

BEFORE THE WASHINGTON UTILITIES & TRANSPORTATION COMMISSION

WUTC V. AVISTA CORPORATION d/b/a AVISTA UTILITIES

DOCKET NOS. UE-050482 AND UG-050483

REBUTTAL TESTIMONY OF JAMES R. DITTMER (JRD-5T)

ON BEHALF OF

PUBLIC COUNSEL

September 22, 2005

REBUTTAL TESTIMONY OF JAMES R. DITTMER (JRD-5T)

TABLE OF CONTENTS

I.	INTRODUCTION/SUMMARY	1
II.	ANALYSIS OF TESTIMONY AND DISCOVERY SUPPORTING THE NON-UNANIMOUS SETTLEMENT AGREEMENT.....	3
III.	EXHIBIT ORGANIZATION AND SPONSORSHIP.....	7
IV.	POLE RENTAL REVENUES.....	8
V.	AMORTIZE GAINS ON SALES OF REAL PROPERTY.....	9
VI.	ELIMINATE EXPIRING COMPUTER SYSTEM LEASE COSTS.....	10
VII.	MISCELLANEOUS BELOW-THE-LINE EXPENSE ELIMINATION.....	11
VIII.	ADDITIONAL PRODUCTION COST/POWER SUPPLY ADJUSTMENTS.....	13

DITTMER EXHIBIT LIST

Exhibit No. ____ (JRD-6) Avista Electric Rebuttal Accounting Exhibits

Exhibit No. ____ (JRD-7) Avista Gas Rebuttal Accounting Exhibits

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I. INTRODUCTION AND SUMMARY

Q. Please state your name and address.

A. My name is James R. Dittmer. My business address is 740 Northwest Blue Parkway, Suite 204, Lee's Summit, Missouri 64086.

Q. By whom are you employed?

A. I am a Senior Regulatory Consultant with the firm of Utilitech, Inc., a consulting firm engaged primarily in utility rate work.

Q. Have you previously filed testimony in this case?

A. Yes. On August 26, 2005 I filed direct testimony in this case on behalf of the Public Counsel Section of the Office of the Attorney General of the State of Washington (Public Counsel). Like the direct testimony that I filed on August 26, 2005, this rebuttal testimony is also being filed on behalf of Public Counsel.

Q. What is the purpose of your rebuttal testimony in this case?

A. As the Commission is well aware, a non-unanimous Settlement Agreement was reached in this case between Avista Utilities, the Washington Utilities and Transportation Commission Staff, intervenor Northwest Industrial Gas Users (NWIGU), and intervenor Energy Project. Public Counsel did not sign the noted non-unanimous Settlement Agreement and specifically objects to it. Within my August 26, 2005 dated direct testimony and exhibits, I discussed a number of adjustments that I was sponsoring, and also prepared revenue requirement exhibits that incorporated my recommendations as well as those of other Public Counsel witnesses. As a result of all the various adjustments and positions being specifically

1 advocated by all Public Counsel witnesses at that time, I calculated and presented
2 within direct testimony and exhibits filed on August 26, 2005 a recommended
3 increase of \$11,733,000 and \$218,000 for Avista's Washington jurisdictional electric
4 and gas operations, respectively.

5 However, I and other Public Counsel witnesses noted that there were issue
6 areas that we had not analyzed in detail due to resource constraints, including issue
7 areas that had resulted in adjustments considered within the development of the
8 revenue increase being recommended pursuant to the non-unanimous Settlement
9 Agreement. Accordingly, I expressed an intent to review and consider certain
10 adjustments that were reflected within the non-unanimous Settlement Agreement that
11 no Public Counsel witness had reflected within recommendations being made within
12 the direct testimony filed on August 26, 2005. Additionally, Mr. Merton Lott, also
13 appearing on behalf of Public Counsel, indicated in testimony filed on August 26,
14 2005 an intent to review other production cost/power supply issues included within
15 the Settlement Agreement as well as other power supply adjustments then-
16 anticipated to be recommended in direct testimony to be filed concurrently by
17 intervenor Industrial Consumers of Northwest Utilities (ICNU). As a result of the
18 review of the Settlement Agreement adjustments, I am specifically recommending
19 the adoption of certain adjustments included within the settlement stipulation
20 revenue requirement development that were not previously included within Public
21 Counsel's revenue requirement recommendations presented within testimony and
22 exhibits filed on August 26, 2005.

