

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION</b>	)	
<b>OF AVISTA CORPORATION DBA AVISTA</b>	)	<b>CASE NOS. AVU-E-10-01</b>
<b>UTILITIES FOR AUTHORITY TO</b>	)	<b>AVU-G-10-01</b>
<b>INCREASE ITS RATES AND CHARGES FOR</b>	)	
<b>ELECTRIC AND NATURAL GAS SERVICE</b>	)	<b>ORDER NO. 32070</b>
<b>IN IDAHO</b>	)	

In March 2010, Avista Corporation dba Avista Utilities filed an Application seeking authority to increase the Company’s base rates for electric and natural gas service in Idaho by averages of 14% and 3.6%, respectively. More specifically, the Company proposed to increase its annual revenues for electric service by \$32.1 million and its annual revenues for natural gas service by \$2.6 million. On April 9, 2010, the Commission suspended the proposed increases pursuant to *Idaho Code* § 61-622 and scheduled this matter for an evidentiary hearing. The Commission subsequently granted intervention to seven parties.

On July 6 and 8, 2010, the parties convened a settlement conference to discuss the possibility of settling some or all of the issues in this case. All parties, except for two, attended the settlement conference.<sup>1</sup> Based upon settlement discussions, the participating parties agreed to resolve and settle all issues raised in this proceeding. On July 26, 2010, the settling parties filed a Motion to approve their “Stipulation and Settlement” and to change the scheduled date for the technical hearing. The settling parties recommended that Avista be allowed to increase its annual electric rates by \$21.25 million and its annual natural gas rates by \$1.85 million. To mitigate the proposed rate increases, the settling parties also agreed to offset the increases with \$17.5 million of deferred state income taxes (DSIT) over a two-year period. The Commission granted the Motion to reschedule the technical hearing and invited parties to file testimony regarding the Stipulation and Settlement. The technical and public hearings were held on August 26, 2010.

Based upon our review of the Application, the Stipulation and Settlement, the testimonies of the parties and the public comments, we approve the Stipulation and Settlement as set out in greater detail below.

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<sup>1</sup> One of the parties that did not participate in the settlement conference (the Idaho Community Action Network) subsequently filed comments opposing the rate increases agreed to by the other parties.

## BACKGROUND

### *A. The Company's Application*

Avista maintained that its proposed revenue increases are driven primarily by increased power supply costs, increased costs to meet additional compliance requirements, the need to replace aging infrastructure, and changes in various costs of providing electric and natural gas services to its customers. Application at 3. The Company anticipated making capital expenditures of approximately \$420 million over the next two years to assure reliability in serving its current customers and meeting customer growth. *Id.* at 6. The Company asserted that it has taken measures to cut costs and increase operating efficiencies in an effort to mitigate its requested cost increases. *Id.* at 5.

In its Application, the Company requested an overall rate of return of 8.55% with a proposed 10.9% return on equity. *Id.* at 6. The Company maintained that 80% of its overall request for an increase in electric rates is due to: the additional costs of the Power Purchase Agreement to purchase power from the Lancaster generating facility; the termination of some low-cost power purchases; reduced hydro generation (resulting from below-normal snowpack); and increased fuel costs and higher retail loads. Morris Direct at 9. The Company also proposed that the monthly customer charge for electric service increase from \$4.60 to \$6.75 per month. Ehrbar Direct at 4. Avista did not propose any changes to its present rate structure in its electric schedules. *Id.* at 5. The Company's Application is based on a 12-month test year ending December 31, 2009. Application at 4.

Turning to the natural gas portion of its Application, Avista asserted the increases in natural gas rates are primarily driven by the inclusion of the increased plant investment and inventory associated with the acquisition of additional capacity and deliverability. Effective May 1, 2011, the Company's Jackson Prairie Storage facility was transferred from Avista Energy to Avista Utilities. The Company proposed to increase the monthly customer charge for natural gas service from \$4.00 to \$6.75 per month, to recover a portion of the Company's fixed costs. Ehrbar Direct at 6. The Company did not propose any changes to the present rate structures within its gas service schedules. Order No. 31038 at 2.

