Office of the Secretary
Service Date
May 31, 2018

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION INTO THE IMPACT OF FEDERAL TAX CODE REVISIONS ON UTILITY COSTS AND RATEMAKING	))))))	**CASE NO. GNR-U-18-01** **ORDER NO. 34070** **(AVISTA CORPORATION)**

On May 1, 2018, Avista Corporation dba Avista Utilities (the "Company") filed a Stipulation and Settlement (the "Settlement Stipulation") and a Motion for Approval of Stipulation and Modified Procedure (the "Motion"). The Settlement Stipulation and Motion are signed by the Company, Commission Staff, and intervenors Clearwater Paper Corporation, Idaho Forest Group, LLC, and Idaho Conservation League ("ICL") (being all the intervenors as to the Company in this multi-utility case). If approved, the Settlement Stipulation would return to customers the tax benefits the Company has realized under new tax laws that decreased the Company's corporate tax rate and expenses.

Having reviewed the record, the Commission finds the Settlement Stipulation is just, fair, and reasonable. The Commission thus grants the Motion, and approves the Settlement Stipulation in the public interest as discussed below.

BACKGROUND

The federal Tax Cuts and Jobs Act of 2017 (the "TCJA") decreased the federal corporate tax rate from 35% to 21%, effective January 1, 2018. After the TCJA passed, the Governor of Idaho signed House Bill 463 reducing the Idaho State Corporate Income Tax rate from 7.4% to 6.925%. The tax rate reduction materially decreased the current and deferred tax expense included in customers' rates. And under Generally Accepted Accounting Principles, the Company had to recalculate accumulated deferred income tax ("ADFIT") assets and liabilities to reflect the new tax rate, which significantly reduced net deferred tax liabilities. The recalculation resulted in excess ADFIT assets and liabilities, producing both long-term tax benefits (plant excess ADFIT) and temporary net tax benefits (non-plant excess ADFIT). *See* Settlement Stipulation at 2 and 8.

The Commission opened this multi-utility case to investigate whether to adjust the rates of certain utilities that benefit from the reduced tax rates. *See* Order No. 33965. The Commission directed all affected utilities—including the Company—to immediately account for the tax benefits as a regulatory liability. The utilities also were to report on how the tax changes affected them, and how they could pass any resulting benefits to customers. *See id.* at 1-2.

The Company filed its report on March 29, 2018 (the Company's "Report"), and summarized the TCJA's impact on the Company, and tax benefits to Idaho customers as follows:

	Revenue Requirement (000s)	
Permanent or Long-Term Tax Benefits:	**ID Electric**	**ID Natural Gas**
Current/Deferred Tax Expense (Cash)	$ (11,080)	$ (2,082)
Plant Excess ADFIT (Non-Cash)	$ (2,660)	$ (474)
Total Permanent or Long-Term Tax Benefits	$ (13,740)	$ (2,556)
Temporary Tax Benefits		
Non-Plant Excess ADFIT (Non-Cash)	$ (6,302)	$ 526
Deferral of Jan - May 2018 balances	$ (5,724)	$ (1,065)
Total Temporary Tax Benefits	$ (12,026)	$ (539)

Report at 3. To reflect the "permanent or long-term benefits," the Company proposed decreasing electric rates by about \$13.74 million and natural gas rates by about \$2.6 million through new Tariff Schedules 72 (electric) and 172 (natural gas), which would take effect June 1, 2018 and remain in place until base rates are adjusted in a future rate case. Report at 6-8. To reflect the "temporary tax benefits," the Company proposed to provide customers a rate credit from June 1, 2018 through May 30, 2019 through new temporary Tariff Schedules 74 (electric) and 174 (natural gas). Report at 8-9.

After the Company filed its Report, the Company, Commission Staff, and intervenors Clearwater Paper Corporation, Idaho Forest Group, LLC, and ICL (collectively, the "Parties") conducted settlement discussions and filed the Settlement Stipulation now under consideration. Settlement Stipulation at 4.

The Commission issued a Notice of Settlement Stipulation setting deadlines for interested persons to comment on the Settlement Stipulation. *See* Order No. 34054. Commission Staff and the ICL filed the only comments, and recommended that the Commission approve the Settlement Stipulation in the public interest. *See* Comments of the Commission Staff in Support of Settlement Stipulation Re: Avista Corporation ("Staff Comments"), and ICL Reply Comments.

The Settlement Stipulation, and the Staff's Comments and ICL's Reply Comments, are summarized below.

