

Exh. DCG-1CT
Dockets UE-200900, UG-200901,
UE-200894
Witness: David C. Gomez
REDACTED VERSION

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

**AVISTA CORPORATION, d/b/a
AVISTA UTILITIES,**

Respondent.

**DOCKETS UE-200900, UG-200901,
UE-200894 (*Consolidated*)**

TESTIMONY OF

David C. Gomez

**STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

Production Plant, Power Costs, EIM and SmartBurn

April 21, 2021

**CONFIDENTIAL PER PROTECTIVE ORDER IN DOCKETS
UE-200900, UG-200901, UE-200894 – REDACTED VERSION**

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Attachment A – Wenke Partial Approval of Dry Ash

1 **I. INTRODUCTION**

2

3 **Q. Please state your name and business address.**

4 A. My name is David C. Gomez. My business address is 621 Woodland Square Loop
5 SE, Lacey, WA 98503. My business email address is david.gomez@utc.wa.gov.

6

7 **Q. By whom are you employed and in what capacity?**

8 A. I am employed by the Washington Utilities and Transportation Commission
9 (“Commission”) as the Assistant Power Supply Manager in the Energy Section of
10 the Regulatory Services Division. I attained this position on July 1, 2012. Prior to
11 my current position, I was the Deputy Assistant Director in the Solid Waste and
12 Water Section of the Regulatory Services Division.

13

14 **Q. How long have you been employed by the Commission?**

15 A. I have been employed by the Commission since May 2007.

16

17 **Q. Please state your educational and professional background.**

18 A. I hold a Bachelor of Arts degree in Business from Hamline University and a Masters
19 of Business Administration from the University of Saint Thomas; both universities
20 are located in Saint Paul, Minnesota.

21

22 Before joining the Commission, my relevant professional experience
23 consisted of 25 years in a variety of fields, including management, contracting,
supply chain, procurement, operations, and engineering. I hold professional

1 certifications from: The Institute for Supply Management (ISM); APICS – The
2 Association for Operations Management; Universal Public Procurement Council
3 (UPPC); and QAI Global Institute (Software Testing).

4
5 **Q. What are your duties with the Commission?**

6 A. I perform accounting and financial analysis of regulated utility companies, as well as
7 legislative and policy analysis. I presented testimony on behalf of Commission Staff
8 in Docket UE-121373, regarding the Coal Transition Power Purchase Agreement
9 between Puget Sound Energy (“PSE”) and TransAlta Centralia Generation LLC;
10 Dockets UE-130043, UE-140762 and UE-191024 Pacific Power & Light’s (Pacific)
11 2013, 2014 and 2019 general rate cases (“GRC”); PSE’s 2013, 2014, 2016 and 2020
12 Power Cost Only Rate Cases (PCORC) as well as their 2017 GRC; and Dockets UE-
13 140188, UE-150204, UE-160228, UE-170485 and UE-190334, Avista Corporation’s
14 (“Avista” or “Company”) last five GRCs. Most recently, I provided testimony on
15 power supply issues in PSE’s 2019 GRC, Docket UE-190529; Staff’s investigation
16 regarding the prudence of Colstrip Unit 3 & 4’s 2018 outage and replacement power
17 costs in Docket UE-190882; and PSE’s application for an Order authorizing the sale
18 of its interests in Colstrip Unit 4 in Docket UE-200115. I have provided Staff’s
19 recommendations to the Commission at numerous open meetings and worked on
20 various Commission rulemakings.

1 **II. SCOPE AND SUMMARY OF TESTIMONY**

2

3 **Q. What is the scope and purpose of your testimony?**

4 A. My testimony will address four distinct areas. First, I address matters relating to
5 Colstrip. Specifically, the over \$14.5 million (Washington allocated) of test year and
6 pro forma capital additions for Colstrip Units 3 and 4 which Avista is proposing to
7 include in rates. The Company is also proposing to include in rates an additional \$2.7
8 million (Washington allocated) in SmartBurn capital costs.¹ The capital amounts for
9 SmartBurn were not included as part of the Company’s test year and pro forma
10 capital additions for Colstrip. I also address the just under \$8 million in Colstrip Unit
11 3 and 4 Non-Overhaul Operation and Maintenance (O&M) expense proposed by
12 Avista for the rate year.²

13 Second, I address the \$8.4 million of pro forma Non-Colstrip Generation
14 Capital Projects (2020-2022) listed on Table 3 in Avista witness Jason Thackston’s
15 prefiled direct testimony.³ My colleague Aimee Higby’s testimony applies the
16 Commission’s pro forma standards to plant placed in service after the test year. Staff
17 employed a materiality threshold of .25 percent of test year net plant in service to the
18 Company’s list of pro forma Non-Colstrip Generation Capital Projects. As a result,

¹ This is the fourth time that Avista has presented its capital investment in SmartBurn for inclusion in rates. In addition to this case, the Company requested SmartBurn recovery in its 2016 GRC in UE-160228, 2017 GRC, Docket UE-170485, and in its 2019 GRC Docket UE-190334. In both its 2017 and 2019 GRCs, Staff opposed the inclusion of SmartBurn capital costs in rates as it also did in PSE’s last GRC, Docket UE-190529. In PSE’s 2019 GRC, the Commission disallowed PSE’s recovery of its share of Colstrip Unit 3 and 4 SmartBurn capital costs. *Wash. Utils. and Transp. Comm’n v. Puget Sound Energy*, Dockets UE-190529 & UG-190530, Order 08, 61–62, ¶¶ 197–99 (July 8, 2020) (2019 PSE Order).

² The amounts included in my testimony are Washington allocated unless otherwise indicated.

³ Thackston, Exh. JRT-1T at 16:1-7. The \$15.7 million total in Table 3 of Thackston’s testimony is a System Allocated amount.

1 Staff removes all of the Non-Colstrip Generation Capital Projects from Avista’s pro
2 forma capital additions. As such, I will not include in my testimony a discussion of
3 the Non-Colstrip Generation Capital Projects except for Coyote Springs 2 (CS2)
4 Single Transformer redesign.

5 Third, I discuss Avista witness Scott Kinney’s proposal to recover in rates
6 both its capital and incremental expense associated with the Company’s planned
7 March 22, 2022, entry into the Western Energy Imbalance Market (EIM) operated by
8 the California Independent System Operator (CAISO).

9 Lastly, I respond to Avista witness Clint Kalich’s proforma power supply
10 adjustment. Avista has proposed an ERM baseline for the pro forma period of \$86.6
11 million which is \$14.9 million lower than the current authorized level of power cost
12 expense.⁴

13

14 **Q. Please summarize your recommendations.**

15 A. Besides the removal of all of the \$8.4 million of pro forma capital additions for
16 Avista’s Non-Colstrip Generation Capital Projects referenced above, I make a
17 number of other adjustments to the level of test year and pro forma production
18 capital in this case.

19 Regarding Colstrip, Staff recommends the Commission remove a total of
20 \$9.0 million in capital additions for Colstrip Units 3 and 4. For Electric Adjustment
21 3.19, Staff removes \$6.3 million in test year and pro forma capital additions.

⁴ Kalich, Exh. CGK-6.

1 Additionally, Staff again recommends that the Commission disallow \$2.7 million of
2 SmartBurn capital costs for Colstrip.

3 As for EIM, Staff recommends the Commission not allow Avista to recover
4 through general rates \$17.8 million of pro forma capital additions and \$1.8 million in
5 pro forma incremental labor expense associated with its entry into the EIM
6 (Adjustment PF 3.18). Instead, Staff recommends the Commission apply the same
7 treatment it approved for the recovery of proforma EIM capital and expense for PSE⁵
8 and Pacific.⁶ In the case of both PSE and Pacific, all costs related to their entry into
9 the CAISO EIM was included as a line item in actual allowable costs in their
10 respective power cost mechanisms. Unaccounted for EIM benefits in their respective
11 power cost mechanisms would flow through the bands as actuals along with recovery
12 of both EIM capital (return on-and-of) and incremental labor expense. The
13 Commission accepted this method at the time because in early years of both
14 companies' participation in the CAISO EIM, the up-front costs were known and
15 steep, whereas the benefits were hard to quantify.

16 As for Avista's pro forma power supply costs (Adjustment 3.00P), Staff is
17 not contesting these amounts with the exception that the Company has chosen not to
18 include any base values for EIM benefit in its ERM baseline for the rate year. Staff's
19 recommended methodology for recovery of EIM costs resolves this issue.

20

⁵ *Wash. Utils. and Transp. Comm'n v. Puget Sound Energy*, Dockets UE-170033 & UG-170034, Order 08, Appendix B, 20 ¶ 72 (Dec. 5, 2017) (2017 PSE Settlement).

⁶ *Wash. Utils. and Transp. Comm'n v. Pacific Power & Light Co.*, Docket UE-152253, Order 12, 73 - 74, ¶¶ 218–224 (Sept. 1, 2016) (2015 Pacific GRC).

1 **III. COLSTRIP UNITS 3 & 4**

2
3 **A. Test-Year And Pro Forma Colstrip Capital Additions & O&M Expense**

4
5 **Q. What did the Commission direct Avista to do pertaining to future investments**
6 **in Colstrip in Order 07 of Docket UE-170485?**

7 **A.** The Commission directed that “Avista must provide a more detailed examination of
8 its justification for its investments at Colstrip in its next GRC.”⁷

9
10 **Q. Has Avista met its evidentiary burden pertaining to Colstrip capital additions in**
11 **this case?**

12 **A.** No. Avista’s presentation of evidence pertaining to Colstrip capital additions in its
13 initial filing was not coherent. Staff had to propound numerous data requests and
14 engage in several informal discussions to understand and audit the Company’s filing.
15 Further, Avista’s data request responses on this topic were often disorganized and
16 confusing—especially given the numerous supplementary and revised responses,
17 given under a variety of different naming conventions. This resulted in Staff
18 spending significant time and resources to understand the Colstrip capital addition
19 portion of the case.

20
21 **Q. Can you provide some examples as to why Avista’s initial filing pertaining to**
22 **Colstrip capital additions was not coherent?**

⁷ *Wash. Utils. & Transp. Comm’n v. Avista Corp.*, Dockets UE-170485 and UG-170486, Order 07, 69, ¶ 205 (April 26, 2018) (2017 Avista Order).

1 A. Yes. Thackston offers Exhibits JRT-4, JRT-6 and JRT-11 to support Avista’s level
2 of Colstrip capital additions for the years 2018–2022.⁸ According to Thackston, JRT-
3 4 includes a listing of all the generation capital projects that have transferred to plant
4 during 2018–2019. However, on examination of the amounts and descriptions in
5 JRT-4, they do not correlate to the Company’s requested level of test year capital
6 additions for Colstrip. Further adding to the confusion, Thackston’s description of
7 Exh. JRT-6 states, “the capital business cases for the historical major projects in
8 2018 and 2019, as well as the 2020 pro forma projects.” However, when Staff
9 examined the specific business case for Colstrip’s capital additions, contained in
10 JRT-6, the title reads: “Index for Business Case Justification Narratives Related to
11 2018-2022 Colstrip Capital Additions.”⁹ As for JRT-11, Thackston describes this
12 exhibit as “additional documentation about the capital projects at Colstrip.” When
13 Staff examined JRT-11, it appears to only reference 2020 pro forma capital additions
14 at Colstrip, and not 2021 or 2022 pro forma capital additions.

15
16 **Q. Due to the quality of Avista’s initial filing, did Staff have to expend additional**
17 **resources to evaluate the Colstrip capital addition portion of its filing?**

18 A. Yes. This is because Staff was unable to reconcile any of the amounts presented in
19 JRT-4, JRT-6 and JRT-11 with Thackston’s capital addition amounts for Colstrip
20 included in his prefiled direct testimony.¹⁰ As a result of the inadequacy of
21 Thackston’s initial testimony pertaining to Colstrip capital additions, Staff had to

⁸ Thackston, Exh. JRT-1T at 2:21 - 3:5.

⁹ Thackston, Exh. JRT-6 at 64–67.

¹⁰ Thackston, Exh. JRT-1T at 45:12-20.

1 resort to extensive discovery (both formal and informal) to ascertain the appropriate
2 level of Colstrip capital additions to include in rates.

3

4 **Q. In the multiparty settlement in Avista’s 2019 GRC, what did the Commission
5 say pertaining to future Colstrip capital expenditures?**

6 A. As part of the settlement, Avista agreed to not support capital expenditures beyond
7 routine capital maintenance costs at Colstrip that will extend the plant’s operational
8 life beyond December 31, 2025. It was also agreed to by the parties that all Colstrip
9 capital expenditures after December 31, 2017, would be subject to a prudence
10 determination in future rate proceedings. Further, it was agreed that Avista would
11 provide detailed information, including a complete record of the decision making
12 and a full accounting of the costs related to those capital expenditures on an annual
13 basis.¹¹

14

15 **Q. Given what the Commission has said in Avista’s last two GRCs about Colstrip
16 capital expenditures, is it appropriate in this case for Staff to carry Avista’s
17 evidentiary burden?**

18 A. No. But in the spirit of collaboration, Staff worked extensively with the Company to
19 validate the proposed level of Colstrip capital in this case. To arrive at its
20 recommended adjustments to the Colstrip capital additions in this case, Staff’s
21 starting point was the Company’s second supplemental capital update received on
22 February 26, 2021 (UTC Staff Data Request No. 107). Using Avista’s updated

¹¹ *Wash. Utils. & Transp. Comm’n v. Avista Corp.*, Dockets UE-190334, UG-190335 & UE-190222, Order 09, 19–20, ¶ 51 (March 25, 2020) (2019 Avista Order).

1 capital amounts for Colstrip, Staff and the Company conducted a line-by-line
2 reconciliation of the description and amounts contained in Talen’s Colstrip budgets
3 with the amounts requested by the Company for inclusion in rates. This line-by-line
4 audit resulted in a \$9.0 million reduction to Avista’s proposed level of Colstrip
5 capital for the rate year.

