

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DOCKET NO. U-170970

SUPPLEMENTAL TESTIMONY OF MARK T. THIES
REPRESENTING AVISTA CORPORATION

Supplemental Testimony Regarding Management Changes at Hydro One

1 **Q. Please state your name, business address, and present position with**
2 **Avista Corp.**

3 A. My name is Mark T. Thies. My business address is 1411 East Mission
4 Avenue, Spokane, Washington. I am employed by Avista Corporation as Senior Vice
5 President, Chief Financial Officer and Treasurer.

6 **Q. Are you the same Mark T. Thies who sponsored pre-filed direct**
7 **testimony, on behalf of Avista Corporation (Avista)?**

8 A. Yes, I sponsored Direct Testimony MTT-1T and Exh. MTT-2 through Exh.
9 MTT-5 in this Docket.

10 **Q. Are you sponsoring any exhibits in this testimony?**

11 A. Yes, I am sponsoring Exh. MTT-7, which is the Golden Share agreement
12 (“Services and Indemnity Agreement”) between GSS Holdings (AGS), Inc. (“HoldCo”), a
13 Delaware corporation, Global Securitization Services, LLC (“Global”), a Delaware limited
14 liability company, and Avista. HoldCo is an affiliate of Global. Global formed HoldCo, as
15 a special purpose entity (SPE) on July 17, 2018 for the sole purpose of holding one share of
16 limited voting preferred stock in Avista.

17 **Q. What is the purpose of this Supplemental Testimony?**

18 A. The purpose of this Supplemental Testimony is to reconfirm the benefits of
19 this transaction (the “Proposed Transaction”) from a financial perspective and highlight the
20 extensive financial safeguards incorporated into the agreed upon commitments (each, a
21 “Stipulated Commitment”, collectively “Stipulated Commitments”) in the Settlement
22 Stipulation (“Stipulation”) filed on March 27, 2018, which were designed to protect and
23 insulate Avista and its customers from a change in management at Hydro One or changes in

1 the political landscape of the Province of Ontario and ensure Avista's ability to continue as a
2 financially sound, stand-alone utility.

3 As I will discuss further below, neither Hydro One, nor the Province, can deprive
4 Avista of its necessary capital and assets; indeed, quite the opposite is true. Hydro One is
5 duty-bound to provide sufficient capital to allow Avista to provide safe, reliable, and cost-
6 effective service.

7 **Q. Have any of the benefits of the Proposed Transaction to Avista and its**
8 **stakeholders changed as a result of recent developments in Ontario?**

9 A. No, the benefits highlighted in both my and Mr. Morris' direct testimony
10 have not changed. The number of investor-owned electric and natural gas utilities in North
11 America has decreased significantly over the years through consolidation. Through
12 consolidation, these larger utilities have the opportunity to spread costs, especially the costs
13 of new technology, over a broader customer base and a broader set of infrastructure. The
14 partnership of Avista and Hydro One will provide opportunities for efficiencies in the long-
15 term through the sharing of best practices, technology and innovation. The Proposed
16 Transaction will provide benefits to Avista's customers that otherwise would not occur.
17 These benefits will not only be viewed favorably by customers, but also by debt holders and
18 rating agencies. An efficient, well-run business increases the opportunity to achieve
19 financial metrics to support favorable credit ratings.

20 The merger with Hydro One will not only allow Avista and its customers to benefit
21 from being a part of a larger organization (the benefits of scale), but at the same time
22 preserves local control of Avista and the retention of Avista's culture and its way of doing
23 business. We believe this preservation of local control and management of Avista is

1 important to many stakeholders including, among others, our customers, our employees, the
2 communities we serve, the vendors we do business with, lenders, and rating agencies. None
3 of this has changed as a result of recent developments in Ontario.

4 **Q. Are there any new financial risks to Avista in light of the recent**
5 **management changes at Hydro One?**

6 A. No. As I will discuss in further detail below, there are extensive financial
7 safeguards and ring-fencing Stipulated Commitments agreed to by all parties as part of the
8 Stipulation that were intentionally designed to ensure Avista will continue as a financially
9 sound, stand-alone utility.

