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IDAHO PUBLIC UTILITIES COMMISSION

IDAHO PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE JOINT
APPLICATION OF HYDRO ONE LIMITED
AND AVISTA CORPORATION FOR
APPROVAL OF MERGER AGREEMENT

)
) CASE NO. AVU-E-17-09
) AVU-G-17-05
)
)
)

DIRECT TESTIMONY OF TERRI CARLOCK

IDAHO PUBLIC UTILITIES COMMISSION

NOVEMBER 6, 2018

1 Q. Please state your name and address for the
2 record.

3 A. My name is Terri Carlock. My business address
4 is 472 West Washington Street, Boise, Idaho.

5 Q. By whom are you employed and in what capacity?

6 A. I am employed by the Idaho Public Utilities
7 Commission as the Utilities Division Administrator.

8 Q. Please outline your educational background and
9 experience.

10 A. I graduated from Boise State University in
11 1980, with B.B.A. Degrees in Accounting and Finance. I
12 have attended various regulatory, accounting, rate of
13 return, economics, finance, and ratings programs. Since
14 joining the Commission Staff in May 1980, I have
15 participated in audits, performed financial analysis on
16 various companies, analyzed asset sales and purchases
17 including all merger applications associated with
18 utilities operating in Idaho, participated in numerous
19 proceedings, and have presented testimony before this
20 Commission.

21 Q. What is the purpose of your testimony?

22 A. The purpose of my testimony is to provide a
23 summary of the Staff analysis of the proposed Avista-
24 Hydro One merger, outline concerns with the proposed
25

1 merger, and discuss specific commitments to minimize
2 potential impacts on Avista Idaho customers.

3 **Q. Please summarize your testimony.**

4 A. My testimony identifies and supports the
5 Stipulated Commitments, including ring-fencing provisions
6 that Staff believes are required as a condition of
7 recommending approval of the proposed merger. The
8 Stipulated Commitments are attached as Exhibit No. 101.
9 Staff Comments filed on June 20, 2018, have been modified
10 with provisions that enhance Avista customer protections
11 in light of events that have taken place in the Province
12 of Ontario. Most of the concerns with the proposed
13 merger expressed by Staff, other parties in this case and
14 customers are mitigated. However, I also explain that
15 there are ongoing risks with the proposed merger where
16 the commitments may not provide adequate protection.

17 **Q. Are there concerns related to foreign ownership**
18 **of a regulated utility?**

19 A. Yes that is one reason ring-fencing provisions
20 are established. Protection of Idaho customers is
21 critical. The utility must continue to provide safe and
22 reliable service to customers at just and reasonable
23 rates.

24 With regard to foreign ownership in particular,
25 Staff believes Idaho Code §61-327 may provide a total bar

1 to the proposed merger. We believe the Commission should
2 analyze this possibility prior to making a final
3 determination.

4 However, I am not an attorney so my analysis
5 has been conducted as a technical expert. Likewise, my
6 primary focus has been the protection of Avista Idaho
7 customers while providing them the proposed financial and
8 program benefits from the merger and Stipulated
9 Commitments.

10 **Q. Please explain some ways customers are**
11 **protected from the transactions between Avista and Hydro**
12 **One or events impacting Hydro One to cause customer rates**
13 **to increase.**

14 A. Any customer rate increase must be approved by
15 the Idaho Commission before Avista can increase rates to
16 Idaho Avista customers. Idaho Code §61-328 requires that
17 "the cost of and rates for supplying service will not be
18 increased by reason of such transaction".

19 In the normal course of its responsibilities
20 Staff audits all costs to verify the costs are actually
21 incurred, correctly recorded but more importantly that
22 all costs are reasonably incurred to provide services to
23 Idaho customers. Greater scrutiny is made for any
24 transactions, activities or allocations to Avista from
25 any affiliated entities. In this instance following the

1 merger, an affiliate would include Hydro One, any
2 subsidiary, or jointly owned entities directly assigning
3 or allocating costs to Avista. Staff will verify that no
4 costs are included in customer rates that are not at the
5 lower of the actual cost or market comparison. Although
6 this is a normal part of the Staff audit function it is
7 also part of the ring-fencing provisions and the
8 commitments from Avista and Hydro One.

9 Q. Do you believe the requirements of Idaho Code
10 §61-328 will be met?

11 A. Yes, I believe Idaho Code §61-328(3)
12 requirements will be met. The transaction is consistent
13 with the public interest because the Stipulated
14 Commitments protect Idaho customers, provide financial
15 rate credits, provide funding for other customer benefits
16 and enhance programs. The Stipulated Commitments also
17 assure that the cost of and rates for supplying service
18 will not be increased by reason of such transaction.
19 Rating agency reports and publicly available financial
20 statements document that Hydro One has the bona fide
21 financial ability to operate and maintain said property
22 in the public service. The testimony of Hydro One and
23 the Stipulated Commitments reinforce that Hydro One has
24 the bona fide intent to operate and maintain said
25 property in the public service.

1 Q. How can you be assured that customer rates will
2 not increase at Avista as a result of the merger
3 transaction?

4 A. The regulatory responsibility of the Commission
5 Staff and ultimately the Commissioners making the final
6 decisions for the Idaho Public Utilities Commission will
7 not change. Staff will continue to rigorously review
8 capital investments, ongoing operating costs, changes in
9 revenues and the overall operations of Avista. When
10 unreasonable costs are identified or operating decisions
11 by management do not support just and reasonable costs to
12 provide safe and reliable utility services to customers
13 at reasonable rates, Staff recommends financial
14 adjustments and changes to programs during proceedings
15 before the Commission. This will not change depending on
16 the ownership of Avista.

17 The requirement and commitments assure customer
18 rates will not increase as a result of the merger
19 transaction. It isn't however an assurance that rates
20 will not increase due to normal operating requirements
21 and cost increases.

22 Q. How can Idaho customers be assured that
23 decisions by the Province of Ontario do not negatively
24 impact Avista services in Idaho?

1 A. The Province of Ontario is the largest
2 shareholder of Hydro One with 47.4 percent ownership of
3 outstanding common stock. According to Hydro One, the
4 Province of Ontario ownership share will be diluted to
5 42.3 percent at closing and going forward it is expected
6 to continue to own between 40% - 45% of Hydro One. As
7 such, it can influence Hydro One both as the largest
8 shareholder though shareholder votes and as a
9 governmental entity creating laws that Hydro One must
10 follow. Recent activities in the Province of Ontario
11 demonstrates this influence is a real risk for Hydro One.
12 For example, less than six months ago, all of the Board
13 of Directors and the Chief Executive Officer (CEO) bowed
14 to pressure from the Province of Ontario and resigned
15 rather than being removed following the established
16 shareholder voting process.

17 Nominees for the new Board of Directors for
18 Hydro One consisted of four individuals nominated by the
19 Province of Ontario and six individuals nominated by an
20 Ad Hoc Nominating Committee. The Nominating Committee
21 was to be comprised of the largest five shareholders
22 behind the Province of Ontario, three of these
23 shareholders participated to nominate the 60% majority of
24 the Hydro One Board. The Board of Directors, Acting CEO
25 and Management Team are in place and operating Hydro One.

1 The Avista Board of Directors will consist of
2 nine members (see Commitment No. 3): (i) two directors
3 designated by Hydro One; (ii) three independent directors
4 nominated by Hydro One; and (iii) four Avista designees.
5 The Governance Commitments No. 2 and 3 assure Hydro One
6 as the sole shareholder of Avista or the Province of
7 Ontario as a majority shareholder of Hydro One do not
8 have unreasonable control to change the operations and
9 regulatory environment of Avista. Commitment No. 3 has
10 been strengthened to add citizenship and residency
11 requirements for Independent Directors on the Avista
12 Board of Directors. Clause 2 of the Delegation of
13 Authority was also strengthened to protect Avista if an
14 Independent Director is unable to be appointed to its
15 Board.

16 It is the duty of Avista regulators, including
17 the Idaho Public Utilities Commission, to order ring-
18 fencing provisions that will prevent or at least minimize
19 negative financial and operational risks on Avista and
20 Idaho customers. For the transaction to be in the public
21 interest, overall there must be no harm. Throughout this
22 case, it has been the intent of Staff to see customers
23 receive a net overall financial benefit. Commitments
24 including ring-fencing provisions have been agreed to in
25 the Settlement by most Idaho parties that I believe will

1 provide financial benefits that likely will not occur
2 absent the merger while protecting customers from
3 negative operational, structural or financial harm.

4 Staff has conducted what it believes equates to
5 two rounds of exhaustive due diligence to evaluate the
6 proposed merger of Avista with Hydro One. The first
7 round occurred between the filing of the Application in
8 this case and the Stipulated Commitments filed by the
9 parties in this case on April 13, 2018. The second round
10 has occurred following the Province of Ontario (Ontario)
11 elections and subsequent replacement of the Hydro One
12 Board of Directors and CEO. Staff was extremely
13 concerned and remains cautious about increased risks
14 around the control by Ontario. From July to the filing
15 of this testimony, Staff has continued to evaluate the
16 proposed merger and cautiously evaluated if additional
17 commitments and ring-fencing provisions could adequately
18 protect Idaho customers. Financial protection, continued
19 provision of safe and reliable service, local control and
20 many other items addressed in the Commitments are
21 essential.

22 Q. The Stipulated Commitments ring-fence Avista
23 and its customers. What is the greatest financial risk
24 for any company and how do ring-fencing provisions
25 protect customers against that risk?

1 A. Bankruptcy is the greatest financial risk.
2 Ring-fencing provisions and commitments are established
3 to protect a company, in this case Avista, from parent or
4 other affiliate caused financial disasters that can lead
5 to bankruptcy. Here ring-fencing provisions have been
6 designed to prevent the stripping of Avista assets,
7 incurring debt, or pledging assets as collateral or
8 security for indebtedness. The Ring-Fencing Commitments
9 Nos. 42 - 51, the Financial Integrity Commitments Nos. 34
10 - 41 and the Regulatory Commitments Nos. 20 - 33 are all
11 part of the overall financial protections. While all of
12 these commitments are important, the expanded
13 restrictions in Commitment No. 38, Restrictions on Upward
14 Dividends and Distributions is one of the more important
15 commitments to protect the financial health of Avista.
16 Requirements are firmly established for investment grade
17 credit ratings; earnings before interest, taxes,
18 depreciation, and amortization (EBITDA) being greater
19 than or equal to 3.0 times Avista's interest expense; and
20 a common equity ratio equal to or greater than 44% before
21 dividends can be paid.

22 Idaho Code §61-328 prevents the sale of assets
23 without approval by the Idaho Commission. Idaho Code
24 §61-901 et al requires Commission approval to issue stock
25 and stock certificates, issue, assume or guarantee bonds

1 or other securities payable. The Stipulated Commitments
2 reinforce these requirements and provide protective
3 restrictions to maintain the financial health of Avista
4 and preclude Hydro One or any affiliate entities from
5 causing harm to Avista and Avista Idaho customers.