***B. The Parties***

In its Notice of Application dated April 9, 2010, the Commission established a deadline for intervention. The Commission subsequently granted intervention to seven parties. The parties in this case and their respective representatives are listed below:

Avista Corporation:	David J. Meyer, Vice President & Chief Counsel
Commission Staff:	Donald L. Howell, II Kristine A. Sasser Deputy Attorneys General
Idaho Forest Group, LLP:	Dean J. Miller McDevitt & Miller LLP
Clearwater Paper Corporation:	Peter J. Richardson Greg M. Adams Richardson & O’Leary PLLC
Idaho Conservation League (ICL):	Benjamin Otto
Idaho Community Action Network (ICAN):	Rowena Pineda LeeAnn Hall
Community Action Partnership Association of Idaho (CAPAI):	Brad M. Purdy
Snake River Alliance:	Ken Miller
North Idaho Energy Logs:	Rob Pluid, President Clark Fairchild, Vice President

***C. Course of Proceedings***

On April 9, 2010, the Commission issued its Notice of Application and suspended the Company’s proposed rate increases. Order No. 31038 at 4. On May 7, 2010, the Commission issued a Notice of Parties. On May 12, 2010, the Commission issued Order No. 31083 setting this matter for an evidentiary hearing on September 22-24, 2010. Commission Staff held two public workshops about the rate case on June 28 and 29, 2010, in Lewiston and Coeur d’Alene, respectively.

The parties convened a settlement conference on July 6 and 8, 2010. All of the parties except ICAN and North Energy Logs attended and participated in the settlement

conference. As a result of the settlement negotiations, the settling parties (those who attended the settlement negotiations) executed a "Stipulation and Settlement" of the issues. On July 27, 2010, Avista and Staff filed a Motion recommending that the Commission approve the Stipulation and Settlement. The Motion urged the Commission to adopt and approve the Stipulation and Settlement in its entirety. The Motion also requested that the Commission vacate the technical hearing scheduled for September 22-24, 2010, and instead hold an earlier technical hearing to consider the Stipulation.

The Commission granted that part of the Motion to reschedule the technical hearing. Parties supporting or opposing the settlement were directed to prefile testimony no later than August 5, 2010, with rebuttal testimony due no later than August 19, 2010. Order No. 32043 at 4. On August 5, 2010, the Company, CAPAI, and Staff each filed testimony in support of the settlement. The Idaho Conservation League and Snake River Alliance filed comments in support of the Stipulation. ICAN filed comments opposing any rate increase. No party filed rebuttal testimony.

The Commission convened its technical and public hearings on August 26, 2010. All of the parties except the ICAN and North Energy Logs entered appearances. Avista witness Kelly Norwood, Staff witness Randy Lobb, and CAPAI witness Teri Ottens testified in support of the settlement. At the telephonic customer hearing, two customers testified in opposition to the rate increases. On September 9, 2010, CAPAI filed a Petition for Intervenor Funding pursuant to *Idaho Code* § 61-617A and Commission Rules 161-165.

### **THE STIPULATION AND SETTLEMENT**

The Stipulation and Settlement resolved several issues as outlined below. The settlement parties agreed that annual revenues for Avista's electric and natural gas service may increase by \$21.25 million (9.25%) and \$1.85 million (2.62%), respectively. However, these proposed revenue increases are to be offset by \$17.5 million of deferred state income tax (DSIT) over a two-year period. The settlement is not based upon any specific methodology for revenue requirement but the parties maintain that it is just, reasonable, and in the public interest. Stipulation at 3-4.

1. Rate Mitigation. The parties agreed to use \$17 million of DSIT to mitigate the increase for electric customers (\$13.0 million of DSIT in the first year and \$4.0 million of DSIT in the second year). The settling parties also proposed that the remaining \$500,000 in DSIT be

used to mitigate the increase in natural gas revenues, reducing the settled 2.6% increase to 1.9% for the first year. Stipulation at ¶ 7. The table below shows the proposed increases for electric revenues and the offsetting DSIT. Stipulation at 3-4.