1 **Q. What is Public Counsel's revenue requirement recommendation at this point in**
2 **time?**

3 A. As noted, Public Counsel is now supporting certain additional adjustments reflected
4 within the Settlement Agreement as well as certain power supply adjustments
5 sponsored by ICNU *that were not reflected within direct testimony and exhibits filed*
6 *on August 26, 2005*. As a result of incorporating those noted *incremental*
7 adjustments with adjustments and positions initially set forth within Public Counsel's
8 direct testimony and exhibits filed on August 26, 2005, Public Counsel is now
9 recommending a rate increase of \$6,404,000 for Avista's Washington retail electric
10 customers and a rate reduction of \$114,000 for Avista's Washington retail natural
11 gas customers.

12
13 **II. ANALYSIS OF TESTIMONY AND DISCOVERY SUPPORTING**
14 **THE NON-UNANIMOUS SETTLEMENT AGREEMENT**

15 **Q. Have you reviewed the joint direct testimony of various Avista and WUTC Staff**
16 **witnesses filed in support of the non-unanimous Settlement Agreement?**

17 A. Yes. I have reviewed the Joint Direct Testimony of Kelly Norwood (Avista), Brian
18 Hirschhorn (Avista), Roger Braden (Staff), Michael Parvinen (Staff), Hank McIntosh
19 (Staff), Joelle Steward (Staff), Donald Schoenbeck (NWIGU) and Charles Eberdt
20 (Energy Project) filed on August 26, 2005 in support of the non-unanimous
21 Settlement Agreement.

22 **Q. Do the testimony and exhibits you have reviewed adequately support the**
23 **reasonableness of the Settlement Agreement being recommended for adoption?**

1 A. Speaking to the areas of cost of service development that I am most responsible for
2 reviewing, the answer is clearly “no.” Specifically, I note that for the various non-
3 power supply “accounting” issue areas the joint supporting testimony is very brief
4 and mechanical. Significantly, while only generally describing the basis of a given
5 adjustment being reflected within the Settlement Agreement, there is virtually no
6 testimonial support as to the reasonableness of adoption of each adjustment, and
7 there is certainly no discussion of the pro and con arguments for a given adjustment,
8 or what risk either party saw in presenting the issue to the Commission in a litigated
9 proceeding. The testimony summarily states that the Settlement Agreement was
10 reached in a “give and take” environment, and further, that no individual adjustment
11 should be viewed in isolation – but rather, such adjustments should be viewed as part
12 of a total Settlement Agreement.

13 **Q. Did you attempt through discovery to get a better understanding of the basis of**
14 **the various Settlement Agreement adjustments used in the derivation of the**
15 **revenue changes being recommended, as well as supporting and opposing**
16 **arguments for each Settlement Agreement adjustment included within the**
17 **development of the agreed-upon increase for Avista’s electric and gas**
18 **operations?**

19 A. Yes. For each Settlement Agreement adjustment that best fit into my area of review,
20 I attempted through discovery of Staff to obtain:

21 a) Calculations underlying the adjustment, referenced to source documents,
22 as applicable,

- 1 b) Data request responses or other documents relied upon in the formulation
- 2 and calculation of each adjustment,
- 3 c) Rationale or reasoning employed in support of each adjustment, and
- 4 d) Counter arguments for which the Staff considered that it had litigation
- 5 risk of losing the adjustment if the adjustment had been litigated rather
- 6 than settled.

7 The Staff’s response to individual questions posed in parts a, b, and c
8 delineated above repeatedly referred to Avista’s Responses to ICNU Data Request
9 No. 6.1 and Public Counsel Data Request No. 218. I note that the referenced ICNU
10 Data Request also sought a “more detailed description of the adjustment, including
11 what it is intended for and how it was derived.” However, the response to this ICNU
12 question and Public Counsel’s request for the “rationale or reasoning employed in
13 support of each adjustment” was largely ignored. Specifically, the response to the
14 noted ICNU Data Request did little more than recite the brief and mechanical joint
15 testimony offered in support of the various non-power supply accounting issues
16 included in the development of the Settlement Agreement. Further, and importantly,
17 the Staff objected to providing the request for the counter arguments which the Staff
18 considered in determining that it had litigation risk if the adjustment had not been
19 agreed to in the Settlement Agreement.

