

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of Avista Corporation d/b/a Avista Utilities for an Order Approving a Corporate Reorganization To Create a Holding Company, AVA Formation Corp.

DOCKET UE-060273

SETTLEMENT STIPULATION

I. OVERVIEW

A. The Stipulation resolves all issues and should be approved

1 The Parties to this Settlement Stipulation agree that it represents a fair, just and reasonable compromise of the issues raised in this proceeding, that this Settlement Stipulation (“Stipulation”) is in the public interest, and it satisfies the Commission’s “no harm to ratepayers” policy. The Parties further agree that the Commission should approve this Stipulation with no material changes, in resolution of all issues in this docket. Therefore, the Parties recommend the Commission approve Avista’s Application for reorganization under the terms set forth in this Stipulation. The Parties understand this Stipulation is subject to Commission approval.

B. Parties to the Stipulation

2 This Stipulation is entered into, by and between Commission Staff, Avista Corporation, doing business as Avista Utilities (“Avista”), and the Public Counsel Section of the Attorney General’s Office (“Public Counsel”).

3 The other parties to this docket are Intervenors Northwest Industrial Gas Users (NWIGU) and the Industrial Customers of Northwest Utilities (ICNU), who are not

signatories. However, NWIGU's counsel (Mr. Finklea) and ICNU's counsel, Mr. Perkins, respectively advised Commission counsel (Mr. Trotter) that NWIGU and ICNU neither support nor oppose this Stipulation. Consequently, this is a multiparty settlement, as that term is defined in WAC 480-07-730(3). *Stip.* ¶ 3.

C. Documents comprising the Stipulation

4 The Stipulation consists of this document entitled "Settlement Stipulation" and Appendix A attached hereto, entitled "Commitments and Conditions."

II. NATURE OF AVISTA'S APPLICATION

5 On February 16, 2006, Avista filed its "Application of Avista Corporation" ("Application") with the Commission, seeking an order authorizing Avista to conduct a corporate reorganization, including the formation of a holding company to be known as AVA Formation Corp (hereinafter referred to as the "Reorganization"). This Commission has jurisdiction over such request pursuant to RCW 80.12.

6 Currently, Avista Corporation, doing business as Avista Utilities, is the utility offering electric and/or natural gas service in eastern Washington, northern Idaho, Oregon and Montana. Avista Capital is a subsidiary of Avista Corporation. Avista Capital currently is the parent corporation of Avista Corporation's non-regulated subsidiary investments and operations.

7 Avista proposes to form a holding company called AVA Formation Corp. ("AVA").¹ AVA would be the parent corporation of the existing regulated utility, which would be

¹ This name will be used in the interim for purposes of designating the holding company. When the new name is publicly announced, Avista will notify the Commission and interested parties.

called Avista Corporation (doing business as Avista Utilities). Avista Corporation. would become a separate company under the parent company, AVA.

8 AVA would also be the parent company of Avista Capital, Inc., which would continue to hold the non-regulated subsidiary investments and operations, such as Avista Energy, Advantage IQ (formerly Avista Advantage) and Avista Power.

III. NATURE OF THE STIPULATION

A. The Stipulation is subject to Commission approval

9 This Stipulation is subject to Commission approval. The Parties understand and agree that this Stipulation in no manner binds the Commission in ruling on the Application until such a time as the Commission approves the Stipulation.

B. Commitments

10 Appendix A of this Stipulation contains the complete list of the commitments and conditions (hereinafter referred to as "Commitments") Avista agrees to make and abide by to ensure that the formation and future conduct of the holding company corporate structure meets the Commission's "no harm to ratepayers" policy.² By virtue of executing this Stipulation, Avista agrees to perform all of the Commitments set forth in Appendix A according to the provisions of each Commitment as set forth therein.

11 Certain of the Commitments are made by the new, to-be-formed parent corporation, AVA. Avista agrees it has authority to make these commitments on behalf of AVA, and that upon its formation, AVA will be bound to abide by these commitments.

² *In re PacifiCorp and Scottish Power PLC*, Docket UE-981627, 3rd Supplemental Order on Prehearing Conference (April 2, 1999) at 2-3.

