**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

**UG 288**

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| In the Matter of | ) |
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| AVISTA CORPORATION, dba AVISTA UTILITIES | ) |
| | ) |
| Request for a General Rate Revision | ) |

PREHEARING BRIEF OF THE

CITIZENS' UTILITY BOARD OF OREGON

November 23, 2015

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## I. Introduction

Pursuant to Administrative Law Judge ("ALJ") Patrick Power's Prehearing Conference Memorandum of June 5, 2015, the Citizens' Utility Board of Oregon ("CUB") hereby submits its prehearing brief in docket UG 288.

Avista Utilities ("Avista" or "Company") filed a request for a general rate revision with the Commission on May 1, 2015. In its filing, the Company requests an overall rate increase of 8.0 percent, or 16.1 percent on a margin revenue basis.[1] The Company cites capital additions, declining margins and increases in general business expense as drivers for its request,[2] and had proposed to spread its requested revenue requirement to customers in a manner that would result in a 17.0 percent increase (in

[1] UG 288 – Avista Corporation's Trial Brief at 2.
[2] *Id.* at 3.

margin revenue) for residential customers[3] and a 7.0 percent decrease (in margin revenue) for transportation service customers.[4]

On October 16, 2015, CUB, Commission Staff and the Northwest Industrial Gas Users ("NWIGU") filed Opening Testimony in response to the Company's initial filing. CUB and NWIGU filed joint testimony from a shared expert witness, Mike Gorman, to address the issues of cost of capital and revenue requirement, but filed separate expert testimony on the issue of rate spread.

CUB's Opening Testimony in this case focused on three issues: (1) Avista's proposed decoupling mechanism, (2) Avista's Ladd Canyon Gate Station Upgrade, and (3) Avista's proposed rate spread. On November 6, 2015, the parties to this case filed a Partial Settlement Stipulation ("Stipulation") to resolve several issues in this case. Because the parties reached a settlement agreement on the decoupling mechanism as indicated by the Stipulation, that issue is not addressed in this brief. CUB's and NWIGU's outstanding cost of capital and revenue requirement issues are addressed in the NWIGU and CUB joint prehearing brief.

CUB's recommendations with regard to its two remaining issues from Opening Testimony remain unchanged. CUB continues to recommend that the Commission decline Avista's request to include the Ladd Canyon Upgrade in rate base and to order Avista to spread its approved revenue requirement so that no customer class receives more than three times the increase of any other customer class, as discussed more fully below. Additionally, CUB did not have the opportunity to write in support of issues

[3] Avista/900/Ehrbar/9.
[4] Avista/900/Ehrbar/12.

raised by other parties to this case, but supports the arguments made by Staff regarding investment in plant and Project Compass.[5]

## II. Argument

### A. The Commission should reject Avista's proposal to include the Ladd Canyon Gate Station Upgrade in rate base.

CUB urges the Commission to reject Avista's proposal to include the Ladd Canyon Gate Station Upgrade (Ladd Canyon Project), at a cost of $1.6 million, in rate base in this case because it is imprudent.

The prudence of a utility's decision to make a capital investment is "measured from the point of time of the utility's actions and decisions without the advantage of hindsight…does not require optimal results…and uses an objective standard of reasonableness."[6] The Commission has clarified that "the process used by the utility to make a decision to invest in a plant is highly valuable in determining whether the utility's actions were reasonable and prudent in light of the circumstances which then existed."[7]

Avista justifies its Ladd Canyon Project by arguing that "[t]he existing gate station has reached its physical capacity due to the growth in the area and needs to be upgraded to support the gas load increases."[8] But as CUB discovered, the "gas load increases" that the Company was evaluating were driven by a single, temporary, interruptible customer—Oregon Mainline Paving (Paving Customer).[9] At the time the decision to invest in the Project was made, the Company relied upon analysis that

[5] *See* Staff/600/Moore; Staff/300/Johnson/2-5.
[6] *In re PacifiCorp*, OPUC Docket No. UE 246, Order No. 12-493 at 25 (Dec. 20, 2012).
[7] *Id.* at 25.
[8] Avista/600/Schuh/19.
[9] CUB/100/McGovern-Jenks/9-15.

assumed the Paving Customer would be on line in support of its recommendation to move forward with the Ladd Canyon Project.[10] Despite the Paving Customer's departure, the Company argues that the Project is nevertheless necessary nevertheless the load study found that the capacity requirement at the gate station was expected to grow beyond the current capacity, regardless of the Paving Customer.[11]

