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June 16, 2017

Via Electronic Filing

Mr. Steven V. King
Executive Director & Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
P. O. Box 47250
Olympia, WA 98504-7250

Re: AVISTA CORPORATION dba AVISTA UTILITIES, Revises Tariff WN U-28, Power Cost Rate Adjustment Schedule 93
Docket UE-170484

Dear Mr. King:

Please find enclosed the Motion to Dismiss and Alternative Motion to Consolidate with General Rate Case Filing of the Industrial Customers of Northwest Utilities in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Haley M. Thomas
Haley M. Thomas

Enclosure

cc: Service List

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the attached Motion to Dismiss and Alternative Motion to Consolidate with General Rate Case Filing upon all parties in this proceeding, as shown below, via electronic mail.

DATED this 16th day of June, 2017.

Davison Van Cleve, P.C.

/s/ Haley M. Thomas
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BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of	) DOCKET UE-170484
	)
	) MOTION TO DISMISS OF THE
AVISTA CORPORATION dba AVISTA UTILITIES, Revises Tariff WN U-28, Power Cost Rate Adjustment Schedule 93	) INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES; ALTERNATIVE MOTION TO CONSOLIDATE WITH GENERAL RATE CASE FILING

I. INTRODUCTION

1 Pursuant to WAC § 480-07-380(1), the Industrial Customers of Northwest Utilities ("ICNU") files the following motion to dismiss ("Motion"), requesting that the Washington Utilities and Transportation Commission ("WUTC" or the "Commission") dismiss Avista Corporation's ("Avista" or the "Company") Power Cost Rate Adjustment ("PCRA") filing. Since the Commission recently found that Avista's existing rates continue to be fair, just, reasonable, and sufficient for the 2017 rate year, the Company has failed to state a claim upon which the Commission may grant proposed PCRA relief, effective September 1, 2017.

2 ICNU also files an alternative motion, pursuant to WAC § 480-07-375(1)(b), to consolidate the PCRA filing with Avista's concurrent general rate case ("2017 GRC"), if the Commission elects not to dismiss the PCRA filing altogether ("Alternative Motion"). The Company is already seeking to reset base electric power supply costs via the concurrent 2017 GRC filing, such that consolidation would be appropriate under WAC § 480-07-320.

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I. MOTION TO DISMISS

3 Respectfully, ICNU requests that the Commission dismiss Avista's PCRA filing by this Motion. The material facts at issue include the following:

- The Company seeks a $15.0 million rate increase, with a proposed tariff effective date of September 1, 2017;[1/]
- Avista seeks to update Schedule 93, traditionally associated with the Energy Recovery Mechanism ("ERM"),[2/] without any consideration of using the ERM rebate balance as an offset—which, at $23.3 million, would be more than enough to obviate the need for the PCRA filing;[3/] and
- Avista requests that the proposed tariff go into effect by mere operation of law,[4/] without any express recommendation for party or WUTC investigatory process.

4 Legally, the Company has failed to state a claim upon which the Commission may grant proposed PCRA relief,[5/] effective September 1, 2017—or, at least, for the Commission to grant such relief reasonably or consistently, in the context of the most recent GRC orders. More precisely, the Commission found, relative to the Company's proposed rates "for the period January 1, 2017, through June 30, 2018,"[6/] that "Avista's existing fair, just, reasonable, and sufficient rates for electric service … will remain in effect prospectively from the date of this Order."[7/] On February 27, 2017, the Commission affirmed the fair, just, reasonable, and sufficient quality of existing 2017 Avista rates, denying both the Company's petition for reconsideration and its alternative petition for rehearing.[8/]

1/ Cover Letter at 2.
2/ Id. at 1 & n.1.
3/ See WUTC v. Avista, Docket UE-011595, Monthly Power Cost Deferral Report, May 2017 at 2 (June 15, 2017) (stating a current ERM deferral rebate balance of $23.3 million).
4/ Cover Letter at 2, 11.
5/ WAC § 480-07-380(1).
6/ WUTC v. Avista, Dockets UE-160228 and UG-160229 (*consolidated*), Order 06 at ¶ 6 (Dec. 15, 2016).
7/ Id. at ¶ 115.
8/ Dockets UE-160228 and UG-160229 (*consolidated*), Order 07 at ¶¶ 59, 60 (Feb. 27, 2017).

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A. The PCRA Filing Provides No Basis for Relief

5 In substance, the Company's filing is strikingly reminiscent of a 2001 attempt by Puget Sound Energy ("PSE" or "Puget") to receive "'interim' or expedited relief" for power costs outside of a GRC setting—prior to the establishment of Puget's Power Cost Adjustment ("PCA") or Power Cost Only Rate Case ("PCORC") mechanisms—based on claims that the utility's "financial needs are urgent."[9/] Just as the Commission dismissed PSE "claims that it cannot wait the time needed for Commission action," in the form of power cost relief through a GRC,[10/] the Company's accelerated and unilateral PCRA request should also be dismissed.