THE SETTLEMENT STIPULATION AND COMMENTS

The Parties believe the Settlement Stipulation is fair, just, and reasonable, and that the Commission should approve it in the public interest, because it would return to customers all the tax benefits the Company has realized under the tax law changes. *See* Settlement Stipulation at 2; Staff Comments at 6; ICL Reply Comments at 1. In summary, the Company would return the following tax benefits to customers:

	Revenue Requirement (000s)	
Permanent or Long-Term Tax Benefits	**Idaho Electric**	**Idaho Natural Gas**
Current/Deferred Tax Expense (Cash)	$ (11,080)	$ (2,082)
Plant Excess ADFIT (Non-Cash)	$ (2,660)	$ (474)
Total Permanent or Long-Term Tax Benefits	$ (13,740)	$ (2,556)
Temporary Tax Benefits		
Non-Plant Excess ADFIT (Non-Cash)	$ (6,302)	$ 525
Deferral of Jan - May 2018 balances	$ (5,726)	$ (1,064)
State Income Tax Impact	$ 48	$ (5)
Total Temporary Tax Benefits	$ (11,980)	$ (544)

See Settlement Stipulation at 4 (permanent or long-term tax benefits for electric and natural gas customers), 7 (temporary tax benefits for electric customers), and 9 (temporary tax benefits for natural gas customers); Staff Comments at 3. These "Permanent or Long-Term Tax Benefits" and "Temporary Tax Benefits" are further described below.[1]

A. Permanent or Long-Term Tax Benefits.

Under the Settlement Stipulation, the Company would return permanent or long-term tax benefits to customers as an overall rate decrease (credit) of $13.74 million (5.3%) for electric customers and $2.6 million (6.1%) for natural gas customers. The long-term benefits would take

[1] Apart from returning the "Permanent or Long-Term Benefits" and "Temporary Tax Benefits," the Settlement Stipulation also addresses changes to Avista's transmission revenues and/or refund to transmission customers because Federal Energy Regulatory Commission action in response to the TCJA. The Settlement Stipulation provides the Company would track those changes through the Company's Power Cost Adjustment until reflected in base rates in the next general rate case. *See* Settlement Stipulation at 10. The Parties believe this treatment follows the Commission's intent of tracking and returning (or flowing through) all TCJA tax benefits to customers. *Id.;* Staff Comments at 6.

effect on June 1, 2018 through new "adder" Tariff Schedules 72 (electric) and 172 (natural gas), the "Permanent Federal Income Tax Rate Credit," until incorporated in future base rates in a general rate case. The Company would spread the long-term benefits to customer classes on a uniform percent of base revenue basis, and within each customer class by applying a uniform cents per kWh (electric) and therm (natural gas) to volumetric block rates by rate schedule.[2] The stipulated long-term benefits and corresponding tariff schedules are the same as those the Company proposed in its initial Report. *See* Settlement Stipulation at 4-6; Staff Comments at 2-4.

B. Temporary Tax Benefits.

The temporary tax benefits consist of the non-plant-related excess ADFIT, the deferral of the January – May 2018 tax benefits, and the impact of the change in State income taxes. Under the Settlement Stipulation, the Company would return temporary tax benefits to customers of $11.98 million for electric service and $544,000 for natural gas service. These amounts are similar to those initially proposed in the Company's Report. The Settlement Stipulation differs from the Report in how the Company would use those amounts to benefit customers. The Company would use the *electric* temporary tax benefit to offset costs associated with accelerated depreciation of Colstrip Units 3 and 4, or other purposes as the Commission may approve in the Company's pending depreciation case (Case Nos. AVU-E-18-03 and AVU-G-18-02). The Company would refund the *natural gas* temporary tax benefit to customers as a credit over one year through the Company's Purchase Gas Adjustment, effective November 1, 2018. *See* Settlement Stipulation at 7-8 (electric temporary tax benefit) and 9-10 (natural gas temporary tax benefit); Staff Comments at 4-6.

DISCUSSION AND FINDINGS

The Commission's process for considering settlement stipulations is set forth in Procedural Rules 271-277. IDAPA 31.01.01.271-277. When a settlement is presented to the Commission, the Commission will prescribe the procedures appropriate to the nature of the settlement to consider it. IDAPA 31.01.01.274. Further, proponents of a settlement must show that the settlement is reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. IDAPA 31.01.01.275. Finally, the Commission is not bound by settlement

[2] The Company also would update its electric and natural gas Fixed Cost Adjustment base values to reflect the long-term changes included in new Schedules 72 and 172.

agreements. Instead, 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." IDAPA 31.01.01.276.

We have reviewed the record, including the Company's initial Report, the Settlement Stipulation, Staff's Comments, and ICL's Reply Comments. We note all Parties have signed the Settlement Stipulation and support it, and that no one opposes it. Further, the settling Parties represent that the Settlement Stipulation reasonably resolves the case and that it is in the public interest for the Commission to approve it. We agree. We find the Settlement Stipulation reasonably returns to customers 100% of the financial benefit the Company realized under the tax law changes. We also note that using the temporary tax benefits to offset accelerated Colstrip depreciation or other near-term increases provides rate stability for customers without harming the Company's cash flow. Accordingly, based upon the record before us, and to aid "in securing a just, speedy and economical determination of the issues presented to the Commission," we find it reasonable and appropriate to accept the Settlement Stipulation in the public interest. IDAPA 31.01.01.273.

O R D E R

IT IS HEREBY ORDERED that the Parties' Motion is granted, and the associated Settlement Stipulation—including proposed Tariff Schedules 72 and 172 in Attachment A to the Settlement Stipulation—is approved.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

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DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 31st day of May 2018.

PAUL KJELLANDER, PRESIDENT

KRISTINE RAPER, COMMISSIONER

ERIC ANDERSON, COMMISSIONER

ATTEST:

Diane M. Hanian
Commission Secretary

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