

**Exhibit No. ECO-1T
Dockets UE-160228/UG-160229
Witness: Elizabeth C. O'Connell**

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,**

Complainant,

v.

**AVISTA CORPORATION d/b/a
AVISTA UTILITIES,**

Respondent.

**DOCKETS UE-160228 and
UG-160229 (*Consolidated*)**

TESTIMONY OF

ELIZABETH C. O'CONNELL

**STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

***Plant Held For Future Use, Montana Riverbed Lease Expense, and Pro Forma
Regulatory Amortization – BPA Settlement Deferral***

August 17, 2016

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LIST OF EXHIBITS

Exhibit No. ECO-2, Deferred Debits and Credits workpapers	
Exhibit No. ECO-3, Avista's response to ICNU Data Request No. 115	
Exhibit No. ECO-4, Avista's plant held for future use workpapers	
Exhibit No. ECO-5, Avista's response to UTC Staff Data Request No. 109	
Exhibit No. ECO-6, Avista's response to UTC Staff Data Request No.108	
Exhibit No. ECO-7, Avista's response to UTC Staff Data Request No. 112	
Exhibit No. ECO-8, Avista's response to ICNU's Data Request No. 114	
Exhibit No. ECO-9C, Avista's response to UTC Staff Data Request No. 153	
Exhibit No. ECO-10, Pro Forma Regulatory Amortization Adjustment workpapers	
Exhibit No. ECO-11, Avista's Third Supplemental Response to UTC Staff Data Request No. 91, Attachment A	

1 I. INTRODUCTION

2
3 **Q. Please state your name and business address.**

4 A. My name is Elizabeth O'Connell. My business address is the Richard Hemstad
5 Building, 1300 South Evergreen Park Drive Southwest, P.O. Box 47250, Olympia,
6 Washington 98504.

7
8 **Q. By whom are you employed and in what capacity?**

9 A. I am employed by the Washington Utilities and Transportation Commission
10 (Commission) as a Regulatory Analyst in the Energy Regulation Section of the
11 Regulatory Services Division. Among other duties, I am responsible for financial and
12 accounting analysis, auditing records of regulated companies, and reviewing
13 affiliated interest transactions.

14
15 **Q. How long have you been employed by the Commission?**

16 A. I have been employed by the Commission since November 2015.

17
18 **Q. Would you please state your educational and professional background?**

19 A. In 2009, I received a degree in Economics from Universidad Central de Venezuela in
20 Caracas, Venezuela, with a specialization in Banking and Finance. In 2013, I
21 graduated from the University of Dundee in Dundee, United Kingdom, with a Master
22 of Business Administration in International Oil and Gas Management. In 2015, I
23 graduated from the University of Washington in Seattle, with a Certificate in

1 Accounting. Before joining the Commission, I worked for three years in the financial
2 sector assisting with the brokerage of agricultural securities. I also previously
3 worked for three years in the real estate sector as an advisor, specializing in the
4 appraisal of realty.

5
6 **Q. Have you testified previously before the Commission?**

7 A. Yes. I presented testimony related to prudence, pro forma ratemaking policy,
8 property tax, and environmental remediation projects in Pacific Power's General
9 Rate Case in Docket UE-152253. Also, I provided testimony related to additions to
10 rate base, regulatory accounting principles, and general rate design in response to
11 Puget Sound Energy's appliance leasing proposal in Dockets UE-151871 and UG-
12 151872.

13
14 **II. SCOPE AND SUMMARY OF TESTIMONY**

15
16 **Q. Please explain the purpose of your testimony.**

17 A. The purpose of my testimony is to respond to specific restating adjustments presented
18 by Avista witness Ms. Jennifer Smith. Staff is contesting adjustments related to
19 Avista's proposed ratemaking treatment of the plant held for future use, the Montana
20 Riverbed Lease, and the BPA Settlement Deferral. Referring to Avista Exhibit
21 No. ___ (JSS-1T), the adjustments Staff is contesting are identified as:

- 1 • Plant Held for Future Use (Electric 1.04)¹: The Company is proposing to
2 include in electric rate base property that has been recorded as held for future
3 use in production and distribution activities. These properties are six parcels
4 acquired in previous years and are identified as Garden Springs, Downtown
5 West, Downtown East, Hillyard and Greensferry.
- 6 • Deferred Debits and Credits – Montana Riverbed Lease (Electric 1.02)²:
7 Avista proposes a projected level of rent expenses related to the Montana
8 Riverbed Lease, which is part of the Deferred Debits and Credits adjustment.
- 9 • Pro Forma Regulatory Amortization Adjustment – BPA Settlement Deferral
10 (Electric 3.05)³: I present an update of BPA Parallel Capacity Support, a line
11 item included in the ProForma Regulatory Amortization Adjustment.

