

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION</b>	)	
<b>OF AVISTA CORPORATION TO INITIATE</b>	)	<b>CASE NOS. AVU-E-14-05</b>
<b>DISCUSSIONS WITH INTERESTED</b>	)	<b>AVU-G-14-01</b>
<b>PARTIES ON AN EXTENSION OF THE</b>	)	
<b>EXISTING RATE PLAN AND AVOID A</b>	)	<b>ORDER NO. 33130</b>
<b>GENERAL RATE CASE</b>	)	

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On May 30, 2014, Avista Corporation dba Avista Utilities filed an Application requesting that the Commission open a case to allow interested parties to participate in settlement discussions regarding alternatives to the utility filing a general rate case for its electric and natural gas services this year. In its Application, Avista expressed an interest in extending its existing settlement rate plan adopted in the Company's last rate case. See Order No. 32769. The Company also indicated it had informal discussions with several customers and interest groups prior to filing its Application.

On June 11, 2014, the Commission opened this case and granted intervention to the parties<sup>1</sup> that had participated in the informal discussions with Avista. Order No. 33051. The Commission scheduled a settlement conference for June 25, 2014, and all the parties attended the conference. On July 15, 2014, Avista filed a proposed "Stipulation and Settlement" (the "Settlement") on behalf of all the parties. On July 23, 2014, the Commission issued a Notice of Proposed Settlement and solicited written comments from the parties and the public regarding the proposed settlement. The Commission received comments from four customers and several parties. No commenter opposed the settlement.

Based upon our review of the parties' proposed settlement and the written comments, we approve the settlement and extend the existing freeze in base rates until January 1, 2016, as set out in greater detail below.

**THE PROPOSED SETTLEMENT**

On July 14, 2014, all the parties agreed to fully resolve this case by entering into the proposed Settlement. In general, the parties agreed to continue the existing "rate freeze" on base

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<sup>1</sup> The parties include: Clearwater Paper; Idaho Forest Group; Community Action Partnership of Idaho (CAPAI); Idaho Conservation League (ICL); Snake River Alliance (SRA); and Commission Staff.

rates<sup>2</sup> for electric and natural gas service. The parties assert that the terms of the settlement are in the public interest and they urged the Commission to adopt the settlement. The Settlement contains the following provisions agreed to by the parties:

- A. Rate Freeze Continuation – Avista shall not increase its electric or natural gas base rates prior to January 1, 2016. The Company may file a rate case after May 31, 2015, but the effective date for any change to base rates shall not be earlier than January 1, 2016.
- B. The BPA Credit for electric service and PGA Deferral Credit for natural gas service will be replaced with other deferral balances so that customers will not experience rate increases on January 1, 2015. The offsetting changes are:
  - 1. The \$653,000 balance in the natural gas Energy Efficiency account plus the \$444,000 deferral from the 2013 natural gas earnings test shall be used to replace the projected 1.7% increase in retail natural gas rates that would otherwise be effective January 1, 2015.
  - 2. A portion of the 2013 electric Earnings Test deferral (\$3.201 million) shall be used to replace the 1.3% increase in retail electric rates to be effective January 1, 2015. The remaining \$713,000 of the 2013 electric Earnings Test deferral shall be credited to customers over 12 months through the Company’s next PCA case beginning October 1, 2014.
  - 3. Any difference between the estimated 2015 electric and natural gas credits and the actual amount rebated to customers through December 31, 2015, shall be added or subtracted to the PCA and PGA deferral balances, respectively.
- C. Project Compass – Project Compass is the replacement of Avista’s outdated customer information system. Eighty percent of the revenue requirement associated with Project Compass during 2015 shall be deferred for recovery in a future proceeding. The deferral is due in part to the uncertainty of the timing of the in-service date for Project Compass.
- D. Coyote Springs II/Colstrip O&M – The three-year amortization of the 2013 Coyote Springs II and Colstrip O&M deferral balance of \$1.253 million (\$418,000 per year) will begin January 1, 2016, instead of January 1, 2015.

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<sup>2</sup> A customer’s monthly bill is composed of “base” rates and the annual power cost adjustment (PCA) for electricity or the purchased gas cost adjustment (PGA) for natural gas. This case addresses base rates. PCA rates are addressed in Case No. AVU-E-14-06 and PGA rates are addressed in Case No. AVU-G-14-04.

