

**ON BEHALF OF AVISTA CORPORATION**  
DAVID J. MEYER  
VICE PRESIDENT AND CHIEF COUNSEL FOR  
REGULATORY & GOVERNMENTAL AFFAIRS  
P.O. BOX 3727  
1411 EAST MISSION AVENUE  
SPOKANE, WASHINGTON 99220-3727  
TELEPHONE: (509) 495-4316  
FACSIMILE: (509) 495-8851  
DAVID.MEYER@AVISTACORP.COM

Idaho Public Utilities Commission  
Office of the Secretary  
RECEIVED

OCT 14 2018

Boise, Idaho

**ON BEHALF OF HYDRO ONE LIMITED**  
ELIZABETH THOMAS, PARTNER  
KARI VANDER STOEP, PARTNER  
K&L GATES LLP  
925 FOURTH AVENUE, SUITE 2900  
SEATTLE, WA 981014-1158  
TELEPHONE: (206) 623-7580  
FACSIMILE: (206) 370-6190  
LIZ.THOMAS@KLGATES.COM  
KARI.VANDERSTOEP@KLGATES.COM

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE JOINT	)	
APPLICATION OF HYDRO ONE LIMITED	)	CASE NO. AVU-E-17-09
(ACTING THROUGH ITS INDIRECT	)	CASE NO. AVU-G-17-05
SUBSIDIARY, OLYMPUS EQUITY LLC)	)	
AND	)	SUPPLEMENTAL
AVISTA CORPORATION	)	REBUTTAL TESTIMONY
FOR AN ORDER AUTHORIZING PROPOSED	)	OF
<u>TRANSACTION</u>	)	SCOTT L. MORRIS

FOR AVISTA CORPORATION

(ELECTRIC AND NATURAL GAS)

1 I. INTRODUCTION

2 Q. Will you please state your name, business address,  
3 and position with Avista Corporation?

4 A. My name is Scott L. Morris and I am employed as  
5 the Chief Executive Officer of Avista Corporation  
6 ("Avista"), at 1411 East Mission Avenue, Spokane,  
7 Washington. I also serve as the Chairman of the Board of  
8 Avista.

9 Q. Are you the same Scott L. Morris who sponsored  
10 pre-filed direct testimony, as well as supplemental  
11 testimony on behalf of Avista Corporation (Avista)?

12 A. Yes, I sponsored Direct Testimony and Exhibit 1,  
13 Schedules 1 through 3 and Supplemental Testimony and Exhibit  
14 11, Schedule 1.

15 Q. Are you sponsoring any exhibits in this  
16 supplemental testimony?

17 A. Yes, I am sponsoring Exhibit No. 16, Schedule 1  
18 which is a Press Release entitled "Hydro One and Avista  
19 Announce Selection of Independent Directors for Post-Merger  
20 Avista Board". A table of contents for my testimony is as  
21 follows:

1 I. INTRODUCTION ..... 1  
2 II. RESPONSE TO COMMISSION STAFF SUPPLEMENTAL TESTIMONY.... 2  
3 III. NOTICE REGARDING ONTARIO ELECTION AND IMPACTS OF  
4 ELECTION ON HYDRO ONE GOVERNANCE ..... 8  
5 IV. INTRODUCTION OF NEW AVISTA BOARD OF DIRECTORS ..... 10  
6

7 **II. RESPONSE TO COMMISSION STAFF SUPPLEMENTAL TESTIMONY**

8 **Q. Overall, do you believe the conditions set forth**  
9 **in Idaho Code §61-328 have been met?**

10 A. Yes, as provided in the Joint Application, Idaho  
11 Code §61-328, the Idaho Public Utilities Commission (the  
12 "Commission") must find that: 1) the transaction is  
13 consistent with the public interest; 2) the transaction will  
14 not cause the cost of or rates for supplying electrical  
15 service to increase; and 3) that Hydro One has the bona fide  
16 intent and financial ability to operate and maintain  
17 Avista's operations in Idaho. I believe Avista and Hydro  
18 One, as the Joint Applicants have met the required  
19 conditions.