Fundamentally, the Company's analysis suffers from two fatal flaws. First, at the time the decision was made to move forward with the project, the Company's analysis was based on the inclusion of the interruptible load of the Paving Customer.[12] This is contrary to the analysis performed in the Integrated Resource Plan ("IRP"), which assumes that all interruptible load has left the system when designing for a peak day.[13] Second, the Company admits that it cannot identify what customer classes are served by the Gate Station, so it does not know how much of the claimed design day deficit can be interrupted.[14] Interrupting transportation customers is an alternative to this Project, but one that the Company failed to consider.[15]

Furthermore, Avista has not provided analysis that supports the specific costs related to this project. Specifically, CUB raised concerns about the blanket 25 percent contingency buffer and the appropriateness of including it in rate base.[16] CUB also raised concerns about the approval of an additional $200,000 from the Capital Planning Group,

[10] CUB/100/McGovern-Jenks/10; CUB/105/McGovern-Jenks/2.
[11] CUB/100/McGovern-Jenks/10-11.
[12] CUB/100/McGovern-Jenks/13.
[13] CUB/100/McGovern-Jenks/12.
[14] CUB/100/McGovern-Jenks/12.
[15] CUB/100/McGovern-Jenks/12.
[16] CUB/100/McGovern-Jenks/15.

without any additional explanation about why this amount could not be absorbed by the already approved contingency buffer.[17]

Finally, CUB has reviewed Staff's testimony on investment in plant and Project Compass, and shares the legal and policy concerns raised by Staff on those matters.[18] CUB will expand upon its position once the record is closed in its post-hearing brief.

**B. The Commission should order Avista to spread its final approved revenue requirement in accordance with CUB's Testimony.**

This request for a general rate revision is the Company's third rate case in three years, with no end in sight.[19] Substantial, steady increases send the signal to customers that the cost of providing natural gas service is on the rise, even though natural gas prices remain at all-time lows.[20] Despite the fact that costs of service are going up, largely to meet the growing load of larger customers, Avista proposes to saddle residential customers with large increases while providing for substantial decreases for larger customers.

Contrary to Avista's assertions otherwise, the Commission has before it a single Long Run Incremental Cost (LRIC) study filed by Avista[21] and it is fundamentally flawed. Furthermore, the rate spread proposals put forth by Avista, Staff and NWIGU are not supported by sound analysis and policy. Accordingly, CUB recommends that the Commission order Avista to spread the final revenue requirement from this case so that

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[17] CUB/100/McGovern-Jenks/15-16.
[18] *See* Staff/600/Moore; Staff/300/Johnson/2-5.
[19] CUB/100/McGovern-Jenks/1.
[20] CUB/100/McGovern-Jenks/1-2.
[21] Avista/1900/Ehrbar/5-6 argues that the Commission has the benefit of three LRIC studies—its own, NWIGU's and Staff's. NWIGU's Witness did not conduct an independent LRIC study, but did review and critique the results of the Company's LRIC study. *See* NWIGU/100-103/Collins. Similarly, Staff did not produce its own independent LRIC study. *See* Staff/1300/Compton/2.

no customer gets more than three times the increase of any other class.[22] For transportation customers, this should be done after imputing Avista's commodity costs.[23] Interruptible customers should receive the average increase.[24]

***i. CUB's critiques of the LRIC Study***

The LRIC study has design flaws.[25] First, it exaggerates the useful life of investment for industrial customers. The LRIC study assumes a 36 year service life to all equipment, including investments on behalf of industrial customers, even though it is less certain that those investments will be utilized for 36 years, unlike investments for residential customers.[26] CUB's testimony asserts that this results in exaggerated assumptions about years in service while artificially underestimating the cost of service to industrial customers.[27] In short, it is a fundamental design flaw not to consider actual service lives.[28]

Second, Avista's LRIC study (1) assumes that the current system is the appropriate system, and (2) assumes that all customers within the class have the same cost causality.[29] Both of these assumptions are problematic. As CUB testified, the current system was built for customers that used more gas and had a more volatile peak usage, but the profile for current residential customers is much different.[30] The result is that the existing system has excess capacity for new customers, and therefore system

[22] CUB/100/McGovern-Jenks/42.
[23] CUB/100/McGovern-Jenks/42.
[24] CUB/100/McGovern-Jenks/42.
[25] CUB/100/McGovern-Jenks/19-25.
[26] CUB/100/McGovern-Jenks/19-20.
[27] CUB/100/McGovern-Jenks/20.
[28] CUB/100/McGovern-Jenks/20.
[29] CUB/100/McGovern-Jenks/21.
[30] CUB/100/McGovern-Jenks/22.

reinforcements are not always necessary to serve new customers.[31] If the premise of the LRIC study is to determine the incremental cost of serving new customers and loads, it should not be based on the costs of the current, over-sized system.[32] Rather, the LRIC study should look at the forward-looking cost of a system that is sized for actual expected loads.[33]