Electric Revenues with Tax Offset						
	Year 1 October 1, 2010		Year 2 October 1, 2011		Year 3 October 1, 2012	
Revenue Increase	\$21.25 M	9.25%	\$21.25 M	9.25%	\$21.25 M	9.25%
Less Tax Credit	\$13.0 M	5.66%	\$ 4.0 M	1.74%	0	0
Less Prior Increase	0	0	\$ 8.25 M	3.59%	\$17.25 M	7.51%
Net Increase	\$ 8.25 M	3.59%	\$ 9.00 M	3.92%	\$ 4.0 M	1.74%

Source: Stipulation at 4.

2. Lancaster Plant. The settling parties agreed that the fixed and variable operating costs of the Lancaster power plant be recovered in the base electric rates of the Company. Lancaster is a 275 MW gas-fired combined-cycle combustion turbine located in Rathdrum, Idaho. Stipulation at ¶ 8. Avista is purchasing all of the plant's generation through 2026. *Id.* at n.2. Idaho's share of Lancaster's operating costs is \$7.5 million.

3. Efficiency Programs. The parties next agreed that Avista's expenditures for energy efficiency programs for both electric and natural gas service for calendar years 2008 and 2009 are prudent and recoverable. These costs are \$6.222 million for 2008 and \$7.805 million for 2009. These costs are not included in base rates but are funded through the energy efficiency tariff riders (Schedules 91 and 191). *Id.* at ¶ 10.

4. Cost of Service. The settling parties also agreed to a cost-of-service allocation. They agreed to allocate 100% of electric transmission costs to demand and allocate transmission costs to reflect any peak and off-peak seasonal cost differences over 7 months, rather than over 12 months. Prior to the Company's next general rate case, the parties agreed to exchange information and convene a public workshop to determine whether other changes should be made to the Company's cost of service. In particular, the parties will discuss whether the cost of service should use a 12-month coincident-peak (CP) – whether "weighted" or not – versus a 7-month CP or some other method for allocating transmission costs. Stipulation at ¶ 11.

The parties have also agreed to move all electric rate schedules toward recovering their cost of service approximately 25% (except for street and area lighting schedules which will receive a percentage increase equal to the overall increase in revenue requirement). The parties also agreed to move natural gas rate schedules toward recovering their cost of service by

approximately 60% (except for Transportation Services Schedule 146 which will be decreased). Stipulation at ¶¶ 11-12(a).

5. Rate Design. Given the agreed revenue increases and the changes to cost of service, the settling parties propose the following rate changes for the major classes of electric and natural gas customers:

Major Customer Class	Proposed Base Rate Increase First Year	Proposed Increase First Year with State Tax Offset
<b>ELECTRIC</b>		
Residential (Schedule 1)	11.0%	4.3%
Business (Schedule 11)	6.6%	2.6%
Large Business (Schedule 21)	8.7%	3.4%
Industrial (Schedule 25)	9.8%	3.8%
Clearwater Paper (Schedule 25P)	7.2%	2.8%
Pumping (Schedule 31)	13.5%	5.2%
Street & Area Lighting	9.2%	3.6%
<b>OVERALL</b>	9.3%	3.59%
<b>NATURAL GAS</b>		
Residential/Business (Schedule 101)	3.4%	2.6%
Large Business (Schedule 111)	0.2%	-0.3%
Interruptible (Schedule 131)	1.0%	0.6%
Transport (Schedule 146)	-6.9%	-8.6%
<b>OVERALL</b>	2.6%	1.9%

Source: Stipulation at 8.

6. Monthly Basic Charge and Rates. The parties agreed that the current monthly basic charge for residential electric customers should be increased from \$4.60 per month to \$5.00 per month. The basic monthly charge for residential natural gas customers will remain unchanged at \$4.00 per month. Stipulation at ¶ 12. The parties also agreed to convene a public workshop before the next rate case to discuss the appropriate size of the first tier usage block for residential electric customers. *Id.* at ¶ 14.

7. Customer Service Issues. The settlement stipulation also provides that Avista will increase the annual funding for low-income weatherization projects from \$465,000 to \$700,000. The increased funds for weatherization will be recovered through the energy efficiency tariff rider (Schedules 91 and 191). The parties also agreed that the Company will provide \$40,000 to the Community Action Partnership (i.e., CAPAI) agencies for outreach and education programs concerning energy conservation directed toward low-income customers. The Company will also

conduct five energy conservation workshops for seniors in different Idaho communities no later than December 31, 2011. Stipulation at ¶ 16(a), (b).

