

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION )  
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 )  
Complainant, )  
 )  
v. )  
 )  
AVISTA CORPORATION d/b/a )  
AVISTA UTILITIES )  
Respondent. )  
.....)

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

POST-HEARING BRIEF OF  
THE ENERGY PROJECT

**November 4, 2015**

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## **Introduction**

The Low Income Rate Assistance Program (“LIRAP”) has been in place for 15 years. Yet in a sense, almost no progress has been made since its inception. For example, over this decade and a half timeframe, little more than one-fourth of eligible households have received assistance and the size of the grant relative to energy costs has not materially increased. Though there have been increases in LIRAP funding, those increases have been offset by rate increases as well as the growing number of low-income households eligible for the benefit. That is, as rates go up, the amount of assistance required for each client served will also increase proportionately. Additionally, as demonstrated by the recent Eastern Washington University study cited in this case, the number of low-income people in Avista’s service territory eligible for LIRAP have also increased substantially over the last 15 years.

Staff, Avista, Public Counsel and The Energy Project all agree that a multi-year plan should be adopted. The Commission, however, is faced with an important decision. It could, as The Energy Project and Public Counsel suggest, adopt LIRAP funding increases designed to expand the program within a little over five years to the point where grants would be provided to approximately half the households that are eligible provided that there are no general rate increases or increases in the number of low income households during that period. On the other hand, the Commission could adopt the Avista/Staff proposal, which would result in a more protracted time period to achieve the same goal.

The Energy Project has appeared before the Commission in dozens of cases advocating for the interests of low-income ratepayers. The Energy Project respectfully urges the Commission to make the decision that will serve more customers sooner. Serving more low-

income and at-risk customers is a goal that the Commission itself has adopted and that serves the public interest. There is no reason to delay its implementation.

### **An Historical Overview of LIRAP**

The Commission's statutory authority regarding low income rate assistance programs was established in 1999 by RCW 80.28.068, which provides that:

Upon request by an electrical or gas company, or any party to a general rate case hearing, the Commission may approve rates, charges, services and/or physical facilities at a discount for low- income senior and low income customers. Expenses and lost revenue as a result of these discounts shall be included in the company's cost of service and recovered in rates to other customers.

Avista's LIRAP program began as a Commission-approved pilot program in 2001 in Docket UE-010436 and UG-010437. In that docket, Staff Yohannes Mariam, Joelle Stewart and Joanna Hung recommended that the Commission approve Avista's proposal for a surcharge that would fund a public purpose rider for DSM and that would partially fund low-income energy assistance. This provided approximately \$1.1 million in new revenue from natural gas customers and about \$1.9 million from electricity customers for low-income assistance (see Staff's memo of April 25, 2001 item 2C and 2D in Docket UE-010436 and UG-010437). Staff's 2001 memo stated that Avista Utilities served approximately 119,000 natural gas customers and 205,000 electric customers and estimated that the number of households at or below 125% of the Federal Poverty Level (FPL) in Avista's service territory was more than 20%.

In the present case, through Exhibit JMW-2 page 2, Staff provides an historical perspective demonstrating that while LIRAP funding has doubled from 2001 to 2013, the number of low income households at or below 125% of the FPL who are customers of Avista today remains greater than 20% of their entire residential customer base. Staff notes in Exhibit JMW-1T at page 11, :8-13, "as rates increase, low-income customers' bills also increase, and

therefore those requesting assistance will need a greater dollar amount of assistance following a general rate case. If the LIRAP revenue requirement increased by the same proportion as the residential revenue requirement, grants would cover the same proportion of a customer's bill, but the total dollar amount of the customer bill, net of assistance, would still be higher.” In other words, if LIRAP funding only increases in the same proportion as rates, there is no ability to serve additional households and those who continue to be served by the program will have higher bills to pay even after applying their LIRAP grants.