1. The Commission Already Determined the Sufficiency of Present Rates

6 Much like Avista now, Puget had filed an Electric Energy Cost Adjustment Rider ("EECAR") in August 2001, which sought tariff approval just three months later, in November 2001.[11/] Also like Avista now, PSE planned to seek further relief, through a GRC proceeding, to be resolved after more immediate power cost relief; however, Puget claimed that approval of the EECAR, prior to GRC rate increases, was necessary because PSE "cannot wait the time needed … to provide other parties the opportunity to review the Company's overall circumstances and its results of operations, to conduct full discovery, cross examination, and briefing, or for the Commission to decide its issues in the context of a general rate case."[12/]

7 Notwithstanding, the Commission found that Puget "failed to demonstrate that its financial condition requires the extraordinary relief that it requested."[13/] That finding is telling,

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9/ WUTC v. PSE, Dockets UE-011163 and UE-011170, Sixth Suppl. Order at ¶ 6 (Oct. 4, 2001).
10/ Id. at ¶¶ 6, 43.
11/ Docket UE-011163, Open Meeting Memo (Aug. 29, 2001).
12/ Dockets UE-011163 and UE-011170, Sixth Suppl. Order at ¶ 6.
13/ Id. at ¶ 1.

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given that Puget sought EECAR relief in the fall of 2001, during the western energy crisis, a fact confirmed in Avista's 2016 GRC:

> The Commission recognized the "extraordinary circumstances" of the western energy crisis in the fall of 2001: *unprecedented prices and price volatility* in the western wholesale power markets *enabled by the federal government's flawed effort* to deregulate these markets with too little focus on the potential damage to utilities and their customers when such markets go awry.[14/]

Surely, a better case for expedited interim relief could not be made than in the aftermath of the western energy crisis, when "unprecedented" price and volatility conditions existed, due to "flawed" actions by the federal government and others—yet, the Commission *still* upheld its evidentiary burden standards to deny EECAR relief. In this proceeding, Avista does not (and could not) allege anything close to the urgent "financial needs" of Puget during the western energy crisis, which (all the more) justifies a dismissal of the PCRA filing.

8 Instead, Avista claims that its "base level of power supply costs needs to be updated," almost immediately, because of purported "staleness," given that Avista's "last update to its base power supply costs occurred in the Company's 2015 general rate case."[15/] But, Avista concedes that the expiration of a "Portland General Contract"—the first of its "five primary reasons why" the PCRA "should be allowed to go into effect on September 1, 2017"—was "*discussed in detail* in the Company's last general rate case."[16/]

9 Although the Commission hardly needs reminding, Avista's 2016 GRC was resolved by a full rejection of the Company's "proposed tariff revisions,"[17/] coupled with the

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[14/] Dockets UE-160228 and UG-160229 (*consolidated*), Order 06 at ¶ 14 (emphasis added).
[15/] Cover Letter at 6 (stating an alleged second "primary" reason why the PCRA timing is appropriate).
[16/] Id. at 5 (emphasis added).
[17/] Dockets UE-160228 and UG-160229 (*consolidated*), Order 06 at ¶ 114.

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explicit legal finding that "Avista's *existing fair, just, reasonable, and sufficient rates for electric service* and natural gas service will remain in effect prospectively from the date of this Order."[18/] The Commission's finding that Avista's existing rates were fair, just, reasonable and sufficient, and specifically for the 2017 rate year and half of 2018,[19/] necessarily included express consideration of the Portland General Contract—since even Avista admits that the contract was "discussed in detail" during the recent GRC. Moreover, nearly two full months into 2017, and well after the expiration of the Portland General Contract,[20/] the WUTC upheld its decision on the sufficiency of rates through the requested mid-2018 rate period, affirming that the Commission had not "failed to consider the relevant evidence or committed any error of law" in issuing the 2016 GRC final order.[21/]

2. The "End Results" of the 2016 GRC Rate Determination Should Stand

10 The Company contends that near-immediate implementation of the PCRA is appropriate because "Avista is still providing approximately $8 million in net benefits to its Washington customers through the existing authorized net power supply costs."[22/] However, this sort of underlying equity argument from the Company—about individual costs which might contribute to the "end result" of what is deemed by the Commission to be a just and reasonable GRC rate determination—appears disingenuous, at best.

18/ Id. at ¶ 115 (emphasis added).

19/ Id. at ¶ 6. See also Cover Letter at 1 & n.2 (seeking new GRC relief with an effective date of May 1, 2018—which is *prior* to the expiration of the rate period during which the Commission found Avista's existing electric rates to be fair, just, reasonable and sufficient, thereby mooting any potential "regulatory lag" arguments).

20/ Cover Letter at 5 (stating expiration on December 31, 2016).

21/ Dockets UE-160228 and UG-160229 (*consolidated*), Order 07 at ¶ 3.

22/ Cover Letter at 5.

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11 Specifically, ICNU, the Washington State Office of the Attorney General, Public Counsel Unit ("Public Counsel"), and WUTC Staff ("Staff") all pointed out a $12 million calculation error related to power costs during the 2015 GRC.[23/] Yet, Avista directly opposed any correction to 2015 GRC revenue requirement which might be attributable to potential inaccuracies in the reflection of power costs. That is, the Company emphatically championed the alleged propriety of the ultimate "end results" of rates approved by the WUTC: "In the Company's view, the Commission's decision resulting in an $8.1 million reduction is based on a full examination of the record evidence relevant to each issue and adjustment that affects Avista's revenue requirement, and leads to fair, just, reasonable, and sufficient *end results*."[24/] According to Avista, altering what the Commission had determined to be "fair, just, reasonable, and sufficient end results," on any specific claim related to a discrete power cost adjustment, would be inappropriate because "the entire record may need to be reopened."[25/]

12 The Commission should dismiss the PCRA precisely because Avista has completely reversed course on its position that "end results" of a rates determination should not be disturbed on account of discrete issue corrections.[26/] In particular, the Company is now arguing that the "end results" determination of the 2016 GRC—i.e., that "existing fair, just,

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[23/] See WUTC v. Avista, Dockets UE-150204 and UG-150205 (*consolidated*), Order 06 at ¶¶ 13, 26 n.34 (Feb. 19, 2016) (noting that Staff eventually arrived at a recommendation to reduce electronic revenue requirement by $19.6 million to account for an approximate $12 million WUTC calculation error, which was almost identical to the $19.8 million reduction ICNU and Public Counsel had initially calculated).

