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July 2, 2014

SENT VIA ABC LMI AND WEB PORTAL

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

Re: *Washington Utilities and Transportation Commission v. Avista Corporation d/b/a Avista Utilities*
Dockets UE-140188/UG-140189

Dear Mr. King:

Enclosed for filing in the above-referenced docket are the original and seven (7) copies of the Public Counsel's Motion to Strike Certain Testimony and Exhibits Filed by Avista, and the Certificate of Service.

Sincerely,

Lisa W. Gafken
Assistant Attorney General
Public Counsel Division
(206) 464-6595

LWG:cm

cc: Service List (First Class Mail & Email)

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

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION, d/b/a AVISTA
UTILITIES,

Respondent.

DOCKETS UE-140188 and
UG-140189

PUBLIC COUNSEL'S MOTION TO
STRIKE CERTAIN TESTIMONY
AND EXHIBITS FILED BY AVISTA

1 Pursuant to WAC 480-07-375(1)(d), the Public Counsel Section of the Washington Attorney General's Office (Public Counsel) moves to strike certain testimony and exhibits filed by Avista Corporation, d/b/a Avista Utilities (Avista or Company) in its initial filing pertaining to a 2016 attrition study. The testimony and exhibits related to Avista's 2016 attrition study should be stricken without prejudice because they are not relied upon by the Company, do not pertain to the requested rates, and are thus outside the scope of this general rate case proceeding.

I. INTRODUCTION

2 Avista seeks a rate increase to go into effect on January 1, 2015. The Company bases its request on its 2015 attrition study and provides a 2015 "Pro Forma Cross Check Study" to support its attrition study results.¹ Avista also filed testimony and exhibits pertaining to a 2016 attrition study that is provided "for information only." Avista expressly does not rely on the 2016 attrition study for its rate request and expressly does not seek 2016 rates in the current docket.² As such, the 2016 attrition study is outside the scope of this proceeding, and all testimony and exhibits

¹ Statements in this Motion are intended to describe Avista's filing, but are not intended to convey approval of Avista's rate request or acquiescence in the sufficiency of evidence. Public Counsel will file its responsive case along with other non-company parties on July 22, 2014, per the Commission's case schedule as set out in the Prehearing Conference Order, dated March 10, 2014.

² Andrews, Exhibit EMA-1T at 80:10-16.

relating to the 2016 attrition study should be stricken.

II. DISCUSSION

3 Avista filed its current general rate case on February 4, 2014, seeking certain rate
increases, effective January 2015, for both electric and natural gas operations. Avista expressly
does not seek rate relief for 2016.³

4 Under WAC 480-07-495(1), all relevant testimony is admissible. However, the
Administrative Law Judge may exclude all irrelevant evidence. Relevant evidence is evidence
having the tendency to make the existence of any fact of consequence more or less probable than it
would be without the evidence.⁴ Relevant evidence in this case is evidence that demonstrates that
the rate request for 2015 is or is not fair, just, reasonable, and sufficient. Information provided
“for information only” for a period after the rate effective period is irrelevant and inadmissible.

5 The Commission, like trial courts, has broad discretion regarding admission of evidence.
Evidence which has the tendency to mislead, distract, confuse, waste time, or be too remote may
be properly excluded.⁵ In this case, the 2016 attrition study is beyond the scope of the proceeding,
and as a result tends to mislead, distract, confuse, waste time and be too remote. The Commission
may properly exclude the 2016 attrition study.

6 Table 1 contains a list of the testimony and exhibits filed by Avista with its initial filing
that are affected by this motion.

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³ Andrews, Exhibit EMA-1T at 80:10-16; DeFelice, Exhibit DBD-1T at 1:18 to 2:8, 5:14 to 6:3.

⁴ ER 401.

⁵ See *Public Utility District No. 1 of Klickitat County v. International Ins. Co.*, 124 Wn.2d 789, 813-814 (1994).

TESTIMONY AND EXHIBITS AFFECTED BY THIS MOTION – TABLE 1


Exhibit	Description	Pages to be stricken
Andrews, Exhibit EMA-1T	Direct Testimony of Elizabeth Andrews	Page 3, lines 15-16 (first sentence) Page 80, line 3 through page 83, line 10.
Andrews, Exhibit EMA-6	Exhibit of Elizabeth Andrews; 2016 Attrition Studies	Entire exhibit
DeFelice, Exhibit DBD-1T	Direct Testimony of David DeFelice	Page 2, lines 6-8 (first sentence) Page 28, line 10 through 30, line 8.
DeFelice, Exhibit DBD-5	Exhibit of David DeFelice; Capital Projects	2016 Capital Projects
Morris, Exhibit SLM-1T	Direct Testimony of Scott Morris	Page 26, lines 19-21 (sentence beginning “In addition, for information purposes only,...”) Page 27, lines 8-10 (sentence beginning “For informational purposes,...”)

III. CONCLUSION

7 Irrelevant evidence may be properly excluded to avoid the record from being burdened by such evidence. Avista has provided testimony and exhibits unrelated to the request for rates in this matter. Such testimony and exhibits, identified above, should be excluded and stricken from the record without prejudice.

8 Dated this 2nd day of July, 2014.

ROBERT W. FERGUSON
Attorney General


Lisa W. Gafken, WSBA #31549
Assistant Attorney General
Public Counsel Division

CERTIFICATE OF SERVICE

WUTC v. Avista

Dockets UE-140188 and UG-140189

I hereby certify that a true and correct copy of Public Counsel's *Motion to Strike Certain Testimony and Evidence Filed by Avista* was sent to each of the parties of record shown below in sealed envelopes via U.S. First Class Mail and E-Mail.

SERVICE LIST

**** = Receive Highly Confidential; * = Receive Confidential; NC = Receive Non-Confidential**

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DATED: July 2, 2014.



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