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**VIA: UTC Web Portal**

April 29, 2019

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

Re: Docket No. U-180907 –Comments of Avista Utilities

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 Submit Written Comments issued in Docket U-180970 on March 21, 2019.

On November 7, 2018, the Washington Utilities and Transportation Commission (Commission) opened Docket U-180907 regarding the adequacy of traditional rate-base, rate-of-return regulation and the potential use of alternative frameworks, such as performance-based regulation, multi-year rate plans, or other flexible regulatory mechanisms. On November 9, 2018, the Commission issued a Notice of Workshop to assist the Commission in determining whether to open a rulemaking or issue a policy statement on this matter. In response to the Notice of Workshop, the Commission received written comments from Pacific Power & Light Company and the Coalition of Eastside Neighborhoods for Sensible Energy. On December 10, 2018, the Commission held a workshop to discuss current conditions, potential alternatives, and preferred

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process. On December 17, 2018, the Commission requested utilities and stakeholders to provide written comments identifying problem statements, principles, and priorities for this inquiry. The Commission now invites written comments concerning expedited rate filings (ERFs). The Commission requests that utilities and stakeholders provide a response to issues raised by Commission Staff regarding parameters of an ERF. Comments are organized under four distinct categories:

1. Policy Issues
2. Threshold Criteria
3. Methodology
4. General Considerations

Avista appreciates the opportunity to submit the following comments on the four distinct categories:

### **1. Policy Issues**

In considering any potential solutions or alternative forms of rate-making, such as the ERF in this circumstance, the Commission should consider the following: 1) allow a utility to timely recover its costs, if its increased costs are associated with meeting its public service obligation; 2) the use of alternative regulation (i.e. a multi-year rate plan, etc.) when in its stakeholders' best interest. As noted in previous comments filed in this proceeding, alternative regulation, which could be provided in many forms, could provide consumers with greater certainty and transparency into the utility investments they pay for, while reducing the need for more frequent and substantial general rate increases. Alternative regulation would allow utilities to try new and innovative concepts (in a prudent fashion), and encourage 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.

At the outset, we do appreciate the Commission's desire to look at new regulatory mechanisms, like the ERF. It could be an effective mechanism to help address regulatory lag, but of course the "devil is in the details". Later in these comments we set forth a potential framework for an

ERF - a framework that was, in part, previously before the Commission and parties in Docket A-130355, “Rulemaking to Make Corrections and Changes in Rules in WAC 480-07,” although slightly modified. Ultimately, however, we believe that a more comprehensive general rate case approach, coupled with a multi-year rate plan, is a preferred approach. The ERF as contemplated in other proceedings is a sort of “catch-up” mechanism that may not be necessary if the Commission otherwise allowed utilities to recover more of their costs in general rate cases to begin with. There would be no need for an ERF, and all of the administrative process and burden that comes with that additional rate filing, if the Commission modified its preference for use of a threshold for post-test year capital additions, which excludes a considerable amount of our used and useful plant. For Avista, we face a significant amount of regulatory lag related to capital additions in Washington. In our last general rate case, where rates went into effect on May 1, 2018, only 10 out of 121 projects were allowed into rates.

We understand that the Commission does not believe in a bright-line for capital additions, but at the same time it has significantly restricted the number of post-test year capital additions included in rates. The Commission in the Company’s last general rate case stated that it is a “prohibitive burden” for Staff and parties to “review and audit such a large number of projects”.<sup>1</sup> We don’t disagree – it is nearly impossible to review every single capital project or O&M/A&G expense included in a general rate case. We agree that the large projects should be reviewed, and that a “threshold” could be employed for that limited purpose. Audit sampling, however, of all other projects, which make up the remaining “bread and butter” of capital additions that are employed to serve our customers, must also be done. In the end, more (or all) of the capital additions in service prior to the rate effective period would reduce regulatory lag, and would reduce or eliminate the need for an ERF. Further, we understand from the recent PSE ERF proceeding that some parties had concerns about the ability to review capital investments in a compressed time period. The GRC is the better venue, given the amount of time available for audit, to conduct such a review.

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<sup>1</sup> UE-170485 and UG-170486 (consolidated).

In our Oregon and Idaho jurisdictions, through formal order or settlement, the Commission has allowed capital additions transferred to service right up to the rate effective date to be included in rates. In those jurisdictions, the review of capital projects is done in general rate cases, through a review of major projects and sampling of other small projects, where the parties are already engaged in the review of all of the Company's costs. It is more efficient for the Commission and the parties to address those costs in those cases (keeping in mind that the general rate case statutory process in Oregon is 10 months, and in Idaho is only 7 months – for a full general rate case). It is also important to note that regulatory lag is still present, in that the Company already faces lag during the rate-effective period. Capital additions in the rate effective period are not included in rates, utilities absorb regulatory lag costs until the next general rate case – and that includes Oregon which employs a “future” test year standard.

In the end, if the Commission would allow more costs to be included in rates as the result of a general rate case, coupled with a two- or three-year rate plan, we believe all stakeholders would be better served by significantly reducing the number of rate filings before the Commission, instilling rate certainty and still providing an incentive for the utilities to drive savings to combat any remaining regulatory lag. The Commission's and other parties time would be better spent on the development of formula rates, performance based ratemaking, and other progressive ratemaking methodologies.

