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May 17, 2013

***Via Electronic Mail***

Steven V. King  
Acting Executive Director and Secretary  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive S. W.  
P.O. Box 47250  
Olympia, Washington 98504-7250

Re: Comments of Avista Utilities on the "Rulemaking to Consider Possible Corrections and Changes in Rules in WAC 480-07, Relating to Procedural Rules" Docket No. A-130355

Dear Mr. King,

Avista Corporation dba Avista Utilities (Avista or Company) submits the following comments in accordance with the Washington Utilities and Transportation Commission's (Commission) Notice of Opportunity to Submit Written Comments (Notice) issued in Docket A-130355.

On March 22, 2013, the Commission issued a notice identifying a number of areas in which the Commission's procedural rules in WAC 480-07 could be supplemented, improved, or clarified, and provided interested persons the opportunity to submit written comments. On April 16, 2013 the Commission made certain changes to the topics within the Notice, and scheduled comments due May 17, 2013 and a workshop July 2, 2013.

Avista appreciates the opportunity to comment on the specific areas identified in the Notice. Our comments on each topic are provided below. In addition, the Commission's Notice also invites initial written comments "on the need or desirability of rules or rule revisions governing these or

other areas.” (emphasis added) Later in our response, Avista provides additional comments for consideration by the Commission, and other stakeholders in this Docket, that are either directly or indirectly related to the topics identified by the Commission.

### **Comments on Specific Topics in the Notice:**

#### **1. Revisions to rate case filing requirements.**

**Avista Response:** Avista has no suggested changes at this time.

#### **2. Procedures for initial evaluation of complaints filed against regulated companies.**

**Avista Response:** The current rule provides that the Commission will investigate to determine if there are violations of any applicable rule or law and if so, will work with the parties to ensure compliance. The Commission is also to encourage resolution of disputes whenever possible. The Company would encourage the Commission to work with the parties in its initial evaluation and to allow reasonable time for a thorough review. To this end, before the Commission issues a formal complaint (which may or may not include proposed penalties), it should informally confer with the Company and other interested parties in an attempt to resolve the matter, without requiring a formal complaint.

#### **3. Procedures for penalty assessments.**

**Avista Response:** The Commission has already addressed this issue in Docket A-120061<sup>1</sup>. As provided, in part, in Avista’s comments filed in that Docket, the Company believes it is important to maintain a balance between an overly-rigid framework that may not allow enough discretion for case-by-case review of circumstances relating to penalties, and a review process that provides clarity and consistency. In addition, there should be an opportunity to informally resolve possible penalty assessments before proposed penalties are announced.

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<sup>1</sup> Comments filed March 26, 2012 in Docket No. A-120061 “Notice of Inquiry into Issuing a Policy-Interpretive Statement Describing Commission Policy Related to its Enforcement Practices.”

**4. Procedures for enforcing annual report filing and regulatory fee payment.**

**Avista Response:** The Company believes the Commission has already addressed this issue in their “Enforcement Policy”<sup>2</sup> dated January 7, 2013 by stating: “By statute, the Commission and Commission Staff (Staff) are authorized to “at any and all times ... inspect the accounts, books, papers and documents of any public service company” (RCW 80.04.070 and RCW 81.04.070). The Commission or Staff initiates an investigation when it has reason to suspect a company has violated a Commission statute, rule, order or tariff. The Legislature has provided for enforcement of Commission statutes, rules, orders and tariffs in both civil and criminal contexts...”

**5. Procedures for Commission consideration of dockets at Open Public Meetings, including filing deadlines.**

**Avista Response:** An option for the Commission to consider would be to allow parties to request that certain filings be processed under what might be referred to as “modified procedure.” The use of “modified procedure” would be an option the Commission could choose at the open meeting following the initial filing by a utility, should the utility explicitly request processing under “modified procedure”. Modified procedure would be appropriate where there are no substantial questions of fact to be resolved through a hearing; rather, resolution would depend on written comments arguing for or against approval. Under modified procedure the Commission would issue a notice of the filing and request written comments and reply comments to be filed by interested parties. Following the receipt of comments and reply comments, the Commission could issue its decision, or subsequently decide to conduct further proceedings, e.g., set the case for hearing, etc. Filings processed under modified procedure would be decided within 60 days of the initial filing. The use of “modified procedure” presents a third alternative between either approving the filing at an open meeting or setting the matter for hearing.

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<sup>2</sup> In the Matter of the Enforcement Policy of the Washington Utilities and Transportation Commission in Docket A-120061.

**6. Procedures for Commission review of company Integrated Resource Plans, Requests for Proposals, Conservation Plans, and other I-937 filings.**

**Avista Response:** Filings under I-937 are required under rule and statute<sup>3</sup> as well as by Commission Order<sup>4</sup>. The Company recommends that the Commission consider issuing a notice of the filing after the IRP is filed, and request written comments and reply comments to be filed by interested parties on specific dates, as well as a scheduled date for oral presentation of the IRP to the Commission by the Company. Following the oral presentation, the Commission could decide whether further proceedings are necessary. Absent the need for additional proceedings, Avista recommends that the Commission issue its letter of acceptance within four months of the initial IRP filing.

**7. Interested party access to confidential documents in non-adjudicative cases.**

**Avista Response:** Any party requesting access to confidential information could be furnished with an agreed upon form of protective agreement. An example form of such agreement is attached as Appendix A to the Company's comments.