[24/] Id. at ¶ 28 (emphasis added).

[25/] Id.

[26/] While ICNU does not agree with the Commission's usage and application of "end results" precedent in Avista's 2015 GRC, all parties must now acknowledge and respect the emphasis placed upon "end results" in finalized rate determinations by the Commission, including the 2016 GRC result, unless and until the Company's 2015 GRC decision is overturned on direct review pending before the Court of Appeals, Division II of the State of Washington (the "Court of Appeals").

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reasonable, and sufficient rates for electric service," for the current rate period, will "remain in effect prospectively"—should be modified, based primarily on a discrete power supply issue that the Company concedes to have been "discussed in detail" during the Commission's full examination of the record evidence in the 2016 GRC. Nevertheless, if the Commission were to follow the Company's recommendation to make one such discrete adjustment, then this would mean "the entire record may need to be reopened." Again, this is the very outcome Avista argued *against* in the 2015 GRC.[27/]

13 When the Company opposed efforts by ICNU, Public Counsel, and Staff to review and correct power costs in the 2015 GRC, the Commission pointed to the fairness of holding to the "end results" of a final revenue requirement determination, and repeatedly acknowledged Avista for making such arguments. For example, the Commission explained:

> To the extent the adjustments proposed by Staff and Joint Parties result in rates that make it highly unlikely that Avista could earn the rate of return the Commission approved in Order 05, Avista is correct that such adjustments do not produce acceptable end results in accordance with the *Hope* and *Bluefield* standards.[28/]

14 Yet, having recently found (and then affirmed) that Avista's existing rates—in the explicit context of a requested rate period running through mid-2018—are fair, just, reasonable, and sufficient, a fair application of the foregoing logic would mean that a Company proposal to *increase* rates, via adjustments proposed in the PCRA, would similarly "not produce acceptable end results in accordance with the *Hope* and *Bluefield* standards." In other words, having just found that existing rates allow Avista to earn its authorized rate of return, additional revenues

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[27/] Not coincidentally, the Commission also expressly considered Avista's argument that good cause existed to reopen the 2016 GRC record, when denying the Company's petitions for rehearing and reconsideration in February 2017. See Dockets UE-160228 and UG-160229 (*consolidated*), Order 07 at ¶ 44.

[28/] Dockets UE-150204 and UG-150205 (*consolidated*), Order 06 at ¶ 28.

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allowed through a PCRA would permit the Company to overearn, contrary to the "end results" rate sufficiency determination of the 2016 GRC.

15 Likewise, the Commission reasoned, during the 2015 GRC controversy over power cost accuracy and equity:

> As Avista aptly notes, *much more goes into the revenue requirement number than simply the power supply adjustment* or even the attrition model results. If we were to open up the record for either of those issues, we might be required to reopen the record in its entirety to protect all parties' rights to due process.[29/]

Again, if fairly applying the same logic that previously benefitted the Company (and for which the Company was commended for "aptly" noting), a finding should be reached now that Avista has not demonstrated an alleged need for PCRA relief in 2017—given that "much more" went into the 2016 GRC rate determination (i.e., that the Company's existing revenue requirement is fair, just, reasonable, and sufficient), than merely the discrete adjustment issues now raised by the Company in the PCRA filing.

16 To recap, the Portland General Contract and purported power cost staleness, respectively, are the first and second of the "primary reasons why" a September 2017 PCRA rate increase would be appropriate, according to the Company.[30/] As explained above, each rationale is deficient, and so directly contrary to the 2016 GRC end result, that neither "primary reason" actually states a sufficient claim upon which the Commission may grant proposed PCRA relief[31/]—at least, consistently and fairly, in the context of prior Commission determinations and supporting rationale.

[29/] Id. at ¶ 35 (emphasis added).
[30/] Cover Letter at 5-6.
[31/] WAC § 480-07-380(1).

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3. The Company Failed to Provide Necessary Full Support for the PCRA

17 When rejecting Puget's analogous EECAR request, the Commission explained the process of consideration on a motion to dismiss, which should also be applied to the PCRA filing:

> If, taking the allegations of *the initiating documents*, as defined in the prefiled evidence supporting the filing, in the light most favorable to the Company, the Commission would not grant the relief, there is no point in wasting the parties' and the Commission's time, energies, and financial resources pursuing that relief.[32/]

Accordingly, whether Avista could or might hope to develop, through future process, a legitimate basis for near-immediate establishment of the PCRA is irrelevant. The Commission more recently affirmed this principle when another regulated utility, Waste Control, Inc. ("Waste Control"), failed to stave off a motion to dismiss by attempting to argue that "it will develop its full case at hearing."[33/]

Indeed, when dismissing the deficient Waste Control filing, the Commission quoted its order dismissing the Puget EECAR filing, at length, to emphasize: "In Commission proceedings, prefiled evidence *is* a party's evidence supporting its case. Prefiled evidence serves an *essential* regulatory function."[34/] Such is the "essential" quality of prefiled evidence, and a regulated utility's responsibility to carry its evidentiary burden through an initial rate filing request, that "[t]he Company's failure to file a direct case that provides *full support* for its rate request *necessarily results in dismissal* of that case and rejection of the tariff filing."[35/]

32/ Dockets UE-011163 and UE-011170, Sixth Suppl. Order at ¶ 12 (emphasis added).
33/ WUTC v. Waste Control, Inc., Docket TG-131794, Order 05 at ¶ 14 (Mar. 25, 2014).
34/ Id. (quoting Dockets UE-011163 and UE-011170, Sixth Suppl. Order at ¶ 15) (second emphasis added).
35/ Id. at ¶ 18 (emphasis added). The Commission also rejected Waste Control's argument "that dismissal would waste resources." Id.