6

7 **Q. Does Thackston make any mention in his testimony pertaining to the Colstrip**
8 **owners’ disagreement over the 2021 budget, which is currently subject to an**
9 **arbitration under Section 18 of the Colstrip Unit 3 & 4 Ownership & Operating**
10 **Agreement, and its impact on the level of capital requested in this case?**

11 A. No. While I go into the subject of the current budget dispute at Colstrip in greater
12 detail later in my testimony, my reference to it here is to point to the fact that Avista
13 was fully aware of these issues at the time it filed its GRC (October 30, 2020), yet
14 the Company failed to make any mention of this within its prefiled direct testimony.
15 In the September 16, 2020 minutes from the Colstrip Unit 3 and 4 Ownership and
16 Operations Committee meeting, that Avista provided to Staff in discovery, it clearly
17 points to a looming disagreement among the owners over the 2021 budget.¹²

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

¹² In Exh. DCG-3, I include my October 2020 testimony from the PSE Unit 4 sale case of which Avista was a party, which includes a discussion of the 2021 Colstrip budget and Staff’s concerns. Avista cannot plausibly claim ignorance of these issues at the time it filed its GRC. Gomez, Exh. DCG-3 at 39–41.

1
2
3
4
5

[REDACTED]

6 **Q. For the Colstrip capital additions in Avista’s PF 3.19, can you provide a**
7 **comparison between Avista and Staff’s position?**

8 A. Yes. Table 1 below compares Staff’s recommended level of Colstrip capital
9 additions against Avista’s requested amounts both in the as-filed and in the February
10 26, 2021 capital update.¹⁴

WA Allocated	2017 SmartBurn	Test Year		Pro Forma			
		2018	2019	2020	2021	2022	Total
Avista as-filed	\$2,700,000	\$3,364,221	\$1,882,967	\$4,314,329	\$3,492,732	\$1,469,224	\$17,223,474
DR-107 (Cap update)	\$2,700,000	\$3,364,221	\$1,882,967	\$3,397,784	\$2,498,258	\$3,337,794	\$17,181,024
Staff	\$0	\$3,164,738	\$1,882,967	\$2,902,540	\$204,797	\$0	\$8,155,043

11 *Table 1: Staff vs Avista Colstrip Capital Additions (Washington allocated)*

12

13 **Q. Please itemize the specific projects and amounts which you removed from**
14 **Avista’s requested amount of Colstrip capital additions.**

15 A. Staff’s adjustments to Avista’s level of Colstrip capital for the rate year involve the
16 removal of three separate projects:

- 17 • Dry Ash Disposal System - \$4.0 million;
- 18 • 2021 Unit 3 Overhaul - \$2.1 million;¹⁵ and

¹³ Gomez, Exh. DCG-2C at 4.

¹⁴ Gomez, Exh. DCG-4.

¹⁵ The Company shows an amount of \$3.73 million (system) for the 2021 Unit 3 overhaul. This number was revised downward to \$3.3 million (system) in Avista’s DR 107 second supplemental capital update of February 26, 2021. Thackston, Exh. JRT-1T at 82:14-17.

1 • SmartBurn - \$2.9 million.¹⁶

2 I will cover SmartBurn in a separate section of my testimony. I cover the Dry Ash
3 Disposal System and the 2021 Unit 3 Overhaul within this section of my testimony.

4

5 **1. Dry Ash Disposal**

6

7 **Q. What is the Dry Ash Disposal System?**

8 A. Avista witness Thackston describes the Design/Build Dry Waste Disposal System
9 Project (“Dry Ash Disposal System” or “Dry Ash”) as follows:

10 This project provides for installation of a “non-liquid” disposal system for
11 Coal Combustion Residue (CCR) material created by the operation of Units 3
12 and 4. This capital project is required as part of the AOC. The Colstrip
13 Wastewater AOC requires pond closure and remediation activities to address
14 impacted groundwater at the Units 3 and 4 Effluent Holding Pond (EHP)
15 area. Litigation on the AOC resulted in a Settlement that requires a "non-
16 liquid" disposal system for CCR material generated by Units 3 and 4 at the
17 EHP no later than July 1, 2022.¹⁷

18

19 **Q. Can you provide a background of the Administrative Order of Consent**
20 **(“AOC”) that Thackston is referring to?**

21 A. Yes. In August 2012, the Montana Department of Environmental Quality (MDEQ)
22 and PPL Montana (now Talen), entered into an AOC to address Coal Combustion
23 Residuals (CCR) contaminating groundwater through waste pond seepage.¹⁸ The

¹⁶ According to the Company, \$2.7 million of the total \$2.9 million SmartBurn investment transferred to plant in 2017. A residual amount of just under \$200,000 of SmartBurn capital transferred to plant in 2018 and is included in Avista’s 2018 test year capital.

¹⁷ Thackston, Exh. JRT-1T at 105:14-21. According to the EPA, Coal Combustion Residuals, commonly known as coal ash, are created when coal is burned by power plants to produce electricity. Coal ash is one of the largest types of industrial waste generated in the United States.

¹⁸ Gomez, Exh. DCG-6, Page 9, Article I, Subsection M.

1 AOC involved a step-by-step plan for remediation of the groundwater downgradient
2 of the CCR ponds. That same year, the Montana Environmental Information Center
3 (MEIC), the Sierra Club (SC), and the National Wildlife Federation (NWF) sued the
4 Colstrip Owners and MDEQ challenging the legality of the 2012 AOC. This lawsuit
5 was settled by the parties on July 21, 2016 (hereinafter referred to as the “2016 AOC
6 Settlement Agreement”).¹⁹ Section 2(A)(i) of the 2016 AOC Settlement Agreement
7 requires the Colstrip owners to “[C]onvert to a ‘non-liquid’ disposal system for CCR
8 material generated by Colstrip Units 3 and 4’s scrubbers no later than July 1, 2022.”
9

10 **Q. What is the timeline associated with meeting the deadline of July 1, 2022, as**
11 **referenced in the 2016 AOC Settlement Agreement?**

12 A. According to Thackston, the work on the Dry Ash Disposal System consists of
13 design efforts in 2020 and construction starting in 2021 with an estimated
14 completion date in mid-2022.

15
16 **Q. So, under the terms of the 2016 AOC Settlement Agreement, the Colstrip**
17 **Owners are required to install a Dry Ash Disposal System for Units 3 and 4’s**
18 **CCR wastes by July 1, 2022?**

¹⁹ Gomez, Exh. DCG-6.

1 A. Yes. However, the Dry Ash conversion date may be extended by mutual agreement
2 of the parties or if conversion to Dry Ash, by the agreed upon date, proves infeasible
3 after a pilot study or force majeure event.²⁰
4

5 **Q. Is there any evidence that parties to the 2016 AOC Settlement Agreement have**
6 **sought to extend the deadline to install the Dry Ash Disposal System?**

7 A. Yes. On February 19, 2021, MEIC, SC, and NWF sent a letter to the Colstrip owners
8 offering the possibility to follow up on the 2016 AOC Settlement Agreement.
9 According to the letter, in exchange for firm closure dates for Colstrip Units 3 and 4,
10 the plaintiffs expressed a willingness to discuss the possibility of an elongated
11 timeline for the costly conversion to Dry Ash disposal by July 1, 2022.²¹
12

13 **Q. What was Avista's response to the February 19, 2021 letter?**

14 A. In its March 12, 2021, response to Sierra Club Data Request No. 12, Avista offers
15 the following pertaining to the February 19, 2021, letter:

16 Avista cannot speak to what intentions Talen or any of the other owners might
17 have with respect to the letter referenced above. We intend to engage with the
18 three organizations that wrote the letter to learn more about the possibility, and
19 we believe there is value in having the other owners engage in the conversation
20 with us. While we have conducted analyses with respect to an exit of Colstrip
21 in our previous Integrated Resource Plans and the draft 2021 Integrated
22 Resource Plan, we have not conducted an analysis investigating the benefits of
23 an earlier retirement including the avoidance of certain capital projects. Until
24 we learn more about the opportunity proposed in the letter, it does not make

²⁰ Gomez, Exh. DCG-6, Section 2, Subsection A, ii allows for flexibility in the Dry Ash conversion date (“If through reasonable and diligent efforts, the conversion of liquid CCR material to non-liquid CCR material proves to be infeasible after a performance test of a pilot project or as a result of a force majeure event, the Conversion Date will be extended until a reasonable time agreed to by the parties taking into account the timing needed to complete a successful pilot project or the resolution of the force majeure event. In addition, the Conversion Date may be extended by mutual agreement of the parties for any reason.”).

²¹ Gomez, Exh. DCG-29.

1 sense to speculate on the potential cost-benefit analysis, and we have not yet
2 conducted any such analysis.²²
3
4

5 **Q. How does Avista’s response to Sierra Club Data Request No. 12 square with**
6 **evidence you obtained in discovery?**

7 A. On January 15, 2021, Avista’s representative at Colstrip; Steve Wenke, Senior
8 Manager of Generation Strategy and Planning, sent a letter addressed to Talen and
9 the other Colstrip owners informing them that the Company would only support [REDACTED]
10 [REDACTED] (\$400,000 included by Avista in
11 adjustment PF 3.19’s 2021 pro forma).²³ However, it is clear from Avista’s letter that
12 the Company has not approved additional capital expenditures for Dry Ash beyond
13 2021, which begs the question as to why the Company is seeking to include in rates
14 \$3.3 million (see Table 1) of its \$4.0 million share of Dry Ash capital costs in its
15 2022 pro forma.²⁴ Similar to the MEIC/SC/NWF letter mentioned earlier in my
16 testimony, Avista’s letter also discusses the possibility of readdressing the
17 conversion date within the 2016 AOC Settlement Agreement:

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

²² Gomez, Exh. DCG-7.

²³ Gomez, Exh. DCG-36C.

²⁴ Given that Avista is pushing back on Talen’s Dry Ash costs beyond 2021, Staff can only speculate as to why the Company decided to include these amounts in its 2022 pro forma. Perhaps Avista is looking to shift its litigation risk to its customers by seeking provisional treatment of these costs. Regardless of the Company’s reason to include the bulk of the Dry Ash investment in its 2022 pro forma, Staff thinks it a bad negotiating strategy to include Dry Ash in rates on the one hand and, at the same time, dispute these costs with NorthWestern and Talen on the other.

1 **Q. Is there any indication that the parties to the 2016 AOC Settlement Agreement**
2 **would agree to push back the conversion date (the deadline to install the Dry**
3 **Ash Disposal System)?**

4 A. While the plaintiffs to the 2016 AOC Settlement Agreement and Avista have
5 expressed a willingness to open a dialogue on the subject, no specific extension date
6 has been discussed, offered, or agreed to at this time. Nevertheless, because parties to
7 the 2016 AOC Settlement Agreement are open to discussing the possibility of
8 extending the conversion date, these costs should not be included in rates at this
9 time. Later in my testimony where I discuss Staff’s concerns over continued reliance
10 on Colstrip beyond 2022, I offer Staff’s suggestion regarding a possible extension of
11 the Dry Ash requirement past December 31, 2025—the date which Clean Energy
12 Transformation Act (CETA) has mandated for the removal of certain coal costs from
13 Washington rates.²⁵

14
15 **Q. In reference to Avista’s 2019 GRC Order,²⁶ do you believe that the Dry Ash**
16 **Disposal System is a life extending capital addition?**

17 A. Yes. The Dry Ash Disposal System is not a routine capital maintenance cost needed
18 for prudent operation until December 31, 2025.²⁷ Rather, the Dry Ash Disposal
19 System is a massive capital addition required for Colstrip Unit 3 and 4’s continued
20 operation well beyond December 31, 2025. The only apparent argument that the Dry

²⁵ RCW 19.405.030(1)(a) (“On or before December 31, 2025, each electric utility must eliminate coal-fired resources from its allocation of electricity. This does not include costs associated with decommissioning and remediation of these facilities.”).

²⁶ 2019 Avista Order at 19–20, ¶ 51.

²⁷ RCW 19.405.030(1)(a).

1 Ash Disposal System is not life extending—is that the current conversion date falls
2 before the CETA deadline to remove certain coal costs from electric rates. This gives
3 rise to an expectation from Talen and NorthWestern that the Dry Ash Disposal
4 System is somehow a departing obligation on the part of Avista, Puget Sound Energy
5 and Pacific Power—to be paid for by Washington ratepayers. However, the
6 conversion date can be moved and is currently the subject of possible negotiations
7 that could result in the deadline to install Dry Ash being extended.
8

9 **Q. Are you certain of the final Dry Ash Disposal System cost?**

10 A. No. Prior estimates have been grossly inaccurate. According to Thackston’s prefiled
11 direct testimony, the total project cost for Dry Ash was expected to be approximately
12 \$16.0 million with Avista’s share of the total project cost at \$1.6 million.²⁸ However,
13 the updated costs for this project, contained within Talen’s most recent 2021 budget,
14 have skyrocketed to \$████ million.²⁹ This increases the costs of Avista’s share to
15 \$4.0 million. Avista’s pro forma capital update on February 26, 2021, includes this
16 revised amount for Dry Ash capital costs in their 2020-2022 pro forma (Adjustment
17 PF 3.19).
18

²⁸ Thackston, Exh. JRT-1T at 106:12-15.

²⁹ Gomez, Exh. DCG-5C.

1 **Q. In discovery, has Avista provided an explanation as to why the Dry Ash**
2 **Disposal System’s capital costs have dramatically increased from its earlier**
3 **estimate of \$16 million in Thackston’s prefiled direct testimony?**

4 A. Yes, but not a satisfactory explanation. In discovery, Avista claims that it provided
5 its best estimate of \$16 million in its Colstrip pro forma capital when it filed its GRC
6 back in October of 2020.³⁰ According to the Company, the initial budget estimate
7 was provided by Talen’s consultant, [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 Additionally, Avista’s explanation of ballooning Dry Ash capital costs include

12 [REDACTED]
13 [REDACTED] As

14 explained later in my testimony, Staff has no confidence in Talen’s revised estimate
15 of almost \$ [REDACTED] million for the Dry Ash Disposal System.

16

17 **Q. Earlier you mentioned that Avista only agreed with Talen to fund certain Dry**
18 **Ash costs for Units 3 and 4. What are these costs?**

³⁰ Avista’s initial filing contains an excerpt of the Company’s 2015 Electric IRP Appendix A, which estimates Dry Ash handling conversion at \$60 million for 2022 with \$3 million annual O&M. Thackston, Exh. JRT-10 at 16.

