result is an increase in test year insurance expense of \$259,423 for the electric operations and \$76,948 for the natural gas operations.¹¹⁷

64. In rebuttal, Avista incorrectly assert that its original adjustment reduced the Washington electric expenses by \$259,000 and reduced the Washington natural gas expenses by \$77,000 reducing revenue requirements.¹¹⁸ The opposite is true as the pro forma adjustment made in the cross check studies increase the test year operating expenses.¹¹⁹

65. Also in rebuttal, Avista revised the projected insurance expense to reflect the impact of what it contends are actual 2015 insurance premiums plus projected increases for 2016 with the 10 percent D&O liability insurance offset.¹²⁰ The amounts identified as “actual” 2015 calendar year amounts in the Company’s rebuttal filing, which appear to be unsupported, show both increases and decreases in the various insurance costs when compared to the 2014 calendar year

¹¹⁶ *Id.* at 40:1-12; Exh. No. DMR-2 at Schedule 4; Exh. No. DMR-3 at Schedule 4.

¹¹⁷ Ramas, Exh. No. DMR-1CT at 40:19-41:11.

¹¹⁸ Smith Rebuttal, Exh. No. JSS-4T at 18:22 – 19:3.

¹¹⁹ Smith, Exh. No. JSS-2 p. 8 of 10 at column 3.05 and Exh. No. JSS-3 p. 8 of 10 at column 3.03.

¹²⁰ Smith Rebuttal, Exh. No. JSS-4T at 20-21.

amounts.¹²¹ The revised adjustment to insurance expense presented in Avista's rebuttal filing still incorporates projected increases that are not known or measurable.

66. Avista's pro forma adjustment to the actual test year insurance expense should be rejected in its entirety. Adjusted test year insurance costs should not be based on forecasted amounts extending to 2016 that are not known or measurable, nor should the costs be adjusted to reflect unsupported 2015 levels.

67. In addition to rejecting the pro forma insurance expense adjustment proposed by Avista, the actual test year D&O insurance expense should be reduced by 10 percent, consistent with the Company's acknowledgement that the Commission has previously disallowed a portion of the D&O insurance expense in rates. The removal of 10 percent of the actual test year D&O insurance costs reduces actual test year expenses by \$53,932 on an electric operations basis and \$15,997 on a natural gas operations basis.¹²²

6. Avista improperly projects property tax expense to 2016 levels.

68. The cross check studies presented by Avista incorporated two separate adjustments to property tax expense. The first adjustment, which increased the recorded test year property tax expense by \$375,000 for the electric operations and \$80,000 for the natural gas operations, restates the property tax expense that was accrued during the test year to the amount that was actually paid during 2014. The property taxes paid during 2014 were based on December 31, 2013, plant balances. Public Counsel does not recommend any revisions to the test year property tax restatement adjustment.¹²³

¹²¹ Smith Rebuttal, Exh. No. JSS-4T at 5-11 (Table 5).

¹²² Ramas, Exh. No. DMR-1CT at 41 – 42; Exh. No. DMR-2 at Schedule 5 (Electric); Exh. DMR-3 at Schedule 5 (Gas).

¹²³ Ramas, Exh. No. DMR-1CT at 42:9-19.

69. The second property tax expense adjustment reflects pro forma property tax expense levels. Avista projected the 2014 restated property tax expenses from the first adjustment to 2016 expense levels. The pro forma adjustment reflects Avista's projected December 31, 2015, property values and escalates the property tax rates or levies applied thereto by two percent per year for most levies.¹²⁴ The result was a projected additional increase in property tax expenses of \$3,181,296 for the electric operations and \$507,109 for the natural gas operations.¹²⁵

70. The projected increase in property values used by Avista in calculating its pro forma property tax expense adjustment extend well beyond the end of the test year and are not known and measurable. Additionally, the annual escalation of the property tax rates or levies applied by Avista are also not known or measurable. In its direct testimony, the Company provided no evidence demonstrating that the property tax rates will increase by the percentage escalation factors it applied in its pro form adjustment.¹²⁶ In rebuttal, the Company attempted to support its proposed escalation of the property tax levies, indicating that from 2009 to 2013 the average levy rate increased from amounts ranging from -0.94 percent in 2013 to 6.3 percent in 2010.¹²⁷ However, the evidence shows that in recent years, the average property tax levy rates have been declining, not increasing at a two percent rate, with the average levy rates declining by 0.9 percent between 2012 and 2013 and by 0.1 percent between 2013 and 2014.¹²⁸

71. Public Counsel recommends that the pro forma property tax expense adjustment be revised to reflect the 2014 plant values at the most recent actual levy rates. This would include

¹²⁴ Ramas, Exh. No. DMR-1CT at 42:20-43:8.

¹²⁵ Avista reduced the projected December 30, 2015, EOP plant in service in its rebuttal cross check study position (Exh. No. JSS-5), but did not reduce the pro forma property tax expense in the rebuttal cross check study.

¹²⁶ Ramas, Exh. No. DMR-1CT at 43:15-20.

¹²⁷ Smith Rebuttal, Exh. No. JSS-4T at 39:12-22.

¹²⁸ Smith, Cross Exh. No. JSS-8; Smith, TR. 207:5-24.

in rates the impact of the increase in plant values that occurs from December 31, 2013, to December 31, 2014. Using Avista's electronic property tax expense work papers, revised to be based on the Company's per book 2014 plant value amounts and the most recent actual property tax levy rates, Avista's proposed \$3,181,000 increase in electric property tax expense would be reduced by \$2,054,000 to \$1,127,000. Avista's proposed increase in gas property tax expense of \$507,000 would be reduced by \$305,000 to \$202,000.¹²⁹

72. If the Commission accepts Public Counsel's recommendation to base electric rate base on the actual historic test year ended September 30, 2014, AMA approach and gas rate base on the historic test year EOP approach, there would be a slight mismatch of plant and property tax expense. This is because the property tax expense would be based on the December 31, 2014, plant values and the anticipated amount of property tax expense to be paid by Avista in 2015 if Public Counsel's recommended property tax expense adjustment is adopted. However, Public Counsel's recommendation is a more reasonable alternative because it is known and measurable. The alternative presented by Avista extends well beyond the end of test year to projected December 31, 2015, plant values and escalated property tax levies.¹³⁰

7. Ratepayers should benefit from the Accumulated Deferred Federal Income Tax offset and bonus depreciation.

73. Avista has realized significant benefits during the test year and after as a result of two beneficial tax events. First, on its 2014 federal income tax return Avista made a Change of Accounting filing to implement certain IRS Tangible Property Regulations associated with revised rules on property capitalization versus repair requirements, often referred to as the

¹²⁹ Ramas, Exh. No. DMR-1CT at 44; Exh. No. DMR-2 at Schedule 6 (electric); Exh. No. DMR-3 at Schedule 6 (gas).

¹³⁰ Ramas, Exh. No. DMR-1CT at 44:6-11.

Repairs Tax Deduction (RTD). Second, in December 2014, bonus depreciation for federal income tax purposes was extended retroactively to the beginning of 2014.

74. These substantive tax events will benefit Avista through substantial reductions in current income taxes. Ratepayers should benefit through the incumbent increase in the ADFIT offset to rate base. The RTD applies to plant placed into service prior to and during the test year. The extension of bonus depreciation applies to plant placed into service during the test year. Avista will realize substantial tax benefits as a result of the RTD and the 2014 bonus depreciation, and the plant to which the RTD and bonus depreciation applies to will be incorporated in rates resulting from this case. Thus, it is imperative that ratepayers receive the benefits of the ADFIT offset to rate base associated with these two tax events.

