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**AVISTA CORP.  
RESPONSE TO REQUEST FOR INFORMATION**

JURISDICTION:	Washington	DATE PREPARED:	05/15/2019
DOCKET NO.:	190222	WITNESS:	Thomas C Dempsey
REQUESTER:	UTC Staff	RESPONDER:	Thomas C Dempsey
TYPE:	Data Request	DEPT:	GPSS
REQUEST NO.:	Staff – 005	TELEPHONE:	(509) 495-4960
		EMAIL:	tom.dempsey@avistacorp.com

**REQUEST:**

In his pre-filed direct testimony, Mr. Dempsey states that “Talen submitted a Final testing report confirming the non-compliance with MATS to the MDEQ on August 20, 2018. Talen proposed that limited operation of Unit #3 and Unit #4 for the evaluation of a corrective action and/or data gathering related to potential corrective action was a prudent approach to addressing the issue.”

SUBPART A: Provide the “Final testing report” referred to by Mr. Dempsey above. Include all presentations, notes, minutes, correspondence (including emails) between Talen, MDEQ and Avista relating to: the Colstrip Outage and Derate to Units 3 & 4, the Final Testing Report and Talen’s proposal for limited operation of Units 3 & 4 for the purposes Mr. Dempsey describes above.

SUBPART B: Mr. Dempsey states that Colstrip Unit 3 was taken out of service by Talen on June 28, 2018 and Unit 4 on June 29, 2018. He also states that Talen detected its violation of its Air Permit (#0513-14) on June 21, 2018 for Unit 3 and Unit 4 on June 28, 2018.

- Describe the actions taken by Avista and/or Talen to immediately address the violation of the air permit (including replacement power) in the seven-days between when the violation was detected and when Talen informed MDEQ.

SUBPART C: Provide the evidence Mr. Dempsey relied on to arrive at his conclusion that Talen’s submittal of a proposal to MDEQ to take Units 3 & 4 out of service for the purposes of investigating the cause of the violation of its air permit was prudent?

Background for SUBPART D below

The methodology for determining Colstrip’s compliance to the Mercury Air Toxics Standard (“MATS”) is measured by averaging the emissions of all four units at the facility for a 30-boiler operating day rolling average. The MDEQ, who administers compliance to MATS, approved of this methodology in 2015. Colstrip began meeting the MATS requirements starting in September of 2016 and was meeting those requirements until June of 2018 (start of the 2018 outage and derate of Colstrip).

In the first quarter of 2018, Talen detected an increase in particulate matter levels and even though Colstrip remained in compliance to MATS, it decided to conduct an investigation into why this was happening. In Q4 of 2017, particulate matter levels had been below normal.

SUBPART D: Provide all of the correspondence (including emails), documents, reports and analysis relating to Talen’s investigation into increase particulate matter levels in Q1 of 2018 referred to above.

**SUBPART E:** Provide all presentations, notes, minutes, emails and any other documentation provided to Avista's management and/or Board of Directors concerning the Q1 2018 investigation into increased particulate matter (referred to in SUBPART D above), the 2018 outage and derate of Colstrip Units 3 & 4. Include also all documentation, transcripts, notes, letters, correspondence memorializing decisions made by Avista's management and/or Board of Directors concerning the Q1 2018 investigation into increased particulate matter (referred to in SUBPART D above) and the 2018 outage and derate of Units 3 & 4 (including decisions related to capital costs, expense, coal fuel supply and costs, and possible retirement of both units). If Avista's management and/or Board of Directors made any decisions regarding the Q1 2018 investigation into increased particulate matter (referred to in SUBPART D above) and the 2018 Unit 3 & 4 outage and derate without memorializing them in a discoverable record, explain why.

**RESPONSE:**

Please see Staff\_DR\_005C for the confidential attachment.

**SUBPART A-**

Please see Staff\_DR\_005 Attachments A and Staff\_DR\_005C Confidential Attachment A for the requested information. Please also see the Company's response to Staff\_DR\_007 Attachment A.

**SUBPART B –**

As described in the attached emails, Avista first learned of the Colstrip potential deviation on June 27th, 2018 at approximately 2:00 PM. At that time, Avista was informed that Colstrip #3 would undergo diagnostic testing on 6/28/2019 and be removed from service at 6/28/2019 2359 MDT and Colstrip #4 would undergo diagnostic testing on 6/29/2019 and be removed from service on 6/29/2019 at 2359MDT. Talen first notified MDEQ of a potential deviation on June 28<sup>th</sup>, 2018 therefore, Avista is not aware of the specific actions that Talen may have taken in the seven-day prior to June 27, 2018. Accordingly, Avista did not take any actions to address a potential deviation of the air permit (including replacement power) in the seven-days prior to June 27, 2018.

