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December 19, 2008

Washington Utilities & Transportation Commission  
Attention: Judge Patricia Clark  
1300 S. Evergreen Park Drive S. W.  
P.O. Box 47250  
Olympia, Washington 98504-7250

Re: Avista GRC (Docket No(s) UE-080416 and UG-080417) / Confidentiality  
of Coeur d'Alene Settlement

Dear Judge Clark:

On Tuesday, December 16, 2008, Avista publicly announced that it had reached a settlement with the Coeur d' Alene Tribe concerning the "Confidential Litigation" that was addressed in this proceeding. This settlement was the subject of testimony and related exhibits that were treated in a confidential manner and Avista is appreciative of the efforts of the Commission and the parties to honor Avista's request for confidentiality. Given the public announcement of the terms of the settlement, however, Avista would have no objection to now removing the "confidential" designation of nearly all such material.

Accordingly, the following tabulation seeks to identify all materials introduced into the record that relate specifically to this matter, together with the specification of the few remaining materials that must still be kept confidential, insofar as they relate to the settlement process itself, the assessment of litigation risk and the development of settlement positions. In the process, Avista has attempted to err on the side of public disclosure.

## I. Pre-Filed Testimony

### A. Ms. Pessemier:

#### Pessemier Direct (Exh. TEP-1TC):

All public except p.4, ll. 15-20 (concluding with sentence ending “...pending proceedings.”) [concerns Judge Canby’s advisory opinion delivered as part of the confidential settlement process]

#### Pessemier Exhibits Accompanying Direct Testimony:

Exhibits TEP-2C can be made public; Exhibit TEP-3C can be made public, except for the material beginning at the second sentence of the first full paragraph of page 7, which reads “In pertinent part...” and ends after the completion of the second full paragraph (“...in pending proceedings.”) Also remaining confidential is the last full paragraph at the bottom of page 9 of Exhibit TEP-3C (beginning “In June of 2007...”) and ending at the second line at top of page 10 (with the language “...resolution to the Tribe’s claims.”) [These concern Judge Canby’s advisory opinion delivered as part of the confidential settlement process.] Also remaining confidential is the last sentence at the bottom of page 10 of Exhibit TEP-3C (which begins “This provision...”) through the end of the first full sentence at the top of page 11 (ending “...would be substantial.”) [discusses confidential assessment of litigation risk]

#### Pessemier Rebuttal Testimony:

(Exhibit TEP-4TC) can be made public, except for page 17, line 15 through page 19, line 3 [concerns Judge Canby’s advisory opinion as part of the confidential settlement process] and page 19, line 14 through page 20, line 10 [discusses confidential assessment of litigation exposure].

Pessemier Rebuttal Exhibits: (Exhibit TEP-5C) May be made public.

B. Ms. Andrews:

Direct Testimony of Andrews:

Exhibit EMA-1TC may be made public.

Exhibits to Direct Testimony of Andrews:

Exhibit EMA-2C may be made public.

Exhibits to Andrews Supplemental Testimony:

Exhibit EMA-5C may be made public.

Exhibit EMA-6C may be made public.

C. Ms. Knox:

Exhibit TLK-8C may be made public.

D. Mr. Majoros:

Majoros Direct Testimony:

Exhibit MJM-1TC at pages 14-18 addressing the settlement may be made public.

Majoros Exhibit MJM-4C:

Pages 3 and 12 may be made public, along with page ii of the Table of Contents.

Majoros Exhibit MJM-9C:

May be made public.

## II. Cross – Examination Exhibits

Exhibit TEP-6C:

Remains confidential [contains Judge Canby's advisory opinions delivered as part of the confidential settlement process].

Exhibit TEP-7C:

All public, except for pages 12, 14, 15, 17 and 18 of “update” provided to the IPUC on August 13, 2007 (Attachment F) [discusses confidential assessment of litigation exposure]; and except for page 6 of Attachment J, lines 12-21 from Ms. Pessemier’s confidential testimony in Idaho (beginning “Judge Canby...,” and ending with “...in pending proceedings.”) [concerns Judge Canby’s advisory opinions delivered as part of the confidential settlement process].

Exhibit TEP-8C:

May be made public.

Exhibit TEP-9C:

May be made public.

**III. Cross – Examination of Ms. Pessemier**

All of confidential transcript pages 314-318 may be disclosed publicly.

**IV. Briefs**

Public Counsel (unredacted):

All public, except para(s) 61 and 62 [concerning Judge Canby’s advisory opinion delivered as part of the confidential settlement process].

Staff (unredacted):

All public, except for last two sentences of para. 33 (beginning “The mediator...”) [concerning Judge Canby’s advisory opinion delivered as part of the confidential settlement process] and last sentence of para. 34 (beginning “Avista states...”) [discusses confidential assessment of litigation exposure].

Avista (unredacted):

All public, except for last three sentences of para. 163 (beginning “As testified...”) [discuss confidential assessment of litigation exposure].

ICNU:

No reference to confidential material.

Please advise if the Commission desires to have all parties resubmit all testimony and other exhibits and briefs to reflect the above changes. Thank you for your attention to these matters.

Respectfully yours,

A handwritten signature in black ink, appearing to read "David J. Meyer". The signature is stylized and somewhat abstract, with a large, sweeping stroke for the first part and a more detailed, cursive-like ending.

David J. Meyer  
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Regulatory and Governmental Affairs  
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cc: Executive Director and Secretary David Danner  
Service List