BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

DOCKET NO. UM 1897

In the Matter of

HYDRO ONE LIMITED,

Application for Authorization to Exercise Substantial Influence over the Policies and Actions of AVISTA CORPORATION

AVISTA, AWEC, CUB, HYDRO ONE, OSIDCL, STAFF

JOINT TESTIMONY IN SUPPORT OF STIPULATION

WITNESSES: ROSE ANDERSON, WILLIAM GEHRKE, BOB JENKS, GREG HELD, CHRISTOPHER LOPEZ, SCOTT MORRIS, MATT MULDOON, BRADLEY MULLINS, MAYO SCHMIDT, and MARK THIES

June 19, 2018

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I. INTRODUCTION AND SUMMARY

Q. Please state your name and position.

A. My name is Rose Anderson. My business address is 201 High Street, Suite 100, Salem, OR 97301. My current position is Senior Utility Analyst for the Public Utility Commission of Oregon ("Commission").

My name is William Gehrke. My business address is 610 SW Broadway, Suite 400, Portland, OR 97205. My current position is Economist for the Oregon Citizens' Utility Board. My name is Bob Jenks. My business address is 610 SW Broadway, Suite 400, Portland, OR 97205. My current position is Executive Director of the Oregon Citizens' Utility Board.

My name is Greg Held. My business address is 17230 NE Sacramento St., Ste. 201, Portland, OR 97230. My current position is Business Manager/Secretary Treasurer for the Oregon and Southern Idaho District Council of Laborers ("OSIDCL").

My name is Christopher Lopez. My business address is 483 Bay Street, 8th Floor, South Tower, Toronto, Ontario M5G 2P5. My current position is Senior Vice President, Finance for Hydro One Limited ("Hydro One").

My name is Scott L. Morris. My business address is 1411 E. Mission Avenue, P.O. Box 3727, Spokane, WA 99220-3727. My current position is Chairman and Chief Executive Officer (CEO), as well as a Director, for Avista Corporation ("Avista" or "Company").

My name is Matt Muldoon. My business address is 201 High Street SE, Suite 100, Salem, OR 97301. My current position is Senior Economist for the Commission.

My name is Bradley Mullins. My business address is 1750 SW Harbor Way, Suite 450, Portland, Oregon 97201. I am an independent consultant representing energy and utility customers before state regulatory commissions, with a primary focus in the Pacific Northwest. I am appearing in this matter on behalf of the Alliance of Western Energy Consumers ("AWEC").

My name is Mayo Schmidt. My business address is 483 Bay Street, 8th Floor, South Tower, Toronto, Ontario M5G 2P5. My current position is President and Chief Executive Officer (CEO), as well as a Director, of Hydro One.

My name is Mark Thies. My business address is 1411 E. Mission Avenue, P.O. Box 3727, Spokane, WA 99220-3727. My current position is Senior Vice President, Chief Financial Officer (CFO), and Treasurer for Avista.

Together we are the representatives of the "Parties" in this Joint Testimony.

Q. Have you all previously filed testimony in this docket?

A. Yes.

Q. Please provide an overview of the transaction contemplated by the Stipulation the Parties filed on May 25, 2018, in this docket.

A. The transaction involves the proposed acquisition by Hydro One of Avista (the "Proposed Transaction"). Hydro One is a corporation organized under the laws of Ontario that operates a large transmission and distribution utility in Ontario. At the close of the Proposed Transaction, Avista will continue to operate as a standalone utility in Alaska, Idaho, Montana, Oregon, and Washington. Hydro One will serve as Avista's indirect parent company through the post-close corporate structure identified in Table 1 below.

Q. Who are the Parties to this proceeding?

A. The Parties to this proceeding are: Hydro One, Avista, the Staff of the Commission ("Staff"), the Oregon Citizens' Utility Board ("CUB"), the Alliance of Western Energy Consumers ("AWEC")[1], the Laborers' International Union of North America with its affiliated District

[1] Formerly known as the Northwest Industrial Gas Users ("NWIGU").

Council and Local Unions ("LIUNA")[2], jointly referred to herein as "Parties" and individually as a "Party."

Q. Are <u>all</u> of the Parties signatories to the Stipulation?

A. Yes, all Parties are signatories to the Settlement Stipulation (hereinafter "Stipulation"). As shown above, the Parties represent a wide range of interests. These constituencies include residential (including low-income constituents), commercial, and industrial customers.