**SUBPART C**

Under the Colstrip Ownership & Operation Agreement (provided in the Company's response to Staff\_DR\_006 Attachment A), Talen as operator is required to operate the plant in accordance with Prudent Utility Practice, including compliance with all applicable laws, regulations, and permits.

In compliance with contractual obligations, Talen notified MDEQ immediately of a potential MATS deviation and took actions to investigate including limited operation of the units to minimize emissions.

**SUBPART D**

Avista does not recall Talen's investigation into the increase in particulate matters in Q1 2018, primarily because of the fact Colstrip was not otherwise out of compliance. Avista does not have any documentation dating back to Q1 of 2018 related to this question. However, we are aware of Puget Sound Energy, witness Mr. Roberts who states in his testimony, JRJ-1T, at p. 4 ln 9-13 in Docket No. UE-190324:

“There was an elevation in the results for the first quarter of 2018; however, the facility remained in compliance. Investigation following the first quarter 2018 testing period showed no operational issues that would indicate further increase in particulate matter levels”

**SUBPART E**

With respect to a Q1 investigation, please see the response to Subpart D.

With respect to the 2018 MATS violation itself and the limited operation of units 3&4, please see Staff\_DR\_005 Attachment B.

With respect to “decisions” being made by Avista management relating to the 2018 MATS violation itself and the limited operation of units 3&4, Avista and all of the Colstrip partners were in full agreement that the plant operate only for the purposes of troubleshooting and effecting repair of the units.

**AVISTA CORP.  
RESPONSE TO REQUEST FOR INFORMATION**

JURISDICTION:	Washington	DATE PREPARED:	05/16/2019
DOCKET NO.:	190222	WITNESS:	Thomas C. Dempsey
REQUESTER:	UTC Staff	RESPONDER:	Thomas C Dempsey
TYPE:	Data Request	DEPT:	GPSS
REQUEST NO.:	Staff – 006	TELEPHONE:	(509) 495-4960
		EMAIL:	tom.dempsey@avistacorp.com

**REQUEST:**

Mr. Dempsey states that Avista is not directly involved in day-to-day operations at the CGS and instead provides “oversight” of the facility.

**UTC STAFF DATA REQUEST NO. 6:**

SUBPART A: Provide all agreements, contracts, amendments and all documents related to the CGS and to which Avista is a party. In particular, the Colstrip Ownership and Operation Agreement in its entirety including any covenants and/or amendments currently in force.

SUBPART B: What specifically does Mr. Dempsey mean by oversight? In his response to this subpart, Mr. Dempsey will need to provide a direct reference to the materials provided in response to SUBPART A above.

**RESPONSE:**

**SUBPART A**

Please see Staff\_DR\_006 Attachment A for the “Attachment UTC190222 DR6 Colstrip Master Agreement Book.pdf”. This document includes the following sections:

- Ownership & Operation Agreement- pdf page 3
- Ownership & Operation Agreement Amendment 1 10-11-91 pdf page 54
- Ownership & Operation Agreement Amendment 2 7-13-98 pdf page 62
- Ownership & Operation Agreement Amendment 3 5-04-04 pdf page 80
- Ownership & Operation Agreement Amendment 4 July 2008 pdf page 90
- Common Facilities Agreement May 6, 1981
- Common Facilities Agreement Amendment 1 January 27<sup>th</sup>, 1992 pdf page 135
- Common Facilities Resolution 5-16-2007 pdf page 136
- Amended and Restated Coal Supply Agreement August 24<sup>th</sup>, 1998 pdf page 139
- Coal Transportation Agreement 7-10-1981 pdf page 238
- Coal Transportation Agreement Amendment 1 September 14<sup>th</sup>, 1987 pdf page 274
- Coal Transportation Agreement Amendment 2 August 24<sup>th</sup>, 1998 pdf page 274
- Coal Transportation Agreement Amendment 2 January 1, 2003 pdf page 302
- Transmission Agreement BPA/NWE 04/06/1981 pdf page 370

Staff\_DR\_006 Attachment B for the Final Reclamation Settlement Agreement

Staff\_DR\_006 Attachment C for the 2013 Colstrip Transmission Agreement.

Staff\_DR\_006 Attachment D for the Coal Supply Agreement.

Staff\_DR\_006 Attachment E for the Coal Transportation Agreement and Amendments.

