

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF AVISTA )  
CORPORATION'S APPLICATION TO ) CASE NO. AVU-G-15-03  
RESUME NATURAL GAS EFFICIENCY )  
PROGRAMS AND INCREASE THE RIDER )  
SURCHARGE IN SCHEDULES 190 AND ) ORDER NO. 33464  
191. )**

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On October 28, 2015, Avista Corporation dba Avista Utilities filed an Application for authority to resume its natural gas energy efficiency programs for residential, commercial, and industrial customers. Application at 1. On December 24, 2015, the Commission issued final Order No. 33444 approving that Application. On January 14, 2016, two public commenters filed a Joint Petition requesting that the Commission reconsider or clarify that Order. Petition at 1. Avista did not file a response to the Petition. Based upon the review of the Joint Petition and our record, we grant the Petition in part and deny the Petition in part, as set out in greater detail below.

**BACKGROUND**

On November 20, 2015, the Commission solicited public comment on Avista's proposals to resume various natural gas demand-side management (DSM) programs. Two public commenters provided the Commission with highly detailed and technical comments opposing the Application. In the Commission's Order their remarks were analyzed and summarized together as the comments of "Technical Commenters." They generally argued that the Application warranted heightened scrutiny, offered a detailed analysis of Avista's proposal, and provided an alternative view of the proposed DSM programs.

Their comments provided the Commission with additional analysis and perspective and the Commission lauded the efforts. Ultimately, however, the Commission concluded that Avista had demonstrated that restarting the DSM programs and the surcharge were reasonable. In approving Avista's Application, the Commission allowed certain modifications to the previous iteration of the Company's natural gas DSM programs. For instance, the Commission approved the use of Utility Cost Test (UCT) as the benchmark measurement for cost-

effectiveness,<sup>1</sup> and allowed the use of “gross,” rather than “net” savings estimates in the Company’s cost-effectiveness calculations. Order No. 33444 at 2, 8-9.

### **LEGAL STANDARD**

Reconsideration provides an opportunity for a party to bring to the Commission’s attention any question previously determined and thereby affords the Commission with an opportunity to rectify any mistake or omission. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979). The Commission may grant reconsideration by reviewing the existing record, by written briefs, or by evidentiary hearing. IDAPA 31.01.01.332. If reconsideration is granted, the Commission must complete its reconsideration within 13 weeks after the deadline for filing petitions for reconsideration. *Idaho Code* § 61-626(2).

Consistent with the purpose of reconsideration, the Commission’s Procedural Rules require that petitions for reconsideration “set forth specifically the ground or grounds why the petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law.” Rule 331.01, IDAPA 31.01.01.331.01. Rule 331 requires that the petitioner provide a “statement of the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted.” *Id.* Further, Rule 325 provides that “[a]ny person may petition to clarify any order, whether interlocutory or final.” IDAPA 31.01.01.325.

### **ISSUES ON REVIEW**

The Technical Commenters’ Petition lists six specific items for reconsideration or clarification. Several of the items on reconsideration/clarification take umbrage with the use of certain words or statements in the Order. For example, they object to the use of the word “thoroughly” in the sentence, “. . . avoided cost was thoroughly reviewed and vetted.” They also ask whether “it is permissible for utilities to provide purposely misleading responses to [discovery].” Petition at 1. They also complain that the Commission mischaracterized some of

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<sup>1</sup> The UCT compares program administrator costs to supply-side resource costs, and assesses whether utility bills will increase. Previously, the benchmark measurement for Avista’s natural gas DSM programs was the total resource cost test (TRC). The TRC compares program administrator costs and customer costs to utility resource savings, and assesses whether the total resource cost of energy in a utility’s service territory will decrease. The Commission allowed this change due to, among other things, the potential for bias against conservation under a TRC benchmark, and with the commitment from Avista to continue reporting and evaluating numerous cost-effectiveness tests when examining its DSM programs’ cost-effectiveness (including both the UCT and the TRC) going forward. Order No. 33444 at 8.

their comments. They reiterate that their primary concern is to avoid DSM programs that are not cost effective. *Id.*

**1. Comparing the UCT and TRC Methodologies (Item No. 4)**

The Commission first takes up the Technical Commenters fourth request for clarification or reconsideration. There, the Technical Commenters take issue with the Commission’s statement that “[f]inally, we find that the proposed programs appear cost-effective under either the TRC or the UCT.” Order No. 33444 at 9. The Technical Commenters assert that the record does not support this finding.