E. 2014 Earnings Test – Any earnings test deferral for 2014 would be used to support the one-year extension of the existing rate plan as set out below:

1. A return on equity (ROE) “deadband” shall be established for 2015 between the Company’s authorized ROE of 9.8% and 9.5%.
2. During calendar year 2015, if Avista earns less than 9.5% ROE (on an actual consolidated basis for electric and natural gas), any earnings test deferral balance from 2014 shall be used to move Avista’s earnings up to 9.5% ROE on an actual consolidated basis.
3. Any 2014 earnings test balance not needed to achieve a 9.5% ROE for 2015 (i.e., if Avista earns more than 9.5% ROE during 2015), shall continue to be held as a deferral for future credit to customers.
4. During calendar year 2015, if Avista earns more than a 9.8% ROE (on an actual consolidated basis), Avista shall defer for future credit to customers half of any earnings above 9.8%.

F. Low-income Issues – On or before October 1, 2014, the parties will meet to review the following issues:

1. The cost-effectiveness and appropriate funding of natural gas and electric demand-side management (DSM) programs for low-income residential customers. Avista shall provide the parties with data and its analysis of when and under what conditions natural gas DSM programs will become cost-effective and funding for these programs may resume.
2. Electric and natural gas usage by low-income customers in the Idaho service territory. Avista shall provide usage data and consult with parties to identify their specific data requirements.
3. No later than December 1, 2014, the parties will determine if a formal filing with the Commission is warranted based upon review of the information set out above.

The parties acknowledged that the Settlement is subject to the Commission’s approval. They requested that the Commission process the proposed settlement under Modified Procedure and that written comments to the proposed settlement be filed no later than August 15, 2014. The Commission agreed and issued Order No. 33080 soliciting written comments on the proposed settlement.

## THE PARTIES COMMENTS

The Commission received comments from four public witnesses that generally opposed any rate increase. The Commission also received comments from several parties including: CAPAI, Snake River Alliance, Commission Staff, and Avista. The commenting parties all supported adoption of the proposed settlement. They asserted that extending the rate freeze for another year is a reasonable alternative to having the Company file a general rate case.

### *A. CAPAI Comments*

In its comments, CAPAI was appreciative that Avista “went to considerable lengths to involve and inform all potential stakeholders, including CAPAI, well in advance of the filing of the Settlement Stipulation . . . and [Avista] met individually with each interested stakeholder before the first settlement conference. . . .” Comments at 1. Avista’s willingness to meet with the parties in advance allowed CAPAI to explore its low-income issues in greater detail. Although CAPAI “was initially hesitant” to defer a general rate case in which it could raise all issues, its settlement discussions with the Company ultimately led CAPAI to decide that the “proposed settlement was in the best interest of the Company’s low income customers, as well as the general body of ratepayers.” *Id.* at 3.

CAPAI noted that the settlement specifically addressed low-income issues. *Id.* at 4; see Settlement § F. The settlement provisions addressing low-income issues will allow the parties to continue to analyze and exchange low-income information. More specifically, Section F of the proposed settlement provides that Avista and interested parties will meet on or before October 14, 2014, to review several low-income issues.

Given the circumstances of this case, CAPAI stated that the settlement reached by the parties is “fair, just and reasonable and in the best interest of all ratepayers, including low income customers.” *Id.* at 5. Consequently, CAPAI recommended the Commission approve the Settlement Stipulation as submitted.

### *B. SRA Comments*

SRA joined the other parties in recommending that the Commission approve the settlement and its terms and conditions. Comments at 1. SRA recognized that the settlement and its rate freeze do not include the PCA or PGA rates but concluded that the settlement “is in the best interest of Avista customers in that it extends the current rate freeze for another year.” *Id.*

While SRA supported the settlement, “it will not come as a surprise to the Commission that the Alliance has ongoing concerns with certain aspects” of how settlements in lieu of rate cases are processed. *Id.* at 2. It remained concerned about the opportunities for public participation in cases such as this. Although it recognized that the Commission formally noticed the proposed settlement and invited public comment, it expressed concern that public participation and settlement meetings may leave the “impression that private settlement negotiations disadvantages utility customers. . . .” *Id.* Nevertheless, the Alliance appreciated the extraordinary amount of effort that Avista and the parties put into reaching settlement in this case and it fully supported the settlement.

