

ON BEHALF OF AVISTA CORPORATION

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Idaho Public Utilities Commission
Office of the Secretary
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Boise, Idaho

ON BEHALF OF HYDRO ONE LIMITED

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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)	
AVISTA CORPORATION)	REBUTTAL TESTIMONY
FOR AN ORDER AUTHORIZING PROPOSED)	OF
<u>TRANSACTION</u>)	JAMES D. SCARLETT

FOR HYDRO ONE LIMITED

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I. INTRODUCTION

Q. Please state your name, business address and present position with Hydro One Limited.

A. My name is James D. ("Jamie") Scarlett, and my business address is 483 Bay Street, South Tower, 8th Floor, Toronto, Ontario M5G 2P5. I am Executive Vice President and Chief Legal Officer for Hydro One Limited ("Hydro One").

Q. Did you submit prefiled direct, rebuttal or supplemental testimony in this proceeding?

A. Yes. I submitted supplemental testimony on September 24, 2018.

Q. Are you sponsoring any exhibits that accompany your testimony?

A. No.
A table of contents for my testimony is as follows:

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1 Summary of Testimony

2 Q. Please summarize your testimony.

3 A. My testimony addresses the new and amended commitments
4 developed by Hydro One, Avista, and Commission Staff to address
5 the potential for Provincial influence over Avista's operations
6 and rates; Hydro One's and Avista's conclusion that the set of
7 merger commitments developed in this proceeding address all
8 risks of Provincial influence identified by Commission Staff;
9 Commission Staff's concerns regarding the notice provided by
10 Hydro One and Avista regarding the Ontario election in June 2018
11 and the impacts on Hydro One's board and management; the facts
12 relevant to the Commission's consideration of whether Idaho Code
13 § 61-327 applies to this transaction; and the facts and merger
14 commitments showing that all of the requirements in Idaho Code
15 § 61-328 have been met.

16

17 II. NEW SETTLEMENT COMMITMENTS DESIGNED TO ADDRESS PROVINCE'S
18 MINORITY SHAREHOLDING IN HYDRO ONE

19 Q. Commission Staff testified that amendments to
20 Stipulated Commitment Nos. 2 and 3 and a revision to the
21 Delegation of Authority in the Merger Agreement help resolve
22 concerns that the Province will attempt to influence the
23 policies and actions of Avista as the largest shareholder of

1 Avista's sole owner, Hydro One.¹ Can you provide more detail
2 on those amendments and revisions and why they will protect
3 Avista from influence by the Province?

4 A. Hydro One and Avista worked with the Commission Staff
5 and other parties to this proceeding to develop the following
6 amendments to Stipulated Commitment Nos. 2 and 3 and the
7 Delegation of Authority to protect Avista from influence by the
8 Province:

9 • **Amended Stipulated Commitment No. 2 - Executive Management:**
10 Avista will seek to retain all current executive management
11 of Avista, subject to voluntary retirements that may occur.
12 This commitment will not limit Avista's ability to
13 determine its organizational structure and select and
14 retain personnel best able to meet Avista's needs over
15 time. The Avista board retains the ability to dismiss
16 executive management of Avista and other Avista personnel
17 for standard corporate reasons—~~(subject to the. Any~~
18 ~~decision to hire, dismiss or replace the Chief Executive~~
19 ~~Officer of Avista shall be within the discretion of the~~
20 ~~Avista Board of Directors, and shall not require any~~
21 ~~approval of Hydro One Limited ("Hydro One") for any hiring,~~
22 ~~dismissal or replacement of the CEO), or any of its~~
23 ~~affiliates (other than Avista), notwithstanding anything~~
24 ~~to the contrary in the merger agreement, and its exhibits~~
25 ~~and attachments, between Hydro One and Avista.~~

26 Avista Employee Compensation: Any decisions regarding
27 Avista employee compensation shall be made by the Avista
28 Board consistent with the terms of the Merger Agreement
29 between Hydro One and Avista, and current market standards
30 and prevailing practices of relevant U.S. electric and gas
31 utility benchmarks. The determination of the level of any
32 compensation (including equity awards) approved by the
33 Avista Board with respect to any employee in accordance

¹ AVU-E-17-09/AVU-G-17-05 - Direct Testimony of Terri Carlock at pg. 7,
lines 9-15 (Nov. 6, 2018) ("Carlock Direct Testimony").

1 with the foregoing shall not be subject to change by Hydro
2 One or the Hydro One Board.

3 • ***Amended Stipulated Commitment No. 3 - Board of Directors:***

4 After the closing of the Proposed Transaction, Avista's
5 board will consist of nine (9) members, determined as
6 follows: (i) two (2) directors designated by Hydro One who
7 are executives of Hydro One or any of its subsidiaries;
8 (ii) three (3) directors who meet the standards for
9 "independent directors" - under section 303A.02 of the New
10 York Stock Exchange Listed Company Manual (the "Independent
11 Directors") and who are citizens of the United States and
12 are and have been residents of the Pacific Northwest
13 region for at least two years, to be designated by Hydro
14 One (collectively, the directors designated in clauses (i)
15 and (ii) hereof, the "Hydro One Designees"), subject to
16 the provisions of Clause 2 of Exhibit A to the Merger
17 Agreement; (iii) three (3) directors who as of immediately
18 prior to the closing of the Proposed Transaction are
19 members of the Board of Directors of Avista, including the
20 Chairman of Avista's Board of Directors (if such person is
21 different from the Chief Executive Officer of Avista); and
22 (iv) Avista's Chief Executive Officer (collectively, the
23 directors designated in clauses (iii) and (iv) hereof, the
24 "Avista Designees"). Avista and Hydro One shall consult
25 with each other prior to the designation of any Independent
26 Directors. The initial Chairman of Avista's post-closing
27 Board of Directors shall be the Chief Executive Officer of
28 Avista as of the time immediately prior to closing for a
29 one year term. If any Avista Designee resigns, retires or
30 otherwise ceases to serve as a director of Avista for any
31 reason, the remaining Avista Designees shall have the sole
32 right to nominate a replacement director to fill such
33 vacancy, and such person shall thereafter become an Avista
34 Designee.

35 The term "Pacific Northwest region" means the Pacific
36 Northwest states in which Avista serves retail electric or
37 natural gas customers, currently Alaska, Idaho, Montana,
38 Oregon and Washington.

39 The Independent Directors will have no material
40 relationship with Hydro One and its subsidiaries and
41 affiliated entities, the Province of Ontario, or Avista
42 and its subsidiaries and affiliated entities currently or
43 within the previous 3 years. Former directors of Avista

1 who otherwise meet these qualifications qualify as
2 Independent Directors.

3 • **Amended Delegation of Authority - Clause 3:** Sole
4 Shareholder shall have the unfettered right to designate,
5 remove and replace the ~~Sole~~ Shareholder Designees as
6 directors of the Surviving Corporation with or without
7 cause or notice at its sole discretion, subject to the
8 requirement that: (i) two (2) of such directors are
9 executives of Parent or any of its Subsidiaries and (ii)
10 three (3) of such directors are ~~not officers, employees or~~
11 ~~directors (other than as an independent director of the~~
12 ~~Surviving Corporation) of Parent of any of its Affiliates~~
13 ~~and Independent Directors who are citizens of the United~~
14 ~~States and are and have been residents of the Pacific~~
15 ~~Northwest #Region for at least two years, while such~~
16 ~~requirement is in effect (subject in the case of clause~~
17 ~~(ii) hereof to Sole-Shareholder determining, in good faith,~~
18 ~~that it is not able to appoint a non-employee resident an~~
19 ~~Independent Director who is a citizen of the United States,~~
20 ~~and resident of the Pacific Northwest #Region in a timely~~
21 ~~manner, in which case Sole Shareholder may replace any such~~
22 ~~director with an employee any person who is a citizen of~~
23 ~~the United States, excluding any employee or executive of~~
24 ~~Parent or any of its Subsidiaries other than Avista, on an~~
25 ~~interim basis, not exceeding six months, after which~~
26 ~~time Sole Shareholder shall replace any such interim~~
27 ~~director with a non-employee an Independent Director who~~
28 ~~is a citizen of the United States and is and has been~~
29 ~~a resident of the Pacific Northwest Region), for at least~~
30 ~~two years). If, at any time a circumstance arises, and~~
31 ~~during the pendency of any such circumstance, whereby the~~
32 ~~Province of Ontario ("Ontario") exercises its rights as a~~
33 ~~shareholder of Hydro One, uses legislative authority or~~
34 ~~acts in any other manner whatsoever, that results, or would~~
35 ~~result, in Ontario appointing nominees to the board of~~
36 ~~directors of Hydro One that constitute, or would constitute~~
37 ~~a majority of the directors of such board, then Hydro One's~~
38 ~~authority to replace an Independent Director on an interim~~
39 ~~basis is suspended for the pendency of such circumstance.~~

40 For purposes of this modification to the Delegation of
41 Authority, the following definitions, which are set forth
42 in the Delegation of Authority and Merger Agreement, will
43 apply:

1 "Independent Directors" means any director of the Surviving
2 Corporation who (i) meets the standards for "independent
3 director" under section 303A.02 of the New York Stock
4 Exchange Listed Company Manual with respect to Parent and
5 its Subsidiaries, including the Surviving Corporation,
6 (ii) has no material relationship with Parent, its
7 Subsidiaries or affiliated entities currently or in the
8 prior three years, and (iii) if and to the extent required
9 with respect to a specific director, who meets such other
10 qualifications as may be required by any applicable state
11 utility regulatory authority for an independent director.
12 Notwithstanding anything to the contrary in this definition
13 of "Independent Director," (a) a director who also serves
14 as an independent director of the Surviving Corporation or
15 any of its Subsidiaries or the Shareholder and who
16 otherwise satisfies the criteria set forth above for an
17 "Independent Director," may still be considered
18 independent within the meaning hereof, and (b) former
19 officers of the Company or the Surviving Corporation, who
20 otherwise satisfy the criteria set forth above for an
21 "Independent Director," may still be considered
22 independent within the meaning hereof.