## **2. Threshold Criteria**

The basis for determining fair, just, reasonable, and sufficient rates should not differ much between an ERF and GRC. A Company should be allowed to file an ERF within two years of the effective date of its previous GRC, with a second consecutive ERF possible one year later, prior to filing its next GRC, if it can show a need for rate relief. (This process would, in effect, minimize the need for a full GRC over a three-year period.) Consistent with a GRC filing, if the adjusted Commission Basis results (as discussed below) show a revenue deficiency, absent ERF rate relief, the Company would not have an opportunity to earn its allowed rate of return. As noted in the section below, the ERF should be filed using the most recent historical test period to allow updated information (updated revenues, expenses and rate base – allowing a matching relationship), reducing regulatory lag sufficient enough to ward off the need to file a

GRC. To simplify the review of an ERF, thus allowing for an expedited proceeding, using a normalized Commission adjusted basis (adjusted to end-of-period (EOP) net plant and annualized approved revenues and expenses), consistent with previous Commission approved adjustments, maintains a previously approved methodology, but allows the “catch up” of rate base and expenses during the proposed rate effective period. An ERF, based on actual information (not pro forma costs), are based on previously approved methods, and excluding the update of major components like power supply, capital structure and rate spread/rate design, should make the review process of the ERF simpler, allowing for an expedited process.

A revenue deficiency requirement, however, based on historical normalized Commission Basis results, prior to adjusting for EOP rate base and annualizing revenues and expenses approved in the prior GRC, should not be the standard for justifying a need for rate relief during the ERF effective period. That is because, absent the annualizing adjustments, the unadjusted CBR results do not reflect the financial state of the Company at the time of filing, or the rate effective period in question. Finally, there should also not be a higher threshold for an ERF, such as a required showing of “extraordinary under-earnings” or “extraordinary circumstances.”

### **3. Methodology**

To qualify as an Expedited Rate Filing, it is imperative the ERF process be expedited as the name suggests. Anything more than a four month process removes the effectiveness of the mechanism. That said, an ERF filing must balance speed, accuracy, transparency and simplicity to work for all parties to the proceeding. As stated above, using the most current normalized Commission Basis results, updated with annualized costs and revenues, and excluding the update of components like power supply, capital structure and rate spread/rate design, should make the review process of the ERF simpler, allowing for an expedited process.

In the “Rulemaking to Make Corrections and Changes in Rules in WAC 480-07 (Rulemaking), a detailed framework/methodology for an ERF or limited rate proceeding was proffered. The Company believes that framework should be re-considered. The Company, however, has modified the proposed language slightly from that previously proposed during the Rulemaking (as noted by underline):

**Limited rate proceedings--electric and natural gas companies.** Electric and natural gas companies may seek a rate change through a limited rate proceeding. The purpose of such a proceeding is to adjust rates for delivery of electricity or natural gas based on updated data for rate base, revenues, and expenses since the company's latest general rate proceeding or first limited rate proceeding. The commission will undertake no more than two successive limited rate proceedings between a company's general rate proceedings.

(1) **General requirements.** A request for a limited rate proceeding must comply with the following requirements:

(a) The company must make the request within two years after the rate effective date of a general rate proceeding or one year after the rate effective date of a first limited rate proceeding;

(b) The company must use a test year that ends no more than six months prior to the request; the company must provide data through the end of the most recent month for which data are available; and the data must show actual results of operations under normal temperature conditions during the reporting period, adjusted to give a full year's effect to rate, expense, and revenue changes ordered in the company's most recent rate proceeding, or ordered after that proceeding;

(c) The company must maintain its authorized rate of return and capital structure from its most recent general rate proceeding;

(d) The company must update debt costs for known changes;

(e) The company must annualize rate base additions during the test year by allowing a full year of depreciation expense, accumulated depreciation, and deferred taxes;

(f) The company must remove all power costs, power production rate base (including generation-related transmission), associated deferred income taxes, and revenues attributable to power costs;

(g) The company must use only those restating and pro forma adjustments the commission approved or allowed the company to use in its most recent general rate proceeding, adjusted for the passage of time since that proceeding;

(h) The company may not propose changes to any cost allocation methods between any regulated and unregulated operations or inter-jurisdictional cost allocation, if applicable, except as the commission approved or allowed the company to use in its most recent general rate proceeding, but the company should update the data within the allocation method to the appropriate time period; and

(i) The company may not propose any changes in rate spread or rate design.

(2) **Submission and service.** The company must comply with all submission and service requirements in WAC 480-07-510 except subsections (3)(e) (capital structure and rate of return), (4)(a)(viii) (summary of proposed rates of return), and (4)(a)(ix) (summary of proposed capital structure). In addition, the cover letter accompanying the submission must prominently state that the company is seeking to change its rates through a limited rate proceeding.

(3) **Process.**

(a) The commission will convene a prehearing conference within ten business days following suspension of the tariff sheets included in a submission seeking a limited rate proceeding. In consultation with the parties at the prehearing conference, the commission will establish a procedural schedule that will allow for the commission to enter a final order within four months from the stated effective date of the tariff changes. The commission

may extend the procedural schedule on the motion of any party, for good cause shown, or on its own motion.

(b) The commission retains discretion to consider any limited rate proceeding submission as a general rate proceeding or to convert any limited rate proceeding to a general rate proceeding.

#### **4. General Considerations**

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 first Workshop, and provided earlier in Avista's comments, 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.

Avista believes regulatory conditions that 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.

Avista appreciates the opportunity to provide these comments. Please direct any questions regarding these comments to Patrick Ehrbar at (509) 495-8620, or myself at 509-495-4975.

Sincerely,

*/s/Linda Gervais*

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