BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of	)	
	)	
Avista Corporation, d/b/a Avista Utilities	)	Docket No. UE-130536
	)	
For an Accounting Order Authorizing Accounting Treatment of: 1) Transmission Revenues Associated with a Settlement between Avista and the Bonneville Power Administration, and 2) Reardan Wind Project Development Costs	)	REPLY COMMENTS OF AVISTA CORPORATION

I. INTRODUCTION

1 On April 29, 2013, Public Counsel submitted comments opposing, in part, Avista's revised Petition addressing the treatment of Bonneville Power Administration (BPA) transmission revenues and the recovery of Reardan Wind Project development costs. Prior to responding to those comments, we will provide a brief summary of events that led to the revised Petition.

2 Avista initially petitioned this Commission on January 28, 2013, for an accounting order that would have allocated $4.554 million of the Washington share of BPA settlement proceeds to customers, with $3.049 million being retained by the Company. (Hereinafter, "Initial Petition" and appended to Public Counsel's Comments.) A portion of the customers' share of the BPA settlement proceeds would have been used to fully offset Washington's share ($2.586 million) of Reardan development costs, leaving $1.968 million as the remaining share of the BPA proceeds to be credited to the ERM deferral balance, without being subject to the ERM deadband or

sharing bands.[1]

3 Upon the Company's filing of this Initial Petition, the UTC Staff, Public Counsel and the Industrial Customers of Northwest Utilities (ICNU) engaged in discovery, and further discussions occurred in order to attempt to reach agreement among the parties. Staff and ICNU suggested, and the Company agreed, that the Initial Petition be modified to capture more benefits for customers. To this end, Avista withdrew its Initial Petition and resubmitted a revised Petition, on April 12, 2013 (hereinafter, Revised Petition). In responding to the Comments of Public Counsel, we will begin with a component where there appears to be substantial agreement.

II. REARDAN

4 Public Counsel does not take issue with the prudence of Avista's investment, and later termination, of the Reardan Project, and does not oppose recovery of the Reardan costs.[2] Public Counsel states that it "does not object to Avista recovering the Reardan termination costs in an appropriate fashion,"[3] but does not identify a law, Commission rule or policy that would prohibit recovery to occur as proposed in the Revised Petition. The method proposed by the Company, and supported by Commission Staff and ICNU, is an administratively efficient way to address Reardan cost recovery, and would eliminate the need to address this issue again in a future

[1] In December 2012, Avista and BPA reached a settlement pertaining to the prior and future use of Avista's transmission system by BPA. Avista received $11.692 million from BPA for the past use of its transmission system from 2005 – 2012, of which Washington's allocated share was $7.604 million. As explained above, $4.554 million would have been allocated to benefit customers and $3.049 million would be retained by the Company, under the terms of Avista's Initial Petition. A portion of the customers' share ($2.586 million) would have been used to offset the Reardan costs.

[2] Comments of Public Counsel in Reponse to Avista Petition (Public Counsel Comments), at Paragraphs 23 and 28.

[3] *Id.* at Paragraph 29.

proceeding.[4/5]

III. BPA Transmission Revenues

5 With regard to the BPA transmission revenues, Public Counsel is proposing that 100% of the revenues related to prior periods, as well as all future periods, be set aside for customers, with no sharing for the Company at all. Public Counsel's proposal, however, is not consistent with the ratemaking principles and practices employed by this Commission.

6 The transmission revenue from the BPA settlement represents additional revenue to the Company that has occurred in between general rate cases. At the time Avista filed its last rate case and entered into the rate case settlement agreement, there was no completed agreement with BPA related to the transmission revenues.[6] The Company already has approved accounting treatment for any changes in power supply and transmission revenues and expenses between general rate cases through the Energy Recovery Mechanism (ERM). This is especially true for any changes in power supply and transmission revenues and expenses that occur subsequent to the conclusion of a general rate case. The 2013 and 2014 BPA revenues would be treated accordingly. Changes in power supply and transmission revenues and expenses, from those included in the last general rate case, flow through the ERM and are subject to the deadband and sharing bands, and therefore, there is normally a sharing of these revenue and expense changes

[4] As Public Counsel explained in Footnote 25 to its Comments, "Public Counsel had some initial prudence concerns and investigated Avista's decision to terminate Reardan through discovery. Ultimately Public Counsel decided not to contest prudence." Therefore, any remaining concerns regarding the prudence of Reardan among parties participating in this Docket have already been resolved through discovery, and it would be administratively efficient to not revisit this issue again in a future proceeding.

[5] Although the Energy Independence Act (I-937) was amended in March 2012 to qualify Avista's Kettle Falls wood-waste-fired project as a qualifying resource under I-937, the output that would qualify was dependent on the nature of the fuel source (e.g., not from "old growth" forests). It was not until late in 2012 that Avista completed an analysis of the many fuel sources supplying Kettle Falls, and was confident that approximately 75% of the output of Kettle Falls would qualify under I-937. After making that determination, it was decided that additional new renewable resources would not be needed for the foreseeable future, and the Company made the decision to terminate Reardan.

