

**Exh. CRM-14T
Dockets UE-150204/UG-150205
Witness: Chris R. McGuire**

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

**AVISTA CORPORATION dba AVISTA
UTILITIES**

Respondent.

**DOCKETS UE-150204 and
UG-150205 (*Consolidated*)**

CROSS-ANSWERING TESTIMONY OF

Chris R. McGuire

**STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

*Response to Public Counsel Witness Ms. Ramas and AWEC Witness Mr. Mullins,
regarding:*

*Power Cost Issues in the Attrition Model;
Portion of Attrition Allowance Attributable to Rate Base;
Impacts of the TCJA on the Refund Calculation;
Depreciation Expense Escalation; and
Interest on the Refund Balance*

October 11, 2019

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1 **I. INTRODUCTION**

2

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

4 A. My name is Chris R. McGuire. My business address is 621 Woodland Square Loop SE,
5 Lacey, WA, 98503. My business mailing address is P.O. Box 47250, Olympia, WA,
6 98504-7250. My business email address is chris.mcguire@utc.wa.gov.

7

8 **Q. Who do you work for, and in what capacity?**

9 A. I am the Assistant Director of Energy Regulation in the Regulatory Services Division of
10 the Washington Utilities and Transportation Commission (Commission).

11

12 **Q. Are you the same Chris R. McGuire who filed testimony and exhibits in this**
13 **proceeding on July 27, 2015, and again on September 13, 2019?**

14 A. Yes, I am.

15

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

17

18 **Q. Please describe the purpose of your cross-answering testimony.**

19 A. The purpose of my testimony is to respond to select issues in the testimonies of Ms.
20 Donna Ramas,¹ witness for the Public Counsel Section of the Washington State Attorney
21 General's Office (Public Counsel), and Mr. Brad Mullins,² witness for the Alliance of

¹ Ramas, Exh. DMR-27T.

² Mullins, Exh. BGM-7T.

1 Western Energy Consumers (AWEC). I address issues raised by these witnesses that
2 appear unaccounted for in, or inconsistent with, my response testimony in Exh. CRM-7.

3
4 **Q. What issues do you address?**

5 A. I first address the notion, advanced by Public Counsel and AWEC, that the portion of the
6 authorized electric attrition allowance attributable to an asserted “power cost error” is
7 known and quantifiable, and that the Commission should identify and correct that error.

8 I then respond to Public Counsel’s positions that (1) the portion of the authorized
9 attrition allowance attributable to rate base is identifiable, and (2) an adjustment is needed
10 to capture the effect of the Tax Cuts and Jobs Act (TCJA). Finally, I respond to Mr.
11 Mullins’ positions that (1) the depreciation expense escalation should be removed from
12 the attrition allowance and accounted for in the refund calculation, and (2) accumulated
13 interest on the over-collection is owed to customers.

14
15 **Q. Please summarize your conclusions on these issues.**

16 A. With respect to each of the five issues identified above, I reach the following
17 conclusions:

- 18 1. The individual components of the authorized attrition allowance, including an
19 asserted power cost error, are unknown and unidentifiable; and it is therefore not
20 possible to disaggregate the components of the authorized attrition allowance or
21 attribute specific portions of the authorized attrition allowance to individual
22 elements of the calculation; and, therefore, the attrition allowance should be
23 calculated anew;

- 1 2. The portion of the authorized attrition allowance attributable to rate base cannot
- 2 be identified, as the Commission never identified the specific rate base it used in
- 3 its attrition calculations;
- 4 3. No adjustment is needed to account for the effects of the TCJA;
- 5 4. The escalation of depreciation expense should not be removed from the attrition
- 6 allowance calculation; and
- 7 5. It is not necessary, though not necessarily inappropriate, to include accrued
- 8 interest in the refund calculation.

9

10 **Q. Does anything in these testimonies necessitate a change to the recommendations you**
11 **provided in CRM-7T?**

12 A. No. The recommendations and calculations provided in my response testimony remain
13 unchanged.

14

15 **Q. Are other Staff witnesses sponsoring cross-answering testimony?**

16 A. Yes, Mr. Ball responds to Public Counsel and to AWEC regarding refund rate spread, the
17 appropriateness of using decoupling earnings sharing to offset the refund, and retroactive
18 adjustments to the Energy Recovery Mechanism baseline.

