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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF AVISTA CORPORATION TO INCREASE ITS RATES AND CHARGES FOR ELECTRIC AND NATURAL GAS SERVICE FOR ELECTRIC AND NATURAL GAS CUSTOMERS IN THE STATE OF IDAHO)))))))))))))	CASE NO. AVU-E-23-01; AVU-G-23-01 POST-HEARING BRIEF OF NW ENERGY COALITION AND IDAHO CONSERVATION LEAGUE
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Pursuant to Rule 255 of the Idaho Public Utilities Commission ("Commission") Rules of Procedure and the direction of Chairman Anderson at the August 2, 2023 Technical Hearing in the above-captioned proceeding, the NW Energy Coalition (“NWEC”) and Idaho Conservation League (“ICL”, together “NWEC/ICL”) hereby submit their post-hearing brief.

I. Summary of Position

NWEC/ICL recommend the Commission reject the provisions of the proposed settlement and stipulation increasing the basic charge (variously as “monthly charge” or “customer charge”) for Avista Corporation’s (“Avista” or “Company) Residential Schedule 1 from \$7.00 per month to \$20.00 per month over two years.² This increase to the basic charge is inconsistent with the

¹ Order No. 35718
² Stipulated Settlement at 18.

principle of cost causation, sends a negative price for energy efficiency and conservation, and most disproportionately effects low-income and low-usage customers.

II. The Commission has the authority to reject only the residential rate design provisions within the settlement.

The Commission is tasked with setting rates that are “just, reasonable or sufficient.”³ A settlement does not automatically equate to just and reasonable rates and the Commission is not bound by a settlement proposal.⁴ Rather, the Commission must determine if the settlement is, along with just and reasonable, in the “public interest.”⁵ The Commission has several options in addressing a settlement proposal: accept the settlement outright; reject the settlement outright; or apply “additional conditions” to the settlement in an effort to meet the just and reasonable threshold.⁶

As discussed in further detail below, the proposed settlement in this case, if approved, would result in rates that are not just, not reasonable, and not in the public interest. As a result, the Commission may reject the settlement in its entirety or apply additional conditions, such as striking the rate design provision. Because the rate design component was the only contested issue, NWECA/ICL recommend the Commission accept the settlement with the added conditions that the basic charge remain at \$7.00 per month.

³ Idaho Code §61-502.

⁴ IDAPA 31.01.01.276

⁵ *Id.*

⁶ *Id.*

III. The settling parties failed to meet their burden of proof showing that an increase in the customer charge is in the public interest.

While the Commission must determine whether the proposal is in the public interest,⁷ it is the settling parties that carry the burden of proving the settlement meets the public interest standard.⁸ “Public” in its most basic and appropriate meaning, is defined as “relating to people in general.”⁹ “Public interest” means “appeal or relevance to the general populace.”¹⁰

In this case, the settling parties have failed to prove that an increase in the customer charge benefits the public as a whole. Even by narrowing “public” to mean the entirety of customers within a utility’s service territory, Avista’s proposal to increase the customer charge benefits only the company itself and large energy users. At the very least, any determination under the public interest standard should consider effects on the entirety of the effected customer class, notwithstanding the constant need to consider the energy system as a whole.

Two parties provided evidence in the record supporting an increase to the customer charge. Avista relies on a theory of intraclass subsidization, alleging that a failure to recover fixed costs through a fixed charge results in low-energy users being subsidized by high energy users.¹¹ For its part, Staff posited that the current basic charge does not *allow* the Company to recover its fixed costs associated with billing, metering, and distribution.¹²

A. The settling parties failed to prove that low energy users subsidize high energy users.

Company witness Miller offered testimony in the Company’s initial application stating high basic charges are warranted because “the effect of a low basic charge is that customers with

⁷ *Id.*

⁸ IDAPA 31.01.01.275

⁹ Meriam-Webster Dictionary. <https://www.merriam-webster.com/dictionary/public>

¹⁰ <https://www.dictionary.com/browse/public-interest>

¹¹ Ehrbar, Di(Stip), 4-5, lines 22-2.

¹² English, Di(Stip),13, lines 9-13.

low monthly usage are being subsidized by customers with higher monthly usage.”¹³ This line – and indeed the entirety of the brief buildup to this conclusion - was repeated in the Company Witness Ehrbar’s testimony in support of the settlement.¹⁴ The only evidence offered in support were three figures taken from Witness Garbarino’s Class Cost of Service (CCOS) study: \$19.24; \$23.84; and \$43.08.¹⁵ These figures were described in two sets of testimonies as being “essentially fixed costs” that are not currently being fully recovered in the current basic charge (emphasis added).¹⁶

NWEC/ICL contend that “essentially fixed costs” are not enough to prove that such costs are indeed fixed. Yet when asked at the Technical Hearing held on August 2 to detail the costs included in such calculations, Witness Ehrbar was unable to do so:

Q: And are you familiar with the inputs that create those figures, those dollar amounts?