6 **Q. Please expand on the ongoing risks and concerns**
7 **associated with the proposed merger.**

8 A. The ongoing risks and concerns can never be
9 completely eliminated even though the Commitments provide
10 strong protections. Political actions by the Province of
11 Ontario have been unsettling and heightened the concerns
12 around undue interference or influence. There are three
13 areas I would like to discuss related to the political
14 risks.

15 First, it may be viewed by some that the
16 Applicants did not adequately report in a timely manner
17 and were not entirely forthcoming regarding the
18 independence of Hydro One from the Province of Ontario,
19 Hydro One as a campaign issue in Ontario, and the impact
20 of the election on Hydro One. Second, the limits to the
21 influence of the Province of Ontario over Hydro One are
22 not clear. Third, the practical implications of the
23 North American Free Trade Agreement (NAFTA) and/or its
24 successor, the U.S. Mexico Canada Agreement (USMCA), on
25 Avista and its customers are unknown and unknowable.

1 **Q. How did Applicant characterize the relationship**
2 **between Hydro One and the Province of Ontario prior to**
3 **the removal of the Board of Directors and CEO?**

4 A. Mayo Schmidt, CEO of Hydro One, wrote in his
5 direct testimony that, "Hydro One is now governed by an
6 independent board, other than myself as CEO, and a
7 governance agreement that ensures autonomous commercial
8 operations, with the Province of Ontario as an investor
9 and not a manager." Direct at 10. Mr. Schmit went on to
10 say that "The Province of Ontario is a shareholder and
11 pursuant to its governance agreement with Hydro One it
12 does not hold or exercise any managerial oversight over
13 Hydro One." Direct at 10.

14 Furthermore, in Comments to the Commission, the
15 Applicants represented that "[a]lthough Hydro One's
16 largest shareholder is the Province of Ontario, the
17 Province does not hold or exercise any managerial
18 oversight over Hydro One." Applicant's Joint Comments
19 at 2. Moreover, in addressing legitimate concerns of the
20 impact of the Province of Ontario could exercise over the
21 operations and management of Hydro One, the Applicants
22 labeled the possibility of dismissing the Board of
23 Directors and CEO as "hypothetical events," even as such
24 events were in the processes of actually occurring.

25 **Q. Does Staff believe this characterization fully**

1 and accurately reflected Hydro One's relationship with
2 the Province?

3 A. No. Shortly after the new provincial
4 government was elected in Ontario, the Province passed
5 the Hydro One Accountability Act, renegotiated the
6 Governance Agreement between Hydro One and the Province,
7 and signed a Letter Agreement between Hydro One and her
8 Majesty the Queen in Right of Ontario. In combination,
9 these documents removed the Board of Directors and CEO of
10 Hydro One, set forth new requirements for how the
11 replacement Board members and CEO would be selected, and
12 outlined new requirements on executive compensation.
13 Such far reaching authority - especially around the
14 determination of employee wages - from a single
15 shareholder demonstrates significant managerial oversight
16 of Hydro One.

17 Q. Did the Applicants convey to Staff and Parties
18 that Hydro One and its executives were issues in
19 Ontario's provincial election?

20 A. No. The first mention of Hydro One in the
21 campaign was the day before the settlement stipulation
22 was signed by parties in Idaho. However, Staff now knows
23 that Hydro One was one of the most prominent issues in
24 Ontario over the ensuing eight weeks. Despite the Idaho
25 Commission not yet issuing an order on the settlement

1 stipulation, the Applicants did not disclose that Hydro
2 One's management, compensation, and rates were a major
3 campaign issue. Further, Staff and Parties became aware
4 of the removal of the Hydro One Board of Directors and
5 CEO only when it was publically reported in the news
6 media around July 11, 2018. The parties did not report
7 the events to the Commission until July 18, 2018. This
8 is not timely or adequate disclosure to the Commission.

9 Q. Mr. Morris's supplemental testimony stated that
10 "foreign ownership of [American] utilities... is not
11 unique." Supplemental at 1. Do you believe that
12 statement fully and accurately reflects the circumstances
13 of the proposed merger in this case?

14 A. No. A foreign company owning an American
15 utility is very different from a foreign company whose
16 controlling shareholder is a foreign government buying an
17 American utility, which is the circumstance in the
18 proposed Avista and Hydro One merger.

19 John Reed, President and CEO of Concentric
20 Energy Advisory testified on behalf of Hydro One and
21 Avista in this proceeding that "While less common, there
22 are examples of foreign government ownership of U.S.
23 IOUs." Supplemental at 19-20. Staff believes the
24 examples of water utilities in Arizona acquired by EPCOR
25 Utilities, a water and wastewater utility owned by the

1 City of Edmonton in Alberta, Canada are not similar to
2 the proposed Avista and Hydro One merger. The size,
3 location and type of utility service are significantly
4 different.

5 Q. In addition to concerns about the Applicants'
6 characterization of Hydro One's independence from the
7 Province of Ontario, do you have other concerns?

8 A. Yes. In particular, I am concerned that there
9 does not appear to be a limit on the Province of
10 Ontario's authority over Hydro One.

11 Immediately after it was in office, the new
12 provincial government of Ontario removed the Board of
13 Directors, pressured the CEO to resign, and passed a law
14 establishing a government-approved executive compensation
15 framework which also specified how much of those costs
16 could be included in customer rates. While these were
17 rapid and drastic changes, nothing prevents the Province
18 of Ontario from passing additional laws directing the
19 operations of Hydro One. In particular, the newly
20 elected Premier has proposed a 12 percent rate decrease
21 for Hydro One customers and ending certain power purchase
22 agreements. This level of interference goes well beyond
23 the normal role of any shareholder.

24 Q. Is the Province of Ontario's control over Hydro
25 One limited to its legislative and shareholder authority?

1 A. No, Ontario's influence over Hydro One appears
2 to extend beyond the limits of its authority. For
3 example, the previous Governance Agreement did not give
4 Ontario the specific ability to fire the CEO of Hydro
5 One. However, the newly elected Premier of Ontario
6 campaigned on a pledge to remove the CEO, and the CEO
7 resigned when the Board of Directors was removed.
8 Although Ontario did not have the explicit authority to
9 fire the CEO, the CEO resigned so the influence appears
10 to extend beyond its explicit authority.

11 **Q. Do you believe the existing and additional**
12 **ring-fencing provisions protect Avista from the cost**
13 **impacts of interference from the Province of Ontario on**
14 **Hydro One?**

15 A. Most likely, yes. Additional interference from
16 the Province of Ontario on Hydro One would likely further
17 damage credit ratings for Hydro One based on the negative
18 credit watch. However, Avista and Hydro One have agreed
19 to maintain separate debt credit ratings. If Hydro One's
20 credit rating is downgraded, it will not directly cause
21 downgraded credit ratings for Avista. The Stipulated
22 Commitments provide protections for this separation and
23 assures any higher costs resulting from events or Hydro
24 One operations will not result in higher debt costs for
25 ratemaking purposes or higher customer rates.

1 Q. Regardless of leadership changes at Hydro One,
2 do you believe that the independence of Avista's Board
3 protects Avista customers from turmoil at Hydro One?

4 A. Potentially. As is appropriate for a parent
5 company, Hydro One will appoint the majority of Avista's
6 Board of Directors. While some of these directors will
7 be independent under the SEC's definition of that term,
8 it is unknown how the Province of Ontario influences
9 those appointments. Several important ring-fencing
10 provisions require 2/3 vote approval from Avista's Board
11 of Directors. Achieving that threshold would likely mean
12 at least one of Avista's appointed independent directors
13 and all of the Independent Directors appointed by Hydro
14 One similarly vote on the measure.

15 Q. NAFTA is being renegotiated and its successor
16 trade agreement is the U.S. Mexico Canada Agreement
17 (USMCA). How can the merger agreement include ring-
18 fencing provisions against the USMC when the terms of
19 that trade agreement have not been ratified by the
20 participating governments?

21 A. Specific ring-fencing provisions cannot be
22 developed for a trade agreement that is not known or
23 finalized. However, any financial impact on Avista Idaho
24 customers can be mitigated. Commitment No. 75 was added
25 whereby Hydro One and Avista forgo their rights to bring

1 any claim under NAFTA or a similar provision under the
2 USMCA. If a claim is filed by a shareholder that
3 involves or impacts Avista, Hydro One will indemnify
4 Avista from any damages.

5 Q. Please summarize your assessment of the risks
6 and benefits of the proposed merger to Avista's Idaho
7 customers.

8 A. While not all risks can be quantified, the
9 Stipulated Commitments provide the greatest protections
10 that can be currently identified. Stipulated Commitment
11 No. 74 allows a party to file a petition with the
12 Commission if an event occurs that affects Avista's
13 operations and/or customer rates because of Avista's
14 corporate relationship with Hydro One. This Commitment
15 will allow the process to occur without objection. It
16 does not limit positions parties may present during that
17 process. Overall the combined commitments will protect
18 the benefits, including customer rate credits.

19 Q. Does this conclude your direct testimony in
20 this proceeding?

21 A. Yes, it does.
22
23
24
25

Revised Exhibit A

MASTER LIST OF COMMITMENTS IN IDAHO

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Revised Exhibit A

Reservation of Certain Authority to the Avista Board of Directors

1. **Authority Reserved:** Consistent with and subject to the terms of Exhibits A and B to the Merger Agreement (referred to as “Delegation of Authority”) contained in Appendix 5 of the Joint Application, decision-making authority over commitments 2-15 below is reserved to the Board of Directors of Avista Corporation (“Avista”) and not to Hydro One. Any change to the policies stated in commitments 2-15, plus 30 (Commission Enforcement of Commitments), 37 (Credit Ratings Notification), 38 (Restrictions on Upward Dividends and Distributions), 43 (Independent Directors), 49 (No Amendment), 74 (Notice and Petition to Amend or Alter), 75 (North American Free Trade Agreement), and 76 (Venue for and Resolution of Disputes), requires a two-thirds (2/3) vote of the Avista Board, provided that Avista must obtain approval for such changes from all regulatory bodies with jurisdiction over the Commitments before such changes can go into effect, and provide written notice to all parties to Case No. AVU-E-17-09/AVU-G-17-05 of such request for approval:

Governance

2. **Executive Management:** Avista will seek to retain all current executive management of Avista, subject to voluntary retirements that may occur. This commitment will not limit Avista’s ability to determine its organizational structure and select and retain personnel best able to meet Avista’s needs over time. The Avista board retains the ability to dismiss executive management of Avista and other Avista personnel for standard corporate reasons. Any decision to hire, dismiss or replace the Chief Executive Officer of Avista shall be within the discretion of the Avista Board of Directors, and shall not require any approval of Hydro One Limited (“Hydro One”) or any of its affiliates (other than Avista), notwithstanding anything to the contrary in the merger agreement, and its exhibits and attachments, between Hydro One and Avista.

