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**ATTORNEY GENERAL OF WASHINGTON**

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July 11, 2014

**SENT VIA WEB-PORTAL**

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

Re: Avista Corporation d/b/a Avista Utilities, Report concerning its progress in meeting its conservation target during the preceding biennium, Docket UE-111882

Avista Corporation d/b/a Avista Utilities, Prudence of natural gas demand side management program expenditures during the prior two years, Docket UG-141215

Dear Mr. King,

Public Counsel submits these additional comments, as a follow-up to the comments filed June 30, 2014. We provide our recommendation regarding Avista's conservation acquisition toward its 2012-2013 biennial electric conservation target. Second, we discuss Staff's proposed approach for review of prudence of demand side management (DSM) programs. Third, we discuss our ongoing review related to Avista's filing regarding the prudence of its conservation programs for 2012-2013.

Avista has more than met its biennial conservation target for 2012-2013 and in so doing, has achieved significant results to acquire cost-effective conservation, as described in our prior comments. We would also like to recognize and thank the Company for its timely responses to our informal data requests regarding the filing.

**Avista's Conservation Achievement for 2012-2013**

In our prior comments we noted that Public Counsel was continuing to seek clarification from Avista on issues related to the Company's claim of electric conservation savings in 2012 related to the 2011 CFL contingency program. Public Counsel appreciates the additional information provided by Avista, and we also recognize the unique nature of the program in terms of its large scope and the timing of shipment of CFLs in mid to late 2011. As Staff observed, a key issue raised here is "whether the Commission wishes to change the way it treats savings from

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programs where customers purchase something that may not be installed right away."<sup>1</sup> We agree with Staff that this is a compelling question. Our understanding is that the Council's Regional Technical Forum (RTF) has been grappling with this very issue, including when it updated residential lighting savings in 2013.

In our view, however, Avista's proposal to claim 2012 savings for the 2011 CFL contingency program suffers from several flaws, and is not consistent with the Commission's conditions adopted in Order 01. The basis for the savings claim is an engineering review by Cadmus that incorporates some, but not all, assumptions adopted by the RTF when it updated residential lighting savings in October, 2013. For example, the Cadmus engineering review utilized an in-service rate adopted by the RTF in 2013, but does not incorporate the updated baseline assumptions the RTF also adopted at that time.<sup>2</sup> In addition, the RTF's 2013 update applies to unsolicited mail delivery of up to four bulbs per household, but Avista's program mailed eight bulbs. In this regard, the basis for this savings claim is not consistent with conditions requiring utilization of either RTF approved savings, or "generally accepted impact evaluation data and/or other reliable and relevant source data that has verified savings levels."<sup>3</sup>

We share Staff's view that if Avista had questions regarding treatment of savings from the CFL contingency, the Company should have directly raised this issue with the Advisory Group, and, if necessary, could have sought clarification from the Commission.<sup>4</sup> But the Company did not consult with the Advisory Group on this specific issue of considering a new methodology and approach to claiming savings in 2012 for the 2011 CFL contingency program. Such consultation would have greatly facilitated our current analysis of this issue, and also would have been consistent with the condition in Order 01 that the Advisory Group shall advise on evaluation, measurement, and verification protocols.

Public Counsel therefore recommends that the 2012 savings of 21,179 MWh for the 2011 CFL contingency should not be claimed toward Avista's 2012-2013 biennial conservation target. Removing these savings would result in total biennial savings of 171,570 MWh, which still exceeds the 108,589 MWh biennial target by 58%. As we stated in our prior comments, we applaud Avista on its significant conservation achievements and performance in meeting the 2012-2013 biennial conservation target.

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<sup>1</sup> UE-111882, Commission Staff Comments Regarding Avista Corporation d/b/a Avista Utilities' 2012-2013 Biennial Conservation Report, June 30, 2014, p. 5 (hereafter, 'Staff Comments').

<sup>2</sup> The RTF's updated baseline reflects that some CFLs are replacing CFLs, for example. Avista's CFL contingency program savings reflect a baseline assumption that CFLs are replacing incandescent bulbs.

<sup>3</sup> UE-111882, Order 01, February 10, 2012, Conditions (6)(b) and (6)(c), at ¶ 28.

<sup>4</sup> UE-111882, Staff Comments, p. 5.

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### **Prudence of Conservation Activities**

Public Counsel shares Staff's desire for a consistent approach to review of DSM prudence. Public Counsel also agrees with Staff that DSM prudence involves multiple elements and that certain aspects of prudence are reviewed at different times.<sup>5</sup> Companies must be able to demonstrate prudence in the planning, implementation, evaluation, and oversight of its conservation portfolio. We very much appreciate that Staff outlined a proposed approach for review of prudence of conservation activities in Staff's Comments filed June 30, 2014, in these Avista dockets. We agree with several aspects of the Staff proposal, but we do have some areas of concern.

