Supplemental Comments of Jonathan Powell

In Dockets UE-132045 and UG-132046

Avista Utilities Biennial Conservation Report

Submitted September 12th, 2016

On July 19th, 2016 Mr. Lynn Anderson and I submitted joint comments in the Avista Utilities dockets UE-132045 and UG-132046. Within those comments we expressed concern regarding three issues:

1. Analytical issues regarding what Avista termed a “database error”1 as well as inconsistencies between the Biennial Conservation Report (BCR) and the work papers submitted in support of that document.
2. Concern regarding Avista’s lack of transparency and disclosure within UE-132045.
3. Concern regarding the lack of adequate independence within the management of the evaluation process leading up to the BCR, specifically the observation that the evaluation was managed within the same department that was being evaluated.

Since the submittal of those original comments there have been additional findings impacting both UE-132045 and UG-132046 which validate our concerns of insufficient transparency and independence. It is the purpose of these supplemental comments to describe how these recent findings relate to the concerns expressed by Mr. Anderson and myself in our earlier comments. It is hoped that this additional clarity will create the opportunity for the development of an effective and durable solution to these recurring issues.

Through the diligent work of Staff several deficiencies within the evaluation have been identified. These include, but are probably not limited to:

1. The failure to apply, where applicable, the unit energy savings (UES) developed by the Northwest Power and Conservation Council Regional Technical Forum (RTF) as committed to within Avista’s 2014-2015 Biennial Conservation Plan (BCP) filed as part of UE-132045.
2. The failure to follow through on a commitment to complete a process evaluation of the organizational changes that occurred within Avista’s demand-side management (DSM) department during the 2014-2015 biennium.
3. The failure to follow through on a commitment to provide a status report on Avista’s progress towards addressing the recommendations made by the external evaluator at the close of the previous biennium.

During the August 12th, 2016 Open Meeting the Commission posed questions aimed at determining if these deficiencies were the result of misunderstandings or if they represented an ongoing pattern of behavior. At the time, there was no discussion of the lack of communication to the Advisory Group or the failure to provide an opportunity for Advisory Group discussion of the discontinuance of the use of RTF UES values. The frequency and clarity of the Company’s affirmation of these commitments make it difficult to attribute these lapses in communication to mere misunderstandings or forgetfulness. This is particularly true given the number of issues that have arisen within the Company’s Biennial Conservation Report and the recognition that these occurred less than a year after a deep discussion of the expectations in regard to future transparency and communication issues within UE-151148.

These issues are illustrated through the review to follow. All references are based upon publically available documents, though critical elements of the findings were only discovered through the review of confidential work papers by Staff.

The Company’s first filing in the UE-132045 docket was the Biennial Conservation Plan outlining the process leading to the proposed acquisition target and documenting several important commitments for the 2014-2015 biennium. Within Appendix B of the BCP document the Company noted that there were 12 meetings of the DSM Advisory Group as well as two meetings with the Technical Advisory Committee established to oversee the then in-progress electric Integrated Resource Plan. It is documented that five of these meetings contained specific and detailed discussions of the use of UES values for the following biennium and the development of a Technical Reference Manual (TRM) to document the UES values of individual measures.2

Additionally the Company filed an Appendix C to the BCP, filename “Fixed UES list for 2014-2015 Avista BCP”.3 The first sentence of that Appendix states that “Avista references the Regional Technical Forum as its primary resource for unit energy savings (UES) values”4 and goes on to state that “These values will remain fixed …”.5

Clearly there was a robust and well-documented discussion leading to a clear mutual understanding regarding the use of RTF UES values within the evaluation of the 2014-2015 biennium.

These commitments regarding the application of RTF UES values were communicated to Avista’s external evaluation team through interviews completed in February 2015.6

The Company submitted an impact evaluation performed by Nexant as Appendix A to the Biennial Conservation Report (BCR). A quick word search of the words ‘RTF’ and ‘UES’ lead to 23 paragraphs discussing the application of the RTF UES values within the evaluation.7 A few of these statements, each from a different paragraph, reflect both the results of the Nexant review of Avista’s preliminary claim as well as how the Nexant evaluation team proceeded towards a calculation of verified acquisition.