### **The View of LIRAP today:**

In Avista’s last rate case, Docket UE-140188 and UG-140189, LIRAP was addressed again. The Energy Project and Public Counsel supported a third-party facilitated workgroup (LIRAP workgroup) to seek new approaches and improvements to the LIRAP program. The Commission’s Order 05 (Dockets UE-140188 and UG- 140188) that directed all interested parties to undertake this process be guided by four goals. The Commission’s four goals were to:

- keep customers connected to services,
- **serve more customers who need assistance (emphasis added),**
- lower customer energy burdens, and
- collect appropriate data.

The workgroup was successful in developing a new pilot for a rate discount program serving Senior Citizens. All parties also agreed to important changes to the operation of LIRAP. These changes were submitted in a Joint Petition for LIRAP Modifications-Additions to the Commission and approved in Order 07, Dockets UE-140188 and UG-140189.

Spokane Neighborhood Action Partners (“SNAP”) retained Eastern Washington University to determine the number of households in poverty served by Avista Utilities in Washington State. In their report of May 2015, it estimated that there are 51,130 households -- 22.5 percent of all Avista served households -- whose incomes fall at or below 125% of the FPL (Exhibit SMC-4). But only 12,000 households have received grants in each of the last three program years. These 12,000 households include not only LIRAP grant recipients, but also Senior Energy Outreach and Share grant recipients. (Exhibit JMW-1T page 6 :17-19 from Low Income Rate Assistance Program Annual Summary) With 51,000 low-income households and only 12,000 grants, it is apparent that only a quarter of the low-income population’s need is met.

**LIRAP in this Rate Case:**

Staff, Public Counsel and The Energy Project all agree that there is currently insufficient funding to assist all eligible customers. These three parties were the only ones who addressed LIRAP in their initial testimony. Avista’s direct testimony did not propose any additional funding for LIRAP. SNAP stated in the workgroup that appointments to apply for LIRAP are schedule online and by phone and fill up as soon as they are soon as they are available. )Ex. JMW-1T at footnote 12).

While funding has increased over time for LIRAP, these increases have been offset by rate increases and the rise in the number of household living at or below the FPL. Therefore, LIRAP increases have not achieved the goal of serving additional clients. LIRAP funding has merely maintained the status quo, or put simply, it has been trading water. The fact is that the proportion of low income households served by LIRAP has remained essentially unchanged over time. Three quarters of low income households get no help from LIRAP. Staff has suggested

and the Energy Project and Public Counsel agree that this is unfair to the households who request assistance and are able to access it simply because there are no funds to provide it.

The following table summarizes the parties' positions in this case:

Proponent	Annual LIRAP minimum funding increase	Years to achieve goal of serving half the households below 125% FPL
The Energy Project/Public Counsel (with no rate case)	10%	5 years
The Energy Project/Public Counsel (with rate increase)	The greater of: twice the % rate increase; or 10%	
Avista/Staff (with no rate increase)	7%	7 years
Avista/Staff (with rate increase)	The greater of: twice the % rate increase; or 7%	

Under both the Avista /Staff proposal and The Energy Project/Public Counsel proposal, if there is a rate case, the funding for LIRAP would increase by twice the percentage increase in rates for residential gas and electric customers or the annual increase, whichever is higher. For example, assume that in 2017 there is a 4% rate increase in electrical service:

- Under The Energy Project/Public Counsel proposal, LIRAP funding would increase by 10%, of which 4% would offset the rate increase for current grants and the remaining 6% would be available to expand the program.
- Under the Avista/Staff proposal, LIRAP funding would increase by 8%. Of that, 4% would offset the rate increase for current grants and only 4% would be available to expand the program.

While there are modest differences between the two proposals, The Energy Project/Public Counsel proposal allows more movement to address the fairness issue that Staff, Public Counsel and The Energy Project agree exist. TR-538: 5-16.

