

**Exh. WMG-1T  
Docket U-170970  
Witness: Wendy Gerlitz**

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of the Joint Application of  
Hydro One Limited and Avista  
Corporation for an Order Authorizing  
Proposed Transaction**

**DOCKET U-170970**

**TESTIMONY OF**

**Wendy Gerlitz**

**NW ENERGY COALITION, RENEWABLE NORTHWEST, AND  
NATURAL RESOURCES DEFENSE COUNCIL**

*Testimony in Support of Settlement*

**April 10, 2018**

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**I. INTRODUCTION / SUMMARY**

**Q: Please state your name, position, and business address.**

A: My name is Wendy Gerlitz. I am the Policy Director with the NW Energy Coalition (NVEC). The Coalition’s business address is 811 1st Ave, Suite 305, Seattle, WA 98104.

**Q: On whose behalf are you testifying?**

A: I am testifying on behalf of NVEC, Renewable Northwest (RNW), and the Natural Resources Defense Council (NRDC).

**Q: Please describe your professional qualifications.**

A: My qualifications are summarized in Exh. JNT-2, which contains short biographies of all the witnesses testifying in support of the settlement.

**Q: What is the purpose of your testimony in this proceeding?**

A: My testimony explains the basis for NVEC, RNW, and NRDC’s decision to join and support the All-Party Settlement in this proceeding. My testimony discusses why the Settlement is supported by NVEC, RNW, and NRDC, why it meets the net benefits standard, and why it is in the public interest.

**II. INTERESTS OF NVEC, RNW, AND NRDC**

**Q. Please describe NW Energy Coalition, Renewable Northwest, and Natural Resources Defense Council.**

A. NW Energy Coalition (“NVEC” or the “Coalition”) is a non-profit alliance of around one hundred environmental, civic and human services organizations, utilities, businesses, labor unions, and communities of faith in the Pacific Northwest. NVEC’s primary purpose is to promote an energy future that is clean, reliable, affordable, and equitable. NVEC provides technical and policy leadership on energy issues in this

1 region, and seeks to promote the development of renewable energy, energy conservation,  
2 and affordable energy services.

3 Renewable Northwest (“RNW”) is a non-profit organization that works to  
4 facilitate the expansion of responsibly developed renewable resources in the Northwest.  
5 RNW’s membership includes renewable energy developers and manufacturers, as well as  
6 consumer advocates, environmental groups, academic institutions, and other industry  
7 advisers. The common goal of RNW’s members is to promote the development of a cost-  
8 effective, reliable, and clean energy system for the betterment of the Northwest economy  
9 and environment.

10 Natural Resources Defense Council (“NRDC”) is a non-profit corporation  
11 dedicated to the preservation of the earth’s natural resources and the defense of humanity,  
12 plants and animals, and the earth’s natural systems necessary for life. NRDC seeks to  
13 protect people and promote social and economic justice by protecting the planet. NRDC  
14 is comprised of 3 million members and e-activists nationwide, including around 18,000  
15 members residing in Washington. NRDC advocates for the adoption of energy and  
16 regulatory policy that produces economically efficient, socially responsible, and  
17 environmentally sound outcomes. NRDC has engaged on issues related to the efficient  
18 use of energy, low-income energy services, environmentally preferred renewable power  
19 generation, rate design, and utility procurement. NRDC frequently participates in state  
20 and federal regulatory proceedings that involve the nation’s utilities and has offered  
21 expert testimony in previous rate cases in Washington and many other states.

22 **Q. Please describe the interests of NWECA, RNW, and NRDC that are affected**  
23 **by this proceeding.**

1 A. NVEC, RNW, NRDC, and their members have a substantial interest in the matter  
2 of the Joint Application of Hydro One Limited and Avista Corporation for an order  
3 authorizing the proposed transaction, Washington Docket U-170970, filed on September  
4 14, 2017. The proposed transaction, and the subsequent settlement agreement terms, will  
5 directly affect our member groups as well as the individual members of our  
6 organizations. In particular, the outcome of this proceeding has a high likelihood of  
7 impacting clean energy progress desired by many customers, including low-income  
8 customers, as well as of impacting Avista programs that serve the interests of these  
9 customers.