Q. Would you please describe the process that led to the filing of the Stipulation?

A. In accordance with the procedural schedule adopted at the prehearing conference, all Parties attended the first scheduled settlement conference held in Salem, Oregon, on March 15, 2018. Additional settlement conferences were held in Salem on April 23 and May 4, 2018. Based on discussions at these settlement conferences and subsequent telephone settlement conferences, the Parties have reached an agreement on commitments attached as Appendix A to the Stipulation (hereinafter "Stipulated Commitments," individually, as "Stipulated Commitment") that provide a basis upon which the Parties recommend Commission approval of the Proposed Transaction in Oregon. The Stipulation is marked as Exhibit 101.

Q. Did all of the Parties participate in settlement discussions?

A. Yes, all of the Parties fully participated in the settlement discussions, and all are signatories to the Stipulation. The Parties, representing all who have intervened or appeared in this docket, agree that this Stipulation satisfies the requirements of ORS 757.511 and should be accepted by the Commission as a full resolution of the issues in this docket.

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[2] LIUNA was represented by the Oregon and Southern Idaho District Council of Laborers ("OSIDCL").

Q. Did the Parties engage in extensive discovery before entering into the Stipulation?

A. Yes, all of the Parties conducted formal discovery. The Joint Applicants supported their Merger Application with 7 witnesses and 24 exhibits containing 701 pages of documentation. Staff and Intervenors proffered 12 witnesses and 52 exhibits containing 1,040 pages of documentation. Avista responded with rebuttal testimony through 6 witnesses and 17 exhibits containing 652 pages of documentation. The Parties submitted 570 data requests, with 810 individual questions, exploring issues critical to them regarding the proposed merger. Each Party believes that it has sufficiently explored areas of concern, is well versed in the issues, and has entered into settlement discussions.

Q. Does this Stipulation represent a compromise among the various Parties, in order to reach common ground, while still meeting the legal standard required by ORS 757.511?

A. Yes. As noted in the Stipulation, the Parties agree that this Stipulation represents a compromise in the positions of the Parties, and that the Stipulation meets Oregon's standard for approval of mergers and acquisitions under ORS 757.511.

As with any Stipulation, no Party shall be deemed to agree that any provision of this Stipulation is appropriate for resolving issues in any other proceeding, except those proceedings involving enforcement or implementation of the Stipulation terms.

Q. How do the Stipulation and supporting Joint Testimony work together?

A. The purpose of the supporting Joint Testimony is to explain the following: the procedural history of this docket that led to the resolution of all issues; why each Party believes that the agreement reached in the Stipulation satisfies the ORS 757.511 "net benefit" standard for approval of mergers and acquisitions; and the purpose and effect of the Appendix A Stipulated Commitments. However, all Parties agree that if, in the future, it is determined that a conflict or ambiguity between a Stipulated Commitment listed in Appendix A to the Stipulation and its corresponding explanation contained in the Joint Testimony herein, the language in Appendix A to the Stipulation shall govern and prevail.

Q. How have the Parties organized their testimony in support of the filed Stipulation?

A. The first portion of this Joint Testimony will provide an introduction discussing the legal standard, and offering each Party's views concerning how the "net benefit" standard has been satisfied. Thereafter, an additional section of Joint Testimony will devote itself to describing each Stipulated Commitment in detail. (That section is JOINT TESTIMONY/101, Attachment A to this Joint Testimony.) Recognizing that each Party has its own perspective regarding why the Stipulation meets the statutory requirements, each Party will also provide its own individual testimony explaining its concerns and why the merger provides "net benefits" to customers.

Q. What is the purpose of your Joint Testimony?

A. The purpose of this Joint Testimony is to explain and provide support for the Stipulation filed by the Parties in this docket on May 25, 2018. The Stipulation resolves all issues raised by the Parties and includes 115 Stipulated Commitments, located in Appendix A (Docket No. UM 1897 / Oregon Commitments) to the Stipulation, that Avista and Hydro One support. The Stipulated Commitments and the evidence in the record support the Parties' recommendation that the Commission approve Hydro One's Application for an Order Authorizing Hydro One Limited to Exercise Substantial Influence over the Policies and Actions of Avista Corporation ("Application").

Q. **Please summarize your Joint Testimony.**

A. All Parties agree that the Proposed Transaction, as conditioned by the Stipulated Commitments, satisfies the requirements of ORS 757.511 for Avista's Oregon customers, will serve the public interest, and should be approved by the Commission subject only to the Stipulated Commitments.