**8. Procedures for Commission review of settlement agreements in cases involving suspended tariffs.**

**Avista Response:** While the availability of a settlement judge may prove useful to the process, the existing rules provide enough flexibility for the parties to arrive at a settlement and for the Commission to entertain a settlement – and such rules should remain flexible. The Company recommends that procedural schedules in general rate cases include scheduled conferences for settlement and/or narrowing of the issues in the case. This should include a meeting prior to the first filing of responsive testimony of staff and intervenors, if for no other reason, to narrow the issues.

**9. Procedures for requesting preliminary relief in adjudicative dockets.**

**Avista Response:** Avista proposes that utilities be allowed to implement up to 50% of a requested base rate increase within 90 days of the filing, if certain conditions are met, and

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<sup>3</sup> WAC 480-109 and RCW 19.285

<sup>4</sup> Order No. 1 in Docket No. UE-111882

subject to refund. If the utility under-earned during the historical test period on a normalized basis (Commission Basis), then the preliminary relief would be allowed for the lesser of 1) the dollar amount of the under-earning, or 2) 50% of the requested base revenue increase. The preliminary relief would be granted subject to refund, i.e., if the permanent revenue increase granted at the conclusion of the case were to be less than the preliminary relief, the amount of preliminary relief in excess of the permanent revenue increase would be refunded to customers with a carrying charge equal to the overall rate of return. Avista proposes that following a utility's base rate increase filing (that includes a request for preliminary relief), the Commission issue a notice of the filing that includes a schedule for comments, reply comments and a proposed Open Meeting date for the Commission to issue its decision related to the request for preliminary relief. Following the Commission's decision, the utility would make a compliance filing to implement new rates for the preliminary relief.

**10. Creation and maintenance of official service list in adjudications (including courtesy email distribution).**

**Avista Response:** The Commission's last review of WAC 480-07 was in 2006 under Docket A-050802. Since that time Commission Staff and other stakeholders who conduct business before the Commission have identified a number of areas in which the Commission's procedural rules in WAC 480-07 could be supplemented, improved, or clarified. These areas include, but are not limited to, the following:

- a. The official service list for each docket should be posted on the Commission's website.
- b. Each party should identify both mail and email addresses for each docket.
- c. Each party should specify if they elect to waive paper copies.
- d. Each party should provide a courtesy e-mail distribution list which may facilitate an improvement in the flow of information, e.g., through which discovery requests could be distributed more quickly.

**11. Exhibit identification/numbering in adjudicative proceedings.**

**Avista Response:** Avista has no proposed changes at this time.

**12. Filing and distribution of cross-examination exhibits.**

**Avista Response:** Avista has no proposed changes at this time.

**13. Clarification or revision of initial orders prior to seeking administrative review.**

**Avista Response:** Avista has no proposed changes at this time.

**14. Possible new requirements for pre-filed responses to standard data requests in rate cases.**

**Avista Response:** Avista proposes that, in order to expedite the discovery process, a utility provide responses to a pre-determined set of data requests within five business days of the utility's rate case filing, similar to those Commission Staff routinely sends to all utilities upon receipt of a new general rate case filing. The list of data requests should address areas such as test year revenues, expenses, and rate base, and should be limited to information to support the Company's filing. The list should not include requests for hypothetical or speculative responses, or require the utility to create documents or perform studies that would otherwise not exist. Specific filing requirements of responses (number of copies, etc.) and confidential material should be consistent with the filing of utility workpapers, rather than filing of testimony and exhibits which become a part of the filing record.

**15. Possible new or revised rules for settlements, including use of a qualified settlement judge for major cases.**

**Avista Response:** Avista proposes that a settlement judge be available to the parties, upon request, for major rate cases.

**Additional Comments**

With regard to other related topics, Avista believes we should take this opportunity to continue to work together toward a regulatory environment that is more transparent and collaborative. Avista believes there is opportunity to build on the recent progress in promoting a much deeper and timely understanding of the breadth and detail of a utility's operations, provide greater transparency into the workings of the business, which could lead to a greater level of trust

and understanding among all participants. This goes hand-in-hand with some of the specific topics identified by the Commission in its Notice, such as items 5, 9, 14 and 15 above.

While the settlement agreement in Avista's last rate case did not explicitly include an "attrition adjustment," the end result of the new retail rates established, through approval of the settlement, made significant progress in addressing the attrition problem. The two-year rate plan approved for Avista was also a constructive step forward, which will ease the burden for all stakeholders related to annual general rate case filings. We believe this outcome was made possible, at least in part, through increased transparency and collaboration among the stakeholders.

There is significant opportunity to build on this progress. As an example, utilities have been filing Commission Basis Reports every year with the Commission, which provide very informative data related to the results of operations for the utility on a normalized basis for the most recent year. We believe these reports provided very useful information as stakeholders worked toward an end result in our recent rate case, and Avista believes these existing reports can be put to greater use in the future to promote transparency and understanding (e.g., Avista's comments on Item 9 above).

Avista appreciates the opportunity to provide these initial comments, and we look forward to participating in the workshop scheduled for July 2, 2013, as well as the future opportunity to address the topic of "Commission consideration of expedited rate filings," and the issues related to that topic.

If you have any questions regarding these comments, please contact Linda Gervais at 509-495-4975 or [linda.gervais@avistacorp.com](mailto:linda.gervais@avistacorp.com) or myself at 509-495-4267.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Norwood".

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