Staff\_DR\_006 Attachment F for the Common Facilities Agreement and Amendments.

#### SUBPART B

Under the Colstrip Ownership & Operation Agreement, Talen as operator is required to operate the plant in accordance with Prudent Utility Practice, including compliance with all applicable laws, regulations and permits.

Mr. Dempsey's reference to oversight refers to the oversight to the operation of Colstrip Units 3 & 4 provided in the Ownership and Operation Agreement for Colstrip Units 3 and 4 ("O&O Agreement"). For example, Section 17 of the O&O Agreement establishes a Project Committee. Each owner participates in the Project Committee. Section 17 of the O&O requires the Operator to keep the members of the Project Committee informed of significant matters regarding the operation and maintenance of the project and requires the Operator to submit certain matters to the Committee for approval.

**AVISTA CORP.  
RESPONSE TO REQUEST FOR INFORMATION**

JURISDICTION:	Washington	DATE PREPARED:	05/22/2019
DOCKET NO.:	190222	WITNESS:	Thomas C. Dempsey
REQUESTER:	UTC Staff	RESPONDER:	Thomas C. Dempsey
TYPE:	Data Request	DEPT:	GPSS
REQUEST NO.:	Staff – 008C	TELEPHONE:	(509) 495-4960
		EMAIL:	tom.dempsey@avistacorp.com

**REQUEST:**

**Background Section for SUBPARTS A through D below**

According to Mr. Dempsey, Talen currently performs compliance assurance stack testing for Colstrip on a quarterly basis to meet the MATS site-wide limitation for Particulate Matter (PM) emissions (0.03 lbs./MMBtu).<sup>1</sup> He went on to say that on September 4, 2018, Unit 4 demonstrated compliance with MATS Standard with a PM emission rate of 0.021 lb./mmbtu, and that on September 11, 2018, Unit 3 demonstrated compliance with MATS Standard with a PM emission rate of 0.024 lb./mmbtu.<sup>2</sup>

Mr. Dempsey also said that Talen contracted with a third-party vendor to review potential causes of the outage and derate. He stated that this report has yet to be completed and, if it is finalized during the pendency of the ERM review, that the Company will supplement its testimony.<sup>3</sup>

SUBPART A: Provide the *site-wide* and *unit level* PM emission rates (lb./mmbtu) for the Colstrip Generating Station since 2015. Include the most current rates for 2019.

SUBPART B: Identify the third-party vendor referred to by Mr. Dempsey in his testimony, and state when Avista and/or Talen expects that the report of the third-party vendor will be completed.

SUBPART C: When Avista ultimately files the third-party vendor report, does it plan to supplement the prefiled direct testimony of any of its witnesses? Will Avista introduce any new witnesses and testimony to this docket (Docket UE-190222)?

SUBPART D: Provide all drafts, reports, analysis, documents, work product, correspondence (including, but not limited to, email communications), generated by the third-party vendor identified above in SUBPART B as part of its contract with Talen.

SUBPART E: According to Mr. Dempsey, Talen will be the subject of MDEQ enforcement action (including fines) as a result of violating its air permit in 2018. He said that enforcement actions are in the discussion phases.<sup>4</sup>

- Identify all of the parties involved in any such enforcement actions and/or related discussions, and describe their role in such actions or discussions, the root cause of the PM exceedance, any corrective action, and any penalties and/or fines that resulted from Talen violating its air permit.

<sup>1</sup> Exhibit No. TCD-1T, Page 3:3-4.

<sup>2</sup> Exhibit No. TCD-1T, Page 5:13-16.

<sup>3</sup> Exhibit No. TCD-1T, Page 5:23 to 6:4.

<sup>4</sup> Exhibit No. TCD-1T, Page 6:5-15.

- Specify the timeline, as you best understand it, for pending enforcement actions against Talen for violating its air permit.
- Provide all reports, analysis, drafts, documents, work product, correspondence (including, but not limited to, email communications) related to Talen/MDEQ agreement for future MATS compliance assurance, any discussions of enforcement, corrective action, and any penalties and/or fines that resulted from Talen violating its air permit.

SUBPART F: Mr. Dempsey states that Colstrip’s “plant owners are evaluating the specific actions taken by Talen for potential improvements and implementation.”<sup>5</sup>

- Which plant owners was Mr. Dempsey referring to, and what “specific actions” was Mr. Dempsey referring to?
- Provide all drafts, reports, analysis, documents, work product, correspondence (including, but not limited to, email communications) relating to Mr. Dempsey’s statement referenced above in this SUBPART.

