BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UITILITIES AND TRANSPORTATION COMMISSION Complainant, v. AVISTA CORPORATION d/b/a AVISTA UTILITIES Respondent.	)	DOCKETS UE-160228 and UG-160229 (*Consolidated*)

POST-HEARING BRIEF

OF

THE INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES

November 7, 2016

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I. INTRODUCTION

1 Pursuant to Prehearing Conference Order 03 and WAC § 480-07-390, the Industrial Customers of Northwest Utilities ("ICNU") submits this post-hearing brief requesting that the Washington Utilities and Transportation Commission ("WUTC" or the "Commission") adopt the recommendations of ICNU's witnesses in this proceeding. Based on the evidence in the record,[1/] ICNU recommends that the Commission authorize Avista Utilities ("Avista" or the "Company") to:

- Decrease charges and rates for electric service by approximately $1.0 million, effective no later than January 21, 2017;
- Earn a 9.10% return on equity ("ROE"), as well as a 7.25% rate of return ("ROR"), in conjunction with an approved capital structure including a 48.5% equity component and a 5.51% cost of debt; and
- Apply a non-uniform electric rate spread, as proposed by the Company and ICNU, to begin a gradual reduction of the considerable inter-class subsidies embedded within Avista's rate structure for many years.

Beyond these primary recommendations, ICNU requests that the Commission adopt several other witness proposals, particularly on issues of disproportionately harmful impact to industrial customers, as explained in the final briefing section.

2 Overall, ICNU has recommended electric rate and cost of capital results most in keeping with evidence on record and relevant Commission standards. The "end results" proposed by ICNU also honor principles of gradualism by maintaining attrition-based results, in keeping with the Commission's most recent Avista rate case order.

II. ARGUMENT

3 ICNU presents its supporting argument in three parts. First, ICNU believes that it is extremely important for the reasonableness of the "end results"

1/ ICNU has not attempted to update any witness calculations on brief.

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proposed by all parties in this proceeding to also be viewed in an independent light. Therefore, the recommendations of ICNU are presented as supportable from the perspective of "end results" which are fair, just, reasonable, and sufficient, in addition to underlying methodology—which is also reasonable, and supported by evidence in the record.

4 Second, ICNU devotes the first two parts of its argument to support the primary recommendations in this proceeding: 1) an overall $1.0 million electric revenue decrease; 2) reasonable cost of capital levels; and 3) a much needed, non-uniform rate spread. The third and final part of the argument section addresses all other ICNU proposals. This division is intended to facilitate the Commission's consideration of the most significant issues affecting all parties more or less equally, while the final argument part addresses proposals more specific and disproportionately impactful to the industrial rate class. In so doing, ICNU hopes the Commission will still afford full consideration to more industrial-specific issues.

A. The "End Results" of ICNU's Proposal Are Reasonable

5 A major theme in Avista's last two rate cases, perhaps *the* major theme, has been the determination of "end results" which produce rates which are fair, just, reasonable and sufficient. ICNU submits, however, that Avista's requested $38.6 million electric rate increase, effective January 1, 2017,[2/] coupled with requests for a 9.90% ROE and a 7.64% ROR (amounting to 40 and 35 basis point increases, respectively),[3/] cannot be rationally considered as reasonable "end results"—especially after the Commission

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2/ WUTC v. Avista, Dockets UE-160228 and UG-160229 (*consolidated*), Order 03 at ¶ 2 (Mar. 28, 2016). ICNU does not support Avista's request for a multi-year rate plan and a second rate increase in 2018, for reasons explained in testimony. See Exh. No. BGM-1CT at 54:17-57:18.

3/ Compare Exh. No. SLM-1T at 6:7-9, with WUTC v. Avista, Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 5 (Jan. 6, 2016).

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found that the Company was over-earning, and needed to reduce its revenue requirement by $8.1 million, just 10 months ago.[4/] Conversely, ICNU's present recommendation for a $1.0 million rate reduction is a far more reasonable and consistent end result, given continued evidence of Company over-earning and based on a thorough and granular attrition study performed by ICNU and Northwest Industrial Gas Users ("NWIGU") witness Bradley Mullins.[5/]

6 In the Company's last general rate case, the Commission found it reasonable to apply a positive $28 million attrition adjustment to electric revenue requirement,[6/] having concluded that: "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.'"[7/] Likewise, when parties later challenged the attrition adjustment calculation in that case, the Commission explained that "Avista focuses appropriately on the end result reflected in Order 05 and cites specifically to the Commission's reliance on the 'end result' principle."[8/]

7 In this proceeding, Avista emphatically points to the "end results" standard articulated by the Commission once more.[9/] Yet, while affirming that "[t]he 'end result' must be reasonable" in this case,[10/] the Company continues to seek a $38.6

4/ Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 5.
5/ For ease of reference throughout the remainder of this brief, Mr. Mullins' proposals and attrition study will be associated simply with ICNU. Whenever appropriate, however, Mr. Mullins' testimony should always be understood in his capacity as a joint ICNU/NWIGU witness.
6/ See WUTC v. Avista, Dockets UE-150204 and UG-150205 (*consolidated*), Order 06 at ¶ 10 (Feb. 19, 2016).
7/ Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 132 (emphasis added).
8/ Dockets UE-150204 and UG-150205 (*consolidated*), Order 06 at ¶ 37.
9/ See, e.g., Exh. No. KON-1T at 5:12-17; id. at 15:14-21.
10/ Id. at 15:21.

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million electric revenue increase in 2017.[11/] The problem is that a $38.6 million electric rate increase would almost certainly result in significant over-earning, thereby producing unreasonable "end results" according to the Company's own testimony.

8 Specifically, Avista acknowledges over-earnings for its electric operations over the last three full calendar years, leading to an average ROE of 10.0%,[12/] well above the Company's presently authorized level of 9.50%. The Company also estimates continued over-earnings for electric operations in 2016,[13/] even following the recent revenue reduction of $8.1 million. Thus, it would seem highly unreasonable for the Company to increase revenues by any amount approaching the $38.6 million proposed by Avista, or for the Company to increase its ROE and ROR *at all*—never mind by the huge margins sought in this proceeding.

9 In fact, Mr. Norwood has testified that Company earnings "results indicate that the revenue adjustments ordered by the Commission" just 10 months ago, in the last rate case, "were *very close* to what they needed to be in order for Avista to have the opportunity to earn its allowed return for 2016."[14/] This means that, had Avista been granted its original request in the last rate case for an electric revenue increase $41.3 million higher than what the Commission eventually approved,[15/] the Company would be *grossly* over-earning for electric operations now. There can be no rational dispute on this point, since Mr. Norwood went on to testify that earned ROE for 2016 is "an after-the-

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11/ See, e.g., id. at 29:8; Motion of Avista Corporation to Supplement the Record to Include Power Supply Update at ¶ 5 (Nov. 1, 2016).

12/ Exh. No. KON-1T at 11:3-13.

13/ Id. at 13:6-8.

14/ Id. at 13:19-22 (emphasis added).

15/ See Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 1 (noting the Company's initial electric rate increase request of $33.2 million). See also Exh. No. KON-2CX at 1-2 (Avista Response to ICNU Data Request ("DR") 179) (confirming).

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fact confirmation that the recent revenue increase[] granted by the Commission … has resulted in earned returns very close to the authorized ROE[]."[16/]

10 The magnitude of the 2016 over-earnings Avista would have received, if granted its original $33.2 million request last year, can be illustrated by Mr. Norwood's own testimony. In the present case, Mr. Norwood contends that a $42.4 million reduction to Avista's proposed electric revenue requirement would only allow the Company an opportunity to earn an ROE of about 5.30% (which is 420 basis point less than Avista's currently authorized ROE of 9.50%).[17/] However, that $42.4 million figure is almost equivalent to the $41.3 million reduction that the Commission ordered to Avista's original electric revenue request in the last rate case. By flipping the Company's illustration, therefore, Avista would likely have over-earned by 400 or more basis points in 2016, at around 13.5%, had the Commission authorized the Company's original electric rate request. Plainly, ROE earnings anywhere near 13.5% in 2016 would grossly exceed the reasonable level that the Commission has approved.

11 The unreasonably excessive nature of the Company's initial request last year is significant now for two primary reasons. First, given that a $41.3 million revenue request reduction, as well as an $8.1 million overall revenue decrease, in 2016, allowed the Company to earn an ROE "very close" to its authorized level, the Company's similarly high increase request in this proceeding would also likely produce unreasonable "end results," in 2017, if not dramatically reduced. Second, the unreasonableness of Avista's prior revenue request puts ICNU's recommendations in recent cases in a vastly different light than what the Company has portrayed.