75. The amount of ADFIT offset to rate base resulting from these two substantive changes has been a moving target in this case with revised amounts provided several times by Avista throughout this process. In fact, Avista acknowledged in its rebuttal testimony that "...there were material changes between the Company's originally-filed ADFIT balance and the ADFIT balance included in the Company's rebuttal position."¹³¹

76. The parties present several different approaches to setting rates in this case. Public Counsel recommends that electric rates be determined using a historic test year approach with certain pro forma known and measurable adjustments based on the AMA approach for electric operations and the EOP approach for natural gas operations. Staff extends plant in service, accumulated depreciation, and ADFIT three months beyond the end of the test year to a December 31, 2014, EOP approach with additional known and measurable pro forma plant

¹³¹ Rebuttal Testimony of Karen K. Schuh, Exh. No. KKS-6T at 18.

additions under its cross check study analysis.¹³² However, Staff recommends an attrition study approach that uses the December 31, 2014, AMA balances for plant in service, accumulated depreciation, and ADFIT trended out to forecasted 2016 levels.¹³³ Avista recommends an Attrition Study approach in determining rates based December 31, 2014, AMA balances for plant in service, accumulated depreciation, and ADFIT forecasted or trended 2016 amounts.¹³⁴ No matter which revenue requirement approach or test period approach is ultimately adopted by the Commission in this case, the Commission must ensure that ratepayers realize the benefits of the ADFIT offsets to rate base resulting from the RTD election and the 2014 bonus depreciation.

77. Avista became aware of the 2014 bonus depreciation provisions for federal income tax purposes in December 2014.¹³⁵ Despite this knowledge, the impacts of the bonus depreciation allowance were not reflected in the adjusted test year presented in Avista's original cross check studies or Avista's original attrition studies filed in February 2015. In fact, Avista failed to disclose in its initial filing that this known and measurable event was not reflected in its February 2015 filing. It was not until later in the process that the Company reflected the impacts of the 2014 bonus depreciation.¹³⁶

78. In reflecting the updates resulting from the 2014 bonus depreciation, Avista did not reflect the impacts associated with plant placed into service by the end of the historic test year (i.e., plant placed into service by September 30, 2014). Rather, the Company included the entire impacts of the 2014 bonus depreciation in the December 2014 balances, recording an additional \$17.249 million of ADFIT on its books in December 2014 for the extension of the 50 percent

¹³² Hancock, Exh. No. CSH-1T at 16:20 – 20:6.

¹³³ McGuire, Exh. No. CMR-1T at 34:22-23.

¹³⁴ Andrews Rebuttal, Exh. No. EMA-5T at 8:24 – 9:6 and at 37 n.35.

¹³⁵ Schuh, TR. at 216:18-24.

¹³⁶ Schuh Rebuttal, Exh. No. KKS-6T at 18:6-10.

bonus depreciation.¹³⁷ Thus, the December 31, 2014, EOP ADFIT balances would reflect the 2014 bonus depreciation impacts. However, the September 30, 2014, AMA and the September 30, 2014, EOP amounts do not reflect the benefits of the 2014 bonus depreciation.

79. Additionally, the calendar year 2014 amounts presented in Avista's attrition studies, which use the December 31, 2014, amounts on an AMA basis, would only incorporate one month of the 2014 bonus depreciation impact because the estimated impact was not recorded on the Company's books until December 2014. Despite being asked to do so in discovery, the Company still has not provided the amount of ADFIT offset to rate base associated with the 2014 bonus depreciation that is applicable to plant placed into service by the end of the historic test year, September 30, 2014.¹³⁸

80. Avista recorded some estimated amounts during the test year ended September 2014 associated with the RTD deduction and included the impacts on the average test year ADFIT balance that was used to offset rate base based on its preliminary estimates that were booked in September 2014. However, it also made several true-up adjustments to the originally estimated RTD balance subsequent to the test year.

81. Avista hired an external consultant to perform the Repairs Study that was needed to determine the amount of RTD to be included in its 2014 Federal tax return. This return was filed in September 2015.¹³⁹ After its original filing, Avista revised the RTD deduction several times, with the amount of RTD associated with the final Repairs Study being provided in response to discovery on September 17, 2015. The information provided demonstrates that the vast majority

¹³⁷ Schuh Rebuttal, Exh. No. KKS-6T at 18:6-10.

¹³⁸ Andrews, Cross Exh. No. EMA-14; Andrews, TR. at 176-177.

¹³⁹ Schuh, Cross Exh. No. KSS-12.

of the RTD and resulting ADFIT offset pertained to the application of the RTD to plant placed into service before the test year in this case, with some additional impacts associated with the plant placed into service during 2014.¹⁴⁰

82. Similar to the 2014 bonus depreciation provisions discussed above, Avista was also asked in discovery to provide the amount of ADFIT associated with the RTD pertaining to plant placed into service by the end of the test year, September 30, 2014. Despite being requested to provide the information, Avista still has not provided the amount of ADFIT offset to rate base associated with the RTD that is applicable to plant placed into service by the end of the historic test year.¹⁴¹ The vast majority of the RTD deducted on Avista's 2014 tax return would be applicable to plant that was placed into service prior to the end of test year, with only a small portion of the RTD booked by the Company being associated with plant placed into service for the three-month period subsequent to the end of the test year.¹⁴²

83. Since Avista failed to provide the amount bonus depreciation impact and RTD impact applicable to the plant placed into service by the end of the historic test year, and the fact that the vast majority of the RTD deduction would apply to plant placed into service by September 30, 2014, the ADFIT offset to rate base should be based on the most recent amounts provided by Avista for the year ended December 31, 2014. The burden of proof is on Avista to provide the correct ADFIT offset to rate base that aligns with the test year filed in this case. Thus, it would be reasonable to reduce rate base by the most recent ADFIT amounts provided by the Company associated with the year ended December 31, 2014.

¹⁴⁰ Schuh, Cross Exh. No. KKS-12.

¹⁴¹ Andrews, Cross Exh. No. EMA-14; Andrews, TR. at 176-177.

¹⁴² Ramas, Exh. No. DMR-1CT at 70:16-71:4.

84. The Company's response to Bench Request No. 15, Attachment A, identifies the amount of ADFIT offset to rate base based on December 31, 2014, EOP approach as \$297,464,000 plus an additional ADFIT true-up of \$3,896,000 for the electric operations. This would result in an ADFIT offset to rate base of \$301,360,000 for the electric operations.¹⁴³ Attachment A to Avista's response to Bench Request No. 15 identifies the amount of ADFIT offset to rate base based on December 31, 2014, EOP approach as \$64,933,000 plus an additional ADFIT true-up of (\$3,500,000) for the gas operations. This would result in an ADFIT offset to rate base of \$61,433,000 for the gas operations.¹⁴⁴ Public Counsel recommends that the ADFIT offset to rate base be, at a minimum, \$301,360,000 for the electric operations and \$61,433,000 for the gas operations. This is the only way to ensure, based on the information provided by Avista in this case, that ratepayers receive the ADFIT benefits associated with the RTD and the bonus depreciation applicable to the test year plant balances.

85. As indicated previously, Avista has realized the substantial benefits of the RTD and bonus depreciation through significant reduction in its current income taxes. Additionally, if the Commission allows for the inclusion of any major post test year plant additions, then the above recommended ADFIT offsets should be increased to reflect the ADFIT impacts associated with the major post test year plant additions.

