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January 8, 2019

NOTICE OF DENIAL OF PETITION FOR RECONSIDERATION BY OPERATION OF LAW AND DENIAL OF PETITION FOR REHEARING AS MOOT

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RE: *In the Matter of the Joint Application of Hydro One Limited and Avista Corporation for an Order Authorizing Proposed Transaction, Docket U-170970*

On September 14, 2017, Avista Corporation (Avista), a Washington corporation and a jurisdictional public service company, and Hydro One Limited (Hydro One), a Province of Ontario corporation, acting through Olympus Equity LLC, an indirect, wholly owned subsidiary of Hydro One, filed their Joint Application for an Order Authorizing Proposed Transaction.¹ If approved, Olympus Equity LLC would have acquired all of the outstanding common stock of Avista, which would have become a direct, wholly owned subsidiary of Olympus Equity LLC. Avista, thus, would have been an indirect, wholly owned subsidiary of Hydro One. The Commission, however, entered and served Order 07, its “Order Denying Joint Application for Transfer of Property” on December 5, 2018. Order 07 is a “final order” under WAC 480-07-820.

The Commission accepted for filing on December 17, 2018, the “Petition of Hydro One and Avista for Reconsideration and for Rehearing.” Under the Administrative Procedure Act, RCW 34.05.470, and the Commission’s Procedural Rules, WAC 480-07-850, the Commission must resolve the petition for reconsideration in one of three ways. The Commission may elect to take no action on the petition within 20 days after it is filed, in which case the petition is deemed denied by operation of law. Alternatively, the Commission may give written notice specifying the date by which it will act on the petition. Finally, the Commission may enter an order resolving the petition.²

¹ We refer to Avista and Hydro One collectively in this Notice as “Joint Applicants” or “Companies.”

² RCW 34.05.470 provides in relevant part that: “The agency is deemed to have denied the petition for reconsideration if, within twenty days from the date the petition is filed, the agency does not either: (a) Dispose of the petition; or (b) serve the parties with a written notice specifying the date by which it will act on the petition.”

WAC 480-07-850(2) provides: Disposition. A petition for reconsideration is deemed denied twenty days after the date the petition is filed, unless the commission either: (a) Enters an order resolving the petition; or (b) Serves the parties with a written notice specifying the date by which the commission will act on the petition.

In this case, the Commission has elected not to dispose of the petition “in the form of a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further hearing.”³ Monday, January 7, 2019, marked the passage of 20 days since the filing of the petition on December 17, 2018. The Commission determines, therefore, that it should give notice that the petition for reconsideration is deemed denied by operation of law.

Joint Applicants seek by their petition for rehearing “to present additional evidence after the Commission has entered a final order” as allowed under WAC 480-07-830(2) and WAC 480-07-870. Because, however, the Joint Applicants’ petition for reconsideration is deemed denied by operation of law, “the commission will take no further action in the matter with respect to the final order.”⁴ It follows that the Companies’ petition for rehearing is moot, there being no effective relief available to the Joint Applicants. Although it is not necessary for the Commission to address the merits of the petition for rehearing, we find it fails to establish sufficient grounds as required by WAC 480-07-870(1).

THE COMMISSION GIVES NOTICE THAT the Petition of Hydro One and Avista for Reconsideration and Rehearing, to the extent it seeks reconsideration of Order 07 in this docket, is DENIED BY OPERATION OF LAW.

THE COMMISSION GIVES FURTHER NOTICE THAT the Petition of Hydro One and Avista for Reconsideration and Rehearing, to the extent it seeks rehearing of Order 07 in this docket, is MOOT and, therefore, is DENIED.

MARK L. JOHNSON
Executive Director and Secretary

cc: All Parties

³ RCW 34.05.470(4).

⁴ WAC 480-07-850(3).