[6] However, at the time of rate case settlement discussions, there was agreement in principle with BPA, which was fully disclosed to all parties in rate case settlement discussions. We will elaborate more on this later in these reply comments.

between the Company and customers, contrary to Public Counsel's assertion that "there is no dispute"[7] that 100% of these revenues should go to customers.

7 In fact, there was no need for the Company to request any additional accounting treatment for the 2013 and 2014 BPA revenues, because we already have approved accounting treatment for these revenue and expense changes through the ERM. The only reason Avista has agreed in the Revised Petition to different accounting treatment for the 2013 and 2014 BPA revenues, is because it is part of an overall package addressing 1) BPA revenues for prior periods, and 2) resolution of recovery of Reardan costs.[8]

8 Avista's Initial Petition addressed only the accounting treatment of BPA settlement revenue for the prior periods (2005 to 2012), because there was no need to address accounting treatment for future revenue. The Initial Petition also addressed the accounting treatment for the Reardan costs, because it was administratively efficient to use a one-time benefit from BPA to offset a one-time cost related to Reardan.

9 Earlier in this Reply, we footnoted that Avista had disclosed the settlement agreement in principle with BPA to all parties in our 2012 general rate case. In fact, Avista included both the expected revenue from BPA for prior periods (2005 to 2012), as well as the revenue for the future rate year in settlement offers presented to all parties in that rate case, as one of the ways to mitigate the retail rate increase to customers. We did so because we were confident that the settlement agreement would ultimately be signed by BPA and later approved by FERC.[9]

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[7] Public Counsel Comments at Paragraph 6.

[8] Although the BPA transmission settlement agreement includes a provision that gives BPA the opportunity to terminate on one-year's notice, BPA has represented to Avista that they view the use of Avista's transmission system as the most cost-effective long-term solution. BPA's other option is to build its own facilities, which would require a minimum of 5 to 7 years for planning, permitting and construction.

[9] The BPA transmission settlement agreement was signed by BPA in December 2012 and approved by FERC in February 2013.

10 The expected revenue from BPA, for both the prior periods and future periods, was not included in the rate case settlement that was later approved by the Commission. For Avista's part, this was factored into the decision-making by the Company in agreeing to the final terms and conditions of the rate case settlement agreement. In agreeing to a final settlement package with a rate case stay out through January 1, 2015, Avista recognized that the future incremental revenue from BPA would normally flow through the ERM, and there would be the possible opportunity to have some benefit to the Company from the ERM deadband and sharing bands during 2013 and 2014, as well as a share of the BPA revenue from the prior periods. Any proposal now to remove the future BPA transmission revenues from the ERM for 2013 and 2014 (dollars that would normally flow through the ERM) and credit 100% of the dollars to customers, would represent "cherry-picking" future benefits for customers, while saddling the Company with any future increases in expenses during the 2013 and 2014 stay out period.

11 As was mentioned earlier, the only reason Avista included a proposal in the Revised Petition to set aside 100% of the 2013 and 2014 BPA dollars for customers, is because of the other part of the proposal which would allow Avista to retain the net 2005 – 2012 BPA revenues of $5.0 million ($7.6 million BPA revenue minus the $2.6 million Reardan cost). While it is true that Avista would benefit from the $5.0 million, Avista would also give up and guarantee a $4.2 million rate reduction for customers during 2014 ($2.1 million revenue for 2013 and $2.1 million revenue for 2014). The $2.1 million BPA revenue for 2013 and 2014 represents ERM-related dollars that would normally flow through the ERM deadband and sharing bands.

12 The net effect of the proposal in front of the Commission is a net $800,000 benefit to the Company, and a guaranteed additional $4.2 million rate reduction for customers for 2014.

Avista receives an initial benefit of $5.0 million, but gives up $4.2 million in 2013 and 2014, for a net of $800,000.[10]

13 This $800,000 number, "coincidentally," is equal to approximately 10% of the BPA revenue for the prior periods (2005-2012) of $7.6 million. If this revenue from BPA for prior periods were to flow through the ERM, the Company would receive a minimum of 10% of the total as part of the 90%/10% sharing band in the ERM. In Paragraph 8 of its Comments, Public Counsel makes reference to how the BPA settlement revenue was handled in Avista's recently concluded general rate case in Idaho, and suggests that, "Avista's position here is inconsistent with that result." Public Counsel's suggestion is not correct. The sharing of the 2005 – 2012 BPA revenue between the Company and Idaho customers was determined based on the Power Cost Adjustment (PCA) 90%/10% sharing percentages.[11] Avista retained 10% of the Idaho jurisdictional share, or approximately $400,000. In addition, it should be recognized that the resolution of the BPA settlement revenue and the Reardan cost recovery in Idaho was part of a comprehensive settlement of the general rate case, and was part of the overall give and take of resolving all issues in that rate case.