After reviewing our prior Order and the underlying record, we determine that this statement is erroneous and should be clarified. Accordingly, with regard to their fourth request, reconsideration is granted and that sentence on page 9 of Order No. 33444 is clarified to read as follows:

Finally, we find that the proposed programs appear cost-effective under the UCT, and a good portion of those programs also appear cost-effective under the TRC. We are encouraged by the continued use of the TRC, and other evaluative methods in future prudency reviews. We anticipate that any potential negative trends in cost-effectiveness will be revealed and addressed. Likewise, we approve of utilization of the UCT as a threshold test for the proposed DSM programs. There will be further opportunity to address the effectiveness of this approach in upcoming prudency filings.

**2. Net-to-Gross Adjustments (Item No. 6)**

The Technical Commenters ask the Commission to reconsider or clarify a sentence addressing net-to-gross (NTG) adjustments on page 10 of Order No. 33444. There, the Commission addresses Avista’s proposed use of 100% NTG. The Commission stated that Avista’s approach to calculating NTG “is consistent with the approach adopted by Idaho Power.” The Technical Commenters assert that this statement is imprecise because Idaho Power’s NTG calculation is “applicable only to the TRC cost effectiveness test. . . .” Petition at 2. They ask that the reference to consistency be deleted or clarified.

After reviewing the Petition and the record in this case, with regard to the Technical Commenters sixth request, reconsideration is granted and we clarify the sentence on page 10 to read:

“We find this approach is consistent with the approach adopted by Idaho Power using the TRC test.”

**3. Other Grounds for Clarification or Reconsideration (Items 1, 2, 3, and 5)**

The remaining four requests for clarification or reconsideration consist of anatomizing the Commission’s final Order to include questions relating to word meaning, the discovery process, and the Commission’s characterization of the issues. Specifically, the Technical Commenters allege that: the Company’s discovery responses were “purposefully misleading” and if unchallenged, will become authoritative (Item 1); the use of the word “thoroughly” when used to describe parties’ analysis is inappropriate (Item 2); and the Commission mischaracterizes their underlying concerns about DSM (Items 3 and 5).

The Commission declines to address or clarify these four items. We note, however, that discovery responses, including answers to interrogatories are to be truthful, made under oath, and signed by the party to whom they are directed. Rules 225.01 and 228.02; IRCP 33(a)(2). We also reject the Technical Commenters’ invitation to engage in parsing and redefining of words. We see no reason to amend our Order for these items, and we will not further disturb the Order approving the DSM programs. We find these four items to be argumentative and inconsistent with the purpose of reconsideration. In other words, the Petitioners have failed to demonstrate how these items are unreasonable, unlawful, erroneous or not in conformity with the law.

While the Technical Commenters may have different ideas when it comes to the efficacy of the UCT and the place for net-to-gross factors, as stated in our previous Order, “Avista has met its burden of showing that approval of the Application is fair, just and reasonable; and re-establishing Avista’s natural gas DSM programs is in the public interest.” We share their concern that DSM programs be cost-effective, and we expect Avista to actively manage those programs to ensure that they achieve that end. Accordingly, clarification/reconsideration is denied as to Items 1, 2, 3, and 5.

**ORDER**

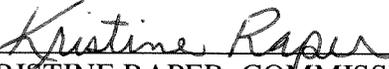
IT IS HEREBY ORDERED that the Petition for Clarification and Reconsideration is granted in part and denied in part, as set forth above.

IT IS FURTHER ORDERED that Commission Order No. 33444 is amended, as clarified above, pursuant to *Idaho Code* § 61-624.

THIS IS A FINAL ORDER ON RECONSIDERATION. Any party aggrieved by this Order may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. *See Idaho Code § 61-627.*

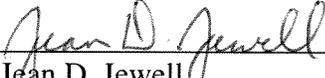
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 9<sup>th</sup> day of February 2016.

  
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PAUL KJELLANDER, PRESIDENT

  
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KRISTINE RAPER, COMMISSIONER

*Commissioner Anderson did not participate in this case*  
ERIC ANDERSON, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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