Office of the Secretary
Service Date
December 28, 2017

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF AVISTA CORPORATION DBA AVISTA UTILITIES FOR AUTHORITY TO INCREASE ITS RATES AND CHARGES FOR ELECTRIC AND NATURAL GAS SERVICE	))))))	**CASE NOS. AVU-E-17-01 AVU-G-17-01** **ORDER NO. 33953**

On June 9, 2017, Avista Corporation filed an Application seeking authority to increase its rates for electric and natural gas service in Idaho. Avista proposed a two-year rate plan that would increase annual electric revenues by $18.6 million (7.9% on a billed basis) on January 1, 2018, and $9.9 million (4.2%) on January 1, 2019, and would increase annual natural gas revenues by $3.5 million (5.7%) on January 1, 2018, and $2.1 million (3.3%) on January 1, 2019.

The Commission issued a Notice of Application and granted intervention to Clearwater Paper, Idaho Conservation League (ICL), Idaho Forest Group, the Community Action Partnership Association of Idaho (CAPAI), and Sierra Club. Order Nos. 33808, 33804, 33815, and 33829. The Commission also set deadlines for the parties to file testimony and exhibits, and scheduled public workshops and a technical hearing. *See* Order Nos. 33825 and 33837.

The parties held settlement discussions, and on October 20, 2017, Staff filed a proposed stipulation and settlement ("Settlement") and a motion to approve it. The Settlement was signed and supported by all parties except Sierra Club and ICL. The Commission issued an Order providing Notice of the Settlement and amending the case schedule. Order No. 33920. The amended schedule included deadlines for prefiled testimony in support of the Settlement, reply testimony, and rebuttal testimony, and retained the date for the technical hearing. *Id.*

Commission Staff held public informational workshops in Lewiston and Coeur d'Alene on August 30 and 31, 2017. The Commission convened a public hearing for customers in Coeur d'Alene on November 30, 2017, and a technical hearing in Boise on December 8, 2017. At the technical hearing, the Commission closed the public comment period and set a deadline for the parties to file any briefs. *See* Order No. 33947. ICL, Sierra Club and Avista timely filed briefs. Having reviewed the record, the Commission now issues this Order approving the Settlement.

OVERVIEW OF THE SETTLEMENT

The signing parties proposed a two-year rate plan for electric and natural gas service. The signing parties agreed that Avista could implement tariff schedules designed to increase annual base electric revenue by $12.9 million (about 5.1% billed), effective January 1, 2018, and $4.5 million (about 1.7% billed), effective January 1, 2019. Natural gas base revenue would increase by $1.2 million (about 1.9% billed), effective January 1, 2018, and $ 1.1 million (about 1.8% billed), effective January 1, 2019. *See* Settlement and Stipulation (Settlement) at 3 (filed on October 20, 2017).

The parties also agreed to a 9.5% return on equity and a 50.0% common equity ratio. *Id.* at 4. Under the terms of the Settlement, Avista's capital structure and resulting rate of return would be:

Component	Capital Structure	Cost	Rate of Return
Debt	50%	5.72%	2.86%
Common Equity	50%	9.50%	4.75%
Total	100%		7.61%

Id.

The signing parties also agreed the Company would not file an electric or natural gas general rate case to increase base rates before May 31, 2019, and any such rates would not go into effect before January 1, 2020. *Id.* at 3. This stay-out provision excludes annual filings for power cost adjustments, fixed cost adjustments, purchased gas adjustments, and other miscellaneous annual filings. *Id.* Avista also agreed to abstain from requesting deferred accounting or to create regulatory assets during the two-year stay-out period, except in extraordinary circumstances. *See id.* at 3.

The Settlement includes several other provisions, including provisions about further studying cost of service issues and convening a working group to consider funding increases for the Low-Income Weatherization and Energy Conservation Education Programs. *See id.* at 12-18. Specifically, if interested parties agree on funding increases, the Company will make any necessary filing(s) with the Commission by December 31, 2017. *Id.* at 15. The Company also agreed to work with interested parties on rules for natural gas service and natural gas meter placement, and on implementing service quality measures for Idaho customers. *See id.* at 15-16.