1 A. Avista's 2020 and 2021 proforma includes slightly over \$250,000 for a 2020 Dry
2 Ash system study and an additional \$650,000 commitment made by Avista in 2021
3 to secure long lead time construction materials.

4
5 **Q. Did Thackston's initial prefiled testimony and exhibits include a copy of the Dry**
6 **Ash disposal study for Staff and other parties to examine?**

7 A. No. Staff had to resort to discovery in an attempt to gain access to the study. On
8 March 26, 2021, Avista provided two attachments to its response to UTC Staff Data
9 Request No. 159, which it claims are responsive to the request.³¹ However, these
10 attachments only contain some portions of the study—not the entire study.

11
12 **Q. In the portions of the study obtained in discovery, do they discuss the Dry Ash**
13 **Disposal System cost estimates which corollate to Avista's requested capital**
14 **amounts in its pro forma?**

15 A. No. Staff examined the two attachments to Avista's response to UTC Staff Data
16 Request No.159. These attachments appear to be only the portions of the study which
17 Talen deemed fit to allow Avista to disclose in response to Staff's discovery. The
18 provided attachments contain no references to cost nor do they justify the dramatic
19 increase in costs for Dry Ash contained in Talen's budget. Further, these portions of
20 the report provide no results from the pilot test referred to in the 2016 AOC
21 Settlement Agreement, which was intended to confirm the viability of the Dry Ash

³¹ Gomez, Exh. DCG-27C.

1 Disposal System to mitigate continued contamination of ground water by CCR
2 wastes. According to the Company, [REDACTED]

3 [REDACTED].³²

4 It is not even clear what Dry Ash disposal technologies were considered before Talen
5 moved ahead with designing and building the system. Staff has no confidence in
6 Talen's revised estimate of almost \$ [REDACTED] million for the Dry Ash Disposal System.

7

8 **Q. Do you believe that the Company's inclusion of the Dry Ash Disposal System**
9 **capital costs meets the Commission's recent Policy Statement Regarding**
10 **Property that Becomes Used and Useful After the Rate Effective Date**
11 **(Valuation Policy Statement)?³³**

12 A. No. The Commission's Policy Statement requires that proposed pro forma
13 adjustments to test year amounts involve known and measurable events. Recent
14 email correspondence shows that Avista has only given Talen limited approval of the
15 Dry Ash costs it seeks to include in rates (approximately 12 percent).³⁴ Further,
16 Avista's pro forma capital amounts for Dry Ash are the product of Talen's estimates
17 that come from an unknown origin—that significantly departs from Avista's estimate

³² Gomez, Exh. DCG-28C.

³³ *In re the Commission Inquiry into the Valuation of Public Service Company Property that Becomes Used and Useful after Rate Effective Date*, Docket U-190531, Policy Statement on Property that Becomes Used and Useful after Rate Effective Date, 7, ¶ 20 (Jan. 31, 2020) (Valuation Policy Statement).

³⁴ Gomez, Exh. DCG-36C. On January 15, 2021, Avista provided Talen with *limited approval of Dry Ash costs* for Colstrip (approximately 12 percent). Prior to Avista's partial approval of Dry Ash costs, the email string in my exhibit clearly shows that the owners have many unanswered questions regarding Talen's Dry Ash system proposal. For Staff, this is further confirmation that Avista's pro forma amounts for Dry Ash are not known and measurable—as Avista has only provided a limited approval of these Dry Ash costs.

1 within its initial filing. As explained earlier in my testimony, Staff has no confidence
2 in Talen’s estimate. Compounding this uncertainty even more, Talen’s estimated Dry
3 Ash costs are part of the disputed 2021 Colstrip budget, which is the subject of a
4 current arbitration among all the Colstrip owners. The uncertainty of the outcome of
5 this arbitration and its impact to both the timing and total costs of the system clearly
6 shows that Dry Ash is in fact an “unknown and immeasurable” event under the
7 standard.

8 Second, the Commission’s Policy Statement provides that Avista must supply
9 evidence that the Dry Ash Disposal System will become used and useful within 48
10 months of the rate effective date.³⁵ A possibility exists where an agreed to extension
11 of the conversion date could push out the installation of the Dry Ash Disposal
12 System past this time period. There could also be a scenario where the conversion
13 date could be pushed back (and Dry Ash not become used and useful) until after
14 December 31, 2025—the CETA deadline to eliminate certain coal costs from electric

³⁵ Valuation Policy Statement at 10–11, ¶ 29–30.

The Commission will consider rate-effective period investment recovery requests that are consistent with its longstanding ratemaking practices and standards. These standards will be applied retrospectively during the review process. *The Commission will exclude, disallow, or require refunds of money recovered for proposed rate-effective period capital-plant additions that lack proper evidentiary support*, including the identification of offsetting factors and documentation that the property in question is in fact used *and* useful. *The Commission also will reject requests that either cannot be audited or are unreasonably burdensome to review* (emphasis added).

....

While the application of longstanding ratemaking practices, principles, and standards necessarily constrains the substance of requests for a given plant *investment that the Commission finds will become used and useful within 48 months of the rate effective date*, the Commission will remain flexible by assessing whether those requests are appropriate and reasonable on a case-by-case basis. But for exceptional circumstances, however, the Commission intends to use its standard processes for identifying property for ratemaking purposes, for reviewing and approving that property under the used and useful standard and the known and measurable standard, and for determining prudence. (emphasis added).

1 rates.³⁶ The Commission should wait until any forthcoming negotiations among the
2 parties to the 2016 AOC Settlement Agreement conclude before considering whether
3 to include the Dry Ash Disposal System in rates. This is because evidence contained
4 within the record shows that parties to the 2016 AOC Settlement Agreement
5 (including Avista) are open to discussing the possibility of pushing back the
6 conversion date.

7 Third, the Commission’s policy statement states that the Commission will
8 reject requests that lack proper evidentiary support and that cannot be audited or are
9 unreasonably burdensome to review.³⁷ As explained earlier in my testimony,
10 Avista’s initial filing lacked proper evidentiary support. To include the Dry Ash
11 Disposal System costs (and the other Staff contested Colstrip capital) in rates may
12 encourage Avista to produce similar filings in the future. This practice must end and
13 Avista must start producing detailed and coherent filings on Colstrip capital (that
14 include proper evidentiary support) as the Commission directed Avista to do in the
15 last two GRCs.³⁸ Avista not following the Commission’s direction forces Staff to
16 divert significant resources in discovery to develop a sufficient record for the
17 Commission’s consideration on these important issues. In the decision to disallow
18 costs pertaining to the 2018 Colstrip outage, the Commission commented on the lack
19 of contemporaneous records and general opaqueness regarding Colstrip Project

³⁶ RCW 19.405.020(1)(a) (“On or before December 31, 2025, each electric utility must eliminate coal-fired resources from its allocation of electricity. This does not include costs associated with decommissioning and remediation of these facilities.”).

³⁷ Valuation Policy Statement at 10–11, ¶ 29–30.

³⁸ 2017 Avista Order at 69, ¶ 205 (“Avista must provide a more detailed examination of its justification for its investments at Colstrip in its next GRC.”); 2019 Avista Order at 19–20, ¶ 51 (“Avista will provide detailed information, including a complete record of the decision making and a full accounting of the costs related to those project expenditures on an annual basis.”).

1 Committee decisions.³⁹ From Staff’s experience in this case, we have seen no
2 improvement in the documentation emanating from the Colstrip Project Committee
3 pertaining to operational and capital budgets.

4 Fourth, the Commission’s Policy Statement requires an after the fact
5 prudency review of provisionally recovered pro forma costs. For Avista, this
6 requirement is on top of the direction provided to it by the Commission in the 2019
7 GRC—which expressly prohibits the Company from making any life extending
8 capital expenditures at Colstrip and that such expenditures will be reviewed for
9 prudency in later GRCs. From the limited prima facie evidence presented by Avista
10 in this case, any investment in the Dry Ash Disposal System is imprudent at this time
11 and should not be included in rates. There has been no evidence provided by Avista
12 which shows how its investment in Dry Ash is a more cost effective solution than
13 other options—including retirement. This is especially true given that Avista has
14 concluded in its 2021 Integrated Resource Plan (IRP) that its most economic
15 decision would be to exit both Units 3 and 4 as soon as possible.⁴⁰ Further, beyond
16 the conversion date currently being set prior to December 31, 2025, Avista provided
17 little to no evidence or explanation as to why the Dry Ash Disposal System is not life
18 extending.

19 Finally, the Commission’s Policy Statement states that “provisional pro
20 forma adjustments will be determined on a case-by-case basis according to the

³⁹ *Wash. Utils. & Transp. Comm’n v vs. Puget Sound Energy*, Dockets UE-190529 and UG-190530, Order 08, 61–62, ¶¶197–199 (July 8, 2020); *In the Matter of the Investigation of Avista Corp. et al., Regarding Prudency of Outage and Replacement Power Costs*, Docket UE-190882, Order 05 (March 20, 2020).

⁴⁰ Gomez, Exh. No. DCG-13 at 11-5.

1 specifications of the rate-effective period investment.”⁴¹ Staff recommends the
2 Commission exercise its discretion and not grant such treatment for the \$4.0 million
3 in Dry Ash capital costs included in Avista’s pro forma in this case.
4

5 **2. Unit 3 Overhaul in 2021**
6

7 **Q. Does Avista include estimated 2021 Unit 3 overhaul costs in its electric revenue**
8 **requirement calculation?**

9 A. Yes. According to Avista, Unit 3 is scheduled for overhaul from May through June
10 of 2021.⁴² Avista has included \$2.1 million of Unit 3 overhaul capital costs in its
11 2020 and 2021 pro forma.
12

13 **Q. Are the Colstrip owners in agreement on the costs and timing of the overhaul?**

14 A. Apparently not. In a December 9, 2020, letter to the Colstrip owners, Talen states the

15 following: “

16 

17 

18 .”⁴³ On January 7, 2021, Avista, PSE, Pacific and

19 Portland General Electric Company (PGE), collectively known as the “Pacific

20 Northwest Owners,” responded to Talen’s December 9, 2021, letter as follows:

⁴¹ Valuation Policy Statement at 12, ¶ 35.

⁴² Thackston, Exh. JRT-1T at 82:10-13.

⁴³ Gomez, Exh. DCG-8C.

1
2
3
4
5
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7
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10
11

[REDACTED]

44

12 **Q. Just to clarify, in the January letter you just referenced, Avista (as one of the**
13 **Pacific Northwest Owners) [REDACTED] yet the**
14 **Company is still seeking to recover these same costs in this case?**

15 A. Yes.

17 **Q. Given the uncertainties surrounding the scope, scale, costs, and timing of the**
18 **Unit 3 overhaul, is it appropriate to include these costs in rates?**

19 A. No. The current situation at Colstrip is evolving with the owners arbitrating Talen’s
20 proposed budget under Section 18 of the Colstrip Unit 3 & 4 Ownership and
21 Operation Agreement (Colstrip O&O Agreement).⁴⁵ Whether Unit 3 will be
22 overhauled at all, or what such an overhaul in 2021 would include or cost, is
23 unknown at this time. As a result of this uncertainty, the pro forma amounts included
24 by Avista for the Unit 3 overhaul are not *known and measurable* and may even not

⁴⁴ Gomez, Exh. DCG-9C.
⁴⁵ Gomez, Exh. DCG-11C, *with*, Gomez, Exh. DCG-14. DCG-14 contains NorthWestern’s letter to the Colstrip owners of February 9, 2021, which is also included in DCG-11C and marked by Avista as confidential. DCG-14 was provided to Staff from a public source.

1 be *used and useful* during the rate effective period if the owners decide through
2 negotiation and/or arbitration not to overhaul Unit 3.⁴⁶

3

4 **Q. What is Staff's recommendation on the estimated \$2.1 million in Unit 3**
5 **overhaul costs Avista includes in its Adjustment 3.19?**

6 A. Staff recommends these costs be removed in their entirety.

7

8 **3. Colstrip Rate Year O&M Expense**

9

10 **Q. How much Colstrip Non-Overhaul O&M expense is Avista including for the**
11 **rate period?**

12 A. Avista has included slightly less than \$8 million in O&M expense for Colstrip during
13 the rate year. This amount is based on the Company's 2019 actual amount of Colstrip
14 O&M, which is consistent with the approach described in the Commission's Final
15 Order 05 in Docket UE-150204.⁴⁷ Avista's level of Non-Overhaul O&M for the rate
16 year is not based on the disputed 2021 Talen budget.

17

⁴⁶ Valuation Policy Statement at 10–11, ¶ 29–30 (explaining the requirement that pro forma adjustment must be known and measure and used and useful to be included in rates).

⁴⁷ See, *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Docket UE-150204, Order 05, 56, ¶¶ 153–154 (Jan. 6, 2016):

This Commission commonly uses test-year actuals for generation plant O&M, though we have occasionally authorized the normalization of major maintenance expenses. In this proceeding, we use test-year expenses for generation plant O&M, except for major maintenance at Colstrip and Coyote Springs 2. For major maintenance at Colstrip and Coyote Springs 2, we adopt Staff's proposal to normalize expenses. A review of historical data provided by Staff and Public Counsel shows that test-year expenses are reflective of actual O&M expenses for Rathdrum, Boulder Park and all other generation plants. Thus, we authorize Avista to use test-year O&M expenses for Rathdrum and Boulder Park, and all other generation plants except Colstrip and Coyote Springs 2. Further, Staff demonstrates that basic O&M expenses at Colstrip and Coyote Springs 2 in the test year are sufficiently reflective of historical data for use in setting rates, and we adopt Staff's proposal to do so.

1 **Q. Given the budget issues at Colstrip and the fact that Avista’s power costs**
2 **include 1.5 million MWhs of energy from Colstrip Units 3 & 4, did Staff**
3 **evaluate the \$8 million in Colstrip Non-Overhaul O&M Avista is proposing to**
4 **include in rates?**

5 A. Yes. Staff compared the average of Avista’s actual Non-Overhaul O&M for the
6 years 2014 to 2018 and found Avista’s proposed amount to be reasonable and
7 consistent with the level of generation included in power costs for Colstrip Unit 3
8 and 4 in the rate year.⁴⁸ In future Avista GRCs, Staff will be scrutinizing these costs
9 very carefully which may require a departure from the precedence established for the
10 treatment of these costs in Docket UE-150204.