10 The interests in this proceeding of the Coalition, RNW, and NRDC include:

- 11 1. Members of the Coalition, RNW, and NRDC have a direct and substantial  
12 interest in the implementation by the Commission of the legal standard for  
13 evaluating mergers and other property transfers under the “net benefits”  
14 test described below;
- 15 2. The proposed merger could impact Hydro One’s and Avista’s  
16 performance related to implementation by Avista of its clean energy  
17 programs required by state law;
- 18 3. The proposed merger could impact Avista’s integrated resource planning  
19 and, consistent with Washington’s energy policy, lead to a cleaner  
20 generation portfolio that lowers cost and risk for Avista’s customers;
- 21 4. The proposed merger could impact issues related to Avista’s interest in the  
22 Colstrip coal-fired power plant in Montana; and
- 23 5. The proposed merger could impact issues related to energy efficiency  
24 assistance and other affordability issues for low and moderate income

1 customers.

2 **Q. What do NWEA, RNW, and NRDC expect of the new ownership of Avista?**

3 A. In addition to upholding the laws and regulations of the State of Washington, our  
4 organizations also expect the new owners to protect and enhance affordability for  
5 customers and to be responsible stewards of the environment. This includes an  
6 expectation that the goals and culture of the new Avista align its corporate interests with  
7 the clean energy goals of the State of Washington and, specifically, to provide enhanced  
8 efforts to meet and surpass the renewable and energy conservation targets of I-937,  
9 Washington's Energy Independence Act. The new Avista should seek opportunities to  
10 contribute to meeting or exceeding the state's carbon reduction goals. Accordingly, we  
11 also expect the new Avista to work with all stakeholders to expedite the removal of coal-  
12 fired generation from Avista's resource stack in a manner that provides assistance to  
13 workers and the local community and is environmentally responsible. Finally, we expect  
14 the new owners to continue and enhance efforts to serve low-income customers' access to  
15 affordable, reliable and clean energy.

16 **III. SUPPORT FOR THE MULTI-PARTY SETTLEMENT AGREEMENT**

17 **Q. Please explain the net benefit test.**

18 A. After the Commission approved a major transaction involving Puget Sound  
19 Energy under a "no harm" standard,<sup>1</sup> the Washington Legislature in 2009 enacted  
20 Senate Bill (SB) 5055. Now codified as RCW 80.12.020, it requires that  
21 "[t]he commission shall not approve any transaction under this section that  
22 would result in a person, directly or indirectly, acquiring a controlling

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<sup>1</sup> *In the Matter of the Joint Application of Puget Holdings, LLC, and Puget Sound Energy, Inc.*, UTC Dkt. No. U-072375 (Dec. 30, 2008).

1 interest in a gas or electrical company without a finding that the  
2 transaction would provide a net benefit to the customers of the company.”  
3

4 **Q. In your view, what does “net benefit” mean in this statute?**

5 A. That is a question the Commission must address, and the Commission should  
6 have latitude to interpret and apply that standard. NWECA supported the new standard in  
7 hearings on SB 5055 before the Washington State Senate Committee on Environment,  
8 Water & Energy on January 21, 2009. The prime sponsor of that bill, Senator Lisa  
9 Brown also testified and provided the justification for this “higher standard”:

10 “I believe this higher standard is warranted for at least three reasons.

11  
12 “First of all, as I have already mentioned, other states do have the  
13 standard, so I believe it would afford the same opportunity for the public  
14 in Washington State that the members of the public in other states have.

15  
16 “Number two, whenever there is a change of ownership, a merger/  
17 acquisition, there is a certain level of risk that the best analysis cannot  
18 completely eliminate and there is also the danger that market conditions  
19 change and there is the possibility that intentions, even at the time of the  
20 merger and acquisition, are not completely followed through on. So, my  
21 second point would be that given this inherent level of risk, in essence we  
22 would compensate the public by having the initial agreement demonstrate  
23 a net public benefit.

