

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of)	
)	
AVISTA CORPORATION)	
)	DOCKET NO. UE-000080
for a Ruling on the Regulatory Treatment of)	
the Gain on the Proposed Sale of the 2.5%)	
Share of the Centralia Power Plant Acquired)	
by Avista Corporation from Portland)	MOTION OF COMMISSION
)	STAFF TO
General Electric to be Sold to TECWA)	STRIKE REPLY BRIEF OF AVISTA
Power, Inc.)	
_____)	

The procedure established in this case included a briefing schedule which allowed the parties to submit reply briefs. The Commission was very specific, however, that reply briefs were only for the limited purpose of addressing "new or unexpected matters". (Tr. 19; 11-12.) This restrictive standard was echoed in the Prehearing Conference Order, where the Commission stated that reply briefs were "limited to responses to matters that the party has not addressed in its opening brief and that are new or a 'surprise' to responding parties." (Page 2, item 5(c)).

Parties, therefore, had the ability to respond, but only to new arguments that were clearly beyond the scope of any issue that could not have been anticipated. No repetition of arguments would be tolerated. These ground rules were understood clearly and agreed upon by all parties.

On March 6, 2000, Avista Corporation submitted its Reply Brief. The Company's Reply

Brief, however, does nothing more than: (1) repeat arguments it made in its initial brief; (2) reply to arguments Avista knew and understood clearly would be raised; and (3) attempt to bolster arguments that Avista raised in Docket UE-991255, but ignored in its initial brief in the pending case.¹

The Company's Reply Brief, therefore, violates both the letter and spirit of the Commission's procedures established for this case, which were procedures Avista accepted and agreed to follow. The Reply Brief of Avista should, therefore, be stricken in its entirety.²

DATED this 7th day of March, 2000.

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¹ For example, the Company's argument on jurisdiction appears at pages 3-4 of its Reply Brief. The argument does nothing more than repeat the same argument Avista made in its initial brief that RCW 80.12.020 does not apply because the 2.5 percent share of Centralia is not used to serve retail loads and is not in ratebase for ratemaking purposes. Avista should also have been able to anticipate the POWER case in its initial brief, especially since Avista was a party to that decision.

² Public Counsel submitted a reply brief on March 7, 2000. Its reply also appears to violate the standard adopted by the Commission in this case, although its brevity makes it much less offensive than Avista's. For the sake of consistency, however, should the Commission grant the Staff Motion to Strike Avista's Reply Brief, it should also strike Public Counsel's reply Brief.