16/ Exh. No. KON-1T at 14:4-7.

17/ Id. at 5:3-9.

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12 In particular, Avista seeks to discredit rate proposals of ICNU as unreasonable on account of being "dramatically and consistently below the end results ordered by the Commission."[18/] Yet, even using Avista's updated figures in this proceeding, ICNU requested an electric revenue amount, for the 2016 rate year, that was significantly closer to the amount authorized by the Commission, when compared to what the Company had initially proposed.

13 That is, ICNU's recommendation differed from the Commission's authorized amount by only $21.6 million,[19/] while the Company concedes that its original request differed by almost twice that amount, or $41.3 million.[20/] Since the Company considers a mere $21.6 million differential (i.e., between a party proposal and an eventual Commission authorization) to be "dramatically different" and "not reasonable,"[21/] Avista's $41.3 differential in the last case must be seen as *far more* dramatically different and unreasonable than ICNU's.[22/] At worst, therefore, any implication of unreasonableness associated with ICNU must be applied with much greater force against Avista.

14 Moreover, ICNU's proposal in the last case did not include an attrition study. Nonetheless, ICNU was still able to come far closer to the Commission's eventual "end results," which did include an attrition adjustment, than Avista had been able to do,

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18/ Id. at 6:4-8. Avista similarly attempts to discredit proposals of the Public Counsel Unit of the Washington State Attorney General's Office ("Public Counsel"). Id.

19/ Exh. No. KON-2CX at 3 (Avista Response to ICNU DR 181(b)).

20/ Id. at 2 (Avista Response to ICNU DR 179(c)).

21/ Id. at 3 (Avista Response to ICNU DR 181(b)).

22/ The propriety of using Avista's original revenue requirement request as a comparator to ICNU's recommendation in the last rate case is demonstrated by Mr. Norwood's testimony that the Company "[a]bsolutely" has all the information necessary to justify an electric rate increase request at the time of its original filing. Norwood, TR. 85:18-22. In other words, "dramatically different" end results authorized by the Commission must at least call into question the reasonableness of the Company's original request. Mr. Norwood has testified that he is "very involved" and "very familiar," on a personal level, with Avista's original filed requests, which raises serious concerns over the accuracy of the initial revenue request he still supports in this proceeding. See id. at 85:6-17.

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despite the Company's performance of an attrition study within the original case filing. Indeed, after factoring in the Commission's positive $28 million attrition adjustment in the last rate case, ICNU's recommendation based on traditional methodology was within $6 million of the Commission's own modified historical calculations.[23] This demonstrates the prior accuracy and current reliability of ICNU calculations, as well as the corresponding inaccuracy attributable to the Company's.

15 These facts are highly relevant to this proceeding because ICNU has now based its revenue recommendation on the performance of an attrition study. Thus, coupling its prior demonstration of accurate calculation with the advent of attrition analysis applicable to the "new normal" of circumstances found to be facing the Company,[24] ICNU has calculated attrition adjustment results that are not dissimilar from the "end results" revenue requirement calculated by the Commission a mere 10 months ago. Further, the "end results" proposed by ICNU in this proceeding would allow Avista to collect an electric revenue figure that is $7.1 million *closer* to the Company's status quo, when compared against the amount authorized by the Commission in the last case.[25]

16 In sum, the "end results" proposed by ICNU in this case are not "dramatically different" from what the Commission approved less than a year ago, and

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23/ Absent the positive $28 million attrition adjustment to arrive at the $8.1 million reduction approved by WUTC, the record in the Company's last rate case justified an approximate $36 million reduction to Avista's electric revenue requirement in 2016, i.e., based solely on a traditional, modified historical test period methodology. To put this figure in context, a $36 million electric revenue requirement reduction was almost precisely at the midpoint of ICNU and Public Counsel calculations, using the same traditional WUTC methodology. See Exh. No. KON-1T at 7, Table No. 1 (showing updated ICNU and Public Counsel proposals for the 2016 rate year, of $29.7 million and $42 million, respectively).

24/ See Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶¶ 131, 109 (expressing concern that, "absent an attrition adjustment … the Company may not have an opportunity to achieve earning on electric operations at or near authorized levels" in 2016, after finding that Company circumstances warranting an attrition adjustment "represent the 'new normal'").

25/ I.e., when comparing against the status quo or revenue requirement at the beginning of each respective case, finding the difference between the decrease authorized in the last rate case and the ICNU proposed decrease now: $8.1 million - $1.0 million = $7.1 million.

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both ICNU's and the Commission's end results are based on attrition studies. If ICNU's present recommendation is to be considered unreasonable, then the Commission's recent "end results" authorization in the last rate case would also be viewed in such light. Yet, Avista has consistently stated that the Commission's "end results" outcome in the last case produced electric rates which were both reasonable and fair.[26] ICNU submits that its present "end results" recommendation is reasonable and consistent with the Commission's very recent electric rate authorization, while the outliers in the present proceeding are the Company's and Staff's recommendations for "dramatically different" end results of $38.6 million and $25.6 million electric rate increases, respectively.[27]

B. The Methodology and Facts Underlying the "End Results" Recommended by ICNU Are Reasonable and the Most Supportable in the Record

17 ICNU organizes this argument part into three additional subparts, to further facilitate Commission review and consideration. First, ICNU discusses the support for the attrition study performed by Mr. Mullins. Second, discussion focuses upon cost of capital issues related to the proposals of ICNU witness Michael Gorman. Third, the rationale behind the non-uniform rate spread proposal of ICNU witness Robert Stephens is discussed.

1. ICNU Has Performed a Thorough and Highly Granular Attrition Study that Improves upon Prior Methodology

18 In the Company's recent general rate case, the Commission found it "no longer … necessary to justify granting attrition adjustments on the existence of extraordinary circumstances."[28] Since the previously requisite extraordinary

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[26] Dockets UE-150204 and UG-150205 (*consolidated*), Order 06 at ¶ 23; Exh. No. KON-1T at 25:20-22.

[27] See Exh. No. JH-1T at 7:7-9.

[28] Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 119.

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circumstances were "not present" in that case,[29] ICNU had not presented an attrition adjustment model, leaving only attrition studies by Staff and Avista for the Commission to consider.[30] Accordingly, when the Commission had previously discussed "the most appropriate methodology *in this docket* [i.e., UE-150204] for supporting an attrition adjustment,"[31] the Commission could only compare options presented by two parties in last Avista rate case. Stated differently, the Commission neither approved nor determined against the merits of ICNU's currently performed attrition methodology, which has now been presented for the first time.

a. Avista and Staff Criticisms of ICNU's Approach Are Internally Inconsistent and Mutually Irreconcilable

19 Before discussing the technical merits and reasonable results of Mr. Mullins' attrition study in this case, ICNU will first address the criticisms levied by Staff and Avista against Mr. Mullins' approach in an appropriate light. For instance, Staff initially alleged that Mr. Mullins' attrition study is not "consistent with the basic methodology approved in the Commission's Order 05 in Avista's last rate case."[32] Later, however, Staff conceded that the Commission had "not … actively rejected Mr. Mullins's approach" in the last rate case, nor approved only a single attrition methodology "to the exclusion of any methodological variants."[33] In fact, Staff went on to: 1) explain that the Commission approved multiple "methodologies" associated with attrition in the last rate case;[34] 2) acknowledge Commission "discretion to adjust assumptions based on the

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29/ Id. at ¶ 109.
30/ Dockets UE-150204 and UG-150205 (*consolidated*), Order 06 at ¶¶ 6-7.
31/ Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 111 (emphasis added).
32/ Exh. No. CSH-10T at 5:18-20.
33/ Exh. No. CSH-11CX at 3 (Staff Response to ICNU DR 5).
34/ Id. at 1 (Staff Response to ICNU DR 2).

