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BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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| 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 General Electric to be Sold to) TECWA Power, Inc.) _____) | | OPPOSITION OF AVISTA CORPORATION TO COMMISSION STAFF’S MOTION TO STRIKE REPLY BRIEF |

Avista Corporation (“Avista”) opposes Commission Staff’s Motion to Strike Avista Corp’s Reply Brief in this matter. The Commission Staff indicate in their Motion to Strike that Avista was required to anticipate the arguments which Staff would be raising, so that there would be no need to file a reply. This was not Avista’s understanding of the opportunity to file a reply. Administrative Law Judge Wallis stated:

JUDGE WALLIS: February 28 of the year 2000. And limited reply briefs, that is briefs addressing new or unexpected matter, may be filed no later than March 6 of the year 2000.

While Avista undertook to deal with the issues that Staff raised at the Prehearing Conference, no attempt was made to try to anticipate all of the arguments any Party might raise and deal with them in the Opening Brief.

The Parties were admonished not to include repetitive material, but they were not required, at their peril, to anticipate arguments. Staff made several arguments, which Avista did not deal with in its Opening Brief, that were in Avista's opinion clearly wrong. Because they were wrong, they were not anticipated. Avista limited its reply to the following items:

1. Staff's argument that used and necessary definition includes items merely "capable" of being used based upon the Power decision;
2. Staff's argument that sale of the 2.5% share of Centralia would result in higher future power costs;
3. Staff's argument that the 2.5% share is a known cost resource; and
4. Staff's argument that Avista manipulated accounts.

Necessarily, in order to place Avista's responsive arguments in context, there is bound to be some minor restatement of arguments made in Avista's Opening Brief. However, every effort was made to keep these to a minimum. Avista's Reply is but nine (9) pages long, and should not be characterized as repetitious. A full week was given to the Parties to prepare their reply briefs. Staff and Public Counsel requested this time. With this amount of time being given, Avista certainly anticipated that it would be permitted to reply to arguments that it had not answered in the Opening Brief. Due process is a process that permits an answer to arguments so that reasoned judgment may be made by the Commission. For these reasons, Avista requests that the Motion to Strike filed by Commission Staff be denied.

DATED this _____ day of March, 2000

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