Avista Employee Compensation: Any decisions regarding Avista employee compensation shall be made by the Avista Board consistent with the terms of the Merger Agreement between Hydro One and Avista, and current market standards and prevailing practices of relevant U.S. electric and gas utility benchmarks. The determination of the level of any compensation (including equity awards) approved by the Avista Board with respect to any employee in accordance with the foregoing shall not be subject to change by Hydro One or the Hydro One Board.

3. **Board of Directors:** After the closing of the Proposed Transaction, Avista’s board will consist of nine (9) members, determined as follows: (i) two (2) directors designated by Hydro One who are executives of Hydro One or any of its subsidiaries; (ii) three (3) directors who meet the standards for “independent directors” - under section 303A.02 of the New York Stock Exchange Listed Company Manual (the “Independent Directors”) and who are citizens of the United States and are and have been residents of the Pacific Northwest region for at least two years, to be designated by Hydro One (collectively, the directors designated in clauses (i) and (ii) hereof, the “Hydro One Designees”), subject to the provisions of Clause 2 of Exhibit A to the

Revised Exhibit A

Merger Agreement; (iii) three (3) directors who as of immediately prior to the closing of the Proposed Transaction¹ are members of the Board of Directors of Avista, including the Chairman of Avista's Board of Directors (if such person is different from the Chief Executive Officer of Avista); and (iv) Avista's Chief Executive Officer (collectively, the directors designated in clauses (iii) and (iv) hereof, the "Avista Designees"). Avista and Hydro One shall consult with each other prior to the designation of any Independent Directors. The initial Chairman of Avista's post-closing Board of Directors shall be the Chief Executive Officer of Avista as of the time immediately prior to closing for a one year term. If any Avista Designee resigns, retires or otherwise ceases to serve as a director of Avista for any reason, the remaining Avista Designees shall have the sole right to nominate a replacement director to fill such vacancy, and such person shall thereafter become an Avista Designee.

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

The Independent Directors will have no material relationship with Hydro One and its subsidiaries and affiliated entities, the Province of Ontario, or Avista and its subsidiaries and affiliated entities currently or within the previous 3 years. Former directors of Avista who otherwise meet these qualifications qualify as Independent Directors.

Business Operations

4. **Avista's Brand and Plan for the Operation of the Business:** Avista will maintain Avista's brand and Avista will establish the plan for the operation of the business and its Subsidiaries;
5. **Capital Investment for Economic Development:** Avista will maintain its existing levels of capital allocations for capital investment in strategic and economic development items, including property acquisitions in the university district, support of local entrepreneurs and seed-stage investments;
6. **Continued Innovation:** Avista will continue development and funding of its and its subsidiaries' innovation activities;

¹ "Proposed Transaction" means the transaction proposed in the Joint Application of Avista and Hydro One filed on September 14, 2017.

Revised Exhibit A

7. **Union Relationships:** Avista will honor its labor contracts and has the authority to negotiate, enter into, modify, amend, terminate or agree to changes in any collective bargaining agreement or any of Avista's other material contracts with any labor organizations, union employees or their representatives;
8. **Compensation and Benefits:** Avista will maintain compensation and benefits related practices consistent with the requirements of the Merger Agreement;

Local Presence/Community Involvement

9. **Avista's Headquarters:** Avista will, and Hydro One agrees Avista will, maintain (a) its headquarters in Spokane, Washington; (b) Avista's office locations in each of its other service territories, and (c) no less of a significant presence in the immediate location of each of such office locations than what Avista and its subsidiaries maintained immediately prior to completion of the Proposed Transaction;
10. **Local Staffing:** Avista will maintain Avista Utilities' staffing and presence in the communities in which Avista operates at levels sufficient to maintain the provision of safe and reliable service and cost-effective operations and consistent with pre-acquisition levels;
11. **Community Contributions:** For five years after the close of the Proposed Transaction, Avista will maintain a \$4,000,000 annual budget for charitable contributions (funded by both Avista and the Avista Foundation) and additionally, a \$2,000,000 annual contribution will be made to Avista's charitable foundation. No approval from any regulatory bodies with jurisdiction over the Commitments is required for any changes to this commitment from and after the sixth year following closing; however any such changes will continue to require a two-thirds (2/3) vote of the Avista Board. Avista agrees it will endeavor, over time, to distribute this annual budget across the service territory in proportion to each state's portion of the system;²
12. **Community Involvement:** Avista will maintain at least Avista's existing levels of community involvement and support initiatives in its service territories; including involvement with low-income service agencies and support initiatives;
13. **Economic Development:** Avista will maintain at least Avista's existing levels of economic development, including the ability of Avista to spend operations and

² Note that Commitment 61 contains an additional commitment relating to charitable contributions; pursuant to that commitment Hydro One will cause Avista to make a one-time contribution of \$7,000,000 to Avista's charitable foundation at or promptly following closing of the Proposed Transaction.

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maintenance funds³ to support regional economic development and related strategic opportunities in a manner consistent with Avista's past practices;

14. **Membership Organizations:** Avista will maintain the dues paid by it to various industry trade groups and membership organizations; and
15. **Safety and Reliability Standards and Service Quality Measures:** Avista has established Service Quality Performance Standards, Customer Guarantees and a Service Quality Measure Report Card for its customers in Washington. Avista is currently working with the Idaho Commission Staff to develop similar performance standards, customer guarantees and a reporting mechanism for its customers in Idaho. Following Idaho Commission approval of such standards, customer guarantees and a reporting mechanism, Avista will not seek, and Hydro One agrees Avista will not seek, to remove or reduce any associated penalty provisions for ten (10) years after the date of the merger.

Rate Commitments

16. **Treatment of Net Cost Savings:** Hydro One commits that Avista customer rates will not increase as a result of the Proposed Transaction. Hydro One will hold Avista customers harmless from any such rate increase. Further, any net cost savings that Avista may achieve as a result of the Proposed Transaction will be reflected in subsequent rate proceedings, as such savings materialize. To the extent the savings are reflected in base retail rates they will offset the Rate Credit to customers, up to the offsetable portion of the Rate Credit.
17. **Treatment of Transaction Costs:**
 - a. Costs associated with the Proposed Transaction will be separately tracked as non-utility costs with no charges, either allocated or direct, to be recovered from Avista customers. After the consummation of the Proposed Transaction, any remaining transaction costs or other costs of Olympus Holding Corp. or Hydro One will not appear on Avista's utility books, i.e. such costs will be recorded as non-utility. Avista shall furnish the Commission with journal entries and supporting detail showing the nature and amount of all costs of the Proposed Transaction (including but not limited to management time, BOD time, in-house and outside counsel time, any consultants engaged, etc.) since the Proposed Transaction was first contemplated, as well as the accounts charged, within 120 days of a Commission order in this docket.

³ Operations and maintenance funds dedicated to economic development and non-utility strategic opportunities will be recorded below-the-line to a nonoperating account.

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- b. Avista will exclude, and Hydro One agrees Avista will exclude, from Avista general rate cases, or any other method of cost recovery, all costs related to the Proposed Transaction including but not limited to: (i) all legal work from in-house counsel and outside counsel; (ii) any financial advisory fees associated with the Proposed Transaction; (iii) the acquisition premium; (iv) costs related to M&A consulting and advice (v) preparation of and materials for presentations relating to the Proposed Transaction (vi) any senior executive compensation or any Avista board of director time tied to a change of control of Avista; and (vii) any other costs directly related to the Proposed Transaction.
- c. Technology expenditures and investments related to software and hardware compatibility issues between Avista and Hydro One and its affiliates shall not be recovered from Idaho ratepayers except to the extent such costs are offset by savings over time.
18. **Travel Expenses:** Avista's corporate travel expenses recovered in rates, including variable costs of flying the Avista corporate jet and commercial travel for all directors and executives, shall not exceed 105% of 2017 expenses, adjusted annually for inflation.
19. **Rate Credits:**

Avista and Hydro One will flow through to Avista's retail customers in Idaho a Rate Credit of approximately \$15.8 million⁴ over a 5-year period, beginning at the time the merger closes.

Rate Credit Proposal		
	Idaho Annual Credit Years 1-5	Idaho Total Credit
Total Credit	\$3.2 Million	\$15.8 Million
Offsetable Credit	\$527,510	\$2.6 Million

The Total Rate Credit to customers for the five years following the closing will be approximately \$3.2 million⁵ per year. A portion of the annual total Rate Credit will

⁴ The exact agreed-upon figure is \$15,811,050, which is equal to 5% of the Idaho base revenue as of 02/01/18. Idaho electric base revenue is \$259,473,000, and Idaho natural gas base revenue (including natural gas costs – Schedules 150/155) is \$56,748,000. Five percent of those revenues are \$12,973,650 (electric) and \$2,837,400 (natural gas).

⁵ The exact amount agreed upon is \$3,162,210 per year. The annual Idaho electric Rate Credit for each of the five years is \$2,594,730. The annual Idaho natural gas Rate Credit for each of the five years is \$567,480.

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be offsetable, in the amount of \$527,510⁶. During the 5-year period the financial benefits will be flowed through to customers either through the separate Rate Credit described above or through a reduction to the underlying cost of service as these benefits are reflected in the test period numbers used for ratemaking. At the time of the close, the \$3.2 million benefit will be provided to customers through a separate Rate Credit, as long as the reduction in costs (of up to \$527,510 annually) has not already been reflected in base retail rates for Avista's customers.

To the extent Avista demonstrates in a future rate proceeding that cost savings, or benefits, directly related to the Proposed Transaction are already being flowed through to customers through base retail rates, the separate Rate Credit to customers would be reduced by an amount up to the offsetable Rate Credit amount. The portion of the total Rate Credit that is not offsetable effectively represents acceptance by Hydro One of a lower rate of return during the 5-year period.

The \$15.8 million represents the "floor" of benefits that will be flowed through to Avista's customers, either through the Rate Credit or through benefits otherwise included in base retail rates. To the extent the identifiable benefits exceed the annual offsetable Rate Credit amounts, these additional benefits will be flowed through to customers in base retail rates in general rate cases as they occur. Avista and Hydro One believe additional efficiencies (benefits) will be realized over time from the sharing of best practices, technology and innovation between the two companies. It will take time, however, to identify and capture these benefits. The level of annual net cost savings (and/or net benefits) will be tracked and reported on an annual basis, and compared against the offsetable level of savings.

Any application of offsetable savings will be reviewed by the Commission before the offset is applied, and Avista bears the burden of proof to prove that savings have materialized and the offset to rate credits should apply.

Regulatory Commitments

20. **State Regulatory Authority and Jurisdiction:** Hydro One and its subsidiaries, including Avista, as applicable and as appropriate, will comply with all applicable laws, including those pertaining to transfers of property, affiliated interests, and securities and the assumption of obligations and liabilities. As required by and consistent with applicable laws, venue for resolution of proceedings related to these matters will be at the appropriate state utility commission(s). Hydro One and its subsidiaries, including Avista, will make their employees and officers available to

⁶ The offsetable portion of the Rate Credit is calculated using a pro rata share of the jurisdictional total of the rate credit (i.e. Idaho's share of the total system offsetable Rate Credit is 31.03%, therefore Idaho's share of the \$1.7 million offsetable portion is \$527,510).