13 **Q. Please summarize your conclusions on the issues addressed in your testimony.**

14 A. Below I summarize Staff's recommendations on contested items:

- 15 • Plant Held for Future Use: Staff recommends that the Commission reject
16 Avista's request to include certain unused properties in rate base on the
17 grounds that the Company fails to adequately demonstrate that the property
18 will be developed within 20 years. Furthermore, Avista's proposal is
19 inconsistent with pertinent Code of Federal Regulations guidelines. The
20 revenue requirement proposed by Avista related to this rate base addition is
21 \$582,000 and Staff rejects it in its entirety.

¹ Smith, Exh. No. ___ (JSS-IT) 19:7 - 20:19.

² Smith, Exh. No. ___ (JSS-IT) 17:28 - 18:2.

³ Smith, Exh. No. ___ (JSS-IT) 35:19 - 36:8.

1 • Montana Riverbed Lease: Staff recommends that the Commission reject
2 Avista's request to include the expense of an undetermined rental amount in
3 rates. Avista projected a level of expense of \$3,362,332,⁴ but the negotiated
4 level of rents associated with this agreement expire at the end of 2016.
5 Additionally litigation that is currently pending in the United States District
6 Court for the District of Montana could affect the amount of rents.⁵
7 Furthermore, resolution of the litigation could result in a reduction or
8 elimination of the annual rent the Company is paying.⁶ Therefore, this pro
9 forma adjustment does not conform to the Commission's known and
10 measurable standard and should be removed.

11 • Pro Forma Regulatory Amortization Adjustment – BPA Settlement Deferral:
12 Staff recommends that the Commission reject the Company's adjustment
13 and, instead, use Staff's recalculated amount. The Company mistakenly
14 includes both amortization and deferral of the BPA Parallel Capacity Support
15 as a line item in this pro forma adjustment. Staff removes the amortization
16 portion, consistent with previous General Rate Case accounting practice for
17 this line item. The revenue requirement related to the adjustment is a decrease
18 of \$1,788,000.
19

⁴ O'Connell, Exh. No. ECO-2, (Deferred Debits and Credits workpaper at 3).

⁵ O'Connell, Exh. No. ECO-3, (Avista's response to ICNU's Data Request No. 115 at 2).

⁶ *Id.*

1 **III. RATE BASE ADDITIONS**

2

3 **Q. Please describe the Company's proposal for plant held for future use addition**
4 **to rate base.**

5 A. Avista proposes to include in plant in service land located in Washington and Idaho
6 it claims will be the location of future substations and, potentially, a natural gas-fired
7 combustion turbine.⁷ Avista estimates the land will be developed in 5 to 15 years.⁸
8 According to the information obtained in discovery, Avista expects that most of
9 these lots will be developed in approximately 10 years, and the Company intends to
10 complete the development plans within two years of the planned construction date.⁹
11 The Company included Downtown East in its initial filing but excluded this addition
12 to rate base in the updated adjustments it provided in response to UTC Staff Data
13 Request No. 91.

14 These properties were acquired by Avista between 2008 and 2015 and have a
15 total, system-wide book value of \$5,972,022. On a Washington-allocated basis, these
16 properties have a total book value of \$4,569,451.¹⁰

17

18 **Q. What is the basis for the Company's request for inclusion of this land in rate**
19 **base in the current case?**

20

⁷ O'Connell, Exh. No. ECO-4, (Avista's Plant Held for Future Use workpapers).

⁸ *Id.*

⁹ O'Connell, Exh. No. ECO-5, (Avista's response to UTC Staff Data Request No. 109).

¹⁰ O'Connell, Exh. No. ECO-6, (Avista's response to UTC Staff Data Request No. 108, Attachment E).

1 The Company contends that the inclusion of these properties in rate base is
2 consistent with the Commission's decision related to plant held for future use in
3 Docket UE-920433.¹¹ In that case, the Commission adopted Staff's proposal and did
4 not allow Puget Sound Energy to maintain in the property held for future use account
5 plant without specific in-service dates, property not associated with definite plans,
6 and property that had been held for longer than 20 years.¹²

7
8 **Q. Is the Company's proposal consistent with PSE's decision?**

9 A. No. To the extent the decision in the PSE case is relevant to Avista's request, Avista
10 has failed to meet the standard for evaluation of plant held for future use that the
11 Commission set in that decision. The Commission's guideline in that case was
12 related to the exclusion of plant held for future use from rate base. At that time,
13 Puget Sound Energy (PSE) had several properties that had been held for many years
14 without action,¹³ and those properties were components of a very large account
15 balance for plant held for future use. Avista is using the Commission's decision to
16 *exclude* PSE's unused properties from rate base as support for *inclusion* of Avista's
17 unused properties in rate base.