IV. THE PROCESS FOR APPROVING THE STIPULATION

A. The Parties recommend approval and agree to support the Stipulation

12 The Parties recommend the Commission approve this Stipulation in its entirety, pursuant to WAC 480-07-740 and -750. The Parties agree to support this Stipulation before the Commission. Each Party agrees it will not appeal any portion of this Stipulation or Order approving the same, so long as no material changes are made to the Stipulation.

B. Hearing procedures

13 The Parties agree that within one business day of the date of execution of this Stipulation, Staff will file this Stipulation with the Commission on behalf of the Parties. The transmittal letter will ask the Commission to suspend the existing procedural schedule and schedule hearing dates to review the Stipulation.

14 The Parties understand the Commission has discretion, consistent with applicable law, to determine the appropriate procedures for determining whether it will approve this Stipulation.

C. Evidence

15 The Parties agree that the Commission should admit into evidence the direct case filed by Avista in this docket.³ Additional evidence will be presented at a hearing on the settlement to be scheduled by the Commission, or as otherwise directed by the Commission.

³ This evidence consists of the direct testimony and exhibits of Mr. Norwood (Exhibit ___ (KON-1T) and Exhibits ___ (KNO-2) and ___ (KON-3) and Mr. Malquist (Exhibit ___ (MKM-1T) and Exhibits ___ (MKM-2) and ___ (MKM-3), and the direct testimony of Mr. Andrews (Exhibit ___ (EMA-1T).

D. Effect of Commission approval without material changes

16 The Parties agree that if the Commission approves the Stipulation without material change, this docket will be concluded, subject to any proceedings described in Part IV.F (¶¶ 19-24) below (“Most favored nations’ provision”).

E. Effect of rejection or partial Commission approval of this Stipulation

17 In the event the Commission rejects any part or all of this Stipulation, or imposes any additional material terms as a condition of approval of this Stipulation, each Party has the right to withdraw from this Stipulation. In order to withdraw, a Party must file a written notice of withdrawal with the Commission and send a copy to the other Parties, within 14 calendar days of the date of such action by the Commission.

18 If a Party withdraws pursuant to the foregoing procedures, this Stipulation is not effective, and no Party shall be bound or prejudiced by its terms. In that event, each Party is entitled to seek reconsideration of the Commission’s order partially approving the Stipulation, file testimony as it chooses, cross-examine witnesses, and do all other things necessary to put on such case as it deems appropriate. The Parties immediately will request the Commission to promptly convene a prehearing conference to establish a procedural schedule for the completion of the case. The Parties agree to cooperate in development of a schedule that concludes the proceeding on the earliest possible date, taking into account the needs of the Parties to prepare for hearings, to participate in hearings and to prepare briefs. However, after a Party withdraws, nothing in this Stipulation prevents two or more of the Parties from filing a settlement of the types described in WAC 480-07-730.

F. “Most favored nations” provision

19 In the process of approving the Reorganization, other jurisdictions⁴ may include terms⁵ that are not contained in this Stipulation. Accordingly, this Stipulation may be expanded or modified as a result of regulatory decisions or settlements in those other jurisdictions.

20 Avista agrees that the Commission shall have an opportunity and the authority to consider and adopt in Washington any terms to which Avista agrees or with which Avista is required to comply in any other jurisdiction, even if such terms are established after the Commission enters its order approving the Stipulation in this docket.

21 To facilitate the Commission’s consideration and adoption of such terms from other jurisdictions, the Parties urge the Commission to issue an order accepting this Stipulation as soon as practicable, but to expressly reserve in such order the right to re-open this Stipulation to add (without modification of the language thereof except such non-substantive changes as are necessary to make the term applicable to Washington) terms accepted or ordered in another jurisdiction.