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18 Dismissal of the PCRA filing is appropriate because Avista is essentially continuing a practice of not providing full support for a rate increase request, in hopes that either: 1) Staff will carry the Company's burden; or 2) the Commission will effectively place the burden on other parties to *disprove* the need for the Company's requested rate relief. The Commission rebuffed the Company's attempts to follow each tactic, however, in the 2016 GRC. For example, the Commission noted that Avista "withdrew the case it presented in 2015 in favor of Staff's case,"[36/] but reminded all parties, in rejecting the Company's 2016 GRC tariff filings, that "Staff does not bear the burden of proof. Avista bears the burden of proof to prove the existence" of the factors justifying an alleged need for rate relief.[37/] Likewise, the Commission confirmed: "Avista has the burden to show and to explain … costs it faces during the rate effective period following a general rate case …. No other party has a burden to prove that no such costs exist."[38/]

4. Avista Has Not Shown an Urgent Need for Expedited or Interim Relief

19 Moreover, in dismissing Puget's EECAR filing, the Commission found that PSE had not shown a "dire, or emergency, or extraordinary" need for rate relief, nor demonstrated "any urgent need to consider a PCA on a 'fast-track' basis."[39/] Similarly, consideration of a

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[36/] Dockets UE-160228 and UG-160229 (*consolidated*), Order 07 at ¶ 16.

[37/] Dockets UE-160228 and UG-160229 (*consolidated*), Order 06 at ¶ 61 n.119. In fact, so extensive and repeated was the Company's practice of referencing Staff witness Christopher Hancock in the 2016 GRC, who supported a massive attrition adjustment similar to what Avista had requested, that the Commission questioned the Company about its reliance on Staff's evidence. See Dockets UE-160228 and UG-160229 (*consolidated*), Commissioner Jones, TR. 115:5-9 (noting the "many quotes of Mr. Hancock" in Company testimony and asking "why did you quote Mr. Hancock so much in your rebuttal testimony?").

[38/] Dockets UE-160228 and UG-160229 (*consolidated*), Order 07 at ¶ 40. See also Re Rulemaking to Consider Possible Corrections and Changes in Rules in WAC 480-07, Relating to Procedural Rules, Docket A-130355, Comments of ICNU at ¶¶ 4-9 (May 15, 2017) (addressing the impropriety of utility efforts to "sandbag" or backload proceedings by weighting substantive evidence in later rounds of a proceeding, rather than by full and complete direct case filings).

[39/] Dockets UE-011163 and UE-011170, Sixth Suppl. Order at ¶ 21.

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"fast-track" PCRA implementation (by September 2017) would be wholly unjustified, given that the Commission only recently affirmed a finding, based on "undisputed evidence" during the 2016 GRC, "that the Company continues to earn at, near, or *even in excess of, its authorized return*."[40/] Nor does the Company even attempt to allege "dire, or emergency, or extraordinary" need for PCRA implementation on a "fast-track," since Avista publicly announced—only weeks prior to filing the PCRA request—that the Company had enjoyed initial 2017 "earnings above our expectations," including reported net income attributable to shareholders, which has risen by *$4.5 million* in comparison to the first quarter of 2016.[41/]

20 In this light, the PCRA filing is difficult to construe as anything less than an audacious attempt by the Company to see if parties will resist, in apparent hopes that inaction will be interpreted as consent and lead to a passive Commission approval in a future Open Meeting. The Commission noted a similar strategy from the Company in 2016 GRC proceedings—i.e., "the suggestion that since no one challenged and opposed …, this somehow demonstrates that … cost increases proposed by the Company are" justified.[42/] ICNU most definitely does, however, both challenge and oppose PCRA implementation by mere "operation of law." As when dismissing the Puget EECAR filing, therefore, the Commission should now require that "a company seeking such relief must show a *clear and present extraordinary need*, beyond the needs inherent in any situation that may prove a need for general rate relief."[43/] In

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[40/] Dockets UE-160228 and UG-160229 (*consolidated*), Order 07 at ¶ 28 (quoting Dockets UE-160228 and UG-160229 (*consolidated*), Order 06 at ¶ 66) (emphasis added).

[41/] Avista News Release, *Avista Corp. Reports Financial Results for First Quarter 2017 and Confirms 2017 Earnings Guidance* (May 3, 2017), available at: http://investor.avistacorp.com/phoenix.zhtml?c=97267&p=irol-newsArticle_Print&ID=2269178.

[42/] Dockets UE-160228 and UG-160229 (*consolidated*), Order 07 at ¶ 40.

[43/] Dockets UE-011163 and UE-011170, Sixth Suppl. Order at ¶ 21 (emphasis added).

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applying this standard, Avista's manifest lack of any "clear and present extraordinary need" should justify dismissal of the PCRA filing.

