BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTION COMMISSION

DOCKET NO. UE-99______

DIRECT TESTIMONY OF ROBERT D. ANDERSON
REPRESENTING THE AVISTA CORPORATION

WUTC
DOCKET NO. UE-991606
EXHIBIT # T-345
ADMIT ✓ W/D REJECT

Exhibit T-37

Q. What is your name, business address, and permanent position?

A. My name is Robert D. Anderson. I am the Manager of the Hydro Licensing and Safety Department at Avista Corp., 1411 E. Mission Avenue, Spokane, Washington.

Q. Please summarize your education and experience.

A. I have both Bachelors and Masters degrees in Fisheries Management and Fisheries Biology from the University of Washington. I have been employed by Avista Corp. (Company) for 27 years. As an employee of the Company, I have served in a number of positions. My previous jobs included Fish and Wildlife Biologist, Environmental Coordinator, and Manager of Licensing and Environmental Affairs. In my current position, I am responsible for the hydro programs that involve compliance with Federal Energy Regulatory Commission (FERC) license requirements for dam safety, public safety, natural and cultural resources, land management and relicensing.

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

A. My testimony in this proceeding will cover the relicensing process for the Company's Clark Fork Projects, the settlement agreement reached by all parties in the relicensing process and the status of the current license application before the FERC.

Q. Are you sponsoring any exhibits to be introduced in this proceeding?

A. Yes. I am sponsoring Exhibit No 38, as previously marked for identification, which was prepared under my supervision and direction. This exhibit details the level of Clark Fork Settlement Agreement expenses, on a system level and broken out by category, that is included in the Company's request.

Q. Can you provide a brief background of this relicensing process?

A. Yes. The Company filed an application in February 1999 for a new FERC license for the Noxon Rapids and the Cabinet Gorge Projects, collectively referred to as the "Clark Fork Projects." Cabinet Gorge and Noxon Rapids were licensed for 50 years beginning in 1951 and 1955, respectively. In 1995 the Company amended the Noxon Rapids license to accelerate its date of expiration from 2005 to 2001 to allow for simultaneous relicensing of both projects.

The Company began strategic planning for the relicensing of the Clark Fork Projects in 1992. After reviewing many relicensing proceedings and the difficulties associated with the traditional FERC process, the Company employed a unique collaborative process now referred to as FERC's Alternative Relicensing Process. The goal of this collaborative process was to facilitate the negotiation of an effective settlement agreement that would address the interests and concerns of stakeholders and give the Company the greatest opportunity to limit its costs over the term of a new license.

The collaborative process began in mid-1996 with a meeting of all stakeholders and the use of neutral facilitators. The organizations in the collaborative process became known as the Clark Fork Relicensing Team. The Team also formed five technical work groups to resolve very detailed and specific resource issues.

Q. Who were the stakeholders that made up this group?

A. The group included over 100 representatives from nearly 40 organizations, including federal and state agencies and local governments from Idaho and Montana, five American Indian tribes, non-government organizations, conservation groups, property owners and the Company.

Q. Did this collaborative process prove successful?

A. Yes. The process was a significant departure from traditional FERC relicensing procedures and produced a very successful negotiation process. From a tangible standpoint, the process produced an agreement among wide ranging stakeholders, the Clark Fork Settlement Agreement, which effectively settles all material issues raised in the process. The Clark Fork Agreement is the first comprehensive settlement ever reached in the relicensing for a major project before the application was filed, and would represent the first time in the nation since the passage of the Electric Consumers Protection Act of 1986 that major facilities were ever relicensed on the regulatory schedule. In addition, the Clark Fork Settlement Agreement should ensure a relatively streamlined review of the actual FERC application, and a high level of certainty on its ultimate outcome. The Clark Fork Collaborative Relicensing Process is now nationally recognized as the model for FERC's alternative relicensing process among alternative approaches to hydropower relicensing.

Q. Since the initial FERC licenses expire in 2001, why were payments under the Clark Fork Settlement Agreement scheduled to begin in 1999?

A. The Company committed early on to implementing the provisions of the Clark Fork Settlement Agreement at the time of the FERC application provided that the participants could reach a comprehensive settlement. Early implementation was a significant incentive for both the Company and the participants since it presented an element of certainty for both sides. The Company desired to maintain operational flexibility, and minimize delays for obtaining new licenses, while the other parties were motivated by the immediate opportunity to begin benefiting the project's associated natural resources at a time much earlier than in the traditional relicensing process. In this regard, the restoration of bull trout was an especially important consideration for the Company and others since the species was listed as "threatened" under the Endangered Species Act.

Q. What has the Company done with the costs of the collaborative process?

A. The costs of the collaborative process to date have been capitalized in FERC account 302, Franchises and Consents. These costs totaled $14,012,000 on a system basis, including associated Allowance for Funds Used during Construction (AFUDC).

Q. What are the costs associated with implementation of the Clark Fork Settlement Agreement?

A. As illustrated in my Exhibit No. 38, estimated annual Operation and Maintenance (O&M) costs of the ongoing license implementation are $2,598,000 on a system basis. The O&M amount is reduced by $736,180 of current existing administrative costs, to produce an incremental O&M amount of $1,861,820.

Q. When are these costs scheduled to begin and over what term will the agreement be in effect?

A. As stated above, these costs began in March of 1999 and will occur annually over the life of the new FERC licenses. The actual costs in any year over the course of the license will vary depending upon the level of treatment of the issues and the impact of new issues. The parties to the Settlement Agreement have requested that FERC provide the Company a 45 year term of license, which is longer than what is normally being issued by FERC's.

