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IDAHO PUBLIC
UTILITIES COMMISSION

October 28, 2009

Idaho Public Utilities Commission
472 West Washington
P. O. Box 83720
Boise, Idaho 83720-0074

Via Facsimile Transmission to
(208) 334-3762

Re: Order No. 30920; Case No. AVU-E-09-05;
Petition for Reconsideration

As the claimant in the case at hand, I petition for reconsideration of the Idaho Public Utilities Commission's FINAL ORDER issued on October 7, 2009.

The Final Order is largely based on Avista's assertion of an 'investigation' and, in particular, of a 'meter testing'. In this context, the Commission decision is oblivious to the fact that

(1) aside from its own statement, Avista has not provided any tangible evidence resulting from its alleged 'investigation'. Any assumption based on Avista's unsubstantiated assertion of an investigation still remains an assumption. Insofar, the Final Order falls victim to the *petitio principii* when it states on page 3 "Following an investigation, it was determined ... the meter was properly recording the Pawlik's actual usage."

(2) the only 'meter testing' was done in April 2009, after the meter in question had been repaired and refurbished for future use. Consequently, the meter testing, although the 'backbone' for the Commission's Final Order, is critically flawed and cannot support Avista's claim of accurate recordings prior to January 19, 2009.

Furthermore, the Final Order fails to consider that the 300% spike in power consumption recording occurred only during three months before January 19, 2009. After the faulty meter's replacement, power consumption recordings returned to normal levels comparable to prior years' usage. Such a defined spike in power usage recording during the period in question strongly points to a defect in the recording device, rather than inexplicable actual consumption.

While our dispute with Avista was still unresolved, Avista chose to respond to our dispute with a shut-off notice. In other words, Avista's 'offer' of a payment arrangement was the alternative to a power shut-off. Does this 'offer' carry the hallmarks of extortion? It does in all penal codes we are aware of. Moreover, contrary to its assertion in its Response about offering a payment arrangement over 12 months, Avista honored the arrangement for one month (May 2009), but cancelled the arrangement without cause or notice after that. Currently, no payment plan is in effect.

The Commission clearly misinterpreted the nature and intent of our complaint. At no time have we questioned Avista's 'authority' to rebill for the period of estimated power usage. Our complaint was merely directed at Avista's

(a) grossly excessive additional utility charges after six billing cycles of estimating our usage due to a faulty metering device,

(b) mismanagement in view of the time taken to replace a broken meter (six billing cycles),

(c) fraudulent rebilling by lumping all alleged overages into three billing cycles of higher rates when the alleged accrual of power usage had actually occurred over six billing cycles, and

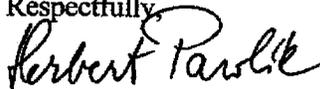
(d) shut-off notice as a response to our dispute.

From the very beginning of our dispute with Avista, and continually throughout the process, we made clear that Avista should be paid for verifiable or reasonable power consumption.

Our complaint is directed at the inexplicable recordings of a faulty meter adding up to an unrealistic 300% increase of alleged usage over prior years' averages. Avista still has failed to produce any viable evidence that such extraordinary power consumption actually took place. In lieu of such evidence, Avista provided test results from a refurbished meter in hopes the IPUC investigator would not question, but fully rely on the veracity of its unsubstantiated assertions.

We ask the Commission to reconsider its Final Order of October 7, 2009, revoke Avista's related, excessive claims and grant our request for fair and equitable utility charges, as delineated in our correspondence of July 14, 2009, under the aspect of Avista using conjured statements and manipulated evidence in support of its otherwise unsubstantiated claim of its grossly disproportionate utility charges.

Respectfully,



Herbert Pawlik