The Settlement would cause the following changes to Avista's base rates for electric and natural gas service (shown by type of service and effective date):

Resulting Percentage Increase by Electric Service Schedule

Effective January 1, 2018:

Rate Schedule	Increase in Base Rates	Increase in Billing Rates
Residential Schedule 1	5.7%	5.9%
General Service Schedules 11/12	5.0%	5.2%
Large General Service Schedules 21/22	5.4%	5.7%
Extra Large General Service Schedule 25	3.9%	4.7%
Clearwater Paper Schedule 25P	3.9%	4.8%
Pumping Service Schedules 31/32	5.9%	6.1%
Street & Area Lights Schedules 41-48	5.2%	5.1%
Overall	**5.2%**	**5.6%**

Effective Janurary 1, 2019:

Rate Schedule	Increase in Base Rates	Increase in Billing Rates
Residential Schedule 1	1.9%	2.3%
General Service Schedules 11/12	1.7%	2.1%
Large General Service Schedules 21/22	1.8%	2.3%
Extra Large General Service Schedule 25	1.3%	2.2%
Clearwater Paper Schedule 25P	1.3%	2.2%
Pumping Service Schedules 31/32	2.0%	2.4%
Street & Area Lights Schedules 41-48	1.8%	1.9%
Overall	**1.8%**	**2.3%**

Resulting Percentage Increase by Natural Gas Service Schedule

Effective January 1, 2018:

Rate Schedule	Increase in Base Rates	Increase in Billing Rates
General Service Schedule 101	3.2%	2.2%
Large General Service Schedules 111/112	1.4%	0.7%
Interruptible Service Schedules 131/132	0.0%	0.0%
Transportation Service Schedule 146	3.0%	3.0%
Special Contracts Schedule 148	0.0%	0.0%
Overall	**2.9%**	**1.9%**

Effective January 1, 2019:

Rate Schedule	Increase in Base Rates	Increase in Billing Rates
General Service Schedule 101	3.0%	2.1%
Large General Service Schedules 111/112	1.3%	0.7%
Interruptible Service Schedules 131/132	0.0%	0.0%
Transportation Service Schedule 146	2.7%	2.7%
Special Contracts Schedule 148	0.0%	0.0%
Overall	**2.7%**	**1.8%**

Id. at 13-14.

COMMENTS AND TESTIMONY OF PARTIES

Commission Staff, CAPAI, and the Company filed testimony supporting the Settlement. ICL and Sierra Club filed reply testimony in opposition, Avista filed rebuttal testimony, and ICL, Sierra Club and Avista filed post-hearing briefs.

I. Testimony in Support of the Settlement

A. The Company

The Company testified the Settlement is in the public interest and is a fair, just and reasonable compromise of the parties' positions. Andrews Direct at 9. The Company noted that the Settlement is "the end result of extensive audit work conducted through the discovery process, including various on-site audit visits by Commission Staff, and hard bargaining" by the settling parties. *Id.* (footnote omitted).

Company witness Andrews explained the Settlement is in the public interest. *Id.* at 10. It is the product of the give-and-take of negotiation that produced a just and reasonable result. *Id.* It is supported by evidence demonstrating the need for rate adjustments to recover necessary expenditures and investment not offset by a growth in sales margins. *Id.* The Settlement enjoys broad-based support from a variety of constituencies represented in this case. *Id.* Finally, it provides base rate certainty over the next two years. *Id.*

In sum, the Settlement strikes a reasonable balance between the interests of the Company and its customers, including low-income customers, and therefore represents a reasonable compromise among differing interests and points of view. *Id.* at 27.

B. CAPAI

CAPAI unconditionally supported and joined in the Settlement, believing it to be in the interests of Avista's customers. *See* Zamora Direct at 4-5. In particular, CAPAI supported the

formation of a working group to consider funding increases for the Low-Income Weatherization and Energy Conservation Education Programs administered by local Community Action Partnership agencies. *Id.* at 7-8. CAPAI supported an increase in funding and stated that the program "not only provides benefits to low-income Avista customers, but to the general body of ratepayers." *Id.* at 8. CAPAI hoped the working group would be able to answer any outstanding questions necessary for parties to agree to an increase. *Id.*

C. Staff

Staff supported the Settlement. Lobb Direct at 2. In preparing for the case, Staff audited the Application and identified adjustments it would recommend in four general categories: 1) rate of return; 2) capital investment and operations and maintenance expenses; 3) salaries; and 4) miscellaneous test year expenses. *Id.* at 8-10.

