DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSION SECRETARY
COMMISSION STAFF

FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL

DATE: SEPTEMBER 5, 2013

SUBJECT: AVISTA CORPORATION'S APPLICATION FOR AN ACCOUNTING ORDER REGARDING ITS EXPENDITURE TO IMPROVE THE DISSOLVED OXYGEN LEVELS IN LAKE SPOKANE, CASE NO. AVU-E-13-06

On August 28, 2013, Avista Corporation dba Avista Utilities filed an Application seeking an accounting order related to the costs "to model, analyze, and develop a plan to improve the dissolved oxygen levels in Lake Spokane." Application at 1 (footnote omitted). More specifically, Avista seeks to record and defer for "later possible recovery" approximately $469,000 (Idaho's share of the total cost of about $1.34 million) related to improving the dissolved oxygen levels in Lake Spokane."

BACKGROUND

As Avista explains in its Application, Lake Spokane is a reservoir created by its Long Lake hydroelectric facility. *Id.* at 2. The Long Lake facility is one of five hydroelectric facilities that are a part of Avista's Spokane River project. In 2009, FERC issued a new 50-year license for the Company to operate the projects. One of the conditions of the FERC license included obtaining a Section 401 Certificate from the State of Washington under the Clean Water Act. "The 401 Certificate and FERC license require Avista to develop a Water Quality Attainment Plan . . . to 'improve oxygen conditions in Lake Spokane . . . sufficient to address its proportional level of responsibility, based on its contribution to the dissolved oxygen problem in the Lake.'" *Id.* at 4.

While Avista was pursuing its FERC relicensing, the Washington Department of Ecology (WDOE) initiated a dissolved oxygen total maximum daily load (TMDL) process to address the low oxygen levels in Lake Spokane. In early 2012, WDOE issued its final TMDL Attainment Plan, and the Plan was subsequently included in the 2009 FERC license.

During the TMDL process, the parties explored various alternatives to address the low dissolved oxygen levels in Lake Spokane. One alternative examined was to introduce liquid oxygen or ambient air "through an extensive distribution system installed through much of the 23-mile long lake." *Id.* at 5. Avista estimated that this alternative might have capital costs of up to $8 million and $200-300,000 in annual operating and maintenance costs. The WDOE adopted an alternative for Avista to undertake a number of "smaller-scale efforts, including . . . removing non-native carp, removing non-native aquatic vegetation, educating shoreline owners on proper vegetation management, and a number of other elements." *Id.* at 5-6. This latter alternative was incorporated into the FERC license as Condition 5.6C of Appendix B of the 401 Certificate.

THE APPLICATION

Avista reports that it incurred costs of approximately $1.34 million through December 2012 related to satisfying Condition 5.6C. Avista states that these costs primarily relate to: "data gathering, analysis and computer modeling . . .; review and technical analysis of agency modeling efforts and draft documents; legal and facilitation support . . .; development of alternatives to oxygenation, including the scientific basis for 'crediting' dissolved oxygen improvements to these alternatives." *Id.* at 6. The Company provided the following table of its expenditures:

Summary of Lake Spokane TMDL Costs
(through December 31, 2002)

Professional Services	$ 657,414
Legal Costs	$ 383,824
Employee Costs, Contract Labor and Miscellaneous	$ 298,840
Total Costs Incurred	$1,340,077
Washington's Share (65.01%)*	$ 871,184
Idaho's Share (34.99%)*	$ 468,893

*Allocation based upon 12/31/2012 production/transmission ratio

Avista states that it has recorded these costs in FERC Account 107.0 (Construction Work in Progress). If the Commission allows Avista to defer these costs, the Company intends to address "the prudency and recovery of these costs in its next general rate case filing or other future proceeding, as appropriate." *Id.* at 7. Absent an accounting order from the Commission, the Company asserts that it would be forced to write-off these costs resulting in a loss to the Company and its shareholders. If the Commission grants the Company's request for an accounting order, Avista indicates it will transfer the apportioned Idaho costs from Account 107.0 (CWIP) to Account 182.3 (Other Regulatory Assets). The Company states it does not seek accrued interest on its deferral balances and requests that the Commission process its Application under Modified Procedure.

STAFF RECOMMENDATION

After reviewing the Company's Application, Staff agrees with the Company's recommendation that this matter be processed under Modified Procedure. Staff recommends that comments be due October 24, 2013.

COMMISSION DECISION

Does the Commission wish to process this request for an accounting order via Modified Procedure with a deadline for comments set for October 24, 2013?

Don

Don Howell
Deputy Attorney General

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