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testify before the Commission at the Commission's request to provide information relevant to the matters within its jurisdiction.

21. **Compliance with Existing Commission Orders:** Hydro One and its subsidiaries, including Avista, acknowledge that all existing orders issued by the Commission with respect to Avista or its predecessor, Washington Water Power Co., will remain in effect, and are not modified or otherwise affected by the Proposed Transaction.

Hydro One and its subsidiaries, including Avista, as applicable and as appropriate, will comply with all applicable future Commission orders that remain in force.

22. **Separate Books and Records:** Avista will maintain separate books and records from its affiliates.

23. **Audit, Access to and Maintenance of Books and Records:**

Nothing in the Proposed Transaction and corporate structure thereafter will limit or affect the Commission's rights with respect to inspection of Avista's and Olympus Holding Corp.'s accounts, books, papers and documents pursuant to and in compliance with all applicable Idaho laws and administrative rules.

Hydro One, Olympus Holding Corp. and its subsidiaries, including Avista, will provide reasonable access to Avista's books and records; access to financial information and filings; access rights with respect to the documents supporting any costs that may be allocable to Avista; and access to Avista's board minutes, audit reports, and information provided to credit rating agencies pertaining to Avista.

Hydro One, Olympus Holding Corp. and its subsidiaries, including Avista, will maintain the necessary books and records so as to provide documents relating to all corporate, affiliate, or subsidiary transactions with Avista, or that result in costs that may be allocable to Avista.

The Proposed Transaction will not result in reduced access to the necessary books and records that relate to transactions with Avista, or that result in costs that may be allocable to Avista. Avista will provide the Commission, its agents, Commission Staff and other parties to regulatory proceedings reasonable access to books and records (including those of Hydro One, Olympus Holding Corp. or any affiliate or subsidiary companies) required to verify or examine transactions with Avista, or that result in costs that may be allocable to Avista.

Nothing in the Proposed Transaction will limit or affect the Commission's rights with respect to inspection of Avista's accounts, books, papers and documents in compliance with all applicable laws. Nothing in the Proposed Transaction will limit or affect the Commission's rights with respect to inspection of Hydro One and Olympus Holding Corp.'s accounts, books, papers and documents pursuant to all applicable laws; provided, that such right to inspection shall be limited to Hydro One

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and Olympus Holding Corp.'s accounts, books, papers and documents that pertain solely to transactions affecting Avista's regulated utility operations.

Olympus Holding Corp. and its subsidiaries, including Avista, will provide the Commission with access to written information provided by and to credit rating agencies that pertains to Avista. Olympus Holding Corp. and each of its subsidiaries will also provide the Commission with access to written information provided by and to credit rating agencies that pertains to Olympus Holding Corp.'s subsidiaries to the extent such information may affect Avista.

Hydro One and its affiliates agree that the Commission may have access to all the accounting records of Hydro One and its affiliates that are the bases for charges to Avista, to determine the reasonableness of the costs and the allocation factors used by Hydro One and its affiliates, or its subdivisions to assign costs to Avista and amounts subject to allocation or direct charges. Hydro One and its affiliates agree that they will not raise lack of jurisdiction as a means of denying such access, and agree to cooperate fully with such Commission investigations. Furthermore, any party may recommend that the Commission deny recovery of any costs assigned or charged to Avista by Hydro One or its affiliates if that party believes that Hydro One or its affiliates have failed to provide sufficient access to records relating to the costs at issue.

- 24. Cost Allocations Related to Corporate Structure and Affiliate Interests:** Avista agrees to provide, and Hydro One agrees Avista will provide, cost allocation methodologies used to allocate to Avista any costs related to Hydro One or its other affiliates and subsidiaries, and commits that there will be no cross-subsidization by Avista customers of unregulated activities.

Avista will not charge to customers expenses allocated or directly assigned by Hydro One except as specifically authorized for recovery in rates by the Commission. The cost-allocation methodology provided pursuant to this commitment will be a generic methodology that does not require Commission approval prior to it being proposed for specific application in a general rate case or other proceeding affecting rates. The cost-allocation methodology provided pursuant to this commitment also will establish a procedure for ensuring that additional costs or revenues resulting from changing currency exchange rates will not be reflected in rates charged to Idaho customers.

Avista will bear the burden of proof in any general rate case that any corporate and affiliate cost allocation methodology is reasonable for ratemaking purposes. Neither Avista nor Hydro One or its affiliates and subsidiaries will contest the Commission's authority to disallow, for retail ratemaking purposes in a general rate case, unreasonable, or misallocated costs from or to Avista or Hydro One or its other affiliates and subsidiaries.

With respect to the ratemaking treatment of affiliate transactions affecting Avista, Hydro One, and Olympus Holding Corp. and its subsidiaries, as applicable, will comply with the Commission's then-existing practice; provided, however, that

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nothing in this commitment limits Avista from also proposing a different ratemaking treatment for the Commission's consideration, or limit the positions any other party may take with respect to ratemaking treatment.

Avista will notify the Commission of any change in corporate structure that affects Avista's corporate and affiliate cost allocation methodologies. Avista will propose revisions to such cost allocation methodologies to accommodate such changes. Avista will not take the position that compliance with this provision constitutes approval by the Commission of a particular methodology for corporate and affiliate cost allocation.

Avista will notify the Commission prior to the implementation of plans by Avista or Hydro One or any of Hydro One's affiliates:

- a. To form an affiliate for the purposes of transacting business with Avista's regulated operations;
- b. To commence new business transactions between an existing affiliate and Avista; or
- c. To dissolve an affiliate that has transacted substantial business with Avista.

25. **Ratemaking Cost of Debt and Equity:** Avista will not advocate for, and Hydro One agrees Avista will not advocate for, a higher cost of debt or equity capital as compared to what Avista's cost of debt or equity capital would have been absent Hydro One's ownership.

For future ratemaking purposes:

- a. Determination of Avista's debt costs will be no higher than such costs would have been assuming Avista's credit ratings had not been affected by the Proposed Transaction, and applying those credit ratings to then-current debt;
- b. Avista bears the burden to prove prudent in a future general rate case any pre-payment premium or increased cost of debt associated with existing Avista debt retired, repaid, or replaced as a part of the Proposed Transaction; and
- c. Determination of the allowed return on equity in future general rate cases will include selection and use of one or more proxy group(s) of companies engaged in businesses substantially similar to Avista, without any limitation related to Avista's ownership structure.
- d. Avista and Parent agree that Avista's Cost of Capital, including Avista's Rate of Return (ROR), common equity, and Long-Term Debt, shall not be more costly after the close of Proposed Transaction than they would have been absent the Proposed Transaction. Avista bears the burden of proving that increases in Avista's Cost of Capital, including Avista's ROR, common equity, and Long-

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Term Debt, is caused by circumstances or developments that are unrelated to the financial risks or other characteristics of the Proposed Transaction.

26. **Avista Capital Structure:** At all times following the closing of the Proposed Transaction, Avista's actual common equity ratio will be maintained at a level no less than 44 percent. This commitment does not restrict the Commission from ordering a hypothetical capital structure.
27. **FERC Reporting Requirements:** Avista will continue to meet all the applicable FERC reporting requirements with respect to annual and quarterly reports (e.g., FERC Forms 1, 2, 3q) after closing of the Proposed Transaction.
28. **Participation in National and Regional Forums:** Avista will continue to participate, where appropriate, in national and regional forums regarding transmission issues, pricing policies, siting requirements, and interconnection and integration policies, when necessary to protect the interest of its customers.
29. **Treatment of Confidential Information:** Nothing in these commitments will be interpreted as a waiver of Hydro One's, its subsidiaries', or Avista's rights to request confidential treatment of information that is the subject of any of these commitments.
30. **Commission Enforcement of Commitments:** Hydro One and its subsidiaries, including Avista, understand and agree that the Commission has authority to enforce these commitments in accordance with their terms. If there is a violation of the terms of these commitments, then the offending party may, at the discretion of the Commission, have a period of thirty (30) calendar days to cure such violation.

The scope of this commitment includes the authority of the Commission to compel the attendance of witnesses from Olympus Holding Corp. and its affiliates, including Hydro One, with pertinent information on matters affecting Avista. Hydro One and Olympus Holding Corp. and its subsidiaries waive their rights to interpose any legal objection they might otherwise have to the Commission's jurisdiction to require the appearance of any such witnesses.

31. **Submittal to State Court Jurisdiction for Enforcement of Commission Orders:** Hydro One, on behalf of itself and its subsidiaries in the post-close corporate structure between Hydro One and Avista (as those companies in between may change over time), and Avista will jointly file with the Commission prior to closing the Proposed Transaction an affidavit affirming that they will submit to the jurisdiction of Idaho courts for enforcement of the Commission's orders adopting the commitments made by and binding upon them and their affiliates where noted, and subsequent orders, and will agree to the application of Idaho law with respect to such matters.
32. **Annual Report on Commitments:** By May 1, 2019 and each May 1 thereafter through May 1, 2029, Avista will file, and Hydro One agrees Avista will file, a report with the Commission regarding the status of compliance with each of the commitments as of December 31 of the preceding year. The report will, at a

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minimum, provide a description of the performance of each of the commitments, will be filed in Case No. AVU-E-17-09/AVU-G-17-05 and served to all parties to the docket. If any commitment is not being met, relative to the specific terms of the commitment, the report must provide proposed corrective measures and target dates for completion of such measures. Avista will make publicly available at the Commission non-confidential portions of the report.

33. **Commitments Binding:** Hydro One, its subsidiaries in the post-close corporate structure between Hydro One and Avista (as those companies in between may change over time) and Avista, acknowledge that the commitments being made by them are fully binding upon them and upon their affiliates where specifically noted and their successors in interest. Hydro One and Avista are not requesting in this proceeding a determination of the prudence, just and reasonable character, rate or ratemaking treatment, or public interest of the investments, expenditures or actions referenced in the commitments, and the parties in appropriate proceedings may take such positions regarding the prudence, just and reasonable character, rate or ratemaking treatment, or public interest of the investments, expenditures or actions as they deem appropriate.

If Hydro One or any other entity in the chain of Avista's ownership determines that Avista or any other entity has failed to comply with an applicable Commitment, the entity making such determinations shall take all appropriate actions to achieve compliance with the Commitment.