22 The Parties recommend the following process related to potential additional terms originating from regulatory proceedings in other jurisdictions:

⁴ The Oregon and Montana commissions have yet to act on Avista’s Reorganization applications. On June 30, 2006, the Idaho Public Utilities Commission issued an order approving Avista’s reorganization application, based on a settlement in that state. *In re Application of Avista Corporation, dba Avista Utilities for an Order Approving a Corporate Reorganization to Create a Holding Company, AVA Formation Corp.*, Case AVU-E-06-1 and AVU-G-06-1 (Order 30091). The Federal Energy Regulatory Commission has also issued its “Order Authorizing Disposition of Jurisdictional Facilities” on April 18, 2006. *115 FERC ¶ 62,080*.

⁵ “Terms” is broadly used to refer to provisions, conditions, commitments, covenants, elements *etc.*

- Within five calendar days after a stipulation with new or amended terms is filed by Avista with an agency in another jurisdiction, Avista will send a copy of the stipulation and terms to the Commission and the Parties.
- Within five calendar days after an agency in another jurisdiction issues an order that accepts a stipulation to which Avista is a party or issues an order that otherwise imposes new or modified terms, the applicable order, together with all commitments and conditions of any type agreed to by Avista or ordered by the agency in such other jurisdiction, will be filed with the Commission and served on the Parties by the most expeditious means practical. Within fifteen calendar days after receiving the last such filing from the other jurisdiction (“Final Filing”), any Party wishing to do so shall file with the Commission its response filing, including its position as to whether any terms from the other jurisdiction (without modification of the language thereof except such non-substantive changes as are necessary to make the term applicable to Washington) should be adopted in Washington, or whether such term would have an adverse impact on the Washington jurisdictional activities of Avista.
- Within five calendar days after any such response filing is filed, any Party to the docket may file a reply with the Commission. The Parties agree to support in their filings the issuance by the Commission of an order regarding the adoption of such terms as soon as practical thereafter, recognizing that the Reorganization cannot close until final orders from all relevant jurisdictions

have been issued. If the Commission adopts any such term, and the term is material, each Party has the right to withdraw from the Stipulation according to the procedures in Part IV.E (¶¶ 17-18) above.

23 Not later than the Final Filing, Avista will disclose to the Parties any written terms made in another state jurisdiction (between the date of the filing of the Stipulation and the receipt of the last order from an agency in a Reorganization docket) that were intended to encourage approval of the Reorganization or avoid an objection thereto.

24 The Parties believe other jurisdictions will complete their review of the Reorganization in time sufficient for this process to be complete by July 31, 2007. The parties therefore encourage the Commission to use its best efforts to complete the foregoing process by that date.

V. EFFECTIVE DATE, APPROVAL DEADLINE, EXECUTION AND OTHER MATTERS

A. Effective date

25 The effective date of this Stipulation shall be the date of the completion of the Reorganization, provided the Commission has approved this Stipulation by that date. The anticipated date of completion of the Reorganization is on or before July 31, 2007.

B. Approval deadline

26 The Commission should approve the Stipulation as soon as practical, subject only to the procedure under the “most favored nations” procedures discussed in Part IV.F (¶¶ 19-24) above. As noted there, the Parties believe other jurisdictions will complete their review of the Reorganization in time sufficient for the “most favored nations” process to be complete

by July 31, 2007. The parties therefore encourage the Commission to use its best efforts to complete the approval process by that date.

C. Execution of the Stipulation

27 This Stipulation is considered executed when all Parties sign the Stipulation. A designated and authorized representative may sign the Stipulation on a Party's behalf. The Parties may execute this Stipulation in counterparts. If the Stipulation is executed in counterparts, all counterparts shall constitute one agreement. A faxed signature page containing the signature of a Party is acceptable as an original signature page signed by that Party. Each Party shall indicate the date of its signature on the Stipulation.

D. Integrated Agreement

28 The Parties have agreed to this Stipulation as an integrated document. This Stipulation is the Parties' entire agreement on all matters set forth herein, and it supersedes any and all prior oral and written understandings or agreements in this docket.

E. The Stipulation will not be construed against any Party as the drafter

29 The Parties acknowledge that this Stipulation is the product of negotiations and compromise and shall not be construed against any Party on the basis that it was the drafter of any or all portions of this Stipulation.