23 "Pacific Northwest Region" means the Pacific Northwest
24 states in which the Surviving Corporation serves retail
25 electric or natural gas customers, currently Alaska, Idaho,
26 Montana, Oregon and Washington.

27 "Parent" shall mean Hydro One Limited, a corporation
28 organized under the laws of the Province of Ontario.

29 "Shareholder" shall mean Olympus Equity LLC, a Delaware
30 limited liability company.

31 "Shareholder Designees" shall mean (i) two (2) directors
32 designated by Shareholder who are executives of Parent or
33 any of its Subsidiaries; (ii) three (3) Independent
34 Directors who are residents of the Pacific Northwest
35 Region, to be designated by Shareholder (the "Shareholder
36 Independent Directors"). [Note: for purposes of this
37 modification to the DoA, "Shareholder Designees" has the
38 same meaning as "Hydro One Designees" in Commitment No.
39 3.]

40 "Subsidiaries" when used with respect to any party hereto,
41 shall mean any corporation, limited liability company,
42 partnership, association, trust or other entity of which
43 securities or other ownership interests representing more

1 than 50% of the equity and more than 50% of the ordinary
2 voting power (or, in the case of a limited partnership,
3 more than 50% of the general partnership interests) are,
4 as of such date, owned by such party or one or more
5 Subsidiaries of such party or by such party and one or more
6 Subsidiaries of such party.

7 "Surviving Corporation" shall mean Avista Corporation, a
8 Washington corporation.

9

10 **Q. What other amendments and new commitments were added**
11 **by the parties to this proceeding to address the risk of**
12 **Provincial influence over Avista if the proposed transaction**
13 **(the "Proposed Transaction") is consummated?**

14 A. Hydro One and Avista worked with the Commission Staff
15 and other parties to this proceeding to develop the following
16 amendments to Stipulated Commitment No. 1 and to create new
17 Commitment 74 to protect Avista from influence by the Province:

18 • **Amended Stipulated Commitment No. 1 - Authority Reserved:**
19 Consistent with and subject to the terms of Exhibits A and
20 B to the Merger Agreement (referred to as "Delegation of
21 Authority") contained in Appendix 5 of the Joint
22 Application, decision-making authority over commitments 2-
23 15 below is reserved to the Board of Directors of Avista
24 Corporation ("Avista") and not to Hydro One. Any change to
25 the policies stated in commitments 2-15, plus 30
26 (Commission Enforcement of Commitments), 37 (Credit
27 Ratings Notification), 38 (Restrictions on Upward
28 Dividends and Distributions), 43 (Independent Directors),
29 49 (No Amendment), 74 (Notice and Petition to Amend or
30 Alter), 75 (North American Free Trade Agreement), and 76
31 (Venue for and Resolution of Disputes), requires a two-
32 thirds (2/3) vote of the Avista Board, provided that Avista
33 must obtain approval for such changes from all regulatory
34 bodies with jurisdiction over the Commitments before such
35 changes can go into effect, and provide written notice to

1 all parties to Case No. AVU-E-17-09/AVU-G-17-05 of such
2 request for approval:

3 • New Commitment 74 - Notice and Petition to Alter or Amend:

4 If any event occurs that would have an effect on Avista's
5 operations and/or customer rates because of Avista's
6 corporate relationship with Hydro One, or affects Hydro
7 One's compliance with any commitment in this stipulation
8 (an "Event"), any of the parties to this proceeding may
9 petition the Commission at any time to alter or amend the
10 final order in Case Nos. AVU-E-17-09 and AVU-G-17-05, and
11 neither Hydro One nor any of its subsidiaries, including
12 Avista, will oppose initiation of such a proceeding. Hydro
13 One or Avista will report to the Commission any material
14 Event as soon as practicable. For purposes of the
15 Commitment 74, a material event means (i) an event that a
16 properly informed person would reasonably conclude would
17 have a significant effect on Avista's operations or
18 customers' rates; or (ii) making it more probable than not
19 that Hydro One would be out of compliance with any
20 Commitment herein. Nothing in this Commitment 74 shall be
21 interpreted to limit the positions or arguments that Avista
22 or Hydro One may take or advance in any such proceeding,
23 including the right to argue that a petition presents
24 insufficient grounds or evidence. Prior to filing a
25 petition with the Commission under this Commitment 74, a
26 party must provide Hydro One and Avista at least 30 days
27 advance written notice and an opportunity to meet and
28 confer about resolutions other than filing with the
29 Commission under this commitment. Nothing in this
30 commitment is intended to restrict the rights of the
31 parties to petition the Commission concerning its order(s)
32 in this docket, or to limit the authority of the
33 Commission.

34 Q. Do you agree with Commission Staff that there is a
35 risk that the Province will influence Hydro One's selection of
36 its three independent directors for the post-merger Avista
37 board?²

² Carlock Direct Testimony at pg. 16, lines 6-9.

1 A. No. As discussed in more detail in Section IV of my
2 testimony, Section 2.1.3 of the Governance Agreement between
3 Hydro One and Her Majesty the Queen in Right of Ontario dated
4 November 5, 2015 (the "Governance Agreement")³ states that "The
5 Province shall ... engage in the business and affairs of Hydro
6 One and the Hydro One Entities as an investor and not as a
7 manager." The Province has reaffirmed this obligation in
8 Section 16 of the July 11, 2018, Letter Agreement (the "July
9 2018 Letter Agreement") approved by Cabinet and entered into
10 between Hydro One and the Province.⁴ Furthermore, on November
11 7, 2018, Hydro One and Avista announced the five Independent
12 Directors that they have selected to serve on Avista's post-
13 merger board if the Proposed Transaction is consummated. The
14 Province played no role whatever in the selection of these
15 Independent Directors:

16 • *Kristianne Blake (Avista selection)*: Ms. Blake serves
17 on the current Avista Board of Directors as lead director and
18 has been an Avista Director since 2000. She is a long-time
19 resident of Spokane, Washington, and has a rich history of
20 involvement in the Spokane community. She has been the
21 president of the accounting firm of Kristianne Gates Blake, P.S.

³ The Governance Agreement is Exh. No. 10, Schedule 3 to my supplemental testimony filed on September 24, 2018.

⁴ The July 2018 Letter Agreement between Hydro One and Her Majesty The Queen in Right of Ontario was attached as Exh. No. 10, Schedule 1, to my supplemental testimony filed on September 24, 2018.

1 since 1987 and has an extensive background in public accounting.
2 She was a Certified Public Accountant for 33 years, and she
3 worked for 13 years for an international accounting firm. She
4 has served for 22 years on various boards of public companies
5 and registered investment companies. Ms. Blake is also
6 currently serving as board chair for the Russell Investment
7 Company and the Russell investment Funds.

8 • *Donald Burke (Avista selection)*: Mr. Burke serves on
9 the current Avista Board of Directors as the chair of the audit
10 committee and has been an Avista Director since 2011. As a
11 director, he serves as the Board's designated financial expert.
12 He also currently serves as an independent director for the
13 Virtus mutual fund complex and Duff & Phelps closed-end funds
14 complex. From 2006 to 2010, Mr. Burke served as a trustee for
15 numerous global funds that were advised by BlackRock, Inc. From
16 2006 to 2009, he was a managing director of BlackRock and served
17 as the president and CEO of the BlackRock U.S. mutual funds.
18 In this role, Mr. Burke was responsible for all of the
19 accounting, tax and regulatory reporting requirements for over
20 300 open and closed-end mutual funds. Mr. Burke joined
21 BlackRock in connection with the merger with Merrill Lynch
22 Investment Managers ("MLIM"), taking a lead role in the
23 integration of the two firms' operating infrastructures. While
24 at MLIM, Mr. Burke was the Head of Global Operations and Client

1 Services and also served as the Treasurer and Chief Financial
2 Officer ("CFO") of the MLIM mutual funds. He brings significant
3 financial experience to the board from his years in public
4 accounting and his role as the treasurer and CFO of numerous
5 mutual funds. He has extensive board experience, having served
6 on the audit, compliance, governance & nominating, and contract
7 review committees of various boards. Through his service as an
8 Avista director, Mr. Burke has demonstrated his commitment to
9 the Pacific Northwest region.

