

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**
3 **UM 1897**

4 In the Matter of

5 HYDRO ONE LIMITED,

6 Application for Authorization to Exercise
7 Substantial Influence over the Policies and
8 Actions of AVISTA CORPORATION.

STIPULATION

9 1. This all-party stipulation (“Stipulation”) concerns the Application of Hydro One Limited
10 (“Hydro One”), acting through its indirect subsidiary, Olympus Equity LLC, for an order
11 authorizing Hydro One to exercise substantial influence over the policies and actions of Avista
12 Corporation (“Avista”) (the “Application”).

13 2. As set forth below, this Stipulation is entered into by and among all the parties to this
14 case for the purpose of resolving all issues in this proceeding.

15 **PARTIES**

16 3. The Stipulation is entered into by and among all of the parties in this case: Hydro One
17 and Avista (“Applicants”); the Staff of the Public Utility Commission of Oregon (“Staff”); the
18 Oregon Citizens’ Utility Board (“CUB”); the Alliance of Western Energy Consumers
19 (“AWEC”)¹; and the Laborers’ International Union of North America with its affiliated District
20 Council and Local Unions (“LIUNA”)², (together the “Parties” and individually a “Party”).

21 **BACKGROUND**

22 4. On September 14, 2017, Hydro One and Avista filed the Application with the Public
23 Utility Commission of Oregon (“Commission”). Pursuant to the Application, Olympus Equity
24 LLC would acquire all of the outstanding common stock of Avista, and Avista would thereafter

25 _____
26 ¹ Formerly known as the Northwest Industrial Gas Users (“NWIGU”).

² LIUNA was represented by the Oregon and Southern Idaho District Council of Laborers (“OSIDCL”).

1 become a direct, wholly-owned subsidiary of Olympus Equity LLC and an indirect, wholly-
2 owned subsidiary of Hydro One (the combination of these transactions is hereafter referred to as
3 the “Proposed Transaction”).³

4 5. The Commission convened a prehearing conference in this docket in Salem, Oregon on
5 October 4, 2017, before Administrative Law Judge Patrick Power. At the prehearing conference,
6 the Commission granted the petitions to intervene filed by AWEC,⁴ CUB, and LIUNA.

7 6. In accordance with the procedural schedule adopted at the prehearing conference, all
8 Parties attended the first scheduled settlement conference held in Salem, Oregon, on March 15,
9 2018. Additional settlement conferences were held in Salem on April 23 and May 4, 2018.
10 Based on discussions at these settlement conferences and related communications, the Parties
11 have reached an agreement on commitments attached as Appendix A to this Stipulation
12 (hereinafter “Commitments”) that provide a basis upon which the Parties recommend
13 Commission approval of the Proposed Transaction in Oregon.

14 **STIPULATION**

15 *The Parties Recommend Approval under ORS 757.511*

16 7. By entering into this Stipulation, the Parties agree that Hydro One and Avista, by
17 agreeing to comply with and implement all Commitments listed in Appendix A, have satisfied
18 the “net benefit” standard and will cause no harm to Oregonians as required by ORS 757.511 for
19 approval of the Application. Therefore, the Parties recommend that the Commission issue an
20 order adopting the Stipulation and authorizing Hydro One and Avista to proceed with their
21 merger as outlined in the Application, subject to the provisions of this Stipulation and the

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23 ³ On July 19, 2017, Avista, a Washington corporation, Hydro One, a Province of Ontario corporation, Olympus
24 Holding Corp. (also referred to hereafter as “US Parent”), a Delaware corporation, and Olympus Corp. (“Merger
25 Sub”), a Washington corporation and an indirect, wholly-owned subsidiary of US Parent, entered into an Agreement
26 and Plan of Merger. Following all approvals, at the effective time on the closing date, Merger Sub will be merged
with and into Avista, and the separate existence of Merger Sub shall thereupon cease, and Avista will be the
surviving corporation and will become a direct, wholly-owned subsidiary of Olympus Equity LLC and an indirect,
wholly-owned subsidiary of Hydro One.

⁴ At that time, NWIGU.

1 Commitments in Appendix A to this Stipulation.

2 8. The Parties agree that the Commitments in Appendix A replace the commitments offered
3 by Hydro One and Avista in the Application and the conditions proposed by Staff, AWEC, and
4 CUB in their respective Reply Testimonies.

5 9. The Parties recognize that the list of Commitments in Appendix A is the result of
6 compromise between the Parties, and no Party is deemed to have agreed to an individual
7 commitment in isolation.

8 *General Terms of the Stipulation*

9 10. The Parties submit this Stipulation to the Commission and request that the Commission
10 approve the Stipulation as presented.

11 11. Appendix A to this Stipulation contains the complete list of binding Commitments that
12 Hydro One and Avista agree to implement and comply with upon consummation of the Proposed
13 Transaction. By virtue of executing this Stipulation, Hydro One and Avista agree to perform all
14 of the Commitments set forth in Appendix A according to the provisions of each Commitment as
15 set forth therein.

16 12. Except as provided in individual Commitments in Appendix A of this Stipulation, the
17 effective date of the Commitments set forth in Appendix A to this Stipulation shall be the date of
18 the closing of the Proposed Transaction.

19 13. In the process of obtaining approval of the Proposed Transaction in other states, the
20 Oregon Commitments may be expanded or modified as a result of regulatory decisions or
21 settlements. The Parties agree that the Commission shall have an opportunity and the authority
22 to consider and to adopt in Oregon any commitments or conditions that the Applicants agree to
23 in other jurisdictions, even if such commitments and conditions are agreed to after the
24 Commission enters its order in this docket. To facilitate the Commission's consideration and
25 adoption of the commitments and conditions from other jurisdictions, the Parties recommend that
26 the Commission issue an order approving this Stipulation as soon as practical, but reserve in such

1 order the explicit right to re-open the Commitments set forth in Appendix A in order to reflect
2 commitments and conditions accepted in another state jurisdiction. The Most Favored Nation
3 Commitment in Appendix A sets forth the process and limitations for addressing changes to
4 commitments agreed to in other jurisdictions.