18 The Commission's decision in Docket UE-920433 establishes that, in order
19 for plant held for future use to be incorporated in rate base, a company must

¹¹ *Wash. Utils. & Transp. Comm'n v. Puget Sound Power & Light Co.*, Dockets UE-920433 and UE-921262, Eleventh Supplemental Order, 147 P.U.R.4th 80, 90 (Sept. 21, 1993); O'Connell, Exh. No. ECO-7 (Avista's response to UTC Staff Data Request No. 112).

¹² PSE Dockets UE-920433 and UE-921262, Eleventh Supplemental Order at p. 89.

¹³ *Id.* at 90.

1 demonstrate that the property in question will be developed within 20 years.¹⁴

2 Although Avista asserts that the properties will be developed within 10 years,¹⁵ the

3 Company does not provide sufficient evidence in support of that assertion.

4 Specifically, to support inclusion in rate base, Avista should have included specific

5 development plans that demonstrate a clear intent to develop the land within a 20-

6 year time horizon. Without specific development plans, there is no assurance that

7 Avista will (or even intends to) use the land for the benefit of future ratepayers.

8

9 **Q. Are there any other accounting guidelines applicable to this adjustment?**

10 A. Yes, the Code of Federal Regulations describes the costs to be included in the

11 Electric Plant for future use account:

12 This account shall also include the original cost of land and
13 land rights owned and held for future use in electric service
14 under a plan for such use to include land and land rights: (1)
15 Acquired but never used by the utility in electric service, but
16 held for such service under a plan, and (2) previously held by
17 the utility in service, but retired from such service and held
18 pending its reuse in the future under a plan, in electric
19 service.¹⁶

20

21 **Q. Is the Company's proposal aligned with CFR guidelines?**

22 A. No. The Company has not developed specific plans for the use of this land for future

23 use in electric service. Therefore, it is inappropriate to include this land in account

24 105.

¹⁴ *Id.*

¹⁵ O'Connell, Exh. No. ECO-5, (Avista's response to UTC Staff Data Request No. 109).

¹⁶ 18 C.F.R. § 105. This section is included in Part 101 of Title 18, the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to Provisions of the Federal Power Act.

1 IV. OTHER ADJUSTMENTS

2
3 A. Adjustment 1.02, Deferred Debits and Credits, Montana Riverbed Lease

4
5 Q. Please describe the background of the Montana Riverbed Lease agreement.

6 A. Avista possesses and operates eight hydroelectric developments on the Spokane and
7 Clark Fork rivers. The Clark Fork project includes Noxon Rapids and Cabinet Gorge
8 hydroelectric facilities on the Clark Fork River in northern Idaho and northwestern
9 Montana.¹⁷ Avista became involved in litigation concerning whether the State of
10 Montana has title to the beds and banks of certain rivers, including the Clark Fork,
11 and can therefore demand rent for hydroelectric facilities located on these rivers.¹⁸
12 Montana claimed that Avista owed \$200,374,752 in damages for past rent, and rent
13 of \$8,416,510 per year starting in 2006.¹⁹ Ultimately, the Company reached a
14 settlement and entered into a riverbed lease with the State of Montana.²⁰

15 The litigation continues between the State of Montana and PPL Montana,
16 LLC, a wholesale electric generator that owns and operates a number of federally-
17 licensed hydroelectric facilities, or dams, in Montana, including facilities on the
18 Clark Fork river.²¹ Through a Most Favored Nation provision in Avista's settlement,

¹⁷ *Clark Fork Project*, Avistautilities.com,

<https://www.avistautilities.com/environment/clarkfork/Pages/default.aspx>. (last visited Aug. 17, 2016).

¹⁸ See *PPL Montana, LLC v. State of Montana*, 229 P. 3d 421, 426-28 (2010), *rev'd*, *PPL Montana, LLC v. Montana*, 132 S.Ct. 1215 (2012).

¹⁹ O'Connell, Exh. No. ECO-3, (Avista's response to ICNU's Data Request No. 115).

²⁰ *Id.*

²¹ The United States Supreme Court reversed and remanded the case back to U.S. District Court in Montana. *Montana, LLC v. Montana*, 132 S.Ct. 1215 (2012).

1 if PPL achieves a more favorable outcome in this litigation, Avista will receive the
2 benefit of the outcome.²²

3
4 **Q. Please summarize the pertinent terms of the lease.**

5 A. The lease will continue through the term of Avista's Clark Fork FERC license and
6 will terminate in 2046.²³ No later than June 30, 2016, Avista and Montana will meet
7 and confer to determine whether the rental rate should be adjusted.²⁴ As noted above,
8 the lease contains a Most Favored Nations clause, which allows the Company to
9 adjust Avista's rent to reflect a more favorable determination to the ongoing
10 litigation, obtained through judgment or settlement.²⁵

11
12 **Q. Has Avista reached an agreement with the State of Montana on the rental rates
13 that will apply after 2016?**

14 A. No. Avista provided updated information in a confidential supplemental response to
15 Staff discovery,²⁶ but Avista has not provided documentation that it has come to any
16 agreement with the State of Montana regarding the rental rate going forward.

