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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF AVISTA CORPORATION DBA AVISTA)	CASE NO. AVU-E-13-06
UTILITIES FOR AN ACCOUNTING)	
ORDER AUTHORIZING DEFERRED)	COMMENTS OF THE
ACCOUNTING TREATMENT OF COSTS)	COMMISSION STAFF
RELATED TO IMPROVING DISSOLVED)	
OXYGEN LEVELS IN LAKE SPOKANE.)	
_____)	

The Staff of the Idaho Public Utilities Commission, by and through its Attorney of Record, Donald L. Howell II, Deputy Attorney General, submits the following comments in response to Order No. 32889 issued on September 10, 2013.

BACKGROUND

On August 28, 2013, Avista Corporation dba Avista Utilities (Avista) 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.

Lake Spokane is a reservoir created by Avista's Long Lake hydroelectric facility. *Id.* at 2. The Long Lake facility is one of five hydroelectric facilities that are part of Avista's Spokane River project. In 2009, FERC issued a new 50-year license for the Company to operate the project. One of the provisions 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 to the WDOE proceeding explored various alternatives to address the low dissolved oxygen levels in Lake Spokane. One alternative 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. After examining the alternatives, the WDOE adopted an alternative that requires 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.

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, 2012)**

Professional Services	\$ 657,414
Legal Costs	\$ 383,824
Employee Costs, Contract Labor and Miscellaneous	<u>\$ 298,840</u>
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 and record these costs, the Company intends to address "the prudence 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 an unrecovered 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 does not seek accrued interest on its deferral balances.

STAFF REVIEW

Staff has reviewed the Application of Avista for an Accounting Order to authorize an accounting treatment of costs related to improving dissolved oxygen levels in Lake Spokane and recommends approval of the Company's Application. As noted in its filing, the Company is requesting an Order allowing the deferral of expense amounts related to improving the dissolved oxygen levels in Lake Spokane. The proposed accounting treatment would provide the Company with the opportunity to recover the costs associated with determining the best course of action to address the low dissolved oxygen levels in Lake Spokane. Idaho customers currently share in the benefits from Avista's Long Lake Hydroelectric project. These costs are related to meeting the regulatory requirements of the 2009 FERC license, and as such it is reasonable that customers pay the costs for benefits received, once the costs have been deemed prudent. The Company will address the prudence and recovery of the deferred costs in its next general rate

case filing or other future proceeding, as appropriate. Until the next rate case, approval of this request would not change rates currently charged to customers.

Avista requests authority to defer the Lake Spokane TMDL project costs in Account 182 – Other Regulatory Assets. The project costs will be allocated to the Washington and Idaho jurisdictions based on the production/transmission allocation of 65.01% to Washington and 34.99 % to Idaho, and placed in separate Washington and Idaho 182-accounts. Staff agrees that the current production/transmission allocation is a reasonable allocation of these costs. Avista did not request a carrying charge on the project costs. As noted above, the Company may propose the recovery of the project costs in its next general rate case.

Regulatory assets can be established for expenses that are currently not included in rates, yet are significant enough to warrant deferring for possible inclusion in future rates. If a company proposes that certain expenses from past years be included in prospective rates, it would constitute retroactive ratemaking unless those past expenses were recorded and deferred by Commission Order. In order to be considered for future recovery, the utility must have an accounting Order or other authority allowing them to defer the costs for possible future recovery. Avista's filing appropriately requests such an Order.

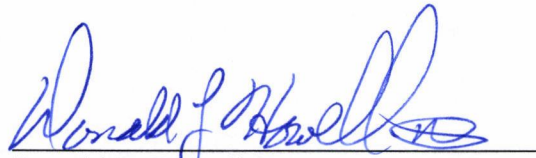
STAFF RECOMMENDATION

Staff recommends approval of Avista's Application for an accounting order authorizing accounting treatment of costs related to improving dissolved oxygen levels in Lake Spokane. The deferred accounting pertains to costs related to the Lake Spokane TMDL process and the Attainment Plan that is part of the FERC license. The accounting treatment would be as follows:

- Record the deferred Lake Spokane dissolved oxygen costs in Account 182 – Other Regulatory Assets.
- Record the deferred costs in separate Washington and Idaho accounts based on the production/transmission jurisdictional allocation ratio.
- Delay recovery of the deferred costs until new rates are established in the next general rate case or other future proceeding as appropriate.
- No carrying charges apply to these deferred expenses.

Staff recommends that recovery of the Lake Spokane deferred costs and the prudence of these expenses be reviewed in the Company's next general rate case. Staff emphasizes that the Company is not currently seeking recovery of these costs. Staff has not examined the prudence of these expenses.

Respectfully submitted this 23^d day of October 2013.



Donald L. Howell, II
Deputy Attorney General

Technical Staff: Kathy Stockton

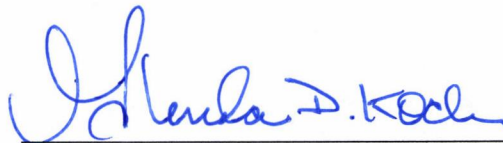
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 23RD DAY OF OCTOBER 2013, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. AVU-E-13-06, BY E-MAILING AND MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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SECRETARY