10 • *Christine Gregoire (Hydro One selection):* Ms.
11 Gregoire is the CEO for Challenge Seattle, an organization
12 comprised of 18 major international companies and non-profits
13 located in the Seattle region. Previously, she served for two
14 terms as Governor of the State of Washington with a \$32B biennial
15 budget and over 60,000 employees. In her first term as Governor,
16 she created the Department of Early Learning and led on reforms
17 to the K-12 system and investment in higher education. She led
18 the state in a historical investment in infrastructure,
19 addressed the water wars in the state, led an historic number
20 of trade missions, reformed the foster care system to protect
21 children, and was among the first to lead in health care reform.
22 During her second term, Ms. Gregoire led the state in major
23 reforms, management and budgeting to position the state as one
24 of the most financially secure to come out of the "Great

1 Recession." Prior to becoming Governor, she served for three
2 terms as Washington Attorney General and, prior to becoming
3 Attorney General, she served four years as the Director of the
4 State Department of Ecology. She is also a member of the Fred
5 Hutchinson Cancer Research Center and the Bipartisan Governors'
6 Council, and she serves on the advisory boards of the William
7 D. Ruckelshaus Center and the Progressive Coalition for American
8 Jobs. Ms. Gregoire recently completed her third year as Chair
9 on the National Export-Import Bank Advisory Board. She is a
10 graduate of Gonzaga University School of Law, and she and her
11 husband also have a home in north Idaho.

12 • *Scott Maw (Hydro One selection)*: Mr. Maw serves on
13 the current Avista Board of Directors and has been an Avista
14 Director since 2016. He has been executive vice president and
15 CFO for Starbucks Coffee Company since February 2014. He is
16 responsible for Starbucks' Global Finance organization. Prior
17 to that, he served as senior vice president of Corporate Finance
18 for Starbucks where he was responsible for corporate finance,
19 including accounting, tax, and treasury. Mr. Maw also had
20 oversight for all financial and securities-related regulatory
21 filings. He joined Starbucks as global controller in 2011.
22 Prior to joining Starbucks, Mr. Maw served as CFO of SeaBright
23 Insurance Company from 2010 to 2011. From 2008 to February 2010
24 he served as CFO of the Consumer Banking division of JPMorgan

1 Chase & Co. He is a Seattle, Washington, resident with roots in
2 Eastern Washington. He graduated from Deer Park High School,
3 just north of Spokane, and is a graduate of Gonzaga University.

4 • *Marc Racicot (Hydro One selection)*: Mr. Racicot serves
5 on the current Avista Board of Directors and has been an Avista
6 Director since 2009. He served as president and CEO of the
7 American Insurance Association from August 2005 to February
8 2009. Prior to that, he was a partner at the law firm of
9 Bracewell & Giuliani, LLP from 2001 to 2005. He is a former
10 governor (1993 to 2001) and attorney general (1989 to 1993) of
11 the state of Montana. Mr. Racicot was nominated by President
12 Bush and unanimously elected to serve as the chair of the
13 Republican National Committee from 2002 to 2003 prior to
14 assuming the position of chair of the Bush/Cheney Re-election
15 Committee from 2003 to 2004. He previously served as a director
16 for Siebel Systems, Allied Capital Corporation, Burlington
17 Northern Santa Fe Corporation, Plum Creek Timber Company, and
18 The Washington Companies, and he presently serves as a director
19 for Weyerhaeuser Company and Massachusetts Mutual Life Insurance
20 Company. In addition, throughout his career Mr. Racicot has
21 strongly committed himself to children, education and community
22 issues. He was appointed to the board of The Corporation for
23 National and Community Service by President Clinton, and he has
24 also served on the boards of Carroll College, Jobs for America's

1 Graduates, and United Way of Helena, Montana. He is a life-
2 long resident of Montana and a graduate of Carroll College.

3 **Q. Please summarize the Stipulated Commitments in the**
4 **April 13, 2018 Stipulation that were designed, well before the**
5 **Ontario election, to prevent Provincial influence over Avista.**

6 A. First, as established in the Stipulation filed with
7 this Commission on April 13, 2018, Avista will have a nine-
8 member board separate from Hydro One that will govern Avista's
9 management and day-to-day operations. See Stipulated Commitment
10 No. 3. Hydro One, not the Province, will select five of Avista's
11 directors. Three of these five directors must be independent
12 under NYSE rules. Further, pursuant to the recent amendments
13 to Commitment No. 3 described above, those three directors must
14 be U.S. Citizens and residents of the Pacific Northwest for at
15 least two years. As a result, the Province will not be able to
16 exercise any control over Avista through selection of Avista's
17 board.

18 Second, Olympus Equity LLC's three-member board must
19 include one independent director. See Stipulated Commitment
20 No. 43.

21 Third, Hydro One is required to provide Avista with
22 sufficient equity to ensure that Avista's credit ratings remain
23 investment grade. This ensures that the Province cannot deprive

1 Avista of its capital and assets for the benefit of the Province.

2 See Stipulated Commitment No. 37.

3 Fourth, Avista will be prohibited from issuing dividends
4 if certain financial metrics relating to the equity floor,
5 credit ratings and debt coverage are not met. This prohibition
6 operates to keep retained earnings at the Avista level, where
7 they will improve Avista's financial strength. This, too,
8 prevents the Province from depriving Avista of its capital and
9 assets for the benefit of the Province. See Stipulated
10 Commitment No. 38.

11 Fifth, Avista's utility assets can be pledged only for the
12 benefit of Avista, not Hydro One. Therefore, the Province
13 cannot strip Avista of its capital and assets for the benefit of
14 the Province. See Stipulated Commitment No. 46.

15 Lastly, Hydro One and Avista, along with the rest of the
16 parties to the Stipulation and Settlement, developed the
17 Stipulation to ensure that Avista could not be negatively
18 impacted in any way by any of the political events described
19 below. Hydro One is legally obligated to comply with the
20 Stipulation in this Case, the settlements it has reached in
21 Oregon, Washington, Montana, and Alaska, the Regulatory
22 Commission of Alaska's June 4, 2018, order approving this
23 merger, the Montana Public Service Commission's order approving
24 this merger, and any orders approving this merger issued by this

1 Commission, the Washington Utilities and Transportation
2 Commission, and the Oregon Public Utility Commission.

3 All of the protections described above that have been built
4 into the Stipulation to ensure that Avista will continue as a
5 financially sound, stand-alone utility (e.g., Avista's
6 independent board, financial ring-fencing, and capital support)
7 will bind Hydro One regardless of political developments.
8 Furthermore, through the Stipulation in this proceeding and the
9 settlements in Washington and Oregon, Hydro One and Avista have
10 agreed that none of the commitments in the settlements can be
11 amended without approval from Avista's state regulators. See
12 Stipulated Commitment Nos. 1, 30, 33, 49.

13

14 **III. STAFF'S LIST OF UNADDRESSED RISKS RELATED TO THE PROPOSED**
15 **TRANSACTION**

16 Q. Commission Staff asserts that the Province's ability
17 to force the removal of the Hydro One Board, the retirement of
18 the CEO, and the passage of the *Hydro One Accountability Act*
19 demonstrate that there are no bounds to the Province's ability
20 to influence Hydro One.⁵ Do you agree with those conclusions?

21 A. No. As will be described in greater detail in Section
22 IV of this testimony, the removal of the Hydro One Board followed
23 all relevant and material aspects of the provisions in the

⁵ Carlock Direct Testimony at pgs. 14-15.

1 Governance Agreement and the retirement of Mayo Schmidt removed
2 uncertainty and was in the best interests of Hydro One. In
3 addition, the Province, in Section 16 of the July 2018 Letter
4 Agreement, ratified and reaffirmed its commitment to the
5 Governance Agreement, which remains in full force and effect.
6 As a result, the Governance Agreement remains a check on the
7 Province's ability to influence Hydro One.

8 Further, the Province's legislative authority over Hydro
9 One is limited to matters within the Province's jurisdiction.
10 This limitation was clear in the *Hydro One Accountability Act*:
11 It defined the term "subsidiary" to specifically exclude
12 application of the Act to Hydro One subsidiaries incorporated
13 in a jurisdiction outside of Canada. This is extremely
14 important to consider in this proceeding, as the Province's
15 legislative authority simply does not extend to the operations
16 and rates of Avista. Rather, the operations and rates of Avista
17 are strictly within the jurisdiction of the five states in which
18 Avista operates: Idaho, Washington, Oregon, Montana, and
19 Alaska.

20 To the extent that the Province could employ some other
21 type of action to exercise influence over Hydro One to reach
22 Avista, the previous section of this testimony explains how the
23 new commitments negotiated by the parties to this proceeding
24 since the Ontario election, as well as the Stipulated

1 Commitments in the April 13, 2018, Stipulation will protect
2 Avista from any direct influence from the Province.

3 Q. Commission Staff states that "the practical
4 implications of the North American Free Trade Agreement (NAFTA)
5 and/or its successor, the U.S. Mexico Canada Agreement (USMCA),
6 on Avista and its customers are unknown and unknowable."⁶ Do
7 you agree with this characterization?

8 A. No. The established law and precedent regarding
9 NAFTA, particularly when coupled with the new Commitment 75
10 negotiated by the parties after I filed my Supplemental
11 Testimony on September 24, 2018, leave no reasonable doubt that
12 the Commission's authority will be unencumbered by NAFTA and
13 this merger.

14 Hydro One and Avista recognize and affirm in the Stipulated
15 Commitments that NAFTA does not curtail the authority of the
16 Commission to promulgate and enforce relevant rules and
17 regulations, that Hydro One and Avista explicitly recognize that
18 the Commission's authority over Avista's operations will remain
19 unchanged by the Proposed Transaction, that the parties will
20 comply with all applicable laws and regulations, and that Hydro
21 One and Avista recognize the Commission's jurisdiction. See
22 Stipulated Commitment Nos. 20, 21, 23, 30, 31, 33, 75, and 76.

⁶ Carlock Direct Testimony at pg. 10, lines 22-25.

1 Q. Can you describe how new Commitment No. 75 fully
2 protects Avista from any potential risk under NAFTA or the
3 USMCA?