¹⁴³ The response to Bench Request No. 15, Attachment A, shows the ADFIT offset based on the September 30, 2014, EOP basis as \$268,824,000; however, the September 30, 2014, EOP ADFIT balance does not reflect any of the bonus depreciation on plant placed into service by September 30, 2014, and does not include the true-up to the originally estimated RTD amounts.

¹⁴⁴ The response to Bench Request No. 15, Attachment A, shows the ADFIT offset based on the September 30, 2014, EOP basis as \$65,859,000; however, the September 30, 2014, EOP ADFIT balance does not reflect any of the bonus depreciation on plant placed into service by September 30, 2014, and does not include the true-up to the originally estimated RTD amounts.

86. Reflecting the full impact of the RTD based on end of period amounts is appropriate even if the Commission determines that rates set for Avista should be based on the AMA rate base approach. As previously mentioned, the vast majority of the RTD deduction pertains to plant placed into service by the end of the test year, September 30, 2014, with much of the deduction pertaining to tax years prior to 2014.

87. The Commission has explicitly addressed this in a prior order. PacifiCorp was an early adopter of the repair deduction, adopting the repairs deduction method of accounting starting January 1, 2008, and applying the deduction retroactively for tax years 1999 to 2007. In Docket No. UE-100749, PacifiCorp only reflected a partial impact on the ADFIT offset to rate base asserting that it did not receive the benefit of the deduction until it filed its federal income tax return in September 2009. In that case, Staff reflected the full impact of the tax accounting change during the entire test year.¹⁴⁵ In Order 06 in Docket UE-100749, the Commission adopted Staff's recommendation that the full impact be reflected for the entire test year, stating in paragraph 261 as follows:

We conclude that Staff is correct and we should accept its adjustment to reduce rate base by \$28,927,370, which reflects the impact of the full year of the change. The repairs deduction is an ongoing difference in accounting that will be in effect for the same period as rates set in this proceeding. The change is known and measurable. Accordingly, it is reasonable to normalize and reflect the impact as if it were in effect for the entire period....¹⁴⁶

Public Counsel's recommendation in this case is consistent with the Commission's ruling in Docket UE-100749 and is thus reasonable.

¹⁴⁵ *WUTC v. PacifiCorp d/b/a Pacific Power & Light Co.* Docket UE-100749 Order 06 ¶¶ 254 – 261 (March 25, 2011).

¹⁴⁶ *WUTC v. PacifiCorp d/b/a Pacific Power & Light Co.* Docket UE-100749 Order 06 ¶ 261 (March 25, 2011).

8. The Commission should reject Avista's IS/IT expense adjustment.

88. Avista included in its cross check study an Information Services/Information Technology (IS/IT) expense adjustment that would increase the historic test year expense by \$3.15 million on a total company basis. The proposed increase on a Washington electric basis is \$1,760,000 and on a Washington natural gas basis is \$432,000.¹⁴⁷ The amounts are based on Avista's projected or forecasted net increase in expenses, and many of the identified projects are not supported by existing contracts.¹⁴⁸

89. Public Counsel recommends that the adjustment be rejected in its entirety. Not only do the amounts fail the known and measurable test, the level of cost is not supported by the contracts that do exist.¹⁴⁹ Moreover, although Staff allows a much smaller adjustment in its analysis, the smaller adjustment should also be rejected.¹⁵⁰ Avista's implementation of Project Compass resulted in an annual expense reduction in contract services and mainframe computer costs.¹⁵¹ Commission Staff did not factor this known and measurable reduction in cost in its adjustment. Because this reduction eclipses the amount allowed by Commission Staff for the IS/IT expense adjustment, Public Counsel continues to recommend that the entire IS/IT expense adjustment be rejected in its entirety.¹⁵²

IV. THE COMMISSION SHOULD REJECT AVISTA'S IMPROPER REQUEST FOR PREAPPROVAL OF ITS ADVANCE METER INFRASTRUCTURE PROPOSAL

90. Avista's initial rate request included \$32.2 million for projected electric plant additions associated with Advanced Meter Infrastructure (AMI) implementation in 2015 and 2016.

¹⁴⁷ Ramas, Exh. No. DMR-1CT at 45:4-8.

¹⁴⁸ *Id.* at 45:9-10 and 46:1-8.

¹⁴⁹ *Id.* at 46:9 – 47:11 (confidential discussion of analysis of contracts).

¹⁵⁰ Testimony of Jason L. Ball, Exh. No. JLB-1T at 25:1-19.

¹⁵¹ Ramas Cross-Answering, Exh. No. DMR-26T at 17:9-15.

¹⁵² *Id.* at 17-23.

Additionally, Avista included \$8.76 million for projected AMI natural gas plant additions in 2016. In responsive testimony, Staff and Public Counsel recommended that the Commission reject Avista's request because the costs were not known and measureable, nor used and useful.¹⁵³ Public Counsel also argued that the proposed AMI investment is not prudent or cost effective.¹⁵⁴

91. In rebuttal testimony, Avista revised its AMI request and removed its request for approval and recovery of any costs associated with AMI. Instead, Mr. Norwood testified that Avista now "requests an order in these dockets that supports Avista's decision to move forward, in principle, with the deployment of AMI."¹⁵⁵ He goes on to explain:

Avista understands that in future proceedings, the Company will need to support the prudence of the dollar amounts of investment and operating costs associated with AMI, **i.e. the prudence of the decision to move forward with the deployment of AMI would occur in these dockets**, and the prudence of the dollars spent on AMI would occur in future dockets.¹⁵⁶

Avista also seeks an accounting treatment associated with the existing meters.¹⁵⁷

92. Avista's AMI request raises several issues. Avista states both that it seeks a prudence decision and that it does not seek a prudence decision from the Commission regarding its decision to move forward with AMI.¹⁵⁸ Avista has characterized its request in this case as seeking an "affirmation" from the Commission that it should invest in AMI.¹⁵⁹ In essence, Avista seeks pre-approval from this Commission of its planned AMI investment. Also, Avista

¹⁵³ Direct Testimony of Barbara R. Alexander, Exh. No. BRA-1T at 10:9-13; Testimony of David Nightingale, Exh. No. DN-1T at 4:3-8.

¹⁵⁴ Alexander, Exh. No. BRA-1T at 10:12-16.

¹⁵⁵ Norwood, Exh. No. KON-1T at 40:20-21 (emphasis in original).

¹⁵⁶ *Id.* at 40:22 – 41:2 (emphasis added).

¹⁵⁷ *Id.* at 42:3.

¹⁵⁸ Norwood, TR. at 87:18 – 88:1.

¹⁵⁹ Norwood, TR. at 90:5-10; Cross Exh. No. KON-6.

seeks to improperly bifurcate the prudence review of its planned AMI investment. Similarly, Avista seeks to create an implicit prudence ruling in the event that the Commission grants the accounting treatment it seeks with respect to its existing meters. Additionally, Avista fails to demonstrate that its proposal is cost effective. Below, each of these issues are discussed.