The Settlement specifies a return of 9.5%, while in the Application, the Company proposed a return on common equity of 9.9%. *Id.* at 4, 13-14. Staff reasoned that the agreed-upon lower return is consistent with the return on equity of similar Northwest utilities and allows Avista to "maintain its financial viability so it might attract new capital from the market to fund new capital investments and refinance maturing debt issuances." *Id.* at 14.

Regarding the Settlement's revenue requirement increase in 2018, Staff believed the Settlement represents a "reasonable compromise of adjustments that may or may not have been accepted [if the matter went to] hearing." *Id.* at 15. Staff supported the Settlement's revenue requirement increase in 2019 because the components of the increase are relatively known and measurable. *Id.* at 16. Further, the increases are included in rate base not for the whole year, but only part of the year based on when the projects came online. *Id.* at 17. Staff also testified in support of other components of the Settlement. *Id.* at 18-24.

Further, Staff believed that the rate case stay-out provision "has real value to customers by prohibiting Company requests for regulatory assets or expense deferrals" during the stay-out period, which ensures base rates will not increase after the stay-out period ends due to costs incurred (and deferred) during the two-year rate plan. *Id.* at 16.

In sum, based on its investigation and analysis, Staff believed the proposed Settlement is fair, just, and reasonable and in the public interest, and that the Commission should approve it. *Id.* at 2.

II. Testimony in Opposition to the Settlement, Company Rebuttal, and Post-Hearing Briefs

ICL and Sierra Club ("opposing parties") oppose the Settlement. They do not oppose the agreed-upon revenue requirement, nor the proposed return on equity portions of the Settlement. The primary issue they oppose is inclusion in rate base of expenditures for the SmartBurn investments (nitrous oxide (NOx) emissions controls) at Colstrip Units 3 and 4, and other Colstrip-related issues. The Company testified in rebuttal. ICL, Sierra Club, and the Company each filed post-hearing briefs.

A. ICL's Testimony and Post-Hearing Brief

ICL opposed the Settlement because it "inappropriately allows Avista to collect from Idahoans the cost of SmartBurn projects at Colstrip," which ICL concluded are not legally required, not economically beneficial to Idahoans, and not effective at improving air quality. Otto Direct at 4-5. ICL believed the SmartBurn projects were not required by the Regional Haze Rule under the Clean Air Act or Montana's Implementation Plan. *Id.* at 5-9. ICL also referred to the Sierra Club's testimony in asserting that the SmartBurn projects are unlikely to optimize any future selective catalytic reduction (SCR) controls that might be required, and in asserting that the SmartBurn projects are not currently meaningfully reducing NOx emissions. *Id.* at 8-10. ICL also opposed the two-year stay-out provision, believing it appropriate to adjust base rates to reflect the results of the upcoming depreciation study and to reflect any costs or benefits from HydroOne's acquisition of Avista. *Id.* at 3-4.

ICL supported certain Settlement provisions, including the increased fixed charges and the collaboration to consider funding increases for low-income weatherization. *Id.* at 2-3. ICL also strongly supported exploration of service quality and performance metrics. *Id.* at 3. ICL took no position on other provisions. *Id.* at 2.

ICL acknowledged that the Settlement's revenue requirement "is the product of compromise" and that "any adjustment necessitates recalculating rates." *Id.* at 10. Instead of adjusting the revenue requirement, ICL recommended the Commission "find the SmartBurn projects imprudent and remove the cost from Avista's rate base going forward." *Id.* ICL also recommended Avista be required to "provide transparent and complete analysis for any future capital spending at Colstrip" and "adopt a more rigorous approach to reviewing and challenging Colstrip projects proposed by the plant operator Talen." *Id.* at 10-11. ICL suggested the

Commission apply the above recommendations as conditions on approval of the Settlement under Rule 276. *Id.* at 11.