*Advisory Group is not a substitute for the Board of Directors.* Staff's proposed approach outlines the four factors the Commission has considered in previous determinations of prudence. Public Counsel has very strong concerns with the statement in Staff's comments that "the advisory groups have been developed to substitute for the board of directors."<sup>6</sup> The utility and its Board of Directors retain responsibility for prudent decision-making and oversight of the conservation portfolio, and that responsibility cannot be delegated to the Advisory Group. The Advisory Group plays an *advisory* role, offering guidance to the utility on a range of issues, but does not have ultimate authority, oversight, or accountability for the development, delivery, and evaluation of the conservation portfolio. Public Counsel raised these concerns in comments filed with the Commission in August 2012.<sup>7</sup>

*Review of EM&V and incorporation of findings in portfolio.* Staff's proposed approach outlined five elements of conservation prudence review. The fifth element pertained to third-party evaluation, measurement, and verification (EM&V), and incorporation of evaluation findings into the conservation portfolio.<sup>8</sup> We share Staff's view that EM&V is a critical element of prudence, including demonstration that evaluation findings are incorporated in the portfolio. This is part of the expectation that utilities adaptively manage the conservation portfolio. Public Counsel is interested in further stakeholder discussion and consideration by the Commission as to when and how this aspect of prudence would be reviewed and considered. For example, one consideration is whether the utilities should provide the Commission with an explanation regarding how EM&V findings have been considered and incorporated into the conservation portfolio. Finally, we observe that while electric utilities are subject to EM&V requirements as a

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<sup>5</sup> UE-111882, Staff Comments, p. 4, and UG-141215, Staff Comments, June 30, 2014, p. 2.

<sup>6</sup> UE-111882, Staff Comments, p. 9, and UG-141215, Staff Comments, p. 2.

<sup>7</sup> See Dockets UE-100170, UE-100176, and UE-100177, Comments of Public Counsel, August 2, 2012, p. 9.

<sup>8</sup> UE-111882, Staff Comments, p. 10, and UG-141215, Staff Comments, p. 3.

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result of EIA implementation and compliance, there are currently no consistent requirements or expectations for the natural gas companies.

*Process for prudence challenge, if necessary.* As stated earlier, Public Counsel agrees with Staff that consideration of prudence in the DSM context involves multiple elements at various points in time. But we note that the timeframe for review of most conservation filings, such as DSM tariff rider filings, and BCP and BCR filings, has generally been 30 to 60 days, and is not likely to provide sufficient opportunity for review and comment regarding any prudence concerns, to the extent any party has identified any concerns. While this may not arise often, appropriate and sufficient procedural vehicles should be available to parties to challenge prudence, if necessary. If requested by a party, the additional review could occur through an existing conservation filing such as the DSM tariff rider or BCP/BCR filings, or as part of a separate adjudicatory proceeding.

These issues, and perhaps others as well, would benefit from further stakeholder review and input. With respect to prudence of electric conservation programs, these issues could be considered in the Commission's EIA rulemaking proceeding. With respect to the process for prudence review of gas conservation programs, the Commission may need to initiate a rulemaking proceeding or policy docket to develop consistent requirements for the natural gas companies regarding prudence review, reporting, and evaluation.

We also recognize that Staff proposes discontinuing the requirement for a finding of prudence at a particular time for Avista's gas conservation programs, and asks Avista to begin developing a joint petition to be filed in the Avista 2011 GRC dockets.<sup>9</sup> To date, no discussions among the parties to the MOU have occurred regarding a different process for DSM prudence review. Public Counsel's preference is to develop a consistent approach for all electric and gas companies, through rulemaking or policy dockets, as appropriate.

### **2012-2013 DSM Prudence Review**

Avista's filing in these dockets included testimony and exhibits supporting the prudence of its electric and natural gas DSM programs. In our June 30, 2014, comments, Public Counsel stated we were not requesting adjudication of the prudence review. Avista's filing in these dockets is voluminous, and so our review of the materials and follow-up with the Company on some issues has been ongoing. An issue discussed in Avista's testimony, and in comments of Staff and Public Counsel, concerns the findings and recommendations of the Cadmus process evaluation regarding quality control, review, and verification of nonresidential projects. Avista has recently

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<sup>9</sup> UG-141215, Staff Comments, p. 5.

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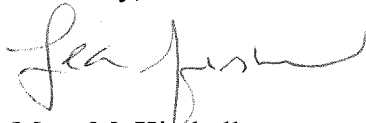
provided additional information to Staff and Public Counsel regarding the results of Avista's internal review of large nonresidential projects.<sup>10</sup>

Public Counsel is still reviewing this additional information that Avista has provided. We will continue to review this information to better understand the results of the Company's internal review. Since our review is ongoing, if we have any further update to our recommendation we will provide that at the Commission's July 25, 2014, Open Meeting.

We recommend that Avista engage the Advisory Group in review and discussion of these issues and recommendations as soon as practicable. Cadmus identifies various steps Avista has taken to seek to address these issues, including retaining an outside consultant in 2013 to examine DSM team roles and responsibilities, implementation a new review process (referenced as 'Top Sheets'), and internal audit department memos.<sup>11</sup> Public Counsel was not aware of these activities until now. It would be beneficial and appropriate for Avista to consult with the full Advisory Group on the Company's actions to respond to the evaluation findings and recommendations.

I am not able to attend the Commission's July 25, 2014, Open Meeting due to a planned vacation, but Lea Fisher and Stefanie Johnson will be present on behalf of Public Counsel to discuss these comments.

Sincerely,



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MMK:cm

cc: Bradley Cebulko, UTC Staff (E-mail)  
Linda Gervais, Avista (E-mail)

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<sup>10</sup> Avista's internal Review of Large Projects is discussed in Exhibit No. MSK-5, Appendix C, pp. 106-108.

<sup>11</sup> Exhibit No. MSK-5, p. 78.