

Exhibit No. __ (BJH-1T)

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DOCKET NO. UG-060518

DIRECT TESTIMONY OF

BRIAN J. HIRSCHKORN

REPRESENTING AVISTA CORPORATION

1 **Q. Please state your name, business address and present position with Avista**
2 **Corporation?**

3 A. My name is Brian J. Hirsch Korn and my business address is 1411 East Mission
4 Avenue, Spokane, Washington. I am presently assigned to the Rates Department as Manager
5 of Pricing.

6 **Q. Have you previously testified before this Commission?**

7 A. Yes, I have previously testified in numerous proceedings as the Company's
8 rate design witness.

9 **Q. What is the scope of your testimony in this proceeding?**

10 A. My testimony will describe the Draft Evaluation Plan (Plan) for the Avista
11 natural gas decoupling mechanism (Mechanism). I will also address whether the substantive
12 value of the Plan and Final Evaluation Report have been irreparably undermined through
13 Avista's delay in filing a Plan by the due date of December 31, 2007. Furthermore, I will
14 address the comments of the other parties filed on March 17, 2008, and indicate areas of
15 agreement, as well as any issues that remain. An additional witness, Ms. Jane Peters,
16 President of Research Into Action (RIA), will provide her perspective as to whether an
17 appropriate evaluation can be completed in a timely manner.

18 **Q. Are you sponsoring any exhibits to be introduced in this proceeding?**

19 A. Yes, I am sponsoring Exhibit No. __ (BJH-2), (Draft Evaluation Plan for
20 Avista Natural Gas Decoupling Mechanism), which consists of four pages. A copy of this
21 draft Plan was also attached to Avista's comments filed on March 17, 2008.

22

1 **I. Introduction**

2 **Q. Could you briefly describe the events that led to the March 24, 2008**
3 **hearing?**

4 A. On February 1, 2007, the Washington Utilities and Transportation
5 Commission (Commission) entered Order 04 in this proceeding, approving a settlement
6 agreement (Settlement) in which the parties agreed to implement a pilot decoupling program.
7 In the Settlement, at page 10, Paragraph J, the parties agreed that Avista, Commission Staff,
8 and other interested parties "...will develop, through a collaborative process, a draft
9 evaluation plan to be filed with the Commission no later than December 31, 2007." The
10 parties further agreed that the Company may file a request to continue the Mechanism, on or
11 before March 31, 2009. That filing would include an evaluation of the Mechanism and any
12 proposed modifications. In the Order, at page 10, Paragraph 33, approving the Settlement,
13 the Commission stated it "will carefully evaluate the mechanism, and will only consider an
14 extension upon a convincing demonstration that the mechanism has enhanced Avista's
15 conservation efforts in a cost-effective manner."

16 **Q. Did the Company file such a Plan by December 31, 2007?**

17 A. No. The Company did not file a Plan with the Commission by December 31,
18 2007, as required by the Settlement and the Commission's Order. On January 31, 2008,
19 Public Counsel filed a letter with the Commission notifying the Commission of Avista's
20 failure to file a plan or to timely convene collaborative discussions to develop a draft
21 evaluation plan. Avista filed a letter with the Commission on February 1, 2008, apologizing

1 for the delay and advising the Commission that it would redouble its efforts to arrive at a
2 draft evaluation plan.

3 The Commission heard comments at its February 28, 2008, open meeting about
4 Avista's failure to timely develop or file its evaluation plan from representatives of the
5 Company, Commission Staff, Public Counsel and the Northwest Energy Coalition. After
6 considering these comments, the Commission provided an additional opportunity for parties
7 to address the issue of whether the substantive value of the evaluation plan and final
8 evaluation report have been irreparably undermined through Avista's delay, and what remedy
9 or sanction, if any, is appropriate.

10 **Q. Does the Company believe the substantive value of the evaluation plan**
11 **and final evaluation report have been irreparably undermined through the Company's**
12 **delay in filing the draft plan?**

13 A. No. As explained below, the Company believes the substantive value of the
14 evaluation plan and final evaluation report have not been irreparably undermined through the
15 Company's delay in filing the draft plan. The Company, however, sincerely regrets the
16 inconvenience and additional burdens caused by its failure to act in a timely manner.

17 **Q. What progress has the Company made in developing the Evaluation Plan**
18 **for the Mechanism?**

19 A. Since the Commission's open meeting on February 28th, wherein the
20 Commission heard comments from various parties on this issue, the Company and the other
21 interested parties in this Docket have made substantial progress toward finalizing the Plan for
22 Avista's natural gas decoupling mechanism. Exhibit No. __ (BJH-2) includes the most recent

1 draft of the Plan. While the attached Plan is still a work in progress, we believe there is
2 adequate time to complete the Plan and submit it to the Commission by April 30th. Further
3 discussions with the parties have been scheduled for Thursday, March 27th, in the hopes of
4 resolving any remaining issues.