24  
25 “Third, I believe this creates an opportunity as we move into this era that  
26 as we acknowledge we are moving into an era of having both national  
27 policy and our state policy reflect a desire to move towards clean energy  
28 and take advantage of economic development benefits and the benefits for  
29 ratepayers of investments in alternative forms of energy, energy  
30 efficiency, etc., this standard would also provide the opportunity for there  
31 to be negotiated some of those benefits in front of the merger and  
32 acquisition. These are things that are sometimes negotiated already in the  
33 course of a rate case, but particularly in this time of instability of a merger  
34 and acquisition, it would be great to have the opportunity to take  
35 advantage of things such as in California, a Clean Energy Fund that was  
36 formed that benefits for lower income ratepayers could also be negotiated.  
37

1 “So, for these reasons, I would recommend to you the consideration of  
2 applying this net public benefits standard.”<sup>2</sup>  
3

4 Senator Brown indicated that, if the Legislature adopted her proposed net benefit  
5 standard, the Commission could exercise its discretion in imposing and enforcing  
6 conditions that would further state and federal policies favoring renewable energy, energy  
7 efficiency, and support for low income customers. Subsequently, the Commission has  
8 recognized that Washington’s policy framework is intended to “diversify the state’s  
9 energy mix while reducing its impact on the environment.”<sup>3</sup> NWECA, RNW and NRDC  
10 believe that conditions that further clean energy progress are an integral part of  
11 complying with the “net benefits standard.” We urge the Commission to interpret and  
12 apply the net benefit standard as enunciated by Senator Brown and require a significant  
13 benefit to ratepayers and the public before approving this transaction.

14  
15 **Q. Does the Settlement satisfy the interests of NWECA, RNW, and NRDC, meet**  
16 **the net benefits standard, and is it in the public interest?**

17 A. Yes. In evaluating any settlement we want customers to be better off with the  
18 settlement than before, and that the public interest in clean and affordable energy is  
19 enhanced. Additionally, the State of Washington has many policies that specifically  
20 address the importance of reducing greenhouse gas emissions and other pollutants.<sup>4</sup> State

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<sup>2</sup> Hearings before the Senate Committee on Environment, Water & Energy, TVW Tape starting at 10:21 (Jan. 21, 2009). <https://www.tvw.org/watch/?eventID=2009011178>

<sup>3</sup> *In the Matter of the Washington Utilities and Transportation Commission’s Investigation into Energy Storage Technologies*, Docket UE-151069, Report and Policy Statement on Treatment of Energy Storage Technologies in Integrated Resource Planning and Resource Acquisition at 3 (Oct. 11, 2017).

<sup>4</sup> See e.g., RCW 70.235.020, Chapter 80.80 RCW, Chapter 173-441 WAC, Chapter 173-442 WAC, Washington Carbon Pollution Reduction and Clean Energy Action, Exec.



1 policies also support rates and programs that assist low-income customers.<sup>5</sup> Advancing  
2 these state policies is in the public interest and essential to meeting the net benefit  
3 standard.

4 The Settlement includes agreement on the following issues pertinent to the interests  
5 of NWECC, RNW, and NRDC.

6 (1) There are multiple agreements that further energy efficiency for Avista  
7 customers, including:

8 (a) An agreement to provide \$600,000 for at least 2,000 home energy audits  
9 for residential customers.

10 (b) Funding totaling \$2 million for replacement of old, inefficient  
11 manufactured homes.

12 (c) Continuing current levels of low income weatherization funding, plus an  
13 additional commitment of \$4 million over 10 years.

14 (d) Initiating and funding the initial start-up costs necessary for an on-bill  
15 repayment program for customers to finance energy efficiency upgrades.

16 (2) In addition to complying with all applicable state laws concerning  
17 renewable resources, Avista agrees to enhance its commitment to renewable resources by  
18 issuing a Request for Proposal with the intent of acquiring additional eligible renewable  
19 energy resources above and beyond the current renewable energy standards in law,  
20 provided the resources are reasonably commercially available and are (1) necessary to meet  
21 load and (2) consistent with the lowest reasonable cost resource portfolio pursuant to

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Order 14-04 (Apr. 29 2014), Western Public Utility Commissions' Joint Action  
Framework on Climate Change, Wash.-Or.-Cal. (Mar. 7, 2017).

<sup>5</sup> RCW 80.28.068, RCW 74.38.070.

1 Avista's established IRP and pursuant to the Commission's resource evaluation and  
2 acquisition rules and policies. Avista also commits to obtain approximately 50 aMW of  
3 expected energy from new eligible renewable resources by 2022. And Avista commits to  
4 obtain at least 90 aMW of expected energy from new eligible renewables resources to  
5 become operational approximately within a year of the timeframe that Colstrip 3 and 4 go  
6 offline. These commitments help ensure that substantial progress will be made in ensuring  
7 that Avista relies on clean, low-cost, and low-risk energy to meet near term energy and  
8 capacity needs and that Avista relies on clean energy to replace coal power generation once  
9 those generating resources retire.