SUBPART G: Mr. Dempsey referred to Talen’s “daily conference call with all internal stakeholders.” He also indicated that Company representatives from Avista and other owners were periodically on-site during the 2018 outage and derate of Units 3 and 4 to aid in “evaluation” and confirm progress toward compliance.

- Provide the dates on which Talen’s daily conference calls started and the date they ended (if the daily conference calls are ongoing, then so respond).
- List all participants in any of Talen’s daily conference calls referenced above. What does Mr. Dempsey mean by “internal stakeholders”?
- List all Avista personnel who were on-site at Colstrip during the 2018 outage and derate of Units 3 and 4, including the dates they were on site. Provide all drafts, reports, analysis, documents, work product, correspondence (including, but not limited to, email communications) relating to Avista personnel on site visits during the 2018 outage and derate of Units 3 and 4 mentioned by Mr. Dempsey.

## **RESPONSE:**

### **Confidential per WAC 480-07-160**

Avista provides the following Attachment Index for the SUBPARTS below:

Staff\_DR\_008 **Attachment A** Colstrip PM 09082016 – 05092019.xls

Staff\_DR\_008 **Attachment B** MDEQ MATS PM Colstrip Information Request 08\_31\_2018.pdf

Staff\_DR\_008 **Attachment C** Response to MDEQ Colstrip MATS Information Request 9\_17\_18.pdf

<sup>5</sup> Exhibit No. TCD-1T, Page 7:12-15.



Staff\_DR\_008C Confidential **Attachment D** CONFIDENTIAL SETTLEMENT DISCUSSIONS  
MRE 408 - 20181214 Letter to Norman J. Mullen.pdf

Staff\_DR\_008C Confidential **Attachment E** CONFIDENTIAL SETTLEMENT DISCUSSIONS  
MRE 408 - 20190322 Letter to Norman J. Mullen.pdf

Staff\_DR\_008C Confidential **Attachment F** CONFIDENTIAL SETTLEMENT DISCUSSIONS  
MRE 408 – MDEQ Response Email

Staff\_DR\_008C Confidential **Attachment G** CONFIDENTIAL SETTLEMENT  
DISCUSSIONS MRE 408 – DRAFT Complaint.docx

Staff\_DR\_008C Confidential **Attachment H** CONFIDENTIAL SETTLEMENT  
DISCUSSIONS MRE 408 - DRAFT Requested Injunctive Relief.docx

Staff\_DR\_008C Confidential **Attachment I** CONFIDENTIAL SETTLEMENT DISCUSSIONS  
MRE 408 - DRAFT Penalty Factors Violation 1.docx

Staff\_DR\_008C Confidential **Attachment J** CONFIDENTIAL SETTLEMENT DISCUSSIONS  
MRE 408 - DRAFT Talen\_draft\_pencalc.xlsx

#### SUBPART A

According to the operator of Colstrip Units 3 & 4, under the MATS rule, Colstrip was required to start reporting compliance on September 8, 2016. Please see Staff\_DR\_008 Attachment A.

#### SUBPART B

The third party vendor is Sologic. Avista now expects the final report to be issued around the first week of June, 2019.

#### SUBPART C

As of the date of the response to this data request, Avista has not yet determined if it will produce any new witnesses or testimony in this docket.

#### SUBPART D

Avista does not have any documents generated by the third party vendor (Sologic).

#### SUBPART E

##### Bullet Point 1-

Mr. Dempsey's statement concerning a potential enforcement action is taken from the MDEQ information request on August 31, 2018 (Attachment B) that states "Test results indicated, and the Source Test Report submitted by CSES confirmed, that CSES was operating in excess of the applicable emission limit contained in Title 40 Code of Federal

Regulations Part 63 (40 CFR 63) Subpart UUUUU, also referred to as the Mercury & Air Toxics Standard (MATS)."

The Plant owners (Talen, NorthWestern Energy, Puget Sound Energy, PacifiCorp, Portland General Electric, and Avista) are each involved in the referenced enforcement action as owners. In addition, Talen is involved in the potential enforcement action as the Operator of Colstrip Units 3 and 4. MDEQ is the Montana State agency involved in the potential enforcement action.

Discussions regarding the enforcement action have generally been between MDEQ and Talen as the Operator of CSES. The other CSES owners have not been involved in those discussions, but have been informed on the progress of those discussions:

- Talen responded to the information request on September 17, 2018 (Attachment C).
- Subsequent discussions have taken place between these parties; Talen (as the operator and permittee) and MDEQ (representative for the State of Montana).
- The Attachments D-J represent communications between the parties.