5 In the timeline discussed later, we intend to issue a Request for Proposals (RFP) by
6 April 30th, in order to hire an independent party to carry out the Evaluation. Thus,
7 completion of the Plan by April 30th will allow the completed Plan to be submitted as part of
8 the RFP. It is the Company's belief that this process, as further set forth below, will allow
9 sufficient time for the final evaluation of the Mechanism to be filed with the Commission on
10 or before March 31, 2009, in accordance with the Commission's prior order. (The
11 Company's proposed schedule envisions the actual selection of the independent evaluator in
12 the June-July timeframe, some eight months prior to March 31, 2009 deadline for completion
13 of the evaluation.)

14 **II. Progress to Date on Development of an Evaluation Plan**

15 **Q. Please describe the process being used to develop the Plan.**

16 A. The draft Plan is being developed through a collaborative effort of the
17 interested Parties in this Docket. Prior to the open meeting on February 28th, the Company
18 distributed a draft plan to the Parties. During the week of March 3rd, the Company had
19 received comments from all the Parties. On March 12th, the Parties met in Olympia at the
20 WUTC to discuss the Plan. The parties in attendance, either in person or by phone, were the
21 Company, Commission Staff, Public Counsel, Northwest Energy Coalition and The Energy
22 Project. The meeting was very productive and there was considerable discussion regarding

1 the scope of the Plan, as well as a proposed timeline for selection of an independent evaluator
2 and completion of the final Evaluation Report. The Draft Plan incorporates many of the
3 comments and suggested revisions discussed during the meeting. I will address the concerns
4 voiced by Public Counsel in their comments later in my testimony.

5 **Q. What are the key areas being addressed in the Plan?**

6 A. In addition to the proposed timeline discussed below, areas set forth in the
7 plan include, but are not limited to, the following:

8 - Avista DSM programs and therm savings (including changes in energy efficiency
9 education and outreach by Avista and specific changes in energy efficiency programs
10 offered by the Company during the pilot)

11 - Revenue deferred and collected under the Mechanism

12 - Total reduction in customer usage compared to programmatic DSM savings

13 - New customer usage and adjustment under the Mechanism

14 - Customer migration between rate schedules 101 and 111

15 - Rate related and customer usage information (actual and forecasted)

16 **Q. What is the proposed timeline set forth in the draft Plan?**

17 A. A key section of the Draft Plan is the proposed timeline for selecting an
18 independent evaluator and completion of the Evaluation Report by March 31, 2009. As
19 shown in the proposed timeline below, an RFP would be issued to potential evaluators by
20 April 30th and the Parties would select an evaluator by June 30th. In the event the Parties
21 cannot agree on the selection of an evaluator, the Parties would submit their
22 recommendations to the Commission and request that the Commission select the evaluator by
23 August 1st.

1 Proposed Timeline:

2 April 15, 2008 – Parties provide names of potential evaluators.

3 April 30, 2008 – Final Plan filed with Commission.

4 RFP Issued to potential evaluators.

5 May 31, 2008 – Proposals Due from potential evaluators.

6 June 1 – June 30 – Parties review proposals and interview potential evaluators.

7 June 30, 2008 – Parties select an Evaluator. In the event Parties are unable to
8 reach agreement, they will make recommendations to

9 Commission.

10 July 10, 2008 – Recommendations to Commission.

11 August 1, 2008 – Commission selects Evaluator.

12 January 1, 2009 – Preliminary Evaluation Report provided to Parties from
13 Evaluator.

14 March 31, 2009 – Final Report filed with Commission.

15 **Q. What is the due date of the final report and what data is to be**
16 **incorporated in the final report?**

17 A. The Settlement Agreement for the Decoupling Mechanism, as approved by the
18 Commission, established March 31, 2009, as the due date for the Evaluation, and did not
19 specifically address the inclusion of data through a specific date. At this time, however, the
20 Company intends to incorporate data through December 31, 2008. The March 31, 2009 date
21 may make it difficult to include the independently verified 2008 DSM savings for the fourth
22 quarter of 2008 into the Evaluation Report. Nevertheless, Avista will use its best efforts to

1 coordinate with the selected Evaluator, in order to incorporate all of the information for 2008.
2 If that ultimately proves impossible, Avista will so advise the Commission. It is important to
3 recognize however, that this potential issue is entirely separate from the question of whether
4 the delay in formulating an Evaluation Plan has, itself, caused a delay in the delivery of the
5 final evaluation. Rather, it is a function of the date originally set for completion of the
6 Evaluation – i.e., March 31, 2009.