14 Avista's Revised Petition provides greater benefits to customers than the Initial Petition and less benefit to the Company. This was the result of the give-and-take of discussions with Staff and ICNU. The proposed $4.2 million rate reduction for customers for 2014, reflecting 2013 and 2014 BPA revenues, is real and immediate. It will help offset the 2014 rate increase under the current two-year rate plan, as opposed to merely flowing through the ERM and being

[10] Although Public Counsel spends considerable time in its Comments addressing the issue of retroactive ratemaking, there is no need for the Commission to address that issue in approving the Revised Petition in this Docket. The question before the Commission in addressing this Revised Petition is one of assuring an "end result" that is just and reasonable, and balances the interests of cutomers and the utility. (See discussion later in these reply comments.)

[11] The PCA in Idaho is similar to the ERM mechanism in Washington, but does not have a deadband and has only a single 90%/10% sharing band.

subject to the deadband and sharing bands, and simply residing as an "accounting entry" in the ERM accounts, and possibly never being returned to ratepayers, if the $30 million "trigger" were never reached.

15 Stakeholders in this Docket should also not lose sight of a prior Avista transaction that involved a one-time ERM-related expense, instead of the one-time ERM-related revenue that we are addressing here in this Docket (BPA settlement revenue). The previous ERM-related expense transaction was explained in Avista's Initial Petition which Public Counsel attached as Appendix A to its comments in this Docket.

16 We proposed in our Initial Petition that the BPA settlement revenue for the prior periods (2005 to 2012) be shared between customers and the Company based on how the dollars would have been split if the revenues for each specific year of the BPA settlement would have been flowed through the ERM. The results would have provided $4.6 million of the total $7.6 million to customers, and the remaining $3.0 million to the Company.

17 This approach to sharing the BPA settlement revenue is consistent with what was previously approved by the Commission related to the one-time ERM-related expense, as explained on page 7 of our Initial Petition, and excerpted below:

> The proposed accounting treatment is similar to the accounting treatment the Company agreed to with the Staff of the Washington Utilities and Transportation Commission (Staff), and the Industrial Customers of Northwest Utilities (ICNU) related to a multi-year purchase power contract with Enron in 2002. During the first ERM deferral period of July 1, 2002 through December 31, 2002, the Company proposed to recover the net cost associated with a buyout of a multi-year purchase power contract with Enron. The Company had recorded the termination cost as a current purchased power expense for the month of October 2002. Staff and ICNU recommended that the termination costs be amortized over the original delivery period of the energy contract (2004 to 2006), rather than be recorded in the single month of the settlement transaction. The Company agreed to the Staff/ICNU approach, and the Settlement Stipulation approved in Docket No. UE-030751 at page 6 provided for an amortization of the termination payment over the original 2004 to 2006 delivery period of the contract. Thus, the amortization of the Enron termination payment was subject to the ERM sharing bands during the 2004 to 2006 period.

18 The Company recorded the one-time ERM-related expense associated with the Enron contract buyout in October 2002. At that time the transactions in the ERM for that year had progressed through the deadband and sharing bands to the 90%/10% sharing level, and therefore 90% of the cost was added to the ERM balance to be recovered from customers. The Company would have absorbed 10%. However, Commission Staff and ICNU proposed that the costs be spread to the years where the costs would have actually occurred, and then flow the costs through the ERM (this proposal was included in a settlement approved by the Commission). By assigning the costs to the specific years the costs would have occurred resulted in the Company absorbing a greater share of the costs of the contract buyout through the deadband and sharing bands.

19 In the same way, assigning the 2005 – 2012 BPA settlement revenue to the years the revenue would have actually occurred, and then flowing it through the ERM would have resulted in Avista receiving a greater "end result" share of the BPA settlement revenue than what we have agreed to in the Revised Petition. The sharing that would result from flowing the BPA settlement revenues for each specific year through the ERM, which we proposed in our Initial Petition, is shown in the table below:

Allocation of BPA Settlement Revenue

Year	Amount	WA Share	Customers	Company
2005	$696,185	$461,501	$415,351	$46,150
2006	660,407	430,321	-	430,321
2007	615,633	401,146	361,031	40,115
2008	600,242	395,139	355,625	39,514
2009	783,533	506,084	-	506,084
2010	2,488,000	1,606,999	-	1,606,999
2011	2,656,000	1,722,947	1,550,652	172,295
2012	3,192,000	2,079,907	1,871,916	207,991
	$11,692,000	$7,604,044	$4,554,575	$3,049,469

20 The proposed "end result" in our Initial Petition compared to that proposed in the Revised Petition is summarized in the tables below.