A: I am not.¹⁷

Without proving the fixed nature of the included costs in the cited dollar figures, which serve as the basis for the establishment of the higher basic charge, Avista is unable to make the leap to intraclass subsidization of fixed costs.

Furthermore, NWEC/ICL witness McCloy establishes that intraclass subsidization does not exist under the current rate design because the basic charge is not meant to recover costs outside of metering, billing and customer service.¹⁸ All Schedule 1 residential customers currently pay \$7 per month, which aligns closely with the \$6.61 indicated by Avista’s own

¹³ Miller, Di-28, lines 13-14.

¹⁴ Compare Ehrbar, Di(Stip)-4 with Miller, Di-28; Witness Ehrbar sponsored Mr. Miller’s testimony for the purposes of the Technical Hearing.

¹⁵ Miller, Di-28, lines 5-7; Ehrbar Di(Stip)-4, lines 16-19.

¹⁶ Miller, Di-28, lines 7-8; Ehrbar Di(Stip)-4, line 19.

¹⁷ Hearing Transcript, pp. 241-242, lines 24-1

¹⁸ See McCloy, Di(Stip)-3-4.

CCOS as the amount needed to pay for Meter, Services, Meter Reading & Billing Costs.¹⁹

Avista's only response to this argument is there is no rule or law that strictly limits what is included in the basic charge.²⁰ Conversely, the rule for increasing the basic charge as part of the proposed settlement is the very public interest standard which Avista has failed to meet or sufficiently articulate in written testimonies or at the Technical Hearing.

B. Avista is allowed to recover additional fixed costs through volumetric charges and no evidence exists that Avista is unable to recover its fixed costs.

Staff's reasoning for support of the increase to the fixed charge in the settlement is that the "current Basic Charge does not allow the Company to recover the fixed costs associated with customer charges (billing and meter reading) or distribution."²¹ Avista, however, provided no evidence that the current basic charge and accompanying volumetric charge is insufficient to recover its fixed costs. Instead, "the primary factor driving the Company's electric and natural gas revenue requirements in Rate Year 1 and Rate Year 2 is an increase in net plant investment (including return on investment, depreciation, taxes, and offset by the tax benefit of interest) from that currently authorized."²²

In fact, the Fixed Cost Adjustment (FCA) mechanism ensures that Avista is not only *allowed*, but is *guaranteed* to recover its authorized revenue requirement (including fixed costs), no more and no less.²³ Indeed, the FCA exists precisely to discourage the use of basic charges above those needed to recover direct customer costs, while at the same time ensuring the utility

¹⁹ Garabino, Di Exhibit 16, page 16, Column D, Row 24; *See also* Hearing Transcript, Page 241, lines 9-16

²⁰ Ehrbar, Reb(Stip)-4, lines 3-15.

²¹ Ehrbar, Di(Stip)-4-5, lines 22-2.

²² Vermillion, Di-19, lines 4-7.

²³ *See* Ehrbar, Reb(Stip)-6.

recovers its fixed costs despite a potential decrease in volumetric sales due to investments in energy conservation.²⁴

C. Even if the settling parties did prove that intraclass subsidization exists, there is no evidence in the record indicating that such subsidization is not in the public interest.

It is the burden of the settling parties to prove the proposed settlement is in the public interest.²⁵ With regard to intraclass subsidization, the settling parties have not met this burden. Rather, the Company notes it “believes that it is appropriate to recover more of these fixed costs through the basic charge” because the “effect of a low basic charge is that customers with low monthly usage are being subsidized by customers with higher monthly usage.”²⁶ The analysis stops there, failing to establish why intraclass subsidization (if it exists) is not beneficial to the entirety of its customer base. The only purported gain is that “[i]ncreases in fixed monthly basic charges will benefit high users of energy.”²⁷ Avista provides no reasoning why benefiting high users of energy is of interest to the entirety of its customers or the public as a whole. Rather, the Company simply exacts tradeoffs, benefiting high energy users at the expense of lower usage customers.

On the other hand, NWECC/ICL witness McCloy provided extensive testimony on why appropriate basic charges should be limited to the incremental metering and billing costs of each additional customer.²⁸ Above this amount, shifting costs in to basic charges negatively impacts energy efficiency and conservation, and disproportionately impacts low-income customers.²⁹

²⁴ See McCloy, Di(Stip)-6-8.

²⁵ IDAPA 31.01.01.275.

²⁶ Miller, Di-28, lines 10-14.

²⁷ Ehrbar, Reb(Stip)-7, lines 2-3.