II. <u>GOVERNANCE</u>

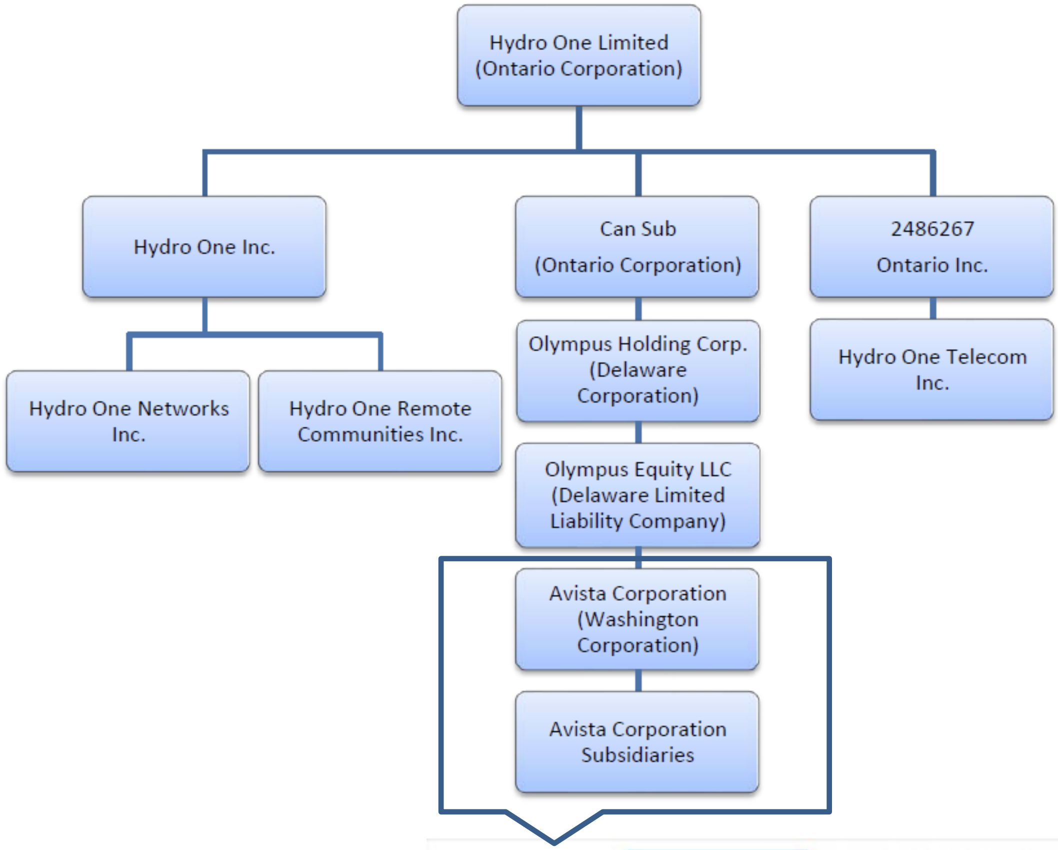
Q. Please describe the current governance structure of Avista.

A. Avista is currently governed by a Board of Directors which consists of eleven directors, nine of which are independent, consistent with the requirements of the New York Stock Exchange ("Independent Directors") and applicable laws and regulations. The Chief Executive Officer ("CEO") and President are the only non-independent directors.

Q. Please describe the post-merger governance structure of Avista.

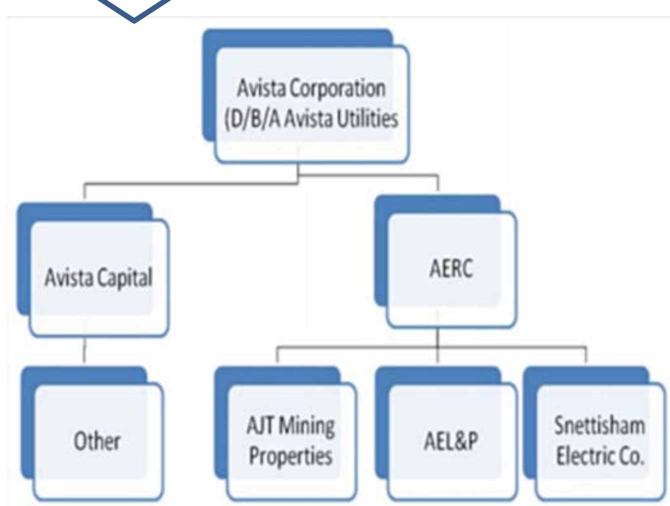
A. After the Proposed Transaction closes, Avista will operate very much as it does today. Avista will be a separate indirect subsidiary of Hydro One, with its own management and board of directors. As shown in Table 1 below, after the Proposed Transaction closes, Avista will be a direct subsidiary of Olympus Equity LLC. As a debt-free special purpose entity immediately above Avista in the post-close corporate structure, Olympus Equity LLC will provide ring-fencing support to Avista, shielding it from financial distress up the corporate chain of entities. Olympus Holding Corp. will reside above Olympus Equity LLC in the post-close corporate structure and will be the holding company for U.S. purposes. Avista's post-close board of directors will consist of a majority of independent directors. In addition, a majority of the board members selected by Hydro One must not only be independent, but must also be residents of the Pacific Northwest.