10 (3) Avista commits to calculating a variable generation resource's  
11 contribution to capacity in terms of that resource's contribution to resource adequacy and  
12 that resource's ability to reduce the loss of load probability in some or all hours or days  
13 utilizing the Effective Load Carrying Capability ("ELCC") methodology or an  
14 appropriate approximation. This commitment would ensure that the merged utility  
15 planning processes did not undervalue the contribution of renewable resources to system  
16 capacity. Such an accounting of variable generation's contribution to capacity could  
17 therefore avoid the over-procurement of capacity resources, and therefore benefit the  
18 utility's customers.

19 (4) To ensure that low-income customers have the opportunity to benefit  
20 directly from renewable resource investments, Hydro One will arrange funding totaling  
21 \$5,000,000 over a period of up to ten (10) years for the purpose of funding one or more  
22 new renewable generation project(s) to benefit Avista's low-income customers.

23 (5) Avista commits to modeling a range of potential costs for greenhouse gas

1 emissions, and to work with its IRP Advisory Group to determine the appropriate values  
2 to model. This is a step in the right direction for taking responsibility for the full costs of  
3 the greenhouse gas emissions associated with fossil fuel generation.

4 (6) Avista agrees to expand access to transportation electrification, and increase  
5 outreach and education on transportation electrification, for all customers. More  
6 importantly, Avista agrees to take action to address historic levels of low participation  
7 among low-income customers and increase program components that serve these  
8 customers with a goal of 30% of electric vehicle supply equipment (EVSE) program funds  
9 dedicated to projects that serve low-income customers. Additionally, Avista agrees to  
10 overcoming barriers for small business participation in EVSE programs. These  
11 commitments further both the Washington State greenhouse gas reduction goals and efforts  
12 to reduce total energy cost burdens for customers.

13 (7) Avista agrees to accelerate the depreciation schedule for Avista's interest  
14 in Colstrip Units 3 and 4 to December 31, 2027. This date is a more reasonable estimate  
15 of the useful life of these units than the dates presently utilized by Avista for depreciation  
16 purposes and is consistent with the depreciation schedule approved by the Commission  
17 for Puget Sound Energy in Docket No. UE-170033. This agreement improves the  
18 alignment of the recovery of costs with the use of these assets from a customer  
19 perspective through its use of tax credits, as well as providing inter-generational equity  
20 for costs. Also, importantly, under the settlement, future capital expenditures are not  
21 included in the regulatory asset so that cost recovery for these expenditures will not occur  
22 through its operation. This is appropriate because it ensures that the risk of making future

1 specific capital expenditures remains with Avista, and the Commission retains full  
2 authority to determine the prudence of these future expenditures.

3 (8) Avista agrees to contribute \$3 million for a community transition fund. It is  
4 in the public interest of the State of Washington to encourage good corporate citizenship  
5 and a responsibility to workers and communities impacted by large-scale changes in the  
6 energy industry. Following the example set in the TransAlta closure agreement,<sup>6</sup>  
7 Washington has made it clear that affected communities should be afforded opportunities  
8 to pursue economic transition in the face of such changes.

9 (9) Avista agrees to work with other Colstrip owners on a Colstrip  
10 Transmission Study. Additionally, the Settlement contains a commitment that Avista will  
11 develop a transition plan for its Colstrip transmission assets at least one year prior to the  
12 closure of Colstrip units 3 and 4 and that it will hold at least one workshop examining the  
13 transmission plan. This commitment to immediately begin transmission-related studies  
14 promotes the goal of ensuring that the transmission lines utilized for Colstrip generation  
15 remain fully utilized as Colstrip generation drops off. These transmission assets are  
16 currently paid for by Washington ratepayers. These transmission lines also offer the  
17 opportunity to bring renewable energy resource generation from Montana to Washington,  
18 a diverse renewable resource that would help further the state's clean energy goals and  
19 complement Washington's renewable resources.

