



Rob McKenna  
**ATTORNEY GENERAL OF WASHINGTON**  
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October 12, 2012

**SENT VIA E-MAIL & U. S. MAIL**

David W. Danner  
Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P. O. Box 47250  
Olympia, Washington 98504-7250

RE: WUTC v. Avista, Dockets UE-120436 and UG-120437 (*Consolidated*)  
WUTC v. Avista, Dockets UE-110876 and UG-110877 (*Consolidated*)  
**Re: Notice to Comply with Appearance of Fairness Obligations  
dated October 9, 2012**

Dear Mr. Danner:

On October 9, 2012, the Washington Utilities and Transportation Commission (UTC) issued its Notice to Comply with Appearance of Fairness Obligations (Notice) to all parties. The Notice states that Avista Corporation d/b/a Avista Utilities (Avista) has invited Commissioner Jones to a meeting on cyber security threats to the United States electric grid, which will occur in Spokane at Avista's corporate offices on October 16, 2012. The Notice further states that the meeting will focus solely on cyber security issues and will not directly or indirectly touch on issues related to Avista's pending general rate case.

Public Counsel files this letter in response to the Notice. The topics to be discussed with Commissioner Jones on October 16, 2012, do appear to be related to issues in the pending general rate case. Indeed, Avista is seeking recovery of three different smart grid initiatives (Spokane Smart Circuit Project, Pullman Smart Grid Demonstration Project, and Smart Grid Work Force Training Program) and recovery of certain expenses related to obtaining a new customer information system.<sup>1</sup> Cyber security considerations are at issue with the smart grid initiatives as identified by Public Counsel witness Nancy Brockway in her responsive testimony filed in this case.<sup>2</sup>

<sup>1</sup> See Testimony of Don Kopczynski, Exhibit No. DFK-1T at 20:14 – 34:2.

<sup>2</sup> See Testimony of Nancy Brockway, Exhibit No. NB-1T at 25:3 – 31:3.

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Public Counsel recognizes that new technologies are being deployed and that cyber security is an issue that energy companies and regulators must grapple with now and in the coming years. This was underlined today by statements of Defense Secretary Leon Panetta reported in the media. Public Counsel fully supports developing best practices regarding cyber security and Commission involvement in this process. However, because those discussions touch on matters currently pending in Avista's general rate case, our preference is that such discussions between the Commissioners and Avista be suspended until after Avista's general rate case has concluded, to avoid an appearance of unfairness. If the discussions must take place, they should occur in a public forum, such as a Commission Open Meeting or a stakeholder workshop. This is appropriate in any event, given the importance of the topic to all stakeholders. Regardless of how the Commission chooses to address this issue, the materials from Avista's cyber security presentation and the information offered should be provided to parties in the general rate case proceeding without need for further order or request.

Sincerely,



LISA W. GAFKEN  
Assistant Attorney General  
Public Counsel Division  
(206) 464-6595

LWG:cjw  
Enclosure

cc: Parties (E-mail and First Class Mail)  
ALJ Marguerite Friedlander (E-mail)