Initial Petition (January 28, 2013) (Washington $Millions)		
	Avista	**Customers**
BPA (2005-2012)*	$3.0	$4.6
Reardan Wind Project		($2.6)
Net Benefit	$3.0	$2.0

*Revenues from BPA flowed through the ERM for each year 2005 - 2012. BPA revenues for 2013 and 2014 would flow through the ERM along with all other changes in power supply and transmission revenues and expenses since the last rate case.

Revised Petition (April 12, 2013) (Washington $Millions)		
	Avista	**Customers**
BPA (2005-2012)	$7.6	-
Reardan Wind Project	($2.6)	-
	$5.0	$0.0
BPA (2013-2014)**	($4.2)	$4.2
Net Benefit	$0.8	$4.2

**Revenues for 2013 and 2014 of $4.2 million would be removed from the ERM and "guaranteed" to customers as a rate reduction for 2014.

21 The proposed accounting treatment in the Revised Petition before the Commission reflects a greater benefit to customers.

IV. COMMISSION AUTHORITY TO APPROVE THE REVISED PETITION

22 The Commission's general authority to set "just, fair, reasonable and sufficient" rates is sufficient as authority for it to approve this Revised Petition, absent some specific legal prohibition that would bar such an action – and Public Counsel raises none.

23 The authority of the Commission is well-established: RCW 80.28.010(1) (Duties to Rates, Services, and Facilities) provides that "all charges made, demanded or received by any gas company, electrical company . . . shall be just, fair, reasonable and sufficient." (See also RCW 80.28.020) As the Supreme Court explained in the Hope Natural Gas case, the requirement that rates be "fair, just and reasonable" does not define a method by which rates are to be calculated; instead, the fixing of fair, just and reasonable rates involves a balancing of investor and consumer interests. Fed. Power Comm'n v. Hope Natural Gas Co., 320 U.S. 591, 603 (1944). Simply put, the "end result" must be reasonable. These standards have been incorporated into RCW 80.28.010 and 80.28.020.[12] Accordingly, the Commission is obligated to balance both investor and consumer interests.[13]

[12] F.P.C. v. Natural Gas Pipeline Co., 315 U.S. 575, 586, 62 S.Ct. 736, 743 (1942) (Constitution does not "bind ratemaking bodies to the service of any single formula or combination of formulas." As long as an agency's order "in its entirety, produces no arbitrary result, our inquiry is at an end."); F.P.C. v. Hope Natural Gas Co., 320 U.S. 591, 602-03, 64 S.Ct. 281, 287-88 (1942) (. . . "any rate selected by the Commission by the broad zone of reasonableness permitted by the [Natural Gas] Act cannot properly be attacked as confiscatory . . . [A]ny such rates, determined in conformity with the Natural Gas Act and intended to 'balanc[e] . . . the investor and the consumer interest,' are constitutionally permissible" [citation to Hope omitted]. See also People's Organization for Washington Energy Resources (POWER) v. Utilities & Transp. Comm'n, 104 Wn.2d 798, 808, 711 P.2d 319 (1985)).

[13] "The public interest is served when the interests of the utility and the interest of the utility's customers are kept in careful balance." In re the Matter of Avista Corp., Docket No. UE-010395, Sixth Supp. Order Rejecting Tariff Filing, ¶7 (September 24, 2001). The public interest standard, of course, encompasses a broad set of interests. See, e.g., Application of Puget Sound Energy Re: Colstrip, Third Supp. Order Approving Sale, Docket No. UE-990267 (September 30, 1999).

24 As the Commission, itself, observed at page 27 of its Order No. 06 (Docket No. UE-032065), which approved a prior settlement involving PacifiCorp:

> Ratemaking is not an exact science. As our Supreme Court has observed: '[t]he economic judgments required in rate proceedings are often hopelessly complex and do not admit of a single correct result.' [Citing U.S. West Communications, Inc. v. Wash. Util. & Transp. Comm'n, 134 Wn.2d 48, 70, 979 P.2d 1337 (1997).]

25 The Revised Petition in this case satisfies those requirements, by finding "an appropriate balance" that produces an "end result" that is well within "an acceptable range of possible outcomes." (See, e.g., Utilities and Transp. Comm'n v. PacifiCorp, d/b/a Pacific Power & Light Co., Docket UE-080220, Order 05 (October 8, 2008) at para. 31.)

V. CONCLUSION

26 The Revised Petition is supported by UTC Staff and ICNU, and was carefully fashioned to resolve all BPA and Reardan issues, reflecting give-and-take on various positions. It should be approved as a just and fair resolution of the issues.

27 RESPECTFULLY SUBMITTED this 7th day of May 2013.

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for Avista Corporation