

DEC 21 2018

Boise, Idaho

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Attorney for Petitioner  
Community Action Partnership  
Association of Idaho

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE JOINT	)	CASE NOS. AVU-E-17-09
APPLICATION OF HYDRO ONE LIMITED	)	AVU-G-17-05
AND AVISTA CORPORATION FOR	)	
APPROVAL OF MERGER AGREEMENT	)	COMMUNITY ACTION
ELECTRIC SERVICE IN IDAHO	)	PARTNERSHIP ASSOCIATION
	)	OF IDAHO'S PETITION FOR
	)	INTERVENOR FUNDING.
	)	

**I. INTRODUCTION**

COMES NOW, the Community Action Partnership Association of Idaho (CAPAI) and, pursuant to Idaho Code § 61-617A and Rules 161-165 of the Commission’s Rules of Procedure, IDAPA 31.01.01.161-165, petitions this Commission for an award of intervenor funding in the above-captioned proceeding.

**II. BACKGROUND**

This case was initiated with the filing of a Joint Application by Avista and Hydro One on September 14, 2017 for approval of a merger agreement between the two applicants. The Commission issued a Notice of Application and Order No. 33903 on October 5, 2017 establishing an intervention deadline of October 26, 2017 for all interested parties. CAPAI timely filed its Petition for Intervention which was granted by the Commission on November 8,

2017. On March 19, 2018, the Commission issued a Notice of Settlement Conferences for April 26 and June 5, 2018. A technical hearing was set for June 27, 2018.

In the months that followed the filing of the Joint Application, the parties actively began examining and processing the underlying facts and applicable laws governing the requested merger. Through the efforts of the parties of record, a schedule was adopted by the Commission in Order No. 33950 establishing, among other things, a complete case schedule including pre-file deadlines for non-applicant witnesses of May 18, 2018. The Joint Applicants were directed to file Rebuttal Testimony by June 20, 2018 and a hearing was scheduled for June 27, 2018.

As the deadline for prefiled testimony approached, numerous changes were made in terms of how the case would ultimately be handled procedurally. Rather than prefile testimony, for instance, CAPAI filed Comments in Support of the Merger Agreement that had been reached by parties involved in the case at that time. It wasn't until June 27, 2018 that the Avista Customer Group (ACG) late-filed its Petition to Intervene in this case. The Idaho Department of Water Resources also late-filed its Petition to intervene on July 9, 2018, well after the filing of comments on the proposed merger by those parties who timely filed their intervention petitions.

The consequences of late-filed intervention petitions in this case was to cause additional work to be performed by those parties who timely filed and intervened at the outset of this case but who were then obligated to repeat much of the work they had already performed prior to the late interventions.

### **III. PROCEDURAL REQUIREMENTS**

#### **Rule 161 Requirements (IDAPA 31.01.01.161):**

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

## **Rule 162 Requirements:**

### **(01) Itemized list of Expenses**

Consistent with Rule 162(01) of the Commission's Rules of Procedure, an itemized list of all expenses incurred by CAPAI in this proceeding is attached hereto as Exhibit "A."

### **(02) Statement of Proposed Findings**

As clearly stated in the direct testimony and comments submitted in June of Wil Gehl CAPAI supports the proposed settlement stipulation and recommends that the commission approve the merger settlement stipulation. The reasons cited by Mr. Gehl are numerous and rely, primarily, on the considerable funding that Avista has pledged to be directed, in part or in whole, toward increasing funding for existing low income assistance programs to establishing a new program offering bill payment assistance for the poor using shareholder funds.

### **(3) Statement Showing Costs:**

CAPAI requests \$17,000 in Intervenor funding, as shown in Exhibit 2 hereto. CAPAI submits that both the hourly rate and hours expended are reasonable, particularly in light of the complexity and length of this proceeding. CAPAI's legal counsel has twenty-eight (28) years of direct experience before this commission as both Deputy Attorney General for the Commission Staff and eighteen (18) years in private practice handling a myriad of cases before this commission as well as in other sectors of the law. CAPAI has historically requested an amount of intervenor funding that prices CAPAI's Executive Director and legal counsel at levels far less than market rates. As stated in its Petition for Intervenor Funding in Case No. AVU-E-17-01, the undersigned has rarely increased his legal rates in the eighteen (18) years that he has represented CAPAI before this Commission. Given his nearly three decades of experience in a field that is undeniably arcane and highly specialized, and given that legal counsel's current

hourly rate of \$150 is, at a bare minimum, 2-3 times below market levels for attorneys with similar experience and is not likely even the rate paid to most associate attorneys in private practice with no PUC experience, the undersigned has increased his rate to \$250/hr. Again, this is still below market rate.

CAPAI fully participated in every aspect of this proceeding from start to finish and provided input and asserted issues not raised by Staff and other parties. CAPAI's participation is summarized throughout this Petition, including in Exhibit "A." For the reasons stated herein, CAPAI respectfully submits that the costs it seeks to recover as set forth in Exhibit A, are reasonable in amount.

**(4) Explanation of Cost Statement:**

The Commission well knows the financial limitations that CAPAI faces. For example, CAPAI seldom can afford to retain an outside expert witness and does so only in particularly technical proceedings. In the present case, CAPAI relied heavily on its Executive Director, Mr. Gehl, and will continue to do so in the future. CAPAI has historically requested an amount of intervenor funding that prices CAPAI's executive director and legal counsel at levels less than market rates in any given case.

