

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	
)	DOCKETS UE-150204 and
Complainant,)	UG-150205 (<i>Consolidated</i>)
)	
v.)	AVISTA’S RESPONSE TO STAFF’S
)	MOTION TO REOPEN THE RECORD
AVISTA CORPORATION, dba)	
AVISTA UTILITIES,)	
)	
Respondent.)	
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1 Comes Now, Avista Corporation (hereafter “Avista” or “Company”) and respectfully responds to Staff’s Motion to Reopen the Record for the Limited Purpose of Receiving into Evidence Instruction on Use and Application of Staff’s Attrition Model, as filed on February 4, 2016 (hereafter “Staff’s Motion to Reopen”).

2 In its January 28, 2016 Motion/Petition¹, Avista explained why the end result reached by the Commission in its Order No. 05 in these dockets, providing for a base revenue decrease of \$8.1 million, although a greater decrease than requested by the Company, provided the Company with a reasonable opportunity to earn the agreed-upon 9.5% return on equity (ROE). In the final analysis, without such a reasonable opportunity, the rates will not be just, reasonable or sufficient within the meaning of RCW 80.20.010.

¹ Motion/Petition for a Waiver of Rules to Allow for an Answer to ICNU and Public Counsel’s Motion for Clarification, and Commission Staff’s Motion to Reconsider, as filed by the Company on January 28, 2016 (hereafter “Avista’s January 28 Motion”).

3 In Staff's Motion To Reopen, it argues that its "updated revenue requirement for Avista's electric operations is a *negative* \$19.6 million, a reduction of approximately \$11.5 million in the revenue requirement set forth in Order 05."² Staff then contends that:

Moreover, reopening the record would not prejudice any party. This is so even if the Commission's review results in a properly revised revenue requirement. No party can claim to be harmed by the Commission action correcting a calculation. (emphasis added)

4 Staff's proposal in its Motion to Reopen is much more than just "correcting a calculation." The impact of Staff's proposal, if it were adopted, would produce an end result (a \$19.6 million revenue reduction) that is a significant departure from the \$8.1 million "end result" revenue decrease that the Commission has found to be reasonable in Order 05. This significant departure would most certainly "prejudice" Avista, and the Company would "be harmed by the Commission action."

5 The Commission Staff's Motion to Reopen presumes that the Commission did not take into consideration all of the evidence of record in arriving at its electric revenue decrease of \$8.1 million. At the Order Conference on February 3, 2016, the Commission's Accounting Advisor made a slide presentation which included, among other things, the presentation of various calculations within the attrition model supporting the Commission's derivation of the \$8.1 million revenue decrease. These slides reflected adjustments related to items such as the operations and maintenance (O&M) escalator, full recovery of the costs associated with Project Compass, and the updated power supply costs filed by Avista on October 29, 2015. Importantly, these slides showed the effect of all of these adjustments, including the updated

² Staff Motion to Reopen, p. 3.

power supply costs. Therefore, the Commission took these adjustments into account as it made its determination of a just and reasonable end result in this case.

6 In its Order 05 on page 1, the Commission was clear that it made its decision “after full consideration of the record, . . .” Further, on page 2 the Commission stated, “After these changes to the methodology based on the facts and circumstances of this case, we find the revenue requirement for Avista’s electric service should be reduced by \$8.1 million.” (emphasis added) With regard to the O&M escalators adopted by the Commission for the attrition study, the Commission stated, “The use of escalation factors from attrition studies to set rates is also a matter of informed judgment.”³ (emphasis added) And on page 48 the Commission stated as follows:

7 Where, as in this case, there is some, but not complete, evidence to demonstrate that the circumstances driving attrition are outside of the Company’s control, the Commission retains broad discretion to consider other factors, such as the Company’s intent to file another rate case within the next year, and the analysis under *Hope*, *Bluefield*, and *Permian Basin*. We believe we can exercise broad discretion to consider such seminal cases using our informed judgment in deciding whether or not an attrition adjustment is warranted given the specific facts and circumstances in a rate case. (emphasis added)

8 The Commission retains “broad discretion,” based on its “informed judgment,” to not only determine “whether or not an attrition adjustment is warranted,” but also the size of the attrition adjustment as it takes into consideration all of the evidence in the record. And this is precisely what the Commission indicated it did when it stated as follows:

Thus, after considering the evidence in this case, as well as our public interest obligations and the “end-result” test cited above, we grant an attrition adjustment in electric operations in this case.⁴ (emphasis added)

³ Order 05, p. 42, ¶ 115.

