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October 5, 2021

Amanda Maxwell
Executive Director and Secretary
Washington Utilities & Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

RE: **Docket No. U-210595 – Comments of Avista Utilities Regarding Intervenor Funding**

Dear Ms. Maxwell:

Avista Corporation appreciates the opportunity to file additional comments in this Docket, following the workshop held on September 28, 2021. Avista found the workshop to be informative and has incorporated many of the suggestions in these comments. The purpose of Avista's initial round of comments was largely explanatory of an existing funding approach used in Oregon. Avista fully understands that it would need to be modified and that other approaches may serve the same interests in Washington. These comments will be quite brief but will continue to use the Oregon Funding Agreement as a framework for discussion.

I. The Need for Outreach.

A concern shared by Avista is that, without some advance outreach to Community Based Organizations (CBOs) representing Highly Impacted Communities and Vulnerable Populations (Named Communities), we may not sufficiently understand their needs, their interests in participation, and their present capabilities, without which, this effort may fail in its intended purpose. We understand that this constituency will continue to evolve over time in their level of interest and capabilities and that any negotiated agreement should allow for such an evolution.

Avista is not suggesting, however, that the creation of a Funding Agreement be delayed until this outreach is completed. It will, in all likelihood, take a few months in the very least to reach agreement on an overall funding approach, so that work should begin in earnest, while at least an initial effort is made to reach out to those vulnerable populations that are sufficiently formed and organized to bring them to the table.

As a safeguard, any initial Funding Agreement should be short term (perhaps characterized as "interim") for perhaps two or three years, to allow for continued outreach, as well as to

familiarize other participants with the workings of such an agreement. Necessary changes can then be incorporated into the next iteration of that Agreement.[1]

II. The Administration Framework - Viz-a-Viz, The Oregon Funding Agreement.

There is much to draw upon in the Oregon Funding Agreement for purposes of creating a "framework" for any funding. It does serve to answer most of the detailed questions posed by the Commission in its request for comment concerning the "process" around certifying eligibility, developing budgets and the ultimate approval process. Once properly understood, these "mechanics" should not be viewed as exclusionary or limiting. If the Commission wants definition and resolution of these mechanics, some construct needs to be used -- and the Oregon approach readily comes to mind. That said, the following adaptations to Washington might be entertained:

The "certification" process, if adjusted as suggested below, is actually meant to streamline the process and is not meant to be exclusionary. To that end, the "case-by-case certification" would serve as an easy entrance point or "gate" for the initial participation by a new intervenor largely unfamiliar with the process, or any other intervenor for that matter. Certification on a case-by-case basis need not have the same eligibility requirements as those who are "pre-certified" for ongoing participation. To ease entry through this "gate," there should be no requirement for a "prior history of participation," no requirement that the organization's "primary purpose" be to appear in regulatory proceedings, no "matching requirement" for funding, and no need to demonstrate an "ongoing" interest in regulatory matters.

Certification, even on a case-by-case basis, however, should require some basic demonstration attesting to the following: (1) established as a "non-profit organization"; (2) a well-defined segment of the customer base of the affected utility; (3) with a genuine interest in the issues in the proceeding and a contribution that is not merely duplicative of other participants. All of this is not unlike the requirements for any basic "intervention." Once "certified," the mechanics for requesting and receiving intervenor funding would apply.

There shall still be a second category of "certification," however, for those who appear regularly in Commission proceedings -- i.e., "Pre-Certified" participants. These requirements would reflect the eligibility requirements in the Oregon Agreement, including some level of "matching funds" (20% or 35%) to demonstrate that there is an ongoing commitment from its membership as well to participate in matters of interest to them. Other requirements such as an "ongoing" interest, prior history of effectively representing the interests of the group would also apply.

So why even have a "pre-certified" category? First, for sake of convenience, it streamlines the process so that "frequent flyers" can use their "TSA pre-boarding badge" (to overextend the analogy). But more importantly, there should be somewhat more vigorous requirements for those

[1] How the initial outreach to Named Communities would occur and who would participate, of course, needs further development and should probably be led by the Commission (not the utilities) but with assistance from all interested stakeholders.

who intend to be "frequent flyers," so that the frequent participants can substantially and meaningfully contribute to the process over time.

So why wouldn't a party simply come through the "side door" of "case-by-case participation" every time, and avoid the need to become "pre-certified"? They probably would, unless there is an expectation that, after some level of "case-by-case" participation, they would be required to seek "pre-certification" for future ongoing participation, and all that goes with it, including a demonstration of experience, capability and some level of "matching." After a few rounds of "case-by-case participation," this should not be hard to demonstrate. This would help assure the continued quality of participation by intervenors who intend to participate frequently over time and receive funding. This will aid in preserving the quality of the regulatory process, through serious and capable interventions, funded by ratepayer dollars.

III. Overall Levels of Funding.

In establishing an overall level of funding for all participants, including both for the current regular intervening parties and for new potential intervening parties, Avista would urge a simplified approach adjusted to Washington's needs, and one that would be revisited as experience is gained under a short-term, "interim" funding agreement.

(a) The overall level of funding by each utility during the two or three year "interim" agreement need not exceed 0.05% of revenues. For Avista, that means a total of approximately $350,000/year of combined electric and natural gas funding (with a possible one-year carryover of unused funds into the next funding year). This should be sufficient to meet the needs of all potential participants, at least during the first few years while we gain experience. That level can be revisited as we transition away from an "interim" two or three-year agreement and toward a longer arrangement.

(b) This level of funding would be divided into two (2) buckets:

(i) An "Issue Fund" for use in particular proceedings (2/3 of total or $235,000 set aside);

(ii) A "Pre-Authorized Grant" for those who are pre-certified as ongoing participants (1/3 of total or approximately $115,000). (This would require a "matching" to receive these funds and would be subject to certain requirements and limitations as spelled out in the Oregon Funding Agreement.)

Not less than some percentage of each funding bucket would be set aside for new intervening parties representing Named Communities. Avista would also be receptive to setting aside 20% of the funding ($70,000) for immediate use by such parties for their immediate use in Avista's upcoming general rate filing (first quarter of 2022), and while the parties are negotiating an overall funding agreement, subject to Commission approval. In the event an "interim" agreement is not approved by the end of 2021, Avista would support that this initial seed money

be made available to new intervening parties representing Named Communities for the purpose of its 2021 general rate filing.

IV. Should the Commission Issue Policy Guidance?

While what Avista purposes is one approach meant to jump start further discussions, it is unlikely to satisfy all participants -- hence the need for some "policy" guidance along the way. Otherwise, the negotiations with all participants over a Funding Agreement may become even more protracted, and at the end, may not meet the Commission's obligations. Meanwhile, Avista would welcome the opportunity to work with interested parties on the development of at least an "interim" agreement."

For questions regarding these comments please contact me at 509-495-4316 or david.meyer@avistacorp.com or Shawn Bonfield at 509-495-2782 or shawn.bonfield@avistacorp.com.

Respectfully submitted,

/s/ David Meyer
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Vice President and Chief Counsel for State
and Federal Regulation