4 A. First, Hydro One and Avista forego their rights to
5 bring any claim under NAFTA or similar provisions of the
6 anticipated successor to NAFTA, the United States Mexico Canada
7 Agreement (USMCA). Second, Hydro One will not support or
8 voluntarily participate in any claims asserted by a third party.
9 Thus, Hydro One is barred from attempting to use NAFTA, so the
10 Commission's jurisdiction over Avista is protected. Finally,
11 Hydro One will indemnify Avista from any damages payable by
12 Avista in respect of any such claim. With this indemnification
13 provision, in the very unlikely event that a third party somehow
14 prevails on a NAFTA claim, Avista will be held harmless:

15 **75. North American Free Trade Agreement (NAFTA):**
16 Hydro One and Avista commit to forego their rights
17 to bring any claim under NAFTA, or similar
18 provision of the United States Mexico Canada
19 Agreement (USMCA) challenging, or seeking monetary
20 damages related to, any regulations, laws, orders
21 or actions passed or taken by the State of Idaho or
22 any instrumentality thereof or the government of
23 the United States in relation to the production,
24 transmission or distribution of electric power,
25 natural gas or other energy sources by Avista. In
26 the event that such a claim is brought under NAFTA
27 (or the USMCA) that involves or impacts Avista,
28 Hydro One commits that it will not voluntarily
29 participate in, support or otherwise encourage such
30 action. Hydro One will indemnify Avista from any
31 damages payable by Avista in respect of any such
32 claim as determined by a final non-appealable
33 judicial order.

1 We worked with Staff to develop this set of protections.

2

3 IV. NOTICE REGARDING ONTARIO ELECTION AND IMPACTS OF ELECTION
4 ON HYDRO ONE GOVERNANCE

5 Q. Please summarize questions that have been raised as
6 to whether Hydro One and Avista disclosed the potential impacts
7 of the Ontario Election on Hydro One in a timely manner and
8 whether Hydro One and Avista potentially misled the parties to
9 this proceeding regarding the relationship between Hydro One
10 and the Province of Ontario (the "Province").⁷

11 A. Commission Staff states: "it may be viewed by some
12 that the Applicants did not adequately report in a timely manner
13 and were not entirely forthcoming regarding the independence of
14 Hydro One from the Province, Hydro One as a campaign issue in
15 Ontario, and the impact of the election on Hydro One."⁸

16 Q. Commission Staff states that Hydro One and Avista
17 should have notified them that Hydro One had become the subject
18 of campaign promises leading up to the June 7, 2018, election.
19 Commission Staff also states that Hydro One and Avista should
20 have notified the Commission of the July 11, 2018, removal of
21 the Hydro One Board and CEO before sending the July 18, 2018,
22 letter to the Commission, Commission Staff and the other parties

⁷ Carlock Direct Testimony at pg. 10.

⁸ Carlock Direct Testimony at pg. 10.

1 to this proceeding describing the events of July 11. Do you
2 agree with these criticisms?⁹

3 A. I do. In hindsight, we should have discussed with
4 the parties to this proceeding the campaign promises being made
5 by the Progressive Conservative Party and the New Democratic
6 Party prior to knowing the outcome of the June 7, 2018 election.
7 During the lead up to the election, however, Hydro One and
8 Avista simply could not predict the outcome of the election,
9 and for that reason waited for the election to occur. Although
10 the Progressive Conservative Party did not take office until
11 June 29, 2018, Hydro One and Avista did notify the Commission
12 and the parties of the potential impacts of the election on
13 Hydro One on June 20, 2018,¹⁰ as discussed in greater detail
14 below, well in advance of any action by the Commission on the
15 their Joint Application.

16 Further, I also agree that Hydro One and Avista should have
17 acted more quickly to notify the Commission and the parties
18 after Hydro One entered into the July 2018 Letter Agreement with
19 the Province to remove the Hydro One Board and arrange the
20 retirement of the CEO. Although information like this cannot
21 be released prematurely due to the impact that it could have on

⁹ Carlock Direct Testimony at pgs. 12-13.

¹⁰ 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 stock prices, Hydro One and Avista should have acted more
2 quickly than July 18, 2018.

3 Q. Did Hydro One and Avista fail to disclose the
4 potential impacts of the Ontario election on Hydro One in a
5 timely manner or mislead the parties to this proceeding
6 regarding the relationship between Hydro One and the Province?

7 A. No. In fact, the opposite is true. As the rest of
8 my testimony will explain in greater detail, this proceeding
9 started in September 2017, well before any of Ontario's
10 political parties started forming their platforms and
11 campaigning for the June 2018 Ontario election.

12 As part of Hydro One's transition from being a Crown
13 Corporation to a public corporation through several public
14 offerings commencing in the fall of 2015, Hydro One and the
15 Province entered into the Governance Agreement.¹¹ Section 2.1.3
16 of the Governance Agreement states that "The Province shall,
17 with respect to its ownership interest in Hydro One, engage in
18 the business and affairs of Hydro One and the Hydro One Entities
19 as an investor and not as a manager." The Governance Agreement
20 also includes explicit provisions that limit the Province's role
21 as Hydro One's largest investor, which I will describe in more
22 detail below.

¹¹ The Governance Agreement is Exh. No. 10, Schedule 3 to my supplemental testimony filed on September 24, 2018.

1 Q. Did former CEO Mayo Schmidt's direct testimony filed
2 on September 14, 2017, accurately describe the relationship
3 between Hydro One and the Province?¹²

4 A. Yes, Mr. Schmidt's September 14, 2017, direct
5 testimony accurately described the relationship between Hydro
6 One and the Province. As Commission Staff noted, Mr. Schmidt's
7 testimony stated: "Hydro One is now governed by an independent
8 board, other than myself as CEO, and a governance agreement that
9 ensures autonomous commercial operations, with the Province of
10 Ontario as an investor and not a manager."¹³ Mr. Schmidt also
11 stated: "The Province of Ontario is a shareholder and pursuant
12 to its governance agreement with Hydro One it does not hold or
13 exercise any managerial oversight over Hydro One."¹⁴ On
14 September 14, 2017, these statements were true, and apart from
15 the enactment of the *Hydro One Accountability Act* this summer,
16 which gives the Province new regulatory oversight over executive
17 compensation at Hydro One, these statements remain true today.

18 As noted above, Section 2.1.3 of the Governance Agreement
19 states that the Province shall act as an investor and not as a
20 manager of Hydro One. Pursuant to Section 16 of the July 2018

¹² Carlock Direct Testimony at pg. 11.

¹³ AVU-E-17-09/AVU-G-17-05 - Direct Testimony of Mayo Schmidt at pg. 10 (Sept. 14, 2017) ("Schmidt Direct Testimony").

¹⁴ Schmidt Direct Testimony at pg. 10.

1 Letter Agreement between Hydro One and the Province,¹⁵ the
2 Province ratified and reaffirmed its commitment to the
3 Governance Agreement, which remains in full force and effect:

4 16. Reaffirmation: By entering into this Agreement, the
5 Province ratifies and reaffirms its obligations under the
6 Governance Agreement and agrees that, except as
7 specifically set out in this Agreement with respect to the
8 subject matter hereof, (i) the execution, delivery and
9 effectiveness of this Agreement or any other documents
10 delivered in connection herewith shall not amend, modify
11 or operate as a waiver or forbearance of any right, power,
12 obligation, remedy or provision under the Governance
13 Agreement, and (ii) such agreement shall continue in full
14 force and effect.

15 Mr. Schmidt's September 14, 2017, testimony explaining that
16 the Province is an investor in, and not a manager of, Hydro One
17 did not mislead the Commission or the parties to this
18 proceeding.

19 **Q. What happened in these proceedings after Mr. Schmidt**
20 **filed his direct testimony on September 14, 2017?**

21 A. After Hydro One and Avista submitted their Joint
22 Application and direct testimony on September 14, 2017, the
23 parties to this proceeding filed motions to intervene, and Hydro
24 One and Avista responded to production requests. On April 4,
25 2018, the parties to this proceeding¹⁶ had their first in-person
26 settlement conference. During that settlement conference, the

¹⁵ The July 2018 Letter Agreement is Exh. No. 10, Schedule 1 to my supplemental testimony filed on September 24, 2018.

¹⁶ The Avista Customer Group and Idaho Department of Water Resources were not granted intervention in this proceeding until July 19, 2018, and July 20, 2018, respectively.

1 parties reached an agreement in principle. The parties then
2 engaged in further settlement negotiations by email and phone
3 to reach an all-party settlement that was filed with the
4 Commission on April 13, 2018.

5 On May 16, 2018, the Commission issued a Notice of Proposed
6 Settlement, Notice of Modified Procedure, Notice of Public
7 Hearings, and Notice of Amended Schedule, Order No. 34061. In
8 that order, the Commission directed Hydro One, Avista, and the
9 other parties to the settlement to file comments in support of
10 the settlement by June 20, 2018.

11 **Q. Please describe the campaign leading up to the June**
12 **7, 2018 election in Ontario and the election results.**

13 A. At the same time that Hydro One, Avista, and the other
14 parties to this proceeding were negotiating the settlement
15 agreement that was filed with this Commission on April 13, 2018
16 (the "Stipulation"), the campaigns for the June 7, 2018 Ontario
17 election began in earnest. Hydro One became aware of the
18 Progressive Conservative Party's campaign promise to remove
19 Hydro One's CEO during a campaign event on April 10, 2018. The
20 campaign promise to remove Hydro One's CEO and Board of
21 Directors was officially announced on April 12, 2018.