21 Finally, the Commission's rejection of Puget's EECAR argument, that PSE could not "wait the time needed … to provide other parties the opportunity to review the Company's overall circumstances,"[44/] is extremely relevant to Avista's circumstances with the PCRA. As noted, Avista has an ERM balance exceeding $23 million in the customer rebate direction.[45/] Since the Company is only seeking $15 million in relief through the PCRA, this entire proceeding would appear unnecessary if, were parties to be given "the opportunity to review the Company's overall circumstances" in a GRC context, Avista's alleged power cost needs were to be met through an ERM rebate balance offset, as might be achieved through stipulated agreement. In fact, parties to prior Avista GRCs have agreed to use ERM balances in such a manner in settlement agreements over the past decade.[46/] Accordingly, this seems to be not merely a possible outcome in lieu of PCRA implementation, but actually a likely outcome—if Avista is receptive to mitigating ratepayer impacts by more thoughtful solutions.

22 The relevance and propriety of at least *considering* ERM balance offsets, prior to charging forward with PCRA implementation, should be self-evident. Avista acknowledges that Schedule 93, through which the PCRA would be implemented, "has actually provided rebates to

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[44/] Id. at ¶ 6.

[45/] WUTC v. Avista, Docket UE-011595, Monthly Power Cost Deferral Report, May 2017 at 2 (June 15, 2017).

[46/] See, e.g., WUTC v. Avista, Dockets UE-140188 and UG-140189 (*consolidated*), Order 05 at ¶¶ 17, 19 (Nov. 25, 2014) (mitigating an electric rate increase by using the ERM deferral account and applying a credit from the ERM deferral balance to "fully offset" the Company's "total base power supply increase"); WUTC v. Avista, Dockets UE-120436 *et al.*, Order 09 at ¶ 31 (Dec. 26, 2012) (mitigating electric rates by $13.4 million in rate credits over a two year period, with credits that "would originate from monies in the ERM deferral balance").

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customers from the Energy Recovery Mechanism."[47/] Also, the PCRA "would serve as a new base level of power supply costs" under the Company's proposal, which, in turn, would "be used as the basis for the Company's Energy Recovery Mechanism."[48/] Thus, there should be no rational debate regarding the existence of an integral nexus between the PCRA and ERM, although the Company never explores potential offsets. Nor would Avista allow parties to do so, in light of the Company's request that the renamed and repurposed Schedule 93 tariff changes "go into effect by operation of law effective September 1, 2017."[49/]

23 In all events, the sort of interim relief that Avista apparently seeks, according to the Commission, should be *properly* viewed:

> as a useful tool in an appropriate case to stave off impending disaster …. That is not to say that interim relief should be granted only after disaster has struck or is imminent, *but neither should it be granted in any case where full hearing can be had and the general case resolved without clear detriment to the utility*.[50/]

In the present circumstance, Avista's freedom from threat of "imminent disaster" is unquestionable, while the opportunity for parties to consider ERM offsets and other potential forms of relief in a GRC setting, "without clear detriment" to Avista, seems adequately compelling.

24 Just a few months ago, the Commission made a point to "strongly encourage Avista, Staff, Public Counsel, NWIGU, ICNU, and other stakeholders to begin a *collaborative effort* to work toward alternative solutions," as a "way forward for the Company."[51/] Rather than

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[47/] Cover Letter at 1 n.1.
[48/] Id. at 2.
[49/] Id.
[50/] Dockets UE-011163 and UE-011170, Sixth Suppl. Order at ¶ 38 (quoting WUTC v. Pac. Nw. Bell Tel. Co., Cause No. U-72-30 at 13 (October 1972)) (emphasis added).
[51/] Dockets UE-160228 and UG-160229 (*consolidated*), Order 07 at ¶ 47 (emphasis added).

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collaborate with ICNU, however[52/]—who has previously agreed to ERM balance offsets to meet the Company's alleged rate needs, and would be willing to consider doing so again—Avista simply chose to hunker down and concoct a two-pronged rate increase proposal through simultaneous GRC and PCRA filings. While the Company certainly had every right, by so doing, to eschew the Commission's "strong encouragement" to collaborate, the Commission is likewise free to summarily dismiss the PCRA, as contrary to WUTC precedent and specific, recent Commission instruction.

B. Analogs to the PCORC, PGA, and Prior GRC Updates Are Inapt

25 Third and fourth among the Company's "primary reasons" for near immediate implementation of the PCRA are claims that "the same power supply cost components are updated as in prior filings," and that the PCRA is similar to Puget's PCORC and the Company's own Purchase Gas Cost Adjustment ("PGA"), respectively.[53/] Such analogies are completely inapt, however, because Avista's prior electric power supply updates, as well as the PCORC and PGA mechanisms, were all approved through extensive process, and often via GRC settlement—that is, *not* through unilateral utility determinations. Conversely, the Company has eschewed strong Commission encouragement to collaborate with other parties, and filed the PCRA entirely by reference to its own judgment, asking the Commission to effectively usher in a new PCRA regime without so much as a hint of further process.[54/]

[52/] ICNU cannot speak for other non-Company parties, but can attest to having no knowledge of any broad stakeholder collaborative efforts in this regard. The Company has informed ICNU and other parties of its plans on two occasions, prior to filings on May 26, 2017, but this was in the form of a "briefing" or "news report" from Avista to other parties, as opposed to a genuine collaborative dialogue.

[53/] Cover Letter at 6-10.

[54/] If nothing else, PCRA approval by mere operation of law would create a "practical precedent" for future filings of this sort by Avista.