With regard to the root cause of the PM exceedance, see response to Subpart B of this data request noting that Avista anticipates that it will receive the report from the third-party vendor sometime around the first week of June, 2019.

With regard to any corrective action, see response to Subpart F of this data request.

The enforcement action has not yet concluded and, therefore, to date no penalties and/or fines have been assessed.

Bullet Point 2-

This list of correspondence (see Attachments) represent a timeline of discussions between parties; Avista cannot speculate on the timeline for an outcome at this time.

Bullet Point 3-

See Attachments B - J

SUBPART F

Bullet Point 1-

“Plant owners” include Talen, NorthWestern Energy, Puget Sound Energy, PacifiCorp, Portland General Electric, & Avista.

Specific actions include any number of steps taken by Talen to help remain compliant with MATS regulations going forward. Examples of certain activities evaluated include:

- installing the perforation plates to balance the flow through the scrubbers
- increased attention to boiler tuning
- reinstallation of soot blowers to give operators better control over exit gas temperatures
- use of quartz filters that are less reactive in SO<sub>2</sub> environments

Bullet Point 2-

Avista cannot speak for, nor provide materials for any of the other Colstrip owners. Avista communications and evaluation of Talen's actions with respect to potential improvements and implementation took place during conference calls with the owners and in-person communication with Talen and other Colstrip owners.

## SUBPART G

### Bullet Point 1-

Avista does not have a record of the exact dates the calls took place. Talen estimates that they began in July and ended in early September.

### Bullet Point 2-

Avista cannot identify who attended each call as we did not write down each participants name for each call. Generally, the calls were attended by representatives of all of the owners identified in Subparts E and F above. Talen identified Neil Dennehy and Gordon Criswell as indicated in Attachment B.

In referring to "internal stakeholders", Mr. Dempsey was referring to employees of Talen, Northwestern, Avista, PGE, Puget, and PacifiCorp who are engaged in Colstrip 3&4 matters.

### Bullet Point 3-

Thomas Dempsey was onsite the following dates in 2018: June 20<sup>th</sup>, July 18<sup>th</sup>, September 5<sup>th</sup>, and 19<sup>th</sup>. Darrell Soyars was on site September 5<sup>th</sup> and 19<sup>th</sup>. Greg Frohn was on site August 15<sup>th</sup>. These attendance dates were associated with regular owner meetings and were not specifically part of the troubleshooting efforts under way. Accordingly, there are no documents responsive to this request.















**AVISTA CORP.**  
**RESPONSE TO REQUEST FOR INFORMATION**

JURISDICTION:	WASHINGTON	DATE PREPARED:	09/04/2019
CASE NO.:	UE-190334 & UG-190335	WITNESS:	Patrick Ehrbar
REQUESTER:	UTC Staff	RESPONDER:	Patrick Ehrbar
TYPE:	Data Request	DEPT:	Regulatory Affairs
REQUEST NO.:	Staff - 104	TELEPHONE:	(509) 495-8620
		EMAIL:	pat.ehrbar@avistacorp.com

**REQUEST:**

Please confirm or deny that Avista has produced all contemporaneous documentation of all analyses and decision making in the possession of or accessible to Avista or Talen relating to: (1) the elevated particulate matter levels at Colstrip Units 3 and 4 during Q1 2018; (2) the 2018 Colstrip Units 3 and 4 derate and outage; and (3) the acquisition and cost of replacement power associated with the 2018 Colstrip Units 3 and 4 derate and outage. If any such documents exist but have not been produced, please produce these documents as a response to this data request.

**RESPONSE:**

Avista has conducted detailed and thorough analysis in response to the many data requests asked by Mr. Gomez on behalf of Commission Staff in this proceeding. This has involved, in my estimation, hundreds of hours of work from more than a dozen employees over the past several months, all in an effort to provide thorough responses to each and every request. Avista has gone well beyond reasonable best efforts to respond to these very burdensome requests. To the best of Avista's knowledge, Avista has provided all of the relevant documents in response to those requests.

Avista has made every effort to be fully responsive to all of Staff's data requests. However, I infer from the request that Staff may be in possession of some other document or analysis perhaps provided by Puget Sound Energy or PacifiCorp in their respective 2018 power supply cost prudence cases, that was not included in the of hundreds, if not thousands, of documents provided in response to Staff's requests. To the extent there is such a document or analysis, Avista would expect the courtesy of seeing such document or analysis so that we might be able to see, in our records, why such documentation was not otherwise found through our detailed computer searches.