22 During April, May, and June, the Progressive Conservative
23 Party, the incumbent Liberal Party, and the New Democratic Party
24 were engaged in a hotly contested campaign to win the Ontario

1 premiership and obtain a majority of the seats in the Ontario
2 legislature. During this period, Hydro One was unsure how the
3 campaign would unfold and which party would ultimately prevail
4 on June 7, 2018. It was impossible to determine whether any of
5 these parties had an interest in or the ability to follow through
6 on their campaign promises prior to the election on June 7,
7 2018.

8 **Q. When did Hydro One and Avista notify the Commission**
9 **and the parties to this proceeding that the Ontario election**
10 **might impact Hydro One?**

11 A. Election campaigns in Canada are shorter than in the
12 United States. Starting in June 2018, Hydro One and Avista
13 informed the Commission of the recent political developments as
14 it became clear they may impact Hydro One, well before any
15 potential decision on the merger by the Commission.

16 On June 7, 2018, the Progressive Conservative Party, which
17 made campaign promises to remove Hydro One's CEO and Board of
18 Directors, won the premiership and a majority of the seats in
19 the Ontario legislature. At our next opportunity in this
20 proceeding, Hydro One and Avista described the outcome of the
21 June 7, 2018, election and the potential risks to Hydro One in
22 our June 20, 2018, Joint Comments in Support of Stipulation and
23 Settlement.

1 Q. Do you believe that the June 20, 2018, Joint Comments
2 in Support of the Stipulation and Settlement were misleading
3 with respect to how the results of the Ontario election might
4 impact Hydro One?¹⁷

5 A. Not at all. The June 20, 2018, Joint Comments stated
6 that "[a]lthough Hydro One's largest shareholder is the Province
7 of Ontario, the Province does not hold or exercise any
8 managerial oversight over Hydro One."¹⁸ On June 20, 2018, the
9 Governance Agreement remained in full force and effect, and the
10 new government of the Progressive Conservative Party had not
11 taken any actions or engaged with Hydro One in any way to explain
12 if or how it was going to fulfill its campaign promises with
13 respect to Hydro One.

14 Commission Staff expressed concern that "in addressing
15 legitimate concerns of the impact of the Province of Ontario
16 could exercise over the operations and management of Hydro One,
17 the Applicants labeled the possibility of dismissing the Board
18 of Directors and CEO as 'hypothetical events,' even as such
19 events were in the processes of actually occurring."¹⁹ Again,
20 at the time Hydro One and Avista submitted their Joint Comments
21 on June 20, 2018, the new government of the Progressive
22 Conservative Party had not taken any actions or engaged with

¹⁷ Carlock Direct Testimony at pg. 11, lines 14-24.

¹⁸ Carlock Direct Testimony at pg. 11 (citing Joint Comments at pg. 2).

¹⁹ Carlock Direct Testimony at pg. 11 (citing Joint Comments at pg. 18).

1 Hydro One in any way to demonstrate whether or how it was going
2 to fulfill its campaign promises with respect to Hydro One. On
3 June 20, 2018, the possibility that the Province would exercise
4 its rights pursuant to Section 4.7 of the Governance Agreement
5 to remove Hydro One's Board of Directors or would try to remove
6 Hydro One's CEO remained very much unknown and therefore were
7 "hypothetical events." As noted in my September 24, 2018,
8 Supplemental Testimony, the Progressive Conservative Party was
9 not sworn in as the new government until June 29, 2018.

10 We did our best in the June 20, 2018, Joint Comments, just
11 13 days after the June 7, 2018, election and before the new
12 government was even sworn in on June 29, 2018, to explain the
13 possible ways in which the new government could impact the
14 governance and management of Hydro One, or potentially Avista,
15 if the new government decided to follow through on its campaign
16 promises:

- 17 • First, Hydro One and Avista attached a detailed 13-page
18 report to the Joint Comments²⁰ that outlined (i) the history
19 of the Province's relationship with Hydro One, (ii) the
20 Province's role as Hydro One's largest shareholder under
21 the Governance Agreement, including its role in selecting
22 40% of Hydro One's Board members and its right to seek

²⁰ See AVU-E-17-09/AVU-G-17-05, Exhibit A to the Avista and Hydro One Joint Comments in Support of Stipulation and Settlement (June 20, 2018).

1 removal of Hydro One's entire Board of Directors pursuant
2 to Section 4.7, (iii) the results of the June 7, 2018,
3 Ontario election and a summary of the campaign promises
4 leading up to the election, (iv) how the new government
5 could carry out its campaign promises if it chose to do
6 so, and (v) how fulfillment of these campaign promises
7 could impact Avista if the merger was approved.

8 • Second, the June 20, 2018, Joint Comments carefully
9 explained how the Stipulated Commitments included in the
10 April 13, 2018, Stipulation between the parties to this
11 proceeding would protect Avista from any negative impact
12 or influence by the new government if the new government
13 decided to follow through on its campaign promises to
14 remove the Hydro One Board and CEO.²¹

15 • Third, the June 20, 2018, Joint Comments explained that
16 (i) Avista was not going to be owned by a foreign government
17 if the merger was approved, because Hydro One is an
18 investor-owned utility; and (ii) the Committee on Foreign
19 Investment in the United States already had concluded that
20 there was no risk to critical infrastructure in the United
21 States as a result of the transaction.²²

²¹ See Joint Comments at pgs. 16-19.

²² See Joint Comments at pgs. 24-26, 28.

1 The Joint Comments' use of the term "hypothetical event,"
2 when read in context, clearly was not a dismissal²³ by Hydro One
3 and Avista of the possibility that these events could occur.
4 Rather, the Joint Comments made clear what could occur in the
5 wake of the election:

6 The Province could trigger the provisions in
7 Article 4.7 of the Governance Agreement to
8 replace Hydro One's Board or the Province's
9 new leadership could introduce legislation for
10 the purpose of dismissing Hydro One's CEO or
11 members of the Board. These are just
12 possibilities, but even if they were to come
13 to pass, Hydro One, Avista, and the other
14 Parties in this Case have included governance
15 and financial ring-fencing in the Stipulation
16 that will protect Avista and its customers and
17 bolster the protections already provided by
18 the Governance Agreement[.]²⁴

19 Moreover, the Joint Comments explained that the possibility of
20 financial or operational changes at Hydro One impacting Avista
21 and its service to customers was "a central theme during the
22 settlement negotiations involving all the Parties in this Case"
23 and "[t]he Parties developed Stipulated Commitments that ensure
24 Avista will remain a financially healthy, standalone utility
25 after the merger regardless of any negative financial or
26 operational changes that could occur at Hydro One, whether the
27 result of the Ontario election or some other event."²⁵ The Joint
28 Comments also made clear that all of the Stipulated Commitments

²³ Carlock Direct Testimony at pg. 11, lines 19-24.

²⁴ Joint Comments at pg. 16.

²⁵ Joint Comments at pg. 16.

1 that would protect Avista in the event that the Province took
2 any of the actions discussed would be binding on Hydro One
3 regardless of political developments and that none of the
4 commitments could be amended without approval from Avista's
5 regulators.²⁶

6 In conclusion, the June 20, 2018, Joint Comments were as
7 clear as possible at that time regarding the potential risks to
8 Hydro One as of then, just thirteen days after a hard-fought
9 campaign in which the outcome simply was not known in advance
10 and nine days before the new government was even sworn in.

11 Q. Do you agree with Commission Staff's suggestion that
12 the June 20, 2018, Joint Comments' characterization of the risks
13 to Hydro One as "hypothetical events" was not accurate because
14 the dismissal of the Hydro One Board of Directors and CEO were
15 in the "process[] of actually occurring"?²⁷

16 A. No. As I explained, under oath, in my September 24,
17 2018, Supplemental Testimony, it was not until July 4, 2018,
18 that discussions were held between representatives of the Hydro
19 One Board and the new government of the Progressive Conservative
20 Party. On July 5, 2018, discussions were held between
21 independent legal counsel to the Hydro One Board and a
22 representative of the new government, and privileged and

²⁶ Joint Comments at pgs. 18-19.

²⁷ Carlock Direct Testimony at pg. 11.

1 confidential discussions were held among the Hydro One Board
2 Chair, another representative of the Board, and the Board's
3 independent legal counsel. Subsequently, representatives of
4 the Hydro One Board, the Board's independent legal counsel, and
5 representatives of the government held various discussions and
6 meetings from July 6, 2018, through July 8, 2018.

7 These discussions involved representatives from the
8 Cabinet Office as well as representatives of the Ministry of
9 Energy, Northern Development and Mines, the Ministry of Finance,
10 and the Attorney General, and they led to the July 2018 Letter
11 Agreement.²⁸ The July 2018 Letter Agreement established (i) the
12 process for the orderly replacement of the Hydro One Board in
13 compliance with all relevant and material aspects of Section
14 4.7 of the Governance Agreement and (ii) the process by which
15 Hydro One's CEO Mayo Schmidt would retire.

16 All of this happened after June 20, 2018. On June 20,
17 Hydro One and Avista simply did not know whether or how the new
18 government would follow through on its campaign promises to
19 remove the Hydro One Board and CEO. These were hypothetical
20 events on June 20, as neither Hydro One nor the new government
21 had taken any actions to make them real.

²⁸ The July 2018 Letter Agreement between Hydro One and Her Majesty The Queen in Right of Ontario was attached as Exh. No. 10, Schedule 1, to my supplemental testimony filed on September 24, 2018.