F. No precedent

30 Nothing in this Stipulation (or any supporting testimony, presentation or briefing) shall be cited or construed as precedent or as indicative of a Party's position on a resolved issue, or asserted or deemed to mean that a Party agreed with or adopted another Party's

legal or factual assertions in this proceeding. The limitation in this paragraph shall not apply to any proceeding to enforce the terms of this Stipulation.

31 No Party shall be bound, benefited or prejudiced by any position asserted in the negotiation of this Stipulation, except to the extent expressly stated herein, nor shall this Stipulation be construed as a waiver of the rights of any Party unless such rights are expressly waived herein. Execution of this Stipulation shall not be deemed to constitute an acknowledgment by any Party of the validity or invalidity of any particular method, theory or principle of regulation or cost recovery.

32 No Party shall be deemed to have agreed that any method, theory or principle of regulation or cost recovery employed in arriving at this Stipulation is appropriate for resolving any issues in any other proceeding in the future.

G. Inadmissibility of negotiations

33 The Parties agree this Stipulation represents a compromise of the positions of the Parties in this case. Except to the extent necessary for a Party to explain before the Commission its own statements and positions with respect to the Stipulation, each Party agrees it will not offer into evidence any negotiations relating to this Stipulation in this or any other proceeding regarding this subject matter. Each Party agrees that such evidence is not admissible and each Party agrees to oppose the admission of such evidence. This paragraph does not apply to non-privileged, publicly available documents.

H. Deadlines

34 This Stipulation contains certain filing deadlines. If any such deadline falls on a weekend or a holiday, the filing is due the next business day.

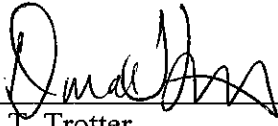
I. Publicity

35

Each Party agrees to provide all other Parties the right to review in advance of publication any and all announcements or news releases that any other Party intends to make about the Stipulation (with the right of review to include a reasonable opportunity to request changes to the text of such announcements). Each Party also agrees to include in any news release or announcement a statement to the effect that the Commission Staff's recommendation to approve the Stipulation is not binding on the Commission itself.

Respectfully submitted this 5th day of January, 2007.

COMMISSION STAFF

By  _____
Donald T. Trotter
Senior Counsel, Office of the Attorney General
Counsel for Washington Utilities and Transportation Commission Staff
Date: 1/05/07

AVISTA CORPORATION

By _____
David J. Meyer
Attorney
Vice President and Chief Counsel of Regulatory and Governmental Affairs for Avista Corp.
Date:

PUBLIC COUNSEL SECTION

By Judith Krebs by Donald H. [Signature] per telephone authorization
Judith Krebs 1/05/07
Assistant Attorney General, Office of the Attorney General
Public Counsel Section
Date: 1/05/07

APPENDIX A

COMMITMENTS AND CONDITIONS

AVISTA CORPORATE REORGANIZATION TO FORM A HOLDING COMPANY (Docket UE-060273)

- 1.) Avista Corporation, doing business as Avista Utilities (hereinafter "Avista Utilities") will maintain its own books and records, separate from the books and records of AVA Formation Corp. (hereinafter "AVA"). The assets of Avista Utilities and AVA and their subsidiaries or affiliates will be separately accounted for. Avista Utilities' financial books and records and state and federal utility regulatory filings and documents will continue to be available to the Commission, upon request.
- 2.) AVA and Avista Utilities will provide the Commission and other parties to this Docket upon request, access to all books of account as well as all documents, data, and records of their affiliated interests, which pertain to transactions between Avista Utilities and its affiliated interests or which are otherwise relevant to the business of Avista Utilities.
- 3.) AVA, Avista Utilities and all affiliates will make their employees, officers, directors and agents available to testify before the Commission to provide information relevant to matters within the jurisdiction of the Commission.
- 4.) AVA and Avista Utilities agree that one of its independent directors on each Board of Directors will have had prior experience with respect to the operation, financial analysis or regulation of the regulated gas or electric utility industry.
- 5.) The Commission or its agents may audit the accounting records of AVA and its subsidiaries that are the bases for charges to Avista Utilities, to determine the reasonableness of allocation factors used by AVA to assign costs to Avista Utilities and amounts subject to allocation or direct charges. AVA agrees to cooperate fully with such Commission audits.
- 6.) Avista Utilities will file on an annual basis a copy of any affiliated interest report filed in other jurisdictions.
- 7.) AVA and Avista Utilities will comply with all applicable Commission statutes and regulations regarding affiliated interest transactions, including timely filing of applications and reports.