Financial Integrity Commitments

34. **Capital Structure Support:** Hydro One will provide equity to support Avista's capital structure that is designed to allow Avista access to debt financing under reasonable terms and on a sustainable basis.
35. **Utility-Level Debt and Preferred Stock:** Avista will maintain separate debt and preferred stock, if any, to support its utility operations.
36. **Continued Credit Ratings:** Each of Hydro One and Avista will continue to be rated by at least one nationally recognized statistical "Rating Agency." Hydro One and Avista will use reasonable best efforts to obtain and maintain a separate credit rating for Avista from at least one Rating Agency within the ninety (90) days following the closing of the Proposed Transaction. If Hydro One and Avista are unable to obtain or maintain the separate rating for Avista, they will make a filing with the Commission explaining the basis for their failure to obtain or maintain such separate credit rating for Avista, and parties to this proceeding will have an opportunity to participate and propose additional commitments.
37. **Credit Ratings Notification:** Hydro One and Avista agree to notify the Commission within two business days of any proposed or actual downgrade of Avista's credit rating by S&P, Moody's, or any other such ratings agency that issues such ratings with respect to Avista.

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If Avista or Hydro One anticipates or is notified of a proposed or actual downgrade of Avista's credit rating to a non-investment grade status, then Avista and Hydro One will:

- a. Within 30 days of providing notice, provide a plan and timeline ("Compliance Plan") that is subject to Commission review, modification, rejection, or approval for maintaining Avista's investment grade status or restoring Avista's investment grade status.
- b. Subsequent to the filing of the Compliance Plan, Avista shall file progress reports every 90 calendar days detailing its efforts for maintaining Avista's investment grade status or restoring Avista's investment grade status, in addition to detailing how Avista has met each requirement in the Compliance Plan.

38. Restrictions on Upward Dividends and Distributions:

- a. If either (i) Avista's corporate credit/issuer rating as determined by both Moody's and S&P, or their successors, is investment grade, or (ii) the ratio of Avista's EBITDA to Avista's interest expense is greater than or equal to 3.0, then distributions from Avista to Olympus Equity LLC shall not be limited so long as Avista's equity ratio is equal to or greater than 44 percent (the "Minimum Equity Ratio") on the date of such Avista distribution after giving effect to such Avista distribution. Under any other circumstances, distributions from Avista are allowed only with prior Commission approval. The Minimum Equity Ratio is subject to change as set forth in subparagraph b. below. Both the EBITDA and equity ratio shall be calculated on the same basis that such calculations would be made for ratemaking purposes for regulated utility operations.
- b. If a proposal is made, or if the Commission determines, in an Avista rate case that Avista's rates should be based on a common equity ratio of less than 44 percent, the Parties agree that the Commission should consider and determine, either in the rate case or in a separate proceeding, whether the Minimum Equity Ratio for purposes of subparagraph a. above should be adjusted in light of any adjustment to the common equity ratio for ratemaking purposes. In addition, Avista may at any time upon a showing of good cause petition the Commission for a change to the Minimum Equity Ratio, and no party to the Settlement Stipulation will oppose the initiation of such a proceeding.
- c. If Avista does not have an investment-grade rating from both Moody's and S&P, or from one of these entities, or its successor, if only one issues ratings with respect to Avista, and the ratio of EBITDA to Avista's interest expense is less than 3.0, no dividend distribution to Olympus Equity LLC or its successors will occur.
- d. Avista commits, and Hydro One agrees, that prior to upward dividends from Avista, Avista cash flows will not be comingled in common accounts with cash

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flows for other purposes at either of Olympus Equity, LLC or Hydro One, including all Hydro One subdivisions and affiliates. Hydro One will ensure that all of the Parent's corporate entities maintain accounts and subaccounts that are separate from Avista accounts and subaccounts, sufficient to cause handling of cash flows to be entirely consistent with Avista's corporate purposes.

39. **Pension Funding:** Avista will maintain its pension funding policy in accordance with sound actuarial practice. Hydro One will not seek to change Avista's pension funding policy.
40. **SEC Reporting Requirements:** Following the closing of the Proposed Transaction, Avista will file required reports with the SEC.
41. **Compliance with the Sarbanes-Oxley Act:** Following the closing of the Proposed Transaction, Avista will comply with applicable requirements of the Sarbanes-Oxley Act.

Ring-Fencing Commitments

42. **Golden Share:** Entering into voluntary bankruptcy shall require the affirmative vote of a "Golden Share" of Avista stock. The Golden Share shall mean the sole share of Preferred Stock of Avista as authorized by the Commission. This share of Preferred Stock must be in the custody of an independent third-party, where the third-party has no financial stake, affiliation, relationship, interest, or tie to Avista or any of its affiliates, or any lender to Avista, or any of its affiliates. This requirement does not preclude the third-party from holding an index fund or mutual fund with negligible interests in Avista or any of its affiliates. In matters of voluntary bankruptcy, this Golden Share will override all other outstanding shares of all types or classes of stock.
43. **Independent Directors:** At least one of the nine members of the board of directors of Avista will be an Independent Director who, consistent with Commitment 3, meets the standards under 303A.02 of the New York Stock Exchange Listed Company Manual. At least one of the members of the board of directors of Olympus Equity LLC will be an Independent Director who, consistent with Commitment 3, meets the standards under 303A.02 of the New York Stock Exchange Listed Company Manual. The same individual may serve as an Independent Director of both Avista and Olympus Equity LLC. The organizational documents for Avista will not permit Avista, without the consent of a two-thirds majority of all its directors, including the affirmative vote of the Independent Director at Avista (or if at that time Avista has more than one Independent Director, the affirmative vote of at least one of Avista's Independent Directors), to consent to the institution of bankruptcy proceedings or the inclusion of Avista in bankruptcy proceedings. In addition to an affirmative vote of this Independent Director, the vote of the Golden Share shall also be required for Avista to enter into a voluntary bankruptcy.
44. **Non-Consolidation Opinion:**

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- a. Within ninety (90) days of the Proposed Transaction closing, Avista and Olympus Holding Corp. will file, and Hydro One agrees they will file, a non-consolidation opinion with the Commission which concludes, subject to customary assumptions and exceptions, that the ring-fencing provisions are sufficient that a bankruptcy court would not order the substantive consolidation of the assets and liabilities of Avista with those of Olympus Holding Corp. or its affiliates or subsidiaries (other than Avista and its subsidiaries).
 - b. Hydro One and Olympus Holding Corp. must file an affidavit with the Commission stating that neither Hydro One, Olympus Holding Corp. nor any of their subsidiaries, will seek to include Avista in a bankruptcy without the consent of a two-thirds majority of Avista's board of directors including the affirmative vote of one of Avista's independent director, and the Avista Golden Shareholder.
 - c. If the ring-fencing provisions in these commitments are not sufficient to obtain a non-consolidation opinion, Olympus Holding Corp. and Avista agree to promptly undertake, and Hydro One agrees to cause them to undertake, the following actions:
 - i. Notify the Commission of this inability to obtain a non-consolidation opinion.
 - ii. Propose and implement, upon Commission approval, such additional ring-fencing provisions around Avista as are sufficient to obtain a non-consolidation opinion subject to customary assumptions and exceptions.
 - iii. Obtain a non-consolidation opinion.
45. **Olympus Equity LLC:** Olympus Holding Corp.'s indirect subsidiaries will include Olympus Equity LLC and Avista. See the post-acquisition organizational chart in Attachment C to the Master List of Commitments in Idaho. Following closing of the Proposed Transaction, all of the common stock of Avista will be owned by Olympus Equity LLC, a new Delaware limited liability company. Olympus Equity LLC will be a bankruptcy-remote special purpose entity, and will not have debt.
46. **Restriction on Pledge of Utility Assets:** Avista agrees to, and Hydro One will cause Avista to agree to, prohibitions against loans or pledges of utility assets to Hydro One, Olympus Holding Corp., or any of their subsidiaries or affiliates, without Commission approval. In addition, the Applicants agree that Avista's assets will not be pledged by Avista or any of its affiliates, including Hydro One and Olympus Holding Corp. and any of their subsidiaries or affiliates, for the benefit of any entity other than Avista.
47. **Hold Harmless; Notice to Lenders; Restriction on Acquisitions and Dispositions:**

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- a. Hydro One, its affiliates, and subsidiaries including Avista will hold Avista customers harmless from any business and financial risk exposures associated with Olympus Holding Corp., Hydro One, and Hydro One's other affiliates.
- b. Pursuant to this commitment, Avista will file, and Hydro One agrees Avista will file, with the Commission, prior to closing of the Proposed Transaction, a form of notice to prospective lenders describing the ring-fencing provisions included in these commitments stating that these provisions provide no recourse to Avista assets as collateral or security for debt issued by Hydro One or any of its subsidiaries, other than Avista.
- c. In furtherance of this commitment:
 - i. Hydro One, its affiliates, and subsidiaries including Avista commit that Avista's regulated utility customers will be held harmless from the liabilities of any unregulated activity of Avista or Hydro One and its affiliates. In any proceeding before the Commission involving rates of Avista, the fair rate of return for Avista will be determined without regard to any adverse consequences that are demonstrated to be attributable to unregulated activities. Measures providing for separate financial and accounting treatment will be established for each unregulated activity.
 - ii. Hydro One, its affiliates, and subsidiaries including Avista will notify the Commission promptly after Hydro One's, its affiliates', or subsidiaries' including Avista's board approval but contemporaneously with any public announcement of: (1) any acquisition by Hydro One, its affiliates, and subsidiaries including Avista of a regulated or unregulated business that is equivalent to five (5) percent or more of Hydro One's capitalization; or (2) any change in control or ownership of Avista. Should there be a change only to the upstream ownership of Avista or Olympus Holding Corp. among wholly owned subsidiaries of Hydro One, notice of such a change will be provided in either an updated organizational chart, or in a separate notice filing prior to the change taking place. Notice pursuant to this provision is not and will not be deemed an admission or expansion of the Commission's authority or jurisdiction over any transaction or in any matter or proceeding whatsoever.

Within sixty (60) days following the notice required by this subsection (c)(ii)(2), and prior to completion of any transfer, Avista and Olympus Holding Corp. or its affiliates, as appropriate, will seek Commission approval of any sale or transfer of any material part of Avista, or of any transaction or series of transactions, regardless of size, that would result in a person or entity, other than a wholly owned subsidiary of Hydro One, directly or indirectly, acquiring a controlling interest in Avista or Olympus Holding Corp. The term "material part of Avista" means any sale or transfer of stock representing ten percent (10%) or more of the equity ownership of Avista.

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- iii. Hydro One, Olympus Holding Corp. and Avista will provide notification of and obtain Commission approval of the divestiture, spin-off, or sale of any integral Avista asset, including power plants, as required by Idaho law. This notification and approval requirement does not limit any jurisdiction that the Commission may have.
 - iv. Neither Avista nor Hydro One will assert in any future proceedings that, by virtue of the Proposed Transaction and the resulting corporate structure, the Commission is without jurisdiction over any transaction that results in a change of control of Avista.
 - d. If and when any non-regulated subsidiary of Avista becomes a subsidiary of Hydro One or one of its subsidiaries other than Avista, Avista and Hydro One will so advise the Commission within thirty (30) days and will submit to the Commission a written document setting forth Avista's proposed corporate and affiliate cost allocation methodologies.
48. **Olympus Holding Corp. and Olympus Equity LLC Sub-entities:** Olympus Holding Corp. will not operate or own any business and will limit its activities to investing in and attending to its shareholdings in Olympus Equity LLC, which, in turn, will not operate or own any business and will limit its activities to investing in and attending to its shareholdings in Avista.
49. **No Amendment:** Hydro One, Olympus Holding Corp. and Avista commit that no amendments, revisions or modifications will be made to these regulatory commitments without prior Commission approval.
50. **No Inter Company Debt:** Avista will notify the Commission before entering into any inter-company debt transactions with Olympus Holding Corp., Hydro One, or any of their subsidiaries or affiliates. Avista shall comply with Idaho law for any debt transactions over a one year term.
51. **No Inter Company Lending:** Without prior Commission approval, Avista will not lend money to Olympus Holding Corp., Hydro One, or any of their subsidiaries or affiliates.