1 Q. When did Hydro One and Avista notify the Commission
2 and Commission Staff of (i) the new government's decision to
3 exercise its rights to remove the Hydro One Board pursuant to
4 Section 4.7 of the Governance Agreement and (ii) the retirement
5 of Hydro One's CEO?

6 A. On July 18, 2018, seven days after the public
7 announcement by press release of the July 2018 Letter Agreement
8 between Hydro One and the Province, Hydro One and Avista
9 submitted a letter to the Commission explaining the July 2018
10 Letter Agreement and the next steps in replacing Hydro One's
11 Board and CEO. Further, this letter to the Commission also
12 explained that the new government had introduced the *Hydro One*
13 *Accountability Act* on July 16, 2018, to give the Province
14 regulatory oversight over the compensation structure for Hydro
15 One's executives.

16 Q. Do you believe that "all of the [Hydro One] Board of
17 Directors and the Chief Executive Officer (CEO) bowed to
18 pressure from the Province of Ontario and resigned rather than
19 being removed following the established shareholder voting
20 process"?²⁹

21 A. I would not characterize the events in that fashion.
22 I believe the board members and CEO took steps that they properly

²⁹ Carlock Direct Testimony at pg. 6, lines 12-16.

1 viewed as being in fundamental compliance with the Governance
2 Agreement and in the best interests of Hydro One. Section 4.7
3 of the Governance Agreement sets out a process for the Province
4 to call for the removal of Hydro One's entire Board, with the
5 exception of the CEO, and at the Province's sole discretion,
6 the Chair, which I described in my supplemental testimony filed
7 in this docket.³⁰ This process has been available to the Province
8 since the Governance Agreement was executed on November 5, 2015.

9 The removal and replacement of the Hydro One Board through
10 the July 2018 Letter Agreement complied with the process
11 outlined in Section 4.7 of the Governance Agreement, with just
12 one exception. Pursuant to the Province's and Hydro One's
13 authority to amend the Governance Agreement with mutual consent
14 (Section 26 of the Governance Agreement), the July 2018 Letter
15 Agreement dropped the step of convening a shareholders' meeting
16 (Sections 4.7.4 - 4.7.7 of the Governance Agreement). The
17 Province and Hydro One complied with all relevant and material
18 aspects of Section 4.7 of the Governance Agreement, but in order
19 to serve the best interests of the company, the Province and
20 Hydro One agreed to forego the requirement to hold a
21 shareholders' meeting, which would have added approximately 60
22 days to the Board replacement process. Hydro One concluded it

³⁰ AVU-E-17-09/AVU-G-17-05 - Supplemental Testimony of James Scarlett at pgs. 4-6 (Sept. 24, 2018) ("Scarlett Supplemental Testimony").

1 was in its best interests to expedite the replacement process
2 and reduce uncertainty, particularly since the Province holds a
3 sufficient number of shares to determine the outcome of a
4 shareholder vote under Section 4.7 of the Governance Agreement.
5 A shareholders' meeting would have served no useful purpose,
6 but would have been damaging to Hydro One.

7 With respect to former CEO Mayo Schmidt's retirement, one
8 might perceive Mr. Schmidt's retirement as forced by the
9 Province due to the Progressive Conservative Party's campaign
10 pledges to remove Mr. Schmidt. One might also take the position
11 that his retirement was in violation of Section 2.3 of the
12 Governance Agreement, which gives the Hydro One Board the sole
13 authority to appoint and terminate the CEO. This situation is
14 more nuanced than that.

15 As noted above, the Province has the authority to call for
16 the removal and replacement of the entire Hydro One Board, with
17 the exception of the CEO, and at the Province's sole discretion,
18 the Chair, pursuant to Section 4.7 of the Governance Agreement.
19 Furthermore, Section 3.3.2 of the Governance Agreement requires
20 that the Hydro One Board annually confirm the continued service
21 of the CEO through a two-thirds affirmative vote in a Special
22 Board Resolution at the Annual Confirmation Meeting. Rather
23 than wait to see if the Province might introduce legislation to
24 terminate his employment, or Hydro One's new Board would either

1 remove him immediately or fail to confirm his continued service
2 pursuant to Section 3.3.2 of the Governance Agreement, Mr.
3 Schmidt removed uncertainty by retiring.

4 One can fairly conclude that Mr. Schmidt realized he would
5 not be able to effectively continue as CEO without the support
6 of Hydro One's single largest shareholder and he retired from
7 his positions, having determined that it would be in the best
8 interests of all concerned to do so.

9

10 **V. COMPLIANCE WITH IDAHO CODE § 61-327**

11 **Q. Please summarize Commission Staff's position on**
12 **whether the Proposed Transaction complies with Idaho Code § 61-**
13 **327.³¹**

14 **A. Commission Staff asserts that because Hydro One's**
15 **largest shareholder is the Province, a governmental entity,**
16 **"Idaho Code § 61-327 may provide a total bar to the proposed**
17 **merger."³²**

18 **Q. What does Idaho Code § 61-327 state?**

19 **A. Idaho Code § 61-327 provides:**

20 **61-327. Electric utility property** – Acquisition by
21 certain public agencies prohibited. No title to or
22 interest in any public utility (as such term is defined
23 in chapter 1, title 61, Idaho Code) property located in
24 this state which is used in the generation,
25 transmission, distribution or supply of electric power
26 and energy to the public or any portion thereof, shall

³¹ Carlock Direct Testimony at pgs. 2-3.

³² Carlock Direct Testimony at pgs. 2-3.

1 be transferred or transferable to, or acquired by,
2 directly or indirectly, by any means or device
3 whatsoever, any government or municipal corporation,
4 quasi-municipal corporation, or governmental or
5 political unit, subdivision or corporation, organized or
6 existing under the laws of any other state; or any
7 person, firm, association, corporation or organization
8 acting as trustee, nominee, agent or representative for,
9 or in concert or arrangement with, any such government
10 or municipal corporation, quasi-municipal corporation,
11 or governmental or political unit, subdivision or
12 corporation; or any company, association, organization
13 or corporation, organized or existing under the laws of
14 this state or any other state, whose issued capital
15 stock, or other evidence of ownership, membership or
16 other interest therein, or in the property thereof, is
17 owned or controlled, directly or indirectly, by any such
18 government or municipal corporation, quasi-municipal
19 corporation, or governmental or political unit,
20 subdivision or corporation; or any company, association,
21 organization or corporation, organized under the laws of
22 any other state, not coming under or within the
23 definition of an electric public utility or electrical
24 corporation as contained in chapter 1, title 61, Idaho
25 Code, and subject to the jurisdiction, regulation and
26 control of the public utilities commission of the state
27 of Idaho under the public utilities law of this state;
28 provided, nothing herein shall prohibit the transfer of
29 any such property by a public utility to a cooperative
30 electrical corporation organized under the laws of
31 another state, which has among its members mutual
32 nonprofit or cooperative electrical corporations
33 organized under the laws of the state of Idaho and doing
34 business in this state, if such public utility has
35 obtained authorization from the public utilities
36 commission of the state of Idaho pursuant to section 61-
37 328, Idaho Code.

38 Q. Do you agree with Staff's contention that Idaho Code

39 § 61-327 could bar to the Proposed Transaction?³³

³³ Carlock Direct Testimony at pgs. 2-3.

1 A. I do not believe that Idaho Code § 61-327 bars or even
2 applies to the Proposed Transaction. This question has also
3 been addressed by Avista's and Hydro One's expert witness David
4 Leroy, who is sponsoring his independent legal opinion in that
5 regard, as well as by Avista's Senior Director of Government
6 Relations, Mr. Collins Sprague in his supplemental testimony,
7 together with any argument by counsel for Applicants.

8 **Q. What facts are relevant to the Commission's assessment**
9 **of whether the Proposed Transaction is barred by Idaho Code §**
10 **61-327?**

11 A. A number of facts are relevant to determining whether
12 Idaho Code § 61-327 bars or even applies to the Proposed
13 Transaction, which I will address in this section of my
14 testimony.

15 **Q. Please describe the nature of the Proposed**
16 **Transaction.**

17 A. It is a merger. An indirect subsidiary of Hydro One
18 will merge with and into Avista. Avista will be the surviving
19 corporation.

20 **Q. Will Avista Corporation continue to exist as a**
21 **distinct legal entity?**

22 A. Yes. The same corporation will continue to exist.
23 Avista will have its own board of directors and its own CEO.
24 It will operate as a stand-alone utility.

1 Q. What will happen to Avista's property and other
2 assets?

3 A. None of Avista's property or other assets will change
4 hands. Avista will continue to own, control, and operate all
5 of the assets it has for the provision of electric and gas
6 service in Idaho and other states in the U.S. Pacific Northwest.

7 Q. If Hydro One is not acquiring Avista's assets, what
8 is Hydro acquiring?

9 A. Hydro One, through an indirect subsidiary, is
10 essentially buying all the shares of Avista's stock from
11 Avista's current shareholders. Thus, Hydro One is acquiring
12 property from investors in Avista. It is not buying any of
13 Avista's own property.

14 Q. After the merger is complete, could Hydro One require
15 Avista to transfer any of its utility assets to Hydro One or
16 anyone else?

