

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of Avista Corporation d/b/a Avista Utilities for an Order Approving a Corporate Reorganization To Create a Holding Company, AVA Formation Corp.

DOCKET UE-060273

DECLARATION OF  
GLENN BLACKMON

GLENN BLACKMON, under penalty of perjury under the laws of the state of Washington, declares as follows:

1. I am over 18 years of age, a citizen of the United States, a resident of the state of Washington, and competent to be a witness.
2. I am employed by the Washington Utilities and Transportation Commission (Commission) as the Director of Regulatory Services. In this position I am responsible for the work of agency employees assigned to review and make recommendations on filings by regulated utility companies, including Avista Utilities (Avista), an operating division of Avista Corporation (Avista Corp.).
3. Commission Docket UE-060273 is a docket in which Avista is seeking certain Commission approvals necessary for Avista Corp. to reorganize into a holding company structure. I am familiar with the issues in this docket.
4. I received and have read the application of Avista Corporation filed on February 16, 2006, the letter from Public Counsel on May 1, 2006, the petition to intervene from the Industrial Customers of Northwest Utilities filed on June 29, 2006, and the "Renewed Request for Adjudication" by Public Counsel filed on July 27, 2006. Each of these documents is in the Commission's official file in Docket UE-060273.
5. In its July 27 filing, page 11, Public Counsel states that "the petition has remained behind closed doors as Avista and Staff negotiate a settlement agreement that will ultimately be presented to the Commission as a *fait accompli*." This statement is inaccurate. The work of Staff in reviewing and developing a recommended resolution of the issues in this docket has not occurred "behind closed doors." Moreover, Staff has never intended to present a settlement agreement to the Commission as a "*fait accompli*."
6. On May 10, 2006, I discussed this docket during a telephone conversation with Ms. Judy Krebs, the assistant attorney general in the Public Counsel section who filed the

May 1 letter and the July 27 filing. I reviewed the issues that Staff had identified in its analysis of Avista's filing and the procedural approach Staff would follow once it had developed a recommendation. I specifically told Ms. Krebs that Staff did not intend to enter into a settlement agreement with Avista without providing Public Counsel an opportunity to review Staff's recommendation.

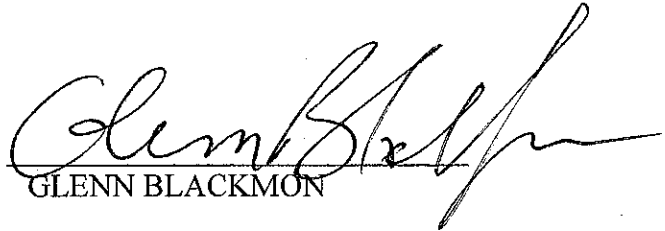
7. On June 22, 2006, I again discussed this docket during a telephone conversation with Ms. Krebs. I provided her with an update on Staff's review of the filing, including the proposed "ring-fencing" conditions that Staff had developed and the type of information that Staff had obtained through informal discovery. I explained to her that Staff was waiting for Avista to provide a legal analysis of the adequacy of the "ring-fencing" conditions as a shield to utility assets in bankruptcy. I asked Ms. Krebs about the level of involvement that Public Counsel desired at that point in the process. Ms. Krebs responded that she would like Staff to provide her with an outline of Staff's recommended conditions once that was ready. I promised to do so. I also offered to provide access for her and any other Public Counsel staff to the documents Staff had obtained through informal discovery. We discussed the status of Public Counsel's request for a hearing on the application, and I asked Ms. Krebs whether Public Counsel was open to a resolution of the case at an open meeting, without a formal hearing. Ms. Krebs responded that Public Counsel was open to resolving the case using this procedure.
8. ICNU is another party that often participates in Avista dockets. On June 30, I discussed ICNU's petition to intervene in Docket UE-060273 during a telephone conversation with Michael Early, executive director of ICNU. I explained to Mr. Early that, since the Avista application had not been set for hearing, a petition for intervention was not necessary or appropriate for ICNU to participate in the case. I also noted to him that the ICNU filing did not provide any information on the concerns of the association regarding the proposed change in corporate structure. I explained that the Commission would likely consider the application at an open meeting and encouraged him to provide substantive comments for the consideration of the commissioners.
9. Public Counsel also states in its July 27 filing, page 11, that "this approach to settlement on a matter of this significance is completely at odds with the spirit of the discussions in the recent Commission's procedural rulemaking, Docket No. A-050802."<sup>1</sup> I disagree with this statement. The approach followed by Staff is precisely in line with the spirit and the letter of the rule on settlement conferences discussed and eventually proposed by the Commission. The Commission proposed a requirement for a settlement conference once a matter has been set for adjudication. During the public hearing on the proposed rule the chairman stated that the rule would not apply before the adjudication commenced. Avista's application is in that status currently, so the Commission's rule, even if it were in effect today, would not require a formal settlement conference process. The informal process of

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<sup>1</sup> In its Request, Public Counsel refers to the procedural rules rulemaking docket as Docket A-050208. The correct number is A-050802.

communicating with stakeholders that I described earlier is consistent with the approach adopted by the Commission in Docket A-050802.

DATED July 31, 2006 at Olympia, Washington.



GLENN BLACKMON