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26 As the Company concedes, power supply updates in Avista's 2014 and 2015 GRCs were implemented "as a part of settlements," and "the Commission approved the settlements in those cases, inclusive of the power supply updates."[55/] In contrast, Avista has now filed a PCRA, which purportedly contains "the same power supply components" as in those prior GRCs, but in a filing that is purposely separated from the current 2017 GRC, and which would go into effect by mere "operation of law."[56/] Further, while the Company acknowledges that parties previously agreed to "power supply updates 60 days before new [GRC] rates were to go into effect,"[57/] Avista now seeks PCRA implementation some *eight months* before 2017 GRC rates would go into effect, under the Company's present, two-pronged rate increase approach.[58/]

27 Likewise, the Company contends that the PCRA will "serve the same objectives as Puget's PCORC and Avista's PGA."[59/] Yet, Avista fails to explain that both mechanisms were approved and implemented following significant process, far exceeding the "operation of law" form of approval that the Company now seeks for the PCRA.

28 In fact, the PCORC was a direct outgrowth of process that followed the Commission's dismissal of Puget's EECAR filing. More specifically, PSE and other parties reached a stipulation to develop a PCA in March 2002, within the Puget GRC which followed the dismissal of the EECAR filing.[60/] Then, after extensive meetings in the months following—

55/ Cover Letter at 6.
56/ Id. at 2, 11.
57/ Id. at 6.
58/ Compare Cover Letter at 1 (seeking a September 1, 2017 effective date for the PCRA), with id. at 1 n.2 (seeking new GRC rate increases on or about May 1, 2018).
59/ Id. at 6.
60/ WUTC v. PSE, Dockets UE-011570 *et al.*, Ninth Suppl. Order, App. A at ¶ 22 (Mar. 28, 2002).

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which, not incidentally, were referred to as "collaboratives" by the Commission[61/]—parties agreed upon a PCORC mechanism as an element within Puget's PCA, which the Commission ultimately approved in June 2002.[62/] In sum, the intensive and collaborative development process leading to the PCORC bears no resemblance to the Company's proposal for summary PCRA implementation.

29 Regarding the origins of the PGA presently implemented by the Company or other regulated utilities, ICNU does not profess great expertise. That said, the Commission very recently provided a "[b]rief history" of the PGA mechanism, which explains that the "administration of the PGAs has become more complex and time-consuming" since the 1980s and 1990s—i.e., "[s]ubsequent to FERC Orders 436 and 636."[63/] Thus, whatever the details are concerning the original establishment of the PGA several decades ago, the process implicated in recent years, by such "complex and time-consuming" administration, suggests a stark contrast to the summary "operation of law" implementation proposed for the PCRA.

30 At a bare minimum, Avista cannot be said to have stated a claim upon which the Commission may grant proposed PCRA relief, given the clear disparity between: 1) intensive and complex process surrounding approval and implementation of prior Avista power supply updates, the PCORC establishment, and the recent PGA administration; and 2) the non-existent process recommended for the PCRA. In this light, dismissal of the PCRA would be entirely appropriate.

61/ Dockets UE-011570 *et al.*, Twelfth Suppl. Order at ¶ 14 (June 20, 2002).
62/ See id. at ¶¶ 25-29.
63/ Re Commission Inquiry into Local Distribution Companies' Natural Gas Hedging Practices, Docket UG-132019, Policy and Interpretive Statement on Local Distribution Companies' Natural Gas Hedging Practices at ¶ 11 (Mar. 13, 2017).

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C. Customers Would Not Benefit, in Any Form, by PCRA Adoption

31 If ICNU understands the details and sequencing of Avista's proposals correctly, then the fifth and final "primary reason" for PCRA approval approaches sheer nonsense. Specifically, the Company claims that PCRA implementation, effective September 1, 2017, would result in the "mitigation of rate increase for customers."[64/]

32 In reality, Avista is effectively arguing that ratepayers will be "eased into" the effects of the full GRC rate impacts by beginning to pay higher rates well before (even higher) GRC rates go into effect. At the end of the day, however, ratepayer impacts will not actually be "mitigated" or diminished by implementation of the PCRA—rather, ratepayers would simply pay more between September 2017 and the implementation of new GRC rates in May 2018, in exchange for the "privilege" of experiencing less of an abrupt increase between present rates and those established via a May 2018 increase.

33 To prove this point, Avista concedes that "base rates may increase by 12.5 percent on May 1, 2018."[65/] But, according to the Company's rationale, ratepayers would apparently "benefit" from near immediate implementation of the PCRA, since "billed rates would only go up by 8.8% at that time, given that a portion of the [12.5%] rate increase was implemented earlier on September 1, 2017."[66/] Crucially, this calculus does not appear to include an actual rate reduction for customers on account of any PCRA implementation before GRC rates go into effect, as evinced by the fact that the $15.0 million PCRA would be replaced by a $16.6 million "Pro Forma Power Supply Adjustment" in the GRC.[67/] Ratepayers would merely be swapping

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64/ Cover Letter at 10-11.
65/ Id. at 10.
66/ Id.
67/ Id. at 3.

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the PCRA for *increased* power supply costs in the GRC, in addition to all other GRC rate increases sought—i.e., an additional 8.8% rate increase *on top of* PCRA impacts.

34 If ICNU's understanding of Avista's proposal and underlying rationale is correct, then, from a ratepayer standpoint, a better illustration of the concept of chutzpah could scarcely be imagined than in Avista's attempt to pass the PCRA off as a means to "mitigate" customer rate impacts. In any event, such rationale comes far short of stating a claim for PCRA adoption that could reasonably withstand dismissal.