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specific facts and evidence of a particular case";[35] and 3) characterize attrition methodology as a matter of continuing refinement.[36]

20 Likewise, Avista frames its concerns over the propriety of Mr. Mullins' attrition analysis by stating that "the Commission approved the use of the period 2007-2014 for both electric and natural gas attrition studies," and claiming that "Mr. Mullins ignores this Commission guidance and varies the years he chooses to trend depending on the cost category."[37] Nevertheless, the Company simultaneously claimed that, "in the last three general rate cases, for rate years 2013-2016 .... [T]he Commission did *not approve specific attrition studies or methodologies*."[38] Indeed, the Company went so far as to assert that the Commission must use "its informed judgment" in this proceeding to reach a necessary "end result" that is "irrespective of positions expressed by the other parties," including "broad discretion in determining the manner in which the attrition adjustment is developed."[39]

21 These inconsistent criticisms of Avista and Staff are not limited, however, to mutually exclusive attempts to depict the Commission as having simultaneously approved a "single and narrow" yet "broadly discretionary" approach to attrition methodology. Rather, the Company and Staff have adopted diametrically inconsistent positions to one another in criticizing Mr. Mullins' approach. For instance, Staff characterizes Mr. Mullins' attrition study as "arbitrary," alleging that his study was

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35/ Id. at 2 (Staff Response to ICNU DR 3).
36/ Hancock, TR. 397:14-19.
37/ Exh. No. GDF-1T at 4:9-10, 10:3-8.
38/ Exh. No. KON-1T at 24:1-4 (emphasis added).
39/ See id. at 24:17-25:12. See also Exh. No. EMA-12CX at 1 (Avista Response to ICNU DR 66) (quoting, with added emphasis, the Commission's confirmation in the last rate case of having accepted modifications to "escalation rates derived from attrition studies in the past," and that the Commission "may do so again in the future").

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"seemingly engineered to produce" certain results.[40] Conversely, Avista finds fault in Mr. Mullins' study for what it characterizes as "[a] mechanistic application of inputs to a model along with logical arguments that, on the surface, may appear reasonable, [but] will not necessarily produce reasonable end results."[41]

22 In sum, Company and Staff criticisms of Mr. Mullins' attrition study are irreconcilable—i.e., an arbitrary methodology purposely engineered to produce a pre-determined outcome cannot at the same time follow a mechanistic and logical approach. Yet, Avista and Staff each confirmed their positions at hearing and explicitly rejected the characterizations of the other party.[42] ICNU suggests that the apparent inconsistency of the full-spectrum (or "kitchen sink") criticism that Mr. Mullins' attrition study has received is best explained by viewing ICNU's approach as actually the most supportable and reasonably centrist position among the options before the Commission.

b. ICNU Has Performed an Attrition Study Materially Improving Attrition Adjustment Methodology before the WUTC

23 The most innovative and salient feature of Mr. Mullins' attrition study is the material step forward taken in the granularity of analysis supporting attrition trending. In short, both the Company and Staff use attrition models which, by comparison, are more simplistic via the application of more aggregated escalation rate analysis for various rate base categories and operations and maintenance ("O&M") expense.[43] Thus, Company and Staff approaches yield essentially homogenous results "irrespective of whether each cost category demonstrated a clear trend over the period" used.[44]

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40 Exh. No. CSH-10T at 5:14-16.

41 Exh. No. KON-1T at 5:9-11 (emphasis in original). At hearing, Avista confirmed that this criticism applied to Mr. Mullins' study and that the emphasis was intentional. Norwood, TR. 93:8-94:2.

42 Compare Norwood, TR. 94:3-8; with Hancock, TR. 402:23-403:16.

43 Exh. No. BGM-1CT at 13:21-14:1.

44 Id. at 14:19-21; accord id. at 14:1-3 (explaining the same applies for O&M expense categories).

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24 For the first time, however, the Commission now has a full attrition study "using more granular categories of cost," including calculation of "a specific escalation rate applicable to each line item in the Company's results of operations, which should help to better evaluate the reasonableness of the model results."[45/] Further, Mr. Mullins has supplemented and supported such detailed analysis by the performance of "a case by case review of the historical cost data for each category of cost to determine the appropriate data to rely upon to calculate the escalation rates, including evaluation of an appropriate time period to use when evaluating the trend for the cost category in question."[46/]

25 The thoroughness of Mr. Mullins' electric attrition analysis is demonstrated by his evaluation of 16 distinct cost/rate base categories.[47/] Each of these separate evaluations is supported by an explicit narrative detailing how and why Mr. Mullins achieved his modeling results. This level of detail, granularity, and support is a purposely designed feature of ICNU's attrition analysis, formulated to allow for more thorough analysis as to whether Avista can "*demonstrate persuasively* that the attrition occurring is outside of their control."[48/]

26 More specifically, Mr. Mullins explained that his attrition model was performed in explicit recognition that "the Commission required that 'utilities requesting an attrition adjustment demonstrate that the cause of the mismatch between revenues, rate base and expenses is not within the utility's control.'"[49/] By reviewing historical data at such a granular level, Mr. Mullins was able to provide the Commission with a much

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45/ Exh. No. BGM-1CT at 15:9-12.
46/ Id. at 15:12-15.
47/ See, e.g., Exh. No. BGM-3 at 5-20; Exh. No. BGM-11 at 5-20.
48/ Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 119 (emphasis added).
49/ Exh. No. BGM-1CT at 17:4-6 (quoting Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 110).

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improved understanding of the drivers for Company cost increases.[50] In contrast, the more aggregated approach followed by Avista and Staff does not lend itself to a persuasive demonstration that attrition is occurring outside of Company control, since aggregated review cannot provide a comparably "good indication of why any particular expense and rate base item is increasing, and whether that increase is beyond the control of the utility."[51]

27 Tellingly, Avista conceded at hearing that there is nothing inherently objectionable about a more granular approach,[52] even though a disaggregated approach can yield different and varying "kink points,"[53] rather than the overly simplified, single "kink point" approach favored by the Company in its attrition analysis.[54] In other words, Avista at times finds "fault" in Mr. Mullins' approach for being overly detailed, in keeping with the Company's "mechanistic" characterization of ICNU's attrition study, while inconsistently alleging that there is nothing objectionable about a granular or disaggregated approach at other times.[55]

28 On the other hand, Staff witness Christopher Hancock finds the granularity of Mr. Mullins' approach to be not mechanistic enough, characterizing Mr. Mullins' trending analysis as being "much like beauty, in that it is in the eye of the beholder," and criticizing ICNU's model for a failure to adhere to bright-line rules and

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50/ Id. at 17:9-10.
51/ Id. at 17:6-9.
52/ Norwood, TR. 118:2-4
53/ See Andrews, TR. 133:6-13.
54/ See Exh. No. GDF-1T at 4 n.3 (referencing the Commission's recognition of the 2007 "kink point" used by Avista).
55/ Company witness Grant Forsyth also made statements at hearing which seem to indicate the propriety of technical and granular attrition analysis. See, e.g., Forsyth, TR. 149:12-13 (testifying to an inability to give generic assessments, absent consideration of specific data sets); id. at 152:14-22 (explaining "a technical detail" of his distinction between a "kink point" and a "step," relative to slopes that are "slightly different").

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for the application of "subjective judgment."[56] Likewise, despite acknowledging the "intuitive appeal" of Mr. Mullins' approach in removing historical abnormalities when developing escalation rates, Mr. Hancock opted for a mechanistic approach. That is, Staff chose to merely accept all historical data "as it was," to avoid what Mr. Hancock characterized as a "messy and fraught task."[57]

29 The supposed "flaw" in Mr. Mullins' thorough approach, however, is actually an effort by ICNU to fulfill the end goal promoted by Mr. Hancock in this case and quoted again in full by the Company on rebuttal. Namely, that "[i]ntervening parties" like ICNU are "better able to represent their constituents and *provide deeper analysis and commentary* to the Commission in its efforts to produce outcomes in the public interest."[58] Accordingly, the fact that Mr. Mullins has performed a deeper attrition study, that improves upon methodology previously used by Avista and Staff, is a reason to embrace it—especially as it advances the consideration of whether attrition need has been "persuasively" demonstrated.[59]

30 In fact, far from engineering results as Staff has intimated, Mr. Mullins' innovative review of the Company's electric service data leads to new discoveries and insights that would not have otherwise been revealed, simply by churning out the same, more aggregated models.[60] In particular, Mr. Mullins "encountered a number of

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56/ Exh. No. CSH-10T at 6:6-14.

57/ Id. at 8:4-12.

58/ E.g., id. at 8:19-21; Exh. No. KON-1T at 2:10-12 (emphasis added).

59/ See, e.g., Commissioner Jones and Hancock, TR. 411:14-412:1 (explaining that Staff's decision to bring external data sources into its attrition approach resulted from Mr. Hancock being "challenged to find any better measures"); id. at 414:19-415:11 (agreeing, when asked at hearing whether objective and subjective elements should be factored in the Commission's attrition analysis, "that determining what is and is not beyond the Company's control is a very complex question"); Hancock, TR. 431:24-432:2 (approaching estimation of future rate base "by looking at the matter in a more granular way").

