BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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| WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,  Complainant,  v.  AVISTA CORPORATION, d/b/a AVISTA UTILITIES,  Respondent.  WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,  Complainant,  v.  AVISTA CORPORATION d/b/a AVISTA UTILITIES,  Respondent. | DOCKETS UE-120436/UG-120437  (*consolidated)*  DOCKETS UE-110876/UG-110877  *(consolidated)*  COMMISSION STAFF OBJECTION TO PUBLIC COUNSEL’S RESPONSE TO BENCH REQUEST 9 |

1. Commission Staff objects to Public Counsel’s response to Bench Request 9, except for these words in the second sentence of the response: “Public Counsel was not able to find an academic study which focuses solely on the ISS peer group, as requested by the Bench Request.” The rest of Public Counsel’s response is beyond the scope of the Bench Request, and is thus unresponsive and unauthorized.
2. Bench Request 9 requested an “academic or think tank” study “counter to [the Harvard Law School] criticism of the ISS”.  TR. 347:13 to 348:1. In its response, Public Counsel admits it “was not able to find” such a study. Therefore, the rest of the material Public Counsel offers is unresponsive to Bench Request 9. Public Counsel could have tried to offer this material at hearing, but failed to do so. The Commission should not allow Public Counsel to use its non-response to Bench Request 9 to remedy that failure.
3. For these reasons, the Commission should grant Staff’s motion and strike Public Counsel’s response to Bench Request 9, except for the only words that actually respond to the Commission’s request, i.e., the words: “Public Counsel was not able to find an academic study which focuses solely on the ISS peer group, as requested by the Bench Request.”

Dated this 11th day of December 2012.

Respectfully submitted,

ROBERT M. MCKENNA

Attorney General

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