20 **Q. Does Commission Staff also believe the conditions**  
21 **in Idaho Code §61-328 have been met?**

22 A. Yes. Commission Staff witness Ms. Carlock states  
23 the following in her supplemental testimony:<sup>1</sup>

24 Yes, I believe Idaho Code §61-328(3) requirements will  
25 be met. The transaction is consistent with the public

---

<sup>1</sup> Carlock, Di., p. 4, lines 11-22 (emphasis added).

1 interest because the Stipulated Commitments protect  
2 Idaho customers, provide financial rate credits,  
3 provide funding for other customer benefits and enhance  
4 programs. The Stipulated Commitments also assure that  
5 the cost of and rates for supplying service will not be  
6 increased by reason of such transaction. Rating agency  
7 reports and publicly available financial statements  
8 document that Hydro One has the bona fide financial  
9 ability to operate and maintain said property in the  
10 public service.

11  
12 **Q. Ms. Carlock states that there are a number of**  
13 **benefits that would accrue to Idaho customers should the**  
14 **Commission approve the transaction. Can you provide just a**  
15 **few of those commitments that are beneficial for Idaho**  
16 **customers?**

17 A. Yes. First, let me start by saying that Avista  
18 very much appreciates the hard work put forth by the parties  
19 in this case who helped develop the strong set of Stipulated  
20 Commitments and their continuing support of the transaction.  
21 In particular Commission Staff has been instrumental in  
22 strengthening some of the commitments on behalf of  
23 customers.

24 Following the closing of the merger (the "Proposed  
25 Transaction"), the customers, employees and communities  
26 Avista serves in Idaho will see little or no change in  
27 Avista's operations. Avista will maintain its existing  
28 corporate headquarters in Spokane, Washington, and will  
29 continue to operate as a standalone utility in Idaho. It

1 will maintain its other office locations throughout its  
2 Idaho service territory, continue to operate under the same  
3 Avista name, and seek to retain its existing employees and  
4 management team. Avista's culture and its way of doing  
5 business will continue for the long-term.

6 Avista believes this preservation of Avista's name, its  
7 headquarters, its culture and its way of doing business,  
8 among other things, is important to Avista's Idaho  
9 customers, in that customers can continue to expect and  
10 experience reliable service and a high level of customer  
11 satisfaction. In addition, customers will see immediate  
12 financial benefits in the form of proposed retail rate  
13 credits and other contributions beginning at the close of  
14 the Proposed Transaction. The total level of financial  
15 commitments funded by Hydro One and Avista (excluding  
16 charitable contributions) in Idaho greatly exceed what was  
17 originally proposed in the Joint Application. Stipulated  
18 Commitments 58-65 provide funding and other forms of support  
19 for a number of initiatives that, absent the transaction,  
20 would not accrue to the benefit of Idaho customers. These  
21 include:

- 22 • Rate Credits totaling approximately \$15.8 million to  
23 its Idaho customers in the first five (5) years after  
24 the merger closes. (Stipulated Commitment 19.)  
25

- 1       • Approximately \$5.3 million in funding over a 10-year  
2       period for energy efficiency, weatherization,  
3       conservation, and low-income assistance programs under  
4       the direction of a newly-formed stakeholder committee.  
5       (Stipulated Commitment 58.)  
6  
7       • Support for Clearwater Paper and Idaho Forest Group on  
8       certain demand-side management programs. (Stipulated  
9       Commitments 59 & 60.)  
10  
11       • A \$7 million one-time contribution to Avista's  
12       charitable foundation, and a \$2 million annual  
13       contribution for five years after close. (Stipulated  
14       Commitments 11 & 61.)  
15  
16       • Avista's continued work with low-income agencies to  
17       address the needs of low-income customers, and efforts  
18       to improve the penetration rate of low-income programs.  
19       (Stipulated Commitments 62 & 64.)

20       In the end, Idaho customers will see real, substantive  
21       benefits if the Commission approves the transaction -  
22       benefits that will not otherwise accrue to Idaho customers.