11
12 **B. Staff’s Concerns Over Continued Reliance On Colstrip Beyond 2022**

13
14 **Q. What is the significance of the Colstrip Unit 3 and 4 owners’ failing to agree on**
15 **an operating budget for 2021?**

16 A. According to NorthWestern, the failure of the owners to agree on an annual
17 operating budget is unprecedented in the almost 50-year history of the plant.⁴⁹ Avista
18 and the other Pacific Northwest Owners are clearly at an impasse with NorthWestern
19 and Talen, not only pertaining to the annual operating budget, but also the
20 interpretation of certain terms and conditions contained in the Colstrip O&O
21 Agreement.⁵⁰ These controversies are now in arbitration under Section 18 of the

⁴⁸ Gomez, Exh. DCG-10.

⁴⁹ Gomez, Exh. DCG-14.

⁵⁰ Gomez, Exh. DCG-12, Gomez, Exh. DCG-14.

1 Colstrip O&O Agreement and are headed to an uncertain outcome. While we may
2 simply chalk all this up to the divergent interest of the Colstrip owners, also present
3 are divergent state and regional interests which are also pulling the Colstrip owners
4 apart.

5
6 **Q. Has Avista played an active role in the coalition of the Pacific Northwest**
7 **Owners?**

8 A. Yes, but as I indicated earlier, Avista's presentation of the costs it seeks to recover in
9 rates in this case contrasts sharply with the actions the Company is taking as part of
10 the coalition of the Pacific Northwest Owners. Using their collective ownership
11 shares, Avista and the other Pacific Northwest Owners have appropriately pushed
12 back on costs they believe are inconsistent with the Commission's direction that
13 Washington ratepayers shoulder no costs meant to extend the life of the plant.⁵¹

14
15 **Q. Has this been the first time the Pacific Northwest Owners have been successful**
16 **in pushing back on Talen's capital requests at Colstrip?**

17 No. In 2019, the Pacific Northwest Owners successfully deferred the replacement of
18 the \$20 million Superheat Section of the Unit 4 boiler, which Talen had originally
19 included in its capital budget for the 2020 overhaul of Unit 4.⁵² And while there is
20 criticism of the Pacific Northwest Owners from Talen and NorthWestern on that
21 decision, it was the correct one for them.

22

⁵¹ 2019 Avista Order at 19–20, ¶ 51.

⁵² Gomez, Exh. DCG-15C.

1 **Q. Why was deferment of a new Superheat Section for Unit 4's Boiler the right**
2 **choice for the Pacific Northwest Owners?**

3 A. Because investing in a new Superheat Section absent an analysis showing the benefit
4 of replacing such a major component over just simply retiring Unit 4, would not be
5 acceptable under the Commission's prudence standard. The Pacific Northwest
6 Owners would therefore be remiss in their fiduciary responsibilities to their
7 shareholders if they agreed to costs in a Colstrip budget that they could not possibly
8 recover in rates.

9
10 **Q. Similar to the Superheat section, we now have before us another substantial**
11 **investment at Colstrip, Dry Ash. What is your opinion about that investment?**

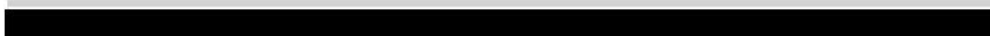
12 A. If minimizing the amount of ash-contaminated water entering the environment at the
13 lowest possible total cost is the goal, then logically, retirement of the plant would
14 also be an option to consider in addition to investing in Dry Ash. This is especially
15 true given the rising costs of Dry Ash, that I discussed earlier in my testimony. Yet,
16 from the evidence provided by Avista regarding the Dry Ash investment at Colstrip,
17 it appears that retirement of one or more of the units was not considered by Talen in
18 its 2021 proposed capital and operating budget, nor were the merits of pursuing an
19 extension to the Dry Ash conversion date. For Staff, Dry Ash now represents the
20 same decision point for the Colstrip owners as we had with the Unit 4 Superheat
21 Section's replacement; invest or retire.

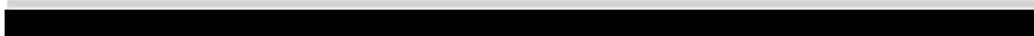
1 **Q. You mentioned an extension to the Dry Ash conversion date. Why do you think**
2 **Talen and NorthWestern may be opposed to an extension of the Dry Ash**
3 **conversion date?**

4 A. Because Talen and NorthWestern would lose their time leverage in negotiations with
5 the Pacific Northwest Owners over funding their share of this major investment prior
6 to their exit in 2025. If the deadline for Dry Ash were extended to a date say, after
7 December 31, 2025, then Talen and NorthWestern's argument that funding Dry Ash
8 is an obligation of the departing Pacific Northwest Owners would be diminished.
9 Extending the Dry Ash conversion date beyond December 31, 2025, would also
10 serve to remove the ambiguity among the Colstrip owners as to whether the
11 investment extends the life of the plant. Under such a scenario, it is not clear if Talen
12 and NorthWestern would make the Dry Ash investment on their own or just retire
13 the plant at that point.

14
15 **Q. What other concerns about Colstrip did Staff uncover through discovery?**

16 A. In reading the monthly Colstrip Units 3&4 Ownership and Operations Committee
17 meeting minutes for 2020, Staff sees continued concern among the owners regarding

18 

19 

1 [REDACTED].⁵³ We saw from the 2018 Colstrip Outage and Derate
2 case in UE-190882, how a mercury emission exceedance can result in millions of
3 dollars in replacement power costs for Washington's regulated customers, not to
4 mention the serious health and environmental impacts to communities downwind of
5 the plant. The heightened risk of [REDACTED] and
6 forced outage at Colstrip stands in stark contrast to the claims made by Avista
7 regarding Nitrous Oxide (NOx) emission reductions from installing SmartBurn in
8 Units 3 and 4 in 2016 and 2017. Lauding minimal improvements in NOx emissions,
9 yet ignoring the serious risks posed by [REDACTED],
10 contradicts Thackston's statement pertaining to the Company's approach to its
11 regulatory obligations and environmental compliance requirements as not being
12 narrow in its perspective.⁵⁴

⁵³ Gomez, Exh. DCG-16C at 43, 47, 52, 55-56, 60, 65 [REDACTED]
[REDACTED]
[REDACTED]

⁵⁴ Thackston, Exh. JRT-1T at 48:4-7.

1 **Q. Is there anything Avista can unilaterally do to minimize its Colstrip risk?**

2 A. Yes. Under the Colstrip O&O Agreement, Section 13, the Company could schedule
3 its share of the plant's generation in the upcoming 2022 budget cycle at the
4 minimum operating capability of 200 MWs for each unit.⁵⁵ By Staff's estimates, this
5 would lower the Company's share of Unit 3 and 4 generation and variable fuel costs,
6 as compared to the current level in the rate year, by up to 65 percent. If the minimum
7 operating capability were requested by all the Pacific Northwest Owners, it could
8 mitigate the Pacific Northwest Owners' exposure to rising Colstrip operating and
9 capital costs or, at least, shift more of Colstrip's variable generation costs to Talen
10 and NorthWestern if they decide to increase their share of generation by the amount
11 not being used by the other owners.

12
13 **Q. If Avista were to consider reducing its requested level of generation from**
14 **Colstrip Units 3 & 4 in 2022, will it need to begin the process now of selecting a**
15 **resource to replace it?**

16 A. Yes. Avista filed its 2021 Electric IRP with both the Washington and Idaho
17 Commissions on April 1, 2021. Avista expects to begin developing its 2023 IRP in
18 late 2021. Staff cannot think of a better opportunity for Avista to address the issue of
19 replacing over 1 million MWhs of Colstrip generation after 2022 with the
20 Commission and other interested stakeholders. This is especially true given that
21 Avista has concluded in its 2021 IRP that its most economic decision would be to

⁵⁵ Thackston, Exh. JRT-1T at 47:7-11 (stating that, "...[c]ontinued capital projects at Colstrip are necessary to maintain present operational plant output expectations required by owners to meet their anticipated load demands."). Avista's share of the minimum operating capability is 60 MWs (about 525,000 MWhs) for both units.

1 exit both Units 3 and 4 as soon as possible.⁵⁶ According to a newspaper report, even
2 NorthWestern believes “Colstrip will likely close in 2025 without government
3 intervention.”⁵⁷ Nevertheless, by scheduling its share of power at the minimum
4 operating capability, Avista can take a significant first step in actualizing its exit
5 from Colstrip.

6
7 **C. Colstrip Related Bills Before The Montana Legislature**

8
9 **Q. How many bills are being considered in the Montana Legislature which relate**
10 **to Colstrip?**

11 A. Staff is aware of three separate bills before the current session of the Montana
12 Legislature. They are:

- 13 • Senate Bill (SB) 265 – This bill seeks to change the venue under the
14 Colstrip O&O Agreement, Section 18 which specifies that arbitration
15 shall be conducted in Spokane County, WA pursuant to the Washington
16 Uniform Arbitration Act, RCW Chapter 7.04A. SB 265 requires that any
17 arbitration among the Colstrip owners occur within the State of Montana
18 before a panel of three arbitrators, selected under the Montana Uniform
19 Arbitration Act, unless all parties agree in writing to a single arbitrator. If
20 SB 265 were enacted to law, the provisions would apply retroactively to
21 actions taken by an owner on or after January 1, 2021.
- 22 • SB 266 – Amends the Montana Consumer Protection Act to include as an
23 unfair or deceptive act or practice: 1) the failure or refusal of a Colstrip
24 owner to fund its share of operating costs at the plant; and 2) any effort

⁵⁶ Gomez, Exh. DCG-13 at 11-5.

⁵⁷ Tom Lutey, THE BILLINGS GAZETTE, *Senate Republicans advance Colstrip Bill, which critics say burdens NorthWestern ratepayer* (Mar. 6, 2021), available at: https://billingsgazette.com/news/state-and-regional/govt-and-politics/senate-republicans-advance-colstrip-bill-which-critics-say-burdens-northwestern-ratepayers/article_c1a2864e-b7e3-5ab7-98b1-1da1efd18635.html:

NorthWestern, which bought into Colstrip in 2007 for \$187 million, had originally suggested the power plant would run until 2042, *but now says Colstrip will likely close in 2025 without government intervention*. Customers still owe a substantial amount of debt for NorthWestern’s Colstrip share, \$272.4 million according to the company’s latest annual report to stockholders, down from \$407 million when Montana consumers were put on a 33-year payment plan in 2009. (emphasis added).

1 made by one or more of the Colstrip owners to bring about permanent
2 closure of either or both units without first seeking and obtaining the
3 consent of all the owners. The bill directs the Montana Department of
4 Justice to take action against any owner that violates these provisions by
5 imposing a fine, temporary or permanent injunction, or temporary
6 restraining order. If SB 265 were enacted to law, the provisions apply
7 retroactively to actions taken by an owner on or after January 1, 2021.

- 8 • SB 379 - Applies to the existing Colstrip shares owned by NorthWestern,
9 as well as any acquisition by NorthWestern of additional shares. While
10 the intent of the bill may be to tie the recovery of costs for existing shares
11 to the acquisition of additional shares, the bill as written could be
12 interpreted to allow the automatic recovery of existing share costs without
13 any additional acquisition. According to Montana Public Utility
14 Commission (MPUC) staff, the bill would largely remove MPUC’s
15 oversight and ratemaking authority on NorthWestern’s Colstrip
16 investment, “providing a near-guarantee of cost recovery for the utility on
17 that particular asset if it were retired early while shielding management
18 and shareholders from accountability.”⁵⁸ MPUC Staff found the bill
19 difficult to understand and, as a result, has concerns that the bill could
20 result in undesirable and/or unintended consequences.
21

22 **Q. Can Staff predict what may happen if these bills were signed into law?**

23 A. No. Staff can only speculate at this point. However, SB 266⁵⁹ SB 379⁶⁰ (mentioned

⁵⁸ Gomez, Exh. DCG-17 at 2. Included in this exhibit are two separate MPUC Staff memos regarding SB 379.

⁵⁹ Tom Lutey, THE BILLINGS GAZETTE, *Lawmakers back state action on Colstrip contract* (April 13, 2021), available at: https://billingsgazette.com/news/state-and-regional/govt-and-politics/lawmakers-back-state-action-on-colstrip-contract/article_cda69e15-022c-51ef-a9da-e724c62d75d5.html:

Legislators voted mostly along party lines to empower the attorney general to force Colstrip owners to make power plant repairs that the state deems essential. The bill comes after NorthWestern Energy found itself on the losing end of power plant maintenance decisions, which by contract are decided by majority vote among Colstrip’s six owners. Not making the repairs dictated by state government would cost each non-submissive power plant owner a fine of \$100,000 a day. Five Democrats crossed over to vote with Republicans on the 72-28 decision.

.....

Lawmakers voting against the bills warned against interfering with private businesses, not only because Montana has no ownership interest in Colstrip, but also because of the 10th Amendment of the U.S. Constitution prevents states from impairing contracts.

⁶⁰ Tom Lutey, THE BILLINGS GAZETTE, *Senate Republicans advance Colstrip Bill, which critics say burdens NorthWestern ratepayer* (Mar. 6, 2021) available at: https://billingsgazette.com/news/state-and-regional/govt-and-politics/senate-republicans-advance-colstrip-bill-which-critics-say-burdens-northwestern-ratepayers/article_c1a2864e-b7e3-5ab7-98b1-1da1efd18635.html:

Lawmakers voted 30-19 Tuesday to approve [Senate Bill 379](#), which obligates customers of NorthWestern Energy to paying off the undepreciated book value of additional power plant shares regardless of whether Colstrip Power Plant continues to operate. The bill also provides a formula for determining the customer debt for additional shares, rather than basing the debt on what NorthWestern actually paid for additional ownership.

1 above) have been advanced within Montana Legislature. Nevertheless, the risk of
2 protracted litigation over the subject of Colstrip’s future may increase with these
3 laws in place. The outcome of arbitration and the impact of these bills may become
4 better known after Staff has filed responsive testimony in this case. Staff therefore
5 recommends that the Commission consider issuing bench requests to Avista in an
6 effort to further inform the record in this case on both the subject of arbitration and
7 the impact of these bills if enacted into law prior to the rate effective date in this
8 case.

