

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
LEGAL
WORKING FILE

FROM: JOHNATHAN FARLEY

DATE: OCTOBER 24, 2017

RE: FORMAL COMPLAINT OF MARY BAENEN V. AVISTA

On October 10, 2017, the Commission received an “urgent petition” from Mary Baenen requesting the Commission to: (1) immediately take action to allow customers to choose to use analog meters and refuse smart meters and other RF-EMR emitting meters due to concerns about health, privacy, and security without imposing fees or penalties based upon the customer’s choice of meters; (2) deny the rate increases requested by Avista in Case Nos. AVU-E-17-01 and AVU-G-17-01; and (3) deny Avista’s proposed merger with Hydro One Limited (Case Nos. AVU-E-17-09 and AVU-G-17-05). Staff had informal discussions with Ms. Baenen and agreed that her concerns about meter choice should be treated as a formal complaint in a new docket. Staff and Ms. Baenen further agreed to include her comments about Avista’s proposed rate increase and merger with Hydro One in the ongoing rate case and merger case.

BACKGROUND

On August 31, 2017, the Commission Staff held a public workshop in Coeur D’Alene, Idaho. The purpose of the workshop was to summarize Avista’s Application seeking authority to increase the Company’s general rates for electric and natural gas service in Idaho. In addition to summarizing the Company’s Application, Commission Staff held an open discussion with workshop attendees in order to answer any questions that arose from Staff’s presentation.

During that discussion, Ms. Baenen expressed concerns about the Company’s lack of an opt-out policy for customers that do not want a “smart meter” as well as health concerns associated with meters that emit radio frequencies. Ms. Baenen, along with other attendees of

the workshop, requested the Commission consider the health implications associated with “smart meters” and allow customers to choose between using “smart meters” or analog meters. Staff informed them that the Commission had not adopted such a policy. Following the workshop, Staff provided Ms. Baenen with additional information, including instructions on how to file a formal request with the Commission. Ms. Baenen has filed her petition to bring her meter concerns to the Commission’s attention.

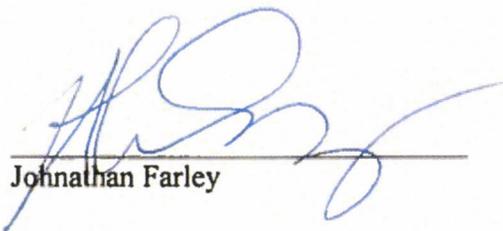
Per Staff’s understanding with Ms. Baenen with respect to her comments about Avista’s proposed rate increase and merger with Hydro One, Ms. Baenen’s “petition” has also been filed in Case Nos. AVU-E-17-01, AVU-G-17-01, AVU-E-17-09 and AVU-G-17-05 so that the Commission can consider her rate and merger comments in those cases.

STAFF RECOMMENDATION

Staff determined that Ms. Baenen’s request for the Commission to allow Avista customers the opportunity to opt out from using “smart meters” and other RF-EMR meters cannot be resolved informally. Therefore, Staff recommends her “petition” be treated as a Formal Complaint. Staff further recommends that the Commission issue a summons to Avista and direct the Company to file a response to the Complaint.

COMMISSION DECISION

Does the Commission wish to accept Ms. Baenen’s formal complaint? Does the Commission wish to issue a summons to Avista?



Johnathan Farley

Udmemos/Formal Complaint Baenen dec memo

URGENT PETITION

Oct 6th, 2017

**Petition to Commissioner Paul Kjellande, Commissioner Kristine Rape, and
Commissioner Eric Anderson of the Idaho Public Utilities Commission**

**Concerning Smart Meters, Avista Corporation, Scott L. Morris, the man, and
CEO of Avista Corporation**

by Mary Baenen, the woman, living in Sandpoint Idaho

This Petition is considered Urgent and
a timely action and response
from Idaho Public Utilities Commissioners is requested
due to
the request of Avista Corporation
to sell to a foreign country
along with rate increase
and due to
Health and Security Reasons

**Petition to Commissioner Paul Kjellande, Commissioner Kristine Rape, and
Commissioner Eric Anderson of the Idaho Public Utilities Commission**