8. Accounting Treatments. The parties recommend the Commission approve a 10-year amortization for the remaining balances for the Coeur d'Alene Tribe settlement, the Spokane River FERC relicensing, and the Spokane River "Protection, Mitigation & Enhancement" (PM&E) deferrals. *Id.* at ¶ 17. The parties also agreed to eliminate the amortization of deferral costs for the Colstrip lawsuit settlement and the accounting treatment for acquiring the Jackson Prairie natural gas storage facility. *Id.*

9. Proposed Effective Date. Given the settlement of all issues, the parties propose that the effective date for new electric and natural gas rates should be October 1, 2010. To meet this proposed effective date, the parties also agreed that the technical hearing initially scheduled for September 22-24, 2010 should be vacated and rescheduled for August 26, 2010. The existing prefile date for direct testimony from Staff and Intervenors of August 5, 2010, will remain.

## THE TECHNICAL HEARING

### A. Testimony

All parties except ICAN and North Energy Logs entered appearances at the technical hearing on August 26, 2010. Staff, Avista and CAPAI presented witnesses in support of the settlement. Three other parties filed comments: Idaho Conservation League and Snake River Alliance supported the settlement, but ICAN opposed any rate increase.

1. The Staff. Staff witness Randy Lobb testified and urged the Commission to adopt the Stipulation and Settlement. He stated that the Staff conducted a comprehensive audit of test year results and concluded that the proposed settlement "is just and reasonable and should be approved by the Commission." Tr. at 10. Mr. Lobb explained that when the deferred state income tax (DSIT) is considered, electric customers will pay only 26% of the Company's original request to increase its electric rates and only 52% of the Company's original natural gas request. Tr. at 15.

Mr. Lobb testified that the benefits from the DSIT came about when Avista changed its accounting treatment from the "flow-through" method to the normalization method. *Id.* at 22. He noted that the Company's offer to use the \$17.5 million DSIT (\$11 million before tax gross-up) provided customers with the maximum tax benefit. Spreading the \$17.5 million in DSIT over a two-year period eliminated the need for extensive studies to determine the exact tax

allocation between customers and shareholders booked during the period. Tr. at 24-26. Thus, the settlement avoided prolonged and detailed litigation regarding the appropriate allocation of DSIT between customers and shareholders. Mr. Lobb further disclosed that the parties wanted to use the majority of the tax benefit in the first year of a two-year period, in other words, “front-load the credit to reduce the first year increase.” Tr. at 56. He also acknowledged that the Company was not precluded from filing additional rate cases in future years. Tr. at 27, 57.

He further testified that the combination of the reduced revenue requirement and the use of DSIT to mitigate the rate increases “is a better deal for customers than could have been achievable through [contested] hearings.” He disclosed that Staff’s best-case scenario would have resulted in an additional revenue requirement of approximately \$32.7 million over two years as compared to the agreed-upon revenue requirement of \$25.5 million over the same two-year period. Tr. at 27. Thus, customers received the full benefit of the \$17.5 million DSIT.

He also noted that the settling parties agreed upon a new “cost of service” that increases the cost responsibility on the residential class “but [at] a lower allocation than that originally proposed by the Company.” Tr. at 31. This adjustment in the cost of service resulted in a smaller proportional increase to businesses. Mr. Lobb noted that the parties agreed to convene public workshops to discuss several issues before the Company files its next generate rate case. These issues included: evaluating the electric cost of service, Tr. at 31; assigning 100% of transmission expenses to demand; revisiting the threshold between the size of the first tier and second tier energy block for residential electric customers, Tr. at 33; and re-examining various customer practices such as: tenant/landlord accounts, establishing new accounts, customer service level standards, and the costs of providing non-recurring or ongoing services to individual customers rather than the general body of customers, Tr. at 40.

Mr. Lobb also explained that Staff supported the settlement because of the Company’s commitment to increase the funding available its weatherization programs and energy related services provided to seniors and low-income residential customers. *Id.* at 42-43.