17 A. No. That is impossible for several reasons.
18 Stipulated Commitment 46 expressly prohibits any pledge of
19 Avista's utility assets for the benefit of any entity other than
20 Avista. And Avista's board retains broad control over utility
21 operations. For example, Avista (and not Hydro One) determines
22 Avista's organizational structure; has sole authority over the
23 hiring and firing of Avista's CEO and other Avista personnel;
24 selects its representatives to its board; plans its operations;

1 invests in economic development including property
2 acquisitions; funds innovation activities; and negotiates labor
3 agreements. See Stipulated Commitments 2-13.

4 Q. Can Hydro One force action by Avista's board?

5 A. No. Only two members of Avista's nine-member board
6 are Hydro One executives or employees. See Stipulated
7 Commitment 3.

8 Q. As a result of the merger, will there be any direct
9 or indirect transfer of title to or an interest in any type of
10 property that is used by Avista to generate, transmit,
11 distribute or supply electric power?

12 A. No, there will be no transfer of property. Avista
13 will retain all of its property. Furthermore, no interest in
14 Avista's property will be transferred to, or acquired by, Hydro
15 One as a result of the Proposed Transaction.

16 Q. Who will own Avista after the merger has been
17 completed?

18 A. The immediate owner will be Olympus Equity LLC, a
19 Delaware limited liability company. The ultimate owner will be
20 Hydro One because Olympus Equity LLC is a wholly owned indirect
21 subsidiary of Hydro One.

22 Q. Is Hydro One a Governmental Entity, assuming that
23 "Governmental Entity" means any government or municipal
24 corporation, quasi-municipal corporation, or governmental or

1 political unit, subdivision or corporation, organized or
2 existing under the laws of any other state; or any person, firm,
3 association, corporation or organization acting as trustee,
4 nominee, agent or representative for, or in concert or
5 arrangement with, any such government or municipal corporation,
6 quasi-municipal corporation, or governmental or political unit,
7 subdivision or corporation?

8 A. No. Hydro One is a corporation formed under the laws
9 of Ontario, much as Avista is (and will remain) a corporation
10 formed under the laws of Washington.

11 Q. Does Hydro One have issued capital stock?

12 A. Yes. Hydro One has issued capital stock, which is
13 traded on the Toronto Stock Exchange (TSX).

14 Q. Is Hydro One's capital stock owned or controlled,
15 directly or indirectly, by a Governmental Entity?

16 A. A number of investors, including some investors that
17 are governmental entities, own some of Hydro One's capital
18 stock. No single investor owns or controls all or even a
19 majority of Hydro One's capital stock. Thus, no investor has a
20 controlling interest in Hydro One.

21 Q. Among your investors, which Governmental Entity is
22 the largest?

23 A. The largest is the Province, which currently owns
24 approximately 47% of Hydro One's stock. After completion of the

1 merger, the Province will own less than 43% of Hydro One's
2 stock.

3 **Q. Please describe the role of the Province with respect**
4 **to Hydro One.**

5 A. The role of the Province with respect to Hydro One is
6 established by the Governance Agreement that was entered into
7 in 2015.³⁴ The Governance Agreement between Hydro One and the
8 Province of Ontario is a binding contract that was a pre-
9 requisite for Hydro One's successful Initial Public Offering
10 ("IPO"). Neither the Province nor any other major investor has
11 any representatives on the Hydro One Board. Instead, with the
12 exception of the CEO, all directors must be independent of Hydro
13 One and the Province. (Governance Agreement ("GA") 4.2.2;
14 4.2.3). Directors must be high-quality, reputable, experienced
15 leaders with the requisite skills, board experience, time, and
16 motivation for an operation of Hydro One's size and scope.
17 Directors are also chosen in light of Hydro One's core operating
18 principles. (GA 4.2.1). Directors must meet the requirements
19 of corporate and securities laws and any stock exchange on which
20 Hydro One securities are listed. (GA 4.2.4).

21 The Province nominates four of the ten directors (other
22 than the CEO), while Hydro One's Governance Committee nominates

³⁴ Scarlett Supplemental Testimony, Exh. No. 10, Schedule 3.

1 six of the ten. (GA 4.1). The Board itself chooses the CEO,
2 who serves as the 11th member of the Board. The Province does
3 have the authority to require resignation of all Board members,
4 but if it does so, it still can appoint only forty percent of
5 the new Board members, and all Board members must meet
6 independence and other qualifications.

7 The Governance Agreement establishes that the Board is
8 responsible for the management of or supervising the management
9 of Hydro One's business and affairs. (GA 2.1.2). The Governance
10 Agreement states that the Province will be involved in Hydro
11 One as an investor and not as a manager. (GA 2.1.3). Hydro
12 One neither takes direction nor seeks consent for its operations
13 from the Province, outside of the defined regulatory and
14 oversight authority that the government has over the all
15 utilities operating in Ontario. (GA 2.1.3; 2.2).

16 Several provisions in the Governance Agreement limit the
17 Province's shareholder rights:

18 • The Province cannot initiate fundamental changes to
19 Hydro One described in Part XIV of the Business
20 Corporations Act (Ontario) (e.g., amendment to
21 articles, continuance, arrangements, and
22 amalgamations). (GA 2.5). The Province may vote its
23 shares as it sees fit in the event a fundamental
24 change is initiated by another shareholder. (GA 2.5).

1 • The Province cannot solicit (either on its own or
2 acting with others) any person to exercise rights as
3 a shareholder in a manner that the Province would be
4 prohibited from doing directly. (GA 2.6).

5 **Q. Does the Province control Hydro One's stock?**

6 A. No, it does not. It currently owns less than 50% of
7 the stock and, upon closing of the Proposed Transaction, its
8 ownership share will be less than 43%. More than half of Hydro
9 One's stock is and will be owned by investors other than the
10 Province. The Governance Agreement³⁵ expressly prohibits the
11 Province from acquiring additional issued shares if that would
12 result in the Province having control over more than 45% of any
13 class or series of shares. (GA 2.7).

14 **Q. Is Hydro One's property owned or controlled, directly**
15 **or indirectly, by a Governmental Entity?**

16 A. No. Hydro One wholly owns and controls all of its
17 own property. None of Hydro One's investors owns or controls
18 any of Hydro One's property. The shares that investors own
19 represent an ownership interest in the company as a whole. No
20 shareholder holds any interest in any Hydro One property.

21 **Q. If the merger is completed, what role would the**
22 **Province have with Avista?**

³⁵ Scarlett Supplemental Testimony, Exh. No. 10, Schedule 3.

1 A. The Province would have no ownership of or control
2 over Avista. It would receive no revenues from Avista. To the
3 extent Hydro One makes dividends to its investors, regardless
4 of the source of Hydro One's funds, the Province and other
5 investors will receive dividends proportionate to their
6 ownership interests. The absence of control is reinforced by
7 the Avista Board structure, where only two of nine board members
8 will be executives or employees of Hydro One, as well as the
9 Hydro One board structure, where no board members may be
10 executives or employees of the Province.

11 **Q. Does Hydro one serve as a trustee, nominee, agent or**
12 **representative for, or in concert or arrangement with, the**
13 **Province?**

14 A. No, Hydro One does not serve in such a role. These
15 are legal concepts that would need to be established by relevant
16 facts. There is no evidence to suggest that any supporting
17 facts exist.

18 **Q. Will Hydro One and its affiliates in the chain of**
19 **ownership between Hydro One and Avista be subject to the**
20 **jurisdiction, regulation, and control of the Commission under**
21 **the public utilities law of this state?**

22 A. Yes, Hydro One and its affiliates in the ownership
23 chain will be subject to the Commission's jurisdiction under
24 Idaho law as set forth in the Master List of Commitments. See

1 Stipulated Commitment Nos. 20 (State Regulatory Authority and
2 Jurisdiction); 21 (Compliance with Existing Commission Orders);
3 23 (Audit, Access to and Maintenance of Books and Records); 30
4 (Commission Enforcement of Commitments); 31 (Submittal to State
5 Court Jurisdiction for Enforcement of Commission Orders); 33
6 (Commitments Binding); 74 (Notice and Petition to Alter or
7 Amend); and 76 (Venue for and Resolution of Disputes). As
8 recognized and affirmed by Commission Staff, the Commission will
9 retain regulatory jurisdiction over Avista after the Proposed
10 Transaction just as it has in the past. Nothing about the
11 Proposed Transaction changes the Commission's jurisdiction over
12 Avista's rates and quality of service.³⁶

13

14 VI. COMPLIANCE WITH IDAHO CODE § 61-328

15 Q. Does Commission Staff conclude that the Proposed
16 Transaction complies with Idaho Code § 61-328?³⁷

17 A. Yes. Commission Staff concludes that (i) the Proposed
18 Transaction is consistent with the public interest (Idaho Code
19 § 61-328(3)(a)),³⁸ (ii) Avista's cost of and rates for supplying
20 service will not be increased by reason of the Proposed
21 Transaction (Idaho Code § 61-328(3)(b)),³⁹ and (iii) Hydro One

³⁶ Carlock Direct Testimony at pg. 5, lines 4-16.

³⁷ Carlock Direct Testimony at pgs. 3-5.

³⁸ Carlock Direct Testimony at pg. 4, lines 11-25.

³⁹ Carlock Direct Testimony at pgs. 3-5.