10 **Q. Will Avista continue to maintain its own capital structure following the**
11 **closing of the Proposed Transaction?**

12 A. Yes. Avista will maintain its own capital structure after the Proposed
13 Transaction is consummated and will continue to fund its ongoing operations with both debt
14 and equity sources.

15 **Q. Does Hydro One, or the Province of Ontario, have the ability to withhold**
16 **equity contributions to Avista?**

17 A. No. As described in Stipulated Commitment No. 34, Hydro One will provide
18 equity injections to support Avista's capital structure. This commitment to maintain a strong
19 equity component in Avista's capital structure plays a significant role in supporting financial
20 metrics that ensure Avista's access to its usual and customary financial markets under
21 reasonable terms and on a sustainable basis.

22 **Q. Are there protections built into the Stipulated Commitments regarding**
23 **dividends from Avista to Olympus Equity LLC.?**

1 A. Yes. As agreed to in Stipulated Commitment No. 38, certain conditions must
2 be met in order for Avista to provide a dividend to Olympus Equity LLC. If either (i)
3 Avista's corporate credit/issuer rating as determined by both Moody's Investors Service
4 ("Moody's") and Standard & Poor's ("S&P"), or their successors, is investment grade, or
5 (ii) the ratio of Avista's EBITDA to Avista's interest expense is greater than or equal to 3.0,
6 then distributions from Avista to Olympus Equity LLC shall not be limited so long as
7 Avista's equity ratio is equal to or greater than 44 percent on the date of such Avista
8 distribution after giving effect to such Avista distribution. If any of those conditions are not
9 met, and Avista desired to distribute a dividend to Olympus Equity LLC, such distribution
10 would require Commission approval.

11 If Avista does not have an investment-grade rating from both Moody's and S&P, or
12 from one of these entities, or its successor, if only one issues ratings with respect to Avista,
13 and the ratio of EBITDA to Avista's interest expense is less than 3.0, no dividend
14 distribution to Olympus Equity LLC or its successors will occur.

15 **Q. Are there Stipulated Commitments that protect Avista's customers'**
16 **assets from being pledged as collateral?**

17 A. Yes. Avista's utility assets can be pledged as collateral only for the benefit of
18 Avista, not Hydro One, as agreed to in Stipulated Commitment No. 46. Therefore, neither
19 Hydro One, nor the Province, can strip Avista of its capital or loan, pledge, or transfer
20 Avista's assets to Hydro One or any affiliates of Hydro One.

21 **Q. Could Hydro One cut Avista's capital budget?**

22 A. Avista will have necessary funds available to provide safe and reliable
23 service to customers. Avista and Hydro One agree that neither the proposed Hydro One

1 merger, nor future acquisitions, may diminish the delivery of safe and reliable utility service
2 in Washington as compared to Avista's performance prior to the closing of the Proposed
3 Transaction. Avista will, under the leadership of the Avista Board, make the necessary
4 investments in order to ensure safe and reliable utility service, and will make the necessary
5 capital expenditures to effectuate that.

6 **Q. Are there any other safeguards that maintain the integrity of Avista's**
7 **financial health?**

8 A. Yes. There are several other financial obligations included in Stipulated
9 Commitment Nos. 34-41 that provide Avista adequate protection of its financial health. I
10 will highlight a couple below, having already discussed Stipulated Commitment Nos. 34 and
11 38 earlier.

12 As outlined in Stipulated Commitment No. 35, Avista will maintain separate debt
13 and preferred stock, if any, to support its utility operations. Further, Stipulated Commitment
14 No. 36 states that each of Hydro One and Avista will continue to be rated by at least one
15 nationally recognized statistical "Rating Agency." If Hydro One and Avista are unable to
16 obtain or maintain the separate rating for Avista, they will make a filing with the
17 Commission explaining the basis for their failure to obtain or maintain such separate credit
18 rating for Avista.