Staff recommended that the Commission establish a goal of enabling LIRAP to reach half of the low-income households, that is, 25,565 households utilizing a poverty definition of 125% of FPL, and assuming no increases in the poverty population and no further rate increases. In Staff's direct testimony they proposed a LIRAP funding level that would reach this goal at the end of 10 years (Exhibit JMW-1T page 9). However, in the hearing, Deborah Reynolds, Staff's witness regarding LIRAP, agreed to amend Staff's recommendation in order to be consistent with Avista's (7% or double the rate increase, whichever is greater). The number of years needed to reach the goal of serving half of the households would be 7 years with this proposal provided there are no rate cases or an increase in the poverty population in Avista's service area (TR-539 :14-23).

Avista's LIRAP proposal is contained in Mr. Ehrbar's rebuttal testimony Exhibit (PDE-8T) and in Exhibit (PDE-12). Avista proposes that in any year in which there is a rate increase, the LIRAP funding increase would either be twice the amount of the rate increase or 7%, whatever is greater. In a year when there is no rate increase, under Avista's proposal the LIRAP funding for electric and gas customers would simply increase by 7%. The funding plan would begin in 2016 and last for 5 years. Mr. Ehrbar states that the rationale for their funding plan is to increase LIRAP funding. He states that it was developed because, "the Company believes that its proposed funding plan balances both the need to provide LIRAP grants to a greater number of customers while at the same time keeping the overall increase at a reasonable level of 7% annually, similar to Staff's proposal." Exhibit \_\_ (PDE-8T) pages 9:22 -10:1.

The Energy Project's proposal involves an annual LIRAP funding increase of 10%. Again assuming there are no rate cases or an increase in the poverty rate, The Energy Project's

proposal would reach the goal of serving approximately 50% of low-income households in five years.

The Energy Project's proposal represents the best case scenario of all those presented in this case in terms of reaching the goal of serving 50% of the eligible population in the shortest amount of time. Any increase in Avista's rates would pose an added challenge to low-income customers because they will need larger grants to keep their energy costs constant. Likewise, any increase in the poverty rate within Avista's service territory will put greater demands on the LIRAP program, and again will prolong the time it would take to achieve the goal.

### **Advanced Metering Infrastructure<sup>1</sup>**

Avista seeks some sort of approval, guidance, or "agreement" from the Commission that it should invest and deploy AMI throughout its Washington service territory and that it should do so now. This approval would not technically constitute a prudence review; Avista indicated that a demonstration that the costs were prudently incurred would come at a later date. Exhibit \_\_\_ (LDL-1T) pp.3-4; TR 114:4 – 114:20 (Norwood). Avista stated that the estimate of implementation cost is by definition preliminary. Despite the lack of information about costs, the Company intends to proceed with the deployment of advanced meters, and to that end, it will be entering into contracts with vendors to supply the new meters, communication systems, and back office computer applications and systems, once the selections are made Exhibit \_ (LDL-1T) page 3:16-19. It is unclear what sort of approval Avista seeks or the Commission could provide without prejudging the outcome of prudence review from a practical standpoint.

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<sup>1</sup> In addition to the argument presented in this brief, The Energy Project joins in the argument in Public Counsel's brief relating to AMI. Witness Alexander was jointly sponsored by The Energy Project and Public Counsel.



Chairman Danner in the hearing asked Mr. Norwood what role the Commission could have in the future if the Commission chose to provide guidance in this docket to the effect that AMI was a good idea -- essentially giving Avista, “a wink and a nod to go forward.” TR. 116:4 – 116:6. Avista had stated that cost recovery could be denied if it turned out later the costs were not prudently incurred or the Company overspent or underbuilt. Tellingly, Commissioner Danner focused in on the key question -- “the question of -- of whether this is the right project, haven’t we in essence, given you a kind of prudency review by saying, ‘This is – this is the right thing going forward?’” TR-116:9-12. Mr. Norwood’s answer was “No.” TR116:13. Chairman Danner, however, noted that Avista in future proceedings is likely to take the position that by granting Avista’s request in this proceeding, the Commission gave Avista a green light for AMI; in fact, the Commission’s flexibility would be compromised. TR-117:8-11. Although Avista purported to disagree with Chairman Danner, it merely indicated that costs could be denied based on vendor and equipment selection, or high costs.