20 **Q. Did you also attempt to gain a better understanding of the Company’s view of**
21 **what weakness or exposure the Staff might have if the individual adjustment**
22 **were to be litigated?**

1 A. Yes, but again, only as to the adjustments that relate to my issue areas of review.
2 Specifically, for each Settlement Agreement adjustment that fell within my area of
3 review I asked the Company to provide the arguments that it would propound
4 *against* adoption of the adjustment conceded in the Settlement Agreement if the
5 issue were to be litigated, as well as the *arguments in favor* of adoption of a given
6 adjustment that the Company considered and gave weight to in its decision to agree
7 to such adjustment in settlement. With regard to the question seeking arguments
8 *against* adoption of a given settlement agreement adjustment that the Company
9 might raise if the issue were litigated, the Company repeatedly responded with:

10 As explained in the Settlement Agreement and settlement testimony
11 this adjustment reflects a compromise of the Settling Parties' entire
12 litigation and/or settlement positions. The reasonableness of the
13 Settlement Agreement, including this adjustment, is explained in the
14 settlement testimony. The Company's rebuttal testimony, to be filed on
15 September 22, will address the specific arguments "that it would
16 propound if this case were to be litigated." (Avista Responses to part a
17 of Public Counsel Data Request Nos. 219 – 226)
18

19 Further, in response to the question seeking arguments in support of adoption of
20 a given adjustment that the Company gave weight to in its decision to agree to such
21 adjustment in settlement, the Company repeatedly objected as follows:

22 The Company objects to this DR to the extent that it inquires into the
23 basis of the Company's individual litigation position, settlement
24 position, or decision to settle on particular terms. This information is
25 attorney-client privileged, attorney work product, and confidential
26 settlement information under WAC 480-07-700 (4) (b) and does not
27 relate, nor will inquiry lead to, relevant or admissible evidence.
28 (Avista's Responses to part b of Public Counsel Data Request Nos.
29 219-226)
30

31

1 **III. EXHIBIT ORGANIZATION AND SPONSORSHIP**

2 **Q. Have you prepared updated rebuttal schedules that summarize the adjustments**
3 **and positions being sponsored by you and other Public Counsel witnesses that**
4 **now incorporate the adjustments that were included in the Settlement**
5 **Agreement revenue requirement calculation or within ICNU's Direct**
6 **Testimony and Exhibits but which were not included within Public Counsel**
7 **accounting exhibits filed on August 26, 2005?**

8 A. Yes. With my testimony filed on August 26, 2005, I attached Exhibit No. ____ (JRD-
9 2) and Exhibit No. ____ (JRD-3) which reflected all the various adjustments and
10 positions being proposed by Public Counsel at that time for Avista's electric and gas
11 operations, respectively. I have updated those exhibits for the additional or
12 incremental adjustments now being adopted by other Public Counsel witnesses or
13 me, and have affixed such updated schedules as Exhibit No. ____ (JRD-6) and
14 Exhibit No. ____ (JRD-7) for Avista's Washington jurisdictional electric and gas
15 operations, respectively.

16 **Q. Were any of the adjustments that you proposed within the testimony you filed**
17 **on August 26, 2005 included within the calculation of the revenue requirement**
18 **incorporated within the non-unanimous Settlement Agreement?**

19 A. The following adjustments that I sponsored in my direct testimony appear to have
20 been included within the development the Settlement Agreement revenue

1 requirement calculation:

2		Utility Operation
3	<u>Adjustment</u>	<u>Applicable to:</u>
4	Kettle Falls Production Tax Credit	Electric
5	American's Job Creation Act of 2004 ("Jobs Act")	
6	(Referred to as "Domestic Production FIT	
7	Deduction" within Attachment A to Settlement	
8	Stipulation)	Electric
9	Customer Deposits	Electric & Gas
10	Gas Promotional Advertising	Gas

11 In addition to each of the above-listed adjustments that I sponsored in direct
12 testimony and exhibits that have been incorporated in the Settlement Agreement,
13 there are other adjustments that were sponsored by Mr. Merton Lott on behalf of the
14 Public Counsel that were also incorporated within the settlement stipulation. Mr.
15 Lott will address, in rebuttal testimony, the various production/power supply issues
16 that he addressed within his prefiled direct testimony that have been reflected in
17 whole or in part within the Settlement Agreement.

