

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

**NOTICE OF PENALTIES INCURRED AND DUE FOR VIOLATIONS
OF COMMISSION ORDER**

In the Matter of the Petition of)	DOCKET U-071805
)	
AVISTA CORPORATION,)	
DBA AVISTA UTILITIES)	
)	
For an Order Approving Journal Entries)	
for Repurchase of Office Building)	PENALTY AMOUNT: \$5,000.00
.....)	

1 The Washington Utilities and Transportation Commission (Commission) believes that you have committed one or more violations of a prior Commission order. Based on this information, the Commission hereby notifies you that it has assessed penalties upon you in the amount of \$5,000 under the provisions of Title 80 RCW, specifically RCW 80.04.405, and the rules and regulations of the Commission. The violations that are the basis for this penalty assessment are described as follows:

2 On December 1, 1986, Avista Corporation (Avista or Company), under its former name of Washington Water Power Company, filed an application with the Commission under the provisions of RCW 80.12, Transfer of Property, for authority to enter into a sale and leaseback of its general office building located at 1411 E. Mission Avenue and adjacent properties located in Spokane, Washington. On December 18, 1986, the Commission approved the Company's petition under Cause No. FR-86-150 to enter into a sale and leaseback. In the Commission's order, the Company was required to file for prior written approval of the journal entries by which it will record on its books the repurchase of those assets when such purchase occurs.¹

3 On November 29, 2005, Avista terminated the existing leasing arrangement and repurchased the previously owned facility for \$17.8 million. \$16.3 million was attributed to the building and \$1.5 million to the purchase of the land. The Company did not file its journal entries with the Commission for prior approval before recording the transaction on its books and records as required in the above named order.

¹ *In the Matter of the Application of The Washington Water Power Company*, Cause No. FR-86-150, Order Granting Application, (Dec. 18, 1986), Ordering Paragraph 2.

- 4 In August, 2007, Avista discovered its oversight as the Company reviewed documents associated with its current general rate case. At its discovery, the Company immediately notified the Commission Staff of the Company's failure to file.
- 5 On September 4, 2007, the Company filed a petition consistent with WAC 480-07-885 for an order approving its recorded journal entries, approximately twenty-one months after the date the Company should have filed for approval consistent with the Commission's order in Cause No. FR-86-150.
- 6 RCW 80.04.405 provides for a penalty of up to \$100 per violation to be assessed against any public service company for violation of any order of the Commission. Each and every violation, whether by act of commission or omission, is a distinct and separate offense. In the event of a continuing violation, each day that the violation continues is deemed to be a separate and distinct offense.
- 7 Avista is responsible for complying with Commission orders. The Company failed to file for prior Commission approval of the journal entries used to record the repurchase transaction in compliance with the Commission's Order. The repurchase took place on November 29, 2005. The violation continued until the Company filed on September 4, 2007, a period of approximately twenty-one months. A reasonable penalty for this violation is \$5,000.00.
- 8 Penalties are due and payable upon receipt of this penalty notice. If for any reason Avista believes the violations described did not occur, Avista may request a hearing to contest the occurrence of the violations. If Avista has an explanation as to why the violations occurred, or has other facts it believes the Commission should have considered, RCW 80.04.405 provides that Avista may apply for mitigation of this penalty within FIFTEEN (15) days of receiving this penalty notice. Avista may, although it is not required to, present its request for mitigation at a hearing. The Commission will consider Avista's plea and give notice of its determination.
- 9 If Avista decides to request a hearing to contest either the occurrence of the violations or the amount of the penalty, it may request one in its request for hearing or mitigation. If Avista requests a hearing for either reason, it must state why it believes a hearing is called for in these circumstances.

- 10 If Avista fails within 15 days of this notice to either (1) request a hearing to contest the occurrence of the violations or the amount of the penalty, (2) request mitigation, or (3) pay the amount due, the Commission will refer this matter to the Office of the Attorney General for collection. Suit may then be brought against Avista and after trial, judgment may be entered. Please indicate your selection on the enclosed form and send it to the Washington Utilities and Transportation Commission, Post Office Box 47250, Olympia, Washington 98504-7250, within FIFTEEN (15) days after you receive this notice.

DATED at Olympia, Washington and effective September 26, 2007.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT UE-071805

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

- 1. **Payment of penalty.** I admit that the violation occurred and enclose \$200 in payment of the penalty.
- 2. **Request for a hearing.** I believe that the alleged violation did not occur, based on the following information, and request a hearing for a decision by an administrative law judge:
- 3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reason(s) set out below.
 - a) I ask for a hearing for a decision by an administrative law judge
 - OR b) I waive a hearing and ask for an administrative decision on the information

I present here:

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: _____ [month/day/year], at _____ [city, state]

Name of Respondent (company) – please print

Signature of Applicant

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”