After listening to this exchange, Commissioner Rendahl followed up with Mr. Norwood, noting that it is not the Commission’s role to make decisions for the Company TR 120:22 – 121:2. Although Mr. Norwood denied that Avista was asking the Commission to make a decision on whether to go forward with AMI, he stated that, “We are asking the Commission to agree—indicate whether they agree with the Company that now’s the right time, because we think now is the right time.” TR-121:6-20.

The last answer above may finally reveal what the Company seeks. It seeks agreement from the Commission that it should make an investment, prior to the time it has made the investment and without information about the costs or benefits of the investment. Such an “agreement” from the Commission would undermine what should be a robust prudence review

and threaten the Commission's flexibility. The Energy Project respectfully submits that consistent with the regulatory compact, the Company should make its own investment decisions, including the timing of investments, and the Commission can provide prudence review for those decisions once they have been made.

This is an important issue to The Energy Project because we have serious concerns about whether the costs of AMI could possibly justify any benefits of AMI for a large proportion of Avista's residential customers. The theoretical benefits of AMI accrue primarily only to the company and to those customers who have home energy management systems and sophisticated appliances that can respond to input from AMI. By definition, those are customers with sufficient income to invest in relatively expensive systems and new appliances.

In Avista's service territory, however, those systems are out of reach for a large proportion of customers. The Eastern Washington University report estimates about 38% of their residential households live at or below 200% of the FPL (Exhibit\_No.SMC-4 page2). With a utility having such a large percentage of their customers living at or below the FPL, a closer review than usual should take place before the Commission provides them with "wink-and-nod" support or guidance. The preliminary cost-benefit analysis of a \$223 million cost with a net benefit over 21 years of only \$3.5 million raises serious fairness concerns for households on the lower end of the income spectrum (Exhibit\_ LDL-16). AMI would put greater pressure on rates from a Company that has had a rate increase every year for the past 5 years and, plans to file rate cases annually for the next 5 years TR-971.21-25. Of course, these additional costs will be paid for by every Avista customer. As has happened very often in the past, when new benefits are offered and the cost recovery is included in rates that all ratepayers pay, the households in the lower income brackets rarely have the means to take advantage of the benefits (energy efficiency

measures, efficient appliances, energy conservation, etc.)Exhibit BRA-16. This is particularly problematic for the 38% of Avista's customers who live at or below the 200% FPL threshold.

The use of remote disconnection for non-payment raises additional concerns. Under the Commission's rules Avista employee makes a premise visit to disconnect for nonpayment. The employee is required to accept payment at that time to avoid disconnection. Avista accepted between 5,551 and 5,963 payments a year at the household's door to stop disconnections in 2009-2012. These instances represented over 65% of the payments made to stop disconnection for nonpayment (Exhibit BRA-12 in Docket UE-131087). Many of these households paying at the time are likely to be low-income, as low-income households more often are unbanked and rely on cash transactions in person.

### **Conclusion**

The Commission should take this opportunity to make meaningful progress toward achieving its goal of increasing the number of households served by LIRAP. This will be achieved by adopting the Public Counsel/Energy Project proposal for LIRAP funding.

The Commission should be wary of providing an agreement on the Company's proposed investment in AMI. Avista's request effectively asks the Commission to make a preliminary determination that AMI costs will be incurred prudently even though Avista cannot even say with precision what those costs will be. Low and moderate ratepayers would have to help shoulder the burden of AMI but are likely to see few if any benefits.

Respectfully Submitted this 4<sup>th</sup> of November, 2015

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