23       Lastly, this transaction is supported by  
24       representatives of each segment of our customer base: low-  
25       income, residential, commercial and industrial. Only the  
26       late intervention of the self-styled "Avista Customer Group"  
27       is in opposition.

28       **Q. Do you agree with Ms. Carlock's conclusions**  
29       **related to the Governance Commitments contained within the**  
30       **Stipulated Commitments?**

31       A. Yes. Ms. Carlock is correct in that the  
32       governance-related Stipulated Commitments 2 and 3 assure  
33       Hydro One, as the sole shareholder of Avista (or the Province

1 of Ontario as a large minority shareholder of Hydro One),  
2 does not have the control to change the operations and  
3 regulatory environment of Avista. For example, Stipulated  
4 Commitment 2 was modified so that the Avista Board of  
5 Directors is responsible for decisions around employee  
6 compensation, not Hydro One. Stipulated Commitment 3 has  
7 been strengthened to add citizenship and residency  
8 requirements for Independent Directors on the Avista Board  
9 of Directors, and Clause 2 of the Delegation of Authority  
10 was also strengthened to protect Avista if Hydro One is  
11 temporarily unable to appoint an Independent Director to the  
12 Avista Board.

13 **Q. Do you believe there are adequate financial and**  
14 **bankruptcy ring-fencing Stipulated Commitments to protect**  
15 **all Parties and customers?**

16 A. Yes. The Stipulated Commitments appended to the  
17 First Amendment to Stipulation and Settlement contain a  
18 substantial number of financial and bankruptcy/ring-fencing  
19 protections that will protect the financial health of  
20 Avista. There are Stipulated Commitments that (i) Avista  
21 will continue to have its own credit ratings, (ii) assure  
22 that Hydro One will provide equity capital injections to  
23 support Avista's capital structure and allow Avista to  
24 access debt financing under reasonable terms and on a

1 sustainable basis, and (iii) provide restrictions on  
2 dividends and distributions that help preserve Avista's  
3 financial integrity. Hydro One and Avista also committed to  
4 issue a single share of preferred stock referred to as the  
5 Golden Share to an independent third party to address any  
6 bankruptcy concerns.

7 **Q. Have the parties made reasonable efforts to**  
8 **anticipate future risks?**

9 A. Yes, and we are appreciative of their efforts.  
10 All identified or reasonably likely risks have been  
11 quantified and addressed in the First Amendment to  
12 Stipulation and Settlement. In addition to the specific  
13 commitments that ensure the independence of Avista's board  
14 and its financial integrity are protected from Provincial  
15 influence, a new Stipulated Commitment, Commitment 74, was  
16 added to provide that if an event occurs that would have an  
17 effect on Avista's operations and/or customer rates because  
18 of Avista's corporate relationship with Hydro One, or  
19 affects Hydro One's compliance with any commitment, any of  
20 the parties to this proceeding may petition the Commission  
21 at any time to alter or amend the final order in the Case.  
22 That, I believe, should help to mitigate any fear of the  
23 unknown.

24



1 through on their campaign promises prior to the election on  
2 June 7, 2018. In hindsight, however, I do agree with  
3 Commission Staff that Avista and Hydro One could have alerted  
4 them to the issues being raised in the hotly contested  
5 Ontario election prior to June 7, 2018.

6 Once the election occurred on June 7, 2018, however,  
7 Avista and Hydro One used their next opportunity to alert  
8 the Commission and parties to this proceeding to the risks  
9 to Hydro One that emerged from the Ontario election. In  
10 Avista's and Hydro One's Joint Comments in Support of  
11 Stipulation and Settlement,<sup>4</sup> filed just 13 days after the  
12 June 7, 2018 election and before the new government was sworn  
13 in on June 29, 2018, Avista and Hydro One explained all of  
14 the possible ways in which the new government could impact  
15 the governance and management of Hydro One, or potentially  
16 Avista, if the new government decided to follow through on  
17 its campaign promises.

