

January 31, 2008

**SENT VIA E-MAIL AND FIRST CLASS MAIL**

Carole Washburn  
Executive Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Pk. Dr. S.W.  
PO Box 47250  
Olympia, WA 98504-7250

Re: In the Matter of Avista Utilities Decoupling Program  
Docket No. UG-060518  
Failure to Comply with Order 04, Filing of Draft Evaluation Plan

Dear Ms. Washburn:

Public Counsel submits this letter regarding the failure of the settling parties in the above-referenced docket to file a draft evaluation plan for Avista's decoupling pilot program pursuant to Order 04.

Section J of the Settlement Agreement, adopted and approved by the Commission as Appendix A to the final order (Order 04), commits the settling parties to develop and file a draft evaluation plan for the decoupling pilot "no later than December 31, 2007." Specifically, the agreement and order provide:

Evaluation Plan and Extension of Mechanism: On or before March 31, 2009 (three months prior to the end of the pilot deferral term), the Company may file a request to continue the Mechanism beyond its initial term. That filing would include an evaluation of the Mechanism and any proposed modifications of the Company. Any party is free to argue that the renewal of the Mechanism is only appropriate in the context of a general rate case. The Company would bear the burden of demonstrating why the pilot program should be extended other than in the context of a general rate case.

The Company, Commission Staff, and other interested parties will develop through a collaborative process, a draft evaluation plan to be filed with the Commission no later than December 31, 2007. Order 04, Appendix A, p. 10.

Public Counsel is not aware of any effort by Avista to work with Staff or other parties to develop the required evaluation plan. Public Counsel has not been invited to participate in a collaborative process and no evaluation plan has been filed in this docket or elsewhere to our knowledge.

The failure to file the plan in a timely manner is a material violation of Order 04. The evaluation of the decoupling program was a key component of the Commission's approval of the proposal. Order 04 stated:

However, we agree with Public Counsel and the Energy Project that the proposal is not without potential flaws. *The settling parties should consider our approval as an opportunity to demonstrate that decoupling mechanisms do indeed increase utility sponsored conservation and that the potential flaws do not outweigh the program's benefits. We will carefully evaluate the mechanism, and will only consider an extension upon a convincing demonstration that the mechanism has enhanced Avista's conservation efforts in a cost-effective manner.* Order 04, ¶ 33(emphasis added).

The order also noted that:

An evaluation of the pilot, partial decoupling program, regardless of whether Avista seeks to continue the program after the three-year pilot period expires, is important to determining the value of decoupling mechanisms for regulated utilities in Washington State. Order 04, ¶ 41 (Finding of Fact 7).

The careful evaluation of the mechanism is being jeopardized by failure to develop and file the draft plan as required by the Settlement Agreement. The life span of the pilot is approaching its half way point. The opportunity to collect information that needs to be collected concurrently with the pilot program is rapidly passing.

The decoupling mechanism is already having an impact on rates. Effective November 1, 2007, a rate adjustment was approved to recover a decoupling surcharge of \$305,677 (Docket UG-071863). Ratepayers are entitled to expect that the evaluation, as well as the surcharge provisions of the pilot, will be implemented.

Carole Washburn  
Docket No. UG-060518  
January 31, 2008  
Page 3 of 3

Public Counsel asks that the Commission set this matter for open meeting within 30 days, to (1) require Avista to present a report on the status of the evaluation plan for the decoupling pilot; (2) accept recommendations from interested parties on the evaluation issue.

Sincerely,

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SJF:cjw  
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