19

20 **III. POWER COST ISSUES IN THE ATTRITION MODEL**

21

22 **Q. Do Public Counsel and AWEC assert that the Commission made an error regarding**
23 **the power supply update?**

1 A. Yes. Public Counsel and AWEC both argue that the Commission made an error
2 incorporating Avista’s October 29, 2015, power cost update into the electric attrition
3 model, and that the Commission should correct that error.

4 While AWEC acknowledges it is not certain the Commission made an error
5 demonstrably identifiable to power costs, stating that “it *appeared* that the Commission’s
6 attrition models did not properly recognize the \$12.3 million reduction to power costs
7 identified in the October 29, 2015 update,”³ Public Counsel treats the error as an
8 established fact, identifiable to the Commission’s incorporation of power costs into the
9 electric attrition model.⁴

10

11 **Q. What is your response to the recommendation that the Commission correct that**
12 **asserted error?**

13 A. Even if parties were able to establish a “power cost error” as fact – and, which I describe
14 below, they cannot – it is not necessary for the Commission to address the issue in order
15 to resolve this case. All the Commission needs to do is use an updated electric attrition
16 model, such as the one I provided as Exh. CRM-8, to recalculate the attrition allowance,
17 and any concerns regarding an asserted “power cost error” are at once dispelled.

18

19 **Q. Setting aside for the moment the fact that the Commission does not need to address**
20 **this issue directly, do you agree with these parties’ assessment of the facts with**
21 **respect to an error?**

³ Mullins, Exh. BGM-7T at 8:14-15. (Emphasis added.)

⁴ See, for example, Ramas, Exh. 27T at 27:14-16.

1 A. No. Although parties noted the Commission’s authorized electric attrition allowance was
2 irreconcilable with the findings described in Order 05, parties could only hypothesize on
3 the source of the discrepancy. The prevailing hypothesis at the time was that the
4 Commission incorrectly incorporated the October 29, 2015, power supply update into the
5 electric attrition model.⁵ However, this hypothesis was never established as fact.

6

7 **Q. Why could it not be established as fact that the Commission made an error in the**
8 **attrition allowance calculation, identifiable to the power supply update?**

9 A. Because the Commission did not provide the record with an attrition model showing the
10 derivation of the electric attrition allowance it authorized. Without such an attrition
11 model, parties are unable verify whether the power supply update was incorrectly
12 incorporated into the attrition model, or whether there are other explanations for the
13 apparent discrepancy. The hypothesis cannot be confirmed or rejected.

14

15 **Q. Is there a problem with framing the issue as a power cost error?**

16 A. Yes. In representing a “power cost error” as an established fact with an identifiable and
17 specific effect on the attrition allowance calculation, parties ask the Commission to rely
18 on a faulty premise to reach the conclusion that they can quantify an amount owed to
19 customers that is specifically attributable to “the October 29, 2015, power supply update
20 not being incorporated in the electric revenue requirements.”⁶

⁵ This appeared to be the most likely cause because (a) the power cost update was provided after final attrition models were filed, so parties could not reflect the update in their attrition models, (b) it was not obvious that updating power costs in the attrition model required modifications to multiple tabs and required obtaining pro forma power costs at two different load levels, and (c) the magnitude of the apparent discrepancy was consistent with the reduction in power costs reflected in the October 29, 2015, power supply update.

⁶ Ramas, Exh DMR-27T at 27:14-16.

1 Additionally, in arguing that it knows with certainty the portion of the attrition
2 allowance attributable to an asserted “power cost error,” Public Counsel by extension is
3 claiming that it can identify and disaggregate the individual components of the
4 Commission’s authorized attrition allowance, and can determine amounts owed to
5 customers separately for each disaggregated component. However, the inability of the
6 parties, including Public Counsel,⁷ to replicate the Commission’s authorized attrition
7 allowance tells the Commission all it needs to know: parties cannot reconstruct the
8 Commission’s calculation of the attrition allowance. And if parties cannot *reconstruct* the
9 Commission’s calculation of the attrition allowance, they certainly cannot *deconstruct* it
10 and make definitive statements about its individual components.

11
12 **Q. How does Staff recommend the Commission resolve allegations of a “power cost**
13 **error?”**

14 A. Simply recalculate the attrition allowance using an attrition model, such as Staff Exh.
15 CRM-8, which captures the October 29, 2015, power supply update.

