

April 9, 2007

***Via Electronic Mail***

Carole Washburn  
WUTC  
1300 S. Evergreen Park. Dr. S.W.  
PO Box 47250  
Olympia, WA 98504-7250

Re: Avista Petition for an Accounting Order Regarding the Appropriate Treatment of  
the Net Costs Associated with the Repurchase of Debt  
Docket No. U-070311

Dear Ms. Washburn:

The Public Counsel Section of the Attorney General's Office ("Public Counsel") submits this letter to the Washington Utilities and Transportation Commission ("Commission") in opposition to Avista Corporation's ("Avista") Petition for an Accounting Order ("Petition") and in support of the April 5 letter submitted by the Industrial Customers of Northwest Utilities ("ICNU"). Public Counsel joins ICNU in respectfully requesting that the Petition be suspended and (1) considered in Avista's next rate case or, alternatively, (2) rejected or (3) set for hearing.

Unfortunately, it is Commission staff that has "missed the mark" in its April 11 open meeting memo. When deciding between two opposing courses of conduct, the lawful action should always prevail. It's as simple as that. There is no dispute that Avista broke the law. Staff, while not condoning this conduct, does not recommend sanction. To the contrary, it supports an imprimatur from the Commission that would absolve Avista of its wrongdoing. The Commission is being asked to approve an action which required, but did not receive, Commission approval some five years ago.

Certainly the Commission can now make Avista's actions lawful if it wants to do so. This begs the question, why? Why should Avista's self-styled amortization methodology trump the one developed by the Federal Energy Regulatory Commission ("FERC"). Avista's sole support for its amortization method is that it is "reasonable and appropriate." One can assume that FERC put more thought into the issue. Indeed, without Avista offering more, the Commission has little on which to base a waiver of FERC 17.

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Staff's memo admits that it cannot say what Avista's use of this unauthorized method has meant for past rate cases. However, Staff does know that "Customers will incur higher costs for the next several years using the company's proposed method." In other words, the result of the unlawful activity is higher costs for customers, thus giving Avista a reward. That's not just bad law – it is bad policy.

Faced with Avista's unlawful behavior, which will undoubtedly result in higher costs for ratepayers, we respectfully request that the Commission suspend the petition and allow the issue to be decided in the next general rate case. Should the Commission choose not to take this action, we request rejection or a hearing on the merits.

Public Counsel will attend the Commission's public meeting on April 11 to address this matter further.

Sincerely,

Judith Krebs  
Assistant Attorney General  
Public Counsel Section  
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JK:kez

cc: Bradley Van Cleve (email)  
David Meyer (email)  
Robert Cedarbaum (email)