**Concerning Smart Meters, Avista Corporation, Scott L. Morris, the man, and CEO of
Avista Corporation by Mary Baenen, the woman, living in Sandpoint Idaho Oct 6th, 2017**

WHEREAS, I met with representatives of the Idaho Public Utilities Commission at meeting on August 31st, 2017 in Coeur d'Alene, Idaho, I am aware of the actions and intentions of Utility Company, Avista Corporation;

WHEREAS, Scott L. Morris and Avista Corporation, along with supporters are acting beyond the scope of their authority by placing devices that can obtain confidential information on homes in Idaho, including my home, which is in violation of protections granted by the U.S. Constitution, Amendment IV:

The **right of people to be secure in their person, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated**, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized;

WHEREAS, health complaints have been reported after a smart meter is installed as well as reports of smart meters causing fires. Smart meters emit RF-EMR (Radio Frequency-Electromagnetic Radiation), which is rated by the WHO (World Health Organization) as a Class 2B carcinogen.

I consider the implementation of the so named "Smart Grid" and or some of its components, including but not limited to "Smart Meters" and or "advanced meters" to in fact cause harm of various kinds. I have asked Scott L. Morris, the CEO of Avista, to replace the digital RF-EMR emitting meter on my home with a non-EMR emitting analog meter. He refuses to do so. As per Idaho Code 61-302, Avista shall provide me with **equipment that shall promote safety, health, comfort and convenience;**

WHEREAS, Arista Corporation has requested a rate increase and intends to sell the company to Canada. As stated in Idaho Code 61-328 (a), the Idaho Public Utilities Commission shall not approve a transaction that is not consistent with the public interest. Putting public information in the hands of a foreign country and risking national security by selling to a foreign country is obviously not consistent with public interest. The Idaho Public Utility Commission must examine the scope of this risk and liability;

WHEREAS, Idaho Code 61-328 (b) states that **the cost and rates for supplying service will not be increased by reason of a sale.** Avista Corp. has requested two substantial rate increases along with requesting to sell to a foreign company.

Idaho Code 61-328 – Electric Utilities — Sale of Property to Be Approved by
Commission

(3) **Before authorizing the transaction**, the public utilities commission shall find:

- (a) That **the transaction is consistent with the public interest;**
- (b) That **the cost of and rates for supplying service will not be increased by reason of such transaction;**

WHEREAS, as per Idaho Code 61-302 Maintenance of adequate Service: Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the **safety, health, comfort and convenience of its patrons, employees and the public**, and as shall be in all respects adequate, efficient, just and reasonable;

WHEREAS, since it is apparent that some or all of the various forms of harm caused by the implementation of the so named "Smart Grid" and or its various components such as smart meters, can be considered a tort;

WHEREAS, it is a **fundamental principle of law** that nobody is above the law including, but not limited to, all government actors. The **UNITED STATES SUPREME COURT** has made a ruling regarding public officials being held liable for actions done or failure to perform required actions, in the case of **MILLBROOK v. UNITED STATES () 477 Fed. Appx. 4.**

THEREFORE I, Mary Baenen, the woman, living in Sandpoint Idaho, petition the Idaho Public Utilities Commission to:

1. **Immediately take action to protect the health and support the rights of the residents of Idaho, including myself, to receive non-RF-EMR analog meters and to refuse smart meters and other RF-EMR emitting meters due to health concerns or privacy and security concerns without fees or penalties as per Idaho Code 61-302, based on the rating by the WHO (World Health Organization) rating of a Class 2B carcinogen of RF-EMR (Radio Frequency- Electromagnetic Radiation) and U.S. Constitution, Amendment IV;**
2. **Deny the rate increases requested by Avista Corporation, the CEO of Avista, and the man, Scott Morris due to Idaho Code 61-328 (a);**
3. **Deny the request of Avista Corporation, the CEO of Avista, and the man, Scott Morris to sell to a foreign country, due to Idaho Code 61-328 (b).**

Mary Baenen

Mary Baenen

10221 Baldy Mtn. Road. Sandpoint Idaho

Address

10-06-17

Date

Witnessed by

Gerald Flaherty

Date

10-6-17