7 **Q. Does the Company have any concerns that the Evaluation Report can be**
8 **completed by the March 31, 2009 due date?**

9 A. No. The Company remains confident that a quality Evaluation Report can be
10 completed by March 31, 2009. This view is shared by Dr. Jane Peters of RIA, who will also
11 address this issue.

12 **III. Avista's Efforts to Resolve Remaining Issues**

13 **Q. What is Avista's response to Public Counsel's recommendation that, if**
14 **possible, the Commission retain the Evaluator, to help ensure that the Evaluator is**
15 **truly independent and objective?**

16 A. To begin with, all parties recognize that the selection of the Evaluator will be
17 by "consensus", if possible. Of course, a prerequisite of the selection will be that the chosen
18 Evaluator be independent and the evaluation be as objective as possible. If the parties are
19 unable to reach a consensus on the selection of an Evaluator, however, the Commission
20 would be asked to choose an Evaluator. After an Evaluator is selected either by consensus or
21 by the Commission, it will be necessary to enter into a contract to actually "retain" the
22 Evaluator. Avista believes it is appropriate for the Company to fulfill that role in executing

1 the contract. The contract itself will be reviewed by all parties, as will all of the parameters
2 of the evaluation.

3 **Q. Would the Company have any objection to the Commission being the**
4 **party retaining the Evaluator?**

5 A. No. However, the Company believes that the ultimate responsibility for the
6 retention of an Evaluator, and ensuring that the Evaluation Report is completed and filed with
7 the Commission, lies with Avista. The selection of the Evaluator by the parties, together with
8 the use of an advisory committee, explained below, should provide independence and
9 objectivity to the selection of the Evaluator and the Evaluation itself.

10 **Q. One of the procedural questions posed by Public Counsel on page 3 of**
11 **their comments is: “Will there be a stakeholder advisory committee and if so, what is**
12 **the process for interfacing and communicating with the evaluator?” Could the**
13 **Company address this concern expressed by Public Counsel?**

14 A. Yes. The development of the draft Evaluation Plan is already being done as a
15 collaborative effort by representatives of the interested parties. In effect, we already have a
16 “stakeholder advisory committee” (hereinafter, “Advisory Committee”) and Avista has no
17 objection to calling it such and maintaining its presence throughout the entire evaluation
18 process. The Advisory Committee would provide direction throughout the entire process,
19 both before and after the completion of the evaluation plan – i.e., preparing the evaluation
20 plan, selecting an evaluator, and addressing questions or issues that arise during the course of
21 the evaluation. Once an Evaluator is chosen, the first logical step is for the parties to meet
22 with the Evaluator as a group. Thereafter, issues that arise during the evaluation can then be

1 posed to the entire Advisory Committee. As such, this Advisory Committee will provide
2 continuing oversight, but with the caveat that the Advisory Committee should not interfere
3 with the independence of the Evaluator. It is assumed that any questions that may arise
4 during the evaluation should essentially be clarifying questions regarding the information to
5 be examined and presented in the Evaluation Report.

6 **Q. Would you respond to the suggestion at page 5 of Public Counsel's**
7 **comments that Avista's draft Evaluation Plan does not address the Commission's**
8 **interest in closely scrutinizing the "proportion of margin lost to Company sponsored**
9 **DSM relative to the amount subject to recovery"?**

10 A. Yes. In fact, that very issue will be addressed in a separate section under the
11 draft Evaluation Plan (on page 3): "Reduction in Customer Usage and Margin under the
12 Mechanism compared to Programmatic DSM Savings" (See, Exhibit __BJH-2).
13 Accordingly, the Evaluation Plan will directly address that issue.

14 **Q. At page 5 of its comments, Public Counsel states that the timeline does not**
15 **allow for Commission feedback on the final Evaluation Plan prior to issuance of the**
16 **RFP. Does the Company have an alternative proposed timeline to allow for**
17 **Commission review of the final Evaluation Plan, if the Commission wishes to do so?**

18 A. Yes. The Company has provided a draft of the Evaluation Plan with its
19 comments in this proceeding so that the Commission can review and, if it wishes, provide
20 guidance and feedback at this time on the draft Plan. If the Commission wishes to review
21 and provide additional feedback on the final Plan after it is filed (April 30, 2008), the
22 Company recommends that the dates associated with selecting an Evaluator simply be

1 extended by thirty days. Based on this alternative proposal, allowing for additional
 2 Commission guidance, the proposed timeline would be as follows (the processes/dates that
 3 have been extended by thirty days are shown in bold):