5 14. The Parties agree that the Post-Closing Corporate Structure set forth on page 2 of
6 Appendix 1 to the Application will be simplified to eliminate Olympus 1 LLC and Olympus 2
7 LLC. Accordingly, the Post-Closing Corporate Structure will be as set forth in Table 1 of
8 Appendix A to this Stipulation.

9 15. Hydro One and Avista understand that the Commission's approval of the Stipulation, the
10 Commitments, and the Application, as modified by the Stipulation and Commitments in
11 Appendix A, shall not bind the Commission in other, future proceedings with respect to the
12 determination of prudence, just and reasonable character, rate or ratemaking treatment, or public
13 interest of services, accounts, costs, investments, any particular construction project,
14 expenditures, or actions referenced in the Commitments.

15 16. The Parties agree to support this Stipulation as a settlement of all issues in this
16 proceeding and to recommend approval of the Proposed Transaction in this proceeding subject
17 only to the agreed-upon Commitments in Appendix A. The Parties understand that this
18 Stipulation is not binding on the Commission in ruling on the Application.

19 17. The Parties agree that this Stipulation represents a compromise in the positions of the
20 Parties. As such, without the written consent of all Parties, evidence of conduct or statements,
21 including but not limited to term sheets or other documents created solely for use in settlement
22 conferences in this docket, and conduct or statements made at settlement conferences, are
23 confidential and not admissible in this or any subsequent proceeding, unless independently
24 discoverable or offered for other purposes allowed under ORS 40.190.

25 18. The Parties shall cooperate in submitting this Stipulation promptly to the Commission for
26 acceptance and in developing supporting testimony. This Stipulation will be offered into the

1 record of this proceeding as evidence pursuant to OAR 860-001-0350(7). The Parties agree to
2 support this Stipulation throughout this proceeding and any appeal (if necessary), and to provide
3 witnesses to sponsor this Stipulation at any hearing to review the Stipulation (if specifically
4 required by the Commission), and to recommend that the Commission issue an order adopting
5 this Stipulation and the Commitments contained in Appendix A.

6 19. This Stipulation is entered into by each Party as of the date entered below. Subject to
7 Paragraph 20, the obligations of the Parties under the body of this Stipulation are effective as of
8 the date it has been fully executed by all Parties.

9 20. The Parties have negotiated this Stipulation as an integrated document. If the
10 Commission rejects all or any material part of this Stipulation, or adds any material commitment
11 or condition to any final order that is not consistent with this Stipulation, each Party reserves its
12 right: (i) to withdraw from the Stipulation, upon written notice to the Commission and the other
13 Parties within five (5) business days of service of the final order that rejects this Stipulation, in
14 whole or material part, or adds such material commitment or condition; (ii) pursuant to OAR
15 860-001-0350(9), to present evidence and argument on the record in support of the Stipulation,
16 including the right to cross-examine witnesses, introduce evidence as deemed appropriate to
17 respond fully to issues presented, and raise issues that are incorporated in the settlements
18 embodied in this Stipulation; and (iii) pursuant to ORS 756.561 and OAR 860-001-0720, to seek
19 rehearing or reconsideration, or pursuant to ORS 756.610 to appeal the Commission order.
20 Nothing in this paragraph provides any Party the right to withdraw from this Stipulation as a
21 result of the Commission's resolution of issues that this Stipulation does not resolve.

22 21. By entering into this Stipulation, no Party shall be deemed to have approved, admitted, or
23 consented to the facts, principles, methods, or theories employed by any other Party in arriving at
24 the terms of this Stipulation, other than those specifically identified in the body of this
25 Stipulation or in Appendix A hereto. No Party shall be deemed to have agreed that any provision
26

1 of this Stipulation is appropriate for resolving issues in any other proceeding, except as
2 specifically identified in this Stipulation.

3 22. The Parties may execute this Stipulation in counterparts, which together will constitute
4 one agreement. A signed signature page sent by email is as effective as an original document.

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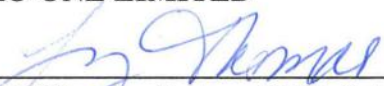
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1 This Stipulation is entered into by each Party on the date entered below such Party's signature.

2 **HYDRO ONE LIMITED**

AVISTA CORPORATION

3 By: 
4 Elizabeth Thomas, Partner, K&L Gates LLP
5 Kari Vander Stoep, Partner, K&L Gates LLP
6 On Behalf of Hydro One Limited and
7 Olympus Equity LLC

By: _____
David J. Meyer
Chief Counsel for Regulatory and
Governmental Affairs

8 Date: May 25, 2018

Date: _____

9 **STAFF OF THE PUBLIC UTILITY
COMMISSION OF OREGON**

**ALLIANCE OF WESTERN ENERGY
CONSUMERS**

10 By: _____
11 Kaylie Klein
12 Assistant Attorney General

By: _____
Chad M. Stokes
Cable Huston LLP

13 Date: _____

Date: _____

14 **OREGON AND SOUTHERN IDAHO
15 DISTRICT COUNCIL OF LABORERS**

**OREGON CITIZENS' UTILITY BOARD
(CUB)**

16 By: _____
17 David Fujimoto
18 Weinberg Roger & Rosenfeld, APC

By: _____
Michael Goetz
Attorney for CUB

19 Date: _____

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