18

19 **IV. POLE RENTAL REVENUES**

20 **Q. Please continue by discussing the first adjustment included within the**
21 **Settlement Agreement that is additive to other adjustments presented within**
22 **Public Counsel's August 26, 2005 Direct Testimony and Exhibits that you**
23 **recommend also be adopted by this Commission in the determination Avista's**
24 **electric and gas revenue requirement determination.**

1 A. On attached Schedule C-9 Electric of Exhibit No. ____ (JRD-6) I post an adjustment
2 that was included within the electric Settlement Agreement that was made to reflect
3 revenues for actual pole rentals *billed* during the test year. The test year *billed*
4 revenues exceeded revenues that had been recorded on an *accrual* basis during the
5 historic test year. The data underlying this adjustment was provided in response to
6 Staff Data Request No. 59. The noted Staff Data Request had requested the
7 Company to provide a pro-forma adjustment to annualize and pro-form the test year
8 pole attachment revenues for any known changes. The response indicated that 2005
9 information was not available, but that the 2004 test year recorded revenue amount
10 may be adjusted to reflect actual 2004 billings. The Company's Response to Staff
11 Data Request No. 59 is the source for the adjustment that I post on Schedule C-9
12 Electric, and does not appear to be contested in any manner by Avista. Accordingly,
13 it should be adopted in the Commission's determination of Avista's electric revenue
14 requirement in this case.

15
16 **V. AMORTIZE GAINS ON SALES OF REAL PROPERTY**

17 **Q. Please continue by describing the next adjustment included within the**
18 **settlement stipulation that you also propose to adopt in the development Public**
19 **Counsel's revenue requirement recommendation.**

20 A. The adjustment posted on Schedule C-10 Electric of Exhibit No. ____ (JRD-6) and
21 Schedule C-5 Gas of Exhibit No. ____ (JRD-7) that was also included within the
22 electric Settlement Agreement reflects a ten-year amortization of net gains realized

1 from the sale of real property disposed of between 1998 and 2004. In the
2 Commission's decision issued in Docket Nos. UE-991606 and UG-991607 the
3 WUTC ordered Avista to continue to defer gains on sale of real property for rate
4 treatment in future rate cases. Because amortization of gains from sales or
5 disposition of real property had been approved for consideration in the development
6 of utility rates in prior WUTC rate orders, even though no adjustment had been
7 developed by any party in Docket Nos. UE-991606 and UG-991607, the
8 Commission ordered Avista to continue to defer such gains, and further, asked its
9 Staff to analyze this issue in future cases. Inasmuch as this appears to be the first
10 case wherein this adjustment has again been proposed by Staff or any other
11 intervenor, it is appropriate and consistent with this Commission's prior rate
12 decisions to amortize such deferred gains over some future period. I have accepted
13 the ten-year amortization period reflected within the Settlement Stipulation, and
14 accordingly, urge the Commission to adopt this settlement adjustment.

15
16 **VI. ELIMINATE EXPIRING COMPUTER SYSTEM LEASE COSTS**

17 **Q. Please discuss the next settlement adjustment that you are adopting.**

18 A. The adjustment shown on Schedule C-11 Electric of Exhibit No. ____ (JRD-6) and on
19 Schedule C-6 Gas of Exhibit No. ____ (JRD-7) is reflected to eliminate the non-
20 recurring expense related to expiring computer system leases. The data underlying
21 this adjustment – an adjustment also reflected within the Settlement Agreement –
22 was provided in response to Staff Data Request No. 136. According to the noted

1 response, the lease amortization of certain computer system programs was set to
2 expire in September 2004. However, a decision was made to terminate such leases
3 early (i.e., March 2004) that resulted in a net savings of approximately \$31,400.

4 Further, according to the noted response, the ownership of these intangible
5 assets was transferred at no additional costs to Avista. Inasmuch as these leases have
6 been terminated, and are thus non-recurring, it is only equitable and appropriate to
7 eliminate this non-recurring lease expense recorded during the historic test year.

