

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF AVISTA CORPORATION DBA AVISTA) **CASE NO. AVU-E-07-10**
UTILITIES FOR AN ACCOUNTING)
ORDER AUTHORIZING DEFERRAL OF) **NOTICE OF APPLICATION**
SETTLEMENT LEASE PAYMENTS)
) **NOTICE OF**
) **MODIFIED PROCEDURE**
)
) **NOTICE OF**
) **COMMENT/PROTEST DEADLINE**

YOU ARE HEREBY NOTIFIED that on November 1, 2007, Avista Corporation dba Avista Utilities (Avista; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting an accounting order authorizing deferral of settlement lease payments. The deferred accounting request pertains to costs to be incurred as a result of the recent settlement of a lawsuit in the State of Montana over the use of the riverbed resulting from the Company's ownership of the Noxon Rapids and Cabinet Gorge hydroelectric projects located on the Clark Fork River.

Background

In October 2003, a lawsuit was originally filed against private owners of hydroelectric dams in Montana, including Avista. In this lawsuit, the State of Montana alleged that the hydroelectric facilities are located on state-owned riverbeds and the owners of the dams have never paid lease payments to the State for occupying such lands. The lawsuit requested lease payments prospectively and also requested damages for trespassing and unjust enrichment for periods of time dating back to the construction of the respective dams in the 1950s.

The Montana State Court previously ruled on several pre-trial motions for summary judgment, finding that, as a matter of law, the Clark Fork River was navigable and the State of Montana owns the riverbeds, that such lands are school trust fund lands, and therefore, the statutes of limitations have not run on the State of Montana's claims for prior damages. This left only the issue of damages to be decided at time of trial, set for October 22, 2007, with the State asserting \$200 million owing by Avista for prior trespass since the dams were constructed, and \$8.4 million owing prospectively on an annual basis.

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On October 19, 2007, the Company reached a settlement with the State of Montana resolving this matter. Application, Appendix 2, “Memorandum of Negotiated Settlement Terms.” Pursuant to the settlement, Avista has agreed to make lease payments in the initial amount of \$4 million per year beginning February 1, 2008, for the calendar year 2007, and continuing through calendar year 2016, adjusted each year by the Consumer Price Index (CPI), with no payment for prior damage claims.

The level of the payments, the start date of the payments, as well as other terms and conditions of settlement, were all integral to the resolution of these claims. Because of the State’s insistence on an initial payment in February 2008 for the year 2007, Avista contends it is necessary to have deferred accounting to address recovery of these costs.

On or before June 30, 2016, Avista and the State of Montana will determine whether the annual lease payments remain consistent with the principles of law as applied to the facts and negotiate an adjusted lease payment for the remaining term of Avista’s Federal Energy Regulatory Commission (FERC) license for its hydroelectric facilities on the Clark Fork River, which expires in 2046. If Avista and the State of Montana do not agree on an adjusted lease payment, the parties will engage in advisory arbitration and submit the arbitrator’s recommendation to the State Board of Land Commissioners (Land Board) for approval. The settlement also contains provisions that could reduce the amount of Avista’s lease payments as a result of future judicial determinations in related cases or governmental actions.

Avista Corporation and the State of Montana will request a consent decree from the Montana State Court adopting the terms of settlement, as well as final approval by the State’s Land Board.

In this filing, the Company is requesting an Order allowing for the deferral of lease payments. In the Company’s next general rate case it will address the prudence and recovery of the settlement lease payments, and propose an appropriate amortization period for future recovery of the deferred costs. Avista contends that the Noxon Rapids and Cabinet Gorge hydroelectric projects are the Company’s lowest-cost resources and are integral to the Company’s resource base. The proposed accounting treatment would provide the Company with the opportunity to recover the costs associated with owning and operating these projects, while customers receive the benefit from these low cost resources.

Proposed Accounting Treatment

Avista requests authority to defer the lease payments in Account 186 – Miscellaneous Deferred Debits. The lease payments would be allocated to the Washington and Idaho jurisdictions based on the production/transmission allocation in effect at the time that the deferrals are made and placed in separate Washington and Idaho 186 – Accounts. Interest would accrue on the Idaho share of the deferrals at the customer deposit rate. In the Company's next general rate case, the Company would propose the recovery of an amortization of deferred lease payments and accrued interest that would be deferred prior to the effective date of rates established in the next general rate case. The amortization period would begin with the effective date of the new rates established in the next general rate case. In that rate case, the Company would also address recovery of the ongoing lease payments.

YOU ARE FURTHER NOTIFIED that the Commission has reviewed the filings of record in Case No. AVU-E-07-10. The Commission has preliminarily determined that the public interest regarding the Company's request for an accounting order may not require a hearing to consider the issues presented and that the issues raised by the Application may be processed under **Modified Procedure**, i.e., by written submission rather than by hearing. Reference Commission Rules of Procedure, IDAPA 31.01.01.201-204.

YOU ARE FURTHER NOTIFIED that the Commission may not hold a hearing in this proceeding unless it receives written protests or comments opposing the use of Modified Procedure and stating why Modified Procedure should not be used. Reference IDAPA 31.01.01.203.

YOU ARE FURTHER NOTIFIED that the **deadline for filing written comments or protests** with respect to the Application and the Commission's use of Modified Procedure in Case No. AVU-E-07-10 is **Wednesday, December 19, 2007**. Persons desiring a hearing must specifically request a hearing in their written protests or comments.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the deadline, the Commission may consider the matter on its merits and may enter its Order without a formal hearing. If comments or protests are filed within the deadline, the Commission will consider them and in its discretion may set the matter for hearing or may decide the matter and issue its Order based on the written positions before it. Reference IDAPA 31.01.01.204.

YOU ARE FURTHER NOTIFIED that written comments concerning Case No. AVU-E-07-10 should be mailed to the Commission and Avista at the addresses reflected below.

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074

Street Address for Express Mail:

472 W. Washington Street
Boise, ID 83702-5983

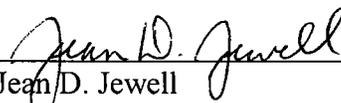
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All comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at www.puc.idaho.gov. Click the "Comments and Questions" icon, and complete the comment form, using the case number as it appears on the front of this document. These comments must also be sent to the Applicant at the e-mail addresses listed above.

YOU ARE FURTHER NOTIFIED that the Application in Case No. AVU-E-07-10 may be viewed at www.puc.idaho.gov by clicking on "File Room" and "Electric Cases," or can be viewed during regular business hours at the Idaho Public Utilities Commission, 472 W. Washington Street, Boise, Idaho and at the Idaho business offices of Avista.

DATED at Boise, Idaho this 21st day of November 2007.



Jean D. Jewell
Commission Secretary

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