9
10 **D. SmartBurn**

11
12 **Q. How many times has Avista requested recovery of its SmartBurn investment at**
13 **Colstrip Units 3 and 4?**

14 A. Avista has presented these costs for recovery four separate times, including this case
15 (2016, 2017, 2019, and 2020). In both its 2017 and 2019 GRC, Staff opposed the
16 inclusion of SmartBurn capital cost in Avista’s rates. Staff’s recommendation in this
17 case regarding SmartBurn remains unchanged; Avista’s decision to install
18 SmartBurn at Colstrip Units 3 and 4 was imprudent and these costs should not be
19 allowed to be included in the Company’s rates.

20
21 **Q. What did the Commission have to say about SmartBurn in Avista’s 2017 GRC?**

22 A. In Avista’s 2017 GRC, the Commission, in its final order, stated the following
23 regarding the Company’s investment in SmartBurn: “we concur with Staff’s

1 assessment that Avista has provided insufficient information related to its
2 investments at Colstrip Units 3 and 4. The Company presents an argument for the
3 SmartBurn investment on rebuttal, but it does not dispel Staff’s primary concern: that
4 the investment does not appear to have been required by any state or federal laws.”⁶¹

5 The Commission’s final order in the 2017 GRC also criticized Avista’s
6 presentation:

7 Avista provided no details for its substantial planned investments in Colstrip
8 Units 3 and 4 during the period 2018 through 2021. Given the weak economic
9 conditions for coal plants, the age of Colstrip Units 3 and 4, as well as the
10 unidentified upward bounds of potential environmental liabilities, the
11 Commission agrees with Staff’s recommendation that Avista must provide a
12 more detailed examination of its justification for its investments at Colstrip in
13 its next GRC.⁶²

14 The Commission further noted, “If and when the Company requests recovery
15 of a portion of Colstrip capital expense in a GRC, the request must be accompanied
16 by a comprehensive, up-to-date analysis of the economics and environmental
17 liabilities and risks of Colstrip Units 3 and 4 over their expected life.”⁶³

18
19
20 **Q. Did Avista provide a more detailed examination of its justification for**
21 **SmartBurn in its 2019 GRC?**

22 A. No. While the parties to the 2019 GRC settled that case, no amounts were included
23 in the Company’s rate base for SmartBurn. However, prior to settlement, Staff had
24 concluded from the evidence provided by Avista, that SmartBurn was not required to
25 comply with Federal law regarding NOx. Further, Avista provided no

⁶¹ 2017 Avista Order at 68, ¶ 204.

⁶² 2017 Avista Order at 69, ¶ 205 (emphasis added).

⁶³ 2017 Avista Order at 69, n.314 (emphasis added).

1 contemporaneous documentation in the 2019 GRC regarding the decision-making
2 process among the Colstrip owners which led to approving this investment. Staff's
3 application of the Commission's prudence standard in the 2019 GRC found
4 SmartBurn to be imprudent and therefore recommended the Commission disallow
5 these costs.

6

7 **Q. You recently sponsored testimony in PSE's 2019 GRC regarding SmartBurn.**
8 **What was your recommendation in that case?**

9 A. I recommended disallowance of PSE's investment in SmartBurn for Units 3 and 4
10 for the same reasons as I provided in my testimony in Avista's 2019 GRC. The
11 Commission, in its final order in PSE's 2019 GRC, agreed with my recommendation
12 and disallowed recovery on the basis that the company had failed to; 1) demonstrate
13 that SmartBurn was necessary (evidence of need), and 2) maintain appropriate
14 documentation of its decision to install SmartBurn.⁶⁴

15

16 **Q. Does Thackston's testimony regarding SmartBurn in this case mention the**
17 **Commission's decision in PSE's 2019 GRC?**

18 A. Yes. Thackston's prefiled direct testimony acknowledges the Commission's decision
19 on SmartBurn in PSE's 2019 GRC but suggests that the Commission erred in its
20 decision to disallow PSE's requested recovery on the basis that the record in that
21 case was somehow "not sufficiently developed."⁶⁵ Thackston further states that the

⁶⁴ 2019 PSE Order at 57–62, ¶¶ 184–199.

⁶⁵ Thackston, Exh. JRT-1T at 61:8-18.

1 test for prudence should not be whether SmartBurn “is specifically required by law
2 or regulation.”⁶⁶

3

4 **Q. Do you agree with Avista that the Commission erred in its decision to disallow
5 recovery of SmartBurn in PSE’s 2019 GRC?**

6 A. No. While I agree with Thackston that the test for prudence is not limited to whether
7 an investment is required by law, a company must make a threshold showing of the
8 need for an investment for it to be prudent. Thackston’s prefiled direct testimony and
9 exhibits neither contain any new contemporaneous documentation addressing the
10 Company’s decision to acquire SmartBurn nor calls into question the Commission’s
11 decision on SmartBurn in PSE’s 2019 GRC. Consequently, I recommend, again, that
12 the Commission disallow Avista’s SmartBurn investment in Colstrip Units 3 and 4.

13

14 **Q. How do you respond to Avista’s assertion that the Colstrip owner’s SmartBurn
15 investment was prudent in spite of a Commission order to the contrary?**

16 A. In my testimonies in both the Avista and PSE 2019 GRCs, I employed the prudence
17 standard which the Commission has articulated in a number of its decisions. In one
18 such decision, the Commission stated:

19 It is generally conceded that one cannot use the advantage of hindsight. The
20 test this Commission applies to measure prudence is what a reasonable board
21 of directors and company management [would] have decided given what they
22 knew or reasonably should have known to be true at the time they made a
23 decision. This test applies both to the question of need and the appropriateness
24 of the expenditures.⁶⁷

25

⁶⁶ Thackston, Exh. JRT-1T at 61:19-20.

⁶⁷ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy, Inc.*, Docket UE-031725, Order 14, 34, ¶ 65 (May 13, 2004) (citations omitted).

1 The Commission has also explained that, after a company initiates a project, that
2 company must continue to evaluate and ensure its prudence:

3 Simply because the decision to begin a project is prudent does not mean the
4 continuation or completion of the project is *ipso facto* prudent. The
5 Commission believes that a company must continually evaluate a project as it
6 progresses to determine if the project continues to be prudent from both the
7 need for the project and its impact on the company's ratepayers.⁶⁸
8

9 In addition, the Commission has made it clear that the company bears the burden of
10 demonstrating prudence.⁶⁹

11 I discuss Avista's failure to demonstrate the need for SmartBurn and Avista's
12 failure to maintain appropriate documentation, below.

13

14 **1. Avista Failed To Demonstrate The Need For SmartBurn.**

15

16 **Q. Has Avista met its burden to demonstrate the need for SmartBurn?**

17 A. No. Thackston's prefiled direct testimony continues to advance Avista's worn out
18 argument that there had been a long expectation by the Colstrip owners that Selective
19 Catalytic Reduction (SCR) would eventually be required for Colstrip Units 3 and 4 at
20 a time when both units were expected to be in service over the next two decades.
21 According to Thackston, the decision by the Colstrip owners to install SmartBurn
22 was in anticipation of an SCR requirement, a requirement that never materialized.

23

⁶⁸ *Wash. Utils. & Transp. Comm'n v. The Wash. Water Power Co.*, Cause No. U-83-26, Fifth Supplemental Order, 13 (Jan. 19, 1984).

⁶⁹ *Id.* ("As with all issues, the company bears the burden to prove initiation, construction and continuation of the project was prudent."); *see also*, *Petition of Puget Sound Power & Light Co. for an Order Regarding the Accounting Treatment of Residential Exchange Benefits*, Docket No. UE-920433, Eleventh Supplemental Order, 19 (Sept 21, 1993) ("Puget must make an affirmative showing of the reasonableness and prudence of the expenses under review . . . even in the absence of a challenge by another party.").

1 **Q. In PSE’s 2019 GRC, what did the Commission have to say in its final order**
2 **about the Colstrip owner’s expectation of SCR being required at Colstrip Units**
3 **3 and 4 and their decision to “proactively” install SmartBurn based on that**
4 **expectation?**

5 A. The Commission’s order in the PSE 2019 GRC was very clear; “ratepayers should
6 not be required to compensate [PSE] for the costs of its litigation strategy or for its
7 erroneous speculation.”⁷⁰

8

⁷⁰ 2019 PSE Order at 61 ¶ 198. Staff acknowledges that Commissioner Balasbas disagreed with the portion of the 2019 PSE GRC order disallowing recovery of SmartBurn. 2019 PSE Order at 214–215, ¶ 5. The dissent noted that “[i]f the investment [in SmartBurn] was uncontested in [PSE’s] 2017 [GRC], I see no rational basis for treating the installation of the same technology in Units 3 and 4 any differently. If the parties had a prudence concern about SmartBurn, the appropriate time to raise it was in the 2017 GRC.” *Id.*

Staff admits that there was no direct challenge to the prudence of SmartBurn in the PSE 2017, in part due to the fact that the case involved a lengthy and complicated settlement process, including whether and how to cease operations at Colstrip Units 1 and 2 entirely. As noted in Staff’s testimony in support of settlement:

Staff’s recommendation is the result of four rounds of testimony, several months of discovery, and a series of complex, and at times contentious negotiations, settlement discussions with 11 interested parties, representing stakeholders with very different interests. The Settling Parties’ proposed Settlement brings 10 of those stakeholders together and provides a fair and reasonable resolution to the settled issues in this case.

As part of its decision to join the Settlement, Staff considered the range of potential outcomes of further litigation (or litigation risk) and concluded that this Settlement was a just and reasonable compromise of the issues presented in the case.

Gomez, Exh. DCG-32 at 4-5.

Additionally, the Commission approved Settlement Agreement in the 2017 PSE GRC contained a provision stating that the “Settlement Agreement does not serve to bind the Commission when it considers any other matter not specifically resolved by this Settlement in future proceedings.” 2017 PSE Settlement at 36, ¶ 127. The Settlement Agreement further stated “[i]n reaching this Settlement, the Settling Parties agree that no Settling Party concedes any particular argument advanced by that Settling Party or accedes to any particular argument made by any other Settling Party.” *Id.* at 36, ¶ 128.

Finally, Staff notes that less than five months after the Commission approved the Settlement Agreement in the 2017 PSE GRC, the Commission issued its final order in the 2017 Avista GRC, in which all Commissioners agreed that the Company had not addressed Staff’s primary concern that the installation of SmartBurn on Colstrip Units 3 and 4 “does not appear to have been required by any state or federal laws.” 2017 Avista Order at 68, ¶ 204. Following this guidance from the Commission, Staff sought to address the same concern in PSE’s 2019 GRC, ultimately resulting in Staff’s recommendation that the Commission disallow recovery of the SmartBurn investment for Colstrip Unit 3 because it was an unnecessary, speculative investment. Staff maintains that recommendation in the present case.

1 **Q. What about Thackston’s references to Avista’s IRPs?**

2 A. Thackston states that “[t]he expectation of SCR being needed at the plant to meet the
3 Regional Haze Program was an expectation that was modeled in the Company’s IRP
4 since at least the 2011 IRP.”⁷¹

5 Staff found Thackston’s references to Avista’s IRPs in his testimony inapt
6 with regard to their applicability as evidentiary support for the Company’s need to
7 invest in SmartBurn. Staff examined the Commission’s acknowledgment letters for
8 Avista’s 2011, 2013, 2015 and 2017 IRPs. Each Commission acknowledgement
9 letter to the Company stated that the acknowledgment of the IRP did not signal pre-
10 approval of any course of action and that the prudence of the Company’s decisions
11 would be evaluated in a future general rate case.⁷²

12
13 **Q. Does Avista consider its references to SCR in its past IRPs as evidence of need
14 for the installation of SmartBurn at Colstrip Units 3 and 4 under the
15 Commission’s prudence standard?**

16 A. Apparently not, which begs the question as to the reason for their presence in
17 Thackston’s testimony. In discovery Staff posed this very question to Avista who
18 responded as follows:

19 No. It is not Avista’s position that the modeling scenarios in the IRP are
20 “evidence of need”. However, the IRP is often the place where analytical work
21 about the acquisition of new resources or significant modification of existing
22 resources takes place because the IRP considers the economic impact of

⁷¹ Thackston, Exh. JRT-1T at 57:4-9.

⁷² Avista 2011 Electric Integrated Resource Plan, Docket UE-101482, Letter re: Avista’s 2011 Electric Integrated Resource Plan (Jan. 12, 2012); Avista 2013 Electric Integrated Resource Plan, Docket UE-121421, Letter re: Avista’s 2013 Electric Integrated Resource Plan (March 24, 2014); Avista 2015 Electric Integrated Resource Plan, Docket UE-143214, Letter re: Avista’s 2015 Electric Integrated Resource Plan (March 14, 2016); Avista 2017 Electric Integrated Resource Plan, Docket UE-161036, Letter re: Avista’s 2017 Electric Integrated Resource Plan (May 7, 2018).

1 changes to resources to Avista’s resource stack. The IRP is also a vehicle to
2 inform the Commission and other stakeholders about the analysis that is being
3 performed. The modeling of the SmartBurn costs for Unit 3 and 4 were
4 considered through the SCR scenario analyses in the IRPs listed above. As
5 explained throughout the SmartBurn section of Mr. Thackston’s testimony, the
6 decision for the installation of the SmartBurn technology was made as a step
7 towards the expectation that an SCR would be required at a future date to meet
8 Regional Haze requirements as shown by the IRP scenarios. The Regional
9 Haze requirements are still there, but the Colstrip Units 3 and 4 portion of that
10 requirement has changed as other facilities closed over time. Avista did not
11 have any way to foresee that these other facilities would close and, therefore,
12 that the requirement would change. Based on the information that Avista had
13 at the time, SmartBurn was an intermediate step that could delay the need for
14 a costly SCR and/or install a smaller and less costly to buy and less costly to
15 operate SCR for Units 3 and 4.⁷³
16

17 **Q. Thackston testimony includes a vague reference to a “2012 decision timeframe”**
18 **whereby the Colstrip owners decided to install SmartBurn in Units 3 and 4.⁷⁴**
19 **What did Staff learn in discovery about this statement?**

20 **A.** In discovery, Avista responded that Thackston’s statement in his prefiled direct
21 testimony refers to the following:

22 [T]he beginning of a multiple year decision process to install the SmartBurn
23 technology on Units 3 and 4. After the [Environmental Protection Agency
24 (EPA)] FIP was issued in September 2012, the decision was made to include
25 SmartBurn in the 5-year Capital budget. These long-range budgets are
26 considered a planning tool for all types of projects that develop in more detail
27 over time as more accurate information is developed and known.⁷⁵

⁷³ Gomez, Exh. DCG-18.