### ***C. Commission Staff Comments***

The Staff too supported the settlement and recommended that the Commission adopt the settlement without change. As is its practice, Staff evaluated the proposed settlement by comparing the rate impacts of the settlement versus the possible rate impacts that might otherwise occur if a rate case were filed. Given the uncertainties of issues involved in a general rate case, Staff recognized the probability that Avista might justify base rate increases for its electric and natural gas services. Based upon its analysis, Staff estimated that the Company might justify an electric revenue increase in the \$3.5 million range and a natural gas revenue increase in the \$200,000 range. *Id.* at 8. Given the possibility of this outcome, Staff believes that the proposed settlement agreed to by all the parties is fair and reasonable, and recommended the Commission approve the settlement. *Id.* at 9.

Because Avista customers will not see any base rate increases prior to January 1, 2016, Staff believed that obtaining base rate stability was reasonable and appropriate in this case. In exchange for such stability, Staff noted that the Company will benefit in three ways. First, the rate treatment for the Company’s Project Compass (its new customer information system) will be addressed in a subsequent case. Second, the Company is delaying amortization of its deferred 2013 Colstrip/Coyote Springs II maintenance expenses until January 1, 2016. Third, the Company will be allowed to use any 2014 customer sharing revenues to bolster its return on equity (ROE) in 2015. Staff Comments at 5. Staff also noted that the settlement provides for continued customer revenue sharing through 2015 if the Company’s earnings exceed 9.8% ROE. *Id.* at 6.

As part of the settlement discussions, Staff noted that the parties had considered and discarded certain issues. In particular, there was discussion to include 100% of Palouse Wind project costs in the PCA as opposed to the current 90% amount. *Id.* at 6. The parties did not adopt this suggestion. The final settlement provisions agreed to by the parties all benefit ratepayers.

#### ***D. Avista Comments***

Avista asserted that the Settlement Stipulation was derived through a “give-and-take” negotiation, and the end result is reasonable and in the public interest. Avista Comments at 1. The Company specifically noted that the settlement continues revenue sharing so that customers share equally with any earnings that exceed a 9.8% ROE during 2015 based upon actual, consolidated results of operations. *Id.* at 2.

The Company recommended the Commission approve the settlement and asserted that the settlement “strikes a reasonable balance between the interest of the Company and its customers.” *Id.* at 8. The settlement extends the current base rate freeze for an additional year while continuing the revenue sharing plan.

***Commission Findings:*** Rule 276 provides that the Commission is not bound by the parties’ settlement. IDAPA 31.01.01.276. The Commission will “independently review any settlement proposed to it to determine whether the settlement is just, fair and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy.” *Id.* The Commission may accept, reject, or modify settlement provisions. Moreover, the proponents of a proposed settlement carry the burden of showing that the settlement is reasonable and in the public interest. Rule 275. The Commission will also prescribe an appropriate procedure to examine a proposed settlement.

In this case, the parties recommended that the proposed settlement be processed under Modified Procedure, and that the Commission solicit written comments regarding the Settlement. After having reviewed the proposed settlement and the written comments, we find that the settlement is fair, just and reasonable, and in the public interest. Moreover, no one opposed the Settlement. As noted above, the parties agreed in the stipulation that there will be no increase to base rates for either electric or natural gas service until January 1, 2016. In addition, we find other provisions of the Settlement including the revenue sharing and the deferral balances

represent significant benefits to customers. Consequently, the Commission approves the Settlement.

### **INTERVENOR FUNDING**

On August 29, 2014, the Community Action Partnership Association of Idaho (CAPAI) filed a timely Petition for Intervenor Funding. CAPAI sought to recover \$9,920 in costs.

#### ***A. Legal Standards***

The standards for awarding intervenor funding are set out in *Idaho Code* § 61-617A and the Commission's corresponding Rule 165. The purpose of intervenor funding is to encourage participation at all stages of all proceedings before the Commission "so that all affected customers receive full and fair representation in those proceedings." *Idaho Code* § 61-617A(1). When reviewing petitions for intervenor funding, the Commission utilizes the following criteria:

- (a) the intervenor has materially contributed to the decision rendered by the Commission;
- (b) the costs of intervention are reasonable in amount and represent a significant financial hardship for the intervenor;
- (c) the recommendation made by the intervenor differed materially from the testimony and exhibits of the Commission Staff; and
- (d) the intervenor addressed issues of concern to the general body of users or consumers.

*Idaho Code* § 61-617A(2); Rule 165.01, IDAPA 31.01.01.165.01.

#### ***B. CAPAI's Petition***

CAPAI stated that it actively participated in this case and was primarily focused on low-income customer issues. CAPAI participated in the settlement conference on June 25, 2014. Both its counsel (Mr. Purdy) and Executive Director (Christina Zamora) attended the settlement conference. CAPAI also filed comments supporting the Settlement.

