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Via UTC Web Portal

Mark L. Johnson
Executive Director and Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive S. W.
P.O. Box 47250
Olympia, Washington 98504-7250

RE: **Docket U-180907 – Comments of Avista**

Dear Mr. Johnson,

Avista Corporation, dba Avista Utilities (Avista or Company), submits the following comments in accordance with the Washington Utilities and Transportation Commission's (Commission) "Notice of Opportunity to File Written Comments" (Notice) dated December 17, 2018 in Docket U-180907. Avista appreciates the opportunity to provide comments.

1. **Please identify the problem statements and principles that are important to you or your constituency. Please indicate which problems are the most important to address during this process and which principles are most important to consider when developing potential solutions.**

   It is important to Avista to have a regulatory model in the State of Washington that will provide utilities and the Commission the ability to adjust quickly to changing market conditions, and flexibility to meet both legislative mandates, as well as customer needs, while allowing the utility timely recovery of its costs. These concerns are paramount, given the new energy environment, and further pressures and changes that we, as a utility, and as an industry face today.

   Investor-owned utilities are facing varied and rapid changes, including increasing customer needs and demands, fast-paced changes in technology, dramatic changes in public policy related to energy generation and distribution, as well as, customer privacy and cyber-security issues. As was discussed at the Workshop, the current traditional regulatory framework, however, tends to not be nimble enough to meet the challenges ahead. The rapidly changing energy environment is placing operating and financial constraints on the utility in the form of unhealthy "regulatory lag." Often regulatory lag can result in a two-year or longer delay in cost recovery-costs that have been incurred by Avista for the purpose of serving our customers. For customers and other stakeholders, these challenges have resulted in year-over-year general rate case (GRC) activity and associated rate fatigue.

All stakeholders want utility services that are delivered safely, reliably and affordably. During this process, it will be important to find solutions to these emerging industry risks that result in flexible regulatory solutions that benefit all stakeholders, thus aligning interests.

For Avista, we are looking for both expedited short-term solutions, as well as, long-term solutions that align Avista's business model needs with that of its customers and other stakeholders, including public policy mandates. In the short-term, a "fix" is needed to allay the Court of Appeals decision in Avista's 2015 GRC,[1] which resulted in the inability to include rate base investment beyond the "modified historical test year" filed within each GRC, and the likely unhealthy regulatory lag this will impose.

The Court of Appeals decision also affected Avista's credit ratings. For example, on December 20, 2018, Moody's Investors Service downgraded Avista's issuer rating to Baa2 from Baa1, which could cause future debt offerings to be more expensive for the Company and our customers. While part of the reason was related to the effects of tax reform on cash flow, Moody's stated:

> The Baa2 rating also looks at Avista's less predictable regulatory outcomes in Washington, where the company generates about 60% of its revenue. Although the state has some credit supportive mechanisms, such as revenue decoupling, the use of historic test years results in the need file general rate cases more frequently. In August 2018, rate base attrition adjustments, which are considered to be credit supportive, were ruled by the Washington Court of Appeals as against the state's used and useful law. This legal decision was part of an ongoing review of Avista's 2015 Washington rate case.

Avista believes regulatory conditions that should allow for timely expedited cost recovery (including end-of period rate base just prior to rates going into effect), acceptance of regulatory deferrals that track capital additions or other costs for later review and future recovery, and making permanent existing mechanisms, like decoupling, would facilitate alignment between the utility and stakeholders.

In the long-term, Avista supports solutions that will provide the ability to adjust quickly to changing market conditions, and flexibility to meet both legislative mandates, as well as customer needs and requests, while allowing the utility timely recovery of its costs. To meet this need, regulatory models reducing GRC fatigue need to be examined, such as multi-year rate plans, attrition modeling, and allowing all or a portion of a utility's general rate request to

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[1] *Wash. State Attorney General's Office, Public Counsel Unit v. Wash. Utils. & Transp. Comm'n and Avista Corp.*, COA No. 48982 -1 – II.

go into effect on an interim basis. These models and methods provide a meaningful incentive for utilities to manage their costs to stay within the approved changes in rates, which customers benefit from either through earnings sharing mechanisms or in subsequent rate proceedings that update rates to reflect the efficiencies gained by the utility during a multi-year rate plan. These more gradual rate changes also provide a more current price signal and rate certainty to customers.

At the same time, alternative regulatory mechanisms need to be considered, which may incentivize the utilities (where they have some level of control) to consider and adopt cost-effective non-traditional deployment of resources to address utility measures, like "non-wire" solutions, rather than the "build" and "rate base it" mentality. Performance Based Rates (PBR) mechanisms, for example, are designed to reward creativity and ingenuity for the benefit of customers and other stakeholders with performance metrics that matter most to them. PBR rate-making provides the utility meaningful incentives to manage its costs and focus on efficiencies, performance, safety, reliability, customer experience, and environmental goals. These mechanisms have the potential to benefit all stakeholders through new utility offerings, lower cost of service, strengthened utility performance, and timely cost recovery.