60/ Staff seems to agree that a disaggregated analysis produces better insight into attrition claims. See Hancock, TR. 422:18-25 ("... [E]valuating the subcomponents individually ... provides the

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interesting questions about the Company's claims of attrition and the degree to which its escalating expenditures can be better controlled."[61/]

31 For instance, ICNU's granular, disaggregated approach made it "clear … that the growth in production costs (both operating expense and rate base) has been markedly flat in recent years, and thus, has had little impact on the Company's overall need for an attrition allowance."[62/] Similarly, Mr. Mullins' approach yielded the "surprising" finding that "growth in general plant has also been a key driver of revenue requirement in the Attrition Allowance model"—surprising because, in contrast to transmission and production investment more customarily viewed as "time-sensitive and outside of the Company's control," general plant is a cost category for which "the Company has greater discretion to control and defer those capital outlays as necessary."[63/]

32 Ultimately, Mr. Mullins' thorough and improved attrition study addresses a critical need identified by the Commission in the last Avista rate case, a need which neither the Company nor Staff address by insisting upon conformance to the same methodological approach. Specifically, the Commission did "not find the escalation rates of the Company or Staff supporting attrition to be satisfactory" in the prior case, forcing the Commission to forge its own solution toward "an escalation rate more firmly grounded in historical data."[64/] By advancing the granularity of historical data analysis in this proceeding, Mr. Mullins has performed an attrition study providing the most supportable escalation results on offer to the Commission. Thereby, the Commission is afforded the best opportunity to determine what the evidence on record "persuasively"

Commission better insight as to not only the fact that rate base is growing or net plant is growing but what types of plant are growing and what rates are those specific type[s] of plant growing at").

61/ Exh. No. BGM-1CT at 19:3-4.

62/ Id. at 19:12-15.

63/ Id. at 19:18-20:4.

64/ Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 138.

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demonstrates, in the context of determining an appropriate attrition adjustment. Based on Mr. Mullins' updated electric attrition allowance model, the record indicates an electric revenue sufficiency for the Company of $1.0 million in 2017.[65]

c. Detailed and Granular Review of the Company's Filing Reveals Unjustifiable Costs in Contravention to Precedent

33 To further demonstrate the surprising and unjustifiable costs that a close and careful review of Avista's filing reveals, ICNU offers two specific examples. While these are in no way meant to be understood as exclusive or as the only instances in which Avista has failed to justify discrete expenses, ICNU believes that these two examples demonstrate the danger in any broad-brush acceptance of Company attrition claims.

34 First, to illustrate the point about the Company's apparent failure to exercise cost control relative to the growth in plant, Mr. Mullins testified to Avista's improper inclusion of $5.4 million in electric rate base, on a purely Washington-allocated basis, attributable to "plant held for future use."[66] As noted by Mr. Mullins, the WUTC standard holds "that plant held for future use be removed 'which have no specific dates on which they are expected to be placed in service.'"[67] Nonetheless, although Avista concedes that "there are no specific dates scheduled" relative to such plant held for future use,[68] and despite calls from both Staff and ICNU to remove these costs from rate base, the Company has refused to do so.[69]

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65 Exh. No. BGM-10T at 2:17-3:1; Exh. No. BGM-11.

66 Exh. No. BGM-1CT at 36:16-38:10.

67 Id. at 37:8-10 (quoting WUTC vs. Puget Sound Power & Light Co. ("Puget"), Dockets UE-921262 *et al.*, Eleventh Supplemental Order at 89 (Sept. 21, 1993)). In that case, the Commission adopted a Staff proposal to remove properties from rate base listed in Staff "Exhibit 754," comprised of "four groups" of properties, and including "plants which have no specific dates on which they are expected to be placed in service." See id. at 89-91.

68 Exh. No. JSS-7CX (Avista Response to ICNU DR 82).

69 Exh. No. JSS-4T at 12:10-20. ICNU attributes the Company's refusal to a misinterpretation of the relevant Commission precedent, given that the Company alludes to the same 1993 Puget decision.

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35 Second, Mr. Mullins recommended both an electric and a natural gas attrition adjustment based on excessive director fee expense charges.[70] While the amounts in question may be of relatively modest consequence, Avista's apparent refusal to follow an explicit Commission order is of great concern to ICNU, particularly on a matter directly associated with shareholder/ratepayer equity.[71]

36 Only 10 months ago, the Commission referenced 2009 precedent that set the standard in requiring Avista "to split director fees and meeting costs evenly between customers and shareholders."[72] The Commission also: 1) affirmed that "our practice is to allow the Company recovery of 50 percent of director fees from ratepayers"; and 2) authorized a continued 50% recovery for Avista going forward, absent a showing of "substantial evidence as to why this practice should be modified."[73]

37 Notwithstanding, in this proceeding Avista has testified to a "90%/10% split" for director fee expenses "*currently recorded* on the Company's books," in addition to restated expenses designed "to reflect a 97% Utility / 3% non-utility split" in future rate years.[74] This means that, not only did the Company not revise its books following the Commission's last order, which plainly required the recording of a 50/50% split, but the Company has again filed a case removing only 3% of director fee expenses for the

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70/ See, e.g., Exh. No. BGM-1CT at 12, Table BGM-2, line 10; id. at 43:1-44:4; Exh. No. BGM-10T at 13:21-22.

71/ Cf. WUTC v. Avista, Dockets UE-090134 *et al.*, Order 10 at 57 n.162 (Dec. 22, 2009) ("We recognize that these figures may appear to be of modest consequence in this proceeding, but the question of shareholders and ratepayers equitably sharing the costs of mutually beneficial Company obligations is an important principle"). See also Exh. No. JSS-8CX (Avista Response to ICNU DR 85) (stating the Company's calculation of a $0.3 million Washington electric impact if Avista reflected an even shareholder/ratepayer split).

72/ Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 219 (citing, Dockets UE-090134 *et al.*, Order 10 at ¶ 142).

73/ Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 220. Avista had "only removed 3 percent of the director fee expenses" in the last rate case. Id.

74/ Exh. No. JSS-1T at 24:16-18 (emphasis added).

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2017 and 2018 rate years, despite the Commission not yet approving any change to its long-standing practice, based on a "substantial evidence" showing by Avista.

38 In fact, the Company's "support" for deviating from Commission practice appears to be founded on another critical misreading of precedent, as with the plant held for future use standard. That is, the Company equates the treatment of director fee expenses to "D&O insurance," quoting from the same 2009 decision cited by the Commission when recently rejecting Avista's bid to exclude only 3% of director fee expenses.[75] But, the problem with Avista's attempted analogy is that the Commission explicitly differentiated between its approved treatment of director fee expenses and D&O insurance costs in that 2009 case, when confirming the equity of a 50% split of director fee expenses still followed today:

> The Company asserts that [director fees] costs should be borne by ratepayers or that, at most, there should be a 90/10 sharing. *In our analysis of D&O insurance costs*, we focused on the point that it is part of the officers' and directors' compensation package, necessary to attract and retain qualified management. *In contrast*, our focus here is on Board activities and expenses .... Therefore, we determine Directors' Fees and Meetings costs should be shared equally between shareholders and ratepayers.[76]

39 The point in drawing such close attention to these two specific issues is to illustrate the danger in generally accepting high level claims from Avista of massive earnings attrition. Stated differently, once more granular analysis is performed, as exemplified by Mr. Mullins' attrition study and testimony, many Company claims cannot be supported. However, since ICNU has finite time and resources, there are likely many additional instances of unsubstantiated costs within Avista's filing. Therefore, ICNU believes that the burden of proof should be applied in such a manner that "end results"

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[75] Id. at 25:9-26:2. On rebuttal, Avista essentially restates the same line of argument. See Exh. No. JSS-4T at 13:1-14:4.

[76] Dockets UE-090134 *et al.*, Order 10 at ¶ 142 (emphasis added).

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will err on the side of keeping rates low, should the Commission have any doubt about whether Avista has "demonstrated persuasively" that rising costs are outside of its control.

2. Cost of Capital Recommendations from ICNU Are Supported by Sound Methodology

40 In the interest of brevity, ICNU will not attempt to comprehensively restate Mr. Gorman's thorough analysis supporting the reasonableness of a 9.10% ROE and 7.25% ROR for the Company.[77/] As Mr. Gorman has demonstrated, authorized returns on equity have steadily declined over the past decade for electric utilities.[78/] Yet, Avista and other electric utilities have been able to maintain "strong investment grade credit standing, and have been able to attract large amounts of capital at low costs to fund very large capital programs."[79/] Indeed, the Company concedes to continued over-earning in recent years, including 2016,[80/] even after the Commission recently expressed concerns that such financial health would "not hold in the [2016] rate year."[81/] These facts lead ICNU to recommend that it would be appropriate to reduce Avista's authorized return levels, based upon the full cost of capital proposal of Mr. Gorman.

