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2018 MAY 11 PM 2:26
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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** **COMMENTS OF THE COMMISSION STAFF RE: AVISTA CORPORATION**

The Staff of the Idaho Public Utilities Commission comments as follows on the Stipulation and Settlement and Motion for Approval of Stipulation and Use of Modified Procedure relating to Avista Corporation dba Avista Utilities ("Avista" or the "Company").

BACKGROUND

On May 1, 2018, Avista filed a Stipulation and Settlement (the "Settlement Stipulation" or "Stipulation") and a Motion for Approval of Stipulation and Modified Procedure. 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. If approved, the Settlement Stipulation would return to customers 100% of tax benefits the Company has realized under a new tax law that decreased the Company's corporate tax rate and expenses.

The federal Tax Cuts and Jobs Act of 2017 ("TCJA") decreased the federal corporate tax rate from 35% to 21%, effective January 1, 2018. In response, the Commission opened this multi-utility case to investigate whether to adjust the rates of certain utilities that benefit from the reduced tax rate and pass that benefit through to customers. *See* Order No. 33965. The Commission directed all affected utilities—including Avista—to immediately account for the tax benefits as a regulatory liability, and to report on how the tax changes affected them, and how resulting benefits could be passed on to customers. *See id.* at 1-2. Avista filed its report on March 29, 2018.

A settlement conference occurred at the Commission offices on April 16, 2018. Representatives of Avista, Clearwater Paper Corporation, Idaho Forest Group, LLC, Idaho Conservation League, and Commission Staff (collectively, the "Parties") attended the meeting. Through discussions and compromise, the Parties agreed to the proposed Settlement Stipulation.

STAFF REVIEW

Staff has reviewed the Settlement Stipulation and believes it fairly compromises the Parties' positions and is reasonable and in the public interest. Staff thus recommends that the Commission approve it as written. The Stipulation, if approved, would return to customers 100% of tax benefits the Company has realized under the new federal tax law.

Summary of Tax Benefits

As further described below and illustrated in Table 1, the Stipulation provides for:

(1) An overall reduction (rate credit) of $13.7 million (or 5.3% overall rate reduction) for electric, and $2.6 million (or 6.1% overall rate reduction) for natural gas associated with permanent or long-term tax benefits. These rate credits will take effect on June 1, 2018 through new "Permanent Federal Income Tax Rate Credit" Tariff Schedules 72 (electric) and 172 (natural gas) and be passed back to customers until they are incorporated into base rates in a future general rate case proceeding;

(2) An Electric Temporary Tax Benefit of $11.980 million, which will be used to offset costs associated with accelerated depreciation of Colstrip Units 3 and 4, or other purposes as the Commission may approve in the depreciation case (Case No. AVU-E-18-03); and

(3) A Natural Gas Temporary Tax Benefit Reduction of $544,000 as an adjustment in the Purchased Gas Adjustment effective November 1, 2018.

Table 1: Summary of Tax Benefits from TCJA

	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)

Permanent (or Long-Term) Tax Benefits

The Parties agree that Avista will reduce its Idaho base rates by $13.74 million (5.3%) for electric service, and $2.556 million (6.1%) for natural gas service. The Company will return these amounts to customers through Tariff Schedules 72 (electric) and 172 (natural gas) until the next general rate case when the tax benefits will be incorporated into base rates. The Parties agree to spread these permanent tax benefits (rate credits) on a uniform percent of base revenue basis for both electric and natural gas. The rate credit within each service schedule will be a uniform cents per kWh (electric) and therm (natural gas) to the volumetric block rates by schedule. The monthly service charge for each schedule will remain unchanged. Staff supports this method of rate spread and rate design because it generally matches how costs are being recovered from customers.

The permanent reduction consists to two components, the tax rate change and the excess accumulated deferred federal income tax (ADFIT) amortization.

Current/Deferred Tax Rate Change

The TCJA's primary provision reduced the federal corporate tax rate from 35% to 21%, thus reducing the amount of Avista's current and deferred tax expense included in customers' rates. The tax rate change also affects the revenue conversion factor (or gross up factor). Avista's existing base rates were approved in Order No. 33953 in Case Nos. AVU-E-17-01 and

AVU-G-17-01 and went into effect on January 1, 2018, coincident with the TCJA effective date. Given Avista's existing base rates reflect new rates in effect as of January 1, 2018, to determine the benefits of the TCJA, the Parties used the recently approved general rate case data and information reviewed by all parties in that proceeding. The resulting reduction, on an Idaho revenue requirement basis, is approximately $11.1 million for electric and $2.1 million for natural gas. Staff has verified the calculation of income tax expense and the accuracy of the stipulated amounts.

Excess ADFIT

As of December 2017, deferred tax amounts had to be revalued at the lower corporate tax rate (21%), resulting in excess deferred federal income tax reserve balances. Balances associated with regulated utility operations resulted in a balance sheet reclassification from deferred tax to deferred regulatory asset or liability. This revaluation effected both plant (permanent tax benefit) and non-plant (temporary tax benefit) balances.

