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IDAHO PUBLIC  
UTILITIES COMMISSION

Attorney for the Idaho Conservation League

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT	)	CASE NO. AVU-E-17-09
APPLICATION OF HYDRO ONE	)	AVU-G-17-05
LIMITED AND AVISTA	)	
CORPORATION FOR APPROVAL OF	)	IDAHO CONSERVATION LEAGUE
MERGER AGREEMENT	)	
		APPLICATION FOR INTERVENOR
		FUNDING

COMES NOW, the Idaho Conservation League (“ICL”), pursuant to Idaho Code § 61-617A and IDAPA 31.01.01.161–165 with the following application for intervenor funding. ICL is an intervenor pursuant to Order No. 33932. This application is timely pursuant to the Commissions instruction at the technical hearing to submit such applications by December 21, 2018.

**I. Idaho Code § 61-617A and IDAPA Rule 31.01.01.161 Requirement**

Avista Corporation is a regulated electric and gas utility and with gross Idaho intrastate, annual revenues exceeding three million, five hundred thousand dollars (\$3,500,000.00).

**II. Idaho Code § 61-617A(2) and IDAPA Rule 31.01.01.162 Requirements**

**1. Itemized list of Expenses**

The attached Exhibit A is an itemized list of expenses incurred by ICL this proceeding. Idaho Code empower the Commission to award “legal fees, witness fees, and reproduction costs”. I.C. § 61-617A. As listed in more detail in Exhibit A, in the docket ICL reviewed Avista Application and Testimony, gained status as a party to the case, reviewed relevant discovery

request, negotiated specific terms in the settlement agreement, and made filing and appearances to support the same. ICL seeks recovery for these legal fees; we do not seek recoverable production costs or non-recoverable postage costs and messenger services. In all of these efforts ICL focused on issues directly relevant to our interests and sought to use our time and the time and resources of the other parties in the most efficient manner possible. *IDAPA 31.01.01.162.01.*

## **2. Statement of Proposed Findings**

ICL proposes the Commission approve the merger settlement stipulation. As stated in ICL's Comments filed on June 20, 2018, the settlement agreement should be approved because it meets the criteria for approving the transfers of public utility property in Idaho Code § 31-328. The transaction is in the public interest because it directly results in money flowing to Idaho customers that would not occur without the merger. The "ring fencing" provisions in the Settlement before the Commission do in fact protect Idahoans from political interference by a provisional government in a different country. The utilities promised to, and hold the ongoing burden of proof to continually show, that customer's costs for service will not increase due to this transaction. Avista has promised to, and Hydro One has made the enforceable commitment to fully enable Avista's ability to, maintain public utility property in the public service. ICL recommends the Commission approve the stipulation and settlement in this docket. *IDAPA 31.01.01.162.02*

## **3. Statement Showing Costs**

ICL requests \$12,950 in intervenor funding, as shown in Exhibit A. Both the hourly rate and hours expended are reasonable for this complex case. ICL's council has nine years of direct, specialized experience appearing before the Idaho PUC. The hourly rate of \$175 reflects this

experience and the local market conditions. The merger of two public utilities is a rare and complex process to engage in. To effectively represent our members' interest, ICL reviewed the utility application and other filings to identify the subset of issues directly relevant to our issues. ICL monitored the discovery process to find additional support for our issues and avoid repeating requests made by other parties. Having identified specific issues directly related to our interest, ICL participated in the settlement negotiations, submitted specific proposals for consideration, and engaged directly with parties to efficiently represent our interests. After Hydro One announced a new board of directors and CEO, ICL reassessed the case and whether the settlement continued to further our interests. Concluding that the utility commitments do in fact protect Idahoans, ICL filed comments stating our position. After the late intervention of other parties, ICL reviewed the subsequent filings, participated in additional settlement negotiations and the technical hearing. In every instance, ICL focused on using our time and resources carefully. For the reasons above – efficiently managing our time, collaboratively working towards solutions, and an hourly rate that reflects the market – we recommend the Commission find ICL's requested costs "reasonable in amount". *IDAPA 31.01.01.162.03*.

#### **4. Explanation of Cost Statement**

ICL is a nonprofit organizations supported solely through charitable donations from our members and supporters. ICL does not have any financial interest in the outcome of the proceeding that is distinct from any Avista customer who stands to gain from the rate credits available in this merger. In this proceeding, we represent our members and supporters who are ratepayers of Avista, as well as any Idahoan concerned about transitioning to a clean energy future while maintaining local control over our utilities and fair-priced, reliable service. While

ICL budgets annually for our programs and costs, this unexpected utility merger required ICL to incur additional costs to provide “full and fair representation” before the Commission as contemplated by Idaho Code § 61-617A.