II. ALTERNATIVE MOTION TO CONSOLIDATE WITH GRC

35 As an Alternative Motion to outright dismissal of the PCRA filing, ICNU requests that the similar power supply cost issues within the PCRA and GRC be consolidated for unified consideration within the Company's concurrent 2017 GRC, in Docket UE-170485.[68/] The material facts at issue include the following:

- Avista both describes and graphically illustrates the "interaction" between power supply costs within the PCRA and GRC, depicting such costs as essentially interchangeable or synonymous, and emphatically "not additive";[69/]
- The Company proposes to increase rates indefinitely for power supply costs under the Schedule 93 PCRA filing, if power supply costs are not updated in the GRC;[70/] and
- At the very least, more than half of the PCRA rate increase sought by the Company is attributable to power supply costs "discussed in detail in the Company's last general rate case."[71/]

68/ As necessary or helpful, ICNU incorporates by refence any relevant information within the Motion into this Alternative Motion.

69/ Cover Letter at 3 (emphasis by Avista).

70/ Id. at 1-2 n.2.

71/ Compare id. at 5 (conceding that the Portland General Contract had been "discussed in detail" during the 2016 GRC), with id. at 9, Table No. 4 (indicating that $8 million, more than half of the overall PCRA increase, is attributable to the Portland General Contract).

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36 Legally, the Commission has considerable discretion to "consolidate two or more proceedings in which the facts or principles of law are related."[72/] In such circumstance, a motion to consolidate has been approved on determination that "consolidation would promote judicial economy and administrative efficiency."[73/] Also, the Commission is under no obligation to decide an issue which has been recently determined, and may exercise "its statutory authority to decline to do so."[74/] To this end, "RCW 80.04.200 states, in pertinent part:

> Any public service company affected by any order of the commission, and deeming itself aggrieved, may, *after the expiration of two years* from the date of such order taking effect, petition the commission for a rehearing upon the matters involved in such order, setting forth in such petition the grounds and reasons for such rehearing, which grounds and reasons may comprise and consist of changed conditions … , or that the effect of such order has been such as was not contemplated by the commission or the petitioner, or for any good and sufficient cause which for any reason was not considered and determined in such former hearing."[75/]

A. Economy and Efficiency Would Be Served by Consolidation

37 The commonality of facts at issue between the PCRA and GRC—i.e., Avista's power supply costs—cannot be disputed rationally, based on the Company's own statements in the PCRA filing. Indeed, the power supply costs in each proceeding might best be described as sharing a virtual identity. In this sense, consolidation of the Commission's consideration of just and reasonable power supply cost updates would be most economically and efficiently conducted in a single GRC proceeding. Consolidation would also provide Avista's customers with at least a modicum of economic relief generally, given that the current, two-pronged filing requests for rate increases follow immediately on the heels of "Avista's ninth general rate case filed since

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72/ WAC § 480-07-320.
73/ WUTC v. Pac. Power & Light Co. ("Pacific Power"), Dockets UE-140762 *et al.*, Order 05 at ¶ 8 (June 24, 2014).
74/ Dockets UE-140762 *et al.*, Order 08 at ¶ 71 (Mar. 25, 2015).
75/ Id. at ¶ 72 (emphasis added).

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2005, and the fourth since 2012."[76/] In other words, the concurrent 2017 GRC represents the *fifth* GRC filing since 2012, and the PCRA filing has now been added, atop this procedural burden, for the Commission, Staff, and ratepayer advocates.[77/]

38 As noted, the Company itself attests to the interrelation between power supply adjustments filed in the PCRA and GRC. Specifically, Avista explains:

> At the conclusion of the general rate case, assuming that a new level of power supply expense is included in base rates, the rates under Schedule 93 through this [PCRA] filing would expire … in recognition that an updated level of power supply costs would now be reflected in base rates.[78/]

The Company also graphically illustrates power supply costs as seamlessly interchanging on May 1, 2018,[79/] with emphasis upon the fact that the "Power Cost Adjustment of $15.0 million and the proposed Pro Forma Power Supply adjustment in the GRC are not additive."[80/] Likewise, the synonymous or interchangeable nature of the power costs at issue is evinced by description of: 1) the PCRA, in conjunction with existing "base power supply costs," serving "as a new base level of power supply costs;"[81/] 2) "the final approved Pro Forma Power Supply Adjustment approved in the GRC [that] will serve as the new level of power supply costs in base rates;"[82/] and 3) a provision for PCRA base levels of power supply costs to continue indefinitely,

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76/ Dockets UE-160228 and UG-160229 (*consolidated*), Order 06 at ¶ 13.

77/ ICNU recognizes the potential for a counterargument from the Company that no additional burden exists, so long as the PCRA is passively allowed to go into effect by "operation of law." From the perspective of Avista's customers, however, such an argument would be grounded on the untenable logic of a false dichotomy—i.e., either accept a material rate increase through the PCRA, or accept significant litigation costs to contest the PCRA in addition to GRC litigation costs. Obviously, other options exist, such as PCRA dismissal or consolidation into the GRC, both of which would result in lower ratepayer cost.

78/ Cover Letter at 3.

79/ Id., Illustration No. 1.

80/ Id. at 3.

81/ Id. at 2.

82/ Id. at 3.