According to ICL, the "decision to install SmartBurn was based on speculation regarding future legal obligations," and not on any legal requirement, when the decision was made around 2012 through to the actual installation in 2016 and 2017. ICL Br. at 4-5. ICL argued that Avista has not established that the projects were necessary to meet a legal obligation or provide reliable service, nor has it established that the projects were the least-cost, least-risk alternative to reduce environmental effects and allow reliable service to continue. *Id.* at 7.

B. Sierra Club's Testimony and Post-Hearing Brief

Sierra Club asserted the Settlement is not in the public interest because it fails to remove from rate base, capital spending (on SmartBurn) that was unnecessary and imprudent. Hausman Direct at 3, 6. Sierra Club recommended the Commission either reject the Settlement or condition its approval on acceptance, per Rule 276, of the following:

(1) removal of $3,040,933 from rate base going forward, associated with the installation of SmartBurn equipment on Units 3 and 4[1];

(2) direction that Avista adopt and exercise more rigorous review and approval procedures for future capital expenditures at Colstrip Units 3 and 4;

(3) if the Settlement is rejected, that the Commission hold this case open and consolidate it with Avista's next depreciation filing (which should include updated end-of-life assumptions for Units 3 and 4 in this proceeding); and

(4) if the Commission accepts the Settlement, that the Commission clarify that nothing in this proceeding precludes further adjustments to rates pursuant to Avista's upcoming depreciation filing.

Id. at 4-5, 47. Sierra Club acknowledged its recommended changes to rate base would normally flow through to the revenue requirement, but stated it is not recommending a change to the revenue requirement or rates in this proceeding. *Id.* at 5. Sierra Club recognized the revenue requirement in the Settlement represents a compromise among the parties, and the majority of the issues in the Settlement "have nothing to do with Colstrip." *Id.*

Sierra Club asserted the Clean Air Act's Regional Haze Program did not require installation of SmartBurn for control of NOx, nor did any other state or federal requirement. *Id.* at 12-19. Sierra Club argued that installing SmartBurn does not negate the possible need to

[1] In rebuttal, Avista provided a corrected cost of Idaho's share of the projects on both units of $1,044,000. *See* Andrews Rebuttal at 7.

install SCR, and even if SmartBurn is a useful component of future SCR equipment, installing it up to a decade early was not prudent. *Id.* at 20-26. According to Sierra Club, SmartBurn has resulted in only a very small reduction in the emissions rate. *Id.* at 22-23. Sierra Club argued Avista's review of the SmartBurn projects, prior to approval, was inadequate. *Id.* at 28-31. Avista should have identified its concerns regarding the project and raised them with the other Colstrip owners, even if Avista is unable by itself to veto a project. *Id.* at 30-31.

Sierra Club noted it cost more to install SmartBurn on Unit 4 in 2016 than to install SmartBurn on Unit 3 in 2017, and questioned whether the test year for Avista's 2016 rate case, Case No. AVU-E-16-03, improperly included some of the Unit 3 project costs with the Unit 4 project costs. *Id.* at 32-33. Sierra Club argued the Commission can and should remove the costs of SmartBurn on both units going forward (but not change existing rates). *Id.* at 33-34. Specifically, Sierra Club argued that Case No. AVU-E-16-03 settled "without a direct or implicit finding of fact or law regarding the prudence of capital expenditures at Colstrip Unit 4," and the Commission "would therefore not be overturning any agreed-upon prudence finding related to SmartBurn on Unit 4" if it removed those costs from rate base. *Id.* at 34; Technical Hearing Tr. at 38-41.

Finally, Sierra Club objected to the Company's assumptions that the depreciable lives of Colstrip Units 3 and 4 end in 2034 and 2036 respectively. Hausman Direct at 35, 38. Sierra Club submitted that both Colstrip units will likely go out of service by 2025, and the Company should accelerate its end-of-life assumptions to at least 2027 for both units.[2] *Id.* at 42. Sierra Club asserted that if the Company is allowed to assume such "an unrealistically long lifetime for depreciation purposes, future ratepayers or utility shareholders will have to make up the shortfall for a resource from which they are receiving no benefit." *Id.* at 45.