⁴ Order 05, p. 50, ¶ 135.

The Commission continued:

Accordingly, we find the overall revenue requirement for Avista's electric service should be reduced by approximately \$8.1 million, based upon the results of a modified historical test year with known and measurable pro forma adjustments, including an attrition adjustment of approximately \$28.3 million. While the end result is still a reduction in revenue requirement for Avista's electric service, it is significantly less than what would result from adopting Staff's pro forma analysis or the intervenor's revenue requirement recommendations.⁵ (emphasis added)

9 To suggest that the Commission made a mistake on one component, which would then lead to a significant change to the outcome by adopting a "correction" at face value, is misplaced.

A. The Electric Revenue Decrease of \$8.1 Million

10 The Commission-approved electric revenue decrease of \$8.1 million is a larger decrease than the decrease proposed and supported by Avista at the time the record closed in this docket. In its rebuttal filing, Avista presented an updated electric revenue requirement calculation showing the need for an electric revenue increase of \$3.6 million.⁶ As explained on page 34 of Mr. Norwood's rebuttal testimony, this \$3.6 revenue requirement was predicated upon Commission approval of deferred accounting treatment related to the 2016 major maintenance for thermal generation:⁷

If Avista's proposal on rebuttal to defer and amortize (normalize) the "hours-based" thermal maintenance is rejected by the Commission, then Avista's electric revenue requirement on rebuttal would increase from \$3.6 million to \$6.6 million in order to provide recovery for these increased costs in 2016. (emphasis added)

⁵ Order 05, p. 52, ¶ 140

⁶ Exhibit No. KON-1T, p. 34.

⁷ Exhibit No. KON-1T, p. 34, n. 24.

11 Because the Commission's Order 05 did not approve the proposed accounting treatment for 2016 major maintenance for thermal generation, Avista's demonstrated need for revenue relief in 2016 became \$6.6 million,⁸ i.e., since the \$3.0 million was not approved for recovery through deferred accounting, the Company needs to recover it through base revenues.

12 The Power Supply update filed by the Company on October 29, 2015, in compliance with the Multiparty Settlement Stipulation, produced a reduction to Avista's overall revenue requirement of \$12.3 million.⁹ This update reduced the Company's proposed revenue requirement from a \$6.6 million revenue increase, to a revenue decrease of \$5.7 million (\$6.6 million increase, minus \$12.3 million = \$5.7 million decrease).

13 By comparison, the Commission's \$8.1 million electric revenue decrease in Order 05 was a greater decrease than the \$5.7 decrease demonstrated by the Company (which included the Power Supply update). In its Order the Commission spent considerable time discussing the importance of the "end result" of the final electric and natural gas revenue adjustments, and the Commission concluded that an \$8.1 million electric decrease produced a reasonable end result.

14 Table No. 1 below shows the electric revenue adjustment proposals of each of the parties at the time the record closed in this docket, both prior to and after the \$12.3 million power supply update that was filed by Avista on October 29, 2015. The revenue decrease of \$8.1 million ordered by the Commission in Order 05 is also provided for comparison purposes.

⁸ See Order 05, ¶ 153. The effect of the Commission's Order 05 is to normalize the cost for customers, but not the Company (See Exhibit No. KON-1T, p. 44, ln. 18-20).

⁹ Order 05, ¶ 12.

the table above, as being “drastic”¹⁴ and “even more severe”.¹⁵ Staff’s revenue decrease litigation proposal of \$18.5 million also would not provide Avista with a reasonable opportunity to earn the authorized return for 2016, as demonstrated by the record.

17 Furthermore, if the Commission were to adopt an “end result” of a \$19.8 million electric revenue decrease as calculated by ICNU and Public Counsel in their Motion for Clarification, or the \$19.6 million revenue decrease presented by Commission Staff in its Motion to Reopen, the magnitude of these revenue decreases would not come close to providing a reasonable opportunity for Avista to earn the agreed-upon 9.5% authorized ROE for 2016.