1. “For prescriptive projects the evaluation team determined that RTF deemed savings values were being applied in most cases”.8
2. “In cases where the measure had an approved RTF UES value, the evaluation team’s effort focused on verifying the quality and quantity of installation to apply the RTF UES values to”.9
3. “The evaluation team applied deemed energy savings as published by the Regional Technical Forum (RTF) where appropriate”.10
4. “… the evaluation team reviewed the relevant RTF workbooks and the reported measure savings, verifying eligibility and appropriate application of RTF savings values for each project in the sample”.11
5. “The evaluation team determined that RTF deemed savings values were being applied in most cases”.12

Based upon the aforementioned well-documented commitment by Avista within their BCP and the language within the Nexant impact evaluation filed along with the Company’s BCR it would be reasonable to conclude that the RTF UES values were applied as originally agreed.

It was not until Staff found that the Company had chosen, in the words of Staff, to “… abandon its position with regard to using locked UES values for reporting savings this biennium”13 despite the full awareness that this commitment had been “… memorialized in multiple documents entered into the record during the target setting process”14 that it became known that this core element of the evaluation methodology had not been applied as agreed to within the BCP and implied within the BCR.

Since this discovery by Staff, the Company has agreed to recalculate their acquisition utilizing the previously agreed upon methodology. These calculations are not available to the public but are currently under review by Staff. However, the objectionable issue is by no means limited to the calculation of the energy efficiency acquisition itself but also the lack of transparency associated with the decision to enact drastic changes to the evaluation without communicating these revisions to the Advisory Group or involving them in the decision-making process.

As all parties are fully aware, the Washington Administrative Code (WAC) 480-109-110 requires that “A utility must maintain and use an external conservation advisory group of stakeholders to advise the utility on conservation issues including but not limited to” and that subsection (c) extends that requirement to the “Modification of existing, or development of new evaluation, measurement, and verification methods”.15

These WAC requirements should be well known to all parties given the lengthy discussion that occurred within UE-151148 in the aftermath of the Company’s failure to communicate what became known as the ‘Opower hiatus’16 to the Advisory Group in a timely manner. Within that docket a bench request was issued to which Mr. Kevin Christie responded for the Company. That response indicated that:

“Avista’s leadership takes all Commission rules and State statutes seriously and has a strict policy to adhere to the laws and rules that govern the Energy Efficiency Programs. Avista Energy Efficiency management has reviewed these rules and is committed to full compliance with WAC 480-109, including 480-109-110 related to the Commission’s standard practice regarding the use of conservation advisory groups”.17

Other responses to the Bench Requests indicated a focused attentiveness to understanding and complying with all aspects of the WAC and Commission Orders. The Commission recognized the Company’s renewed commitment to regulatory compliance by stating that “Mr. Christie’s testimony demonstrates that since the July 30, 2015, Open Meeting, Avista has continued to work on rectifying the concerns raised by Staff and Public Counsel”.18

Additionally, in the joint testimony of Mr. Brad Cebulko and Ms. Mary Kimball in support of the multiparty settlement in UE-151148, their assessment of the Company’s awareness of these requirements at that time was that “The Company has not demonstrated a lack of familiarity with WAC 480-109 and the Commission’s standard practice regarding the use of conservation advisory groups since July 2015”.19

This seems to leave no doubt that the Company, in the aftermath of the UE-151148 discussion of their failure to communicate issues related to the ‘Opower hiatus’, was fully aware of their responsibilities under WAC 480-109-110. Since the application of the RTF UES values was an important and deeply discussed issue leading to a well-documented common understanding of the approach to be applied within the BCR, the abandonment of that approach should have triggered an announcement to the Advisory Group of the Company’s intentions, an opportunity for an in-depth Advisory Group discussion, and a clear statement within the BCR filing itself.