18 I also agree with Commission Staff that Avista and  
19 Hydro One should have reached out to Commission Staff and  
20 the parties to this proceeding in a more timely manner after  
21 Hydro One announced on July 11, 2018, that it reached an  
22 agreement with the new government in Ontario to effectuate

---

<sup>4</sup> See AVU-E-17-09/AVU-G-17-05, Avista and Hydro One Joint Comments in Support of Stipulation and Settlement (June 20, 2018) ("Joint Comments").

1 the resignation of the Hydro One Board and retirement of the  
2 Hydro One CEO. Although it was not possible to disclose  
3 these changes in advance of the July 11, 2018 announcement  
4 because of the potential impacts on Hydro One's and Avista's  
5 stock price, Avista and Hydro One should have contacted  
6 Commission Staff and the parties to this proceeding prior to  
7 the letter we sent on July 18, 2018.

8 **IV. INTRODUCTION OF NEW AVISTA BOARD OF DIRECTORS**

9 **Q. Have Avista and Hydro One announced who will serve**  
10 **as the Independent members of the Avista Board of Directors,**  
11 **should the transaction be approved?**

12 A. Yes. Avista and Hydro One announced on Wednesday,  
13 November 7, 2018, the five independent directors selected to  
14 serve on the new Avista Board of Directors, if the proposed  
15 merger is approved by utility commissions in Washington,  
16 Idaho and Oregon. The press release has been included as  
17 Exhibit No. 16, Schedule 1. All five selections are  
18 independent of both organizations, as defined by New York  
19 Stock Exchange rules, and have ties to the U.S. Pacific  
20 Northwest. Moreover, all of the Hydro One appointees are  
21 U.S. citizens who are and have been residents in the Pacific  
22 Northwest for at least two years. The four remaining  
23 directors would include myself, continuing in my role as  
24 chairman, current Avista president and director Dennis

1 Vermillion, the CEO of Hydro One and one other senior  
2 executive from Hydro One, to be named.

3 The independent directors were selected at this time so  
4 that the Avista board of directors would be prepared and  
5 ready to begin serving their terms assuming the Proposed  
6 Transaction is approved and closes, which is requested by  
7 the end of this year. The newly selected directors are:

8 • **Kristianne Blake (Avista selection and Current Avista**  
9 **Board Member):** Ms. Blake serves on the current Avista  
10 Board of Directors as lead director and has been an  
11 Avista Director since 2000. She is a long-time resident  
12 of Spokane, Washington and has a rich history of  
13 involvement in the Spokane community. She has been the  
14 president of the accounting firm of Kristianne Gates  
15 Blake, P.S. since 1987 and has an extensive background  
16 in public accounting. She was a Certified Public  
17 Accountant for 33 years, and she worked for 13 years  
18 for an international accounting firm. She has served  
19 for 22 years on various boards of public companies and  
20 registered investment companies. Ms. Blake is also  
21 currently serving as board chair for the Russell  
22 Investment Company and the Russell investment Funds.

23  
24 • **Donald Burke (Avista selection and Current Avista Board**  
25 **Member):** Mr. Burke serves on the current Avista Board  
26 of Directors as the chair of the audit committee and  
27 has been an Avista Director since 2011. As a director,  
28 he serves as the Board's designated financial expert.  
29 He also currently serves as an independent director for  
30 the Virtus mutual fund complex and Duff & Phelps closed-  
31 end funds complex. From 2006 to 2010, Mr. Burke served  
32 as a trustee for numerous global funds that were advised  
33 by BlackRock, Inc. From 2006 to 2009, he was a managing  
34 director of BlackRock and served as the president and  
35 CEO of the BlackRock U.S. mutual funds. In this role,  
36 Mr. Burke was responsible for all of the accounting,  
37 tax and regulatory reporting requirements for over 300  
38 open and closed-end mutual funds. Mr. Burke joined  
39 BlackRock in connection with the merger with Merrill  
40 Lynch Investment Managers ("MLIM"), taking a lead role