Revised Post-Closing Corporate Structure[3]



Enlargement and clarification of Avista Corporation and Subsidiaries is provided at right:

[4]



[3] Table 1 reflects the corporate structure as at the effective time of the closing of the Proposed Transaction.

[4] Avista's corporate structure as in S&P Global Market Intelligence on March 23, 2018.

Q. Will Avista's operations, or the Commission's jurisdiction over Avista, be affected by the merger?

A. No. As described below, there are several commitments included in the Stipulation that confirm the Commission's ongoing jurisdiction over Avista and that confirm that Avista's operations will continue in a manner substantially similar to the present after the consummation of the Proposed Transaction.

Q. Please describe the current governance structure of Hydro One.

A. Hydro One is a utility holding company incorporated under the laws of Ontario. Although one of Hydro One's shareholders is the Province of Ontario, pursuant to the Governance Agreement between Hydro One and the Province (Exh. 803), the Province does not hold or exercise any managerial oversight over Hydro One. Of Hydro One's 14 directors, all are independent of the Province within the meaning of Canadian securities laws,[5] and, with the exception of the President and CEO, all of Hydro One's directors are independent of Hydro One.

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[5] The Governance Agreement dated November 5, 2015 between Hydro One and the Province of Ontario ("Province") requires that other than the CEO, each director nominee of Hydro One shall be independent of Hydro One within the meaning of Ontario securities Laws governing the disclosure of corporate governance practices. For general governance, Canadian securities regulatory authorities have adopted *National Policy 58-201 – Corporate Governance Guidelines* ("NP 58-201") of the Canadian Securities Administrators ("CSA") to provide public companies with guidance on corporate governance. Pursuant to NP 58-201, a reporting issuer's board of directors should comprise a majority of independent directors and the chair of the board should be an independent director. If a corporation does not have an independent chair, an independent director should be appointed to act as "lead director". Independence is defined in the CSA's *National Instrument 52-110 – Audit Committees* ("NI 52-110"). Under NI 52-110, a board member will be considered to be "independent" if he or she has no direct or indirect material relationship with the issuer. A "material relationship" is defined as a relationship that could, in the view of the issuer's board of directors, reasonably interfere with the exercise of a board member's independent judgment. In addition, a director is automatically treated as not independent if s/he meets one of the listed criteria [for example, an individual who is, or within the prior 3 year period, has been an employee or executive officer of the issuer (which includes any parent or subsidiary entity)].

The Governance Agreement also provides that other than the CEO, each director nominee of Hydro One (including, for clarity, a nominee of the Province), shall be independent of the Province. For these purposes, a director nominee will be independent of the Province if he or she would be independent of

Q. Please describe the process by which the merger will be completed.

A. Olympus Holding Corp., a Delaware Corporation, and an indirect wholly-owned subsidiary of Hydro One, will acquire all of the shares of Avista through a merger of a wholly-owned indirect subsidiary, Olympus Corp., and Avista. After the merger, Avista will be the surviving corporation, and Olympus Corp. will cease to exist. CanSub will obtain financing for the Proposed Transaction and will invest the money to Olympus Holding Corp. as a combination of debt and equity. Olympus Holding Corp. will invest the proceeds down to Olympus Equity LLC, which will use the funds to acquire Avista.

The financing for the Proposed Transaction will involve a mix of long-, medium- and short-term debt together with a convertible debenture installment receipts offering. Hydro One plans to issue the debt financing in U.S. dollars totaling US$2.6 billion (and issued convertible debenture installment receipts in Canada of C$1.54 billion or approximately US$1.2 billion). Hydro One expects the convertible debenture to be fully converted to equity around the time of the closing of the Proposed Transaction. The planned US$ debt financing contemplates a combination of 5-year, 10-year and 30-year US$ denominated notes. Hydro One will utilize these funds to indirectly purchase equity in Olympus Equity LLC, a bankruptcy remote entity and immediate holding company of Avista. Olympus Equity LLC will be funded entirely with equity consistent with the ring-fencing Stipulated Commitments. Consequently, Avista's Oregon customers are not responsible for the debt used to finance the Proposed Transaction.

Hydro One within the meaning of Ontario securities laws governing the disclosure of corporate governance practices if the Province and each Specified Provincial Entity (as provided in the Governance Agreement) were treated as Hydro One's parent under that definition, but excluding, in the case only for the directors named in the Prospectus of Hydro One dated October 29, 2015 (the "Prospectus"), any prior relationship that ended before August 31, 2015. In addition, he or she may not be an employee or official of the Province or any Specified Provincial Entity, either: (i) currently or, (ii) within the last three years, but for (ii), excluding in the case only for the directors named in the Prospectus, any prior relationship that ended before August 31, 2015.

