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Boise, Idaho

ON BEHALF OF AVISTA CORPORATION

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ON BEHALF OF HYDRO ONE LIMITED

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT)	
APPLICATION OF HYDRO ONE LIMITED)	CASE NO. AVU-E-17-09
(ACTING THROUGH ITS INDIRECT)	CASE NO. AVU-G-17-05
SUBSIDIARY, OLYMPUS EQUITY LLC))	
AND)	
AVISTA CORPORATION)	SUPPLEMENTAL
FOR AN ORDER AUTHORIZING PROPOSED)	TESTIMONY
TRANSACTION)	OF
_____)	BRUCE F. HOWARD

FOR AVISTA CORPORATION

(ELECTRIC AND NATURAL GAS)

1 **Q. Please state your name, business address, and**
2 **present position with Avista Corporation.**

3 A. My name is Bruce F. Howard. I am employed as the
4 Senior Director of Environmental Affairs by Avista
5 Corporation ("Avista") located at 1411 East Mission Avenue,
6 Spokane, Washington.

7 **Q. Please describe your education and business**
8 **experience.**

9 A. I received a Bachelor of Science degree in Natural
10 Resources from Cornell University in 1980 and a Master of Arts
11 from the University of Texas in Geography in 1986. I started
12 working for Avista in 2000 as a Corporate Environmental
13 Auditor, became the Spokane River License Manager in 2002 and
14 started my current position in 2008.

15 **Q. What are your duties as Senior Director of**
16 **Environmental Affairs of Avista?**

17 A. I am responsible for environmental compliance,
18 compliance with Avista's two hydroelectric licenses issued by
19 the Federal Energy Regulatory Commission ("FERC"), fulfilling
20 additional settlement agreements with Tribes and agencies,
21 hydro and public safety, dam safety, environmental policy and
22 Avista's real estate matters, including property and rights-
23 of-way acquisition, property management and water rights.
24 Additionally, I manage AJT Mining Properties, based in Juneau.

1 **Q. Please summarize your testimony.**

2 A. The purpose of my testimony is to introduce the
3 agreement reached between the Idaho Department of Water
4 Resources ("IDWR") and Avista, which ensures that the public
5 interest, as it relates to Avista's water use pursuant to its
6 water rights, will not be adversely affected by the merger,
7 and meets the requirements of Idaho Code §42-1701(6) and §61-
8 328.

9 **Q. Are you sponsoring any exhibits with your**
10 **testimony?**

11 A. Yes. I am sponsoring Exhibit No. 14, Schedule 1,
12 which is a letter from the Idaho Department of Water Rights
13 (the "IDWR") addressed to the Idaho Public Utilities
14 Commission (the "IPUC") and the agreement between IDWR and
15 Avista.

16 **Q. Before discussing the specifics of the agreement**
17 **reached between Avista and IDWR, please provide a brief**
18 **history of events that which led to the agreement.**

19 A. Certainly. On July 9, 2018, the IDWR intervened in
20 Case No. AVU-E-17-09 and AVU-G-17-05, the Joint Application
21 for an Order Authorizing Proposed Transaction, pursuant to
22 Idaho Code §61-328 and §42-1701(6). Idaho Code §42-1701(6)
23 provides, in relevant part:

24 (6)(a) Any authorization or order of the Idaho
25 public utilities commission, under the provisions

1 of section 61-328, Idaho Code, approving the sale,
2 assignment or transfer of hydropower water rights
3 used in the generation of electric power shall be
4 issued only upon such conditions as the director of
5 the department of water resources shall require as
6 necessary to prevent any change in use of water
7 under the water rights held for hydropower purposes
8 that would cause injury to any water rights
9 existing on the date of the sale, assignment or
10 transfer. Any such conditions shall ensure that the
11 public interest, as it pertains to the use of water
12 under the hydropower water rights, will not be
13 adversely affected. Conditions, if any, imposed by
14 the director shall be subject to review under
15 section 42-1701A(4), Idaho Code.

16

17 Idaho Code §61-328 provides, in relevant part:

18

19 The commission shall include in any authorization
20 or order the conditions required by the director
21 of the department of water resources under section
22 42-1701(6), Idaho Code. The commission may attach
23 to its authorization and order such other terms
24 and conditions as in its judgment the public
25 convenience and necessity may require.

26

27 As described in a letter to the IPUC written by Gary
28 Spackman, Director of the IDWR, and attached here as Exhibit
29 No. 14, Schedule 1, IDWR's immediate concern was that the
30 merger "would disrupt the ongoing discussions with Avista's
31 water right claims in the Coeur d' Alene-Spokane River Basin
32 Adjudication ("CSRBA") claim and might impede or prevent the
33 resolution of the issues." In addition, IDWR was also
34 concerned the merger could possibly "result in the change in
35 the use of water authorized by Avista's hydropower water
36 rights."

1 Soon after IDWR's intervention, I began discussions with
2 Director Spackman, his staff and representatives of the Idaho
3 Attorney General's office representing IDWR. Over a series
4 of discussions during the following several weeks, we reached
5 a common understanding of interests. Primarily, these were
6 to affirm Avista's ongoing operations of the Post Falls dam
7 as reflected in the Spokane River FERC license and to resolve
8 IDWR's subordination concerns.

9 **Q. What are the terms of the Agreement reached between**
10 **Avista and IDWR?**

11 A. Specifically, IDWR and Avista have reached an
12 agreement regarding subordination of Avista's water rights
13 consistent with the historical operations at Post Falls dam.
14 IDWR and Avista have agreed that Avista's water right claim
15 nos. 95-4518, 95-9115, and 95-9119 shall be recommended in
16 the CSRBA with the following subordination language:

17
18 The use of water confirmed in this right shall be
19 junior and subordinate to permits, licenses, or
20 decrees for all uses within the State of Idaho with
21 a priority date of, or earlier than, July 25, 2018,
22 diverted upstream from all three points of
23 diversion for this right.

24
25 The use of water confirmed in this right shall be
26 junior and subordinate to permits, licenses, or
27 decrees for all uses, except for permits, licenses,
28 or decrees for irrigation storage or power
29 purposes, within the State of Idaho with a priority
30 date later than July 25, 2018, diverted upstream
31 from all three points of diversion for this right.

32

1 The use of water confirmed in this right shall not
2 be subordinate to permits, license, or decrees
3 within the State of Idaho diverted downstream from
4 all three points of diversion for this right.
5

6 **Q. Does IDWR believe that the proposed transaction**
7 **adversely affects the public interest?**

8 A. No. As stated by IDWR in its letter to the IPUC
9 dated August 10, 2018, "The agreement ensures that the public
10 interest, as it relates to Avista's water use pursuant to its
11 water rights, will not be adversely affected by the proposed
12 transaction between Avista and Hydro One."

13 **Q. Does this conclude your pre-filed, direct**
14 **testimony?**

15 A. Yes, it does.