In its post-hearing brief, Sierra Club reiterated that Avista did not have to install SmartBurn to meet a regulatory compliance deadline, and if installing it was discretionary, Avista did not provide an adequate record on which to determine prudency.[3] Sierra Club Br. at 1. According to Sierra Club, SmartBurn is unlikely to materially affect the requirement or timing to install SCR. *Id.* at 2. Even if SmartBurn would reduce the costs of SCR—and Sierra

[2] Sierra Club asserted this would match assumptions made by Colstrip co-owners. Hausman Direct at 43.

[3] Avista did not provide any cost/benefit or other analysis showing how much money would be saved; did not discuss the risks and rewards of installation vis-a-vis the Regional Haze Rule, and did not provide analysis of its decision to proceed with SmartBurn in 2016/2017 rather than waiting to see what the compliance obligations would actually be. Sierra Club Br. at 2.

Club purports that there is no evidence in the record to support that assertion—those savings will not materialize if Colstrip is shut down before SCR is installed. *Id.* at 3. Sierra Club argued the Commission should not require Idaho customers to pay for the Company's SmartBurn investments without evidence supporting its decision to make them, and when evidence from the Sierra Club and ICL shows the decision was imprudent. *Id.*

Sierra Club also clarified the Regional Haze Rule and what factors Montana will consider when looking at a long-term emissions strategy for Colstrip Units 3 and 4. *Id.* at 3-4. Specifically, Sierra Club argued that having overall emissions within the "glide path" discussed in testimony (*see* Technical Hearing Tr. at 58-59) is not enough—states must still consider, for specific plants, four factors required by the Regional Haze Rule.[4] *Id.* at 4. According to Sierra Club, Montana must apply the four factors to determine whether it is reasonable to install emissions controls like SCR on Colstrip Units 3 and 4. *Id.* Previous installation of SmartBurn on those units will not affect the analysis. *Id.*

Sierra Club also indicated Colstrip emissions data are reported to the Environmental Protection Agency and are publicly available. *Id.* at 5. Sierra Club's witness, Dr. Hausman, accessed the data and summarized it in his testimony. *Id.* Sierra Club recommended the Commission rely on the data of record that was subjected to rebuttal testimony and cross-examination, rather than on Avista witness Thackston's summary of the data at the hearing. *Id.*

C. Avista Rebuttal Testimony and Post-Hearing Brief

Avista explained Idaho's share of the SmartBurn project on Unit 4 in 2016 is actually $685,000 and Idaho's share of the project on Unit 3 in 2017 is actually $359,000, for a total of $1,044,000. Andrews Rebuttal at 7. Avista explained it cost more to install SmartBurn on Unit 4 in 2016 than Unit 3 in 2017 because the Unit 4 cost included design work that was compatible with both units (thus, the Unit 3 cost in 2017 did not include that work). *Id.* at n.9; Technical Hearing Tr. at 29-30.

Avista disagreed with Sierra Club and ICL's recommendation to remove the SmartBurn projects' cost from rate base. Andrews Rebuttal at 4. According to Avista, the projects were installed as the "last available, low cost, NOx pollution prevention emission control prior to the expected installation of a very expensive emission post-combustion control technology [SCR] in

[4] The four factors are (1) the costs of compliance; (2) the time necessary for compliance; (3) the energy and non-air quality environmental impacts of compliance; and (4) the remaining useful life of any potentially affected sources. *Id.* at 4.

future years." *Id.* at 4-5. Avista described that in the "2012 decision timeframe, SCRs were being ordered in many surrounding States" and Sierra Club was litigating against Colstrip to require SCR. *Id.* at 5. At the time, Avista believed SCR could be required in the units in the 2020s. Thackston Rebuttal at 14. The Colstrip owners thus installed SmartBurn "in an effort to manage a future regulatory obligation in a strategic and cost-effective manner." Andrews Rebuttal at 5, Thackston Rebuttal at 8. Avista explained SmartBurn was expected to "reduce the first increment of NOx" in the most cost-effective way, would be an integral part of any future control technology, and would provide several years of boiler data to be used in the eventual design and installation of SCR or other control technology. Thackston Rebuttal at 10-11. Avista also explained it reduced implementation costs by installing SmartBurn on the units during scheduled outages. *Id.* at 11.

