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Public comments In the matter of **Docket UE-171091** (Avista Utilities proposal for its 2018-2027 achievable conservation potential and 2018-2019 Biennial Conservation Plan) submitted by:

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Submitted to:

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These comments have also been submitted in electronic form to the Commission Records Center at records@utc.wa.gov.

Introduction

Avista's filing of their Biennial Conservation Plan (BCP) and their proposal for recognition of a numerical acquisition target for the 2018-2019 biennium, in compliance with the provisions of Washington Administrative Code (WAC) 480-109-100 and 480-109-120, is the primary opportunity for the stakeholder and regulatory review of the target setting methodology and utility planning efforts. It is also the most appropriate opportunity to offer suggestions for improvements to the Company's approach as well as to the manner in which these efforts are regulated. Towards that end, I offer the following comments in the spirit of enhancing the statewide benefits of energy efficiency. My comments touch upon the target setting process, measurement and evaluation of acquisition, the Company's programs and the management of those programs.

Methodological asymmetries between the acquisition target and measurement of verified acquisition

Core to the intent Initiative 937 (I-937), which serves as the foundation of this process, was to augment the regulatory approach for holding electric utilities accountable for the acquisition of cost-effective electric efficiency resources. Towards that end I-937 called for a quantification of the cost-effective and achievable efficiency resources available to a utility using a methodology consistent with that employed by the Northwest Power and Conservation for direct comparison to the verified actual acquisition after the close of the biennium. Key to this process is the need for symmetry between the methodology used to establish the acquisition target and the methodology applied to measure actual acquisition. There are two such methodological flaws of particular concern within Avista's filing:

1. The Company has proposed an acquisition target based upon the results of their most recent Integrated Resource Plan (IRP). The IRP establishes the quantity of efficiency resources accepted into the optimal resource mix by testing efficiency measures which can be categorized and their characteristics fully identified. Though there are pro's and con's to Avista's approach, when properly executed it is an acceptable methodology with some caveats[1]. This approach is capable of testing prescriptive efficiency measures and some, but not all, industrial measures. Omitted from this process is the significant resource potential available from unique "one off" cost-effective efficiency measures which are not amenable to categorization and whose anticipated cost, energy savings and resource opportunity cannot be defined in advance. Yet there is a long history of the Company successfully acquiring these resources through their Site-Specific program and, per their BCP, such acquisition is planned to continue.

   The Company's BCP indicates that 21% of the local acquisition target is expected to be achieved by the Site-Specific program[2]. Historically approximately half of this acquisition consists of efficiency measures which were not incorporated into the target setting methodology because they cannot be readily categorized and defined. This creates an asymmetry in that the Company is not recognizing the full proven achievable and cost-effective efficiency resource potential in establishing their target.

   The recognition of this asymmetry should in no way be grounds for not pursuing these cost-effective efficiency resource opportunities, but it is grounds for reconsideration of the acquisition target that the Company has proposed. Specifically, it would be appropriate to increase the acquisition target by an estimate of the cost-effective resource potential of measures which could not be generically categorized and tested within the IRP. A reasonable estimate of the acquisition potential could be derived from a historic review of the performance of the Site-Specific program and adding to the target an amount equal to all historically achieved acquisition that was not tested as part of the IRP process. This would remedy the asymmetry issue. Lacking such an adjustment the Company will be pursuing a target that is likely less than 90% of their resource potential while applying 100% of their portfolio achievement towards meeting that target.

2. As previously stated, Avista's proposed acquisition target is based upon the quantity of efficiency resources selected within the IRP. The selected resources presumably pass the Northwest Power and Conservation Council cost-effectiveness test (which is close but not identical to the Total Resource Cost test as defined within the California Standard Practice Manual). Yet when the Company ultimately claims acquisition towards achieving the defined target that acquisition will be based upon the total portfolio acquisition, to include non-cost-effective measures which did not contribute towards the calculation of the target. The pursuit of non-cost-effective measures will degrade the cost-effectiveness of the overall portfolio, but a significant quantity of non-cost-effective resources can be obtained before the overall portfolio is reduced below the minimal cost-effectiveness threshold.

   This amounts to allowing the Company to purchase their achievement of the acquisition target through the non-cost-effective expenditure of ratepayer funds.

   To better align utility and ratepayer interests, it would be useful to provide proactive guidance indicating that only acquisition derived from measures which were accepted into the IRP preferred resource portfolio or were proven cost-effective at the measure level of granularity will be credited towards meeting the Company's biennial efficiency resource acquisition target[3].