Q. Has an analysis been performed that indicates that the total cost to the Company of entering into a settlement agreement is prudent and reasonable?

A. Yes. The Company evaluated many factors to estimate a range of likely relicensing costs that might eventually be imposed on the Company and considered what was reasonable given the value of the projects to our customers and the resource issues.

Those factors included the size of the projects, the complexity and difficulty of the issues, the interests of the participating agencies and organizations, the regulatory authority of the parties to impose unilateral license terms and conditions, FERC's decisions in license orders in similar cases, costs imposed on other licensees, costs of protracted license proceedings and the likelihood of near-term regulatory or rule changes.

The final settlement agreement costs reflect the combination and costs of measures required to solve the issues in a way that allowed the Company to preserve nearly all of the project's operating flexibility and their competitive market position.

Q. Does the contract's flexibility produce any challenges from a ratemaking standpoint?

A. We learned in a recent Idaho electric proceeding that there is some concern over the timing of when future expenditures will occur. In response to that concern the Company is proposing a regulatory balancing account, identical to that approved in Idaho. Witness Falkner outlined that proposal in his testimony. The expense items I am presenting accurately represent our assessment of the expense costs associated with the Clark Fork Settlement Agreement.

Q. Would you discuss the hydro relicensing expenses that should be included in the balancing account?

A. Yes. I have included in Exhibit 38 the expense costs associated with those Protection, Mitigation, and Enhancement (PME) measures that have an expense component. This breakdown represents my best assessment of the funds to be spent on non-capital items such as studies, plans, monitoring, labor, consultants, contract labor, travel, lodging, benefits, maintenance and operations pursuant to the Final Settlement Agreement.

Q. How do you intend to address the one time and periodic expenditures?

A. One time and periodic expenditures are not included initially in the annual expense recovery proposed by the Company. Operation and maintenance expenditure levels different than what are allowed in this case would be captured in the balancing mechanism proposed by Witness Falkner.

Q. What is the Company's request for a hydro relicensing pro forma adjustment?

A. The pro forma adjustment is derived from the total of the expense column less the existing and ongoing costs, as shown in Exhibit 38. This total represents the incremental expenses associated with implementation of the Clark Fork Settlement Agreement. The total for the Clark Fork Settlement Agreement annual expense adjustment is $1,861,820.

Q. Why should the Commission authorize recovery of the process and Settlement costs before the FERC issues a new license order for the Clark Fork Projects?

A. The Clark Fork Settlement Agreement is an unprecedented success in the arena of the FERC's regulation of hydropower, and provides substantial benefits to present and future electric customers of the Company.

The Company developed an alternative approach that was intended to avoid the lengthy uncertainty of a contested case, and more importantly, create the opportunity for the Company to negotiate terms of an agreement that would minimize the impact on our customers' rates.

Q. What has been the immediate outcome of this process?

A. The Company secured the first-ever direct participation of FERC staff in first and second-stage consultation, formed the first national non-governmental organization partnership to effectively bridge local, regional, and national interests, restructured with FERC's support the NEPA compliance process, executed the first-ever Collaboratively-Prepared Environmental Assessment, effectively melded agency mandatory conditioning with a collaborative, consensus-based process and developed the concept of a "Living License" structured on the concept of adaptive management. Last year the Company was sponsored by FERC to speak on their behalf at national outreach meetings around the nation about the structure of the Living License process, its benefit to the Company and customers, and its application as a national model under FERC's new alternatives.

Finally, of course, the Company and the relicensing parties achieved our goal of a comprehensive, pre-filing Settlement Agreement, the first of its kind for hydro projects of this size in the nation. And because FERC staff participated formally throughout the entire process, because the Clark Fork Living License is considered a model by FERC, because all parties collaboratively prepared the application and environmental report, and because staff of FERC's Office of General Counsel participated in the development of the Settlement Agreement, we expect a new license that comports with the Settlement Agreement not only on time, but very likely before the end of the year 2000.

Q. What is your conclusion?

A. The Company's customers, both present and future, benefit from the Clark Fork Settlement Agreement, and should pay now for the prudent undertaking of the Company to reach and implement this agreement. Present customers benefit directly because the Company can now plan today with certainty how to meet future customer resource capacity requirements at the lowest possible cost. Future customers benefit because there is no continued accrual of AFUDC, which only serves to increase their revenue requirement – future being anywhere from 6 to 14 months from today, when the Company will have either been granted a new license or an annual license. Further, the way in which the agreement was reached with the participation of FERC staff dramatically increases the likelihood of speedy application processing and the issuance of a new license order for the Clark Fork Projects. And finally, the more uniform allocation of lower overall costs among present and future electric customers benefits all the Company customers and the health of our region as a whole.

Q. What is the status of the FERC licensing process?

A. The Company filed its license application on February 18, 1999. In May of 1999, FERC received comments and recommendations from all interested parties. FERC is currently drafting an Environmental Impact Statement (EIS) which the Company anticipates to be out before the end of 1999. FERC will then elicit public comment on the EIS. No major issues were raised in the first round of public comments on the Company's license application and no major issues are expected to be produced following the issuance of FERC's EIS. The Company fully expects an order granting its license application before the end of the year 2000, prior to the current licenses expiration date of February 2001.

Q. Does that conclude your testimony?

A. Yes, it does.