It is disappointing that such communication did not occur, particularly since this could be interpreted as being indicative of a dismissive attitude on the part of the Company to follow-through on their recent commitments and legal responsibilities in regards to the transparency of the regulatory process and communication with the Advisory Group.

In two similar issues involving the transparency theme, the Company has failed to follow through on the commitment to (1) perform an evaluation of the Company’s organizational changes during the 2014-2015 biennium as well as to (2) complete a status report of the Company’s progress in responding to the recommendations expressed by the external evaluator in the previous biennium, and in particular approaches to improving the quality control in the implementation of large site-specific projects.20

The expectations of the Advisory Group could not have been more clearly stated than in the following paragraph within the January 2016 joint testimony of Mr. Cebulko and Ms. Kimball in support of the UE-151148 multiparty settlement:

“Notably, as part of the filing, Avista will provide the process evaluation conducted by its independent third-party evaluator, Nexant. The process evaluation will include a review of the organizational structure of Avista’s DSM program and, importantly, will follow-up on recommendations and findings from the prior process evaluation for 2012-2013 conducted by Cadmus. Staff and Public Counsel look forward to review of that process evaluation once it is completed, and anticipate that Avista will engage its Conservation Advisory Group on any major findings and recommendations as it considers any organizational or implementation changes as a result of that evaluation”.21

If circumstances changed in the interim such that either or both of these two work products, for any reason, would no longer be constructive, the Company retained the option to revise the evaluation plan. However per the previously discussed requirements of WAC 480-109-110, the Company would be required to notify the Advisory Group of the change in direction. In an outcome similar to that which was previously discussed regarding the use of RTF UES values, no such communication occurred. The Company only provided these two important work products specifically requested by members of the Advisory Group and agreed to by the Company after their omission was noted as part of the review of the BCR filing.

When viewed in its totality it seems implausible to conclude that these recurring failures in communication and transparency mandated by WAC 480-109-110, affirmed within the multiparty settlement to UE-151148, and reiterated in Order 4 of UE-151148 and have all stemmed from repeated but unrelated misunderstandings. The contention that these are misunderstandings is particularly unlikely given the deep discussion and clear commitments made in the aftermath of the ‘Opower hiatus’ communication difficulties and the Company’s clear commitment to remain in full compliance with WAC 480-109-110 to the point of stressing that the requirements would be incorporated into weekly staff meetings.

On July 29th, 2016 Avista submitted reply comments to the joint comments of Mr. Anderson and myself. Within those reply comments they partially responded to the transparency concerns expressed within our original comments by reporting at great length the many meetings, conference calls, webinars and newsletters as evidence of their level of involvement with the Advisory Group. The Company additionally pointed out that they had added three members to their Advisory Group and were experiencing increased attendance at Advisory Group meetings.22 Yet despite the frequency and attendance at these meetings, the Company did not inform the Advisory Group of the Opower hiatus, the decision to not apply RTF UES values, the deletion of the process evaluation of the DSM organization and revisions to that organization nor the deletion of a status report on the recommendations of the external evaluator in the previous biennium.

It is apparent that the frequency of contact, meeting attendance and the size of the Advisory Group is an insufficient metric upon which to base a conclusion regarding the Company’s compliance with the WAC and other regulatory commitments towards communication and transparency. The clarity of the Company’s commitments, the opportunity to implement a mid-course correction towards higher transparency as a result of the UE-151148 discussion and the many opportunities that the Company had to inform the Advisory Group of these changes is a strong argument against the conclusion that these failures to communicate are anything other than the product of a systematic deficiency.