41 Also, ICNU draws the Commission's attention to a discrete issue touching upon WUTC precedent. As an adder to Avista's ROE proposal, Company witness Adrien McKenzie includes a flotation cost adjustment.[82/] Mr. Gorman points out the impropriety of this adjustment and recommends its rejection, specifically because, as Mr. McKenzie "does not show that his adjustment is based on Avista's actual and verifiable

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77/ See generally Exh. No. MPG-1T. See also Judge Moss, TR. 436:10-21 (encouraging parties to minimize briefing length, as appropriate, and reminding parties that Commissioners have already thoroughly studied the record and will look beyond briefing arguments to the record itself).
78/ Exh. No. MPG-1T at 3:15-4:3.
79/ Id. at 4:5-7.
80/ See, e.g., Exh. No. KON-1T at 11:3-13; id. at 13:6-8.
81/ Dockets UE-150204 and UG-150205 (*consolidated*), Order 05 at ¶ 131.
82/ Exh. No. AMM-1T at 37-40.

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flotation expenses, there are no means of verifying whether [the] proposal is reasonable or appropriate," or based on "known and measurable" costs.[83] Further, ICNU submits that a rejection of Mr. McKenzie's generic flotation cost adjustment would be supported by precedent, since the WUTC has previously refused to reflect flotation costs when, as in Avista's case, the utility "did not incur such expenses in the test year."[84]

3. A Non-Uniform Rate Spread Is Justified and Supported by Both Parties Performing Cost of Service Studies

42 Both ICNU and Avista, as the only parties performing cost of service studies in this proceeding,[85] have recommended a non-uniform rate spread.[86] Both ICNU and Avista also agree that the residential class, under Schedule 1, is significantly under unity, or paying much less through rates than what it costs the Company to serve the residential class. More specifically, ICNU and Avista calculate Schedule 1's present rate of return index at 0.55 and 0.46, respectively,[87] meaning that residential customers are only paying about one-half of the costs required to serve them. Conversely, both Avista and ICNU have demonstrated that other rate classes, including large industrial customers under Schedule 25, are presently subsidizing the residential rate class at return indices above unity.[88]

43 In fact, according to Avista's cost of service determinations extending back at least to 2009, Mr. Stephens has demonstrated that "Schedule 1 has enjoyed a large and sustained subsidy for several years."[89] For instance, at no time over that entire period has the Company ever calculated a residential return index of more than 0.66.

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83 Exh. No. MPG-1T at 50:5-10.
84 WUTC v. PacifiCorp, Dockets UE-050684 and UE-050412, Order 04/03 at ¶ 122 (Apr. 17, 2006).
85 E.g., Ehrbar, TR. 279:22-280:6; Ball TR. 320:18-20.
86 See, e.g., Exh. No. PDE-8T at 3-4, Table Nos. 1-2; Exh. No. RRS-1CT at 37, Table 5.
87 See, e.g., Exh. No. PDE-8T at 4, Table No. 3; Exh. No. RRS-1CT at 34, Table 4.
88 See, e.g., Exh. No. PDE-8T at 4, Table No. 3; Exh. No. RRS-1CT at 34, Table 4.
89 Exh. No. RRS-12T at 5:1-2 & Table 1.

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Further, Schedule 1 has been as low as 0.55 according to Avista calculations on two occasions (including most recently).

44 In spite of such consistent evidence of inter-class subsidization, however, "Staff recommends maintaining the status quo with respect to rate spread," including a proposal to spread "rate increases across all customer classes on an equal percentage basis."[90/] To support this uniform rate spread proposal and the inevitable continuation of inter-class subsidies at the "status quo," Staff witness Jason Ball explains that the Commission routinely considers the "[a]ppearance of fairness" and "[p]erceptions of equity."[91/] Needless to say, a decision to maintain the long-embedded residential subsidy in Avista rates would neither "appear" fair to other customers nor be "perceived" as equitable. As even Mr. Ball recognizes, "[a] parity ratio that falls outside of a target range may be considered unreasonable or unfair. For example, a rate schedule with a parity ratio well below 1.00 means that schedule is essentially being subsidized by other rate schedule(s)."[92/]

45 Apart from "appearances" and "perceptions," however, Staff's recommendation would also not result in "actually" fair or equitable results. Rather, as the Company points out, two customer classes would "actually move further away from unity" under Staff's proposal, including large customers under Schedule 25 moving further above unity.[93/] Thus, ICNU agrees with the Company that Staff's proposal "is not reasonable" and should be rejected[94/]—especially given Mr. Ball's concession that

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90/ Exh. No. JLB-1T at 3:3-7.
91/ Id. at 14:1-5.
92/ Id. at 7:9-12.
93/ Exh. No. PDE-8T at 4:14-24.
94/ Id. at 4:25.

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Avista's electric cost of service study (demonstrating that Schedule 1 is well below unity) "should be considered directionally accurate for the purpose of setting rates."[95]

46 ICNU and Avista agree on a non-uniform rate spread, in the event that the Commission approves the Company's full revenue request; but, should the Commission authorize a lower amount, ICNU recommends that the initially proposed rate increase for Schedule 1 not be reduced.[96] As Mr. Stephens explains, any savings from a reduced revenue amount "should accrue to the other classes, in proportion to Avista's proposed increase amounts."[97] The Company does not generally support this aspect of ICNU's proposal, contending that it would "disproportionately impact Residential Schedule 1/2 customers."[98] Yet, as Mr. Stephens explicitly illustrates, the rate "impact" on residential customers will be exactly the same under the Company's proposed rate spread or under ICNU's alternative proposal—i.e., an 8.4% increase.[99]

47 Accordingly, if Avista's rate spread proposal "moves all customers gradually towards unity," as the Company claims,[100] then it would be inconsistent to view an identical 8.4% increase, under ICNU's proposal, as being any less gradual in an absolute sense.[101] As manifest by Commission questioning at hearing, the Company has made little progress in rectifying the long-standing inter-class rate subsidy issue.[102] Thus, ICNU submits that real strides should be made to gradually *and* effectively reduce the residential rate class subsidy. This requires that a distinction be made between

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95/ Id. at 5:7-8 (quoting Exh. No. JLB-1T at 9:21-22) (emphasis by Avista).
96/ Exh. No. RRS-1CT at 37:1-8 & Table 5.
97/ Id. at 37:5-6.
98/ Exh. No. PDE-8T at 5:18-19.
99/ Exh. No. RRS-1CT at 37, Table 5.
100/ Exh. No. PDE-8T at 5:19-21.
101/ See Exh. No. RRS-1CT at 38:1-15 (placing a prior WUTC cap of a 112% system average increase in the context of a much larger 17.85% *overall* rate increase than is at issue in this proceeding).
102/ E.g., Commissioner Rendahl and Ehrbar, TR. 289:24-291:21; Chairman Danner and Ehrbar, TR. 299:10-14.

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"gradual" movement, e.g., an 8.4% increase for Schedule 1 in any circumstance, and something more akin to "glacial" and continued ineffectual movement, i.e., under lesser increase percentages supported by Avista and Staff, in some or all circumstances.[103]

C. Additional ICNU Recommendations Are Reasonable in the Context of More Industrial-Specific Concerns

48 In addition to supporting Avista's recommendation for some form of non-uniform rate spread in this proceeding, Mr. Stephens has made additional proposals of a more industrial-specific nature. To this end, ICNU recommends approval of the following:

- Changes to Avista's electric Cost of Service Study ("COSS") to remove any bias or inequitable assumptions relative to large customers;
- Modest adjustment to Schedule 25 third energy block collections on the Company's Demand Side Management ("DSM") tariff rider, Schedule 91, to reduce the current and historic inequity of contributions from Avista's largest customer; and
- Authorization of a demand response rate pilot program for Schedule 25 customers.

1. The Record Supports COSS Modifications in this Proceeding

49 In the interest of brevity, ICNU will generally refer the Commission to Mr. Stephens' full analysis in support of electric COSS modifications that ameliorate disproportionately harmful impacts to large customers,[104] while highlighting only a few select issues here. Moreover, especially if the Commission declines to order modifications to the Company's COSS in this proceeding, ICNU supports Staff's recommendation that the Commission institute a general proceeding to review cost of

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103 See also Exh. No. RRS-1CT at 37:9-12 (explaining a similar ICNU recommendation, if a 2018 rate increase is approved).

