

**BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION
COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA UTILITIES,

Respondent.

DOCKET NOS. UE-100467/UG-
100468
(consolidated)

DECLARATION OF
SIMON J. FFITCH

2010 MAY -7 AM 10:02
OFFICE OF THE ATTORNEY GENERAL
PUBLIC COUNSEL SECTION

1. I, Simon J. ffitch, make the following declaration:
2. I am a Senior Assistant Attorney General and the Chief of the Public Counsel Section of the Washington State Attorney General's Office (Public Counsel). As part of my duties, I am responsible for the administration of the Public Counsel office, including budget matters.
3. The ultimate source of Public Counsel's funding is the Public Service Revolving Fund (PSRF). Public Counsel's budget is based on a legislative appropriation that is part of the overall budget of the Attorney General's Office. The PSRF is also the source of funding for the Utilities and Transportation Commission (the Commission) and the Utilities & Transportation Division of the Attorney General's Office. The funds in the PSRF come from statutory assessments on regulated public service companies based on a percentage of their revenues. Public Counsel does not receive funding from any other source.
4. Public Counsel's budget is established on a biennial basis by the Fiscal Office of the Attorney General's Office. The budget includes a separate identification of the funds to be

available for expert witness costs. The fiscal year begins on July 1 and ends on June 30 of the biennial period. Public Counsel's divisional budget for the current biennium is \$1,919,733. Based on information provided to me by AGO Fiscal, it is my understanding that the UTC agency biennial budget from PSRF funds (beginning of the 2009-11 biennium numbers) was \$31,306,000. Public Counsel's budget represents 6.1% of this PSRF total.¹

5. The Public Counsel expert witness budget adopted for the current 2009-2011 biennium was \$400,000. For the 2007-2009 biennium, the Public Counsel budgeted amount for expert witness fees was \$512,000. Current expert funding has, therefore, experienced a \$112,000 (21.8 percent) reduction from the prior biennium. There has been no corresponding reduction in case load.

6. Significant adjudications in the current biennium included the Avista 2009 General Rate Case, Docket Nos. UE-090134/UG-090135, and the Avista Decoupling Pilot Review, Docket No. UE-060518, which were ultimately consolidated. In the current biennium, Public Counsel's total expenditures for expert witnesses on these two matters were \$106,117. Public Counsel's total expert witness cost for both cases, *i.e.* considering work done in the previous biennium, was \$173,303. These expenditures covered five expert witnesses addressing: cost of capital (shared), revenue requirement, power costs, rate spread/rate design (shared), and decoupling.

7. Due to the number of significant adjudications that Public Counsel participated in during the current biennium, including the above referenced Avista case, Public Counsel's \$400,000

¹ This ratio is based upon the entire PSRF, while Public Counsel only participates in electricity, gas, and telecommunications matters. A better comparison can be derived by looking at the ratio of Public Counsel funding compared to the PSRF payments from these industries, \$12.391 million for 2008. If this is extrapolated to a biennial figure of \$24.8 million, Public Counsel's total budget is 7.6 percent of this amount. This PSRF data is publicly available from UTC filings.

budget for expert witnesses is now exhausted. Therefore, Public Counsel is not currently able to contract for the assistance of expert witnesses in the instant docket.

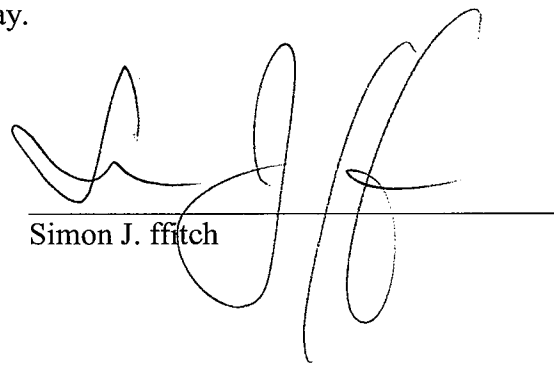
8. Without funding for expert witnesses, Public Counsel will be unable to adequately represent the interests of the Avista's customers in the instant docket. The use of expert witnesses to review and analyze Company and other party positions, assist with discovery, advise regarding settlement, present testimony, and assist at hearing, is essential to effective representation of the public in a general rate case. All major parties in UTC practice present their positions through expert witnesses or through testimony of in-house experts or technical specialists.

9. Public Counsel is currently at its full staffing level of 4.3 legal and analyst personnel (two full-time attorneys, one full-time analyst, one 0.7 analyst, and one 0.6 analyst). In addition, Public Counsel has 1.7 legal secretarial staff. Public Counsel analysts do not have the professional qualifications to present expert testimony on cost of capital, rate spread/rate design, power costs, or revenue requirement issues. In addition, Public Counsel regulatory analysts have a broad range of job duties making it infeasible to assign them the resource-intensive task of preparing and presenting testimony without impairing other essential functions of the Office. These other job duties include: litigation support and case management; preparation, tracking, and review of discovery; representation of Public Counsel in rulemakings including drafting comments; representation of Public Counsel on utility collaborative and advisory committees; substantive research; and, representation of Public Counsel on Commission Open Meeting agenda items.

10. Based on a preliminary review of this Avista rate case filing, the issues identified for further review in this case in the Commission's last order, and our expenditures in the prior case, Public Counsel estimates a minimally reasonable expert witness budget for this matter would be \$150,000.

11. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

SIGNED at Seattle, Washington this 6th day of May.



Simon J. Ffitch