B. The End Result

18 As mentioned above, the Commission appropriately spent considerable time in its Order emphasizing the importance of the “end result” of its order. In particular, in paragraph 132, on page 49, of its Order 05 the Commission stated as follows (emphasis added):

Were we to reject an attrition adjustment for electric revenue requirement in this case, the result under Staff’s modified historical test year pro forma analysis would be a reduction in electric revenue requirement of more than \$20 million.¹⁶ Public Counsel and the intervenors recommend even more severe reductions based solely on a modified test year analysis with known and measurable pro forma adjustments. We cannot reasonably conclude such an end result would be appropriate under the standards in *Hope* and *Bluefield*. The Commission’s responsibility to set rates that are fair, just, reasonable, and sufficient turns not on the particular rate making methodology it selects, i.e., modified historical test year or attrition, but on its outcome, or “end results.”¹⁷ Indeed, the Supreme Court in *Hope* determined that the Federal Power Commission (FPC) “was not bound to

¹⁴ Order 05, ¶ 134.

¹⁵ Order 05, ¶ 132.

¹⁶ Exhibit No. CSH-2 at 1 (Revised Oct. 13, 2015).

¹⁷ See *Fed. Power Comm 'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603, 64 S. Ct. 281, 88 L. Ed. 333 (1944) (*Hope*) (the methods by which government regulators determine a utility’s rate are inconsequential so long as the *end result* is fair).

the use of any single formula or combination of formulae in determining rates.”¹⁸ The Court explained that:

Under the statutory standard of 'just and reasonable' it is the result reached not the method employed which is controlling. It is not theory but the impact of the rate order which counts. If the total effect of the rate order cannot be said to be unjust and unreasonable, judicial inquiry under the [Federal Power] Act is at an end. The fact that the method employed to reach that result may contain infirmities is not then important.¹⁹ (emphasis added)

19 As the Commission pointed out, the U.S. Supreme Court determined that, “it is the result reached not the method employed which is controlling. It is not the theory but the impact of the rate order which counts.” (Supra) The Court even went on to state that, “The fact that the method employed to reach that result may contain infirmities is not then important.” (Supra) In the case of Avista, even if one were to conclude that there may be “infirmities” within the method employed, it would not, and should not, lead to a conclusion that the end result is not just and reasonable.

20 The Commission, in its Order²⁰, went on to reference the *Permian Basin* case and stated, in part, “In the *Permian Basin* case, another FPC case often cited with *Hope*, the United States Supreme Court embraced the end result test”.²¹ The Commission’s footnote to this statement

¹⁸ *Id.* at 602.

¹⁹ *Id.* This language became known as the "end result" test.

²⁰ Order 05, ¶133.

²¹ See Order 05, supra, at ¶133, n. 196 - *In re Permian Basin Area Rate Cases*, 390 U.S. 747, 791–92, 88 S. Ct. 1344, 1372–73, 20 L. Ed. 2d 312 (1968) (*Permian Basin*). The Court stated: “The Commission cannot confine its inquiries either to the computation of costs of service or to conjectures about prospective responses of the capital market; it is instead obliged at each step of the regulatory process to assess the requirements of the broad public interests entrusted to its protection by Congress. Accordingly, the ‘end result’ of the Commission’s order must be measured as much by the success with which they protect those interests as by the effectiveness with which they ‘maintain credit ... and ... attract capital’.” 390 U.S. at 791. See also, *People’s Organization for Washington Energy Resources v. Washington Utilities & Transportation Comm’n*, 104 Wn.2d 798, 811-12, 711 P.2d 319 (1985) (*POWER*) (quoting *Permian Basin*).

provides further emphasis on the importance of the “end result” test, as opposed to limiting its “inquiries” to the “computation of costs of service.”²² The referenced footnote states, in part:

The Court stated: “The Commission cannot confine its inquiries either to the computation of costs of service or to conjectures about prospective responses of the capital market; it is instead obliged at each step of the regulatory process to assess the requirements of the broad public interests entrusted to its protection by Congress.” (*Ibid.*)

Mindful of its responsibilities, this Commission concluded:

These are the fundamental principles that have long guided the Commission when it determines rates for a jurisdictional utility such as Avista. A drastic rate reduction, such as proposed by parties that urge us to reject an attrition adjustment, would run afoul of these principles.²³ (emphasis added)

21 The magnitude of the electric revenue decreases calculated by ICNU and Public Counsel (\$19.8 million), and the Commission Staff (\$19.6 million) are “drastic” when compared with the \$5.7 million decrease supported by Avista, and the \$8.1 million decrease approved as a reasonable end result by this Commission. If the Commission were to adopt an “end result” of a \$19.8 million electric revenue decrease as calculated by ICNU and Public Counsel, or the \$19.6 million revenue calculated by Commission Staff, Avista would not have a reasonable opportunity to earn its authorized return for 2016, as shown below.