CUB also raised several concerns with the Company's practice of building excess capacity in advance of need. First, there are real costs to customers for prepaying for capacity.[34] Second, the LRIC study is based on the over-sized system, which disproportionately affects residential customers.[35] And finally, the Company has failed to account for interruptible load when planning its system for the design day.[36]

***ii. CUB's Critiques of the Company's Rate Spread proposal***

Contrary to Avista, Staff and NWIGU, CUB advocates for a holistic look at rate spread issues, including all relevant information, rather than sole reliance on the LRIC study. CUB's testimony demonstrates that residential customers are not driving system upgrades and increases to the extent reflected in the Company's LRIC study.[37] Rather, a large percentage of these costs are being driven by growth outside of the residential class,[38] but the Company does not possess the information to accurately identify the costs of serving each customer class.[39]

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[31] CUB/100/McGovern-Jenks/22.
[32] CUB/100/McGovern-Jenks/22.
[33] CUB/100/McGovern-Jenks/22.
[34] CUB/100/McGovern-Jenks/23-24.
[35] CUB/100/McGovern-Jenks/24.
[36] CUB/100/McGovern-Jenks/25.
[37] CUB/100/McGovern-Jenks/17-19.
[38] CUB/100/McGovern-Jenks/18.
[39] CUB/100/McGovern-Jenks/20-25.

A cornerstone of Avista's proposal for rate spread is the idea that larger customers are subsidizing residential customers according to the LRIC study, but this subsidy is exaggerated.[40] CUB's testimony demonstrates that most customers, aside from interruptible and special contract customers, pay a similar rate per therm.[41] CUB's testimony also critiques the Company for not addressing subsidies that go the other way—namely, capacity release revenue is not allocated to customers based on the ration of their marginal capacity charges, which would be more equitable.[42] CUB understands, however, that this issue is more appropriately addressed in the PGA.

The Company's current rate spread in Oregon is reasonable. Although rates in the Company's other jurisdictions—Washington and Idaho—are lower than the Company's rates in Oregon, it is notable that the Company's recently proposed rate spread in those states is far more reasonable than its proposal in this case. The greatest proposed increase is approximately three times the size of the smallest proposed increase.[43]

The Commission has broad discretion in setting rates, including the spreading of rates among different customer classes.[44] CUB's examination of rate spread in this case, in light of the history of contested rate spread issues in this state, lead CUB to conclude that the following principles should be considered when making determinations about rate spread:

- Marginal cost studies should be used to inform and guide rate spread and rate design, but should not be used to dictate rate spread or rate design.
- Only on rare occasions will marginal costs equal the utility's revenue requirement. The goal is not to price at marginal cost, but to use the marginal

[40] CUB/100/McGovern-Jenks/25.
[41] CUB/100/McGovern-Jenks/29-31.
[42] CUB/100/McGovern-Jenks/32.
[43] CUB/100/McGovern-Jenks/33-35.
[44] *See* ORS 756.040.

- cost of service study to inform rate spread and rate design in order to send the most appropriate price signals.
- Price signals contain a direction element. If costs are generally rising, all customer classes should receive a price signal.
- While the cost of service study is an important element to cost allocation, cost allocation is also informed by other concerns such as fairness and avoiding rate shock.[45]

CUB requests that the Commission consider and apply these considerations as it makes a determination about rate spread in this case. Because Staff's and NWIGU's recommendations for rate spread are based on Avista's problematic LRIC study and because they share the same policy flaws as Avista's proposal, CUB recommends that the Commission also reject those proposals.

## III. Conclusion

As stated above, CUB's testimony in this case focused on three issues—the Company's proposed decoupling mechanism, the addition of the Ladd Canyon Project to rate base, and rate spread. CUB respectfully requests that the Commission adopt the Stipulation in this docket, which addresses CUB's concerns about the Company's decoupling mechanism. CUB also respectfully requests that the Commission reject Avista's request to add the Ladd Canyon Project to rate base upon a finding of imprudence. Finally, CUB respectfully requests that the Commission order Avista to apply a rate spread that would have no customer class getting more than three times the increase of any other customer class, as discussed more fully above.

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[45] CUB/100/McGovern-Jenks/35-41.

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Dated this 23rd day of November, 2015.

Respectfully submitted,

Sommer Moser

Sommer Templet Moser, OSB #105260
Staff Attorney
Citizens' Utility Board of Oregon
610 SW Broadway, Ste. 400
Portland, OR 97205
(503) 227-1984 phone
(503) 224-2596 fax
sommer@oregoncub.org