17

²² O'Connell, Exh. No. ECO-3 (Avista's response to ICNU's Data Request No. 115).

²³ O'Connell, Exh. No. ECO-8, p. 8 (Hydropower Site Lease).

²⁴ *Id.* at 3 (Memorandum of Negotiated Settlement Terms), 9 (Hydropower Site Lease).

²⁵ O'Connell, Exh. No. ECO-8, pp. 3-4, 10.

²⁶ O'Connell, Exh. No. ECO-9C (Avista's response to UTC Staff Data Request No. 153).

1 **Q. What is the Company's proposal for the Montana riverbed lease expense?**

2 A. Avista asserts that the existing lease, by its terms, will continue in 2017 and
3 beyond.²⁷ Consistent with this statement, the Company proposes to include estimated
4 rent expenses related to the Montana Riverbed Lease during the rate effective period.

5
6 **Q. Does the Company's request conform to the Commission's known and
7 measurable standard?**

8 A. No. Neither in its direct case nor in response to discovery does Avista provide a
9 certain level of expense that the Company will incur during the rate effective period.
10 Although Avista asserts that the existing lease will continue into 2017 and beyond,
11 there is no guarantee that the rent expense will remain at the current level. While the
12 lease continues for the duration of Avista's FERC license, the amount of rent
13 expense after 2016 is unclear. Not only is the rental amount subject to renegotiation
14 in 2016, but the Most Favored Nations Clause provides the Company with a
15 potential reduction or elimination of the annual rent when the PPL litigation
16 concludes.

17 Due to the lack of a known and measurable expense for the rate-effective
18 period, Staff recommends that the Commission reject this expense in its entirety at
19 this time. Staff recognizes that Avista may be operating the Clark Fork hydroelectric
20 facilities during the rate period. Therefore, if Avista reaches an agreement on rental
21 rates going forward and presents it through rebuttal, Staff will review the new
22 agreement and reconsider our position on the expense.

²⁷ O'Connell, Exh. No. ECO-9C.

1 **Q. What is the impact in revenue requirement associated with the rejection of the**
2 **Montana Riverbed Lease estimated rent expense levels?**

3 A. The Company's proposed revenue requirement amount for Adjustment 1.02,
4 Deferred Debits and Credits, changes from \$(2,479,000) to \$(6,005,000). Thus, the
5 change to overall revenue requirement is a reduction of \$3,526,000 allocated to
6 Washington.

7
8 **B. BPA Settlement Deferral**

9
10 **Q. Please describe the BPA Settlement Deferral Avista includes in its Adjustment**
11 **3.05, pro forma Regulatory Amortization.**

12 A. Avista includes the BPA Settlement²⁸ deferral as one of the line items in its Pro
13 Forma Regulatory Amortization adjustment. The purpose of this line item was to
14 defer Washington's share of \$2.1 million of annual transmission revenue and credit
15 to customers during 2015.²⁹

16
17 **Q. Does Avista correctly calculate the BPA Settlement Deferral amount?**

18 A. No. The Company included the amortization portion of the settlement in the
19 adjustment by mistake. Consistent with previous calculations of the adjustment, Staff

²⁸ Bonneville Transmission Settlement. In December 2012, Avista and Bonneville reached a settlement regarding BPA's use of Avista's transmission system. In Docket UE- 130536 the Commission authorized Avista to defer and track the Washington allocated share of these payments for ratepayer benefit. The deferral of \$2.1 million per year for 2013 and 2014 extended into the end of 2015; O'Connell, Exh. No. ECO-10 (Pro Forma Regulatory Amortization Adjustment workpaper).

²⁹ Smith, Exh. No. ___ (JSS-1T) 36:1-4.

1 recalculated the adjustment using only the deferral portion remaining for the last
2 three months of year 2014. In discussions with Avista, the Company acknowledged
3 that the amortization portion was included by mistake.³⁰
4

5 **Q. What is the impact in revenue requirement of this recalculation?**

6 A. The revenue requirement amount for Adjustment 3.05, Pro Forma Regulatory
7 Amortization, from \$(412,000) to \$(1,788,000). Thus, the change to overall revenue
8 requirement is a reduction of \$1,376,000.
9

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

11 A. Yes.
12

³⁰ O'Connell, Exh. No. ECO-11, (Avista's response to UTC Staff Data Request No. 91. Third Supplemental Attachment A.)