1 has the bona fide intent and financial ability to operate and
2 maintain Avista in the public service (Idaho Code § 61-
3 328(3)(c)).⁴⁰

4 With respect to Idaho Code § 61-328(3)(a), Commission Staff
5 note that although the public interest requirement is judged
6 based on a "no harm" standard, the parties⁴¹ negotiated
7 Stipulated Commitments to ensure that Avista's customers will
8 "receive a net overall financial benefit"⁴² -- a step above and
9 beyond "no harm." With respect to Idaho Code § 61-328(3)(b),
10 Commission Staff emphasizes that "[a]ny customer rate increase
11 must be approved by the Idaho Commission before Avista can
12 increase rates to Idaho Avista customers,"⁴³ thereby ensuring
13 that Avista's cost of and rates for supplying service will not
14 be increased by reason of the Proposed Transaction.

15 Q. Do you agree with Commission Staff that the Proposed
16 Transaction complies with Idaho Code § 61-328?

17 A. Yes.

18 Q. Which of the Stipulated Commitments in Exhibit 101 to
19 Terri Carlock's Direct Testimony ensures that the Proposed

⁴⁰ Carlock Direct Testimony at pg. 4, lines 19-25.

⁴¹ As noted above, the Avista Customer Group and Idaho Department of Water Resources ("IDWR") were not granted intervention in this proceeding until July 19, 2018, and July 20, 2018, respectively. The Avista Customer Group has not joined the Stipulated Settlement. IDWR settled its concerns with the Proposed Transaction in a separate agreement with Hydro One and Avista that is attached to the Stipulated Commitments.

⁴² Carlock Direct Testimony at pg. 7, lines 20-23.

⁴³ Carlock Direct Testimony at pg. 3, lines 14-16.

1 Transaction is consistent with the public interest (Idaho Code
2 § 61-328(3)(a))?

3 A. Hydro One, Avista, Commission Staff, Clearwater Paper
4 Corporation ("Clearwater"), Idaho Forest Group, LLC ("Idaho
5 Forest Group"), Idaho Conservation League ("ICL"), the Community
6 Action Partnership Association of Idaho ("CAPAI"), and the
7 Washington and Northern Idaho District Council of Laborers
8 ("WNIDCL") agreed to numerous Stipulated Commitments that ensure
9 that the public interest will be served by the Proposed
10 Transaction.

11 The following Stipulated Commitments ensure that Avista's
12 Idaho customers will continue to receive safe and reliable
13 service after the Proposed Transaction is consummated:

14 • 15 - Safety and Reliability Standards and Service
15 Quality Measures: Avista is working with Commission
16 Staff to develop performance standards, customer
17 guarantees, and a reporting mechanism for its
18 customers in Idaho that are similar to Avista's
19 Service Quality Performance Standards, Customer
20 Guarantees, and a Service Quality Measure Report Card
21 in Washington.

22 • 28 - Participation in National and Regional Forums:
23 Avista will continue to participate in national and

1 regional forums to protect the interest of its
2 customers.

3 The following Stipulated Commitments ensure that Avista's
4 Idaho customers will receive benefits after the Proposed
5 Transaction is consummated:

- 6 • 19 - Rate Credits: See Lopez Rebuttal Testimony.
- 7 • 58 - Funding for Energy Efficiency, Weatherization,
8 Conservation, and Low-Income Assistance Programs:
9 \$5.3 million in funding over a 10-year period for
10 energy efficiency, weatherization, conservation, and
11 low-income assistance programs under the direction of
12 the Efficiency, Weatherization, Conservation, and
13 Low-Income Assistance Committee ("EWCL").
- 14 • 62 - Addressing Other Low-Income Customer Issues:
15 Avista will continue to work with low-income agencies
16 to address issues of low-income customers.
- 17 • 63 - Fee Free Payment Program: Avista will continue
18 to offer the Fee Free Payment Program to its
19 residential customers.

20 The following Stipulated Commitments ensure that several
21 programs designed to assist Avista's customers will be enhanced
22 after the Proposed Transaction is consummated:

- 67 - Service Rules for Gas Utilities: Process to review the Commission's Service Rules for Gas Utilities (IDAPA 31.31.01) to determine which provisions should be retained and/or modified.

- 68 - Meters: Process to review Avista's meter placement and protection policies and practices.

The following Stipulated Commitments ensure benefits to the environment after the Proposed Transaction is consummated:

- 52 - Renewable Energy Resources: Avista will continue to offer renewable power programs in consultation with stakeholders.

- 55 - Transport Electrification: Avista will initiate a stakeholder process within 60 days of the close of the Proposed Transaction to explore opportunities for transport electrification that benefits all Idaho customers.

- 56 - Greenhouse Gas and Carbon Initiatives: Avista will continue to work with interested parties on its Greenhouse Gas and Carbon Initiatives.

- 57 - Greenhouse Gas Inventory Report: Avista will report greenhouse gas emissions as required.

- 58 - Funding for Energy Efficiency, Weatherization, Conservation, and Low-Income Assistance Programs:

1 \$5.3 million in funding over a 10-year period for
2 energy efficiency, weatherization, conservation, and
3 low-income assistance programs under the direction of
4 the EWCL.

5 The following Stipulated Commitments ensure that the
6 communities in which Avista operates will receive benefits after
7 the Proposed Transaction is consummated:

- 8 • 11 - Community Contributions: For five (5) years after
9 the close of the Proposed Transaction, Avista will
10 maintain a \$4 million annual budget for charitable
11 contributions, and additionally, a \$2 million annual
12 contribution will be made to Avista's charitable
13 foundation.
- 14 • 12 - Community Involvement: Avista will maintain its
15 existing levels of community involvement.
- 16 • 59 - Clearwater Paper DSM Assistance: Avista will
17 support efforts with Clearwater Paper to qualify
18 certain projects for DSM funding under Tariff Schedule
19 90, and a portion of the costs will be considered for
20 funding under Stipulated Commitment No. 58.
- 21 • 60 - Idaho Forest Group (IFG) DSM Assistance: Avista
22 will support efforts with IFG to qualify certain
23 projects for DSM funding under Tariff Schedule 90,

1 and a portion of the costs will be considered for
2 funding under Stipulated Commitment No. 58.

3 • 61 - Community Contributions: Avista will make a \$7
4 million one-time contribution to Avista's charitable
5 foundation.

6 • 64 - Improve Penetration of Low-Income Programs: Hydro
7 One and Avista will continue to work to improve the
8 penetration rate of low-income programs.

9 • 65 - Tribal Communities: Avista will reach out to
10 tribal communities to encourage participation of
11 members of such communities in receiving the benefits
12 of this settlement.

13 • 70 - Montana Community Transition Fund: Hydro One will
14 arrange funding of \$3 million towards a Colstrip
15 community transition fund.

16 • 71 - Colstrip Transmission Planning: Avista will work
17 with others to resolve questions regarding new
18 generation once Colstrip Units 3 and 4 retire, and
19 work with Commission Staff and stakeholders to
20 determine the transition plan and impacts to Idaho
21 ratepayers prior to any closure of Colstrip Units 3
22 and 4.

1 • 72 - Contract Labor: All employees, contractors, and
2 subcontractors of Avista shall be paid a fair and
3 competitive wage.

4 The Rebuttal Testimony of Chris Lopez for Hydro One, filed
5 November 14, 2018 ("Lopez Rebuttal Testimony"), lists additional
6 commitments that ensure the Proposed Transaction is in the
7 public interest.

8 **Q. Besides these Stipulated Commitments, what factors**
9 **demonstrate that the Proposed Transaction is consistent with**
10 **the public interest (Idaho Code § 61-328(3)(a))?**

11 A. Hydro One's strong balance sheet and credit ratings,
12 the similarities in the areas served by Hydro One and Avista,
13 and the two utilities' shared values and culture make Hydro One
14 an excellent parent company for Avista, which is a relatively
15 small utility in a time of consolidation in the energy industry.
16 These factors are detailed in former Hydro One CEO Mayo
17 Schmidt's direct testimony,⁴⁴ Christopher Lopez's direct⁴⁵ and
18 supplemental testimony,⁴⁶ and Scott Morris' direct⁴⁷ and
19 supplemental testimony.⁴⁸

⁴⁴ Schmidt Direct Testimony at pgs. 26-29.

⁴⁵ AVU-E-17-09/AVU-G-17-05 - Direct Testimony of Christopher F. Lopez at pgs. 8-10, 13-14, 15-16 (Sept. 14, 2017).

⁴⁶ AVU-E-17-09/AVU-G-17-05 - Supplemental Testimony of Christopher F. Lopez at §§ III-IV (Sept. 24, 2018).

⁴⁷ AVU-E-17-09/AVU-G-17-05 - Direct Testimony of Scott L. Morris at pgs. 12-17 (Sept. 14, 2017).

⁴⁸ AVU-E-17-09/AVU-G-17-05 - Supplemental Testimony of Scott L. Morris at § II (Sept. 24, 2018).

1 Q. Which of the Stipulated Commitments in Exhibit 101 to
2 Terri Carlock's Direct Testimony ensures that Avista's cost of
3 and rates for supplying service will not be increased by reason
4 of the Proposed Transaction (Idaho Code § 61-328(3)(b))?

5 A. Please see the Lopez Rebuttal Testimony.

6 Q. Which of the Stipulated Commitments in Exhibit 101 to
7 Terri Carlock's Direct Testimony ensures that Hydro One has the
8 bona fide intent and financial ability to operate and maintain
9 Avista in the public service (Idaho Code § 61-328(3)(c))?

10 A. Please see the Lopez Rebuttal Testimony and the
11 Rebuttal Testimony of Tom Woods for Hydro One, filed November
12 14, 2018.

13 Q. Does this conclude your rebuttal testimony?

14 A. Yes, it does.