2. Avista. The Company’s Vice-President of State and Federal Regulation, Kelly Norwood, testified in support of the Settlement. Mr. Norwood stated that the Settlement, if approved by the Commission, would resolve all of the issues in the Company’s Application. Tr. at 63. He noted that the Stipulation and Settlement represented a compromise among differing



points of view of the parties but in the final analysis, the Stipulation represents a fair, just and reasonable compromise of the issues and is in the public interest. *Id.* at 67.

Mr. Norwood also addressed the issue of deferred state income taxes (DSIT). He explained that the Company used the normalized state income taxes since the mid-1990s but the accumulation of deferred taxes ceased when the Commission approved rates in last year's rate cases (AVU-E-09-01 and AVU-G-09-01). Tr. at 71. The Company's switch to the flow-through method "provided the opportunity to make the DSIT balance available to potentially offset the general rate case" increases for both electric and natural gas. *Id.* The DSIT balances were created by the differences between book depreciation and tax depreciation. *Id.*

Mr. Norwood also described various programs the Company has in place to mitigate the impact of the proposed rate increase on customers. Besides the various DSM energy efficiency programs offered by the Company, he noted that the Company and its employees and customers donated more than \$193,000 to "Project Share." The Company also offers levelized billing so that all customers may pay the same bill amount each month of the year by averaging their annual usage. Tr. at 84. The Company also has two customer programs directed at senior citizens to provide information regarding energy efficiency, safety, and billing assistance. *Id.* at 86. In an attempt to expand its ability to communicate with customers, the Company is also making information available over various social media including a blog, its Company web site, and by responding to customer questions using Twitter. Tr. at 98. The Company made several presentations to city councils and business groups regarding the reasons for the Company's rate increases. Tr. at 97.

Mr. Norwood also discussed the Company's DSM programs. He said that embracing energy conservation and efficiency is beneficial to customers. He explained that the Company's cost of implementing energy efficiency programs is less than half the cost of building a new generating plant. Tr. at 106. Consequently, customers are better off participating in energy conservation and DSM programs because such programs cost "much less than the cost of that next power plant." Tr. at 107.

3. CAPAI. The Community Action Partnership Association of Idaho presented the testimony of Teri Ottens. CAPAI is an association of Idaho's six community action partnerships, the Community Council of Idaho, and the Canyon County Organization on Aging, Weatherization and Human Services. These organizations are dedicated to promoting self-

sufficiency by removing the causes and conditions of poverty in Idaho. Tr. at 114-15. She testified that according to the Idaho Department of Commerce, 12.6% of the State's population falls within the federal poverty guideline and an additional 12.4% fall within the State guideline set at 150% of the poverty level. She stated that Idaho's low-income customers pay more than the U.S. Department of Energy's "affordability burden" for home energy. In other words, there is a gap in the 2008-2009 heating season of more than "\$75 million between what Idahoans can afford to pay (based on federal standards) for energy and what was actually paid." Tr. at 118. The federal low-income heating assistance program (LIHEAP) provided approximately \$25.6 million to help fill in this gap. Tr. at 118.

CAPAI supported the settling parties' stipulation to increase the funding for low-income weatherization from \$465,000 to \$700,000. Tr. at 121. CAPAI also noted that the monthly customer charge for electric customers "will be considerably less than originally proposed." Ms. Ottens opined that the Stipulation and Settlement "reflects the best result that could be reasonably expected within the context and circumstances of this particular proceeding." Tr. at 122. She concluded that CAPAI looks forward to the opportunity to re-examine the dividing line between Avista's first tier and second tier block rates. Tr. at 120. CAPAI commended Avista "for its efforts and compromise to reach settlement of CAPAI's issues of concern in this case." Tr. at 123.

### ***B. Comments from the Parties***

1. ICL. The Idaho Conservation League supported the Stipulation and Settlement and offered specific comments on three issues. First, ICL noted that the settling parties stipulated that Avista's DSM expenditures for 2008 and 2009 were deemed to be prudent. ICL accepted this provision "with the understanding that future DSM reviews will be more robust." ICL Comments at 1. It asserted that DSM funding continues to outpace the funds generated by Avista's energy efficiency tariff riders (Schedules 19 and 191) and expressed concern that the existing tariff riders will not generate sufficient funds to retire both the outstanding balance and future DSM programs. DSM "continues to be the most cost effective means to meet energy demand, [and] ICL encourages the Company and the Commission to pursue a more sustainable funding mechanism." *Id.* at 2.