- 8.) Avista Utilities and AVA will not cross-subsidize between the regulated and non-regulated businesses or between any regulated businesses, and shall comply with the Commission's applicable orders and rules with respect to such matters.
- 9.) Nothing in these Conditions prevents Avista Utilities from having its own subsidiaries. However, no AVA holding (*i.e.*, a subsidiary held directly by AVA or a subsidiary held indirectly by AVA, such as a subsidiary of an AVA subsidiary) shall be conveyed to Avista Utilities or a subsidiary of Avista Utilities, without prior Commission approval.
- 10.) Any proposed cost allocation methodology for the allocation of corporate and affiliate investments, expenses, and overheads, required by law or rule to be submitted to the Commission for approval, will comply with the following principles:
 - a. For services rendered to Avista Utilities or each cost category subject to allocation to Avista Utilities by AVA or any of its affiliates, AVA must be able to demonstrate that such service or cost category is necessary to Avista Utilities for the performance of its regulated operations, is not duplicative of services already being performed within Avista Utilities, and is reasonable and prudent.
 - b. Cost allocations to Avista Utilities and its subsidiaries will be based on generally accepted accounting standards; that is, in general, direct costs will be charged to specific subsidiaries whenever possible and shared or indirect costs will be allocated based upon the primary cost-driving factors.
 - c. AVA and its subsidiaries will have in place accounting systems adequate to support the allocation and assignment of costs of executives and other relevant personnel to Avista Utilities.
 - d. An audit trail will be maintained such that all costs subject to allocation can be specifically identified, particularly with respect to their origin. In addition, the audit trail must be adequately supported. Failure to adequately support any allocated cost may result in denial of its recovery in rates.
 - e. Costs which would have been denied recovery in rates had they been incurred by Avista Utilities regulated operations will likewise be denied recovery whether they are allocated directly or indirectly through subsidiaries in the AVA group.
 - f. Any corporate cost allocation methodology used for rate setting, and subsequent changes thereto, will be submitted to the Commission for

approval if required by law or rule. An Intercompany Administrative Services Agreement (IASA) will be developed that will include the corporate and affiliate cost allocation methodologies. The IASA will be filed with the Commission as soon as practicable after the closing of the transaction. Approval of the IASA will be requested if required by law or rule, but approval for ratemaking purposes will not be requested in such filing. Amendments to the IASA will also be filed with the Commission.

- g. AVA and Avista Utilities commit to use asymmetrical pricing (i.e., lower of cost or market for transactions to Avista Utilities and higher of cost or market for transactions from Avista Utilities) for affiliate charges or costs, if a readily identifiable market for the goods, services or assets exists, and if the transaction involves a cost of more than \$100,000.
- 11.) Before December 31, 2009, neither Avista Utilities nor any of its subsidiaries will enter into any electric or natural gas commodity transactions, either physical or financial, with AVA or its other affiliates or subsidiaries, including Avista Energy and Avista Power. This Condition does not affect any other existing or future limitations on Avista Utilities' energy transactions or trades imposed by the Commission or otherwise.
 - 12.) Avista Utilities and AVA agree, as a condition of the transaction, to adhere to FERC's Standards of Conduct (18 C.F.R. Part 358, as promulgated by Order No. 2004, with modifications made by Order No(s) 2004-A and 2004-B) governing relationships of, and the sharing of information between, Avista Utilities' transmission function with any energy and marketing affiliates, and to adhere, as well, to any Code of Conduct governing relationships between the wholesale merchant function of Avista Utilities and any affiliated power marketer (as set forth in Avista's market-based rate schedule on file with FERC). Avista Utilities and AVA also agree, as a condition of the transaction, to adhere to FERC's rules governing "shared employees" with respect to the merchant and transmission function, including maintaining a list that identifies such shared employees. By agreeing to abide by these federal regulations as a condition of the transaction, Avista Utilities and AVA agree that they will not seek an exemption from such rules pursuant to 18 C.F.R. § 358.1(d), without prior Commission approval. The website at www.oatiosis.com/avat/index.html ("FERC Standards of Conduct," then "Organizational Charts") provides access to Avista Utilities' departmental organizational charts and identifies shared employees within those departments.
 - 13.) Avista Utilities will maintain separate debt and, if outstanding, preferred stock ratings. Avista Utilities will maintain its own corporate credit rating, as well as ratings for each long-term debt and preferred stock (if any) issuance.