104 See, e.g., id. at 2:3-35:2; Exh. Nos. RRS-3 to RRS-8.

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service methodologies for all investor-owned utilities ("IOUs") in Washington.[105/]

50 The record plainly shows that there are deep-rooted flaws in the Company's entire rate structure, most glaringly apparent in the chronic under-recovery of electric cost of service from the residential class, i.e., Schedule 1.[106/] In large part, endemic rate structure problems have not been rectified because the Company simply follows the same COSS methodology year after year, including a "peak credit" approach authorized at (or even before) the turn of the millennium.[107/] Nor is ICNU the only party concerned over the continuing propriety of Avista's largely unchanged COSS: "Staff is concerned about the results of the proposed Electric COSS because the Commission has not explicitly approved a COSS for Avista *since before 2005*."[108/] ICNU and Staff also agree on multiple discrete issues of potential redress within Avista's electric COSS.[109/] However, only ICNU has actually performed an electric COSS in this proceeding and provided quantifiable support for specific improvements to the Company's COSS.

51 The record also shows that Avista is neither wedded to all the elements of its COSS in this case nor dogmatic about any particular methodological approach. For instance, Company witness Tara Knox responded to Staff COSS concerns by noting "the variety of methodological choices available when developing cost of service analysis," adding that: "From a methodological standpoint … [O]ne party may believe a particular approach is fair and reasonable, while another party may prefer a different approach. *And both parties may find support for their point of view in the literature*."[110/]

105/ See Exh. No. RRS-12T at 2:3-9, 2:19-3:17.
106/ E.g., Commissioner Rendahl and Ehrbar, TR. 289:24-291:21; Exh. No. RRS-12T at 4:9-5:2 & Table 1; Chairman Danner and Ehrbar, TR. 299:10-14.
107/ Exh. No. TLK-1T at 11:8-14.
108/ Exh. No. JLB-1T at 8:12-13 (emphasis added).
109/ E.g., id. at 8:14-9:5; Exh. No. RRS-12T at 5:3-6:2.
110/ Exh. No. TLK-4T at 2:1-7 (emphasis added).

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52 At hearing, Ms. Knox further explained that the Company could reasonably support different approaches simultaneously on exactly the same methodological issue.[111/] In fact, Ms. Knox acknowledged that she is presently testifying on behalf of the Company for approval of COSS elements in Idaho that are the complete opposite of what she has advocated for in this proceeding, yet which are in full accord with the current WUTC proposals of Mr. Stephens.[112/]

53 Ms. Knox's admittedly inconsistent positions on COSS methodology, in simultaneous proceedings, are not raised as a criticism against the Company or Ms. Knox. Rather, this reality brings to the fore two crucial points that should be factored as the Commission considers whether to order changes to Avista's electric COSS in this proceeding: 1) COSS methodology and constituent elements in Washington should not be viewed as immutable; and 2) Ms. Knox's rationale for adopting opposite positions and opposing ICNU's recommendations in Washington, i.e., to conform to what Washington has "traditionally" done,[113/] is not a sufficient basis for continuing any practice, especially when the record demonstrates that long-unchecked rate problems need to be addressed and that Avista's circumstances have changed.

54 On the issue of Avista's changing circumstances, Mr. Stephens has provided considerable analysis to demonstrate that, "in recent years, Avista has been trending toward becoming a summer peaking utility."[114/] Mr. Stephens' analysis is central to recommendations for fundamental changes to the Company's "traditional" COSS, including the substitution of the "Summer and Winter Peak Method" for a 12

111/ Knox, TR. 258:9-13.

112/ Id. at 258:21-261:11. See also Exh. No. TLK-6CX.

113/ E.g., Knox, TR. 262:20-25; Exh. No. TLK-1T at 12:12-14 ("In Washington, transmission costs have traditionally been treated as an extension of the generation system, therefore, the peak credit ratio has also been applied ....").

114/ Exh. No. RRS-1CT at 9:5-6. See also Exh. No. RRS-3.

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Coincident Peak measure.[115] Moreover, Company witness Patrick Ehrbar provided testimony that supports Mr. Stephens' analysis (albeit, probably unwittingly), as when Mr. Ehrbar affirmed: "Avista is getting closer to being a dual peaking utility."[116]

55 Mr. Ehrbar's testimony is highly probative for several reasons on the issue of COSS changes. First, continued, rote application of "traditional" COSS methodology could hardly be supported on a rational basis, given this concession from Avista to evolving circumstances. Second, Mr. Ehrbar amplifies the sentiments of Ms. Knox in cautioning against "a 'one size fits all' approach" in Washington for COSS methodology, noting that "no single costing methodology will be superior to any other, and the choice of methodology will depend on the *unique circumstances of each utility*."[117]

56 However, there is a third and perhaps even more significant aspect that should be associated with Mr. Ehrbar's COSS testimony, flowing from his express reference to "the unique circumstances of each utility." Specifically, Mr. Ehbrar makes his points in the context of Staff's proposal for a generic COSS proceeding for all IOUs in Washington, testifying that "Avista believes that it is appropriate for each utility to conduct its own cost of service study to incorporate the unique conditions of their service territories."[118] This emphasis on unique conditions would speak to the need for consideration of changes to Avista's COSS in *this* proceeding, given the Company's evolving circumstances on which Mr. Stephens and Mr. Ehrbar agree.

115/ See Exh. No. RRS-1CT at 2:18-26, 9:6-25:6.

116/ Exh. No. PDE-8T at 9:9-10.

117/ Id. at 9:15-23 (quoting *Electric Utility Cost Allocation Manual*, National Association of Regulatory Commissioners ("NARUC Manual") at 22 (January 1992)) (emphasis added). That Mr. Ehrbar appeals to the NARUC Manual as authoritative on foundational COSS issues is also significant, since Mr. Stephens references the NARUC Manual throughout his testimony as supportive of ICNU's COSS recommendations—and often as contradictory to Avista's "traditional" COSS methodological assumptions. See, e.g., Exh. No. RRS-1CT at 2:23-26, 11:1-22, 12:11-17, 15:1-3, 19:10-12, 22:20-22:2 & nn.24-25.

118/ Exh. No. PDE-8T at 9:12-14.

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57 Further, Mr. Ehrbar advocates for unique COSS consideration by expressly differentiating between Puget and Avista as "winter peaking" and evolving "dual peaking" utilities, respectively.[119/] The reason this distinction is so critical is that, as Ms. Knox has explained, the Company generally follows the COSS methodology established for Puget in a 1992 case.[120/] Thus, Avista's COSS methodology is not only predicated on "traditional," perhaps antiquated methodology, established more than two decades ago—it was also approved in connection with a very different IOU, exhibiting fundamental service characteristics from which the Company now distinguishes itself, in support of Mr. Ehrbar's concern over application of a future COSS methodology to both.

58 As a final matter worthy of emphasis, Mr. Stephens has recommended COSS modifications to match allocation of Advanced Metering Infrastructure ("AMI") program costs, related to General & Intangible ("G&I") plant, with the Company's proposed allocation for AMI-related Distribution plant.[121/] As Mr. Stephens explains, such treatment is appropriate because the Company's AMI program would not directly apply to Schedule 25 customers or benefit industrial customers through any definitive, quantifiable evidence in the record.[122/]

119/ Id. at 9:8-10.

120/ Exh. No. TLK-1T at 11:11-12.

121/ E.g., Exh. No. RRS-1CT at 2:31-34, 32:4-9. ICNU does not support the Company's AMI proposal in this case. See Exh. No. BGM-1CT at 38:11-40:17. But, Mr. Stephens' recommendation regarding AMI is relevant both to any approval of AMI costs in this case and to any future Avista COSS in a proceeding associated with AMI program costs.

122/ Exh. No. RRS-1CT at 30:5-32:3. Further evidence demonstrating the lack of a discernible nexus between the AMI program and industrial customer benefit can also be found in the record. See Exh. No. HLR-10CX (showing, among other things, that Schedule 25 customers already have advanced metering systems and that Avista neither surveyed nor communicated with any industrial customers on the AMI program). See also Rosentrater, TR. 198:8-15 (agreeing that Avista's AMI proposal includes no enforceable promise that any customer benefits will materialize).

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59 On rebuttal, Ms. Knox agreed with Mr. Stephens' proposal and explained that its elements were both "reasonable" and "appropriate."[123/] While the Company explains that Mr. Stephens' proposal would not "materially change the results" for electric rate spread, ICNU still requests that the Commission direct the Company to reflect the proposed COSS modification in the future. Given the magnitude of costs associated with the AMI program,[124/] the demonstrated lack of AMI application to industrial customers, and the Company's agreement with the reasonableness of ICNU's recommendation, the future implications of this modification could be very important for Schedule 25 customers and a modification is warranted.