Second, ICL supported the Stipulation provision which obligated the parties to conduct a public workshop to re-examine cost-of-service issues. The League also looked

forward to discussing rate design issues including the appropriateness of raising the monthly customer charge for electricity. ICL believes “that separating fixed cost recovery from volumetric sales is critical to ensuring utilities will actively pursue all cost effective energy efficiency while maintaining acceptable levels of cost recovery risks. However, we also acknowledge that increasing the customer charge may not send the appropriate price signals to reduce energy consumption.” *Id.*

Finally, ICL agreed that it was appropriate for the parties to review the distinction between the first block and second block of tiered electric rates. In particular, ICL believes that examining the first block of 600 kWh “needs to be more fully analyzed to determine if it captures an appropriate basic level of energy consumption.” ICL noted its goal was to reduce overall energy consumption while maintaining comfort and services. *Id.* at 3.

2. SRA. The Snake River Alliance also supported the Stipulation and looked forward to participating in the public workshops. The Alliance expressed concern about the existing structure of the tiered energy blocks for residential electric customers. The Alliance suggested that these workshops be at least three months prior to the Company filing its next rate case. In addition to the separation between the first and second block, the Alliance is also interested in examining whether “another block should be created and the sizes of the existing blocks adjusted accordingly.” Alliance Comments at 1.

The Alliance also commented about the Company’s DSM programs. While it supported the Stipulation’s approval of Avista’s 2008 and 2009 DSM expenditures, the SRA endorsed the Memorandum of Understanding (MOU) regarding the review of DSM expenditures signed by the utilities and Commission Staff in December 2009. As set out in the MOU, the Alliance asserted that future DSM expenditures should involve a “thorough evaluation, measurement, and verification mechanism to determine prudence of DSM expenditures. . . .” *Id.* at 2. The Alliance wants to be sure that the Company’s ability to raise funds for its efficiency programs “is not overtaken by the demand for new efficiency measures.” In the event that DSM expenses exceed the ability of efficiency riders to produce adequate revenue, “the Alliance proposes an examination of whether the rider rate should be raised or whether an alternative funding method (such as capitalization of some costs) be employed to ensure all cost-effective DSM programs are fully funded.” *Id.*

Finally, SRA endorsed several of the other customer-service-related issues contained in the Stipulation and Settlement. In particular, it supported the increase in funding for low-income weatherization and for outreach and educational efforts. It also supported the Company's commitment to convene five energy conservation workshops for senior citizens. *Id.* at 3. The Alliance will continue to be involved with other customer issues including deposits, credit issues, collection activities, and disconnection issues.

3. ICAN. The Idaho Community Action Network appreciated that the Stipulation contained lower rates than initially proposed by the Company, but noted any increase in rates will hurt customers who are unemployed. ICAN opposed the increase in base rates because it "disproportionately impact[s] low-income customers and customers on fixed incomes." ICAN Comments at 2. ICAN asserted that these customers are unable to avoid rate increases by cutting down their power usage. *Id.*

ICAN did support the increase in funding for weatherization and in convening public workshops to discuss the block rates for residential electric customers. ICAN maintained that low-income families are more likely to live in houses with little insulation. Consequently, ICAN suggests that the size of the first tier be increased to reflect the electric usage of Avista's "most vulnerable customers." *Id.* at 3. Finally, it recommended that the Commission institute a rate case moratorium for 2011 and 2012 "to ensure that no further rate increases are proposed." *Id.*

### ***C. Public Testimony and Comments***

Two customers testified at the telephonic customer hearing. They asserted that increasing rates during a time of economic decline is inappropriate and unjustifiable. Citing newspaper articles that report corporate earnings and executive salaries, they expressed frustration with the amounts of executive salaries and bonuses. The two customers insisted that Idaho's high unemployment and number of seniors on fixed incomes were reasons for the Commission to deny Avista any increase in rates.