Avista asserted the SmartBurn installation has met the guaranteed contractual emission rate reduction and has improved NOx removal by 6%. *Id.* at 12. Avista questioned why Sierra Club objected to the SmartBurn investment in this case, when it did not raise concerns about the SmartBurn investment in Puget Sound Energy's recent general rate case before the Washington Utilities and Transportation Commission. *Id.* at 12-13. Puget Sound Energy has a larger ownership share of Colstrip Units 3 and 4 and thus a larger associated cost for SmartBurn. *Id.*

According to Avista, the SmartBurn projects were prudent and moved into service in 2016 and 2017, thereby benefiting customers, and no party objected to including the investment on Unit 4 in rate base in Case No. AVU-E-16-03. Andrews Rebuttal at 5. Avista asserted Sierra Club's and ICL's recommendations to remove the cost of Unit 4 from rate base going forward, after it was already included in Case No. AVU-E-16-03, amount to a collateral attack on a prior Commission determination approving rates as just and reasonable. *Id.* at 6. Avista argued it provided the same investment-related information to parties in this case and in the previous case. Technical Hearing Tr. at 39-40.

In addition, Avista responded to Sierra Club's assertions regarding its oversight of Colstrip capital decisions. Avista "actively exercises its ownership rights" and reviews projects individually and as a group with the other Colstrip owners. Thackston Rebuttal at 15. The owners review plant operations and projects at least every other month. *Id.* Avista also explained that the owners, their customers, and the plant operator, Talen, all have the same financial interests to keep costs low while meeting all regulations. *Id.* at 16. Avista and the

other owners "strategically manage the risk to both our customers and shareholders for the known and possible regulatory obligations at both the federal and state levels, while managing reliability and cost of all of our generating resources." *Id.*

Finally, the Company explained it expects to file its depreciation study with the Commission in the first quarter of 2018, when the parties can review the study and the Commission can determine the appropriate accounting treatment for the changes. Andrews Rebuttal at 8-9. Avista explained that based on "preliminary discussions with the consultant performing the Company's study," the depreciable lives for the units in Avista's study will not change from what is currently used (2034-2036). *Id.* at 9. Avista asserted the regulatory filing for the depreciation study case is the appropriate place to raise concerns about the depreciation schedule for Colstrip. *Id.* at 9-10. In the technical hearing, Avista witness Andrews clarified that Avista would expect changes in depreciation rates—not retail rates—in 2018 due to the new depreciation study. Technical Hearing Tr. at 49.

In its post-hearing brief, Avista asserted the only contested issue in this case is the suggestion that SmartBurn investment should be disallowed going forward. Avista Br. at 3. Avista asserted the depreciation rates for Colstrip are not at issue here, as no depreciation studies are before the Commission. *Id.* Avista reiterated that, as to the investment in Unit 4, Sierra Club is seeking to revisit a prior Commission determination that rates were just and reasonable (in Order No. 33682, Case No. AVU-E-16-03). *Id.* at 4. In both the 2016 case and this case, the Company produced information about SmartBurn through discovery. *Id.* No party objected to the investment in the 2016 case and the same rationale for including the investment also supported the investment in Unit 3. *Id.*

Avista asserted that, if Sierra Club and ICL are suggesting it write off the two SmartBurn projects, then Sierra Club and ICL are collaterally attacking Order No. 33682, which approved Avista's 2016 rate case settlement, and are directly attacking the Settlement and revenue requirement here, which Sierra Club and ICL say they do not want to disturb. *Id.* Avista indicated it would not have joined the Settlement if it had to expense a $1 million write-off for SmartBurn, which "most certainly" would re-open discussions around the revenue requirement in the Settlement. *Id.* at 5.

Avista thus requested the Commission approve the Settlement in its entirety and reject any suggested disallowances by Sierra Club and ICL.

PUBLIC COMMENTS AND TESTIMONY

Sixteen customers testified at the customer hearing on November 30, 2017. All opposed Avista's use of coal or rate increases due to spending on coal. Several also advocated for more transparency regarding Avista's decision-making on Colstrip.