⁷⁴ Thackston, Exh. JRT-1T at 59:6-12.

⁷⁵ Gomez, Exh DCG-19. To clarify, Avista’s reference to the EPA’s 2012 FIP is to the U.S. Environmental Protection Agency, 40 CFR Part 52, Approval and Promulgation of Implementation Plans; State of Montana; State Implementation Plan and Regional Haze Federal Implementation Plan [FIP]; Federal Register / Vol. 77, No. 77 / Tuesday, September 18, 2012 / Final Rules. *See*, Gomez, Exh. DCG-21 at 116–172. Also, Avista’s reference to a 5-year Colstrip Capital budget is in error and should say 10-year Colstrip capital budget. *See*, Gomez Exh. DCG-23C at 3.

1 From the Company’s response above, we see that the Colstrip owners’ “strategic
2 decision” in 2012 was in fact a reference to Talen including the SmartBurn project as
3 part of its 10-year projection of capital projects for Units 3 and 4. In discovery,
4 Avista also provided Staff with three responsive documents from around the time of
5 the so-called strategic decision timeframe, but failed to explain how these documents
6 pertain to the decision on the part of Colstrip owners to include SmartBurn in their
7 capital plans.⁷⁶ Staff’s examination of these documents could find no evidentiary
8 support for the decision by Avista and the other Colstrip owners in 2012 to invest in
9 SmartBurn as a proactive first step in mitigating the high cost of SCR at Units 3 and
10 4.⁷⁷

11

12 **Q. In April of 2012, the EPA published its proposed FIP findings for public**
13 **comment ahead of the final rules that were issued later that year in**
14 **September.⁷⁸ What did the April proposed FIP say about the need to install**
15 **SCR for Units 3 and 4?**

16 A. In the April 2012 FIP, EPA concluded the following regarding Units 3 and 4:

⁷⁶ Gomez, Exh. DCG-20C.

⁷⁷ In fact, Staff could not even find the word “SmartBurn” in the 50 pages of documents provided by Avista in response to discovery. However, in a number of places in these documents it clearly shows that given the emission control systems already in place at Colstrip Unit 3 and 4, there was no need for SCR to be installed in these units for the control of NOx. For example, on Page 4 of DCG-20C it states:

[REDACTED]

⁷⁸ Gomez, Exh. DCG-21 at 1–115.

1 We have considered the following four factors: The cost of compliance; the
2 time necessary for compliance; the energy and non-air quality environmental
3 impacts of compliance; and the remaining useful life of the sources. We have
4 also considered an additional factor: The modeled visibility benefits of
5 controls. We evaluated this factor for Colstrip Units 3 and 4, due to the size of
6 Colstrip Units 3 and 4 in comparison with the other RP sources. For the more
7 cost-effective option (SNCR), the modeled visibility benefits are relatively
8 modest. For the more expensive option (SCR), the modeled visibility benefits,
9 although more substantial, are not sufficient for us to consider it reasonable to
10 impose this option in this planning period.⁷⁹
11

12 **Q. What did the September final FIP say about SCR at Units 3 and 4?**

13 A. In Section IV - Issues Raised by Commenters and EPA's Responses, Subsection J -
14 Comments on Colstrip 3 and 4, it states:

15 *Comment:* Some commenters agreed with EPA's conclusion not to require
16 additional emissions controls at Colstrip Units 3 and 4. Commenters asserted
17 that, given the aggressive pollution control technologies already in place, EPA
18 properly concluded that additional controls for Reasonable Progress are not
19 appropriate.

20 *Response:* We acknowledge the commenters' support for our decision not to
21 require additional emission controls on Colstrip Units 3 and 4 in this planning
22 period. Whether additional emission reductions from reasonable progress
23 sources, including Colstrip Units 3 and 4, are necessary will be re-evaluated in
24 subsequent planning periods.⁸⁰
25

26 **Q. Staff examined the EPA's proposed and final FIP in its entirety. Does Staff as**
27 **agree with Thackston that it was reasonable to assume that additional NOx**
28 **reductions would be required in the future at Units 3 and 4?⁸¹**

⁷⁹ Gomez, Exh. DCG-21 at 80-81.

⁸⁰ Gomez, Exh. DCG-21 at 155.

⁸¹ Thackston, Exh. JRT-1T at 62:19 - 63:6.

1 A. No. EPA only said that it would reevaluate Colstrip Units 3 and 4 which means that
2 the Colstrip owner's assumption in the "2012 decision timeframe" that additional
3 NOx reductions would be required at Units 3 and 4 were purely speculative.

4

5 **Q. You mentioned that the 2012 FIP stated that Unit 3 and 4's need for additional**
6 **NOx controls would be reevaluated at a later time. When did this reevaluation**
7 **occur?**

8 A. In August of 2017, the MDEQ published its Regional Haze Progress Report of 2017
9 (2017 Report) which evaluated visibility progress in Montana since the baseline
10 years of 2000-2004 and, more specifically, progress since the Montana FIP was
11 published by EPA in 2012. The report provides a five-year update on the current
12 status of visibility at the Class I Areas affected by emissions from Montana sources
13 of air pollution and describes statewide emissions reductions. The report concluded
14 that the Montana FIP was adequate and did not require substantive revision to
15 achieve established visibility goals.⁸²

16

17 **Q. Chapter 2 of the 2017 Report mentions the installation of SmartBurn on Units 3**
18 **and 4. Was the installation of SmartBurn mandated by either the 2012 FIP or**
19 **the 2017 Report?**

20 A. No. The 2017 Report's mention of the installation of SmartBurn on Units 3 and 4
21 describes a voluntary action on the part of the Colstrip owners.⁸³

⁸² Gomez, Exh. DCG-22 at i. Staff's exhibit is an excerpt. The full report may be viewed at <http://deq.mt.gov/Air/AQ/RegionalHaze>.

⁸³ Gomez, Exh. DCG-22 at Page 2-8. Staff's exhibit is an excerpt. The full report may be viewed at <http://deq.mt.gov/Air/AQ/RegionalHaze>.

1 **Q. Given what Staff has learned through discovery, has Avista met its burden on**
2 **SmartBurn under the Commission’s prudence standard regarding evidence of**
3 **need?**

4 A. No.⁸⁴

5

6 **2. Avista Failed to Maintain Appropriate Documentation.**

7

8 **Q. Thackston states that the SmartBurn projects began in 2015. SmartBurn on**
9 **Unit 4 was completed in 2016 and the installation on Unit 3 was completed in**
10 **2017.⁸⁵ Is Thackston’s reference to 2015 referring to the Colstrip Unit 3 and 4**
11 **annual budget process in this statement?**

12 A. Yes. Thackston’s reference to 2015 is referring to the year the Colstrip owners
13 approved the installation of SmartBurn in Units 3 and 4 as part of the annual budget
14 for 2016. SmartBurn was installed in Unit 4 during its 2016 overhaul and in Unit 3
15 during its 2017 overhaul. In discovery, when asked to produce contemporaneous
16 documents which memorialized the owner’s decisions in the 2016 annual budget, the
17 Company used that opportunity to clarify Thackston’s earlier statements regarding
18 the 2012 “strategic decision” to install SmartBurn as follows:

19

20

⁸⁴ Staff has reviewed several responses to data requests from Avista regarding its decision to invest in SmartBurn NOx control technology, including supplemental responses provided less than a month from Staff’s testimony filing deadline. Following its review, Staff still recommends that the Commission determine that the decision to invest in SmartBurn was not prudent because the new information does not establish a need for SmartBurn.

⁸⁵ Thackston, Exh. JRT-1T at 58:1-5.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 **Q. Does Thackston’s prefiled direct testimony and exhibits include any**
6 **documentation from the Colstrip Unit 3 and 4 Project Committee**
7 **memorializing the Colstrip owner’s 2015 budget decision to proceed with the**
8 **installation of SmartBurn in those units?**

9 A. No. Staff had to once again rely on discovery to get this information. This
10 inappropriately passes Avista’s evidentiary burden to Staff and other parties in this
11 case to uncover the true story behind the owners’ decision to install SmartBurn. This
12 is in direct contradiction with the Commission’s direction in Avista’s 2017 and 2019
13 GRC orders I mentioned earlier in my testimony.⁸⁷

14
15 **Q. What did Staff learn in discovery regarding the Colstrip owners’ 2015 decision**
16 **to install SmartBurn?**

17 A. [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

⁸⁶ Gomez, Exh. DCG-23C at 4.

⁸⁷ 2017 Avista Order at 69, ¶ 205 (“Avista must provide a more detailed examination of its justification for its investments at Colstrip in its next GRC.”); 2019 Avista Order at 19–20, ¶ 51 (“Avista will provide detailed information, including a complete record of the decision making and a full accounting of the costs related to those project expenditures on an annual basis.”).

⁸⁸ Gomez, Exh. DCG-23C at 6.

⁸⁹ Gomez, Exh. DCG-24C at 1.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]

8

9 **Q. What reason did Avista offer the other owners and Talen as to why SmartBurn**
10 **needed to be installed in 2017 versus later when more facts were known?**

11 A. Oddly, [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED].⁹¹ Staff notes that

⁹⁰ Gomez, Exh. DCG-24C at 6–8.
⁹¹ See also, Gomez, Exh. DCG-30C at 2 [REDACTED]
[REDACTED] 3 [REDACTED]
[REDACTED]
[REDACTED]

1 during this same time, Avista was requesting recovery of its SmartBurn investment
2 in rates in its 2016 GRC for the first time.⁹² According to the record in that case, no
3 mention of this issue was provided by Avista in its justification to include almost \$13
4 million in Colstrip capital additions in its 2016 proforma.

5
6 **Q. Has Avista met the Commission prudence standard with regard to**
7 **contemporaneous evidence regarding its decision to install SmartBurn in Units**
8 **3 and 4?**

9 A. No. Avista's misleading and ever evolving narrative on SmartBurn across four
10 separate GRCs does not square with the facts. Thackston's claims that the Company
11 has provided substantial evidence pertaining to the prudence of its SmartBurn
12 investment is without merit.⁹³ Perhaps the Company's intention is to lay in wait and

_____ and _____
_____ and _____

⁹² In Avista's 2016 GRC, Docket UE-160228, the Commission rejected that case and Avista again included SmartBurn in its 2017 GRC where Staff opposed their inclusion on rates.

⁹³ As an initial issue, Staff is dismayed that Avista has provided several reports, analyses, and internal communications regarding SmartBurn only after Staff requested additional information in discovery. Staff cannot speculate as to why the Company did not include the information provided in discovery in this case as part of its initial filing in either the 2019 or the present GRC, despite the Commission's direction to provide additional information about the need for additional investment at Colstrip Units 3 and 4. More seriously, Staff is concerned by the fact that information provided for the first time in response to data requests in this case was not provided in response to data requests in the 2019 GRC. In the 2019 Avista GRC, Sierra Club issued several requests to Avista regarding its decision to invest in SmartBurn. For example, Sierra Club asked Avista: Mr. Thackston states [. . .] that "Talen reviewed a wide variety of NOx control solutions over the years, including selective non-catalytic reduction (SNCR), SCR, SmartBurn and others." Please provide all analyses, presentations, memos, board minutes, and any other material produced by, for, or on behalf of Talen or the other Colstrip owners documenting, describing, or presenting the results of these reviews.

Avista responded:

All commercially available NOx control solutions were evaluated in the Regional Haze Federal Implementation Plan (FIP) issued in Sept. 2012. The owners' of Unit 3 & 4 became aware of the SmartBurn technology (described in Mr. Thackston's testimony on page 39) after it was installed on Unit 2, **we are not aware of any other available NOx control solution reviews.**

1 add additional documents and information in rebuttal, effectively undermining
2 parties' arguments based on the Company's initial filing.

3
4 **3. Avista Failed To Demonstrate The Benefit Of Installing**
5 **SmartBurn.**

6
7 **Q. Thackston claims SmartBurn provides a number of benefits to its customers.**
8 **Can you summarize these purported benefits?**

9 A. Yes. Thackston claims that SmartBurn provides the following benefits: SmartBurn
10 technology saves future capital expenditures, reduces future O&M expenditures, and
11 provides an earlier environmental benefit by reducing the production of NOx.⁹⁴
12 Avista's dubious claims of SmartBurn's cost control benefits are purely anecdotal

See also Avista's response to SC-DR-010.
Gomez, Exh. DCG-31 at 2 (emphasis added).
Sierra Club also asked:

Mr. Thackston states [...] that "[t]he owners...proactively decided to install SmartBurn in an effort to manage a future regulatory obligation, doing so in a strategic and cost-effective manner." Please provide all analyses, presentations, memos, board minutes, and any other materials relating to or describing the referenced decision process.

Avista responded:

As mentioned on page 42, lines 7-9; "SmartBurn was the last available, low cost, NOx pollution prevention emission control prior to the expected installation of a very expensive emission control (e.g., SCR)". Based on the information available to the Company at the time (see Avista's response to SC-DR-010 and SC-DR-012 and SC-DR-014), **no additional detailed analysis was necessary to see the potential benefits of the SmartBurn technology and the decision to install SmartBurn.**

Gomez, Exh. DCG-31 at 3 (emphasis added).

Now, in its fourth attempt to seek recovery for its investment in SmartBurn, Avista has provided documents that have existed since 2015, a year before its initial attempt to recover SmartBurn, in response to Staff data requests. Not only did Avista not disclose responsive analysis, such as [REDACTED], it also represented that it was "not aware of any other available NOx control solution reviews." Staff contends that Avista failure's to even identify potentially responsive documents in response to prior data requests regarding SmartBurn is highly prejudicial and undermines the fairness of the current proceedings with respect to SmartBurn.

⁹⁴ Thackston, Exh. JRT-1T at 65:17-19.