- 14.) Avista Utilities and AVA will not advocate for a higher cost of capital as compared to what Avista Utilities' cost of capital would have been, absent the reorganization.
- 15.) Within three months of closing of the transaction, AVA and Avista Utilities commit to obtain from one or more rating agencies written confirmation that Avista Utilities will have its own corporate credit rating, separate and apart from AVA, as well as separate ratings for each long-term debt and preferred stock (if any) issuance, and that it will not otherwise be consolidated with AVA for ratings purposes. If the ring-fencing provisions of this stipulation are insufficient for purposes of obtaining a separate rating for Avista Utilities, AVA and Avista Utilities will so notify the Commission and propose and implement, upon Commission approval, such additional ring-fencing provisions that are sufficient to secure separate corporate ratings for AVA and Avista Utilities.
- 16.) AVA and Avista Utilities will exclude all costs of the formation of the Holding Company from Avista Utilities' utility accounts.
- 17.) AVA and Avista Utilities will provide the Commission and other parties to this Docket upon request, with unrestricted access to all written information provided by and to credit rating agencies that pertains to Avista Utilities or AVA. AVA will also provide the Commission, and other parties to this Docket upon request, with unrestricted access to all written information provided by and to credit rating agencies that pertains to AVA's subsidiaries to the extent such information may potentially impact Avista Utilities.
- 18.) The capital requirements of Avista Utilities, as determined to be necessary to meet its obligation to serve the public, will be given a high priority by the Board of Directors of AVA and Avista Utilities.
- 19.) Avista Utilities agrees to request the Commission order described in RCW 80.08.040(4) for transactions subject to RCW 80.08 that Avista Utilities enters into following the effective date of the Reorganization.
- 20.) Nothing in these restructuring commitments shall be interpreted as a waiver of Avista Utilities' or AVA's rights to request confidential treatment for information that is the subject of any commitments.
- 21.) Recognizing the importance of increasing the equity component of its capital structure, Avista Utilities agrees that it will increase the actual utility equity component to 40% by June 30, 2008. Should it fail to do so, Avista Utilities agrees that in the next general rate case filed by it after June 30, 2008, it will use the most current actual utility equity ratio (derived from the most recent calendar quarter), in lieu of a hypothetical capital structure. To the extent that Avista Utilities incurs increased power supply or purchased gas costs that are

not recovered in retail rates in a timely manner, it would impair Avista Utilities' ability to build equity. Accordingly, the calculations to determine whether the target is met will be adjusted for any additional deferred power supply or purchased gas costs recorded on its books after January 1, 2007, which have been approved for recovery, but over a period longer than proposed by the Company. The calculations to determine whether the target has been met will also be adjusted for any changes to Generally Accepted Accounting Principles (GAAP) effective subsequent to December 15, 2006.

