

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DOCKET NO. UE-08 _____

DIRECT TESTIMONY OF

BRUCE F. HOWARD

REPRESENTING AVISTA CORPORATION

I. INTRODUCTION

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Q. Please state your name, employer and business address.

A. My name is Bruce F. Howard. I am employed as the Spokane River License Manager by Avista Corporation located at 1411 East Mission Avenue, Spokane, Washington.

Q. Would you briefly describe your educational and professional background?

A. I received a Bachelor of Science degree in Natural Resources from Cornell University in 1980 and a Master of Arts from the University of Texas in Geography in 1986. I started working for Avista in 2000 as a Corporate Environmental Auditor and started my current position as the Spokane River License Manager in 2001. My primary responsibilities involve leading the effort to obtain and manage a new license from the Federal Energy Regulatory Commission for the Spokane River Hydroelectric Project.

Q. What is the scope of your testimony in this proceeding?

A. My testimony will provide an overview of Spokane River Relicensing including the history, process and issuance of a FERC license.

Q. Are you sponsoring any exhibits?

A. Yes. I am sponsoring Exhibit No.__(BFH-2) (Spokane River Project Map), and Exhibit No. (BFH-3) (Timeline for the Spokane River Relicensing Process).

Q. Could you please provide an overview of the Spokane River Project?

A. Yes. As shown in Exhibit No.____(BFH-2), the Spokane River Project, which is currently under a single FERC license, includes the Long Lake, Nine Mile, Upper Falls, Monroe Street, and Post Falls hydroelectric developments. Little Falls, the Company's sixth project on the Spokane River, is not under FERC jurisdiction, but operates under separate Congressional

1 authority. A separate license application was made for the Post Falls Project due to the unique
2 circumstances that surround the future operation of the facility, as it relates to Lake Coeur
3 d'Alene. A separate licensing track for the four developments downstream of Post Falls was
4 expected to provide a more efficient and timely process for moving ahead with a new FERC
5 license for those developments.

6 The five FERC jurisdictional developments have a total generating capacity of
7 approximately 156 MW, and average annual energy production of approximately 105 aMW. Our
8 current license for the Spokane River Project expired in August 2007 and we have been operating
9 under an annual license while FERC processes the Company's relicensing applications. The
10 Company anticipates a final license approved by FERC by December 2008.

11 **Q. Can you provide an overview of the history of the Spokane River relicensing**
12 **process?**

13 A. Yes. Exhibit No.__(BFH-3) is a simplified timeline setting forth key milestones.
14 The Spokane River relicensing process began in April 2001 with preliminary stakeholder and
15 outreach meetings. The request for the use of the Alternative Licensing Process was submitted to
16 FERC in April 2002. FERC approved the process in June 2002. This was followed by the
17 formation of a relicensing team including hundreds of stakeholders from local, state, federal and
18 tribal governments, as well as public interest groups. Stakeholders formed technical work
19 groups, scoped issues involved in relicensing and determined the information that would be
20 needed for the relicensing process. The next several years included information gathering,
21 studies, the development of Protection, Mitigation and Enhancement (PM&E) measures, and

1 negotiating agreements with stakeholders. The Company filed applications with FERC in July
2 2005 to relicense the five subject hydroelectric generation projects located on the Spokane River.

3 Since the filing of the applications, we have been meeting FERC's procedural
4 requirements as they process the applications. In July 2006, government agencies and Native
5 American tribes submitted proposed terms and conditions for the relicensing applications. These
6 submittals included mandatory conditions submitted by the Department of Interior, Bureau of
7 Indian Affairs, for the Post Falls Project. In August 2006, Avista requested a trial-type hearing in
8 front of an Administrative Law Judge (ALJ) at the U.S. Department of the Interior concerning the
9 factual bases for the proposed conditions. The ALJ held a hearing in December 2006 and issued
10 a finding of facts on January 8, 2007. The ALJ's findings were the basis for the Department of
11 the Interior's (DOI) revised mandatory conditions, which were issued on May 7, 2007. The
12 revised conditions did change, reflecting the findings of the ALJ. Most significantly, the DOI
13 dropped an earlier proposed fishery condition and increased obligations in other areas such as
14 wetlands restoration.

15 FERC issued a Draft Environmental Impact Statement (DEIS) in December 2006, held
16 public hearings in February 2007, and received formal comments through March 6, 2007. The
17 DEIS analyzed Avista's applications, as well as proposed recommended and mandatory
18 conditions. Many parties filed comments on the DEIS. FERC issue a final EIS in July 2007.

19 To meet additional relicensing requirements, Avista filed applications for Clean Water
20 Act Section 401 Certification in July 2006 with the Washington Department of Ecology and the
21 Idaho Department of Environmental Quality. According to statutory timeframes, these
22 certifications were expected by July 2007. However, both states requested that Avista withdraw

1 its applications and reapply. Avista did so in June 2007, creating a new statutory deadline of
2 June 2008 for issuance of the 401 certifications. Avista also prepared a draft Biological
3 Assessment as the designated non-federal representative for consultation under the Endangered
4 Species Act (ESA). In early 2007, FERC issued a Biological Assessment and requested
5 concurrence from the U.S. Fish and Wildlife Service (“the Service”) that the Post Falls and
6 Spokane River Projects would be “not likely to adversely affect” any listed species. The Service
7 concurred with the determination with respect to bald eagles, and stated that more information
8 would be needed before a concurrence decision could be reached regarding bull trout. Avista has
9 continued to consult with the USFWS as the designated non-federal representative. The timing
10 for this resolution is currently unknown