2. The Company Agrees that a Modification to ICNU's DSM Funding Proposal Would Be Reasonable

60 More than a year ago, ICNU first raised potential equity concerns with the Commission over historic industrial customer contributions to Avista's DSM program via Schedule 91, the Company tariff rider used to collect DSM program funds. Although these initial concerns were met with "enthusiastic questioning from the bench,"[125/] ICNU had come to a realization of the potential inequity issue at a late stage of the Company's last general rate case, and only after Avista's annual Schedule 91 review docket was well underway in 2015. Accordingly, ICNU's intervention in last year's Schedule 91 review docket was limited to exclude DSM equity funding concerns,[126/] and ICNU proceeded over the next several months to address its concerns, without mutually agreeable resolution, within the informal setting of the Company's Advisory Group.[127/]

123/ Exh. No. TLK-4T at 4:3-10.
124/ Commissioner Jones and Rosentrater, TR. 207:3-8 (identifying $215.2 million Washington portion of AMI present value project cost, including capital and expense).
125/ WUTC v. Avista, Docket UE-151148, Order 02 at ¶ 5 (Sept. 25, 2015).
126/ Id.
127/ Exh. No. RRS-1CT at 41:1-6.

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61 As Mr. Stephens has explained, with the support of detailed and quantified analysis: "There is a clear disparity among the rate classes in the relationship of benefits to costs associated with [] Schedule 91 collections."[128/] In particular, Avista reports that 64% of DSM contributions are returned to customers via direct incentives on a total-customer, Washington basis.[129/] Yet, for Schedule 25 customers, the same direct benefit return ratio is only 38%, dating back more than a decade, to 2005.[130/] Worse, the direct benefit-to-cost ratio for Avista's single largest customer, the only customer to effectively take service on the third energy block of Schedule 25, is at a paltry percentage over that same decade-plus period.[131/] To partially rectify this long-standing imbalance, therefore, ICNU has proposed a reduction to Schedule 25 collections on the DSM tariff rider, and specifically to the third Schedule 25 energy block.[132/]

62 ICNU cannot sufficiently overemphasize the fact that its proposal to modify DSM funding rates is not an argument that "indirect" or "systematic" benefits from DSM programs do not exist or should be ignored. This point must be emphasized because Staff appears to completely misinterpret the intent and substance of ICNU's position by concluding that "Mr. Stephens' argument obscures this fact with incomplete and misleading analysis."[133/] Respectfully, given its high regard for Staff and Mr. Ball, ICNU would simply posit that Staff, in its zeal to support its position, has unwittingly

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128/ Id. at 40:4-5. See also Exh. No. RRS-9C.
129/ E.g., Exh. No. RRS-1CT at 40:11-13; Exh. No. RRS-9C at 3, line 2, column 3.
130/ E.g., Exh. No. RRS-1CT at 40:13-15; Exh. No. RRS-9C at 3, line 1, column 3.
131/ E.g., Exh. No. RRS-1CT at 40:15-17; Exh. No. RRS-9C at 3, line 3, column 3. ICNU has not listed the specific figure, which is readily seen in the referenced cites, to avoid the need to create a confidential brief and complicate proceedings.
132/ Exh. No. RRS-1CT at 42:16-43:2. Mr. Stephens also proposes a "long-term solution" to establish a "Self-Direct option," similar to an existing Puget program, that could be implemented after this rate proceeding. See, e.g., id. at 41:20-42:13; Exh. No. RRS-9C at 4-5.
133/ Exh. No. JLB-5T at 5:14-15.

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presented the Commission with what is, in reality, a truly incomplete and misleading line of argument on this issue.

63 In short, Staff's argument is premised on the two-fold assertion that Mr. Stephens "fails to include" indirect or systematic DSM benefits in his analysis, and that such benefits "clearly exceed the costs being recovered from Schedule 25 customers."[134/] According to Mr. Ball, the "[c]onsideration of both direct and indirect benefits" which Staff prepared yields "a complete version of Mr. Stephens' analysis."[135/] The misleading aspect of this argument, however, is that no party actually disputes that indirect or systematic DSM benefits exist. Staff is merely beating a straw man, and doing so with what ICNU considers to be a degree of ironic and misplaced vigor.[136/]

64 Mr. Ball directly quotes to a Company discovery response explaining that systematic DSM benefits "accrue to all customers," as a category distinct from benefits received through "direct incentives."[137/] While Company stated that it "would be difficult to *quantify* whether customers benefit in the exact same way at all times" from indirect or systematic benefits,[138/] the plain implication is that, by definition, "systematic" benefits are essentially enjoyed equally or universally across customer all classes.[139/]

65 Without going further, this should more than adequately explain why an analysis of indirect or systematic benefits is irrelevant and ultimately misleading to equity

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134/ Id. at 6:21, 7:3-4.

135/ Id. at 7:4, 6:19-20.

136/ See id. at 6:16-17 ("Analysis that ignores pertinent but inconvenient evidence obfuscates the issues important to this proceeding and is detrimental to the record").

137/ Id. at 6:9-12 (quoting Exh. No. PDE-10CX at 2 (Avista Response to ICNU DR 41)).

138/ Id. at 6:9-10 (quoting Exh. No. PDE-10CX at 2 (Avista Response to ICNU DR 41)) (emphasis added).

139/ The systematic nature and universally distributed feature of the indirect DSM benefit category was further emphasized when ICNU asked a direct follow-up question to the DR 41 response, prompting the Company to respond that "energy efficiency programs provide benefits to all customers as these programs help to alleviate the need for more expensive generation resources." Exh. No. PDE-10CX at 7 (Avista Response to ICNU DR 96). See also Exh. No. PDE-8T at 13:17-19 ("Every customer benefits from the Company's DSM programs through an avoidance of increased generation costs over time .... These system benefits accrue to all customers ....").

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considerations among rate classes in a DSM benefit-cost analysis. That is, no worthwhile comparison can actually be made by using a benefit aspect that essentially accrues to all customers equally. Stated differently, indirect or systematic benefits will not alter the results of an equity comparison focused on the variances of direct benefits received. Moreover, the Company's consistent statements that it is "difficult," "not feasible," or that the Company is "not able to provide" quantification of system benefits on a schedule-by-schedule or individual customer basis would render any attempt to perform such an equity comparison among rate classes impractical.[140/]

66 This also explains why Staff's argument is incomplete, raising the question of which party in this case "ignores pertinent but inconvenient evidence" and "obfuscates the issues," even if unintentionally. Specifically, Mr. Ball expressly testifies that direct benefits—which, as just noted, are the only benefit category useful or relevant for purposes of equity comparison—*should be considered* within "a complete version of Mr. Stephens' analysis." Nevertheless, Staff has never challenged Mr. Stephens' thorough analysis in the specific context of direct benefits inequity claims among rate classes. In sum, Staff's analysis is incomplete because it does not actually compare or even discuss the direct benefits calculations in the record, despite claiming that such consideration is relevant within a "complete analysis."

67 Conversely, Avista has acknowledged that the lone customer effectively served on the third energy block of Schedule 25 "provides a significant amount of funding for the DSM program," or nearly 5% of the entire electric DSM program.[141/]

[140/] See, e.g., Exh. No. PDE-10CX at 2 (Avista Response to ICNU DR 41); id. at 7 (Avista Response to ICNU DR 96); id. at 6 (Avista Response to ICNU DR 95).

[141/] Exh. No. PDE-8T at 14:20-22, 10-11. See also Exh. No. PDE-10CX at 3-4 (Avista Responses to ICNU DRs 45, 46) (showing that Avista's "most cost-effective projects" have historically been "site-specific DSM projects," which are drawn 100% from industrial customers and other non-

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Mr. Ehrbar testified at hearing that he had reviewed Mr. Stephens' entire proposal to reduce DSM funding, based on the issue ICNU raised over the "fair share of DSM funding" related to that single customer.[142/] Notwithstanding, neither on rebuttal nor at hearing did the Company so much as attempt to dispute any of Mr. Stephens' findings. Rather, having reviewed all ICNU claims and supporting calculations—and, drawing upon nearly two decades of direct experience on specific DSM, energy efficiency, industrial customer, and rate and tariff issues[143/]—Mr. Ehrbar concluded that: 1) "changes in the level of funding for the third block of Schedule 25 could also be found to be within the bounds of reasonableness"; and 2) "One reasonable option would be for the third energy block to pay one-half of the present DSM rate, with the shortfall spread to all other schedules including blocks 1 and 2 of Schedule 25."[144/]

68 Accordingly, ICNU now requests that the Commission consider the Company's alternative suggestion that a one-half reduction to Schedule 25 third energy block collections would be a "reasonable option." This option would still address ICNU's equity concerns, while representing a reasonable outcome for both the Company and its largest customer. Moreover, the annual funding shift of $0.35 million would make a material impact on the 2017 rates of this single customer,[145/] while the impact on all other customers would be quite modest by comparison, given an even distribution across all other rate schedules, including the first two Schedule 25 energy blocks. Finally, this reduction would be more conservative than a similar modification approved

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residential customers). Thus, not only does Avista appropriately recognize industrial contributions as significant, but, through site-specific projects, industrial customers have historically been a primary contributor to providing the most value in terms of system benefits for all customers, sometimes accounting for half or more of all energy savings in a single year. See Exh. No. PDE-10CX at 5 (Avista Response to ICNU DR 47).