CAPAI is a non-profit corporation overseeing a number of agencies who fight the causes and conditions of poverty throughout Idaho and has relatively little "discretionary" funds available for all projects, including participating in IPUC proceedings. CAPAI notes that it has no choice but to minimize its expenses and maximize the effect that its involvement has in proceedings before the Commission in light of its limited financial resources for this type of effort. Thus, CAPAI must adopt a resourceful approach using what limited resources that are at its disposal.

CAPAI's sole source of funding to cover the initial costs of intervention before this Commission is the LIHEAP program. CAPAI's LIHEAP budget is limited and its future existence and levels are uncertain. In addition, CAPAI is subject to certain federal limitations in terms of the manner in which it spends its LIHEAP funds. This, unfortunately, limits the scope of issues that CAPAI is financially able to become involved in. Unlike certain other intervenors before the Commission on a regular basis, CAPAI lacks the necessary funding to retain expert witnesses to help present its case. In that regard, CAPAI must either rely on its Executive Director, or the employee/experts of its agencies.

Finally, CAPAI has no monetary stake in the outcome of this or any other proceeding before the Commission in the sense that it does not represent for-profit businesses or advocacy groups representing industry interests. Rather, CAPAI is a non-profit voice for the low income ratepayers of Avista and all other fully regulated utilities in Idaho.

Thus, were it not for the availability of intervenor funding and past awards by this Commission, CAPAI would not be able to participate in IPUC cases representing an important and otherwise unrepresented and growing segment of regulated public utility customers. Even with intervenor funding, participation in Commission cases constitutes a significant financial hardship because CAPAI must pay its expenses as they are incurred, not if and when intervenor funding becomes available.

Based on the foregoing, CAPAI respectfully submits that the costs incurred and requested in this Petition are reasonable in amount.

#### **(05) Statement of Difference**

As with any case at least partially resolved through settlement, details of positions taken during such negotiations typically cannot be revealed or otherwise disclosed outside of the

settlement process. Thus, to specify in this case exactly how the positions taken by CAPAI during settlement materially differed from those of the Commission Staff carries the risk of violating the confidentiality aspect of negotiated settlements. Just the same, the positions taken by CAPAI and the Commission Staff were certainly not identical and differed materially from one another.

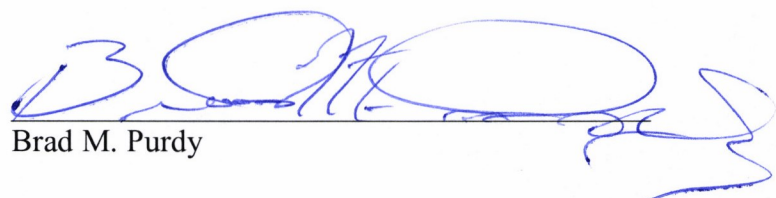
**(06) Statement of Recommendation**

Avista's low income customers constitute a significant and increasing segment of the Company's residential ratepayers. In today's increasingly challenging economic times, issues affecting low income public utility ratepayers also become increasingly important. To the extent that low income customers are unable to reduce their energy consumption due to limited financial and other means and to the extent that the poor are most vulnerable to disconnection due to inability to pay their bills, any measures to assist the Company's low income customers in paying their bills both clearly and positively affects the general body of Avista's customers through, among other things, the reduction of bad debt expense, collection costs, and the lost revenue from customers who cannot afford to pay their electric bills.

**(07) Statement Showing Class of Customer**

To the extent that CAPAI represents a specific customer class of Avista, it is the residential class.

RESPECTFULLY SUBMITTED, this 21st day of December, 2018.



Brad M. Purdy

## CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of December, 2018, I caused the foregoing document to be served on the following via electronic service:

### **Avista Corporation**

David Meyer  
[David.meyer@avistacorp.com](mailto:David.meyer@avistacorp.com)

Linda Gervais  
[Linda.gervais@avistacorp.com](mailto:Linda.gervais@avistacorp.com)

### **Staff**

Brandon Karpen  
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Diane Hanian  
Secretary  
Idaho Public Utilities Commission+  
[d.holt@puc.id.gov](mailto:d.holt@puc.id.gov)

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Brad M. Purdy

**EXHIBIT "A"**  
**ITEMIZED EXPENSES**

**CAPAI'S STATEMENT SHOWING COSTS**  
**Case AVU-E-17-01**

**Tasks performed during course of case: Brad M. Purdy.**

**Expense Categories**

The categories of expenses and work performed are as follows	<u>Hrs.</u>
Research initial application, testimonies and exhibits filed by joint Applicants.	5
Prepare and file initial Petition to Intervene.	2
Review of Commission Order(s) and Notice(s).	1
Participate in drafting and reviews of Settlement stipulations.	3
Receipt and review late-filed intervenor petitions.	2
Meetings and communications w/client.	5
Numerous meetings and/or telephone conferences w/other parties.	5
Prepare CAPAI comments in support of stipulation filed in June,	5
Preparation for and participation in numerous settlement negotiations and scheduling conferences	10
Review testimonies and exhibits filed by all parties	5
Assist in preparing CAPAI's written comments and direct testimony	7
Prepare for and participate in 2 day technical hearing	20
<b>Total Hours Worked - Brad M. Purdy</b>	<b>70</b>
<b>Total Hours worked at billable rate:      70 hrs. @ \$200.00/hr.</b>	<b>\$14,000</b>

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**Tasks performed during course of case: Wil Gehl.** Hrs.

**Total Hours Worked - Wil Gehl**                      49 hrs. @ \$60.42                      **\$3,000**

**Total fees for Brad M. Purdy and Wil Gehl:** **\$17,000**

**Copies and postage:** **\$45**

**TOTAL EXPENSES** **\$17,0453**