<u>Avista's Natural Gas Multi-Family "Market Transformation" program</u>

The Company's BCP includes the continuation of a "market transformation" fuel-efficiency program targeted for the multifamily housing segment. By referencing the effort as market transformation program the Company is able to trigger a provision within Schedule 90 (governing Avista's electric efficiency program operations) that allows for incentives of up to 100% of the project incremental cost in place of the lower incentive cap applicable to traditional efficiency acquisition programs[4]. Consequently, the program is permitted to fully fund project developers for the entire incremental cost associated with the installation of natural gas infrastructure and end-use equipment.

However, this program lacks the key elements that distinguish a market transformation program from traditional efficiency programs which would, as required by Schedule 90, operate at a lower incentive cap. Most critically the program lacks trigger points that would lead to an exit strategy, the key characteristic that differentiates a market transformation program from traditional acquisition programs. In fact, the history of the program has been that it has operated for over ten years without a managing towards a defined exit strategy and without transparently reporting market indicators leading to an exit strategy. The period of time that the program has remained in place alone is grounds for rejecting its current claim to market transformation status.

Terming this program market transformation over the course of a full decade while failing to follow even the most basic tenets of market transformation program management seem to have the objective of marketing an expansion of the Company's natural gas infrastructure at ratepayer expense through the use of enhanced incentives.

None of my previous comments should be construed as to be unfavorable towards the serious pursuit of market transformation efforts, either within this sector or in general. But claiming that Avista's current program is or has been a market transformation program is an incorrect application of the term and does damage to the favorable reputation that professionally implemented market transformation ventures have achieved in the northwest over the past quarter century.

Though the program may well merit continuation, it would be appropriate to clearly re-designate it as a traditional acquisition program and exclude it from the definition of market transformation for purposes of Section 4.1.3 of Avista's Schedule 90.

Utility receptivity to non-utility implementation opportunities

The Company completes a biennial IRP process which can, but rarely does, trigger the need for a Request for Proposals (RFP) for additional resources. As long as the Company pre-acquires sufficient resources so as to indicate that there isn't a near-term resource deficit the need to formally expose the utility to external proposals under the full view of regulatory staff can for the most part be avoided.

The ability to avoid the release of a transparent demand-side RFP has led to a notable tendency for the utility to be unduly dismissive of attractive opportunities for engaging external parties in the pursuit of cost-effective efficiency measures in preference for internal programs which expand the size of internal staff and allow for the leveraging of efficiency programs to enhance their corporate image. While it is not, to me at least, objectionable for the corporate image to be enhanced as a result of competently managed efficiency programs in full compliance with all regulatory requirements, it does not serve the interest of the ratepayer to overlook the conflict of interest that this process presents to the utility. This is particularly true when there are clear indicators that the conflict of interest has distorted the management of the energy efficiency portfolio.

The Commission is currently engaged in a rulemaking process for WAC 480-107. Much of that process has been devoted to the complex nature of evaluating bids for supply-side resources as part of an RFP process; a complicated process with many moving parts. The question of the treatment of RFP's for efficiency resources is potentially a separable and much easier task. Though energy efficiency can cumulatively become a sizable resource over the planning horizon, it is acquired through a large number of small resources over a long period of time. The cost-effectiveness of external proposals can be easily and transparently evaluated against the avoided cost standard established in the prior IRP. Such evaluation of external proposals can and has been completed in previous demand-side RFP's in the distant past. Though in theory the Company has stated that they are open to such proposals on an ongoing basis, the reality is such proposals will only receive a fair evaluation if there is a higher degree of regulatory oversight.

Though suggestions for revisions to this process may be more appropriate within the ongoing WAC 480-107 rulemaking process, it is also quite relevant to the scope of the BCP process within this docket. Consequently I would respectfully propose consideration of a requirement for a biennial fully transparent demand-side RFP timed so as to inform the subsequent BCP. This would be a significant step towards remedying the conflict of interest that the currently exists. Such a process would certainly bring forth additional efficiency resource opportunities that are discouraged or suppressed under the current system.

<u>Compromised independence of Avista's third party evaluator</u>

Per WAC 480-109-110 (1) (d) the Company must complete an "Independent third-party evaluation of portfolio-level biennial conservation achievement". The Company has retained Nexant and has represented their relations with Nexant as meeting the requirements of the cited WAC provisions. Unfortunately, the relationship between Nexant and Avista falls short of meeting any reasonable definition of independence. The "independent" evaluator is selected at the sole discretion of the Company and is specifically selected by the same department and individuals whom are to be evaluated, the evaluation contract is managed by those who are being evaluated, the data is provided by the those who are being evaluated and the areas of evaluation to be funded (or not funded) are determined by those who are being evaluated. Additionally, the Company (and the specific department in the Company being evaluated) has purchased additional goods and services from the "independent" evaluator, thereby creating an additional conflict of interest as Nexant is simultaneously assuming the role of evaluator and salesperson.