1 in the integration of the two firms' operating  
2 infrastructures. While at MLIM, Mr. Burke was the Head  
3 of Global Operations and Client Services and also  
4 served as the Treasurer and Chief Financial Officer  
5 ("CFO") of the MLIM mutual funds. He brings significant  
6 financial experience to the board from his years in  
7 public accounting and his role as the treasurer and CFO  
8 of numerous mutual funds. He has extensive board  
9 experience, having served on the audit, compliance,  
10 governance & nominating, and contract review committees  
11 of various boards. Through his service as an Avista  
12 director, Mr. Burke has demonstrated his commitment to  
13 the Pacific Northwest region.  
14

15 • **Christine Gregoire (Hydro One selection):** Ms. Gregoire  
16 is the CEO for Challenge Seattle, an organization  
17 comprised of 18 major international companies and non-  
18 profits located in the Seattle region. Previously, she  
19 served for two terms as Governor of the State of  
20 Washington with a \$32B biennial budget and over 60,000  
21 employees. In her first term as Governor, she created  
22 the Department of Early Learning and led on reforms to  
23 the K-12 system and investment in higher education. She  
24 led the state in a historical investment in  
25 infrastructure, addressed the water wars in the state,  
26 led an historic number of trade missions, reformed the  
27 foster care system to protect children and was among  
28 the first to lead in health care reform. During her  
29 second term, Ms. Gregoire led the state in major  
30 reforms, management and budgeting to position the state  
31 as one of the most financially secure to come out of  
32 the "Great Recession." Prior to becoming Governor, she  
33 served for three terms as Attorney General for the State  
34 and prior to becoming Attorney General, she served four  
35 years as the Director of the State Department of  
36 Ecology. She is also a member of the Fred Hutch Cancer  
37 Research Center and the Bipartisan Governor's Council,  
38 and on the advisory boards of the William D. Ruckelshaus  
39 Center and the Progressive Coalition for American Jobs.  
40 Ms. Gregoire recently completed her third year as Chair  
41 on the National Export-Import Bank Advisory Board. She  
42 is a graduate of Gonzaga University School of Law, and  
43 she and her husband also have a home in north Idaho.  
44

45 • **Scott Maw (Hydro One selection and Current Avista Board**  
46 **Member):** Mr. Maw serves on the current Avista Board of  
47 Directors and has been an Avista Director since 2016.

1 He has been executive vice president and CFO for  
2 Starbucks Coffee Company since February 2014. He is  
3 responsible for Starbucks' Global Finance organization.  
4 Prior to that, he served as senior vice president of  
5 Corporate Finance for Starbucks where he was  
6 responsible for corporate finance, including  
7 accounting, tax and treasury. Mr. Maw also had  
8 oversight for all financial and securities-related  
9 regulatory filings. He joined Starbucks as global  
10 controller in 2011. Prior to joining Starbucks, Mr. Maw  
11 served as CFO of SeaBright Insurance Company from 2010  
12 to 2011. From 2008 to February 2010 he served as CFO of  
13 the Consumer Banking division of JPMorgan Chase & Co.  
14 He is a Seattle, Washington resident, with roots in  
15 Eastern Washington. He graduated from Deer Park High  
16 School, just north of Spokane, and is a graduate of  
17 Gonzaga University.  
18

19 • **Marc Racicot (Hydro One selection and Current Avista**  
20 **Board Member):** Mr. Racicot serves on the current Avista  
21 Board of Directors and has been an Avista Director since  
22 2009. He served as president and CEO of the American  
23 Insurance Association from August, 2005 to February,  
24 2009. Prior to that, he was a partner at the law firm  
25 of Bracewell & Giuliani, LLP from 2001 to 2005. He is  
26 a former governor (1993 to 2001) and attorney general  
27 (1989 to 1993) of the state of Montana. Mr. Racicot was  
28 nominated by President Bush and unanimously elected to  
29 serve as the chair of the Republican National Committee  
30 from 2002 to 2003 prior to assuming the position of  
31 chair of the Bush/Cheney Re-election Committee from  
32 2003 to 2004. He previously served as a director for  
33 Siebel Systems, Allied Capital Corporation, Burlington  
34 Northern Santa Fe Corporation Plum Creek Timber  
35 Company, and The Washington Companies, and presently  
36 serves as a director for Weyerhaeuser Company and  
37 Massachusetts Mutual Life Insurance Company. In  
38 addition, throughout his career, Mr. Racicot has  
39 strongly committed himself to children, education and  
40 community issues. He was appointed to the board of The  
41 Corporation for National and Community Service by  
42 President Clinton and has also served on the boards of  
43 Carroll College, Jobs for America's Graduates and  
44 United Way in Helena, Montana. He is a life-long  
45 resident of Montana and a graduate of Carroll College.  
46