8
9 **VII. MISCELLANEOUS BELOW-THE-LINE EXPENSE ELIMINATION**

10 **Q. Please discuss your next adjustment.**

11 A. The adjustment shown on Schedule C-12 Electric of Exhibit No. ___(JRD-6) and on
12 Schedule C-7 Gas of Exhibit No. ___(JRD-7) is reflected to eliminate a number of
13 miscellaneous expenses that are typically considered “below-the-line” expenses for
14 ratemaking purposes. Neither the Staff nor Company has provided a great deal of
15 support underlying this settlement adjustment. That stated, it appears that this
16 adjustment includes the elimination of a number of expenses that are typically
17 disallowed by regulatory commissions as being unnecessary in the provision of safe
18 and efficient utility service. The expenses eliminated include contributions to the
19 WSU Athletics Department, Brett Sports and Entertainment, the lobbying portion of
20 Edison Electric Institute and the American Gas Association dues, as well as other
21 miscellaneous dues and donations. I urge this Commission to also incorporate this
22 adjustment in its determination of Avista’s Washington retail electric and gas

1 revenue requirement as these types of expense are routinely eliminated from cost of
2 service development because they are unnecessary in the provision of safe, efficient
3 and economical utility service.

4 **Q. Are there any settlement stipulation adjustments that you reviewed that you**
5 **have not reflected within Public Counsel’s revised revenue requirement**
6 **recommendation as calculated on Exhibit No. ____ (JRD-6) and Exhibit**
7 **No. ____ (JRD-7)?**

8 A. I have not reflected within calculations on attached Exhibit No. ____ (JRD-6) and
9 Exhibit No. ____ (JRD-7) a Settlement Agreement adjustment referred to as
10 “Proforma Labor – Non-Exec.” I am not opposed to the Commission’s adoption of
11 this adjustment. Rather, I simply have not reviewed enough information to fully
12 understand the basis of this adjustment. I know that the adjustment deals with the
13 Company’s Pace Incentive Plan. As such, I expect it is an adjustment that was
14 developed by the WUTC Staff as not being in compliance with this Commission’s
15 directives regarding recovery of discretionary incentive compensation.

16 **Q. Did you attempt to ascertain the basis of this settlement adjustment?**

17 A. As noted previously, for this adjustment, as well as every other Settlement
18 Agreement adjustment that I believed to be in my area of responsibility, I sought to
19 understand the rationale or reasoning employed in support of the adjustment. In the
20 case of the adjustment entitled “Proforma Labor – Non-Exec,” while the Staff
21 identified the cost being disallowed as being related to the Company’s Pace
22 Incentive Plan, I did not observe where they explained the actual reasoning

1 employed in proposing the disallowance. Again, I expect it has to do with not
2 meeting prior Commission precedent for rate recovery. However, given the
3 magnitude of the adjustment as well as the time constraints of preparing this rebuttal
4 testimony, I did not further pursue, nor post, this settlement stipulation adjustment
5 when developing Exhibit No. ____ (JRD-6) and Exhibit No. ____ (JRD-7). That stated,
6 Public Counsel reserves the right to pursue this adjustment through cross
7 examination at the hearing and ultimately incorporate such adjustment within its
8 final recommendation.

9
10 **VIII. ADDITIONAL PRODUCTION COST/POWER SUPPLY ADJUSTMENTS**

11 **Q. Does Exhibit No. ____ (JRD-6) reflect any additional adjustments not previously**
12 **posted and described within the Direct Testimony and Exhibits filed on behalf**
13 **of the Public Counsel on August 26, 2005?**

14 A. Yes. Public Counsel's Washington retail jurisdictional electric revenue requirement
15 recommendation as calculated on Exhibit No. ____ (JRD-6) also reflects a revised
16 power supply adjustment sponsored by Mr. Merton Lott, as well as two new
17 production cost adjustments also sponsored by Mr. Lott. Specifically, Mr. Lott has
18 revised the power supply adjustment that was reflected on Schedule C-8 of Public
19 Counsel Exhibit No. ____ (JRD-2) (i.e., the electric revenue requirement accounting
20 schedules). Additionally, Mr. Lott has adopted and is supporting a portion of two
21 production cost adjustments that were presented within direct testimony of ICNU
22 witnesses. One such adjustment has been summarized on Schedule C-13 of Exhibit

1 No. ____ (JRD-6) and has been labeled as “Purchased Power Expense Adjustment
2 Related to Hydro Reshaping.” The second new adjustment has been summarized on
3 Schedule C-14 of Exhibit No. ____ (JRD-6) and is referred to as the “New Colstrip
4 Capacity Adjustment.” I note that there is a corresponding rate base adjustment to
5 Schedule C-14 reflected on Schedule B-9. Mr. Lott will discuss in his rebuttal
6 testimony the propriety of adoption of these new adjustments.

7 **Q. Does this conclude your rebuttal testimony?**

8 **A.** Yes, it does.