4	April 15, 2008-	Parties provide names of potential Evaluators
5	April 30, 2008-	Final Plan filed with Commission
6	May 1 – May 31-	Review by Commission / revisions to Evaluation Plan
7	June 1, 2008-	RFP Issued to potential Evaluators
8	June 30, 2008-	Proposals due from potential Evaluators
9	July 1 – July 31-	Parties review proposals and interview potential Evaluators
10	August 1, 2008-	Parties select an Evaluator. In the event the Parties are
11		unable to reach consensus, they will make
12		recommendations to Commission.
13	August 10, 2008-	Recommendations filed with Commission
14	September 1, 2008-	Commission selects Evaluator
15	January 1, 2009-	Preliminary Evaluation Report provided to Parties from
16		Evaluator
17	March 31, 2009-	Final Report filed with Commission

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 19 This alternative timeline would provide for the selection of the Evaluator no later
 20 than September 1, 2008 (or earlier, by August 1, if the parties otherwise reach consensus on
 21 an Evaluator without the need for Commission involvement). This would still allow the
 22 Evaluator seven months to complete their final Evaluation Report, which should allow ample
 23 time for the Evaluator to complete its work. Dr. Jane Peters, of RIA, will also speak to this
 24 point.

25 **Q. On page 8 of its comments, Public Counsel recommends “that the**
 26 **Commission should order that Avista may not file for extension or modification of the**

1 **mechanism sooner than thirty days after the submission of the Final Evaluation to the**
2 **Commission (i.e. no sooner than April 30, 2009). This is necessary to allow sufficient**
3 **time for all parties to review and analyze the Final Evaluation Report.” Would the**
4 **Company object?**

5 A. No, it would not. However, absent such an order by the Commission, the
6 Company is prepared to proceed in accordance with the terms set forth in the Settlement
7 Agreement in this Docket, which provides that: “On or before March 31, 2009 (three months
8 prior to the end of the pilot deferral term), the Company may file a request to continue the
9 Mechanism beyond its initial term. That filing would include an evaluation of the
10 Mechanism and any proposed modifications of the Company.”

11 **Q. On pages 8 and 9 of Public Counsel’s comments, they describe a review**
12 **process if Avista files for extension of the Mechanism by March 31, 2009, that, in their**
13 **view, may need to extend beyond June 30, 2009. What is the Company’s response?**

14 A. In the event more time would be needed to review Avista’s filing, there are at
15 least two paths to choose. First, the Commission could choose to extend the decoupling
16 deferral period beyond June 30, 2009, until the review is completed. Second, the decoupling
17 deferrals could cease June 30, 2009, and then resume at a later time following completion of
18 the review, if the Commission were to approve the continuation of a decoupling mechanism
19 in some form. This issue could be addressed at the time of any filing by the Company to
20 extend the mechanism.

21 **Q. On pages 9 and 10 of Public Counsel’s comments, they recommend that,**
22 **as a sanction for Avista’s initial failure to comply with the evaluation planning**

1 **requirement, Avista should not be permitted to recover the cost of the evaluation from**
2 **its ratepayers. Does the Company wish to comment on this issue?**

3 A. Yes. The Company believes that the substantive value of the evaluation plan
4 and final evaluation report have not been irreparably undermined through the Company's
5 delay in filing the draft evaluation plan, even though the Company was remiss in failing to
6 meet this deadline. The Company has dedicated substantial efforts and resources to get this
7 evaluation process "back on track". Nevertheless, the Company would not object to
8 underwriting the reasonable costs of the evaluation effort, believed to be in the approximate
9 range of \$50,000 to \$100,000.

10 Further, the Company has taken additional steps to ensure that all regulatory
11 requirements and commitments are met in the future. These steps include 1) added
12 redundancy in the review of Commission orders and rules to identify compliance items, and
13 2) regular review of regulatory requirements and commitments. Mr. Kelly Norwood, Vice
14 President of State and Federal Regulation, will be available to answer further questions in
15 this regard.

16 **Q. In conclusion, what specific guidance would the Company like to receive**
17 **at this time from the Commission with respect to any particular issues that have been**
18 **discussed in the comments and testimony filed in this proceeding?**

19 A. In order for the Company and the other parties to proceed expeditiously with
20 the proposed process and timeline for selection of an Evaluator, as well as the completion of
21 the Evaluation Report by March 31, 2009, the Company would like to receive specific
22 guidance from the Commission at this time with regard to the following questions:

1 1) Does the Commission wish to provide, for itself, the opportunity to further
2 comment on the final Evaluation Plan (to be filed with the Commission on or before April
3 30, 2008), prior to the issuance of the RFP for the selection of an Evaluator?

4 2) If the parties are unable to reach a consensus on the selection of an Evaluator,
5 does the Commission, itself, wish to select the Evaluator, or does the Commission favor
6 some other alternative?

7 3) Once an Evaluator is selected, should the Company actually “retain” the
8 Evaluator by entering into a contract to perform the Evaluation, or does the Commission
9 prefer another alternative with respect to who should “retain” the Evaluator?

10 **Q. Does that conclude your direct testimony in this proceeding?**

11 A. Yes, it does.

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