

**Exh. CRM-2
Docket U-170970
Witness: Chris R. McGuire**

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of the Joint Application of
Hydro One Limited and Avista
Corporation for an Order Authorizing
Proposed Transaction**

DOCKET U-170970

**EXHIBIT TO
TESTIMONY OF**

Chris R. McGuire

**STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

List of Updated Terms of the Settlement

October 4, 2018

Docket U-170970 – Avista / Hydro One Merger - UPDATED TERMS

(Revised October 4, 2018)

Avista and Hydro One believe that the following modifications to certain provisions and the new Commitment 82 fully resolve the issues discussed in the September 17, 2018 meeting and in subsequent communications among parties to this docket, and the companies agree to these modifications and the parties may so represent in their testimony to be filed on October 4, 2018.

MODIFICATIONS TO COMMITMENTS 2 AND 3

2. Executive Management:

Avista will seek to retain all current executive management of Avista, subject to voluntary retirements that may occur. This commitment will not limit Avista's ability to determine its organizational structure and select and retain personnel best able to meet Avista's needs over time. The Avista board retains the ability to dismiss executive management of Avista and other Avista personnel for standard corporate reasons. ~~(subject to the approval of Hydro One Limited ("Hydro One") for any hiring, dismissal or replacement of the CEO); Any decision to hire, dismiss or replace the Chief Executive Officer of Avista shall be within the discretion of the Avista Board of Directors, and shall not require any approval of Hydro One or any of its affiliates (other than Avista), notwithstanding anything to the contrary in the merger agreement, and its exhibits and attachments, between Hydro One and Avista.~~

Avista Employee Compensation: Any decisions regarding Avista employee compensation shall be made by the Avista Board consistent with the terms of the Merger Agreement between Hydro One and Avista, and current market standards and prevailing practices of relevant U.S. electric and gas utility benchmarks. The determination of the level of any compensation (including equity awards) approved by the Avista Board with respect to any employee in accordance with the foregoing shall not be subject to change by Hydro One or the Hydro One Board.

3. Board of Directors:

After the closing of the Proposed Transaction, Avista's board will consist of nine (9) members, determined as follows: (i) two (2) directors designated by Hydro One who are executives of Hydro One or any of its subsidiaries; (ii) three (3) directors who meet the standards for "independent directors" - under section 303A.02 of the New York Stock Exchange Listed Company Manual (the "Independent Directors") and who are residents of the Pacific Northwest region, to be designated by Hydro One (collectively, the directors designated in clauses (i) and (ii) hereof, the "Hydro One Designees"), subject to the provisions of Clause 2 of Exhibit A to the Merger Agreement; (iii) three (3) directors who as of immediately prior to the closing of the Proposed Transaction¹ are members of the

Board of Directors of Avista, including the Chairman of Avista's Board of Directors (if such person is different from the Chief Executive Officer of Avista); and (iv) Avista's Chief Executive Officer (collectively, the directors designated in clauses (iii) and (iv) hereof, the "Avista Designees"). Avista and Hydro One shall consult with each other prior to the designation of any Independent Directors. The initial Chairman of Avista's post-closing Board of Directors shall be the Chief Executive Officer of Avista as of the time immediately prior to closing for a one year term. If any Avista Designee resigns, retires or otherwise ceases to serve as a director of Avista for any reason, the remaining Avista Designees shall have the sole right to nominate a replacement director to fill such vacancy, and such person shall thereafter become an Avista Designee.

The term "Pacific Northwest region" means the Pacific Northwest states in which Avista serves retail electric or natural gas customers, currently Alaska, Idaho, Montana, Oregon and Washington;

MODIFICATIONS TO COMMITMENTS 30, 31 and 33 (INCORPORATING CONCEPTS FROM OREGON COMMITMENTS 110-112)

Commitment 30 – Commission Enforcement of Commitments

Hydro One and its subsidiaries, including Avista, understand and agree that the Commission has authority to enforce these commitments in accordance with their terms. If there is a violation of the terms of these commitments, then the offending party may, at the discretion of the Commission, have a period of thirty (30) calendar days to cure such violation. The scope of this commitment includes the authority of the Commission to compel the attendance of witnesses from Olympus Holding Corp. and its affiliates, including Hydro One, with pertinent information on matters affecting Avista. Hydro One, Olympus Holding Corp. and its subsidiaries waive their rights to interpose any legal objection they might otherwise have to the Commission's jurisdiction to require the appearance of any such witnesses.

Commitment 31 – Submittal to State Court Jurisdiction For Enforcement of Commission Orders

Hydro One, on behalf of itself and its subsidiaries in the post-close corporate structure between Hydro One and Avista (as those companies in between may change over time), and Avista ~~Olympus Holding Corp., on its own and its subsidiaries' behalf, including Avista's,~~ will file with the Commission prior to closing the Proposed Transaction an affidavit affirming that they ~~it~~ will submit to the jurisdiction of ~~the relevant state~~ Washington courts for enforcement of the

Commission's orders adopting these commitments and subsequent orders affecting Avista, and will agree to the application of Washington law with respect to such matters.

Commitment 33 – Commitments Binding

Hydro One, its subsidiaries in the post-close corporate structure between Hydro One and Avista (as those companies in between may change over time) ~~Olympus Holding Corp. and its subsidiaries, including and~~ Avista, acknowledge that the commitments being made by them are fully binding ~~only~~ upon them and their successors in interest and upon their affiliates, ~~except~~ where specifically noted, ~~and their successors in interest.~~ Hydro One and Avista are not requesting in this proceeding a determination of the prudence, just and reasonable character, rate or ratemaking treatment, or public interest of the investments, expenditures or actions referenced in the commitments, and the parties in appropriate proceedings may take such positions regarding the prudence, just and reasonable character, rate or ratemaking treatment, or public interest of the investments, expenditures or actions as they deem appropriate.