16
17 **IV. PORTION OF ATTRITION ALLOWANCE ATTRIBUTABLE TO RATE BASE**

18
19 **Q. Have other parties claimed to have identified the portion of the authorized attrition**
20 **allowance attributable to rate base?**

21 A. Yes. Both Avista and Public Counsel have presented precise amounts each claims is the
22 specific portion of the authorized attrition allowance attributable to rate base.

⁷ Ramas, Exh. DMR-27T at 8:20-22.

1 **Q. Should the Commission accept that the amounts presented by either Avista or**
2 **Public Counsel correctly reflect “all portions of the attrition allowance attributable**
3 **to Avista’s rate base?”⁸**

4 A. No. Without the Commission’s attrition calculations, no party has the ability to identify
5 the specific contribution of each individual element to the attrition allowance authorized
6 by the Commission. Therefore, it is not possible to ascertain whether the amount
7 identified by either Avista or Public Counsel is in fact the true portion of the attrition
8 allowance attributable to rate base or, accordingly, whether ordering rebates based on
9 those amounts carries out the Court’s mandate.

10

11 **Q. How does Public Counsel calculate the amount of the attrition allowance it claims to**
12 **be attributable to rate base?**

13 A. Public Counsel states that its calculation of the amount of the attrition allowance
14 attributable to rate base is “based on the amount included in the electric attrition study for
15 the escalation of rate base.”⁹

16 However, the Commission did not provide its attrition study, and so neither Public
17 Counsel nor any other party can possibly claim to know what was or was not included in
18 it. Public Counsel bases its calculation on a number it claims it got from a study that does
19 not exist.

20

⁸ *Wash. Att’y Gen.’s Office, Pub. Counsel Unit v. Wash. Utils. & Transp. Comm’n*, 4 Wn. App. 2d 657, 689 (2018) (Court Remand Decision).

⁹ Ramas, Exh. DMR-27T at 18:3-4. (Emphasis added.)

1 **Q. Why is this important to note?**

2 A. Parties to this proceeding are making recommendations to the Commission that rely on
3 unsubstantiated assertions with respect to specific elements of the Commission's attrition
4 allowance calculations. Avista and Public Counsel both perform calculations that claim to
5 be based on the amount included in the electric attrition study for the escalation of rate
6 base, even though no such study exists on the record.

7 This is important to note because these recommendations are based on
8 unsubstantiated claims of fact, and could give the Commission the false impression that
9 the authorized attrition allowance can be disaggregated into its constituent elements, each
10 composing specific and quantifiable portions of the authorized attrition allowance. It
11 cannot.

12
13 **Q. If individual portions of the attrition allowance cannot be disaggregated, how does
14 Staff recommend the Commission execute the Court's mandate to remove "all
15 portions of the attrition allowance attributable to Avista's rate base?"**

16 A. Given that it is not possible to disaggregate the individual components of the previously
17 authorized attrition allowance, attempting to isolate and remove the specific portion of
18 the allowance attributable to rate base is problematic. Therefore, Staff recommends that
19 the Commission recalculate the attrition allowance entirely. The Commission can best
20 demonstrate it has recalculated rates without using projected rate base by removing the
21 escalation of rate base from the attrition model and then recalculating the attrition
22 allowance anew.

23

1 **V. ADJUSTMENT FOR THE TAX CUTS AND JOBS ACT**

2

3 **Q. What is Public Counsel’s position with respect to the relevance of the Tax Cuts and**
4 **Jobs Act (TCJA) to this proceeding?**

5 A. Public Counsel argues that Avista’s rates remained in effect through the first four months
6 of 2018; therefore, the recalculation of revenue requirement – and the amount owed to
7 customers – needs to take into account the lower corporate tax rate for those four months.
8 Specifically, Public Counsel uses a different revenue conversion factor to calculate the
9 revenue requirements for the first four months of 2018.

10

11 **Q. Do you agree?**

12 A. No. Avista’s over-collection of taxes in 2018 was resolved by the Commission in
13 Avista’s 2017 general rate case. In its final order, the Commission directed Avista to
14 return over-collected taxes to ratepayers, referring specifically to the amounts between
15 January and April 2018.¹⁰

16 Including the over-collection of taxes for the first four months of 2018 in the
17 rebate owed to customers through this remand double counts those amounts.