C. Avista’s ROE Opportunity in 2016 if Amounts in Motions are Adopted

22 Table No. 2 below illustrates Avista’s earnings opportunity for 2016 for its electric operations in Washington if the revenue decreases calculated by ICNU/Public Counsel and the Commission Staff in its Motion to Reopen were to be adopted by the Commission. The table

²² Order 05, n. 196.

²³ Order 05, ¶134.

is in the same format as contained within Mr. Norwood’s Rebuttal Testimony showing the impact on ROE of the parties’ original positions, but updated to reflect the impact of their Motions and is reproduced from page 31 of Mr. Norwood’s testimony (Exhibit KON-1T).²⁴ All of the numbers are derived from evidence of record, or simply represent mathematical calculations based on these source numbers.

Table No. 2

	<u>\$Millions</u>	
	<u>Commission Staff Electric</u>	<u>ICNU/PC Electric</u>
a. ICNU/PC/ Staff Calculated Revenue Rqmt (1)	(\$19.6)	(\$19.8)
b. Avista Updated Revenue Rqmt (2)	(\$5.7)	(\$5.7)
c. Shortfall from Staff / ICNU/PC Calculations (3)	(\$13.9)	(\$14.1)
d. After-Tax Shortfall (4)	(\$8.6)	(\$8.7)
e. Rate Base (5)	\$1,393.0	\$1,393.0
f. Equity Portion of Rate Base (48.5%) (6)	\$675.6	\$675.6
g. May 1, 2015 Stipulated ROE (7)	9.50%	9.50%
h. ROE Shortfall (8)	(1.28%)	(1.29%)
i. ROE Earnings Opportunity (9)	8.22%	8.21%

1. Source: Staff’s Motion to Reopen p. 3, and ICNU/Public Counsel Jt. Motion for Clarification p. 3.
2. Source: Explained in Paragraph 8 of this pleading.
3. Source: line a – line b
4. Source: The Company used a revenue conversion factor of 0.62018 for electric to compute the after-tax shortfall. (See Exhibit No. KON-1T, p. 31, n. 21.)
5. Source: Exhibit No. KON-1T, p. 31, ln. 10.
6. Source: Exhibit No. KON-1T, p. 31, ln. 11.
7. Source: Exhibit No. KON-1T, p. 31, ln. 13.
8. Source: line d ÷ line f
9. Source: line g – line h

23 The first line of Table No. 2 above reflects the calculated electric revenue decreases of Commission Staff and ICNU/Public Counsel of \$19.6 million and \$19.8 million, respectively.

²⁴ Exhibit No. KON-1T, p. 31.

The second line reflects Avista's proposed revenue decrease of \$5.7 million, as explained earlier. All other information and calculations in the table are consistent with the original table in Mr. Norwood's testimony (Exhibit No. KON-1T).

24 The table shows that if the Commission were to adopt Commission Staff's calculated decrease of \$19.6 million, it would only provide an ROE earnings opportunity for Avista of 8.22%. The ICNU/Public Counsel calculated revenue decrease of \$19.8 million would provide an ROE earnings opportunity for Avista for 2016 of only 8.21%, as compared with the 9.5% authorized ROE. Neither of these outcomes would provide a reasonable end result and would not provide the Company with a reasonable opportunity to earn the agreed-upon ROE of 9.5% in 2016.

D. Results in 2013 and 2014 Underscore the Importance of a Sufficient Attrition Adjustment in Producing a Reasonable End Result

25 The importance of recognizing attrition was acknowledged by the Commission in Dockets UE-120436 and UG-120437.²⁵ Avista entered into, and supported, that settlement in those dockets because the end result was expected to provide an earned return close to the Commission-authorized return for the two-year rate period. The earned ROEs for Avista for 2013 and 2014 of 9.5% and 9.9%,²⁶ respectively, for Avista's combined electric and natural gas operations in Washington, are an after-the-fact confirmation that the earlier revenue

²⁵Docket Nos. UE-120436 and UG-120437, Order 14, ¶70 (December 26, 2012).

²⁶ Exhibit No. KON-1T, p. 13.

increases granted based on recognition of attrition provided earned returns very close to the then-authorized ROE of 9.8%.²⁷

26 The point is this: Avista agreed to and supported the settlement agreement that led to the new retail rates for 2013 and 2014, because there was an expectation that the end-result would provide an earned return close to the Commission-authorized return – and it did. The settlement discussions among the parties on the overall revenue requirement in the current case, however, did not yield a settlement agreement. We believe this was due in large part to the large difference in the positions of the parties, and Avista’s view that the proposals of the parties would not provide a reasonable opportunity for the Company to earn close to the authorized return for 2016.

