

**AVISTA CORP.**  
**RESPONSE TO REQUEST FOR INFORMATION**

|               |                |                |                     |
|---------------|----------------|----------------|---------------------|
| JURISDICTION: | Washington     | DATE PREPARED: | 6/14/2000           |
| CASE NO:      | UE-991606      | WITNESS:       | Katherine Mitchell  |
|               | UG-991607      | RESPONDER:     | Katherine Mitchell  |
| REQUESTER:    | Public Counsel | DEPT:          | Rates               |
| TYPE:         | Data Request   | TELEPHONE:     | (509) 495-4407      |
| DUE DATE:     | 6/19/2000      | FIELD AUDIT:   | ___ Yes <u>X</u> No |
| REQUEST NO.:  | 147            |                |                     |

**REQUEST:**

(Mitchell, Rebuttal) P. 6, Line 19: Provide all documents received from the Department of Revenue supporting the statement that only the net gain of such transactions will be subject to B&O Tax.

**RESPONSE:**

Please refer to Attachment A, a letter dated April 19, 1999 from Mr. Kenneth J. Capek, Assistant Director, Audit, Department of Revenue. The Department of Revenue dedicated 12 months of discussion and multiple site visits to the Avista Energy trading floor before making this determination. Please especially refer to the second sentence of the letter where it states, "Gross income from trading of electrical energy contracts or natural gas contracts; which entitle the owner to delivery of electrical energy or natural gas sometime in the future; will be taxed under Service & Other Activities classification on the amount received from the sale of the contracts over and above the cost or purchase of such contracts."

|                                     |                          |                          |
|-------------------------------------|--------------------------|--------------------------|
| <b>WUTC</b>                         |                          |                          |
| DOCKET NO. <u>UE-991606</u>         |                          |                          |
| EXHIBIT # <u>579</u>                |                          |                          |
| ADMIT                               | W/D                      | REJECT                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |



STATE OF WASHINGTON  
DEPARTMENT OF REVENUE

April 19, 1999

Mr. Robert R. Hanson  
Avista Corporation  
Post Office Box 3727  
Spokane, Washington 99220-3727

Dear Mr. Hanson:

I would like to thank both you and your staff for providing the necessary information in order for the Department to finalize a decision as how the following specific business activities will be taxed.

Gross income from trading of electrical energy contracts or natural gas contracts:

Gross income from trading of electrical energy contracts or natural gas contracts; which entitle the owner to delivery of electrical energy or natural gas sometime in the future; will be taxed under the Service & Other Activities classification on the amount received from the sale of the contracts over and above the cost or purchase of such contracts. In the case of short sales, gross earnings shall be reported in the month during which the transaction is closed, that is, when the purchase is made to cover such sales or the short sales contract is forfeited.

1. Gross income from each account (Electrical energy contract accounts or Natural gas contract accounts) is to be computed separately and on a monthly basis.
2. Loss sustained upon any earnings account may not be deducted from or offset against gross income upon any other account, nor may a loss sustained upon any earnings account during any month be deducted from the gross income upon any account for any other month.
3. No deductions are allowed on account of salaries or commissions paid to employees or salesmen, rent, or any other overhead or operating expenses paid or incurred, or on account of losses other than under "2" above.

This tax treatment will closely parallel the treatment afforded "Stockbrokers & Security Houses" reflected in WAC 458-20-162 subsection "Gross income from trading" enclosed.



Mr. Robert R. Hanson  
Avista Corporation  
April 19, 1999  
Page Two

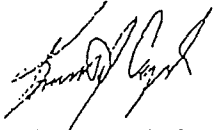
Sales of Electricity by a Non Utility:

You have indicated that in some instances the electrical energy contracts may be held to actual time of electrical generation. In this situation you are in the position of a non-utility selling electricity either at wholesale; to an electrical utility located within or without the State of Washington; or to an end user located within or without the State of Washington. The total sales price of the generated electricity will be subject to business and occupation tax under the Service & Other Activities classification.

The taxation of the sale of electricity by a non-utility is not addressed specifically in our statute. Persons engaged in any business activity, other than or in addition to those for which a specific rate is provided in chapter 82.04 RCW, are taxable under the Service & Other Activities classification upon gross income from such business. See WAC 458-20-224 (4) enclosed.

Once again, I would like to thank you for your patience and cooperation.

Sincerely,



Kenneth J. Capck  
Assistant Director, Audit

Enclosures

cc: Frederick C. Kiga, Director  
Will Rice, Deputy Director  
Forrest Bush, Regional Audit Manager  
Les Wiley, Field Audit Manager  
Jeff Bemis, Revenue Auditor

Attachment A