Q. In addition to approval by the Commission, are there other regulatory and corporate approvals that must be gained before the merger can be completed?

A. Yes. The Proposed Transaction was unanimously approved by the Board of Directors of both companies. The merger has also been approved by Avista's shareholders. In addition to approval from this Commission, Avista and Hydro One must also receive the approval of the Washington Utilities and Transportation Commission (WUTC) and the Idaho Public Utilities Commission (IPUC). The Public Service Commission of the State of Montana (MPSC) voted in favor of the Proposed Transaction on June 12, 2018. The Proposed Transaction was approved with conditions by the Regulatory Commission of Alaska on June 4, 2018. The Proposed Transaction has already been approved by the Federal Energy Regulatory Commission and the Federal Communications Commission. The Proposed Transaction has also been cleared by the Committee on Foreign Investment in the United States (CFIUS), and has been determined to comply with applicable requirements under the U.S. Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended. Finally, the Proposed Transaction is subject to the satisfaction of customary closing conditions.

III. APPLICABLE STANDARD FOR APPROVAL

Q. Under what standard have parties reviewed the merger application?

A. Parties reviewed the application under ORS 757.511, which requires the Commission's authorization before any person may directly or indirectly acquire the power to exercise any substantial influence over the policies and actions of an electric or natural gas public utility such as Avista, if such person is, or by acquisition would become, an affiliated interest with the public utility. That standard requires the Commission find that the Proposed Transaction will serve Avista's customers and is in the public interest.[6]

Q. What is required under ORS 757.511 for approval of the merger application?

A. Pursuant to ORS 757.511(4)(a), "If the commission determines that approval of the application will serve the public utility's customers and is in the public interest, the commission shall issue an order granting the application."

In making determinations under ORS 757.511, the Commission has historically applied a "net benefits" standard. For example, the Commission's Order No. 06-082, approving the acquisition of PacifiCorp by MidAmerican Energy Holdings Company (Docket UM 1209), at page 3, discussed what is meant by the "public interest" and the required showing of "net benefits":

> We evaluate the Application, as supplemented by the Stipulation, under ORS 757.511(3),[7] which provides, in part: "If the commission determines that approval of the application will serve the public utility's customers in the public interest, the commission shall issue an order granting the application. * * * The applicant shall bear the burden of showing that granting the application is in the public interest." In UM 1011, the Commission considered the meaning of the statute's requirement that the application "serve the public utility's customers in the public interest." See Order No. 01-778. It resolved the meaning of the phrase to require a net benefit to the utility's customers, as well as a finding that the proposed transaction will not impose a detriment on Oregon citizens as a whole. See id. at 11. To determine whether an application has met the standard, the Commission will not "reduce the net benefit standard to economic considerations as a matter of policy [but] will consider the total set of concerns presented by" the application. See id.

IV. <u>BENEFITS OF THE MERGER</u>

Q. What benefits do the companies, Hydro One and Avista, attribute to the merger? (Other Parties' perspectives are included in subsequent Q&As).

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[6] ORS 757.511(4)(a).

[7] Now codified at ORS 757.511(4)(a).

A. The Proposed Transaction provides an immediate benefit to Avista's customers in the form of a rate credit. Avista and Hydro One will flow through to Avista's Oregon retail customers a Rate Credit of $7,541,159 over a 5-year period, beginning at the time the merger closes. The Proposed Transaction will provide additional numerous and substantial monetary and non-monetary benefits to Avista's Oregon customers that otherwise will not occur. In total, as discussed below, Hydro One and Avista believe the following Stipulated Commitments provide benefits to Avista's Oregon customers and the Oregon public as a whole: 2, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 40, 43, 44, 45, 47, 49, 50, 53, 55, 56, 57, 58, 59, 62, 63, 64, 66, 68, 69, 70, 74, 76, 77, 80, 81, 88, 89, 90, 92, 93, 98, 100, 101, 104, 106, 107, 113, 114, and 115. In addition, the Proposed Transaction serves the public interest through increased charitable contributions in the communities in which Avista operates. Finally, even Stipulated Commitments described as "neutral" or "status quo" are designed to protect Avista's status quo, ensuring that Avista will continue to be prudently managed and is shielded from any perceived risk associated with the Proposed Transaction.

Over time, due to the similarities between Avista and Hydro One, the Proposed Transaction will provide opportunities for increased innovation, research and development, and efficiencies by extending the use of technology, best practices, and business processes over a broader customer base and a broader set of infrastructure between the two companies. These benefits will not only be viewed favorably by customers, but also by debt holders and rating agencies. An efficient, well-run business increases the opportunity to achieve financial metrics to support favorable credit ratings.