²⁸ See McCloy, Di(Stip)

²⁹ *Id.*

IV. Increasing the basic charge is not in the public interest because it exacerbates resource adequacy issues by sending a negative price signal for energy efficiency.

Witness McCloy detailed in testimony how increasing the basic charges to include costs outside of metering, billing, and customer service provides for a decreased incentive for investment in energy efficiency and conservation.³⁰ The testimony noted that both “utility customers and the utility itself will have a decreased incentive to pursue energy conservation.”³¹

At the Technical Hearing, Witness Ehrbar confirmed that energy efficiency benefits *all customers*, whether they participate in utility programs or not.³² Witness Ehrbar also confirmed that Avista previously incented customers to invest in energy efficiency and conservation, spending customer dollars to facilitate decreased energy use.³³ NWECC/ICL applaud this effort. It is incongruous, however, for a utility to incent customers to use less energy, while at the same time increase their bills more than other customers precisely for using less energy relative to customers not pursuing efficiency gains. The rational outcome of increasing basic charges and decreasing variable rates is that customers will be less motivated to participate in utility efficiency programs.³⁴

Furthermore, Witness McCloy noted in testimony that investments in energy efficiency and conservation are in the public interest because they alleviate issues pertaining to price volatility, resource adequacy and reliability.³⁵ Energy efficiency alleviates the need to invest in more generation, and reduces the need for maintenance on the transmission and distribution systems.³⁶

³⁰ *Id.*

³¹ McCloy, Di(Stip)-9, lines 8-9.

³² Hearing Transcript, p. 225, lines 3-8.

³³ Hearing Transcript p. 231, lines 20-25.

³⁴ McCloy, Di(Stip)-9-10, lines 10-2.

³⁵ McCloy, Di(Stip)-10, lines 14-20.

³⁶ Hearing Transcript, pp. 227-228, lines 18-14.

Without these benefits, utility costs, and thus customer rates, will be higher, contrary to the public interest.

V. Increasing the basic charge is not in the public interest because it most negatively impacts low-income customers.

Avista concedes that, as a result of the proposed settlement, low-energy users will see a disproportionately higher bill increase than high-energy users.³⁷ Witness McCloy provided testimony indicating that nationally low-income customers generally use less energy than higher-income customers.³⁸ NWECC/ICL agrees that the cited national economic data on energy usage is not state specific, but in lieu of specific evidence to the contrary, it is consistent that Idaho usage patterns by income conform to the general result. As a result, it can be deduced that increases to the basic charge as part of the proposed settlement will also disproportionately harm low-income customers.

Avista responded only that Witness Ehrbar had sponsored testimony in 2015 indicating that low-income customers use more energy than other residential customers.³⁹ At the hearing, Witness Ehrbar agreed that his previous testimony had not resulted in an increase to the basic charge in that docket, but rather a settlement requiring the Company to further investigate the matter.⁴⁰ Witness Ehrbar also agreed that no update to the low-income analysis had been provided and that subsequent rate cases resulted in only minimal increases to the basic charge.⁴¹

³⁷ Miller, Di-30, lines 17-19.

³⁸ McCloy, Di(Stip)-11, lines 3-4.

³⁹ Ehrbar, Reb(Stip)-7-8, lines 19-4.

⁴⁰ Hearing Transcript, pp. 233-234, lines 20-5.

⁴¹ See Hearing Transcript, pp. 233-235.

The Commission has before it a classic case of two competing expert opinions, neither of which can be verified in time for a decision in the case. One expert's opinion, however, that of witness McCloy, is based on rate design techniques relied on for decades in Idaho and other jurisdictions as a proper method to ensure cost recovery for utilities while not negatively impacting more vulnerable populations. The other opinion, that of Company witness Ehrbar, even if validated, provides only a snapshot in time - eight years prior to the filing of this case.

That is not to say that either of the witnesses is undeniably correct regarding usage patterns of Avista's low-income customers; these are complicated matters worth deliberate and ongoing study. What the testimonies do indicate, however, is that low-income customers must be given due consideration by the Commission in determining whether a substantial increase in the basic charge is in the public interest. NWEC/ICL contend that witness McCloy's reliance on the advocacy of low-income organizations is sufficient to demonstrate that, absent *compelling* evidence to the contrary, the proposed increase to the basic charge is not in the public interest.

VI. Conclusion

For the foregoing reasons, and those provided in written and oral testimony, the Commission should reject the residential basic charge provisions of the proposed settlement.

Respectfully submitted this 16th day of August, 2023.



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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of August, 2023, I delivered true and correct copies of the foregoing POST HEARING BRIEF in Case No. AVU-E-23-01; AVU-G-23-01 to the following persons via the method of service noted:

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