A. Avista’s request for an “affirmation” is tantamount to a request for preapproval.

93. Despite Avista’s assertion that the affirmation it seeks from the Commission with respect to its proposed AMI investment is not a request for preapproval,¹⁶⁰ that is precisely what Avista seeks. Avista seeks an “affirmation” from the Commission on a project that it is in the early stages of planning. Indeed, at the time Avista prepared testimony for this case, it had not yet issued requests for proposals (RFPs) for the AMI project. At hearing, Avista testified that it has issued RFPs for smart meters and expects to enter into contracts in the first quarter of 2016.¹⁶¹

94. Avista asserts that it is in a partnership with “the Commissioners, the Staff, and all the other stakeholders” and that the goal of this partnership is to do the right thing with respect to customers.¹⁶² In particular, Avista desires to move forward with AMI and notes that other utilities nationwide and locally are implementing AMI.¹⁶³ Avista creates a condition precedent for moving forward with AMI, stating that it will not move forward without an accounting order addressing recovery of its existing meters.¹⁶⁴

95. The Commission has determined that it is unable to reach issues of whether an expenditure is prudent and whether costs should be placed into rates when costs are not

¹⁶⁰ Don C. Kopczynski, TR. at 299:8-11.

¹⁶¹ Norwood, TR. at 104:10-18.

¹⁶² Norwood, TR. at 113:18-21.

¹⁶³ Norwood, TR. at 113:22 – 116:2; Kopczynski, TR. at 299:18-19.

¹⁶⁴ Norwood, Exh. No. KON-1T at 42:3. Avista’s request for an accounting order is addressed in this brief more fully below.

presented to the Commission in a manner that allows for adequate review. For example, in Avista's 2009 General Rate Case (Dockets UE-090134 and UG-090135), the Commission rejected Avista's request to include the costs of a purchased power agreement (PPA) when the Company had not yet executed the PPA and did not present a contract to the Commission for consideration.¹⁶⁵ Thus, the Commission cannot provide Avista with the affirmation it seeks because Avista has not presented competent evidence of the AMI investment costs.

96. Moreover, the Commission's policy regarding preapproval is clear. In Docket No. UE-940932, the Commission considered whether it wanted to change its review of integrated resource plans (IRPs) filed by regulated utilities. The Commission acknowledged that certain stakeholders saw value in reducing the uncertainty of utility management decisions and subsequent regulatory review. However, the Commission declined to modify its review of IRPs to constitute any form of preapproval of utility expenditures. The Commission stated that it "continues to believe that accountability for the actions and decisions identified in the plans rests with the companies."¹⁶⁶

97. Similarly, in evaluating Puget Sound Energy's Pipeline Integrity Program, the Commission noted that the proposal came "dangerously close to shifting the burden of managerial decisions ... from the Company to Staff or the Commission itself."¹⁶⁷ Importantly, the utility alone determines which projects should be constructed and when.¹⁶⁸ As Avista correctly acknowledged at hearing, the Commission simply does not provide pre-approval for

¹⁶⁵ *Avista 2009 GRC Order* ¶¶ 203 – 209.

¹⁶⁶ Docket UE-940932, Notice of Termination of Notice of Inquiry (April 22, 1998).

¹⁶⁷ *WUTC v. Puget Sound Energy, Inc.*, Docket UG-110723, Order 07 ¶ 35 (May 18, 2012).

¹⁶⁸ *Id.* ¶ 36.

utility expenditures.¹⁶⁹ Therefore, the Commission should reject Avista's request for an affirmation or preapproval with respect to its planned AMI expenditures.

B. Avista seeks a two-step prudence review of its proposed AMI investment.

98. Avista attempts to change the Commission's well-established prudence review process by bifurcating it across separate dockets. However, an essential component of evaluating a utility's expenditure for prudence is assessing what the utility considered at the time of its decision, and how it managed risks as the project progressed.

99. The Commission has established a test to evaluate prudence:

The test the Commission applies to measure prudence is what would a reasonable board of directors and company management have decided given what they knew or reasonably should have known to be true at the time they made a decision. *This test applies both to the question of need and the appropriateness of the expenditures.* The company must establish that it adequately studied the question of whether to purchase these resources and made a reasonable decision, using the data and methods that a reasonable management would have used at the time the decisions were made.¹⁷⁰

100. The Commission has provided additional guidance regarding evaluating a utility's decision to acquire additional resources. In particular, the utility must determine whether the new resource is necessary and must determine how to fill the need in a cost-effective manner, the utility must analyze the resource alternatives, the utility should inform its board of directors about the purchase decision and costs and involve the board of directors in the decision process, and the utility must keep adequate contemporaneous records that will allow the Commission to evaluate the utility's decision process.¹⁷¹

¹⁶⁹ Kopczyński, TR. at 299:8-11.

¹⁷⁰ *WUTC v. Puget Sound Energy, Inc.*, Docket UE-031725, Order No. 12 ¶ 19 (April 7, 2004) (emphasis added).

¹⁷¹ *Id.* ¶ 20.

101. Avista seeks approval of its decision-making process in this case. Avista proposes to evaluate the actual costs in a separate case. However, a proper prudence review must include both the decision-making process and the cost evaluation, and the Commission must make those decisions contemporaneously. To provide a prudence decision on a utility's decision-making process without a decision regarding the utility's cost provides the utility with preapproval.
102. Even if this were the proper time for a prudence analysis, Avista fails to provide adequate information regarding its decision-making process. For example, when asked to provide all presentations and information presented to its board of directors regarding the proposed AMI investment, Avista provided a five-page power point slide deck.¹⁷² When asked to provide copies of all risk analysis and any risk management plans, no documents were provided.¹⁷³ As a result, the Commission does not have before it adequate evidence to find that Avista has been prudent in its decision-making process with respect to its planned AMI investment.
103. Likewise, Avista has not shown a need for the AMI investment. When asked about documentation presented to Avista management regarding their decisions to pursue capital investments for AMI, Avista provided a Capital Project Business Case worksheet.¹⁷⁴ With respect to the presentation to Avista's board of directors, Avista identified objectives and benefits on Slides 2 and 3. Slide 2 presents a timeline of installation, while Slide 3 discusses web portal, text alerts, connecting and disconnecting service, and privacy as "customer benefits."¹⁷⁵ Given that one driver for the AMI investment is to "catch up with everyone else," it

¹⁷² Alexander, Exh. No. BRA-6. The slide deck was the only document provided, despite Mr. Kopczynski's testimony at hearing that he had presented to the board of directors numerous times regarding AMI. TR. 333:9-21. Mr. Kopczynski also attached a copy of Avista's business case to his testimony as Exh. No. DFK-5.

¹⁷³ Alexander, Exh. No. BRA-9.

¹⁷⁴ Alexander, Exh. Nos. BRA-4 and BRA-5.

¹⁷⁵ Alexander, Exh. No. BRA-6. Slides 2 and 3 appear on pages 3 and 4 of the exhibit.

appears that this project is a discretionary project that Avista would like to do rather than a project that Avista needs to do to address a particular need.¹⁷⁶

104. The Commission should hold Avista to the long-standing prudence standard with respect to any AMI investment the Company may make. Avista must meet its full burden of proof under the Commission's well-established prudence standard before it can recover any of the related program costs from customers.¹⁷⁷ Ms. Barbara Alexander for Public Counsel and The Energy Project aptly observes that, "the risk of this investment, if Avista chooses to move forward with it, should rest with the shareholders. Ratepayers should bear the risk only after Avista demonstrates that its estimated benefits have occurred or will occur and how those benefits will offset the AMI program costs in rates and revenue requirement."¹⁷⁸ Additionally, the Commission should provide clear guidance that review of the information in the current docket should not be interpreted by Avista as providing any sort of preapproval for future costs.¹⁷⁹

C. Avista has not shown that its proposed investment in AMI is cost-effective.

105. Avista argues that the Commission is able to provide guidance based on the current record because it has provided information regarding various categories of costs and benefits associated with the planned AMI investment.¹⁸⁰ Evaluating the cost-effectiveness of an investment is one component of prudence. Not only is the issue of prudence not ripe for a Commission decision with respect to AMI, but Avista's presentation fails to demonstrate that its proposed investment is cost-effective.