Notably the process evaluation itself contains an incorrect recollection that the shift towards the independent management of the evaluation process was a consequence of I-937 requirements; and this inaccuracy is highly relevant to the issues being addressed within this docket. The shift towards independent evaluation management was the consequence of an extensive year-long Commission-ordered Collaborative process to address deficiencies found within the Company’s previous non-independent approach to evaluation management.23 That is also the process that generated the Company’s Evaluation, Measurement and Verification (EM&V) Framework document, which defines independence and established key evaluation commitments for the future, a document which asserts that “Sound evaluation of energy efficiency programs requires transparency and independence”.24

Though the tone of the process evaluation was quite favorable towards the Company’s position, it did omit interviews completed and offered that would have conflicted with that narrative.

The concerns regarding transparency and independent evaluation that Mr. Anderson and I expressed in our original July 19th, 2016 written comments seem prophetic given the issues that have come to light since that time.

The management of evaluation by an internally independent team ended with the organizational changes that occurred within the 2014-2015 biennium. Given that the several lapses in transparency noted within this process began to occur almost immediately after the shift to a less independent approach of Avista’s management of the evaluation, there is reasonable cause to hypothesize that there is a causal relationship between the termination of the independent management of the evaluation process and the many recent failures in transparency and communication.

**Endnotes**

1. From a July 14th, 2016 e-mail from Mike Dillon, Avista’s DSM Planning and Analytics Manager.

2. Appendix B to the 2014-2015 Biennial Conservation Plan, docket UE-151148, filed Nov 1 2013.

3. Appendix C to the 2014-2015 Biennial Conservation Plan, docket UE-151148, filed Nov 1 2013.

4. *Id*.

5. *Id*.

6. Interview notes were acquired by Staff and contain extensive discussions of the commitment to use the RTF UES values in all circumstances where they are applicable.

7. Appendix A to Avista’s June 1st, 2016 filing in docket UE-132045 entitled “Impact Evaluation of Washington Electric 2014-2015 Energy Efficiency Programs” by Nexant. Paragraphs referring to the use of RTF UES values were found on pages 5, 6, 24, 36, 36, 48, 49, 50, 50, 50, 53, 57, 59, 74, 75, 81, 82, 116, 117, 118, 152, 153 and D-5. Repetitive page references indicate more than one paragraph reference on the same page.

8. *Id*. at page 5.

9. *Id*. at page 36.

10. *Id*. at page 49.

11. *Id*. at page page 50.

12. *Id*. at page page 152.

13. Staff comments in UE-132045, filed July 21, 2016, page 13.

14. *Id*.

15. WAC 480-109-110 ( c ).

16. The term ‘Opower hiatus’ was coined in reference to the eight month cessation of home energy reports to Avista customers.

17. The Avista testimony of Mr. Kevin Christie’s in support of the multiparty settlement to UE-151148, page 4.

18. Order 4, UE-151148, page 7, item #21.

19. The joint testimony of Mr. Brad Cebulko and Ms. Mary Kimball in support of the multiparty settlement to UE-151148, page 8.

20. Referencing a Nexant work plan entitled the “Evaluation Work Plan for 2014-2015 Demand-Side Management Programs” dated January 15th, 2015, and subsequently distributed to the Advisory Group, stating that “The evaluation team intends to consider and build from findings and recommendations from the prior evaluations completed for Avista” (page 10). The work plan goes on to say that “We will use these interviews as a “check-in” to learn about any mid-year program changes, market developments, and further perceptions or reflections regarding the Avista organizational changes” on page 39 of that document.

21. The joint testimony of Mr. Brad Cebulko and Ms. Mary Kimball in support of the multiparty settlement to UE-151148, page 7.

22. Referencing Avista’s reply comments, dated July 29th, 2016, in UE-132045 and UE-132046, page 2.

23. Referencing Order 10, UG-060518, page 120, #304.

24. Avista Utilities Evaluation, Measurement and Verification Framework, page 16, filed in response to Washington Utilities and Transportation Commission’s Order from Docket Nos. UE-090134 and UG-090135 and UG-060518, Consolidated.