- 22.) AVA and Avista Utilities commit that Avista Utilities will not make any dividends to AVA if Avista Utilities' common equity ratio is below 30% of its Total Adjusted Capital, without Commission approval. AVA and Avista Utilities also agree that Avista Utilities will not make any dividends to AVA that will reduce Avista Utilities' common equity capital below 30% of its Total Adjusted Capital, without Commission approval. At such time as the actual utility equity component reaches 40% (see Condition 21, above), Avista Utilities will notify the Commission should any dividends to AVA reduce Avista Utilities' common equity below 35% of its Total Adjusted Capital. The notice will explain the principal causes of the situation. These percentages will be adjusted, as necessary, to account for any changes to Generally Accepted Accounting Principles (GAAP) effective after December 15, 2006, as well as for the treatment of deferred power supply or purchased gas costs, as referenced in Condition 21, above. For purposes of calculating the numerator of the percentage, common equity will not include any portion of Avista Utilities preferred stock issued and outstanding. Avista Utilities' Total Adjusted Capital is defined as common equity, preferred equity, long-term debt, short-term debt and capitalized lease obligations.
- 23.) Through December 31, 2016, Avista Utilities will provide notice to the Commission, and to other parties to this Docket upon request, when it increases the amount of any dividend payment by 10% or more over the previously-paid dividend.
- 24.) In the event of a credit rating downgrade of Avista Utilities, Avista Utilities will give notice to the parties in this Docket and schedule a meeting with Staff within one month of the downgrade to discuss the reason for the downgrade and Avista Utilities' plans going forward.
- 25.) On or before April 1, 2008, and on or before every anniversary date thereafter, Avista Utilities will file with the Commission, and will provide to other parties to this Docket upon request, an annual report for the preceding calendar year, in which it describes its compliance with Conditions 21, 22 and 23, concerning the equity component of the capital structure and payment of dividends.

- 26.) Avista Utilities is required to apply to the Commission for approval of security issuances pursuant to RCW Chapter 80.08. Avista Utilities will not seek an exemption from this requirement for twelve months following the closing of this transaction. Staff will evaluate the "all-in-cost" of issuances for inclusion in rates and the cost of any debt issuance recognized for ratemaking will not be higher than it otherwise would have been without the corporate reorganization.
- 27.) AVA and Avista Utilities will provide the Commission and other parties to this Docket upon request, access to corporate minutes including Board of Director's minutes and all committee minutes, along with any related source documents that are relevant to the business and risk analysis of Avista Utilities. Avista Utilities and the party requesting access will establish an agreeable procedure to review these confidential documents in Spokane, Washington.
- 28.) AVA and Avista Utilities will provide the Commission, and other parties to this Docket upon request, access to operational, internal and risk audit reports and documentation. Avista Utilities and the party requesting access will establish an agreeable procedure to review these confidential documents upon request.
- 29.) AVA and Avista Utilities will notify the Commission, and other parties to this Docket upon request, of all publicly announced proposals for divestiture, spin-off, or sale of any integral Avista Utilities function. AVA and Avista Utilities will also file for Commission approval of divestiture, spin-off, or sale of any integral Avista Utilities function, which is subject to WUTC jurisdiction. This condition does not limit any jurisdiction the Commission may have.
- 30.) Avista Utilities or AVA will notify the Commission, and other parties to this Docket upon request, prior to implementation of plans by Avista Utilities or AVA: (1) to form an affiliate for the purpose of transacting business with Avista Utilities' regulated operations; (2) to commence new business transactions between an existing affiliate and Avista Utilities; or (3) to dissolve an affiliate which has transacted substantial business with Avista Utilities.
- 31.) Avista Utilities or AVA will notify the Commission, and other parties to this Docket upon request, subsequent to AVA's or Avista Utilities' board approval and as soon as practicable following any public announcement of: (1) any acquisition of a regulated or unregulated business representing 5 percent or more of the capitalization of AVA; or (2) the change in effective control or acquisition of any material part or all of Avista Utilities by any other firm, whether by merger, combination, transfer of stock or assets.

