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October 19, 2000

VIA ELECTRONIC FILING & FEDERAL EXPRESS

Carole Washburn
Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
PO Box 47250
Olympia, WA 98504-7250

Re: Washington Utilities and Transportation Commission v. Avista Corporation
Docket Nos. UE-991606 & UG-991607

Dear Ms. Washburn:

Enclosed please find an original and twenty-four copies of Public Counsel Response to Petitions for Reconsideration and Clarification for filing in the above-entitled case. A copy was also sent via e-mail on October 19, 2000.

Sincerely,

Simon J. ffitch
Assistant Attorney General
Public Counsel Section
206-389-2055

SJf:cjw

CC: Service List (U.S. Mail only)

Hard Copy




CERTIFICATE OF SERVICE
Docket Nos. UE-991606/UG-991607

I hereby certify that a true and correct copy of Public Counsel Response to Petitions for Reconsideration and Clarification was sent to each of the parties of record shown on the attached Service List in sealed envelopes, via:

- First class mail, postage prepaid
 UPS Two-Day Air, freight prepaid
 Federal Express, freight prepaid

DATED: October 19, 2000



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AVISTA RATE CASE UE-991606 & UG-991607

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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant

v.

AVISTA CORPORATION,

Respondent.

DOCKET NO. UE 991606
DOCKET NO. UG 991607

PUBLIC COUNSEL RESPONSE TO
PETITIONS FOR
RECONSIDERATION AND
CLARIFICATION

Public Counsel files this response to the Avista Petition For Reconsideration and to the Staff Petition for Clarification of the Third Supplemental Order (hereafter "Order") in this docket.

I. RESPONSE TO AVISTA PETITION

A. Preferred Trust Securities

Public Counsel agrees with Avista that the pro forma debt interest calculation does not accurately take "the actual Preferred Stock components of the Company into account," Avista Petition for Reconsideration, p. 6, but disagrees with the Company's recommendation. We concur that it is inappropriate to treat 100 percent of the Company's preferred stock as tax deductible. Indeed, this is consistent with the capital structure recommended by Public Counsel witness Mr. Hill. Mr. Hill proposed a capital structure consistent with Avista Corporation's actual utility-only capital structure. Exhibit 623, Schedule 2, p. 6 (SGH-1). While Public Counsel could agree with this adjustment if it were applied to Mr. Hill's proposed capital structure, no change is warranted where Avista seeks to apply the adjustment to what is in effect a hypothetical capital structure. Avista already stands to reap the benefits of an equity rich capital structure under the Commission's order.

In the event that the Commission decides to adopt Avista's proposed correction, Public Counsel believes it would be most appropriate for the Commission to adopt the calculation set

out on pages 6 and 7 of the Avista request for reconsideration which is based on the actual amount of preferred stock and preferred trust securities. This would increase the electric revenue requirement by \$555,000 and the gas revenue requirement by \$127,000.

B. PGE Contract Monetization Issue

Public Counsel strongly disagrees with Avista's request for different treatment of the PGE monetization issue. Avista asserts that the Commission has credited benefits to ratepayers which exceed those available from the PGE monetization agreement. Avista claims that interest was incorrectly calculated and that customers are credited twice under the Commission's order. Avista's arguments should be rejected.

Ratepayers did not receive the \$143 million in proceeds from the PGE monetization. Instead, shareholders had the use of these funds and, in addition, received the interest income during the 21 month period ending in September 2000. While Avista may argue that they continued to treat the transaction according to the "old" terms, this treatment occurred only on the books. Nothing was flowed through to ratepayers.

Avista is now asking the Commission to allow shareholders to benefit from "recognition" of the amortization that already took place. The Commission has explicitly rejected this in the order at paragraph 76, stating:

The time value of the lump sum payment received by the Company in December 1998 should be reflected in the balance of funds available on October 1, 2000.

The Commission did allow use of the amortization to offset other Rathdrum expenses since that date. Order, Table 6, p. 29.

The Commission stated in its order that it was "troubled" by the way in which Avista treated the PGE monetization. Order, ¶ 70. It declined to disallow the recovery of the regulatory fee as recommended by ICNU or to impose other penalties. Instead, the Commission chose to employ its treatment of the PGE contract in the Third Supplemental Order as the appropriate

remedy, in effect, suggesting that it was punishment enough to provide the benefits of the transaction to consumers. Allowing Avista to keep the interest earned on the \$143 million during the period between the receipt of payment and the effective date of the rates would be directly inconsistent with this approach, in effect, rewarding the company for conduct which the Commission was explicitly “troubled” by. Shareholders should not benefit from the transaction both because it involved a ratepayer asset and because Avista did not properly disclose the transaction to the Commission.

II. STAFF PETITION FOR CLARIFICATION

In general, Public Counsel believes that Staff’s requests for clarification are well taken. On specific issues we have the following comments:

Issue 1. Public Counsel concurs with Staff that amounts placed at risk in temporary rates appear counterintuitive to the adjustments most logical to place at risk. As part of the clarification requested by Staff, it would be helpful if the Commission could explain in more detail the nature of the temporary rates allowed in the order, whether they constitute interim rates, and the relation between the record and the adjustments designated as temporary or “at risk.”

Issue 3. Both Issues 1 and 3 are related to the larger question of the nature of the temporary rates approved in the order. In its third issue, Staff has appropriately sought clarification on whether the filing of a power cost case is mandatory or optional, and the impact of that decision on rates. As Staff notes, the intent of the order appears to be that the temporary rates will end on a date certain, unless Avista makes a showing in a subsequent power cost proceeding that would justify the revenues placed at risk. If such a showing is either not presented, or attempted unsuccessfully, the revenue requirement would decline, and rates would presumably have to follow suit. Again, this raises the question of whether these rates are, in

effect, interim, and therefore, properly subject to refund if Avista does not make the necessary showing.

Issue 4. Public Counsel concurs in Staff's request on this issue. It appears that the order language inadvertently fails to track the rate spread actually adopted by the Commission. It seems clear from the order discussion itself that the Commission intended to adopt the approach recommended by the Joint Testimony.

Dated this 19th day of October, 2000.

CHRISTINE GREGOIRE
Attorney General of Washington

Simon J. ffitch
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Public Counsel