Idaho PUC Rules of Procedure requires that a licensed attorney represent organizations. *IDAPA 31.01.01.043*. ICL retains a licensed attorney on staff dedicated entirely to issues that arise under Idaho’s public utilities laws. ICL dedicates this full-time, highly trained staff member to provide consistent, professional, and impactful advocacy for our members and supporters. The cost of employing and training this staff member is a significant financial commitment for a charitable organization. Further, ICL’s annual planning allocates this staff member’s time and resources to efforts expected to occur that can impact our program goals. When unexpected utility proposals arise that impact our interest, ICL must reallocate dedicated and limited resources without sacrificing equally important goals in other areas that our annual budget must support. For this unexpected and complex case filed by the utilities, the intervenor funding award is important to ICL’s ability to represent our interests here while maintaining the ability meet other organizational goals and priorities we have promised to our supporters.

ICL consistent involvement in these issues had a meaningful impact in controlling our costs here. We used our understanding of Idaho utility law and procedure, and negotiating abilities, to efficiently capture our interests in the settlement agreement and efficiently protect those interest in the technical hearing. As explained here and listed in Exhibit A, ICL’s costs are reasonable and incurring these costs created an ongoing hardship to reallocate our limited budget to achieve our goals. *IDAPA 31.01.01.162.04*. By awarding full cost recovery here, the Commission will “encourage participation in all stages of all proceedings before the commission so that all affected customers receive full and fair representation in those proceedings.” *I.C. § 61-*

617A.

## **5. Statement of Difference**

ICL provided unique contributions to the settlement regarding Colstrip, Resource Planning, Energy Conservation Funding, and Environmental Commitments. Because the settlement negotiations are confidential, ICL cannot describe in detail the difference in positions among parties regarding these issues. ICL can disclose that we played a major roll in shaping Commitments 52, 53, 54, 55, 56, 57, 58, 61, 69, 70, and 71. Once we agreed to the settlement, like other signatories, ICL did not take a position materially different from Staff because we had achieved our desired goals by negotiating the Commitments listed above. *IDAPA*

*31.01.01.162.05.*

## **6. Statement of Recommendation**

ICL proposed findings address issues of concern for all customers Avista. All customers, regardless of class, share a strong interest in ensuring that any utility merger serves the public interest, will not cause rate increases, and produces a utility fully regulated by the Commission with the bona fide intent and ability to continue serving the public. ICL pursued these common interest when negotiating and supporting the merger Commitments by focusing on addressing the long-term cost risk of the failing Colstrip plant and securing additional funding for community contributions and energy conservation programs. Both of these examples deliver broad benefits to Avista customers and not just ICL. We recommend the Commission adopt this merger because it protects all Idahoans interests while delivering real monetary benefits to all customers.

*IDAPA 31.01.01.162.06.*

**7. Statement Showing Class of Customer**

Our individual members and supporters who are customers of Avista are in the residential class. ICL's Sandpoint, Idaho office is a small commercial customer of Avista. *IDAPA 31.01.01.162.07.*

WHEREFORE, ICL respectfully requests the Commission grant this application.

DATED this 21st day of December 2018.

Respectfully submitted,



Benjamin J. Otto  
Idaho Conservation League

**Exhibit A**  
**Cost Statement for Idaho Conservation League**

Investigate Avista's application and direct testimony	6.5
Prepare and file Petition to Intervene	.5
Review discovery by all parties	4
Prepare for and participate in the settlement negotiations, follow up, and stipulation drafting.	20
Prepare and file Comments in support of the Stipulation	2.5
Review the late-intervention and associated filings, prepare for and participate in additional scheduling conference	3.5
Prepare for and participate in additional settlement negotiations	12
Review additional testimony filed by utilities and Staff	3
Prepare for and participate in technical hearing of November 26 – 27.	22
	<b>Hours: 74</b> <b>Rate: \$175/hr</b> <b>Total: \$12,950</b>

CERTIFICATE OF SERVICE

I certify that on the 21st day of December 2019, I delivered true and correct copies of the foregoing APPLICATION FOR INTERVENOR FUNDING to the following via the service method noted:

  
Benjamin J. Otto

Hand delivery:

Diane Hanian  
Commission Secretary (Original and seven copies provided)  
Idaho Public Utilities Commission  
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