Resource Planning Commitments

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

Communications with customers shall accurately reflect the environmental attributes associated with power delivered to such customers. Hydro One and Avista acknowledge that Avista retains the burden of proof to demonstrate the prudence of any resource acquisition.

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Nothing in this Commitment prohibits Avista from selling renewable energy credits that arise from resources included in base rates applicable in Idaho.

Hydro One acknowledges Avista's obligations under applicable renewable portfolio standards, and Avista will continue to comply with such obligations.

- 53. Regulatory Integrated Resource Planning (IRP) Sideboards:** Avista and its affiliates agree to consider in all resource planning and acquisition efforts both demand-side and renewable energy resources that are consistent with the Idaho Commission's resource evaluation and acquisition rules and policies.

Avista and its affiliates agree that "Resources" to be considered in all IRPs include Power Purchase Agreements ("PPAs").

Avista commits to calculating a variable generation resource's contribution to capacity in terms of that resource's contribution to resource adequacy and that resource's ability to reduce the loss of load probability in some or all hours or days utilizing the Effective Load Carrying Capability ("ELCC") methodology or an appropriate approximation.

Avista will work with an independent third-party consultant, with expertise in renewable energy resources, to ensure that the utility has up-to-date resource cost and performance assumptions, as well as the appropriate learning curves, for use in the 2019 IRP process.

Unless it conflicts with any instructions contained in the Commission's acknowledgement letter in response to Avista's current integrated resource plan (IRP), beginning with the next IRP, Avista commits to modeling a range of potential costs for greenhouse gas emissions, and will work with its IRP Advisory Group to determine the appropriate values to model.

- 54. Energy Imbalance Market ("EIM"):** Avista is currently refreshing its EIM analysis and will release it publicly by the end of 2018. Avista commits to hold workshops with the Commission and interested stakeholders to review the analysis and discuss the prudent next steps.

The goal is to convene the workshop within 30 days of the release of the EIM analysis.

- 55. Transport Electrification:** Avista commits, and Hydro One agrees that Avista commits, to 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.

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Environmental Commitments

56. **Greenhouse Gas and Carbon Initiatives:** Hydro One acknowledges Avista's Greenhouse Gas and Carbon Initiatives contained in its current Integrated Resource Plan, and Avista will continue to work with interested parties on such initiatives.
57. **Greenhouse Gas Inventory Report:** Avista will report greenhouse gas emissions as required.

Energy Efficiency, Weatherization, Community and Low-Income Assistance Commitments

58. **Funding for Energy Efficiency, Weatherization, Conservation, and Low-Income Assistance Programs:** Hydro One will arrange funding of \$5,308,847 over a 10-year period to fund energy efficiency, weatherization, conservation, and low-income assistance programs. The funding will be disbursed as directed by the Energy Efficiency, Weatherization, Conservation, and Low-Income Assistance Committee ("EWCL"), a new committee of stakeholders tasked with determining which existing or new programs should receive this funding to address energy efficiency, weatherization, conservation, and low-income needs in Avista's Idaho service territory. The committee will initially consist of representatives from the following stakeholders: Avista, Commission staff, the Lewiston CAP, Idaho Conservation League, the Idaho Forest Group, and Clearwater Paper. The Committee may add members at its discretion. The EWCL will consider the needs of all parties and remain flexible on the timing of any disbursements.

The EWCL will convene within 90 days after the close of the Proposed Transaction, will present a 10-year funding plan to Avista by June 1, 2019 and will revise this plan periodically as needed.

59. **Clearwater Paper DSM Assistance:** Avista agrees to work with Clearwater Paper to attempt to qualify the following projects for DSM funding under Tariff Schedule 90, upon closing of the Proposed Transaction:

- Variable speed drives on the No. 1 paper machine hydropulper
- Variable speed drives on the No. 4 power boiler demineralized water pumps
- Energy efficient chillers and compressors for the Lurgi system
- A variable speed drive on the No.1 paper machine white water system
- Variable speed drives on the two waste water outfall pumps

The total estimated cost of the projects is \$750,000. Tariff Schedule 90 allows for possible DSM funding of up to 70% of the cost of the project, subject to meeting certain specified cost-effectiveness criteria. The portion of the estimated cost of these identified projects that is not reimbursed under Schedule 90 will be considered for funding through Commitment 58. The EWCL will consider the needs of all parties and remain flexible on the timing of any disbursements.

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60. **Idaho Forest Group (IFG) DSM Assistance:** Avista agrees to work with Idaho Forest Group (IFG) to attempt to qualify the following projects for DSM funding under Tariff Schedule 90, upon closing of the Proposed Transaction:

- Installation of information technology to gather plant information data (PI Data) on energy usage at IFG's Lewiston plant, and through an installed interface, transmit real time energy load information data for each operating station to IFG and Avista. This may serve as a useful demonstration project for data interfaces with other customers on Avista's system. The total estimated cost is \$300,000.
- Replacement of aging compressors, saws and other equipment with state of the art machinery at IFG's Lewiston and Grangeville plants, in order to increase productivity and energy efficiency.

Tariff Schedule 90 allows for possible DSM funding of up to 70% of the cost of the project, subject to meeting certain specified cost-effectiveness criteria. The portion of the estimated cost of these identified projects that is not reimbursed under Schedule 90 will be considered for funding through Commitment 58. The EWCL will consider the needs of all parties and remain flexible on the timing of any disbursements.

61. **Community Contributions:** Hydro One will arrange funding for a one-time \$7,000,000 contribution to Avista's charitable foundation at or promptly following closing.⁷
62. **Addressing Other Low-Income Customer Issues:** Avista will continue to work with low-income agencies to address other issues of low-income customers, including funding for bill payment assistance.
63. **Fee Free Payment Program:** Avista will continue to offer the Fee Free Payment Program to its residential customers.
64. **Improve Penetration of Low-Income Programs:** Hydro One and Avista will work with the Lewiston CAP to undertake a targeted effort with a goal of improving the penetration rate of low-income programs with a focus on underserved, vulnerable, and high energy burden households. This commitment may include expanding marketing, outreach, and data analysis as appropriate.
65. **Tribal Communities:** In implementing these conditions, Avista will reach out to tribal communities to encourage participation of members of such communities in receiving the benefits of this settlement.

⁷ Note that Commitment 11 contains additional provisions relating to Avista's charitable contributions.

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Miscellaneous Commitments

66. **Sources of Funds for Hydro One Commitments:** Throughout this list of merger commitments, any commitment that states Hydro One will arrange funding is not contingent on Hydro One's ability to arrange funding, particularly from outside sources, but is a firm commitment to provide the dollar amount specified over the time period specified and for the purposes specified. To the extent Avista has retained earnings that are available for payment of dividends to Olympus Equity LLC consistent with the ring fencing provisions of this list of merger commitments, such retained earnings may be used. Funds available from other Hydro One affiliates may be used without limitation. Avista will not seek cost recovery for any of the commitments funded or arranged by Hydro One in this list of merger commitments. Hydro One will not seek cost recovery for such funds from ratepayers in Canada or the United States.
67. **Service Rules for Gas Utilities:** Avista will meet with Commission Staff to review the Commission's Service Rules for Gas Utilities (IDAPA 31.31.01) to determine which provisions should be retained and/or modified, and, if the participants agree, incorporate those changes into Avista's tariff.
68. **Meters:** Avista will meet with Commission Staff to review its meter placement and protection policies and practices and determine, if the participants agree, what additional steps should be taken to revise Avista's current policies and practices.
69. **Colstrip Planning:** Hydro One and Avista agree to support a December 31, 2027, end of life for depreciation purposes in the processes described below. Hydro One and Avista also agree that issues relating to the potential accelerated depreciation of Avista's interest in Colstrip Units 3 and 4 and related matters should be addressed in three existing, interrelated Commission proceedings as follows:
- *GNR-U-18-01 -- Investigation Into the Impact of Federal Tax Code Revisions on Utility Costs and Ratemaking:* As part of this docket, not less than \$12.0 Million regulatory liability should be created using the unprotected Excess DFIT/Deferral of January – May 2018 tax credit. This \$12.0 Million regulatory liability would then be available to offset costs associated with accelerated depreciation of Colstrip Units 3 and 4 or other use as determined appropriate in AVU-E-18-03/AVU-G-18-02.
 - *AVU-E-18-03 / AVU-G-18-02 -- Avista Corporation's Application to Change Its Electric and Natural Gas Depreciation Rates:* As part of this docket, the Commission will determine whether, as proposed by Hydro One and Avista, December 31, 2027, should be set as the "useful life" for Colstrip Units 3 and 4 for depreciation purposes. The Parties will work towards resolution of this proceeding by April 1, 2019.
 - *Avista's Application 2019 Electric Integrated Resource Plan (IRP):* Avista's 2019 IRP will analyze multiple retirement dates for Colstrip Units 3 and 4,

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including but not limited to, the “end of useful life” date determined in AVU-E-18-03/AVU-G-18-02. The other retirement dates analyzed, as well as the method, inputs, and assumptions for those scenarios planning analyses, will be determined with input from the IRP stakeholder advisory group. Avista anticipates that the first draft of its 2019 IRP will be released in May 2019 and its second draft will be released in August 2019.

70. **Montana Community Transition Fund:** Hydro One will arrange funding of \$3.0 Million (on a system basis) towards a Colstrip community transition fund.

71. **Colstrip Transmission Planning:** Avista will work with the other Path 8 (MT-to-NW) owners (Northwestern Energy and BPA) to resolve questions surrounding the ability of new generation to use the Colstrip line once Colstrip Units 1 and 2 retire, and also when Units 3 and 4 retire.

At least one year prior to any closure of Colstrip Units 3 and 4, Avista will develop a transition plan for its Colstrip transmission assets. Avista will hold at least one workshop with Commission Staff and stakeholders to determine the transition plan’s impacts to Idaho ratepayers.

Avista will work with stakeholders and Commission Staff and file this transition plan with the Commission. In developing this transition plan, to the extent practicable, Avista should participate in 1) the workshops on this topic that PSE and the Commission will be holding in 2018 (per the PSE GRC settlement), and 2) the BPA/Governor Bullock Transmission Task Force that commenced work on December 8, 2017, and will work through the middle of 2018.