Q. How will ring-fencing protect Avista customers post-merger?

A. The ring-fencing Stipulated Commitments are designed to insulate Avista so that Avista will remain a financially sound company, regardless of what occurs in the post-close corporate chain of entities between Avista and Hydro One, including Hydro One. The Stipulated Commitments protect Avista from financial risks and distress, including bankruptcy proceedings, originating in the corporate chain of entities above Avista identified in Table 1 above.

Q. Has Avista explained why it is seeking a merger with Hydro One?

A. Yes. In his prefiled direct testimony (Exh. 100, pp. 8-10), Avista's Chief Executive Officer ("CEO") Scott Morris explained that the merger with Hydro One will allow Avista and its customers to benefit from being part of a larger organization (the benefits of scale), while at the same time preserving local control of Avista and the retention of Avista's employees and management team, as well as its culture and way of doing business.

With regard to scale, Avista's perspective was that the number of investor-owned electric and/or natural gas utilities in North America has decreased significantly over the years through consolidation. When comparing the size of investor-owned utilities from largest to smallest, Avista is one of the smallest investor-owned utilities remaining in North America. A bar chart indicative of the investor-owned utilities in North America, from largest to smallest, is attached to Morris's direct testimony at Exhibit 101. The merger of Avista and Hydro One will place the combined company toward the middle of the range of investor-owned utilities, in terms of size. Avista's view was that, through consolidation, larger utilities have the opportunity to spread costs, especially the costs of new technology, over a broader customer base and a broader set of infrastructure to the benefit of customers.

Hydro One has more than 1.3 million electric distribution customers, and Avista has approximately 378,000 electric customers and approximately 342,000 natural gas customers (approximately 102,000 of which reside in Oregon as of the end of 2017). This combination will provide opportunities for efficiencies in the long-term through the sharing of best practices, technology and innovation. Avista's view was that the merger will provide benefits to Avista's customers that otherwise would not occur.

Avista's view was that these benefits of scale will not occur in the near-term following the closing of the transaction, but are expected to occur over the long-term. After all approvals are received and the companies merge, both companies have stated that they will work together to identify, evaluate and execute on opportunities to reduce costs for both companies through, among other things, the sharing of technology, best practices, and business processes. To the extent that such savings materialize, the benefits from these cost savings will be reflected in subsequent rate proceedings.

V. CONCERNS OF COMMISSIONERS, STAFF AND INTERVENORS

Q. What concerns did the Commissioners express at the February 26, 2018 workshop and how does the Stipulation address these concerns?

A. The February 26, 2018 workshop was a valuable opportunity for the Parties to hear directly from the Commissioners regarding their questions about the Proposed Transaction. The following issues were raised by the Commissioners and, as will be explained more fully in the commitment-by-commitment analysis in Exhibit 101 of this Joint Testimony, the Parties used the Commissioners' guidance to shape the Stipulated Commitments.

- Equity Floor: The Commission expressed concern that the Application signaled that Hydro One and Avista were planning to let Avista's equity floor drop to 44 percent. That was not Hydro One's nor Avista's intention, however the Parties addressed this issue by adopting Stipulated Commitment 45 to ensure that Hydro One maintains Avista's common equity floor at appropriate levels depending on its credit ratings. In addition, Stipulated Commitment 45 establishes an alert system that requires Hydro One and Avista to notify the Commission when Avista's common equity floor and credit ratings hit certain thresholds.

- Credit Ratings: The Commission expressed concern that Avista could be rated by only one rating agency after the merger. The Parties addressed this issue by adopting Stipulated Commitment 48 to provide that Avista debt (other than private placement debt) will continue to be rated by both S&P and Moody's, preserving the status quo. In addition, Stipulated Commitment 45 aligns the interest of Hydro One and Avista with that of the ratepayer with regard to maintaining and where practicable improving Avista's credit ratings

- Post-Merger SEC Filings: The Commission expressed concern that Avista would no longer make SEC filings after the merger because these filings are a valuable source of financial information for the Commission. The Parties adopted Stipulated Commitment 51 to confirm that Avista will continue to make its own applicable separate filings with the SEC after the merger.

- Dividend Pressure: The Commission and Staff questioned whether the premium Hydro One is paying for Avista and any future Hydro One acquisitions would cause Hydro One to pressure Avista to issue inappropriately large dividends. Stipulated Commitment 50 precludes upwards dividends when certain financial health metrics are not met and restricts dividend growth.