In addition, the Commission received over 60 customer comments regarding the Application or Settlement.[5] The vast majority of these were from residential customers who strongly oppose any rate increase. Many of the commenters indicated they are retired or on fixed incomes and are unable to afford a rate increase. Several customers objected to executive pay and Company spending on advertising and sponsorships. Several customers opposed Avista's use of coal or investments in Colstrip. Finally, a few customers expressed concern relating to the pending merger of Avista and HydroOne.

COMMISSION FINDINGS AND DECISION

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-502 and 61-503. The Commission has the express statutory authority to investigate rates, charges, rules, regulations, practices, and contracts of public utilities and to determine whether they are just, reasonable, preferential or discriminatory, or in violation of any provision of law, and may fix the same by Order. *Idaho Code* §§ 61-502 and 61-503.

Under Rule 276 of the Commission's Rules of Procedure, a settlement proposal is not binding, but must be reviewed and approved by the Commission as "fair, just, and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy." IDAPA 31.01.01.276. The Commission "will independently review any settlement proposed to it to determine whether the settlement is fair, just and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy." *Id.*

The Commission has reviewed the Application, Settlement, testimony, and comments. The testimony at the technical hearing and at the public hearing, and the public comments, greatly contributed to our understanding of the issues. We appreciate the time taken by the parties and members of the public to provide testimony and comments.

[5] One customer opposed the Company's use of radio-frequency "smart meters," citing to health concerns. After reviewing those statements, the Commission treated those comments as a formal complaint, opened an independent docket, and issued a summons to the Company. *See* Case No. AVU-E-17-11.

Based on our review of the record, we find that the Settlement is fair, just and reasonable and we approve it. Under the terms of the Settlement, Avista will implement tariff schedules designed to increase annual base electric revenue by $12.9 million (about 5.1% billed), effective January 1, 2018, and $4.5 million (about 1.7% billed), effective January 1, 2019. Natural gas base revenue would increase by $1.2 million (about 1.9% billed), effective January 1, 2018, and $ 1.1 million (about 1.8% billed), effective January 1, 2019. These rate changes result in significantly less additional revenue than Avista originally sought.

The Settlement resulted from hard bargaining and eventual agreement by a diverse group of Avista's customers and stakeholders. It includes provisions that will benefit customers—including the stay-out provision, consideration of funding increases for low-income weatherization and conservation education, and consideration of service rules. In particular, we find that the stay-out provision does not preclude Avista from applying to reduce base rates if circumstances warrant. As such, we find that the Settlement is in the public interest and is fair, just and reasonable.

ICL and Sierra Club ask us to reduce rate base by the amount Avista spent on the SmartBurn projects at Colstrip, but not to disturb the revenue requirement agreed to in the Settlement. We find their arguments unpersuasive. Based on the record before us, we conclude that Avista's investments in the SmartBurn projects were prudent when made. We find that the SmartBurn equipment, while not required, was a cost-effective way to incrementally reduce NOx emissions now, thereby likely reducing the size and cost of future emissions controls. *See id.* at 10-11. The record also demonstrates that installing SmartBurn now would allow Avista to collect boiler data for use in designing future emissions controls. *See id.*

Further, the Company's witness testified that the investment in SmartBurn was reasonable even if the units are shut down early. Technical Hearing Tr. at 74. The SmartBurn equipment has reduced NOx emissions consistent with the manufacturer's expectations. *See id.* at 72-73; Thackston Rebuttal at 12. Based on the evidence in the record, we conclude that the investments were prudent and reasonably contemplated to reduce future investments. As a result, we conclude the investments should remain in rate base, consistent with the Settlement. We find ICL's and Sierra Club's arguments to the contrary unpersuasive. Sierra Club's concerns are somewhat belied by the evidence that Sierra Club did not oppose the SmartBurn investments in Puget Sound Energy's recent rate case before the Washington Utilities and Transportation

Commission. *See* Thackston Rebuttal at 12-13. Puget Sound Energy owns a larger share of Colstrip Units 3 and 4 than Avista, and thus had a larger share of the SmartBurn costs. *Id.*

We also find that Avista's upcoming depreciation study filing is the appropriate forum for discussions of the depreciable lives for Colstrip Units 3 and 4. Having that discussion in the depreciation study filing will ensure that all interested parties have adequate notice and opportunity to review it.