Hydro One agrees Avista will conduct the activities described in the foregoing paragraphs.

72. **Contract Labor:** The parties agree that employees, contractors, and subcontractors of Avista shall be paid a fair and competitive wage, and that Avista shall utilize principles of fairness in bidding and contracting work in the state of Idaho. Avista agrees to employ highly skilled and trained workers. Such training and education can be obtained through college programs, technical schools, apprenticeships, or union hall programs, including those of the Washington and Northern Idaho District Council of Laborers. The parties recognize that no employee, contractor, or subcontractor of the Company is required or prohibited from participation in any labor organization. The Parties agree that Commitment 72 is severable, and if this provision is declared void, invalid, or unenforceable in whole or in part, such declaration shall not affect the remaining provisions of this Commitment List.

73. **Most Favored Nations:** The Applicants agree that upon the joint request of the Non-Applicant Parties, or a request of less than all Non-Applicant Parties which is unopposed by any Non-Applicant, the Commission shall have an opportunity and the authority to consider and adopt in Idaho any commitments to which the Applicants agree in other jurisdictions, even if such commitments are agreed to after the

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Commission enters its order in this docket. To facilitate the Commission's consideration and possible adoption of the commitments from other jurisdictions, the Parties recommend that the Commission issue an order accepting this Stipulation as soon as practical, but to reserve in such order the explicit right to re-open to add commitments accepted in another state jurisdiction.

The Applicants further agree that upon the request of any Non-Applicant Party prior to the Commission's action on this Stipulation, if Applicants agree with any commitments in other jurisdictions, within five days of such a request, Applicants will meet and confer with the Non-Applicant Parties to discuss whether such commitments should be added to the existing list of commitments already agreed to by the Parties in this Stipulation.

Process for Consideration:

- Within five calendar days after Applicants file a stipulation with new or amended commitments with a commission in another state jurisdiction, Applicants will send a copy of the stipulation and commitments to the Non-Applicant Parties.
- Within five calendar days after a commission in another state jurisdiction issues an order that accepts a stipulation to which Applicants are a party and imposes new or modified commitments, that order, together with all commitments of any type agreed to by Applicants in such other state, will be filed with the Commission and served on all parties to this docket by the most expeditious means practical.
- Within fourteen (14) calendar days after the last such filing from the other states ("Final Filing"), the Non-Applicant Parties may file with the Commission any response they wish to make, including their position as to whether any of the covenants, commitments and conditions from the other jurisdictions (without modification of the language thereof except such non-substantive changes as are necessary to make the commitment or condition applicable to Idaho) should be adopted in Idaho.
- Within five calendar days after any such response filing, the Applicants may file a reply with the Commission.
- If any of the dates above fall on Saturday, Sunday, or a holiday, the next business day will be considered as the due date.
- The Parties agree to support in their filings the issuance by the Commission of an order regarding the adoption of such commitments as soon as practical thereafter, recognizing that the Proposed Transaction cannot close until final state orders have been issued approving the Proposed Transaction.

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Limitations on Adjustment:

- Only commitments specific to gas service may form the basis for adjustments specific to gas service.
- Only commitments specific to electric service may form the basis for adjustments specific to electric service.
- Any commitments relating to support of communities in Montana are not subject to this provision.
- As Avista does not operate as a utility in Alaska, any commitments made in Alaska are not subject to this provision.
- For purposes of financial commitments or commitments having a financial impact, commitments should be proportionate to Avista's corresponding business function in Idaho in relation to its corresponding total company business function. Accordingly, commitments should be allocated among Avista's WA, ID and OR jurisdictions based on the following: 1) Rate Credit is allocated based on base revenues; 2) all other financial commitments are allocated using the Company's jurisdictional "four factor" allocation methodology, routinely employed for purposes of allocating common costs, as discussed in Mr. Ehrbar's testimony in this proceeding. For purposes of this provision, "financial commitments or commitments having a financial impact" do not include ring fencing provisions.

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

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75. **North American Free Trade Agreement (NAFTA):** Hydro One and Avista commit to forego their rights to bring any claim under NAFTA, or similar provision of the United States Mexico Canada Agreement (USMCA) challenging, or seeking monetary damages related to, any regulations, laws, orders or actions passed or taken by the State of Idaho or any instrumentality thereof or the government of the United States in relation to the production, transmission or distribution of electric power, natural gas or other energy sources by Avista. In the event that such a claim is brought under NAFTA (or the USMCA) that involves or impacts Avista, Hydro One commits that it will not voluntarily participate in, support or otherwise encourage such action. Hydro One will indemnify Avista from any damages payable by Avista in respect of any such claim as determined by a final non-appealable judicial order.
76. **Venue for and Resolution of Disputes:** Avista and Parent agree that the venue for disputes regarding the operation and/or customer rates of Avista will be in state and U.S. federal regulatory bodies or courts of competent jurisdiction, as applicable, in Oregon, Washington, Idaho, Montana or Alaska.
77. **Environmental Liabilities of Parent:** Hydro One will hold Avista and Avista ratepayers harmless from any environmental obligations or liabilities of Hydro One or its affiliates other than Avista, including those associated with harmful substances such as asbestos or polychlorinated biphenyls (PCBs) and environmental cleanup and restoration.
78. **Foreign Exchange and Hedging:** Avista and Parent agree that Avista ratepayers will be held harmless from any currency exchange or related cash flow smoothing or hedging costs pertaining to activities beyond Avista's Idaho utility operations and/or customer rates and not usual and customary prior to close of the Proposed Transaction.

Water Rights and Facilities

79. **Subordination of Water Rights:**

Hydro One and Avista shall abide by the terms of the July 25, 2018 Agreement with the Idaho Department of Water Resources regarding Avista's Hydroelectric Facility Water Rights. The July 25, 2018 Agreement is Attachment 1 to this Master List of Commitments.

MODIFICATION TO DELEGATION OF AUTHORITY, CLAUSE 3 (see below for defined terms)

Shareholder shall have the unfettered right to designate, remove and replace the Shareholder Designees as directors of the Surviving Corporation with or without cause or notice at its sole discretion, subject to the requirement that: (i) two (2) of such directors are executives of Parent or any of its Subsidiaries and (ii) three (3) of such directors are Independent Directors who are citizens of the United States and are and have been residents of the Pacific Northwest Region for at least two years, while such requirement

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is in effect (subject in the case of clause (ii) hereof to Shareholder determining, in good faith, that it is not able to appoint an Independent Director who is a citizen of the United States, and resident of the Pacific Northwest Region in a timely manner, in which case Shareholder may replace any such director with any person who is a citizen of the United States, excluding any employee or executive of Parent or any of its Subsidiaries other than Avista, on an interim basis, not exceeding six months, after which time Shareholder shall replace any such interim director with an Independent Director who is a citizen of the United States and is and has been a resident of the Pacific Northwest Region for at least two years). If, at any time a circumstance arises, and during the pendency of any such circumstance, whereby the Province of Ontario ("Ontario") exercises its rights as a shareholder of Hydro One, uses legislative authority or acts in any other manner whatsoever, that results, or would result, in Ontario appointing nominees to the board of directors of Hydro One that constitute, or would constitute a majority of the directors of such board, then Hydro One's authority to replace an Independent Director on an interim basis is suspended for the pendency of such circumstance.

For purposes of this modification to the Delegation of Authority, the following definitions, which are set forth in the Delegation of Authority and Merger Agreement, will apply: "Independent Directors" means any director of the Surviving Corporation who (i) meets the standards for "independent director" under section 303A.02 of the New York Stock Exchange Listed Company Manual with respect to Parent and its Subsidiaries, including the Surviving Corporation, (ii) has no material relationship with Parent, its Subsidiaries or affiliated entities currently or in the prior three years, and (iii) if and to the extent required with respect to a specific director, who meets such other qualifications as may be required by any applicable state utility regulatory authority for an independent director. Notwithstanding anything to the contrary in this definition of "Independent Director," (a) a director who also serves as an independent director of the Surviving Corporation or any of its Subsidiaries or the Shareholder and who otherwise satisfies the criteria set forth above for an "Independent Director," may still be considered independent within the meaning hereof, and (b) former officers of the Company or the Surviving Corporation, who otherwise satisfy the criteria set forth above for an "Independent Director," may still be considered independent within the meaning hereof.

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

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

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

"Shareholder Designees" shall mean (i) two (2) directors designated by Shareholder who are executives of Parent or any of its Subsidiaries; (ii) three (3) Independent Directors who are residents of the Pacific Northwest Region, to be designated by Shareholder (the "Shareholder Independent Directors"). [Note: for purposes of this modification to the

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DoA, “Shareholder Designees” has the same meaning as “Hydro One Designees” in Commitment No. 3.]

“Subsidiaries” when used with respect to any party hereto, shall mean any corporation, limited liability company, partnership, association, trust or other entity of which securities or other ownership interests representing more than 50% of the equity and more than 50% of the ordinary voting power (or, in the case of a limited partnership, more than 50% of the general partnership interests) are, as of such date, owned by such party or one or more Subsidiaries of such party or by such party and one or more Subsidiaries of such party.

“Surviving Corporation” shall mean Avista Corporation, a Washington corporation.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

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C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

Attachment 1 to Revised Master List of Commitments in Idaho

August 10, 2018

Transmitted Via Hand Delivery and by E-mail

Paul Kjellander, President
Kristine Raper, Commissioner
Eric Anderson, Commissioner
C/O Diane Hanian, Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St.
Boise, Idaho 83702

Re: Case Nos. AVU-E-17-09 and AVU-G-17-05

Dear Commissioners,

I am writing to update you regarding discussions between the Idaho Department of Water Resources ("IDWR") and Avista Corporation ("Avista"). Since early 2018, IDWR and Avista have been discussing Avista's water right claims in the Coeur d'Alene-Spokane River Basin Adjudication ("CSRBA"). The main focus of our discussions has been Avista's hydropower water rights at the three dams and power plant at Post Falls ("Post Falls dam"). The State of Idaho has a history of disputes over hydropower water rights. The Swan Falls controversy of the early 1980s involving Idaho Power's hydropower water rights at Swan Falls dam led to the commencement of the Snake River Basin Adjudication ("SRBA") in 1987. Litigation in the SRBA related to Idaho Power's Swan Falls water rights did not conclude until 2012. A main reason for engaging with Avista early in the CSRBA was to avoid extended litigation over Avista's hydropower water rights, especially over the issue of subordination to existing and future water rights.

In July of 2018, IDWR was notified of the *Joint Application for an Order Authorizing Proposed Transaction* ("Joint Application") filed with the Idaho Public Utilities Commission ("PUC") by Avista and Hydro One Limited ("Hydro One"). The Joint Application sought the PUC's approval of a planned merger between Avista and Hydro One pursuant to Idaho Code § 61-328. Immediately, IDWR was concerned the merger would disrupt the adjudication claim discussions and might impede or prevent resolution of the issues. Furthermore, IDWR was concerned the merger could result in a change in the use of water authorized by Avista's hydropower water rights. To ensure that the public interest, as it pertains to Avista's use of water under its hydropower water rights, would not be adversely affected, IDWR moved to intervene in the PUC proceeding. The PUC subsequently granted IDWR's petition to intervene.

