

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

DOCKET UE-210628

Avista Corporation d/b/a Avista Utilities
2021 Clean Energy Implementation Plan

**RESPONSE COMMENTS OF THE ENERGY PROJECT
(March 14, 2022)**

A. Background

The Energy Project files these comments in response to the Notice Of Opportunity To Respond To Written Comments issued in this docket on February 3, 2022, and in responses to Avista's Reply Comments.¹ These comments address the issue of Customer Benefit Indicators (CBI), particularly the TEP/Joint Advocate recommendations for CBIs regarding affordability, a priority identified by Avista's customers and its EAG.² As discussed in TEP's comments regarding Avista's Draft CEIP in September 2021³ and its Final CEIP in January,⁴ The Energy Project sees gaps in addressing affordability and other issues in the Avista CBIs, and identifies areas where Avista's proposed CBIs and metrics can be improved.

Beginning last summer, the Joint Advocates (The Energy Project, other members of Avista's low-income and energy efficiency advisory groups⁵ and Front and Centered) have sought consideration of a set of Joint Advocate CBIs and metrics, first during the development of the CEIP, and now as discussions continue regarding potential changes to the filed Final CEIP. To date, Avista has declined to do so, essentially on process grounds. The Energy Project

¹ Avista Utilities 2021 CEIP Reply Comments (Avista Reply), February 24, 2022.

² Avista Reply, pp. 4-5; Avista Final CEIP, Table 3.2

³ Comments of The Energy Project re Draft CEIP, September 7, 2021

⁴ Comments of The Energy Project re Final CEIP, January 28, 2022

continues to hope that current discussions on the merits can resolve these concerns so that debate at Open Meeting, or in an adjudicative proceeding is not necessary to allow consideration of these reasonable recommendations.

The Energy Project would prefer to be discussing the merits of the Joint Advocates' proposals with Avista, rather than having a debate about process. Unfortunately, rather than addressing the TEP and Joint Advocate CBIs and metrics in its Reply comments, Avista focuses on process complaints. These arguments require some response.

Avista's basic rationale appears to be that the recommendations contained in the Joint Advocate's recommended CBIs and metrics are "off the table" for discussion because Avista asserts they were not presented in time for the Company to present them to its advisory groups, including its Equity Advisory Group (EAG). Avista therefore proposes that these Joint Advocate CBI proposals would only be considered for possible inclusion in the next CEIP after presentations by Avista and discussions with the EAG.⁶ Avista's position is not consistent with the facts, with the letter and the spirit of CETA, or with the Commission's CEIP approval process.

B. Discussion

1. Avista has had time and opportunity to consider the Joint Advocate proposals.

⁵ Public Counsel, Northwest Energy Coalition

⁶ Appendix F of the Draft CEIP states: "Avista reviewed the [TEP and Joint Advocate] CBIs and noted several overlapped with Avista's proposed CBIs. Due to when the comments from the Joint Advocates were received, Avista was not able to present their proposed CBIs to their EAG, advisory groups, or with the CEIP workgroup. Avista will continue to work collaboratively with the stakeholders on the development of additional CBIs for future CEIPs."

The Energy Project disagrees with the characterization that Joint Advocates “chose not to actively engage in discussion and provide input.”⁷ The Energy Project and the other Joint Advocates made the decision in planning for participation in the multiple CEIP dockets, to develop and present a joint set of CBI recommendations to the utilities. The Joint Advocates undertook this coordinated effort in good faith and of their own accord. The intent was to provide consolidated input into the public process in the interest of clarity and efficiency. The hope was that this unified set of proposals from four major consumer stakeholders would facilitate Avista’s consideration more readily than multiple comments and suggestions.