The Commission received nearly 100 public comments from customers. For those comments filed before the Stipulation and Settlement, the vast majority of comments oppose any rate increase during the present economic climate. Other customers were particularly disturbed by reports of increased executive pay. Customers want the utility to "tighten its belt" the way its customers have, during these challenging economic times.

## DISCUSSION AND FINDINGS

### *A. Standards of Review*

In this case, all but two parties signed the Stipulation and Settlement Agreement.<sup>2</sup> Our Procedural Rule 276 recognizes that the Commission is not bound by the parties' settlement agreement. The Commission may accept, reject, or amend a proposed settlement. IDAPA 31.01.01.276. The Commission will independently review any settlement to determine whether it is fair, just and reasonable; in the public interest; or otherwise in accordance with law or regulatory policy. *Id.* Furthermore, the proponents of a proposed settlement have the burden of showing that the settlement is reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. IDAPA 31.01.01.275. Our settlement rules permit the Commission to convene an evidentiary hearing so that the parties may develop a record in support of a proposed settlement. In this case, Avista, Staff and CAPAI offered supplemental testimony at the technical hearing that addressed the settlement.

### *B. Commission Findings*

In this case, most of the parties assert that the Stipulation and Settlement is just and reasonable, and in the public interest. The settling parties advocate the Stipulation and Settlement is a reasonable resolution of the disputed issues and it is in the public interest for the Commission to approve the settlement. As set out above, ICAN opposed the proposed rate increases contained in the Stipulation and Settlement, but did endorse other elements of the Stipulation.

Based upon our review of the Stipulation and Settlement, the parties' testimony supporting the Stipulation and the public comments, we find that the record is extensive and further proceedings are not necessary. Based upon our review of the record, we recognize that initial disputes among the parties were numerous and significant. This case has generated many customer comments opposed to the rate increases originally requested by the Company.

Based upon our review of this record, we find the Stipulation and Settlement is fair, just and reasonable. The Stipulation represents a reasonable compromise of the positions and we find it is in the public interest. In particular, we note the Stipulation and Settlement represents a significant reduction in the requested revenue increase. More specifically, the first-year increase

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<sup>2</sup> ICAN did not participate in the settlement conference but opposed the settlement. Although a party, North Idaho Energy Logs offered no testimony opposing or supporting the settlement.

in electric rates contained in the Stipulation and Settlement is 3.59% rather than the 14% originally proposed by Avista. As the Staff's witness explained, electric customers will pay only 26% of the Company's original request and gas customers will pay only half the (1.9%) increase in natural gas rates. Tr. at 15. We specifically approve the use of \$17.5 million in deferred state income taxes (DSIT) to offset the rate increases proposed by the Company.

We also find merit in the parties' recommendation to conduct public workshops to discuss several important issues. More specifically, the parties have agreed to convene public workshops to discuss the Company's electric cost of service, revisit the threshold between the size of the first tier and second tier energy blocks for residential customers, and to re-examine other customer relations issues raised by CAPAI, ICL, Snake River Alliance, and ICAN. Promoting discussions and common understanding of these important issues before the next rate case is in the public interest.

Understandably, most of the customers submitting written comments oppose Avista's initial double-digit rate increase. The comments cited the poor state of the economy in northern Idaho and objected to the publicly reported salary and bonuses of Company executives. As we noted above, utilizing the \$17.5 million in benefits from the deferred Idaho state income taxes significantly offsets the increases originally proposed by the Company. We do agree with those comments that Avista needs to "tighten its belt" to reduce costs and improve its efficiencies. Although we approve the Stipulation and Settlement in this case, the Company and other parties need to be diligent in finding efficiencies or instances where the Company's costs may be unreasonable.

We specifically approve the Company's efforts to assist and educate low-income and senior customers about the various assistance programs. We further find that increasing funds for weatherization of residences of low-income participants will allow CAP agencies to weatherize more homes. This will address the source of the conservation needs of both seniors and low-income customers. These groups are particularly hard-hit by utility rate increases, and these efforts should help to mitigate the impact of the increased rates on these customer groups. Re-examining these issues in the next rate case will allow a quick adjustment based upon experience.