TESTIMONY OF DAVID C. GOMEZ
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Exh. DCG-1CT
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1 and after the fact. Staff has seen no evidence of reduced costs at Colstrip due to the
2 installation of SmartBurn and, in fact, expects the costs of controlling Colstrip's
3 emissions to rise dramatically in the future with the advent of the Dry Ash Disposal
4 System and increasingly stricter emission regulations governing coal plants. I also
5 discussed earlier in my testimony, Staff's very real concern regarding future [REDACTED]

6 [REDACTED].

7
8 **Q. Did SmartBurn reduce NOx emissions at Colstrip Units 3 and 4?**

9 A. Thackston's Exhibit JRT-10 includes Talen's Reasonable Progress Four Factor
10 Analysis whose "purpose is to provide information to [Montana] DEQ regarding
11 potential sulfur dioxide (SO2) and nitrogen oxides (NOX) emission reductions for
12 Colstrip Units 3 and 4 for the purpose of establishing reasonable progress goals at
13 mandatory Class I areas set as a result of the regional haze rule (RHR) to meet the
14 uniform rate of progress (URP) glide path for each mandatory Class I area."⁹⁵
15 Section 4 of the report compares the number of tons per year of NOx emissions from
16 the plant. Comparing the unit NOx tonnage emissions both before and after
17 SmartBurn's installation shows a modest 5 percent overall improvement. However, it
18 is unclear whether and to what extent any reduction in NOx is attributable to the
19 installation of SmartBurn. As noted in the Talen Reasonable Progress Four Factor
20 Analysis, NOx emissions were significantly improved by the retirement of Colstrip
21 Units 1 and 2, which now no longer produce NOx emissions.

⁹⁵ Thackston, Exh. JRT-10 at 35.

1 **4. The Decision To Install SmartBurn Was Imprudent And Should Be**
2 **Disallowed.**

3
4 **Q. Can you summarize your recommendations to the Commission regarding**
5 **SmartBurn?**

6 A. Yes. The Commission should disallow Avista’s entire SmartBurn investment. The
7 Company has failed, over the course of four GRCs, to provide the necessary
8 evidence under the Commission’s prudence standard to justify recovery of this
9 investment. In its relentless pursuit to include these costs in its rates, the Company
10 has burdened Staff and other parties by continuing to advance its inaccurate, after the
11 fact narrative that SmartBurn was somehow a carefully considered investment on the
12 part of the Colstrip owners. It also failed to provide evidence in its initial testimony
13 of its reevaluation of the need for SmartBurn at numerous points along the life of the
14 project, such as in 2016 when the other owners, including Talen, were advocating for
15 a delay in Unit 3’s installation given uncertain regulatory requirements.

16
17 **IV. NON-COLSTRIP GENERATION CAPITAL PROJECTS**

18
19 **Q. Can you list the Non-Colstrip Generation Capital projects which Avista seeks to**
20 **include in its pro forma?**

21 A. Below are the seven projects which Thackston lists on Table No. 3 of his prefiled
22 direct and which the Company seeks to include as part of its pro forma.

23

Description	Adjustment	Company	Staff
ER_4163 – CG HED Automation Replacement	PF 3.12	\$2,667,897	\$0
ER_4213 – Cabinet Gorge 15 kV Bus Replacement	PF 3.12	\$260,408	\$0
ER_4206 – CS2 Single Phase Transformer	PF 3.12	\$1,869,289	\$0
ER_4149 – Base Load Thermal	PF 3.13	\$1,464,011	\$0
ER_4148 – Regulating Hydro	PF 3.13	\$684,112	\$0
ER_6103 – Clark Fork Implement PME Agreement	PF 3.14	\$621,234	\$0
ER_6107 – Spokane River Implementation (PM&E)	PF 3.14	\$861,163	\$0
Total		\$8,428,114	\$0

1 **Q. You mentioned earlier that Staff applied a materiality threshold of 0.25 percent**
2 **of test year net plant in service to the Company’s list of pro forma Non-Colstrip**
3 **Generation Capital Projects to determine whether a project is “major.” What**
4 **was the result of Staff’s application of this threshold to the list projects**
5 **proposed by Avista for inclusion in rates?**

6 A. Staff recommends the Commission reject all seven of the Non-Colstrip Generation
7 Capital Projects included in Table No. 3 in Thackston’s prefiled direct testimony as
8 none of them approaches Staff’s definition of a major project.⁹⁶
9

10 **Q. In Avista’s 2019 GRC you provided testimony regarding one of these projects;**
11 **CS2 Single Phase Transformer.⁹⁷ What was your recommendation in that case?**

12 A. I recommended that the Commission reject the capital additions associated with the
13 multiple failures in CS2’s Generator Step Up (GSU) transformers. At the time of the
14 2019 GRC it was too early in the life of the project to evaluate or include these
15 capital costs in rates. I also uncovered offsetting factors related to this project which
16 Avista had failed to properly account for in violation of WAC 480-07-510(3)(c)(ii).
17

⁹⁶ Thackston, Exh. JRT-1T at 16:1-7.

⁹⁷ Gomez, Exh. DCG-33 at 7:1 - 18:2.

1 **Q. What offsetting factors did Avista omit in the 2019 GRC?**

2 A. The Company made no mention of a \$5.2 million insurance claim it made on one of
3 the GSU transformers that failed (T#3). Avista was also silent as to the disposition
4 (write-off) of the \$2.9 million in net book value remaining on the two failed
5 transformers.

6

7 **Q. In this case, does Thackston make any mention in his testimony about these**
8 **offsets for CS2?**

9 A. No. Staff resorted to discovery to get an explanation from the Company.⁹⁸

10

11 **Q. What was Avista's explanation for failing to include these offsets?**

12 A. In response to discovery, the Company claims that it informed the parties in the 2019
13 GRC that an insurance claim had been submitted for CS2's GSU transformers. This
14 statement is factually inaccurate. In the 2019 GRC it was Staff who uncovered this
15 omission through discovery as it was not included in the Company's direct case.⁹⁹
16 The same goes for the write-off of the two failed three-phase GSU transformers.
17 Having identified these offsets in Avista's 2019 GRC, Staff was surprised when no
18 such reference to these offsets were included as part of the pro forma amounts for
19 CS2's GSU transformer redesign.

20 In its discovery response, the Company explained that it felt it inappropriate
21 to include the insurance proceeds as an offset for this project because it is unknown
22 whether their insurer will pay it, and if so, how much they will receive in

⁹⁸ Gomez, Exh. DCG-34.

⁹⁹ Gomez, Exh. DCG-33 at 39 (Subpart F response).

1 compensation for the loss. But if we compare the amount of the claim, \$5.2 million,
2 against the system level amount for CS2 included in the Company's case, \$2.4
3 million, we see that payment of the insurance claim may in fact offset entirely the
4 need for rate payers to shoulder this investment. Additionally, in discovery Avista
5 claims that it has properly accounted for the retirement of the failed GSU
6 transformers, but Staff has seen no evidence from the Company that in fact these
7 retirements are properly reflected in the Company's test-year rate base. Given the
8 uncertainty of the insurance matter, Staff believes that the Commission should
9 decline to pro form the CS2 costs into rates. Avista can seek recovery for those costs
10 later with a test year that properly accounts for costs and offsetting savings.

11

12 **Q. Earlier you mentioned Staff's materiality threshold and the recommendation**
13 **the Commission reject the Company's pro forma Non-Colstrip Generation**
14 **Capital Projects which fail to meet that threshold. Does Avista's failure to**
15 **properly account for offsets related to CS2 provide additional support to Staff's**
16 **recommendation to not include CS2 in rates at this time?**

17 A. Yes. In my opinion, none of the explanations provided by Avista in discovery are an
18 acceptable justification to disregard the Commission's policy regarding pro forma
19 adjustments to rate base. The policy lists a number of evidentiary requirements for
20 plant placed in service after the rate-effective date. By not accounting for these
21 material offsets to their requested amounts for CS2 capital in the pro forma, Avista
22 has failed to provide satisfactory evidence which:

- 1 • Shows that proposed adjustment involves known and measurable events,¹⁰⁰
- 2 • Shows that the proposed adjustment adheres to the matching principle;¹⁰¹ and
- 3 • Separately demonstrates,¹⁰² and accounts for,¹⁰³ all offsetting factors.¹⁰⁴

4

5

V. EIM

6

7 **Q. Does Staff have any issue with Avista’s rationale to join the CAISO EIM and its**
8 **associated costs of entry into that market?**

9 A. No. Staff’s issue with Avista regarding EIM is the Company’s proposed method of
10 recovering both its incremental capital and expense through general rates.¹⁰⁵

11

12 **Q. Why does Staff have an issue with the Company’s proposal in this case to**
13 **recover its EIM investment through general rates?**

14 A. Avista does not include any of the benefits that may offset the costs of EIM
15 membership. The Commission has addressed this same issue twice already, with two
16 other investor-owned utilities, and there is an established methodology to recover
17 costs during a company’s transition to the EIM. Avista’s proposal should be rejected
18 because it is inconsistent with the established methodology regarding recovery of
19 these same costs, under identical circumstances.

20

¹⁰⁰ Valuation Policy Statement at 7, ¶ 20.

¹⁰¹ Valuation Policy Statement at 7, ¶ 20.

¹⁰² Valuation Policy Statement at 12, ¶ 37.

¹⁰³ Valuation Policy Statement at 7, ¶ 20; 12, ¶ 34.

¹⁰⁴ Valuation Policy Statement at 12, ¶ 35.

¹⁰⁵ Kinney, Exh. SJK-1T at 17:9 - 18:14.

1 **Q. Can you briefly describe the rate recovery methodology for EIM that was**
2 **employed for both Pacific and PSE?**

3 A. Yes. In the 2015 Pacific GRC, the Commission stated the following with respect to
4 EIM:

5 When fixed costs that reduce variable power costs are included in general rates,
6 the PCAM's baseline power costs must be reset to reflect the benefits in order
7 for ratepayers to realize the net benefits of the fixed costs they are being asked
8 to pay for. Doing so matches the benefits with the burden. The Commission
9 approves, with the following modifications, Pacific Power's final proposal to
10 remove EIM costs from non-power cost rates and include them instead in the
11 actual power costs of its annual PCAM true-up filing. In this proceeding,
12 Pacific Power chose not to file for a change in power costs and therefore
13 precluded a change to the baseline power cost in the PCAM. Without a means
14 for matching benefits with the burden of the EIM costs, recovery of EIM costs
15 in non-power cost rates is limited. In approving Pacific Power's proposal, we
16 are allowing Pacific Power to include fixed costs related to the EIM in the
17 actual power costs in its annual PCAM filing, but we do not approve their
18 inclusion indefinitely. Pacific Power, in its next general rate case, must remove
19 the EIM fixed costs from the PCAM's annual true-up and propose their
20 recovery in non-power cost rates. The Commission will determine at that time
21 if the costs are commensurate with the benefits.¹⁰⁶

22
23
24 **Q. How about for PSE?**

25 A. In the multi-party settlement in PSE's 2017 GRC, PSE agreed to recover all costs
26 related to their entry into the CAISO EIM as actual costs in its Power cost
27 Adjustment Mechanism (PCA). This included amounts for capital items
28 (depreciation and return on) and incremental labor expense.¹⁰⁷ This is identical to the
29 solution arrived at in Pacific's 2015 GRC.

30

¹⁰⁶ 2015 Pacific GRC at 73–74, ¶ 222.

¹⁰⁷ 2017 PSE Settlement at 20, ¶ 72.

1 **Q. Did Kinney’s prefiled direct testimony and exhibits discuss the Commission’s**
2 **established methodology for recovery of EIM incremental capital and expense?**

3 A. No. However, in discovery, Avista admitted it knew about the established
4 methodology for both PSE and Pacific.¹⁰⁸

5
6 **Q. How much incremental EIM capital and expense is Avista seeking to recover in**
7 **rates?**

8 A. The Company includes \$17.8 million in capital additions and \$1.8 million in
9 incremental labor expense in its pro forma in this case.¹⁰⁹

10

11 **Q. Has Avista included any offsetting adjustments in its pro forma EIM**
12 **adjustment in this case?**

13 A. No. Avista has not included any offsets associated with its requested capital amounts
14 for EIM. Kinney estimates that Avista could see a range of \$2 million to \$12 million
15 in “Interregional Dispatch Savings” by participating in the EIM.¹¹⁰ However, Kinney
16 admits that there is a likelihood that Avista could actualize EIM benefits well above
17 this estimate. Kinney lists other benefits of Avista’s participation in EIM, which he
18 says were not quantified.¹¹¹

19

¹⁰⁸ Gomez, Exh. DCG-25 at 2 (“Avista recognizes that both Puget Sound Energy (PSE) and Pacific Power and Light (Pacific) agreed to track both investments, O&M, and benefits of EIM through their power cost tracking mechanisms. In this case Avista has not.”).

¹⁰⁹ Gomez, Exh. DCG-35.

¹¹⁰ Kinney, Exh. SJK-1T at 14:9-11.

¹¹¹ Kinney, Exh. SJK-1T at 15:13-14.

1 **Q. Can you list these other benefits that Kinney says were not quantified?**

2 A. Yes. They are as follows: (1) reduced flexibility reserve needs; (2) reduced wind and
3 solar curtailment; (3) reduced greenhouse gas emissions; and (4) improved
4 reliability.

5
6 **Q. Does Staff believe that these unquantified benefits may in fact be quantifiable?**

7 A. Yes. In Pacific's 2020 Transitional Adjustment Mechanism (TAM), Staff for the
8 Oregon Public Utility Commission (OPUC) sponsored responsive testimony
9 concerning EIM benefits and their quantification for the purpose of updating
10 Pacific's power costs in Oregon.¹¹²

11
12 **Q. How does OPUC Staff's 2020 TAM EIM Greenhouse Gas benefit description
13 differ from the description in Kinney's testimony?**

14 A. On Page 4, Table 1 of Avista's consultant report, the Company includes a list of EIM
15 benefits along with a description.¹¹³ Compare Kinney's Reduced Green House Gas
16 (GHG) emissions benefit description:

17 Reductions in GHG emissions from more efficient dispatch of thermal genera-
18 tion and reduced wind and solar containments.