18

19 **VI. DEPRECIATION EXPENSE ESCALATION**

20

21 **Q. What does Mr. Mullins argue with respect to depreciation expense?**

¹⁰ *Wash. Utils. & Transp. Comm’n v. Avista Corp.*, Dockets UE-170485 and UG-170486, Order 07 at ¶ 22 (April 26, 2018).

1 A. Mr. Mullins essentially argues that depreciation expense is attributable to rate base, so the
2 Court’s decision to “strike all portions of the attrition allowance attributable to Avista’s
3 rate base”¹¹ requires the Commission to remove from the attrition allowance the
4 escalation of depreciation expense as well as the escalation of rate base.

5
6 **Q. What is the effect of removing the escalation of depreciation expense?**

7 A. By removing the escalation of depreciation expense, Mr. Mullins increases the amounts
8 owed to ratepayers by approximately \$7.1 million for electric operations and \$5.1 million
9 for natural gas operations.¹²

10

11 **Q. Does Mr. Mullins’ recommendation have a rational basis?**

12 A. Yes. It is reasonable to expect that as rate base increases, so too would depreciation
13 expense, as both are derived predominantly from the value of the utility’s plant
14 investments. Therefore, if the rate base escalation is removed, intuitively depreciation
15 expense similarly would be affected.

16

17 **Q. Do you agree with Mr. Mullins that the escalation of depreciation expense should be**
18 **removed from the recalculation of the attrition allowance?**

19 A. No. Although Mr. Mullins’ argument has intuitive appeal, there are two primary reasons
20 why Staff does not recommend removing the escalation of depreciation expense in this
21 circumstance:

¹¹ Court Remand Decision at 689.

¹² Mullins, Exh. BGM-7T at 7, Table 1.

- 1 1. The attrition models calculated the escalation rate for depreciation expense
2 entirely independent from the escalation of rate base; and the Court found the
3 Commission’s application of only “rate base” to be unlawful.
- 4 2. “Rate base” is a term of art in rate regulation, and is not used per se for the
5 calculation of depreciation expense.

6

7 **Q. Please explain the importance of the fact that the escalation rate for depreciation**
8 **expense and the escalation rate for rate base are calculated separately in the**
9 **attrition model.**

10 A. The Commission stated that its attrition allowance was based on an attrition study, which
11 treated the escalations for rate base and depreciation expense as separate and distinct
12 elements of the calculations. In other words, the mechanical separation of the escalation
13 for depreciation expense and the escalation for rate base is part and parcel of the
14 Commission’s determination in Order 05. Thus, regardless of whether parties think there
15 *should* be a direct relationship between changes in rate base and changes in depreciation
16 expense, in this case the Commission did not link the two; the depreciation expense
17 embedded in the authorized attrition allowance was never dependent on or attributable to
18 the escalation of rate base. Therefore, the Court’s decision, with its specificity with
19 respect to “rate base,”¹³ does not affect depreciation expense.

¹³ Court Remand Decision at 688-89. “Because the *projections of future rate base were not ‘used and useful’* for service in Washington, we conclude that the WUTC may not base Avista’s rates on them. Accordingly, the WUTC erred in calculating Avista’s electric and natural gas rates. The WUTC order provided one lump sum *attrition allowance without distinguishing what portion was for rate base and which was for O&M expenses or other considerations*. We strike all portions of the attrition allowance *attributable to Avista’s rate base* and reverse and remand for the WUTC to recalculate Avista’s rates *without relying on rate base that is not used and useful.*” (Emphasis added.) With its second use of the term in the paragraph above the Court distinguishes “rate base” from “O&M expenses or other considerations,” indicating that the Court’s conclusion was specific to “rate base.”

1 In identifying specifically which element of the Commission’s decision was
2 unlawful (i.e., the projection of “rate base”), the Court tacitly left the remaining elements
3 in place. Thus, in removing the escalation of rate base from the attrition model, the
4 Commission should not disturb the escalation of the other elements, consistent with the
5 Court’s decision.