We also note that Idaho's CAP agencies received an additional \$30 million in ARRA funds to increase their weatherization efforts, and the agencies are on track to meet their

expenditure and production goals by March 2011. The ARRA funding doubled the capability of CAP agencies to weatherize residences, and the additional utility funding should allow the CAP agencies to maintain at least part of that capability after the ARRA funding ends.

In the senior workshops, we also direct the Company to explain the various assistance programs such as the Low Income Home Energy Assistance Program (LIHEAP) and levelized payments to customers. Customers should examine whether these programs may work for them. Information about the various assistance programs may be obtained from Avista, local community action agencies, our Consumer Assistance Staff, or by calling the “211” Idaho Care Line.

Having found the Stipulation and Settlement reasonable, we authorize Avista to increase its jurisdictional electric base rates to recover an additional \$8.25 million (\$21.25 million minus \$13.0 million in DSIT) in the first year and \$9.0 million in the second year (\$21.25 million minus \$12.25 million in DSIT). This represents an overall net increase in base electric revenues of 3.59% the first year and 3.92% the second year. The third year represents an overall average increase in base electric revenues of 1.74%.

We further find it reasonable for Avista to increase its jurisdictional natural gas base rates to recover an additional \$1.35 million (\$1.85 million minus \$0.5 million in DSIT) in annual revenues. This results in average base natural gas rates to increase by 1.9% in annual revenues.

We further find that it is reasonable for Avista to implement the rates contemplated in the Stipulation and Settlement effective October 1, 2010. Following the issuance of this Order, Avista shall prepare and submit new electric and natural gas rate schedules consistent with this Order.

#### **INTERVENOR FUNDING**

Intervenor funding is available pursuant to *Idaho Code* § 61-617A and Commission Rules of Procedure 161 through 165. Section 61-617A(1) declares that it is the “policy of [Idaho] to encourage participation at all stages of all proceedings before this Commission so that all affected customers receive full and fair representation in those proceedings.” The statutory cap for intervenor funding that can be awarded in any one case is \$40,000. *Idaho Code* § 61-617A(2). Accordingly, the Commission may order any regulated utility with intrastate annual revenues exceeding \$3.5 million to pay all or a portion of the costs of one or more parties for

legal fees, witness fees and reproduction costs not to exceed a total for all intervening parties combined of \$40,000.

On September 9, 2010, CAPAI filed an Application for Intervenor Funding. CAPAI is a non-profit corporation that oversees numerous agencies who work to offset the causes and conditions of poverty throughout Idaho. Application at 5. CAPAI proposed and advanced discussion regarding an increase to low-income weatherization and conservation education funding. *Id.*, Stipulation and Settlement at 9. CAPAI also actively participated in discussions regarding Avista's tiered residential rate design. CAPAI requested \$10,753.50 in intervenor funds. Application, Exhibit A.

Rule 162 of the Commission's Rules of Procedure provides the form and content requirements for a Petition for Intervenor Funding. The petition must contain: (1) an itemized list of expenses broken down into categories; (2) a statement of the intervenor's proposed finding or recommendation; (3) a statement showing that the costs the intervenor wishes to recover are reasonable; (4) a statement explaining why the costs constitute a significant financial hardship for the intervenor; (5) a statement showing how the intervenor's proposed finding or recommendation differed materially from the testimony and exhibits of the Commission Staff; (6) a statement showing how the intervenor's recommendation or position addressed issues of concern to the general body of utility users or consumers; and (7) a statement showing the class of customer on whose behalf the intervenor appeared. IDAPA 31.01.01.162.

### ***Commission Findings***

The Commission has reviewed CAPAI's Petition for Intervenor Funding and CAPAI's testimony filed in support of the Stipulation and Settlement. We find that the intervenor funding request filed by CAPAI comports with the procedural and technical requirements of the Commission's Rules. We find that the participation of CAPAI, as reflected in its testimony and the Stipulation, materially contributed to the Commission's decision. CAPAI's participation adds an informed and unique perspective to the hearing record. We find that the recommendations of CAPAI differed materially from the testimony of Commission Staff and provided significant contributions to the Stipulation and Settlement.

This particular case was resolved by way of settlement and not litigation. CAPAI's involvement required the investment of considerable time and resources to effectively participate in and address the issues of concern to the general body of ratepayers. We find it fair, just and