20 (10) Avista is currently refreshing its analysis of joining the California  
21 Independent System Operator ("CAISO") Western Energy Imbalance Market ("EIM")  
22 and will release the analysis publicly by the end of 2018. Avista commits to hold

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<sup>6</sup> See SB 5769 (2011), §§ 101(4), (5); 106(3), (4); 301; 302.  
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1 workshops with the Commission and interested stakeholders to review the updated  
2 analysis and discuss prudent next steps. This commitment ensures that Avista and its  
3 customers have sufficient and current information necessary to determine whether joining  
4 the EIM would be in customers' interest. The EIM provides multiple benefits to  
5 participating utilities, both on the generation and transmission side: (1) the EIM helps  
6 utilities dispatch their own units in a least- cost manner and allows utilities to trade in 5-  
7 minute intervals with other participating entities to further reduce dispatch costs; (2) the  
8 EIM provides additional transmission access to a liquid market and can be the source of  
9 additional wholesale marketing revenues for the utility; (3) the EIM manages real-time  
10 congestion on the transmission system in a reliable and least-cost manner; (4) the EIM  
11 enables the improved flow and consumption of renewable energy resources, such as wind  
12 and solar, thereby reducing curtailments and helping to reduce carbon dioxide emissions.

13 (11) Avista and Hydro One agree to flow through to Avista's retail customers in  
14 Washington a Rate Credit of approximately \$30.7 million over a 5-year period.

15 **Q. Can you provide a more detailed explanation of the concept of Effective Load**  
16 **Carrying Capacity (ELCC) discussed above in paragraph (3) in the answer to the**  
17 **previous question?**

18 A. Presently Avista uses a capacity valuation methodology that likely undervalues  
19 the contribution of renewable resources to system capacity because it only estimates the  
20 capacity value on a subset of hours. This is problematic because when a utility  
21 undercounts renewable generators' capacity contributions, that utility may overprocure  
22 capacity resources at ratepayer expense. Best utility practice is to calculate a resource's  
23 contribution to capacity by considering all hours in a year. The ELCC is defined as the

1 amount by which the utility's load can increase when the specific technology resource  
2 (for example, solar or wind) is added to the system while maintaining the same system  
3 reliability and is calculated for all hours in a year. The ELCC method is recognized as a  
4 common and robust approach to determining capacity credit. The North American  
5 Electric Reliability Corporation ("NERC") recommended "the use of LOLP [loss of load  
6 probability] ... or related metrics for resource adequacy calculations and for determining  
7 the capacity contribution of VG [variable generation]."<sup>7</sup> Furthermore, NREL states that  
8 the ELCC method is "...well recognized and widely used due to [its] robustness."<sup>8</sup>

9 **Q. Are there other issues of the Settlement that pertain to the interests of**  
10 **NWEC/RNW/NRDC in this case?**

11 A. Yes. There are four additional areas of interest to our groups. First, the Settlement  
12 includes a commitment from Hydro One and Avista to continue current levels of charitable  
13 donations, plus an additional one-time donation of \$7 million and an annual donation of \$2  
14 million for at least 5 years. Second, Avista agrees to several commitments to further the  
15 interests and protections for customers including eliminating security deposits for new  
16 residential customers and returning deposits to many existing customers, initiating a  
17 process to discuss AMI consumer protections, and setting a goal to improve penetration of  
18 low-income programs. Third, Avista also commits to specifically reach out to tribal  
19 communities served by Avista to ensure these customers benefit from the provisions of the

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<sup>7</sup> NERC, "Methods to Model and Calculate Capacity Contributions of Variable Generation for Resource Adequacy Planning", March 2011.

<sup>8</sup> National Renewable Energy Laboratory, "Comparison of Capacity Value Methods for Photovoltaics in the Western United States", July 2012, at 27.

1 Settlement. Fourth, Avista agrees to maintain current levels of community involvement  
2 and economic development.

3 **Q. What is your recommendation regarding the Settlement?**

4 A. I recommend the Commission approve the Settlement in full. This Settlement  
5 contains substantial commitments toward energy efficiency, renewable resources and  
6 transportation electrification for all customers, including and especially for low-income  
7 customers. The Settlement resolves contentious issues related to Avista's ownership in  
8 Colstrip Units 3 & 4 in a fair, just, and reasonable outcome for customers. It resolves years  
9 of under-recovery of the depreciation expense for the Colstrip units by bringing the  
10 depreciation schedules in line with more realistic end-of-life dates. Importantly, the  
11 Settlement also provides a commitment to assist the Colstrip, Montana community with  
12 the economic transition that will occur as a result of the eventual closure of the Colstrip  
13 Power Plant.

14 **Q. Does this conclude your testimony?**

15 A. Yes.