- 32.) Upon request, Avista Utilities will provide to the Commission, and other parties to this Docket on an informational basis, credit rating agency news releases and final reports regarding Avista Utilities when such reports are known to Avista Utilities and are available to the public.
- 33.) AVA and Avista Utilities commit that in the event that Avista Utilities obtains a loan from its parent company or any affiliated company, Avista Utilities will, in any subsequent rate proceeding demonstrate that the debt obligation interest, terms, and conditions are comparable to or less than what Avista Utilities could have obtained in the market at the time the debt was obtained by Avista Utilities, that the loan is on reasonable terms and without markup to the holding company's cost of funds, and that the debt procurement will not interfere with any ring-fencing mechanisms that secure the utility.
- 34.) AVA and Avista Utilities will enter into an agreement that incorporates the ring-fencing provisions set forth herein, which agreement shall be binding upon AVA and Avista Utilities, and their respective Boards of Directors. This agreement will be filed with the Commission within three months of closing of the transaction. AVA and Avista Utilities commit that no amendments, revisions or modifications will be made to this agreement or any ring-fencing provisions without prior Commission approval for the sole purpose of addressing the ring-fencing provisions.
- 35.) Within three months of closing of the transaction, AVA commits to obtain a non-consolidation opinion that demonstrates that the ring-fencing around Avista Utilities is sufficient to prevent Avista Utilities from being pulled into an AVA bankruptcy. AVA commits to promptly file such opinion with the Commission. If the ring-fencing provisions of this agreement are insufficient to obtain a non-consolidation opinion, AVA agrees to promptly undertake the following actions:
- a) Notify the Commission of this inability to obtain a non-consolidation opinion.
 - b) Propose and implement, upon Commission approval, such ring-fencing provisions that are sufficient to prevent Avista Utilities from being pulled into an AVA bankruptcy.
 - c) Obtain a non-consolidation opinion.
- 36.) Unless another process is provided by statute, Commission regulations or approved Avista Utilities' tariff, AVA and Avista Utilities encourage the Commission to use the following process for administering the commitments. The Commission should give AVA and Avista Utilities written notification of any violation by either company of the commitments made in this application. If such failure is corrected within ten (10) business days for failure to file

reports, or five (5) business days for other violations, the Commission should take no action. The Commission shall have the authority to determine if the corrective action has satisfied or corrected the violation. AVA or Avista Utilities may request, for cause, an extension of these time periods. If AVA or Avista Utilities fails to correct such violations within the specified time frames, as modified by any Commission-approved extensions, the Commission may seek to assess penalties for violation of a Commission order, against either AVA or Avista Utilities, as allowed under state laws and regulations.

- 37.) The Applicants agree that the Commission shall have an opportunity and the authority to consider and adopt in Washington any commitments or conditions to which the Applicants agree or with which the Applicants are required to comply in other jurisdictions, even if such commitments and conditions are agreed to after the Commission enters its order in this docket. To facilitate the Commission's consideration and adoption of the commitments and conditions from other jurisdictions, the Parties urge the Commission to issue an order accepting this Stipulation as soon as practical, but to reserve in such order the explicit right to re-open to add commitments and conditions accepted or ordered in another state jurisdiction.
- 38.) AVA and Avista Utilities acknowledge and agree that the Commission retains its authority over Avista Utilities in the event of either voluntary or involuntary bankruptcy proceedings affecting either AVA or Avista Utilities, and that such authority is not preempted by applicable bankruptcy laws. Such Commission authorities are acknowledged to expressly include regulation of the issuance of securities (RCW 80.08), the mortgage or pledge of assets (RCW 80.12), and the disposition or sale of assets by Avista Utilities (RCW 80.12). Notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to AVA, AVA agrees it shall not acquiesce, petition or otherwise invoke or cause Avista Utilities to invoke the process of any court or government authority for the purpose of commencing or sustaining a case against Avista Utilities under any federal or state bankruptcy, insolvency or similar law, or ordering the winding up of the affairs of or the liquidation of Avista Utilities (and will oppose, to the extent permitted by law, any such process), so long as Avista Utilities remains otherwise financially healthy.

I. Publicity

35

Each Party agrees to provide all other Parties the right to review in advance of publication any and all announcements or news releases that any other Party intends to make about the Stipulation (with the right of review to include a reasonable opportunity to request changes to the text of such announcements). Each Party also agrees to include in any news release or announcement a statement to the effect that the Commission Staff's recommendation to approve the Stipulation is not binding on the Commission itself.

Respectfully submitted this ___ day of January, 2007.

COMMISSION STAFF

By _____

Donald T. Trotter

Senior Counsel, Office of the Attorney General

Counsel for Washington Utilities and Transportation Commission Staff

Date:

AVISTA CORPORATIONBy  _____

David J. Meyer

Attorney

Vice President and Chief Counsel of Regulatory and Governmental Affairs for Avista Corp.

Date: 1/05/07