19
20 against the description of EIM GHG benefit described in OPUC Staff's testimony:

21 GHG revenue is awarded when CAISO determines generation within an EIM
22 entity served CAISO load. Energy generated in California or imported into the
23 state to serve California load is subject to California's GHG obligation. GHG
24 revenue in EIM is intended to compensate entities importing power into
25 California for their compliance costs. Excess GHG revenue results when a
26 GHG emitting resource and non-GHG emitting resource are generating at a

¹¹² Gomez, Exh. DCG-26.

¹¹³ Kinney, Exh. SJK-12 at 4.

1 node, power is being exported from the node to California, and more power is
2 generated than is exported to California.

3
4 Staff concludes that while reducing GHG emissions is certainly a benefit, the
5 description that OPUC provides implies a quantifiable but yet-to-be-accounted
6 monetary benefit derived from Avista’s EIM participation.

7
8 **Q. In discovery you asked the Company to explain how its situation regarding the**
9 **recovery of EIM costs is different than that of PSE and/or Pacific. What was**
10 **Avista’s response?**

11 A. The Company’s response to Staff’s question failed to provide a compelling reason
12 why the established methodology is inappropriate in Avista’s case, or how Avista’s
13 case was materially distinguishable from either PSE’s or Pacific’s with respect to
14 EIM costs and benefits.

15 In its response to Staff’s discovery, Avista argues that the established EIM
16 recovery methodology does not apply in their case because: (1) “Puget’s order was
17 approved based on a Settlement Agreement between Puget and the parties to that
18 proceeding” and that “[i]t is unknown if Puget and the parties would have agreed to
19 these same terms today”¹¹⁴; and (2) “Pacific, although based on a litigated
20 proceeding, agreed on rebuttal to remove its EIM fixed costs, as proposed by certain
21 parties, requesting recovery of its costs ‘be addressed through the PCAM’s annual
22 true-up.’ As noted in the language above from Order 12, in Pacific’s case they chose

¹¹⁴ Gomez, Exh. DCG-25 at 2.

1 not to file for a change in power costs and therefore precluded a change to the
2 baseline power cost in the PCAM.”¹¹⁵

3

4 **Q. Does Staff agree with this statement?**

5 A. No. In its discovery response, Avista misrepresents the application of the established
6 EIM recovery methodology in Pacific’s 2015 GRC. While Avista correctly notes that
7 Pacific had not filed for a change to their power cost baseline in its 2015 GRC, this is
8 irrelevant because under the established EIM recovery methodology, both EIM
9 incremental expense and return on capital are recovered at the same time that
10 presumed benefits are recognized, through power cost actuals. In other words, the
11 application of the established EIM recovery methodology in Pacific’s 2015 GRC did
12 not require a change to their power cost baseline. At the time, recovery of EIM costs
13 through actuals made sense given the absence of material, yet unquantified EIM
14 benefits in base (pro forma) power costs. But as the Commission’s order in Pacific
15 2015 GRC states:

16 [W]e do not approve their inclusion indefinitely. Pacific Power, in its next
17 general rate case, must remove the EIM fixed costs from the PCAM’s annual
18 true-up and propose their recovery in non-power cost rates.¹¹⁶

19

20 Therefore, the application of the established EIM recovery methodology in Pacific’s
21 2015 GRC was a bridge until EIM benefits could be quantified and included in their
22 base power costs.

23

¹¹⁵ *Id.*

¹¹⁶ 2015 Pacific GRC at 74, ¶ 224.

1 **Q. In Pacific’s 2020 Power Cost Only Rate Case (PCORC), did the Commission**
2 **approve an all-party settlement which included a resolution for the treatment of**
3 **EIM costs?**

4 A. Yes. In its final order the Commission stated:

5 The preservation of rights to take any position on modeling of EIM benefits in
6 the 2021 PCORC is important to the Parties because, as they explain in joint
7 testimony, that modeling will impact the determination of rates after
8 application of the PCAM’s sharing and dead bands. We find this appropriate
9 due to the modeling changes that will be used in the 2021 PCORC for NPC,
10 according to the Settlement. We also find that the Settlement’s provision for
11 moving non-NPC EIM costs to base rates is consistent with the Commission’s
12 prior direction in Docket UE-152253. Last, we find that including the EIM
13 forecast costs in base NPC and flowing actual EIM costs and benefits through
14 the PCAM are fair and reasonable. Accordingly, we determine that the Parties’
15 agreement regarding EIM costs and benefits is in the public interest and should
16 be approved.¹¹⁷
17

18 **Q. Did the all-party settlement in Pacific’s 2020 PCORC finally resolve the issue of**
19 **quantifying EIM benefits in base power costs?**

20 A. No. While the Commission approved Pacific’s transition away from the established
21 EIM recovery methodology in the 2020 PCORC, which included an estimate of EIM
22 benefits in base power costs, there was still considerable controversy among the
23 parties on how to quantify these benefits. This issue was left unresolved and will be
24 taken up in Pacific’s 2021 PCORC, which is due to be filed in June of this year.

25 It is also important to note that the established EIM recovery methodology
26 was determined when both PSE and Pacific were in the early years of their
27 participation in the CAISO EIM. During that time, up-front capital costs were known
28 and steep, whereas the benefits were hard to quantify. This is the identical situation

¹¹⁷ *Wash. Utils. and Transp. Comm’n v. PacifiCorp*, Docket UE-191024, Order 09, 27, ¶ 68 (December 14, 2020).

1 facing Avista. In Pacific’s case, the transition away from the established EIM
2 recovery methodology came *after* the upfront capital costs were already recovered
3 under the established EIM recovery methodology.
4

5 **Q. Does it matter that the established EIM recovery methodology applied in PSE’s**
6 **case was the product of a settlement?**

7 A. No, it does not matter if the established EIM recovery methodology was agreed to in
8 a settlement or through a Commission order in a litigated case. The facts in both
9 cases are the same as is the solution to remedy it. The Company’s response fails to
10 appreciate the rate making foundation behind the established EIM recovery
11 methodology, namely the matching principle, a principle the Commission affirmed
12 in its order in the in the Pacific 2015 GRC case:

13 When fixed costs that reduce variable power costs are included in general rates,
14 the PCAM’s baseline power costs must be reset to reflect the benefits in order
15 for ratepayers to realize the net benefits of the fixed costs they are being asked
16 to pay for. Doing so matches the benefits with the burden.¹¹⁸
17
18

19 **Q. What does the Commission’s recent Valuation Policy Statement have to say**
20 **about the matching principle?**

21 A. The Commission’s Valuation Policy Statement affirms:

22and requires that regulated companies include and consider in their
23 proposals – the Commission’s longstanding practices regarding property
24 placed in service. These practices require companies to show that the property
25 will be used and useful; that proposed pro forma adjustments to test year
26 amounts will involve known and measurable events and adhere to the matching
27 principle (i.e., the principle that costs should be matched to offsetting
28 factors).¹¹⁹

¹¹⁸ 2015 Pacific GRC at 73–74, ¶ 222.

¹¹⁹ Valuation Policy Statement at 7, ¶ 20.

1 **Q. Does Avista’s proposal to include EIM capital and expense in general rates**
2 **without the inclusion of benefits violate the matching principle?**

3 A. Yes.

4
5 **Q. What other reasons did Avista provide in discovery as to why the established**
6 **EIM recovery methodology does not apply in their case?**

7 A. The Company states that its Energy Recovery Mechanism (ERM) does not, nor has it
8 in the past, recovered non-power supply costs, such as capital investment and labor
9 costs.¹²⁰ Avista also says that its ERM baseline is not reviewed on an annual basis as
10 a part of a power cost adjustment mechanism or power cost only rate case (PCAM or
11 PCORC), but within the context of a general rate case.¹²¹ These statements are
12 irrelevant and misleading as to the question of whether the established EIM recovery
13 methodology is appropriate in Avista’s case. For example, Avista’s statements
14 ignore the fact that Pacific’s PCAM is virtually identical in design to Avista’s ERM,
15 yet the Commission approved the established EIM recovery methodology for Pacific.
16 As for the Company’s reference to Pacific’s PCAM and PCORC, these are inapt
17 regarding this issue. Avista’s ERM actuals are reviewed every year along with PSE
18 and Pacific’s, which, under the established EIM recovery methodology, is where the
19 recovery of both EIM capital and expense is to occur. Also, as mentioned, the
20 implementation of the established EIM recovery methodology in the Pacific case did
21 not require a change to the PCAM baseline, so Avista’s objection on this basis is also
22 meritless. As for annual revisions to the ERM baseline, Staff notes that it has been

¹²⁰ Gomez, Exh. DCG-25 at 2.

¹²¹ *Id.*

1 Avista’s continuing practice to file annual GRCs which, until recently, included
2 changes to the Company’s ERM baseline.

3

4 **Q. How about Avista’s claims that the established EIM recovery methodology does**
5 **not apply in the Company’s case because its decision to join the EIM was based**
6 **on “maintaining system reliability” whereas PSE and Pacific joined the EIM in**
7 **order to actualize “significant financial benefits”?**

8 A. This statement is irrelevant and a red herring. In this case, the Company’s proposal
9 to include its EIM investment in general rates violates the matching principle, it does
10 not matter whether the Company’s decision to join the EIM was driven by the
11 realization of “financial” benefits versus “reliability” benefits.

12

13 **Q. What conclusion do you draw from the Company’s response to Staff’s**
14 **discovery?**

15 A. Avista fails to provide a reasonable explanation of why the established EIM recovery
16 methodology does not apply in their case. Nor does Avista’s response provide
17 justification for violating the matching principle embodied in the Commission’s
18 Valuation Policy Statement. The Company’s arguments against the established EIM
19 recovery methodology, provided in response to UTC Staff Data Request No. 122,
20 were not included in Avista witness Kinney’s prefiled direct testimony, which is
21 consistent with Avista’s practice of submitting “light” prefiled testimony, and then
22 building out its case in rebuttal. As Avista was aware of the established EIM
23 recovery methodology for Pacific and PSE, I would have expected the Company to

1 address the issue up front in its initial filing, rather than in discovery. This practice
2 shifts the Company's evidentiary burden to Staff and other parties and is burdensome
3 and wasteful of the Commission's and parties' resources. Staff recommends the
4 Commission consider future requests to compel Avista to sponsor supplementary
5 testimony in such a circumstance, and/or to extend dates in the procedural schedule
6 as necessitated by Avista's discovery practices.

7

8 **Q. Please summarize your recommendation regarding Avista's proposed recovery**
9 **of its pro forma EIM incremental capital and expense in its general rates?**

10 A. Staff recommends their removal entirely and recommends that the Commission order
11 Avista to work with Staff and other parties, prior to the rate effective period in this
12 case, to implement the same EIM capital and expense recovery methodology
13 currently in place for both PSE and Pacific.

14

15 **Q. But the Commission specified in the Pacific order that it would not accept such**
16 **treatment indefinitely. How does Staff propose to transition Avista away from**
17 **recovering its fixed EIM capital costs through the ERM?**

18 A. Staff recognizes that the task of quantifying EIM benefits for the purposes of
19 determining base pro forma power costs for the rate year will require time and effort
20 by Avista and other interested parties. That said, it is an endeavor best suited for a
21 collaborative and not a GRC. If the Commission were to accept Staff's
22 recommendation, Avista would employ the established methodology for the last
23 seven months of the rate year in this case. In addition to Staff's recommended

1 treatment of Avista's EIM costs, Staff also recommends that the Commission require
2 Avista to reconvene the power cost collaborative for the purpose of properly
3 accounting for EIM benefits prior to Avista filing its next GRC.
4

5 VI. PRO FORMA POWER COSTS

6

7 **Q. Is Staff contesting Avista's proposed level of pro forma power costs in this case?**

8 A. No. As described in detail by the Company's power cost witness Clint Kalich, a
9 series of collaborative workshops on the subject of power costs were convened for
10 the purpose of reviewing Avista's power supply modelling and other methods which
11 the Company uses to arrive at its ERM baseline in its GRCs. Kalich notes that at the
12 time the Company filed this current GRC, the collaborative team was close to
13 finalizing a power supply methodology.
14

15

16 **Q. Has the collaborative team come to an agreement regarding Avista's
17 methodology for arriving at rate year power costs?**

18 A. Yes. Kalich's testimony describes how the Company used the collaborative's draft
19 methodology to arrive at its power costs in this case. The final version agreed to by
20 the collaborative team is the same as the draft version.
21

22

23 **Q. In your opinion, has the collaborative team met the direction of the Commission
24 in its Order 07 in Docket UE-170485?**

1 A. Yes. As Kalich accurately notes, the new methodology simplifies and makes
2 transparent the Company's power supply adjustments in this and in future GRCs
3 thereby greatly easing the burden on all parties, including the Company. The relative
4 ease in which Staff was able to audit the Company's power costs in this GRC
5 compared to Avista's other cases confirms Kalich's assessment.

6

7 **Q. What do you have to say about Avista's role as facilitator in the work of the**
8 **collaborative?**

9 A. Staff takes this opportunity to applaud the effort of Clint Kalich and his team at
10 Avista who patiently and tirelessly supported the work of the collaborative with
11 extensive analysis and detailed and well-organized presentations which greatly
12 improved parties' understanding of Avista's resources and system.

13

14 **Q. Is the work of the collaborative team finished?**

15 A. No. As I mentioned in the EIM section of my testimony, the collaborative should
16 reconvene to arrive at an agreed upon methodology to recognize EIM benefits as
17 base values in the ERM prior to Avista's next GRC. Beyond this specific point
18 assignment, the collaborative team should also evaluate the performance of Avista's
19 pro forma power costs forecast using its new approach in this case with actual results
20 from the rate year. It is possible that, as a result of this ex post evaluation, additional
21 opportunities to improve the accuracy of the Company's rate year power cost
22 forecasts will emerge.

23

1 **Q. What is Staff's recommendation to the Commission regarding the current ERM**
2 **credit deferral balance of almost \$13 million (system) which has not been**
3 **earmarked for refund to customers?**

4 A. Staff recommends that the Commission preserve these balances as a hedge against
5 any negative variances to ERM baseline actuals and resulting impact to ratepayers'
6 bills which may result from the constantly evolving situation at Colstrip.

7

8 **Q. Does this conclude your testimony?**

9 A. Yes.