For plant-related excess ADFIT, the Parties agree that the Company will amortize the plant ADFIT balances (Idaho Regulatory Liability of $106.4 million electric and $20.5 million natural gas) under the Internal Revenue Service Average Rate Assumption Method ("ARAM"). In order to comply with Internal Revenue Service ("IRS") normalization rules, Avista must return plant-related excess ADFIT to customers over the remaining life of the associated plant assets. The Company estimates the ARAM for Avista results in about a 36-year amortization period. The excess ADFIT amortization permanently reduces Idaho rates by about $2.7 million for electric service, and $474,000 for natural gas service, per year. Staff verified the amortization of the excess ADFIT and believes the stipulated annual amounts fairly represent the benefit customers should receive. Because these amounts are not amortized on a straight-line basis, the amortization will vary each year. But the stipulated amounts will remain in Tariff Schedules 72 and 172 until the Company's next general rate case.

Temporary Tax Benefits

The Settlement Stipulation provides for temporary (one-time) tax benefits to Idaho customers in the amount of $11.98 million for electric service and $544,000 for natural gas service. In the Stipulation and Settlement filed on April 13, 2018 in Case Nos. AVU-E-17-09 and AVU-G-17-05 (In the Matter of the Joint Application of Hydro One Limited and Avista

Corporation for Approval of Merger Agreement), the parties agreed that the $12.0 million ***electric*** temporary tax benefit would offset costs associated with the accelerated depreciation of Colstrip Units 3 and 4 or other use as determined by the Commission at the conclusion of the Company's pending depreciation case (Case Nos. AVU-E-18-03 and AVU-G-18-02). The temporary tax benefit associated with Idaho's ***natural gas*** jurisdiction will be refunded to customers over one year when the Company files its annual Purchase Gas Adjustment, to be effective November 1, 2018. Using the temporary tax benefits to offset increased depreciation or other near-term increases provides rate stability for customers without harming the Company's cash flow. In this case, Staff supports using temporary tax benefits to offset these increased costs.

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.

Non-Plant Excess ADFIT

As discussed, balances associated with regulated utility operations resulted in the reclassification of deferred tax to a deferred regulatory liability or asset on the balance sheet. Unlike plant-related excess ADFIT, which must be amortized over the remaining life of the plant assets, non-plant excess ADFIT has no IRS normalization requirements and can be returned to customers in any manner deemed appropriate by the Commission. The non-plant-related excess ADFIT results in a $6.3 million tax benefit for Idaho electric customers and a $525,000 surcharge for Idaho natural gas customers.

Deferral of January – May 2018 Balances

In Order No. 33965, the Commission ordered utilities to "immediately account for the financial benefits from the January 1, 2018 tax rate reduction to 21%" by deferring these benefits of the TCJA into a deferred regulatory liability until the benefits are reflected in customers rates. Because the Parties propose a June 1, 2018 effective date for the TCJA-related rate decrease, the Parties agree that the regulatory liability should equal 5/12 (January through May) of the annual tax benefit of reducing the current and deferred income tax expense to 21%, as well as 5/12 of the annual amortization of the excess plant ADFIT from January 1, 2018 – May 31, 2018. This portion of the temporary benefit to Idaho customers is $5.726 million electric and $1.064 million natural gas.

State Income Tax Impact

After the TCJA passed, the Idaho Legislature passed House Bill 463 to decrease the Idaho corporate income tax rate from 7.4% to 6.925%, effective January 1, 2018. This change in Idaho State Income Tax reduces the overall benefits owed to Idaho electric customers by $48,000, and increases the benefits owed to Idaho natural gas customers by $5,000.

<u>FERC Transmission Rates</u>

The reduction in tax rates will affect Avista's Open Access Transmission Tariff (OATT) approved by the Federal Energy Regulatory Commission (FERC). When FERC resets the OATT rate accounting for the reduced federal income tax rate, it will reduce Avista's transmission revenues. The Parties agree that any change to Avista's transmission revenues and/or refund to transmission customers, because of FERC action in response to the TCJA, will be tracked at 100% through the Power Cost Adjustment until reflected in base rates in the next general rate case. Staff believes this treatment follows the Commission's intent of tracking and returning (or flowing through) all TCJA tax benefits to customers.

STAFF RECOMMENDATIONS

Staff believes the Settlement Stipulation accurately accounts for all the tax benefits the Company has or will receive under TCJA, and returns those benefits to customers in a manner consistent with IRS normalization rules and in the public interest. Staff thus recommends the Commission approve the Stipulation as filed.

Respectfully submitted this 11th day of May 2018.

Karl T. Klein
Deputy Attorney General

Technical Staff: Donn English

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 11th DAY OF MAY 2018, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF,** IN CASE NO. GNR-U-18-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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