If Hydro One or any other entity in the chain of Avista's ownership determines that Avista or any other entity has failed to comply with an applicable Commitment, the entity making such determinations shall take all appropriate actions to achieve compliance with the Commitment.

MODIFICATION TO COMMITMENTS 67 AND 70 (TIMING OF FUNDING FOR CERTAIN LOW-INCOME PROGRAMS).

The following language will be added to Commitments 67¹ and 70². For Commitment 70, add the words "energy efficiency" before "Advisory Committee".

¹ Commitment 67 provides, "Funding for Low-Income Participation in New Renewables: Hydro One will arrange funding totaling \$5,000,000 over a period of up to ten (10) years for the purpose of funding one or more renewable generation project(s) to benefit Avista's low-income customers. The types of projects that may be funded include, but are not limited to, on site renewable energy installations such as photovoltaic equipment, community solar projects, and other renewable energy equipment, in which the benefits will be directed to Avista's low-income customers. The funds will be paid into a separate account to be managed and disbursed by Avista at the direction of its Energy Assistance Advisory Group (which includes third-party advisors such as The Energy Project, Public Counsel, Commission Staff, and low-income agencies as well as Avista). The Energy Assistance Advisory Group will determine the project selection (which includes design and implementation). Eligible costs may include project construction, consulting costs, and reasonable administration costs required for the coordination of renewable energy projects.

² Commitment 70 provides,

Low Income Weatherization: Avista commits and Hydro One agrees that Avista commits, to continue Avista's existing weatherization programs, described in Schedules 90 and 190.

Funding will be made available for eligible projects as they are identified and approved by the Advisory Committee throughout the 10 year timeframe of the commitments; provided, however, that funding will be made available, at a minimum, on a pro rata basis over the period (i.e., one-tenth of the total each year), but need not occur any more frequently than on a pro rata basis over the 10 year period. Funding commitments may be made at any time during the 10 year period.

For example, if no funding is approved by the Advisory Committee until the third year of the 10-year period, up to [\$1.5 million for Commitment 67 / \$1.2 million for Commitment 70] must be made available in the third year. Nothing in this provision shall be interpreted to preclude payment of funding in installments over time for large projects that are approved early in the 10-year period. For example, a \$5 million project could be approved in Year 3 [under Commitment 67] with \$1.5 million due in Year 3 and \$0.5 million per year due each year for the next seven years, assuming no funding had been made available under Commitment 67 in Year 1 or Year 2.

NEW COMMITMENT 82

In the event of the enactment or adoption of any legislation, rule, policy, or directive by government at any level or by any governmental entity or official in Canada (a "Legislative Action") that affects Avista's operations because of Avista's corporate relationship with Hydro One, or affects Hydro One's compliance with any commitment in this stipulation, any of the parties to this proceeding may petition the Commission at any time for a re-hearing that re-opens the record in Docket U-170970 to consider whether the Commission should change its final order, and neither Hydro One nor any of its subsidiaries, including Avista, will oppose initiation of such a proceeding. Hydro One will report to the Commission any such Legislative Action in Canada that, in Hydro One's reasonable judgement, affects Avista's operations because of Avista's corporate relationship with Hydro One, or affects Hydro One's compliance with any commitment in this stipulation, as soon as practicable after it is publicly announced as being effective by the government or governmental entity or official. Nothing in this Commitment 82 shall be interpreted to limit the positions or arguments that Avista or Hydro One may take or advance in any such proceeding, including the right to argue that a

Hydro One will arrange funding of \$4,000,000 over 10 years to fund low income weatherization in Washington. This funding is over and above existing funding for low-income weatherization.

For both existing funding and the new Hydro One funding, 20 percent of the funds may be used for "direct" project coordination costs and 10 percent for "indirect" general overhead costs of administering the weatherization program.

petition presents insufficient grounds or evidence. Prior to filing a petition with the Commission under this Commitment 82, a party must provide Hydro One and Avista at least 30 days advance written notice and an opportunity to meet and confer about resolutions other than filing with the Commission under this commitment. Nothing in this commitment is intended to restrict the rights of the parties to petition the Commission concerning its order(s) in this docket, or to limit the authority of the Commission.

MODIFICATION TO DELEGATION OF AUTHORITY, CLAUSE 2

Shareholder shall have the unfettered right to designate, remove and replace the Shareholder Designees as directors of the Surviving Corporation with or without cause or notice at its sole discretion, subject to the requirement that (i) two (2) of such directors are executives of Parent or any of its Subsidiaries and (ii) three (3) of such directors are Independent Directors who are residents of the Pacific Northwest Region, while such requirement is in effect (subject in the case of clause (ii) hereof to Shareholder determining, in good faith, that it is not able to appoint an Independent Director who is a resident of the Pacific Northwest Region in a timely manner, in which case Shareholder may replace any such director with any person, including an employee or executive of Parent or any of its Subsidiaries, on an interim basis, not exceeding six months, provided that Shareholder Designees who are employees or executives of Parent or any of its Subsidiaries shall in no case constitute a majority of the directors of the Surviving Corporation, after which time Shareholder shall replace any such interim director with an Independent Director who is a resident of the Pacific Northwest Region); If, at any time a circumstance arises, and during the pendency of any such circumstance, whereby the Province of Ontario ("Ontario") exercises its rights as a shareholder of Parent, uses legislative authority or acts in any other manner whatsoever, that results, or would result, in Ontario appointing nominees to the board of directors of Parent that constitute, or would constitute a majority of the directors of such board, then Parent's authority to replace an Independent Director with an employee or executive on an interim basis is suspended for the pendency of such circumstance.