¹⁷⁶ See Norwood, TR. at 113:22 – 116:2; Kopczynski, TR. at 299:18-19.

¹⁷⁷ Alexander, Exh. No. BRA-1T at 10:13-16.

¹⁷⁸ *Id.* at 10:17-20.

¹⁷⁹ *Id.* at 10:20-22.

¹⁸⁰ Norwood, TR. at 90:11-17.

1. **Avista's net benefit analysis is flawed because the costs and benefits are largely unknown.**

106. The Commission does not need to weigh the cost-benefit analysis of Avista's proposed AMI project because it is not ripe for a Commission decision. In any event, Avista has not shown that its potential AMI project is cost effective. The projected costs of the AMI project estimated by Avista are likely not to be accurate, and the projected benefits are likewise subject to change. Moreover, the current estimated net benefit to occur over the projected 21-year life of the meters is minute.

107. Avista has presented a number of net benefits analyses in this case. Avista's initial filing asserted that there would be \$7.5M in benefits over 21 years.¹⁸¹ An update provided in July 2015 reduces the estimated benefit to \$3.5M, as illustrated below:¹⁸²

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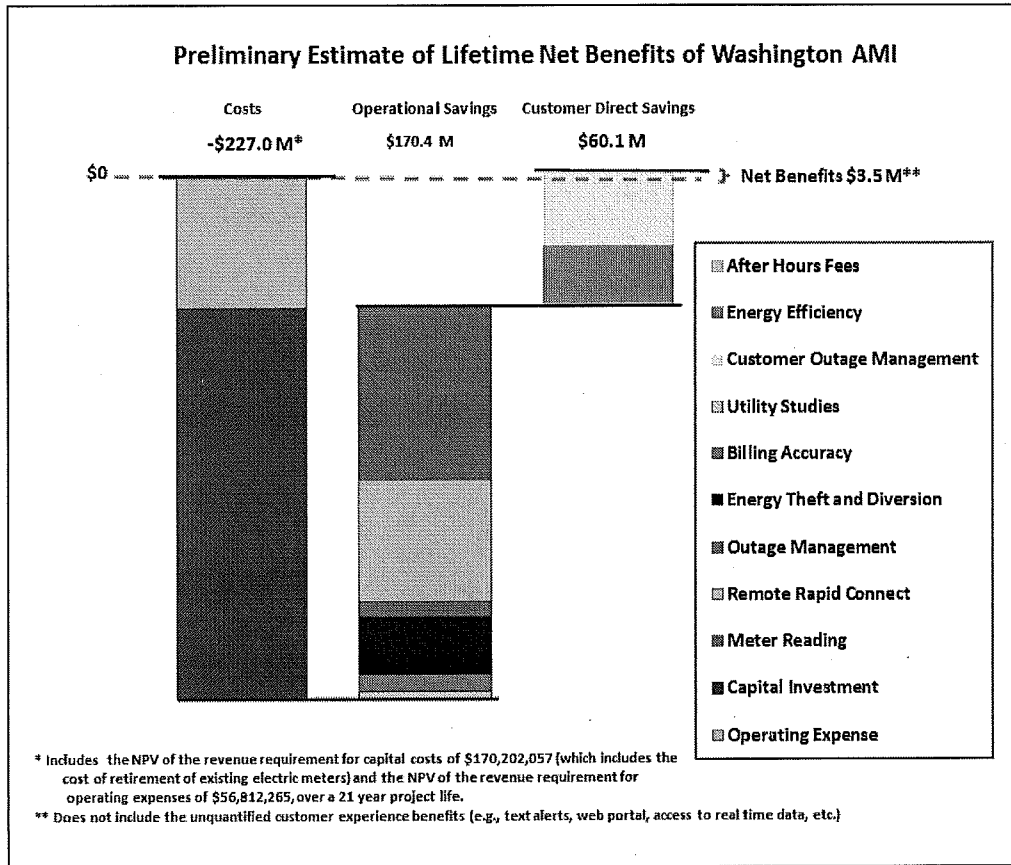
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¹⁸¹ Kopczynski, Exh. No. DFK-1T at 15:11 (Illustration 6).

¹⁸² La Bolle, Cross Exh. No. LDL-16. In response to discovery, Avista provided an updated version of the original chart provided as Illustration 6 in Mr. Kopczynski's Direct Testimony. An earlier version of this chart was presented to the Commission in January 2014, indicating \$12M of benefit over 21 years. Cross Exh. No. LDL-15 at 36. The math in the chart that was presented to the Commission in January 2014 is incorrect. It should indicate estimated benefits of only \$2.4M ($-\$228\text{M} + \$170.4\text{M} + \$60\text{M} = \2.4M).



108. The level of benefit in Avista's most current estimate is insufficient to justify the risks associated with the proposed AMI investment.¹⁸³ The assumptions relied upon for the costs and savings illustrated in the chart above are not reliable. It is likely that the estimated amounts do not reflect the full range of costs that would be incurred and overstates the benefits. There is tremendous uncertainty associated with the cost estimates,¹⁸⁴ which have been revised numerous times over the past year.¹⁸⁵ As a result, the Commission should discount the benefits analyses presented by Avista.

¹⁸³ Alexander, Exh. No. BRA-1T at 7:11-21.

¹⁸⁴ The uncertainty of the costs greatly outweighs the uncertainty of the benefits. La Bolle, TR. 420:14 – 421:2.

¹⁸⁵ See, Alexander, Exh. No. BRA-1T, Table 1: Comparison of AMI Cost Estimates, which includes various cost estimates that are included throughout the case.

109. With respect to costs, Avista describes a “cone of uncertainty” and estimates that the cost estimates could be 50 percent uncertain in a positive or negative direction.¹⁸⁶ The level of uncertainty eclipses the estimated benefits.¹⁸⁷ During the pendency of this case, Avista has revised its cost estimates upward from \$142.1 million to \$165.5 million.¹⁸⁸

110. Additionally, Avista has not included all of the costs associated with a typical AMI project in its estimation. For example, Avista has not included costs associated with protecting customer data and addressing data access issues once detailed information is produced through the smart meters.¹⁸⁹ Avista has not included costs associated with developing an opt-out policy.¹⁹⁰ While Avista has included some costs for cyber security, those costs could be understated.¹⁹¹ And, Avista fails to consider the cost of customer-purchased equipment.¹⁹²

111. The estimated benefits are similarly unreliable. For example, Avista assumes a three percent reduction in energy use and bases this estimate on its “review of literature.”¹⁹³ However, the literature relied upon include another utility’s business case, articles regarding OPOWER, a trade journal article, a paper dated April 2006, and a list of Energy Star programs.¹⁹⁴ The assumption regarding a three percent reduction in energy use is not well-supported as the materials provided are primarily antidotal, dated, and lacking substantive analysis.

112. Other costs savings identified by Avista include operational benefits, including remote disconnection. Notably, this operational benefit could also harm customers if Avista

¹⁸⁶ Kopczyński, TR. at 306:20 – 307:11.

¹⁸⁷ Kopczyński, TR. at 307:12-19. The estimated benefits discussed with the witness was \$7.5 million, but the estimated benefits have been reduced to \$3.5 million.

¹⁸⁸ Alexander, Exh. No. BRA-1T at 9:1-2 (Table 1).

¹⁸⁹ *Id.* at 17:8 – 18:19.