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in lieu of a replacement adjustment through the GRC.[83/] Further still, *both* the PCRA and the Pro Forma Power Supply Adjustment in the GRC would alternately serve as the basis for the Company's ERM.[84/]

39 Regarding the relation of principles of law, Avista attempts to distinguish the PCRA and GRC filings by proposing an overall PCRA rate increase of 2.92%, both for the system and each rate schedule[85/]—which is only a shade under the 3.0% threshold that would require the Company to meet GRC filing standards.[86/] Avista is perfectly aware of procedural and substantive GRC requirements, which are far more comprehensive than the process sought through the PCRA filing, as demonstrated by the Company's explicit claim that "this filing does not constitute a 'general rate proceeding.'"[87/]

40 From a customer standpoint, however, the Company's attempted distinction between the PCRA filing and GRC requirements is the promotion of form over substance. Avista concedes that the proposed PCRA "increase for a residential customer using an average of 938 kWhs per month is … a 3.1% increase in their electric bill."[88/] Similarly, the Company's proposal—to "spread the increase within each schedule among the variable energy blocks"[89/]—almost certainly means that Avista's largest customers on Schedule 25, who consume the most energy (and which includes the membership of ICNU), would experience PCRA rate increases

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83/ Id. at 1-2 n.2.

84/ Compare id. at 2 & n.5 (stating that the PCRA "would be used as the basis for the Company's Energy Recovery Mechanism (ERM)"), with id. at 3 (noting that the Pro Forma Power Supply Adjustment would serve "as the base for the ERM").

85/ Id. at 11.

86/ See WAC § 480-07-505(1)(a)-(b) (defining a general rate proceeding filing as an annual revenue request of 3.0% or more, either of a company or for any customer class).

87/ Cover Letter at 11 n.18.

88/ Id. at 11.

89/ Id.

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well in excess of 3.0%. Thus, given that a great many customers *would* experience GRC-magnitude rate increases through the PCRA, and in acknowledgment of the factual identity between PCRA and GRC power supply cost issues, consolidation to promote judicial economy and administrative efficiency would be appropriate on a substantive level.

B. Consolidation Would Avoid Needless Redetermination of a Recent Rate Decision

41 In short, a consolidation of power supply cost considerations will allow the Commission to avoid rehearing the same issues just decided in the 2016 GRC. The Company acknowledges that the majority of power supply costs comprising the PCRA rate increase request were "discussed in detail in the Company's last general rate case."[90/] Yet, within *three months* of 2016 GRC petitions for rehearing and reconsideration being denied, Avista has again sought recovery on the same underlying power supply cost issues through this PCRA filing. As noted in the Motion, however, the Commission has already determined that "Avista's existing fair, just, reasonable, and sufficient rates for electric service … will remain in effect prospectively from the date of this Order,"[91/] having expressly factored the Company's rate requests for a rate period ending June 30, 2018.[92/]

42 Avista's attempt to seek the same relief that the Commission recently denied is similar to Pacific Power's attempt "to re-litigate the Commission's decision in UE-130043," when Pacific Power sought "to depart from the WCA inter-jurisdictional cost allocation methodology and, *by one means or another*, include the costs of Oregon and California QFs in

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90/ Compare id. at 5 (conceding that the Portland General Contract had been "discussed in detail" during the 2016 GRC), with id. at 9, Table No. 4 (indicating that $8 million, more than half of the overall PCRA increase, is attributable to the Portland General Contract).

91/ Dockets UE-160228 and UG-160229 (*consolidated*), Order 06 at ¶ 115.

92/ Id. at ¶ 6.

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Washington rates."[93/] That is, since Avista failed to obtain its rate request in the 2016 GRC—including costs associated with the Portland General Contract, although "discussed in detail" in that case—the PCRA represents an attempted end run around the 2016 GRC decision, or an effort to still obtain such rate requests "by one means or another."

43 The Commission's ultimate handling of the analogous Pacific Power matter should be instructive here. That is, in express reference to RCW § 80.04.200:

> The Commission decided the QF issues in the Company's 2013 rate case, which was *decided only five months before the Company filed this case seeking in one fashion or another the same result previously rejected*. This is well within the two-year window set forth in the statute and the Commission is under no obligation to rehear the matter. Further, Pacific Power put this matter before the Court of Appeals and we should not, for reasons of comity, take up again the same issues that are pending there. The effect of our determination to not rehear this question is to reject for purposes of this case Pacific Power's untimely proposal that we abandon the WCA inter-jurisdictional cost allocation methodology for QF facilities.[94/]

If anything, Avista's attempt to obtain, "in one fashion or another the same result previously rejected," is an easier matter to reject than the Pacific Power request, since the Company filed the PCRA within a mere three months of being denied rehearing or reconsideration on the 2016 GRC. Also, as noted in the Motion, Avista's reliance on an "end results" rate determination in the 2015 GRC is the subject of a pending Court of Appeals review, in which the WUTC is a party—which should provide more than enough impetus to consolidate the PCRA into the GRC "for reasons of comity."

[93/] Dockets UE-140762 *et al.*, Order 08 at ¶ 71 (emphasis added).
[94/] Id. at ¶ 73 (emphasis added).

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IV. CONCLUSION

44 For the foregoing reasons, ICNU respectfully requests that the Commission grant the Motion and dismiss the Company's PCRA filing. If the Commission elects not to grant the Motion, ICNU requests a grant of the Alternative Motion for the reasons stated above, resulting in a consolidation of interrelated power supply cost issues within the concurrent PCRA and 2017 GRC filings, for unified consideration within the 2017 GRC.

Dated this 16th day of June, 2017.

Respectfully submitted,

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