27 In this case, the Commission’s \$8.1 million revenue decrease in Order 05, however it was derived, provides an “end result” that is reasonable and will provide Avista a reasonable opportunity to earn the authorized return in 2016. Nothing sought to be introduced by Staff by reopening the record should change the Commission’s assessment of the reasonableness of the end result.

²⁷ Even if one were to look solely at the Washington electric after-the-fact earnings results, the differences between the normalized earned returns for 2013 and 2014 and the authorized return were within a reasonable range. The electric earned return in 2013 was 9.9% vs the authorized return of 9.8%. For 2014, as Avista explained in this docket, the pension and post-retirement medical expense took an unexpected drop in 2014, but then went back up in 2015 to a level similar to 2013. Cross Exhibit No. 9, Attachment A shows expense for 2013, 2014, and 2015 of \$18.7 million, \$14.1 million, and \$18.7 million, respectively. The decrease in 2014 was related to favorable returns on the fund balances in 2014 (TR 197:22 – 198:3), and changes in interest rates and discount rates (TR 203:25 – 204:4). Removing this one-year aberration in expense for 2014, which was beyond the control of the Company, reduces the normalized ROE for Washington electric operations from 10.6% to 10.2%. The \$4.6 million drop from 2013 to 2014 is equal to 42 basis points on ROE. For Avista’s electric operations, 10 basis points on ROE is equal to \$1.1 million in revenue requirement (0.1% x \$675.6 million from Table 2, line f. ÷ 0.62018 from Table 2, line d., Note 4.) \$4.6 million ÷ \$1.1 million = 42 basis points or 0.42% ROE. This 10.2% ROE is reasonably close to the 9.8% authorized level.

E. The Motions to Reopen Improperly Seek to Isolate Only One Component of the Factors that were Incorporated into the Commission’s Decision

28 In its Motion to Reopen, Staff contends that “[b]y reopening the record, the Commission will be able to address its specific issues, and remove any limitations on its ability to calculate Avista’s revenue requirement based on Staff’s updated attrition model.”²⁸ (emphasis added) As such, Staff seeks to reopen the record on the “specific issue” of the attrition calculation – doing so in isolation.²⁹ If the record is to be reopened, in a way that may change the end result, it needs to be reopened in its entirety, putting into play virtually all issues affecting revenue requirement (and not just one element) to assure that, in the final analysis, the “end result” reached in terms of the overall revenue requirement is still reasonable. Otherwise, the Company will be deprived of its reasonable opportunity to earn its authorized ROE.

29 At the time the Commission made its decision in this case, the Commission had before it the effects of all of the adjustments that are at issue in the recent Motions filed by Staff, ICNU and Public Counsel. Even if one were to conclude that there may be “infirmities” within any of the components or methods employed, it would not, and should not, lead to a conclusion that the end result is not just and reasonable. The Commission has broad discretion, based on its informed judgment and the evidence in the record, to determine the end result that is just

²⁸ Staff’s Motion, p. 3.


²⁹ As explained above, there is evidence already in the record that supports the reasonableness of the end result; there is no need to reopen the record for that purpose. During the February 3, 2016 Order Conference, Accounting Advisor Kermode systematically described, based on the evidence of record, how the Commission arrived at its revenue requirement determination. As he further observed, if Staff or other parties believed that the record was somehow deficient with regard to the treatment of updated power supply costs or the modeling of attrition, they could have sought to introduce additional evidence into the record after the power supply update was filed by the Company on October 29, 2015. As stated on p. 8 of the Joint Testimony in Support of the Partial Settlement Stipulation, the “Parties are free to seek discovery on, and examine the prudence of, the updated power supply items...”. The Parties had two months to review the power supply update, and in the end, they did not make note of any alleged deficiency in the record.

and reasonable.³⁰ And the Commission has done so in this case in arriving at an end result of a revenue reduction of \$8.1 million.

30 The Motions of Staff, ICNU and Public Counsel should be rejected.

RESPECTFULLY SUBMITTED this 9th day of February 2016

AVISTA CORPORATION

By: 
David J. Meyer
VP, Chief Counsel for Regulatory and
Governmental Affairs

³⁰ Even if the Commission were to reopen the record to entertain additional evidence, it should nevertheless reaffirm its decision with respect to the approval of the ultimate end result revenue requirement of an \$8.1 million decrease.