TEP understands that Avista was informed during development of the Draft in July 2021 that the JA CBIs were being developed. The JA CBIs were then filed simultaneously in the PSE, Avista, and PacifiCorp CEIP dockets on July 30, 2022. Avista acknowledges it was aware of this filing within a few days.⁸ Thus, the proposals were presented over seven months ago, two weeks prior to issuance of the Draft CEIP, and two months prior to filing of the Final CEIP. Even as Avista was calling for comments from stakeholders on its Draft CEIP issued on August 16, the Draft CEIP was already dismissing consideration of the Joint Advocate proposals until the next CEIP on process grounds.⁹ Avista has essentially maintained the same stance since that time. Notwithstanding this statement in the August Draft, The Energy Project and other parties provided comments responding to Avista’s Draft and Final CEIPs in detail and addressing the proposed JA CBIs and metrics.

⁷ Avista Reply, p. 8

⁸ Avista Reply, p. 7

⁹ Draft CEIP, Appendix 4 (see footnote 5 above)

Since the JA CBIs were first provided last summer, Avista has held several meetings,¹⁰ but unfortunately has not used the opportunities to engage with low-income or energy efficiency Advisory Group members or the EAG regarding the specific Joint Advocate recommendations, as they acknowledge. The Company stated that it did not have time in the six weeks between the Draft CEIP and the Final CEIP because of other activities to consider the Joint Advocate recommendations,¹¹ although consideration of stakeholder comments and potential modification is the primary purpose of issuing a Draft for comment.¹² Indeed, running contrary to its arguments on the JA CBIs, Avista decided to adopt a new CBI for “Transportation Electrification” to provide visibility to work on that issue, in response to stakeholder comments on the Draft.¹³

A response to the JA recommendations was not presented until after the Final CEIP was filed, in Appendix F. Appendix F dismisses the proposed CBIs regarding arrearages, credit scores, and disconnections as “not applicable to the transition to clean energy” even while stating that “affordability is a key equity area” for which it has proposed a CBI.¹⁴ Avista’s Reply comments state that “affordability is by far the biggest concern for a majority of our

¹⁰ The process after the Draft CEIP was filed is described in the Reply comments as including three public participation meetings. No advisory group meetings are mentioned. Avista Reply, p. 3.

¹¹ Avista Reply, p. 8.

¹² There is some suggestion in the Avista Reply that the Joint Advocates should have provided input via the “public participation” process. This is not consistent with the rules for Advisory Group member participation as noted in the Adoption Order, which discussed the distinction between advisory group and general public participation. Dockets UE-1910234 and UE-190698, General Order 601 (Adoption Order), ¶¶ 147-151.

¹³ Avista Final CEIP, pp. 6-13.

¹⁴ Avista Final CEIP, Appendix F, p. 44.

customers,”¹⁵ and the EAG gave affordability the highest number of votes in its prioritization exercise.¹⁶

As a member of Avista’s low-income and energy efficiency Advisory Groups, The Energy Project’s experience and observation is that Avista’s consultation process with those Advisory Groups was a cursory effort. Discussion of the CEIP was more in the nature of an Avista status report than an in-depth work session.¹⁷ It makes little sense for Avista to argue that it did not have a chance to present the JA proposals to its Advisory Groups, when the three most active consumer representatives in those Advisory Groups were the authors of the Joint Advocate recommendations they decline to consider.

2. There is no bar under the Commission rules to Avista considering modification of its CEIP post-filing to address stakeholder concerns.

1 A central theme for Avista appears to be that it cannot now consider proposals to modify its CEIP because the ideas were not presented to its Advisory Groups, including the EAG. This is a problem of Avista’s own making. Avista acknowledges that these proposals were available for presentation to and discussion with all the Advisory Groups after the filing of the Draft CEIP but apparently did not have time for that process.¹⁸

2 The Commission ‘s CEIP rules recognize the importance of Advisory Groups in the utility’s development of its CEIP and devote substantial attention to this function.¹⁹ The rules “rely on the use of advisory group input in the development of ... CEIPs [.]”²⁰ A benefit of Advisory Group involvement is that it “provides opportunities to address potential issues and

¹⁵ Avista Reply, pp. 4-5

¹⁶ Avista Reply, pp. 4-5; Avista Final CEIP, Table 3.2.

¹⁷ Staff’s comments also raise concerns about the nature of the EAG process, and Avista itself acknowledges the difficulties of engaging public members into the EAG.