1           **Q.    How many existing Avista Board members would serve**  
2 **on the new Avista Board?**

3           A.    Including Dennis Vermillion (President of Avista)  
4 and myself, a total of six existing Avista board members  
5 would transition to the new Avista Board.    The new Avista  
6 board would be extremely strong, given that the majority  
7 would be intimately familiar with Avista and its operations.  
8 Indeed seven of the nine directors are either residents of  
9 the Pacific Northwest or existing Avista Board members.

10          **Q.    Do you continue to believe that this merger is in**  
11 **the best interest of Customers?**

12          A.    Yes, I do.    The development of the robust  
13 Stipulated Commitments, which include a multitude of  
14 customer benefits and protections, and now with the recent  
15 selection of the aforementioned independent board members,  
16 I believe that this merger is in the best interest of our  
17 Idaho customers and is in the public interest in Idaho. The  
18 structural safeguards, in the form of multiple enhanced  
19 commitments negotiated and supported by the Commission  
20 Staff, Clearwater Paper, Idaho Forest Group, Idaho  
21 Conservation League, the Community Action Partnership  
22 Association of Idaho, the Washington and Northern Idaho  
23 District Council of Laborers, and the Idaho Department of  
24 Water Resources are meant to withstand the test of time.

1 The underlying rationale for this merger remains the same:  
2 the need to preserve and enhance Avista's ability to provide  
3 cost-effective and reliable service to its customers, in a  
4 rapidly evolving industry, by partnering with an  
5 organization that shares Avista's values - all with Avista's  
6 autonomy intact.

7 **Q. At the end of the day, have Avista, Hydro One,**  
8 **Staff, and other parties developed commitments that satisfy**  
9 **the requirements of Idaho Code §61-328?**

10 A. Yes. This Commission has been quite clear-sighted  
11 in describing its responsibilities under the statute:

12 The statutory criteria governing our review of the  
13 merger do not allow for caprice or  
14 subjectivity. While public sentiment has been used  
15 to impose significant merger conditions, it cannot  
16 be used as a surrogate for the clear letter of the  
17 law. In this case, that law (Idaho Code § 61-328)  
18 provides that the merger "shall" be authorized  
19 unless the Joint Applicants have failed to satisfy  
20 the three criteria discussed throughout this  
21 Order. The Joint Applicants carried the burden of  
22 proof in demonstrating that the merger would not  
23 adversely affect the public interest, would not  
24 result in an increase in rates to existing  
25 PacifiCorp ratepayers and that they have the bona  
26 fide intent and financial ability to continue  
27 operating the system in the public interest.<sup>5</sup>  
28 (Emphasis added)

29 The Commission has reiterated what the "clear letter of

---

<sup>5</sup> In the Matter of the Joint Application and Petition of PacifiCorp and Scottish Power PLC for a Declaratory Order Approving the Issuance of PacifiCorp Common Stock, Case No. PAC-E-99-1, Order No. 28213, at p.57 (November 15, 1997).

1 the law" requires and that a merger "shall" be approved if  
2 the three criteria of Idaho Code §61-328 have been satisfied.  
3 It is not a matter to be governed by "caprice or  
4 subjectivity." As explained by Avista, Hydro One, and Staff,  
5 all three requirements of Idaho Code §61-328 have been  
6 satisfied. While the Commission or other parties may prefer  
7 a different "marriage partner", the business judgement of  
8 Avista's executive team should be recognized and the merger  
9 must be approved if Idaho Code §61-328 is satisfied.

10 **Q. Does this conclude your Supplemental Rebuttal**  
11 **Testimony?**

12 **A. Yes it does.**