Ultimately, alternative, flexible regulatory mechanisms would allow for more creative thinking that will be necessary for the "Utility of the Future," which will see a proliferation of electric vehicles, demand response, distributed generation, micro-grids, battery storage, solar, cogeneration, eco districts, and other factors that we cannot yet begin to envision.

In considering any potential solutions or alternative forms of rate-making, the Commission should consider the following: 1) allow a utility to timely recover its costs, if its increased costs are associated with meeting public policies and interests, and customer initiatives and requests, as the utility needs to be able to nimbly respond; 2) the use of alternative regulation (i.e. a multi-year rate plan, etc.) when in its stakeholders' best interest. Traditional rate making often does not allow the utility a reasonable opportunity to earn its allowed returns during the rate period.

In addition, the utility should bear risk from factors that are within management control, but should not bear the risk from factors that are outside its control. Performance-based plans, for example, should not incorporate elements of cost that are outside management control, such as fuel prices or changes in taxation. They should incorporate sales decoupling, however, so that management does not have a conflict between the policy goals of energy conservation and promoting distributed energy resources, and the fact that lower retail sales will lower profits. Targets should be realistic and attainable, and consistent with funding levels, and measurement of results should be objective, providing the utility with a reasonable opportunity to earn a fair rate of return.

Furthermore, as it relates to new or alternative mechanisms, the Commission should act in a deliberate manner and pace. Customer demands are evolving quickly, and the Commission, utilities, and other stakeholders need to be nimble in pace and supportive in nature. An important outcome of this Regulatory Workshop process will be for the Commission to provide a rulemaking or policy guidance that allows for Washington regulation to be more flexible, more efficient and more effective, including a process that allows for open dialogue amongst all parties.

Outcomes this Commission should consider are: Commission requirements for alternative mechanisms that would allow for formula-based, performance or incentive based mechanisms, as well as multi-year rate plans; how to evaluate Company rate base during a multi-year rate plan; and the allowance of certain trackers that would provide the utility the ability to defer costs for later recovery, after prudence review and approval of said costs.

2. **During the December 10, 2018, workshop, stakeholders identified several potential principles to guide the Commission's consideration of alternatives to the current regulatory framework, including, among others, net customer benefits, equity, alignment of customer and utility incentives, universal access, safety, reliability, affordability, customer choice, innovation, environmental protection, and alignment with state policies. Please provide comments on problem statements and principles raised by other stakeholders during the workshop and provided in pre-filed comments, and discuss their importance to you or your constituency.**

During the initial Commission Regulatory Workshop held on December 10, 2018, (as well as filed comments by certain stakeholders), we heard common themes from each of the utilities, as well as other stakeholder groups, that changes are necessary to the existing regulatory framework to align interests between utilities, their customers, and all other interested stakeholders, reinforcing Avista's comments discussed above in Question 1. For example, Public Counsel stated that this rulemaking was "timely," and should be done carefully while balancing customer and shareholder interests. AWEC also commented that this rulemaking should reflect the importance of how customers will benefit. In this regard, we agree with Public Counsel and AWEC. The Company appreciates the participation and constructive input and feedback that we heard at the Workshop, and look forward to working with all of the stakeholders in this process.

As noted above, alternative regulation, which could be provided in many forms, would provide consumers with greater certainty and transparency into the utility investments they pay for, and protect consumers by providing more net benefit opportunities, while reducing the need for frequent and substantial rate increases related to utility property investments. Alternative regulation would allow utilities to try new and innovative things (in a prudent fashion), and be open to market transformational technologies, while protecting the utility by allowing for recovery of prudent investments in a timely manner. Flexibility in the regulatory model in Washington would help towards the goal of improving the alignment of customer and utility incentives, safety, reliability, affordability, customer choice, innovation, environmental protection, and alignment with state policies.

In preparation for the December 10, 2018 workshop, Avista prepared responses to the seven questions posed in the Commission's "Notice of Workshop" dated November 9, 2018. The

Company used the responses to those questions as the framework for our comments provided at that workshop. For convenience, we have attached those responses as Appendix A. Avista has also had the opportunity to review draft comments of PSE, and are very much in agreement with their concerns and constructive recommendations.

Please direct any questions regarding these comments to Patrick Ehrbar at 509-495-8620 or patrick.ehrbar@avistacorp.com.

Sincerely,

/s/ Kevin Christie

Kevin Christie
Vice President of External Affairs and
Chief Customer Officer