In preparation for the settlement conference, CAPAI "analyzed in considerable detail and discussed [low-income issues] with Avista, the Commission Staff, and other parties. In short, the majority of the same work that CAPAI must invest in preparing to go to hearing is required to determine whether to join in an extended-term rate settlement." Petition at 7.

CAPAI indicated that it “invested considerable time working” with the Commission Staff, the utility, and other parties in addressing Avista’s low-income programs. In addition to the work performed by its attorney, CAPAI asserted that its Executive Director contributed “substantial amounts of time and resources.” *Id.* at 8.

CAPAI maintained that Mr. Purdy’s legal rate is less than the average first year associate practicing in Boise. Mr. Purdy has more than 20 years of public utility work experience and his hourly rate is two to three times less than the rate of other utility lawyers. *Id.* at 9. As set out in the Petition, Mr. Purdy’s hourly rate is \$150.

As noted above, CAPAI’s primary focus in this case was a host of low-income issues. This focus on low-income issues is reflected in section F of the proposed settlement in which the Company will produce and the parties will evaluate low-income information. More specifically, such information includes: (1) the cost-effectiveness and appropriate funding of natural gas and electric DSM programs for low-income residential customers; (2) usage information for both electric and natural gas used by low-income customers in Idaho; and (3) an agreement among the parties to “determine if a formal filing . . . is warranted based on review of the information set out above.” Proposed Settlement at § F(3). CAPAI represented that these provisions differed from the positions that Staff presented in the settlement conference.

In summary, CAPAI requests to recover the following costs:

Costs – Photocopying/postage	\$ 35.00
Fees: Legal – Mr. Purdy, 65.9 hours @ \$150/hr	<u>\$9,885.00</u>
Total	\$9,920.00

**Commission Findings:** The Commission finds that CAPAI’s Petition satisfies the requirements for an award of intervenor funding. CAPAI actively participated in the settlement conference, filed comments, and developed low-income, residential customer issues. We also find that CAPAI has materially contributed to the Commission’s decision in this case. CAPAI’s focus in this case was to obtain and analyze low-income data, and review DSM programs for low-income customers. The parties also agreed to review the cost-effectiveness and appropriate funding of natural gas and electric DSM programs for low-income residential customers. CAPAI’s participation addressed these specific issues affecting low-income customers.

We further find that CAPAI's request for costs and attorney fees is reasonable in amount, and that CAPAI would suffer financial hardship if the request is not approved. Accordingly, we approve CAPAI's Petition for Intervenor Funding in the amount of \$9,920.

**ULTIMATE FINDINGS OF FACT  
AND CONCLUSIONS OF LAW**

Avista Corporation dba Avista Utilities is an electric and gas corporation providing service to the public within the State of Idaho, and is operating as a public utility. *Idaho Code* §§ 61-117, 61-119, and 61-129.

The Commission has jurisdiction over this matter as authorized by Title 61 of the Idaho Code and more particularly *Idaho Code* §§ 61-503 and 61-622.

The Commission finds that the parties' Stipulation and Settlement is reasonable and in the public interest, and we adopt it. Rule 276, IDAPA 31.01.01.276.

**ORDER**

IT IS HEREBY ORDERED that the parties' Joint Motion for Approval of Stipulation and Settlement is granted. The Commission approves the Stipulation and Settlement supported by all the parties. Avista's base rates for electric and natural gas service shall remain at their existing level until January 1, 2016.

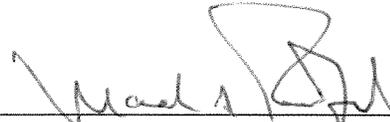
IT IS FURTHER ORDERED that the Company shall file tariffs, if necessary, to implement the provisions of the approved Stipulation and Settlement

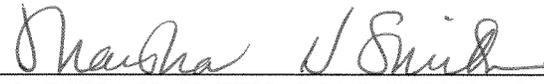
IT IS FURTHER ORDERED that CAPAI's Petition for Intervenor Funding is granted in the amount of \$9,920.00.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case Nos. AVU-E-14-05 and AVU-G-14-01 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in these cases. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

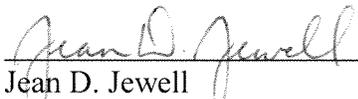
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 18<sup>th</sup>  
day of September 2014.

  
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PAUL KJELLANDER, PRESIDENT

  
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MACK A. REDFORD, COMMISSIONER

  
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MARSHA H. SMITH, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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