¹⁹⁰ *Id.* at 19:1-19.

¹⁹¹ Alexander, Exh. No. BRA-1T at 20:1-17.

¹⁹² Alexander, Exh. No. BRA-1T at 21:1-12; La Bolle, Cross Exh. No. LDL-11; TR. 398:11 – 399:8.

¹⁹³ Alexander, Exh. No. BRA-15.

¹⁹⁴ Alexander, Exh. No. BRA-15; La Bolle, Cross Exh. No. LDL-8.

discontinues site visits to disconnect for nonpayment.¹⁹⁵ Additionally, Avista references intangible benefits. The Company states that the Commission should take intangible benefits into consideration in its assessment of the prudence of this project.¹⁹⁶ However, most of these potential benefits would require Avista or its customers to incur additional costs not accounted for in the net benefit analysis.¹⁹⁷ Because Avista's cost benefit analysis is unreliable, Avista has failed to show that its proposal is cost-effective.

D. The Commission may allow an accounting treatment for existing meters, but the Commission should establish certain criteria and take care to avoid inadvertently providing Avista with the preapproval that it seeks.

113. If Avista moves forward with the AMI project, Avista will need to retire the existing meters that are being used to serve customers. This retirement will take place before the end of the existing meters' useful lives and before such meters are fully depreciated on Avista's books. The Company has projected that the net book value (i.e., the remaining undepreciated balance) of the existing meters will be approximately \$20.2 million as of December 31, 2015.¹⁹⁸ While Avista's position regarding treatment of the existing meters has evolved during the pendency of this case, Avista has consistently requested authorization to establish a regulatory asset for recovery of the undepreciated balance of the existing meters should it go forward with the AMI project.¹⁹⁹ Avista has not filed an accounting order with the Commission to accomplish this result, but rather has made the request through its testimony.²⁰⁰

¹⁹⁵ Alexander, Exh. No. BRA-1T at 22:16 – 28:14.

¹⁹⁶ Kopczyński, Exh. No. DFK-1T at 16:13 – 18:3.

¹⁹⁷ Alexander, Exh. No. BRA-1T at 41:13 – 42:9.

¹⁹⁸ Schuh, Exh. No. KKS-1T at 27:9-11.

¹⁹⁹ Schuh, Exh. No. KKS-1T at 27:12 – 28:2; Andrews Rebuttal, Exh. No. EMA-5T at 11:1 – 12:4.

²⁰⁰ Norwood, TR. 121:21 – 122:7.

114. In its initial filing, Avista requested approval to transfer the net book value of the existing meters from electric distribution plant to a regulatory asset effective January 1, 2016, with amortization of the resulting regulatory asset over a 10-year period beginning January 2016. Thus, Avista's initial filing included an adjustment to reflect approximately \$2.0 million in annual amortization expense offset by \$900,000 in depreciation expense associated with the test year level of depreciation expense for the existing meters. This resulted in a net increase in depreciation/amortization expense of \$1.1 million.²⁰¹

115. In its rebuttal filing, Avista's position on treatment of the requested regulatory asset evolved. Avista requested Commission authorization to transfer the net book value of the existing meters from electric distribution plant to a regulatory asset at the time it signs a new AMI contract, if such contract is signed. While still requesting approval of a 10-year amortization period for the regulatory asset, the Company now proposes to begin the amortization in January 2017, with authorization for a rate of return to be earned on the regulatory asset.²⁰² Thus, in its rebuttal position, Avista removed the requested amortization expense of \$2.0 million, but left the test year level of depreciation expense on the existing meters of \$900,000 in both its electric cross check study and the electric attrition study.²⁰³

116. Public Counsel agrees that the \$2.0 million of amortization expense incorporated in Avista's original filing should be excluded. Public Counsel also agrees that it is appropriate to include the depreciation expense associated with the existing meters in rates at the test year level of approximately \$900,000 as the meters are still used and useful.

²⁰¹ Schuh, Exh. No. KKS-1T at 27:12-28:2.

²⁰² Andrews Rebuttal, Exh. No. EMA-5T at 11:1-12:4.

²⁰³ Andrews, TR. 170:12-16.

117. Avista further contends that if it signs a contract for the new AMI meters and a regulatory asset is not authorized for the existing meters, it will be required to write-off the net book value of the existing meters when the new contract is signed. Avista also asserts that if a rate of return is not granted on the regulatory asset balances, a partial write-off based on a present value calculation would be required.²⁰⁴

118. Public Counsel is not opposed to transferring the unrecovered costs associated with the existing electric meters to a regulatory asset on Avista's books based on the remaining net book value when they are retired.²⁰⁵ However, Avista has stated that it is seeking an affirmation from the Commission regarding its decision to move forward with its AMI investment, and has further stated that it would interpret approval of the requested accounting treatment and associated return on the unamortized balance as an indication from the Commission that it should move forward.²⁰⁶ Indeed, Mr. Norwood testified that Avista "would...interpret the Commission's decision to give us the accounting treatment, to set up the regulatory asset with a return, as some kind of indication that you think it's okay to move ahead with this" and that "even silence on the rest of it, I think, would be sufficient for us to move forward."²⁰⁷ Avista's intended inference regarding whether the Commission grants its request for accounting treatment is improper.

119. If the Commission approves creation of a regulatory asset for the existing meters when, or if, Avista is required to otherwise write-off the remaining net book value associated with the existing meters, the Commission should also establish certain, specific criteria regarding the regulatory asset. First, the Commission should make it abundantly clear, with no ambiguity, that

²⁰⁴ Andrews Rebuttal, Exh. No. EMA-5T at 11:9-12 and 12:3-4.

²⁰⁵ Ramas, Exh. No. DMR-1CT at 66:21 – 67:10.

²⁰⁶ Norwood, TR. 116:16-21; Kopczynski, TR. 298:3-8.

²⁰⁷ Norwood, TR. 116:20 – 117:2.

any approval of a regulatory asset for the existing meters does not, in any way, mean that it finds Avista's potential pursuit of an AMI project prudent at this time. As discussed above, the Commission should not determine that Avista's potential pursuit of an AMI project is prudent as part of its order in this case.

120. Second, since base rates being established in this case will include depreciation expense associated with the existing meters of approximately \$900,000, Avista should be required to amortize the regulatory asset from date of establishment to the next rate case by the amount of depreciation expense being recovered from customers at base rates. This is fair and reasonable as ratepayers will continue to pay depreciation expense on the existing meters until it is removed in a future rate case. Avista indicated at hearing that it believes it would reduce the established regulatory asset by the amount of depreciation expense it included in the case;²⁰⁸ thus, it should not be opposed to this requirement.

121. Third, the appropriate amortization period for the remaining balance of the regulatory asset should be addressed in future rate proceeding in which the Commission evaluates the overall prudence of the new AMI project, if an AMI project is pursued by Avista. Avista agreed at hearing that the Commission does not need to determine the appropriate amortization period for the regulatory asset, assuming a regulatory asset is authorized, as part of this case, and that the amortization period could be decided at a later time.²⁰⁹ The Commission should not establish the appropriate amortization period at this time.

122. As an alternative to approving a regulatory asset in this proceeding, the Commission could instead require Avista to file a separate accounting petition.

²⁰⁸ Andrews, TR. 170:17 – 171:4

²⁰⁹ Andrews, TR. at 174:1-4.