Furthermore, and applicable more broadly to Washington's investor-owned electric utilities, there is the opportunity to simultaneously improve the degree of independence, the quality and insights provided by the evaluation and reduce the considerable evaluation cost through the establishment of a statewide approach to evaluation with an increased role for Staff and the Advisory Groups of the three electric investor-owned utilities. Revising the current system to allow for Staff and/or other impartial non-utility parties to select a cast of evaluators to complete a truly independent evaluation will allow for a more direct comparison between utilities based upon consistent and comparable methodologies and will generate insights simply not possible under the current decentralized system. The evaluation cost borne by ratepayers can be reduced by virtue of the economies of scale possible through utilizing a consistent statewide evaluation methodology. Simply stated, a better product can be achieved at a lower cost.

The most valuable advantage of such an approach is the substitution of a truly independent evaluation in place of the current system. Lacking such an independent review operational and policy decisions will be based upon evaluations tainted by systemic conflicts of interest. As the preparations for the biennial evaluation generally don't occur until the midpoint of the biennium (over one year in the future) there is sufficient time to develop and implement an approach for the statewide evaluation of efficiency programs for the upcoming biennium.

Avista's Energy Efficiency Advisory Group

The Company has had an Advisory Group, under various names, in place since 1992[5]. The current Advisory Group meets the requirements of WAC 480-109-110. However, it is notable that membership in the Advisory Group membership is solely determined by the Company. Requests to the Company for information provided to the Advisory Group have been routinely denied. Lacking Freedom of Information Act requests, which would yield only those documents and written communications retained in public files, information available to the Advisory Group is unavailable to other interested parties. Interested parties are not permitted to become part of a service list for information distributed to Advisory Group members much less be allowed some degree of participation in the Advisory Group.

Though none of these actions violate any specific provisions of WAC 480-109-110 it is certainly inconsistent with the promises of increased transparency that the Company voiced to the Commission on several previous occasions. The Company should be strongly encouraged, if not required, to periodically review the membership of their Advisory Group and to periodically complete a general solicitation for new members so as to allow for a more productive and diverse conversation of their energy efficiency programs in a timely and transparent manner.

I do wish to recognize that the Company has for the first time been partially responsive to a series of questions which I have posed for purposes of developing these written comments. It is a small but encouraging sign that the Company may be open to a higher level of transparency in the future. The Commission has the opportunity as part of this docket to establish conditions which would advance this progress.

Conclusion

Thank you for your consideration of my comments. It has and continues to be my belief that if demand-side management is important to do, it is important to do well. I believe that the suggestions which I have proposed will lead to an improvement in how energy efficiency is pursued within Washington.

End Notes:

1. Avista's methodology tests energy efficiency options to determine if they favorably contribute to improving the overall supply and demand-side resource mix. Those measures that do so "pass" and are incorporated into the optimized resource portfolio. The IRP also serves the purpose of defining an avoided cost stream. However, this approach does not explicitly test the demand-side resource options against the avoided cost stream, and it is not necessarily true that all selected demand-side options will be cost-effective, nor is it true that all rejected options will be cost-ineffective. The disconnect between the methodology for selecting measures within the IRP and the means by which those measures are evaluated for cost-effectiveness can be a significant issue in both establishing the acquisition target and in generating expectations regarding the likely cost-effectiveness of the efficiency portfolio.
2. Per Appendix A of Avista's BCP the site-specific program is expected to generate 18,000 mWh's. Avista's local acquisition target is 85,061 mWh's including the 5% addition to the target as a result of the Company's previous decoupling agreement and without Avista's share of regional (Northwest Energy Efficiency Alliance) savings and fuel-efficiency acquisition (electric to natural gas conversions, which is not within the I-937 referenced Northwest Power and Conservation Council definition of efficiency).

3. It would be reasonable to make some exception for acquisition which is very nearly cost-effective, such as measures with a Total Resource Cost test benefit-to-cost ratio of 0.9 or better (indicating that benefits equal only 90% of resource cost) if there is some reasonable basis for asserting that the measure(s) were pursued with the sincere expectation that they would be cost-effective and were competently managed to be cost-effective.
4. Avista's Schedule 90, section 4.1.3 exempts "Programs or services supporting or enhancing local, regional or national electric efficiency market transformation efforts" from the cap on incentives at 70% of the customers incremental cost contained in Schedule 90, section 4.1.
5. Per page 8 of Avista's Biennial Conservation Plan.