ICL, Sierra Club, and members of the public raised concerns regarding the adequacy and transparency of Avista's analysis and decisions regarding Colstrip, and about the environmental and other effects of coal-fired power plants. We encourage all the utilities we regulate to be inclusive and transparent in their review and decision-making processes. We expect Avista to be cognizant of this as the Company moves forward in making decisions regarding Colstrip. Regardless, we find the investments in SmartBurn to date to be reasonable and in the best interest of Avista's customers.

INTERVENOR FUNDING

On December 22, 2017, CAPAI timely filed a Petition for Intervenor Funding, seeking an award of $9,387.00. *See* CAPAI's Petition for Intervenor Funding. Intervenor funding is available under *Idaho Code* § 61-617A, which declares 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 statute empowers the Commission to 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. *Id.* The Commission must consider the following factors when deciding whether to award intervenor funding:

(a) that the participation of the intervenor has materially contributed to the decision rendered by the Commission;

(b) that the costs of intervention are reasonable in amount and would be a significant financial hardship for the intervenor;

(c) that the recommendation made by the intervenor differed materially from the testimony and exhibits of the Commission Staff; and

(d) that the testimony and participation of the intervenor addressed issues of concern to the general body of users or consumers.

Idaho Code § 61-617A(2). To obtain an intervenor funding award, an intervenor must comply with Commission Rules of Procedure 161 through 165. Rule 162 provides the form and content for the petition. IDAPA 31.01.01.162.

We find that CAPAI's Petition satisfies the intervenor funding requirements. CAPAI intervened and participated in all aspects of the proceeding, with a focus on low-income customers. CAPAI's Petition shows that it worked closely with Avista and Staff throughout the case. CAPAI noted its role in the Company agreeing to meet with CAPAI and other interested parties to discuss the Company's Low Income Weatherization Assistance and Low Income Conservation Education programs with the goal of increasing the programs' funding (a provision addressing this was included in the Settlement). CAPAI describes that it continues to discuss with the Company and Staff a possible funding increase and that CAPAI hopes a resolution will be reached by the end of the year.

The Commission finds that CAPAI has materially contributed to the Commission's decision. CAPAI's recommendation materially differs from Staff's testimony, and CAPAI's participation addressed issues of concern to the general body of customers. Finally, we find the costs and fees incurred by CAPAI are reasonable in amount, and that CAPAI, as a non-profit organization, would suffer financial hardship if the request is not approved.

In reviewing Exhibit A of CAPAI's petition, we identified an error in the calculation of the amount requested. Specifically, Exhibit A lists a total of 57 hours of work on this case. However, in the calculation of CAPAI's attorney's expenses, Exhibit A shows that 59 hours multiplied by the attorney's hourly rate for a total expense of $8,850. There is no documentation to support an additional two hours. Therefore, we used 57 hours of work and recalculated the attorney's expenses to be $8,550.00, to be added to the other expenses shown on Exhibit A. Accordingly, we approve an award of intervenor funding to CAPAI in the amount of $9,087.00. This amount will be recovered from Avista's residential electric customers.

ORDER

IT IS HEREBY ORDERED that the terms of the Settlement agreement regarding Avista's Application in Case Nos. AVU-E-17-01 and AVU-G-17-01 is approved.

IT IS FURTHER ORDERED that the Company is authorized to implement revised tariff schedules designed to recover the additional annual electric and natural gas revenue from Idaho customers consistent with the terms of the Settlement, with revised rates effective January 1,

2018, and January 1, 2019 as set forth in the Settlement. The Company is directed to file the appropriate tariff schedules with the Commission before those dates.

IT IS FURTHER ORDERED that CAPAI's Petition for Intervenor Funding is granted in the amount of $9,087.00 to be recovered from Avista's residential electric customers.

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 with regard to any matter decided in 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.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 28th day of December 2017.

PAUL KJELLANDER, PRESIDENT

KRISTINE RAPER, COMMISSIONER

ERIC ANDERSON, COMMISSIONER

ATTEST:

Diane M. Hanian
Commission Secretary

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