142/ Ehrbar, TR. 276:9-277:2.

143/ Id. at 273:25-275:24.

144/ Exh. No. PDE-8T at 14:22-23, 15:2-3.

145/ Id. at 15:4-5.

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by the Commission in the Company's 2014 general rate case, when the third energy block of Schedule 25 was completely exempted from collections on the Schedule 92 tariff rider.[146/]

69 On the other hand, ICNU submits that Staff's extreme position, that "a reduction in Schedule 25 DSM rates is entirely unwarranted,"[147/] is so narrow and dogmatic as to be unreasonable. The fact that Staff never refutes or even discusses the evidence in the record, concerning the equity of direct benefits distribution among classes, renders such an absolute stance unsupportable. Indeed, Staff never even attempted to engage with this relevant evidence, even though Mr. Ball took note of the Company's position that "judging the equity of DSM" includes "*comparing direct incentives* to the portion of funds collected through schedule 91 for specific customer classes."[148/]

70 Moreover, Mr. Ball chose not to acknowledge that the Company had also affirmed that "[t]here can be a range of designs and outcomes" available to "the Company in designing programs such as the DSM program, including funding for the program, … for the program to be fair and reasonable."[149/] Hence, a fair and open-minded consideration of a "range" of reasonable outcomes, to which the Company is properly committed, cannot squared with Staff's dogmatic assertion that any potential reduction to Schedule 25 funding is "entirely unwarranted."[150/] Respectfully, ICNU

146/ See, e.g., Exh. No. RRS-1CT at 43:10-12; Exh. No. RRS-9C at 8; Ehrbar, TR. 288:19-289-15.

147/ Exh. No. JLB-5T at 5:12.

148/ Id. at 6:13-15 (quoting Exh. No. PDE-10CX at 2 (Avista Response to ICNU DR 41)) (emphasis added). ICNU believes this to be a fair restatement of the Company position that "purely" judging equity by a direct benefit comparison would be "incomplete," as affirmed by Mr. Ehrbar at hearing. Ehrbar, TR. 284:23-285:3.

149/ Exh. No. RRS-11C at 7 (Avista Response to ICNU DR 119).

150/ See also Ball, TR. 316:15-317:11. At hearing, Mr. Ball acknowledged that a scenario in which DSM funds were drawn entirely from a single rate class would be inappropriate. This was a concession by Staff that, at some point, DSM contribution allocations can be inequitable among

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submits that Staff's absolute rejection of the very concept that a "range" of DSM funding designs could be "fair and reasonable" undermines the credibility of Staff's position on the entire issue.

3. ICNU's Request for a Demand Response Pilot Program Is in Keeping with Claims by the Company about Partnering with Customers

71 Mr. Stephens has provided adequate support to justify the establishment of a large customer demand response pilot program for Schedule 25, including a proposed "Schedule 78" tariff that could be implemented immediately, with little effort on the Company's part.[151] ICNU has also shown a willingness to receive suggestions or enhancements to this proposal, "with the goal of a reasonable demand response pilot program coming out of this rate case."[152] However, in rebuttal and cross-answering testimony filings, respectively, the Company and Staff have rejected any potential for the implementation of a large customer demand response pilot program at the conclusion of this general rate case.[153]

72 Ideally, ICNU hopes the Commission will to direct the Company to implement Mr. Stephens' proposed Schedule 78 as a demand response pilot program. Short of this, ICNU requests that the Commission direct Avista to initiate a specific stakeholder collaborative to discuss the development of a near-term demand response pilot program, following the model of multiple Commission directives to initiate collaboratives relative to contested issues in the final order of Pacific Power & Light Company's ("Pacific Power") recent rate case.[154]

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rate classes, notwithstanding even universally enjoyed "indirect" benefits—an understanding that supports ICNU's recommendation to reduce Schedule 25 contributions on the third energy block and Avista's position that it would be reasonable to do so.

151/ Exh. No. RRS-1CT at 43:21-47:5.

152/ Id. at 47:10-11.

153/ See, e.g., Exh. No. CGK-3T at 10:13-11:20; Exh. No. JLB-5T at 1:13-15.

154/ WUTC v. Pacific Power, Docket UE-152253, Order 12 at ¶¶ 229, 236, 255 (Sept. 1, 2016).

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73 ICNU also asks that Commission expectations be articulated in such a directive, including a specified completion date, as was done in the Pacific Power case.[155/] This would not only help focus Company and stakeholder efforts, but could also provide a date certain for the initiation of a contested proceeding, if parties cannot agree. While ICNU is aware of Staff's proposal to queue the demand response issue up for evaluation by "Avista's Advisory Group,"[156/] ICNU does not believe that its proposal would receive fair or timely consideration in the informal Advisory Group setting without the clear direction requested from the Commission.[157/]

74 ICNU believes that a specific stakeholder collaborative, with definitive expectations and timetable, is especially appropriate given the Company's broad claim that the $38.6 million rate increase requested in 2017 is supported, in part, because "Avista's operating costs also reflect recent and continuing efforts to partner with customers … to provide new products, services and information for customers toward an energy-efficient and low-carbon future."[158/] From the direct perspective of the Company's largest customers, this claim cannot be reconciled with Avista's refusal to consider implementation of a demand response program prior to 2021.[159/]

155/ Docket UE-152253, Order 12 at ¶¶ 229, 255.

156/ Exh. No. JLB-5T at 1:14-15.

157/ This conclusion is based on recent and direct experience in the Advisory Group over the course of several months in which ICNU spent considerable resources in developing quantifiable support for the DSM funding equity concerns ultimately presented in this case. ICNU's good-faith efforts in the Advisory Group were met with what might best be described as "filibustering" by other non-Company parties, i.e., with nothing approaching any reciprocal attempt to investigate or independently analyze ICNU's claims on a quantifiable basis or work toward a consensus resolution. From ICNU's point of view, and notwithstanding any idealistic goals which may be comfortably imagined or attached to the Advisory Group, *in practice* the Advisory Group operates with Staff and Public Counsel opposed to ICNU along predictable interest lines on issues affecting distribution of costs or benefits between residential and industrial rate classes, independent of actual issue merits, and with Avista generally acceding to the majority.

158/ Exh. No. KON-1T at 6:34-37.

159/ See Exh. No. CGK-3T at 11:13-20 (explaining that ICNU would be invited to submit demand response offerings in 2018 for a projected capacity deficit in 2021).

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75 Moreover, the Company's rejection of ICNU's demand response proposal, simply on the basis of projected capacity need, seems an "incomplete and misleading analysis," to borrow Staff's phrasing. That is, Company witness Heather Rosentrater explained at hearing that "there's other benefits to demand response beyond the resource benefit."[160/] Nevertheless, Company witness Clint Kalich never mentioned such benefits in what amounted to a relatively summary dismissal of ICNU's proposal. In fact, Mr. Kalich testified: "As proposed by ICNU, there would be *no* additional value to Avista customers."[161/]

76 At best, this sort of mutually contradictory testimony by two Company witnesses might be explained as an oversight or an innocent failure to communicate knowledge on multiple facets of value associated with a large customer demand response pilot program.[162/] Even in this "best case" scenario, however, there is at least cause for more immediate consideration of demand response program benefits than the 2021 implementation timeline proposed by Avista. Finally, a directive to initiate a specific stakeholder collaborative on demand response, with the real possibility of a contested case proceeding if agreement is not reached (or any stakeholders do not act in good faith), will afford the Commission a concrete opportunity to evaluate the Company's sweeping claim about "recent and continuing efforts to partner with customers" toward an energy efficient future.

160/ Rosentrater, TR. 225:12-13.

161/ Exh. No. CGK-3T at 11:1 (emphasis added).

162/ ICNU recognizes that Ms. Rosentrater testified to having no familiarity with ICNU's proposal, but that raises a whole different level of concerns. See Commissioner Jones and Rosentrater, TR. 224:11-20.

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III. CONCLUSION

77 Based upon the evidence in the record in this proceeding, and given the reasons stated in this brief along with those contained in ICNU's testimony and exhibits, ICNU respectfully requests that the Commission approve ICNU's recommendations, including a reduction to the Company's electric revenue requirement of $1.0 million.

Dated in Portland, Oregon, this 7th day of November, 2016.

Respectfully submitted,

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