V. THE COMMISSION SHOULD APPROVE PUBLIC COUNSEL AND THE ENERGY PROJECT'S LIRAP PROPOSAL²¹⁰

123. Avista's Low-Income Rate Assistance Program (LIRAP) was approved by the Commission in 2001.²¹¹ The program helps customers avoid disconnection from critical utility services, re-establish service after a disruption, and pay ongoing heating costs. LIRAP currently serves an estimated 14,000 households in Avista's service territory.²¹² During the Public Comment Hearings held in the Spokane area, Julie Honekamp, the Executive Director of Spokane Neighborhood Action Partners (SNAP), testified that during the 2013 – 2014 LIRAP season, only 24 percent of eligible households received assistance.²¹³
124. In Avista's 2014 general rate case, the Commission's final order initiated a workgroup tasked with addressing possible modifications and additions to LIRAP.²¹⁴ While the workgroup made several recommendations related to how to better make use of existing funds and how to target specific subsets of the population,²¹⁵ the workgroup did not make a recommendation regarding the overall level of LIRAP funding. Instead, parties in the workgroup agreed that the issue is better addressed in this general rate case.
125. The need for increased low income assistance funding in Avista's service territory is clear. Ms. Honekamp testified that at 125 percent of the federal poverty level, there are 51,130

²¹⁰ In addition to the argument presented in this brief, Public Counsel joins the argument presented by The Energy Project in its brief regarding the joint LIRAP proposal.

²¹¹ Docket UE-010436 and UG-010437.

²¹² Direct Testimony of Shawn M. Collins & Stefanie A. Johnson, Exh. No. SMC-1T at 4:20 – 5:6 (explanation of how the estimate was derived).

²¹³ Julie Honekamp, Public Comment Hearing, TR. at 32:5-6.

²¹⁴ *WUTC v. Avista Corp., d/b/a Avista Utilities*, Dockets UE-140188 and UG-140189, Order 05 ¶¶ 35-47 (November 25, 2014).

²¹⁵ *WUTC v. Avista Corp., d/b/a Avista Utilities*, Dockets UE-140188 and UG-140189, Order 07 (June 25, 2015) (adopting recommendations presented by the workgroup in a joint petition).

households in Avista's service territory who qualify for low-income assistance.²¹⁶ This calculation of eligible households was done through Eastern Washington University, commissioned by SNAP, and results were released in May 2015.²¹⁷ Staff noted in its direct testimony that because the need for low-income assistance is so much greater than what can be met by the current level of funding, questions of program fairness arise.²¹⁸ Thus, an increase in funding is reasonable at this time.

126. In this case, The Energy Project and Public Counsel jointly recommend that the Commission approve a five-year LIRAP plan that increases LIRAP funding over the previous year's budget by 10 percent, or an amount equal to twice the percentage of the final residential bill impact to customers resulting from any concurrent rate case, whichever is greater.²¹⁹ Although both Staff and Avista also proposed increases to LIRAP funding, their proposed increases of seven percent, or twice the amount of an approved rate increase, will serve a smaller portion of the eligible population during the course of the multi-year plan.²²⁰

127. All of the proposals before the Commission increase funding over a five-year period. The Energy Project and Public Counsel's joint recommendation was based on the amount by

²¹⁶ Honekamp, Public Comment Hearing, TR. at 32:3-5. One hundred, twenty-five percent of the federal poverty level is the level at which SNAP serves with LIRAP. *See also*, Collins & Johnson, Exh. No. SMC-4 at 3. Before the study contained in Exh. No. SMC-4, the most eligible population was most recently estimated at 33,300. Exh. No. SMC-1T at 7:18 – 8:5.

²¹⁷ Collins & Johnson, Exh. No. SMC-4 at 3.

²¹⁸ Testimony of Juliana M. Williams, Exh. No. JMW-1T at 6:2-5.

²¹⁹ Collins & Johnson, Exh. No. SMC-1T at 10:16 – 11:1.

²²⁰ Staff proposed a five-year plan that increases the LIRAP revenue requirement by \$475,000 per year, with a provision that if Avista files a general rate case within the five-year period, the LIRAP revenue requirement will increase by twice the percentage of the final residential revenue requirement increase, or \$475,000, whichever is greater. *See*, Williams, Exh. No. JMW-1T at 2:13-18. Avista proposed a five-year LIRAP funding plan that increases Schedule 92 electric LIRAP funding each year by two times the final approved base rate increase for Schedule 1 customers, or 7.0 percent, whichever is greater. For natural gas, the Company recommends the LIRAP funding for Schedule 192 increase each year by two times the final approved base rate increase for Schedule 101 customers, or 7.0 percent, whichever is greater. *See*, Rebuttal Testimony of Patrick D. Ehrbar, Exh. No. PDE-8T at 8:1-6.

which the agencies could reasonably and manageably expand their programs.²²¹ Further, the joint proposal from The Energy Project and Public Counsel better addresses the significant unserved population by more rapidly ramping up the funding. While Public Counsel believes that Staff and Avista's proposals are a step in the right direction, the increase advocated by The Energy Project and Public Counsel would achieve the desired outcome in a shorter, but still reasonable, timeframe. Public Counsel supports Avista's recommended timing of how the LIRAP rate increases would be implemented,²²² but recommends that the Commission adopt the proposal set forth by The Energy Project and Public Counsel.

VI. THE COMMISSION SHOULD APPROVE THE MULTI-PARTY PARTIAL SETTLEMENT

128. Public Counsel, Commission Staff, Avista, ICNU, and NWIGU joined in a multi-party partial settlement agreement on various issues in this case in May 2015. The Energy Project did not join the agreement, but does not oppose it. The settlement provides proposed resolution for cost of capital and capital structure for natural gas and electric operations. Additionally, the settlement provides proposed resolution of certain power supply cost issues for electric operations. The settlement agreement also resolves rate spread and rate design.

129. The settlement agreement is not effective unless approved by the Commission. The Commission reviews a settlement agreement presented to it to determine whether it meets the public interest standard.²²³ The Commission asks whether the proposed settlement is contrary to law, whether the proposed settlement offends public policy, and whether the proposed settlement

²²¹ Collins & Johnson, Exh. No. SMC-1T at 13:1-3.
²²² See, Ehrbar Rebuttal, Exh. No. PDE-8T at 8:7-13.
²²³ WAC 480-07-750(1).

is supported by evidence as a reasonable resolution of the issues.²²⁴ The Commission will accept, modify, or reject a settlement agreement based on its determination of whether the agreement is consistent with the public interest.

130. The multi-party agreement in this case reduces Avista's cost of capital to provide a 9.5 percent return on equity (ROE). Avista sought a 9.9 percent in its original filing. The cost of debt is 5.2 percent. Additionally, the agreement provides for a capital structure with 48.5 percent equity, resulting in an overall authorized rate of return of 7.29 percent.²²⁵

131. With respect to power supply costs, the agreeing parties adjusted Avista's base power supply costs to reflect corrections, remove certain costs, and to reflect agreement on an additional reduction in costs. Specifically, Avista corrected an error in its AURORA model that overstated power supply costs by \$6.9 million. Additionally, Avista updated the contract amount for its contract with Chelan PUD, resulting in a reduction of \$3.6 million. The parties agreed to remove costs associated with certain hydro station service and O&M costs related to Coyote Springs II and Colstrip. The revenue requirement for Coyote Springs II and Colstrip O&M remains a contested issue in the case and is discussed elsewhere in this brief. Avista also agreed to reduce its power supply costs by an additional \$1.5 million.²²⁶

132. The parties agree that the Energy Recovery Mechanism (ERM) rate adjustment trigger will remain at \$30 million, as approved in Docket UE-120436 and that the proper name of the Retail Revenue Credit should be the Load Change Adjustment Rate.²²⁷

²²⁴ *WUTC v. Avista Corp. d/b/a Avista Util.*, Dockets UE-140188 and UG-140189, Order 05 ¶ 13 (November 25, 2014); *WUTC v. PacifiCorp d/b/a Pacific Power & Light Co.*, Docket UE-111190, Order 07 ¶ 28 (March 30, 2012).