¹⁸ Avista Reply, p. 8

¹⁹ WAC 480-100-655(1)

²⁰ Adoption Order, ¶ 136.

concerns with a plan *prior to the utility submitting it to the Commission*, potentially reducing the need for future adjudication.”²¹ The rules provide that “[t]he utility must demonstrate and document how it considered input from advisory group members in the development of its CEIP and biennial CEIP update.”²² The utility is encouraged to incorporate “data and information supplied by Advisory Group members as inputs to plan development”.²³ As part of the process, “the utility must communicate with advisory group members about whether and how the utility used their input in its analysis and decision-making, including explanations for why the utility did not use an advisory group member’s input.”²⁴ Avista has fallen short in this regard and now seeks to rely on this to short circuit current and future discussions of the Advisory Group member recommendations.

Avista’s effort to take issues “off the table” at this stage does not fit with the process outlined in the Commission rules, or the Company’s own approach. As these post-filing comment rounds themselves indicate, CETA and the Commission rules contemplate the continued receipt of public input on the plan after filing via written comment and at a hearing. This is clearly intended not only to provide input to the Commission but to allow an opportunity for Avista to continue to engage with stakeholders to consider, on the merits, whether it can make improvements to address stakeholder concerns. In fact, as Avista’s Reply states, it is currently involved in a stakeholder process regarding potential conditions on the filing.²⁵

The role of Advisory Groups, including the EAG is critically important. The Energy Project fully supports the EAG and sees it as a valuable new voice in development of Avista’s plans. All of the Advisory Groups are recognized by the Commission as having an important voice in the process. However, that fact that proposals were not discussed in depth with the

²¹ Adoption Order, ¶137 (emphasis supplied).

²² WAC 480-100-655(1)

²³ *Id.*

²⁴ *Id.*

²⁵ Avista Reply, p. 15.

Advisory Groups, particularly where that was the choice of the utility, is not a bar to their later consideration. In any event, the rules specifically provide that “[p]articipation in an advisory group does not restrict groups and individuals from commenting on CEIP filings before the commission.”²⁶

3. The Commission has independent authority to change Avista’s CEIP.

Finally, the fact that Avista feels it is unable to give consideration to inclusion of otherwise meritorious Customer Benefit Indicators or metrics is not a barrier to Commission consideration of these recommendations. The Commission has the authority under CETA to approve, reject, or impose conditions on the CEIP.²⁷ The Commission thus has broad discretion to require additional or modified CBIs or metrics as a condition of approval, whether or not the utility agrees. The Commission’s rules providing for public comment and a hearing on the CEIP are designed to allow the Commission to hear recommendations from all parties regarding proposed changes to the CEIP, which the Commission can then act upon if it so chooses.

C. Conclusion

The Energy Project understands that Avista is not required to accept stakeholder proposals. Avista is required, however, to engage in a robust and meaningful Advisory Group participation process in making that determination. That has not occurred in this case. The Energy Project understands that there has been time pressure on the Company to develop its CEIP and that there are real challenges to designing and conducting a public participation

²⁶ WAC 480-100-665(1)(f).
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process. Stakeholders also face challenges, many with limited resources, in first-time implementation of new legislation and analysis of complex Company proposals.²⁸ With that said, the Company should not be using these process growing pains as a justification to not engage meaningfully on reasonable proposals at this final stage, or to seek to preclude Commission consideration of proposals.

Given that this is the first CEIP to be considered by the Commission, it is important to establish good precedent for Advisory Group roles and for the CEIP development process. The Advisory Group process should be a transparent interchange of ideas and recommendations between the Company and its stakeholders, and between Advisory Groups, and not a rationale for postponing or avoiding consideration of important issues.

Respectfully submitted,

I. DATED this 14th day of March, 2022.

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²⁷ RCW 19.40.060 (1)(c)

²⁸ Disappointingly, Avista unfairly criticizes Front and Centered for its efforts to provide input on the CEIP on behalf of vulnerable populations and highly impacted communities.