19 Stipulated Commitment No. 37 states that Hydro One and Avista agree to notify the
20 Commission within two business days of any downgrade of Avista's credit rating to a non-
21 investment grade status by S&P, Moody's, or any other such ratings agency that issues such
22 ratings with respect to Avista. Additionally, Avista and Hydro One have agreed that Avista
23 will maintain its present pension funding policy, continue to file required reports with the

1 U.S. Securities and Exchange Commission, and comply with applicable Sarbanes-Oxley Act
2 requirements.

3 **Q. Are there protections in place to protect Avista from being drawn into**
4 **bankruptcy proceedings that are not in the best interest of Avista and its customers?**

5 A. Yes, there are various bankruptcy ring-fencing provisions. First, as outlined
6 in Stipulated Commitment No. 42, Avista will issue a single share of preferred stock
7 referred to as the Golden Share to an independent third party. The vote of this share will be
8 required to place Avista into voluntary bankruptcy. Additionally, as outlined in Stipulated
9 Commitment No. 43, Avista's entry into voluntary bankruptcy would require the consent of
10 a two-thirds majority of all of its directors, including the affirmative vote of at least one of
11 the Independent Directors. Stipulated Commitment No. 44 further requires a non-
12 consolidation opinion filed with the Commission to confirm the effectiveness of the ring-
13 fencing measures to prevent the substantive consolidation of the assets and liabilities of
14 Avista with those of Hydro One or any of its affiliates or subsidiaries.

15 **Q. Has the holder of the "Golden Share" been selected?**

16 A. Yes. Avista and Hydro One have selected HoldCo as the holder of the
17 "Golden Share".

18 **Q. Please explain how you believe HoldCo meets the definition and purpose**
19 **of the Golden Share holder as provided in Stipulated Commitment No. 42.**

20 A. Certainly. Stipulated Commitment No. 42, reads, in pertinent part, as
21 follows:

22 Entering into voluntary bankruptcy shall require the affirmative vote of a
23 "Golden Share" of Avista stock. The Golden Share shall mean the sole share
24 of Preferred Stock of Avista as authorized by the Commission. This share of
25 Preferred Stock must be in the custody of an independent third-party, where

1 the third-party has no financial stake, affiliation, relationship, interest, or tie to
2 Avista or any of its affiliates, or any lender to Avista, or any of its affiliates.
3 This requirement does not preclude the third-party from holding an index fund
4 or mutual fund with negligible interests in Avista or any of its affiliates. In
5 matters of voluntary bankruptcy, this Golden Share will override all other
6 outstanding shares of all types or classes of stock.
7

8 The following information describes the holder of this share:

- 9 1. HoldCo is an affiliate of Global. Founded in 1996, Global is a privately
10 held limited liability company owned by its senior management.
11
- 12 2. Global is a member of the Structured Finance Industry Group, and the
13 firm is dedicated to providing professional and responsible management of
14 special structures such as the Golden Share (see attached Exh. MTT-7 for
15 more information about Global).
16
- 17 3. HoldCo does not and will not conduct any business activities other than
18 holding the Golden Share, will not incur any liabilities other than those
19 necessary to carry out the duties of holding the Golden Share, and will not
20 sell, assign, transfer, pledge, hypothecate or otherwise convey the Golden
21 Share.
22
- 23 4. GSS Holdings (CHGE), Inc., another affiliate of Global, holds a similar
24 Golden Share for Central Hudson Gas & Electric Corporation.
25
- 26 5. GSS Holdings (NY Utility), Inc., another affiliate of Global, holds similar
27 Golden Shares for New York State Electric & Gas Corporation and
28 Rochester Gas and Electric Corporation.
29
- 30 6. GSS Holdings (NG), Inc., another affiliate of Global, holds similar Golden
31 Shares for National Grid plc companies Keyspan Gas East Corporation,
32 Niagara Mohawk Power Corporation, and The Brooklyn Union Gas
33 Company.
34
- 35 7. Closer to home, an affiliate of Global was approved by the Oregon Public
36 Utility Commission as the holder of the Portland General Electric
37 Company's Golden Share.

1 A copy of the Services and Indemnity Agreement has been provided as Exh. MTT-7. Avista
2 and Hydro One request that the Commission expressly approve HoldCo as the holder of the
3 Golden Share as part of its approval of the Transaction itself.

4 **Q. Do you have any concluding remarks?**

5 A. Yes. All of the benefits of the Proposed Transaction and structured
6 safeguards remain intact, notwithstanding political developments in Ontario and
7 management changes at Hydro One. The Stipulated Commitments negotiated by the parties
8 were designed to achieve these protections and preserve the benefits. Nothing has changed
9 in that regard.

10 **Q. Does that conclude your Supplemental Testimony?**

11 A. Yes, it does.