6
7 **Q. Please explain why it is important to recognize that “rate base” is a term of art.**

8 A. The Court struck all portions of the attrition allowance *attributable to rate base*, and the
9 term “rate base” has a specialized meaning and use in the context of utility rate
10 regulation. “Rate base” represents the value of property being devoted to public service
11 and upon which utility returns are assessed; “rate base” refers to the *base* in the fixing of
12 public utility rates.¹⁴ The Commission uses “rate base” as a standard element in its
13 revenue requirement calculation; it is multiplied by a utility’s authorized rate of return to
14 incorporate a fair return into its calculation of sufficient revenues. As “rate base” is used
15 solely in the assessment of utility returns, other elements of the ratemaking formula,
16 including depreciation expense, are not attributable to “rate base,” per se.

17
18 **Q. What is the standard formula for calculating revenue requirement, and what can it
19 tell us about depreciation expense and rate base?**

20 A. In standard rate base rate of return regulation, revenue requirement is calculated as:

21
$$\mathbf{RR = (E + D + T) + RB * ROR}$$

¹⁴ Goodman, LS. *The Process of Ratemaking, Vol II*, p. 732 (1998).

1 Where RR refers to Revenue Requirement, E refers to Operating Expenses, D
2 refers to Depreciation Expense, T refers to Taxes, RB refers to Rate Base, and
3 ROR refers to Rate of Return.

4 Other than demonstrating that “rate base” is an established term in rate regulation, with a
5 precise and specialized purpose in the determination of revenue requirement, the formula
6 indicates depreciation expense is an independent component of rates, separate and
7 distinct from rate base.

8 From a formulaic perspective, the Court’s decision, with its specificity to “rate
9 base,” does not implicate the calculation of depreciation expense.

10
11 **VII. INTEREST ON REFUND BALANCE**

12
13 **Q. What does Mr. Mullins argue with respect to interest on amounts owed to**
14 **customers?**

15 A. Mr. Mullins argues that because Avista over-collected revenues from customers, and
16 Avista has held these excess revenues for several years, interest should be applied to the
17 refund amount.

18
19 **Q. Does Mr. Mullins have a point?**

20 A. Yes. It is reasonable to compensate ratepayers for the time value of money, at a minimum
21 to make ratepayers indifferent to the effect of inflation. Additionally, it is reasonable to
22 account for the benefit companies receive from having use of these over-collected
23 ratepayer dollars.

1 **Q. Are you revising your position to include accumulated interest in Staff's calculation**
2 **of the refund owed to ratepayers?**

3 A. No. The Commission can choose to include interest in its refund calculation, but it is not
4 obvious to Staff that it is necessary to do so in this case.

5 I have not included interest for two reasons. First, until the Commission rules on
6 this case, there is no liability upon which to apply an interest rate. Ordinarily, over-
7 collected revenues can be identified and tracked on the Company's books. This is
8 common with trackers and cost recovery mechanisms; to the extent that the revenues
9 collected from ratepayers exceed the recorded expenses for that mechanism, a balance
10 exists on the Company's books, and interest can be assessed on that balance. In the
11 current case, there is no liability on the Company's books. And even if the Commission
12 determines a refund is owed to ratepayers, the liability exists at that point in time
13 forward. It seemed awkward to Staff to assess interest on a liability that does not exist,
14 and did not exist at any point in time over which Staff would be calculating interest
15 accruals.

16 Second, in the absence of a recorded liability, the business does not perceive
17 revenues to be "over" collected; rather, the business simply absorbs these "extra"
18 revenues into earnings, which belong to shareholders. Since idle cash does not generate
19 profit for shareholders, the utility acting in the interest of its shareholders does not hold
20 excess cash; typically excess cash is distributed to shareholders through dividends. The
21 point is that over-collected revenues without an identified liability are not "available" to
22 the Company, which disrupts the logic that the Company received benefit from use of the
23 funds and therefore should pay for that benefit.

1 **Q. Are you providing updated tables, reflecting the menu of options available to the**
2 **Commission, to include accrued interest?**

3 A. No. Given the large number of options available to the Commission, and the
4 extraordinarily large range of possible refund amounts (compounded by the number of
5 interest rate options), it is not practical or even useful for Staff to provide a bevy of
6 accrued interest balances for each option.

7 If the Commission determines it is appropriate to include accrued interest in the
8 refund amount, it should do so after first identifying the revised revenue requirement and
9 the over-collected balance. The Commission can then determine an appropriate interest
10 rate and apply that rate to the monthly or yearly balances of amounts over-collected from
11 customers over the period rates were in effect.

12
13 **Q. Does this conclude your testimony?**

14 A. Yes, it does.
15