²²⁵ Multi-Party Settlement Stipulation ¶ 4.

²²⁶ *Id.* ¶ 5(a)-(c).

²²⁷ *Id.* ¶ 5(d)-(e).

133. With respect to rate spread and rate design, the parties do not agree to a specific cost of service for either electric or natural gas service.²²⁸ For electric service, revenue requirement will be spread in equal percentages.²²⁹ For natural gas, the retail natural gas non-gas revenue requirement will be spread in equal percentages of margin.²³⁰ Additionally, the parties agree that the monthly basic charge for residential customers will remain unchanged, leaving the charge for electric service at \$8.50 and for natural gas service at \$9.00.²³¹

134. The multi-party settlement agreement is in the public interest and presents a reasonable outcome of the issues. The Commission should approve it without modification. The settlement sets Avista's cost of capital in a manner consistent with current market conditions and the current trend of declining return on equity and rate of return for regulated utilities, addresses rate spread and rate design in an appropriate manner that is beneficial to customers, adjusts certain power costs to reflect necessary changes and updates, and retains Avista's ERM in its current form.²³²

VII. PUBLIC COMMENT

135. Avista's frequent rate increases have a real and substantial impact on its customers. This impact must factor into the Commission's deliberations as it considers whether a rate increase or rate decrease is necessary for Avista's electric operations and what extent a rate increase is necessary for Avista's natural gas operations. Several customers have submitted written comments in this proceeding describing the impact of rate increase and the concerns they have with rising energy costs.²³³

²²⁸ *Id.* ¶¶ 6(a) and 7(a).

²²⁹ *Id.* ¶ 6(a).

²³⁰ *Id.* ¶ 7(a).

²³¹ *Id.* ¶¶ 6(b)(i) and 7(b)(i).

²³² Joint Testimony, Exh. No. JT-1 at 21:1 – 25:3 (statement of Public Counsel in support of the settlement).

²³³ These comments have been filed by Public Counsel in Bench Exh. No. 6.

136. With respect to the impact of rate increases, one customer states, “I struggle to make ends meet as a single mom of 2. I have to tell my children to keep the heat down in winter just to make ends meet. I do not understand why Avista insists on raising rates almost yearly to pay for technology, when it is clear that their profits are booming – while the rest of us sit here paying the bills with no other options.”²³⁴ Another customer notes that he believes “it’s time that the commission and Avista do something about their rates because they are getting overbearing for low and fixed income people.”²³⁵

137. A customer would like the Commission to consider the practical impacts of the cumulative rate increases. She states, “Please know that many people over here live on very fixed and low incomes and that is very concerning, including myself. No one should ever have to choose (and financially suffer from) due to their inability to pay for basic support services; the rate increases granted to them over the past few years are creating financial hardships for many people over here in the Spokane area.”²³⁶

138. Customers submitting comments in these dockets also expressed concerns about Avista’s capital investments. One customer raises a question about whether the infrastructure investments are necessary and asks, “We do not support the continued annual rate increases. Are the technology investments in infrastructure really needed or just nice to have?”²³⁷

139. With respect to smart meters, one customer who attended the public comment hearings submitted written comments to express his concerns. His comments indicate that Avista has done very little outreach to date regarding its AMI plans. He states,

²³⁴ Bench Exh. No. 6, Steffanie Shaw, at 9 of Avista Comment Summary.

²³⁵ *Id.*, Brian Gemmell, at 13 of Avista Comment Summary.

²³⁶ *Id.*, Karin Morris, at 40 of Avista Comment Summary.

²³⁷ *Id.*, Sharyl Hartung, at 3-4 of Avista Comment Summary.

“I attended the public hearings in Spokane and Spokane Valley on September 15 and 16th. Very little information or details was given about the major capital investments in the filing. Of the four major capital investments listed in the Avista brochure the first three would seem reasonable and desirable. The fourth, however, raises some concern as it involves technology that would impact the public (in homes, businesses and commercial establishments) in new ways, unlike any previous public-utility relationship. If Avista is going to invest in and deploy Advanced Metering Infrastructure (AMI) in Washington, and particularly if this infrastructure is going all the way to private homes and businesses in the form of digital transmitting meters (DTM or Smart Meters) caution, safeguards and restraint are necessary. Even if these rate increases are approved for these several reasons it should not imply a grant of authority to install or require installation of digital transmitting meters for gas and/or electricity at the end user’s home or business. That should be a different issue that has not been fully or even partially vetted in this community.”²³⁸

140. It is clear from customer comments that they are relying on the Commission to carefully weigh Avista’s rate requests. As rates continue to rise, customers find themselves in difficult situations. “Trying to save money on my bill is becoming an exercise in futility, I end up paying more each year and am using less.”²³⁹ Indeed, a customer stated directly, “We can’t keep paying more and more.”²⁴⁰

VIII. CONCLUSION

141. Avista’s attrition request is a case study on why an attrition adjustment should remain an extraordinary remedy in Washington. The record is clear that Avista is not experiencing earnings erosion. It therefore fails to establish the most fundamental justification for an attrition adjustment.

142. The Commission should decline Avista’s invitation to change how rates are set in Washington and instead set fair, just, reasonable, and sufficient rates using the well-established modified historical test year approach. As shown in Public Counsel’s case (and, indeed, in

²³⁸ *Id.*, Philip Duggan, at 45 of Avista Comment Summary.

²³⁹ *Id.*, Jack McGarth, at 21 of Avista Comment Summary.

²⁴⁰ *Id.*, Sandra Kingsman, at 33 of Avista Comment Summary.

Staff's analysis using the modified historic test year methodology), Avista will be able to pay its expenses and will have a fair opportunity to earn a fair rate of return with a rate reduction for electric service and a modest rate increase for natural gas service. For the reasons stated above, Public Counsel urges the Commission to reject Avista's rate requests for electric and natural gas service and to order electric rates be decreased annually by \$29.7 million and natural gas rates to be increased annually by \$3.3 million.

143. The Parties submitted a multi-party partial settlement agreement, resolving issues including cost of capital, rate spread and rate design, and certain power cost issues. The settlement agreement is in the public interest, and the Commission should approve it without modification or conditions.

144. With respect to Avista's AMI proposal, the Commission should reject Avista's request for "an affirmation," but rather hold Avista to the standard prudence standard for utility capital investments. The Commission could reasonable approve deferred accounting for Avista's existing meters, but should clearly state that it is not providing an affirmation of Avista's decision to invest in AMI, require Avista to amortize the regulatory asset from the date of establishment to the next general rate case by the amount of depreciation expenses, and decline to establish an amortization period.

145. Additionally, Avista, Commission Staff, The Energy Project, and Public Counsel agree that LIRAP funding should be increased and that a multi-year funding plan should be approved, but offer different proposals to accomplish this. Public Counsel and The Energy Project's proposal provides the best option, allowing funding to increase in a reasonable manner over a five-year period and increasing the number of eligible customers who will be able to serve faster

than the proposals put forth by Avista or Commission Staff. Thus, the Commission should approve the proposal jointly presented by The Energy Project and Public Counsel on LIRAP funding.

DATED this 4th day of November, 2015.

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