- Recovery of Premium Paid to Avista Shareholders in Rates: The Commission and Staff also expressed concern that the premium Hydro One is paying for Avista will cause Hydro One to pressure Avista to raise rates for Avista customers in order to recover the premium. Stipulated Commitment 17 in Hydro One's Application explicitly stated that Avista will not recover the acquisition premium in rates. The Parties included Stipulated Commitment 95 in the Stipulation in order to bolster Hydro One's and Avista's Stipulated Commitment not to recover any acquisition adjustment, control premium, goodwill, or transaction costs associated with the Proposed Transaction in rates.

- Bankruptcy Ring Fencing: The Commission expressed concern that although the ring fencing Stipulated Commitments in the Application might be sufficient to protect Avista from being included in a U.S. bankruptcy proceeding upstream from Avista in the Hydro One corporate family, those same ring fencing Stipulated Commitments might not provide sufficient protection under Canadian bankruptcy law. Under Stipulated Commitment 57 of the Stipulation, the Non-Consolidation Opinion must conclude that under the Stipulated Commitments, neither a U.S. bankruptcy court nor a Canadian bankruptcy court would order the substantive consolidation of the assets and liabilities of Avista with those of Hydro One or any of its affiliates or subsidiaries.

- Multi-layered Corporate Structure: The Commission expressed concern with the multiple corporate entities between Avista and Hydro One. Under the Stipulation at Table 1, two of the corporate entities between Avista and Olympus Holding Corp. have been removed.

- Post-Transaction Bylaws and Articles of Incorporation for Avista and the Corporate Entities between Avista and Hydro One: The Commission stated during the Workshop that it wanted to review the drafts of the post-transaction bylaws and articles of incorporation for the corporate entities between Avista and Hydro One. After the Workshop, drafts of these documents were produced in response to OPUC Staff DRs 285, 288, and 289, however, they were drafts and did not take into account the now-changed corporate structure in the chain of entities between Avista and Hydro One. Avista and Parent in Stipulated Commitment 58 further commit that the revised articles of incorporation and bylaws of Olympus Holding Corp and Olympus Equity LLC, reflecting their specific business purposes will be provided to the Commission prior to the Commission's decision on the Proposed Transaction.

- Access to Hydro One's and its Subsidiaries' and Affiliates' Books and Records: The Commission noted Staff's and Intervenors' concerns about whether and how Hydro One's financial health might impact Avista's future financial health and that those concerns might be alleviated by giving the Commission access to Hydro One's and its subsidiaries' and affiliates' books and records. Similarly, the Commission and Staff expressed concerns that the long corporate chain between Avista and Hydro One and Hydro One's international location could complicate Commission access to records relevant to the regulation of Avista. Stipulated Commitment 64 now provides the Commission and Staff with access to the books and records, accounts, and meeting minutes of Avista, Hydro One, and Hydro One's subsidiaries and affiliates that are reasonably calculated to lead to the discovery of admissible evidence pertaining to Avista.

- Golden Share: The Commission expressed interest in enhancing the ring-fencing Stipulated Commitments with the addition of a Golden Share. The Parties addressed this concern by including a Golden Share in Stipulated Commitment 55 of the Stipulation.

- Role of the Province of Ontario: The Commission questioned whether, as Hydro One's largest shareholder, the Province of Ontario might be able to influence Avista's operations. The rebuttal testimony of Hydro One CEO Mayo Schmidt (Exh. 800, pp. 7-25) explains how the Governance Agreement between Hydro One and the Province prevents the Province from imposing policy views on Hydro One. In addition, a number of Stipulated Commitments further insulate Avista's board from Hydro One and ring-fence Avista's assets: Stipulated Commitment 4 (ensuring retention of Avista's management and reserving the right to dismiss or replace Avista's CEO to Avista's board); Stipulated Commitment 5 (Avista nine-member board will include five independent directors, three of whom must be from the Pacific Northwest Region); Stipulated Commitment 6 (Olympus Equity LLC's board must have an independent director); ring-fencing Stipulated Commitments 43 - 63; and the "status quo" Stipulated Commitments 73 - 87, which are designed to insulate and support Avista so that Avista will have the same look and feel after the merger as it has today.

- Hydro One's Representation on the Post-Merger Avista Board: The Commissioners questioned whether Hydro One could control Avista's post-merger board. The Parties included Stipulated Commitment 5, which provides that three of Hydro One's five seats on Avista's post-merger nine-member board must be independent directors under NYSE rules who are residents of the Pacific Northwest.

- Revisions to Commitments After the Merger: The Commissioners expressed concern that the Application permitted Avista's board to change the first 15 commitments in the Application with a two-thirds vote and without Commission approval. Stipulated Commitment 2 addresses this concern by requiring Commission approval for any amendments to the Stipulated Commitments.