11 **Q. Please explain the use of the Alternative Licensing Process and why it was**
12 **used.**

13 A. At the time Avista was required to begin the relicensing process, FERC provided
14 two types of relicensing processes, the Alternative Licensing Process (ALP) and the Traditional
15 Process. (FERC has since added a third, preferred, process: the Integrated Licensing Process.)
16 The licensee may determine which process they would prefer to use, but it is up to FERC to
17 approve a request to use the ALP. In 2001, two stakeholder meetings were held to form the
18 relicensing team, which developed a draft Communications Protocol and Guiding Principles for
19 the relicensing effort. These early efforts resulted in broad agreement to use the ALP for a
20 variety of reasons. The ALP was determined to be a preferred process because it promotes
21 reaching agreement and resolution of issues, provides local stakeholders with more control of
22 decisions, and streamlines the licensing process by initiating the required National

1 Environmental Policy Act (NEPA) review sooner in the process. It also facilitates the timely
2 review and license issuance by FERC, builds working relationships between resource managers
3 to benefit the larger community. This helps explain the success of the Clark Fork relicensing
4 process, which helped pioneer the ALP. A request to use the ALP was made to FERC in April
5 2002 and the request was approved in June 2002. The Company has used the ALP for the
6 development of the Spokane River License.

7 **Q. What were the risks involved with the relicensing process?**

8 A. The risks of the relicensing process included the potential liabilities associated
9 with a range of mandatory conditioning authorities. Most notably, the use of Lake Coeur
10 d'Alene for water storage triggers the application of Section 4(e) authority under the Federal
11 Power Act, since the United States Supreme Court found in 2001 that the southern portion of the
12 Lake was held in trust for the Tribe by the United States. Additional mandatory authorities are
13 expressed in Clean Water Act Section 401 certification requirements. Compliance with
14 Endangered Species Act requirements is another risk in this process. Additional risks include the
15 range of recommended PM&E measures by third-parties, as well as FERC's own deliberations.
16 Many proposed measures do not currently have specific dollar amounts attached at this time due
17 to the uncertain outcome or because studies need to be done in order to determine the feasibility
18 of certain projects.

19 **Q. What are the main areas of contention in the Spokane River Project**
20 **relicensing process?**

21 A. The main areas of contention in the relicensing process revolve around potential
22 impacts of hydro operations on a variety of cultural and natural resources in the Project area.

1 These issues vary by each hydroelectric facility. The main issues at Post Falls derive from the
2 fact that the development stores up to 7.5 feet of water on top of Coeur d'Alene Lake each
3 summer. In the relicensing context, this may impact recreation site demand, use and access,
4 cultural resources and their protection, shoreline erosion and riparian habitat, fisheries habitats
5 and resources, water quality (in particular, temperature and dissolved oxygen), aquatic weed
6 distribution, protection of bald eagles, and wetland types and distribution. In addition, the issue
7 of balancing Coeur d'Alene Lake summer lake levels and Spokane River flows downstream has
8 been a major contention between stakeholders and between the States of Idaho and Washington.

9 The main issues concerning the Spokane River dams in Washington other than Post Falls,
10 include total dissolved gases, dissolved oxygen levels, lake temperature, sediment transport and
11 deposition, fish habitat and fishing opportunities, wetland type and distribution, aesthetic flows,
12 recreational access and demand, riparian habitat and shoreline protection and the control of
13 noxious and exotic aquatic weeds. In addition, given the setting of Coeur d'Alene Lake and Lake
14 Spokane within minutes of a population of over 400,000 people, the stewardship of these lakes,
15 and the Spokane River, has been a major relicensing issue.

16 **Q. Can you provide a high level overview of the costs incurred thus far in the**
17 **relicensing process?**

18 A. Yes. The relicensing costs included in this case are \$29.0 million which is
19 expected to be accrued through December 2008. Of this \$29.0 million, \$20.6 million has been
20 spent on relicensing process costs through the end of 2007. The breakdown of these costs
21 include \$13.7 million for non-labor costs, \$3.8 million for labor costs, and \$3.1 million of
22 charges for allowance for funds used during construction (AFUDC). Company witness Ms.

1 Andrews includes these actual and pro forma costs in this rate case. Specific costs are broken
2 down further in Ms. Andrews testimony. Many of the ongoing and future costs associated with
3 relicensing are not known at this time because of the need to complete various environmental and
4 engineering studies to determine the feasibility of several projects. Accordingly, PM&E costs
5 that are determined after the completion of studies will be included in future rate proceedings.

6 **Q. Do you have any sense for the range of total costs related to relicensing**
7 **Spokane River Project?**

8 A. The Company's estimates of the proposed licensing requirements were estimated
9 to be between \$400 and \$500 million for the Post Falls Project and between \$175 and \$225
10 million for the downstream Spokane River Project, over a 50-year licensing period, based on
11 Avista's review of the initial proposed mandatory and recommended conditions. However,
12 several key portions of the process have not yet been resolved; these include the Clean Water Act
13 Section 401 certifications and Endangered Species Act compliance. In addition, Avista is still in
14 negotiations with some parties. As such, the final costs for relicensing the Spokane River
15 Projects will be unknown until the final terms and conditions are resolved and reflected in a
16 FERC order. Even at that time, Avista expects that some requirements will include further study
17 and consultation with certain parties.

18 **Q. Does this conclude your pre-filed direct testimony?**

19 A. Yes it does.