While IDWR's petition to intervene was pending before the PUC, IDWR and Avista continued discussing Avista's hydropower water rights at Post Falls dam. We are pleased to inform you that IDWR and Avista reached an agreement that addresses IDWR's concerns. Specifically, IDWR and Avista have

Exhibit No. 101
Case Nos. AVU-E-17-09/
AVU-G-17-05
T. Carlock, Staff
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reached an agreement regarding subordination of Avista's water rights consistent with the historical operations at Post Falls dam. IDWR and Avista have agreed that Avista's water right claim nos. 95-4518, 95-9115, and 95-9119 shall be recommended in the CSRBA with the following subordination language:

The use of water confirmed in this right shall be junior and subordinate to permits, licenses, or decrees for all uses within the State of Idaho with a priority date of, or earlier than, July 25, 2018, diverted upstream from all three points of diversion for this right.


The use of water confirmed in this right shall be junior and subordinate to permits, licenses, or decrees for all uses, except for permits, licenses, or decrees for irrigation storage or power purposes, within the State of Idaho with a priority date later than July 25, 2018, diverted upstream from all three points of diversion for this right.

The use of water confirmed in this right shall not be subordinate to permits, license, or decrees within the State of Idaho diverted downstream from all three points of diversion for this right.

The agreement ensures that the public interest, as it relates to Avista's water use pursuant to its water rights, will not be adversely affected by the proposed transaction between Avista and Hydro One. The agreement safeguards existing and future water users from changes in historical operations, helps protect the summer lake level of Coeur d'Alene Lake, and supports the ongoing operations of Post Falls dam in a manner consistent with prior agreements and the Idaho Department of Environmental Quality 401 Certification.

A copy of the agreement between IDWR and Avista is attached to this letter. To ensure documentation of the agreement before the PUC, IDWR requests that if the PUC approves the pending transaction between Avista and Hydro One, the PUC include the agreement as an attachment or exhibit to any such order so that the resolution of this issue is documented in the order.

Sincerely,


Gary Spackman
Director

Attachment: Agreement Regarding Subordination of Avista's Post Falls Hydroelectric Facility Water Rights

Cc: All parties

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of August 2018, I served a true and correct copy of the foregoing document on the following by the method(s) indicated.

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- ☐ Facsimile
- ☒ Email



Garrick L. Baxter

Agreement Regarding Subordination of Avista's Post Falls Hydroelectric Facility Water Rights

Purpose

This Agreement, reached between Avista Corporation, a Washington corporation ("Avista") and the Idaho Department of Water Resources ("IDWR") (collectively the "Parties"), is intended to capture the mutual understanding of the Parties regarding subordination of Avista's Post Falls water rights, of record with IDWR as Avista's claim nos. 95-4518, 95-9115, and 95-9119 (hereafter "Avista's water rights"). This Agreement guides the Parties' actions in settings including, but not limited to, the Coeur d'Alene-Spokane River Basin Adjudication ("CSRBA") and the currently pending proceeding before the Idaho Public Utilities Commission ("PUC") related to the proposed merger of Avista and Hydro One Limited (acting through its indirect subsidiary Olympus Equity LLC)("Hydro One").

This Agreement is built upon several interests of the Parties:

- To protect the summer lake level of Coeur d'Alene Lake;
- To ensure the public interest, as it relates to the use of water by Avista, will not be adversely affected by the proposed transaction between Avista and Hydro One; and
- To support the ongoing operations of the three dams and power plant at Post Falls ("Post Falls dam") in a manner consistent with prior agreements and as referenced by the Idaho Department of Environmental Quality 401 Certification ("401 Certification") for Post Falls dam and the Federal Energy Regulatory Commission's License for the Spokane River Project #2545 ("FERC license").

Subordination of Avista's water rights

The Parties agree that Avista's water rights are subordinated consistent with the following language, and the following language will be included in the CSRBA claims for Avista's water rights and will be incorporated in IDWR's recommendations of Avista's water rights in the CSRBA Director's Report for Basin 95 ("Director's Report"):

The use of water confirmed in this right shall be junior and subordinate to permits, licenses, or decrees for all uses within the State of Idaho with a priority date of, or earlier than, July 25, 2018, diverted upstream from all three points of diversion for this right.

The use of water confirmed in this right shall be junior and subordinate to permits, licenses, or decrees for all uses, except for permits, licenses, or decrees for irrigation storage or power purposes, within the State of Idaho with a priority date later than July 25, 2018, diverted upstream from all three points of diversion for this right.

The use of water confirmed in this right shall not be subordinate to permits, license, or decrees within the State of Idaho diverted downstream from all three points of diversion for this right.

Agreed Actions by the Parties

1. Upon both Parties' signature to this Agreement, IDWR will convey to the PUC a copy of this Agreement along with a letter stating that if the PUC approves the pending transaction between Avista and Hydro One, the PUC shall reference this Agreement in any such order. The letter will

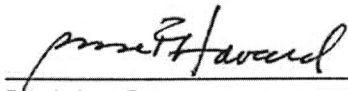
- also explain that with this Agreement, IDWR is satisfied that the proposed merger, with respect to Avista's water rights, will not be adverse to the public interest;
2. Avista will not object to the terms of subordination described above which will be included in the Director's Report for Avista's water rights, and will support those terms in the CSRBA;
 3. The Parties agree on dismissal or withdrawal, as appropriate, of Avista's federal water right claims in the CSRBA, numbered 95-16663 and 95-16664; and
 4. Avista also owns certain water rights for power purposes at Cabinet Gorge dam, of record with IDWR as water right nos. 96-4565, 96-2179, 96-2180, and 96-2269. IDWR and Avista agree to work, in good faith, toward reaching an agreement regarding subordination of Avista's water rights at Cabinet Gorge dam.

General Terms

1. Consideration. The Parties acknowledge receiving sufficient consideration for the commitments contained in this Agreement and waive any argument that they might have in any judicial proceeding that no consideration exists to support this Agreement or that the consideration received is not sufficient.
2. Binding Effect of Agreement. This Agreement is intended to be a final and binding agreement between IDWR and Avista, jointly and severally, and inures to the benefit of, and is binding upon, the successors in interest and assigns of each entity. The Parties further agree that this Agreement is not contingent upon approval of the pending PUC merger case between Avista and Hydro One.
3. Capacity to Execute Agreement. The Parties warrant and represent that the person executing this Agreement on its behalf is empowered to do so and thereby binds it by signing this Agreement.
4. Waivers. The failure to object to any breach of any term or condition in this Agreement shall not constitute a waiver, and no failure to object shall be deemed a waiver of any prior or subsequent breach.
5. Entirety of Agreement. This Agreement represents the entire and integrated agreement between the Parties with respect to the subject matter hereof. No promise or inducement has been offered or made except as herein set forth, and this Agreement is executed by each party without reliance upon any statement or representation by any other party or its agent.
6. Modification. To the extent this Agreement may be amended or modified, it shall be only by a written agreement signed by each of the parties to this Agreement.
7. Dispute Resolution. The Parties agree to meet and discuss informally, in good faith, before filing an action arising from the Agreement.
8. Execution of Agreement in Parts. Due to time constraints, the parties acknowledge that it is not possible to have all Parties sign the same copy of this Agreement. Therefore, the parties agree that this Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

9. Signatures. In witness whereof, the parties to this Agreement through their duly authorized representatives have executed this Agreement and certify that they have read, understood, and agreed to the terms and conditions of this Agreement as set forth herein.

Agreed to, the 25th of July, 2018.



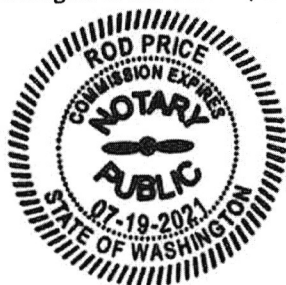
For Avista Corp
Bruce Howard, Sr. Director
Real Estate and Environmental Affairs

For IDWR
Gary Spackman, Director
Idaho Department of Water Resources

ACKNOWLEDGEMENTS

STATE OF Washington)
) ss.
COUNTY OF Spokane)

On this 25 day of July, 2018, before me, Rod Price,
A notary public of the State of Washington, personally appeared Bruce Howard,
a Sr. Director of Avista Corporation, known or identified to me to
be the person who executed the foregoing instrument on behalf of Avista Corporation, and he/she
acknowledged to me that he/she executed the same.



A handwritten signature of Rod Price in black ink.

NOTARY PUBLIC
Residing at: Spokane, WA
My commission expires: 7/19/2021

STATE OF _____)
) ss.
COUNTY OF _____)

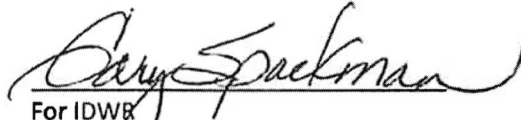
On this ____ day of July, 2018, before me, _____,
A notary public of the State of Idaho, personally appeared GARY SPACKMAN, the Director of the Idaho
Department of Water Resources, known or identified to me to be the person who executed the
foregoing instrument on behalf of the Idaho Department of Water Resources, and he acknowledged to
me that he executed the same.

NOTARY PUBLIC
Residing at: _____
My commission expires: _____

9. Signatures. In witness whereof, the parties to this Agreement through their duly authorized representatives have executed this Agreement and certify that they have read, understood, and agreed to the terms and conditions of this Agreement as set forth herein.

Agreed to, the 25th of July, 2018.

For Avista Corp
Bruce Howard, Sr. Director
Real Estate and Environmental Affairs



For IDWR
Gary Spackman, Director
Idaho Department of Water Resources

ACKNOWLEDGEMENTS

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of July, 2018, before me, _____,
A notary public of the State of _____, personally appeared _____
_____, a _____ of Avista Corporation, known or identified to me to
be the person who executed the foregoing instrument on behalf of Avista Corporation, and he/she
acknowledged to me that he/she executed the same.

NOTARY PUBLIC
Residing at: _____
My commission expires: _____

STATE OF Idaho)
) ss.
COUNTY OF Ada)

On this 25th day of July, 2018, before me, Kimi A. White,
A notary public of the State of Idaho, personally appeared GARY SPACKMAN, the Director of the Idaho
Department of Water Resources, known or identified to me to be the person who executed the
foregoing instrument on behalf of the Idaho Department of Water Resources, and he acknowledged to
me that he executed the same.



Kimi A. White
NOTARY PUBLIC
Residing at: Boise, Idaho
My commission expires: 01/01/2022

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 6TH DAY OF NOVEMBER 2018, SERVED THE FOREGOING **DIRECT TESTIMONY OF TERRI CARLOCK**, IN CASE NOS. AVU-E-17-09/AVU-G-17-05, BY E-MAILING AND MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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SECRETARY