- Hydro One's Interest in Avista's Natural Gas Business: The Commission expressed concern that Hydro One might not be interested in long-term ownership of Avista's Oregon natural gas utility. Stipulated Commitment 7 in the Stipulation commits Avista and Hydro One to own Avista's Oregon natural gas operations for at least three years after the merger. This issue was also addressed in Hydro One CEO Mayo Schmidt's rebuttal testimony. *See* Exh. 800, pp. 32-34.

- Net Benefits: The Commission expressed concern that the Application provided speculative net benefits. The Parties included numerous provisions in the Stipulation that ensure concrete, post-merger benefits for Avista's customers and Oregon residents. The result is a transaction that satisfies Oregon's "net benefits" standard. The commitment-by-commitment analysis in Exhibit 101 of this Joint Testimony identifies the specific Stipulated Commitments that taken together provide net benefits.

- Long-Term Oversight by the Commission: The Commission expressed interest in seeing commitments that would ensure that the Commission would be able to enforce all of the positive aspects of the merger in the long-term. The Parties included Stipulated Commitments 2 and 110-114 in the Stipulation to address this concern.

Q. What concerns did Staff and Intervenors raise about the merger?

A. Staff's and Intervenors' concerns with the merger were summarized in the Reply Testimony that they filed with the Commission on February 12, 2018.

Q. Please explain how Staff and Intervenors came to support the merger.

A. Through the settlement process the Parties shared their positions and concerns, exchanged information, and through three in-person settlement conferences, the Commission workshop, and numerous phone settlement conferences, collaborated on a new, comprehensive set of commitments. The Parties agree that the Stipulated Commitments will adequately mitigate the risks of the Proposed Transaction raised by Staff and Intervenors in their February 12, 2018 Reply Testimony, will produce new benefits other than those that Hydro One and Avista identified in Hydro One's Application, will result in a net benefit to Avista's Oregon natural gas customers, and will not impose a detriment on Oregon citizens as a whole.

VI. HYDRO ONE/AVISTA SUPPORT FOR THE STIPULATION[8]

Q. Before providing details on the Stipulation, would you also please provide an update on the Hydro One/Avista merger proceedings in other jurisdictions?

A. Yes. The transaction received approval from Avista shareholders on November 21, 2017. The transaction also received clearance from U.S. Hart-Scott-Rodino on April 5, 2018 and consent from the Federal Communications Commission and no action from the Committee on Foreign Investment in the United States on May 4, 2018 and May 18, 2018, respectively. More recently, the Proposed Transaction also received approval from the Regulatory Commission of Alaska on June 4, 2018, and the MPSC voted in favor of the merger on June 12, 2018. Applications for regulatory approval of the transaction are still pending with utility commissions in Washington and Idaho, however all-party settlements have been reached in Washington and Idaho. Hydro One and Avista continue to anticipate closing the transaction in the second half of 2018.

Q. Are the reasons supporting the merger as equally compelling today as when the merger was first announced?

[8] The views expressed by Hydro One and Avista in this section are the views of those Parties only and may or may not represent the views of other Parties.

A. Most certainly. Following the closing of the Proposed Transaction, the customers, employees and communities Avista serves will see little or no change in Avista's operations. Avista will maintain its existing corporate headquarters in Spokane, Washington, and will continue to operate as a standalone utility in Washington, Oregon, Idaho, Montana and (through Alaska Electric Light & Power) Alaska. It will maintain its other office locations throughout its service areas, continue to operate under the same Avista name, and seek to retain its existing employees and management team. All of these elements together with other provisions embedded within the Merger Agreement and agreed to in the Stipulation are designed to ensure that Avista's culture and its way of doing business will continue for the long-term. Avista will continue to have a local Board of Directors consisting primarily of either board members chosen by Avista, and/or members who reside in the Pacific Northwest. In addition, a majority of board members will be independent under the standards established by the New York Stock Exchange (NYSE).

Avista and Hydro One believe this preservation of Avista's name, its headquarters, its culture and its way of doing business, among other things, are important to Avista's customers, in that customers can continue to expect and experience reliable service and a high level of customer satisfaction. In addition, customers will see immediate financial benefits in the form of proposed retail rate credits and other contributions beginning at the close of the Proposed Transaction. As described elsewhere, the proposed Stipulation will substantially increase those Rate Credits from what Hydro One proposed in its Application and provide additional shareholder funding of a number of customer-related initiatives.

Furthermore, over time the merger will provide increased opportunities for innovation, research and development, and efficiencies by extending the use of technology, best practices, and business processes over a broader customer base and a broader set of infrastructure between the two companies. Through this unique arrangement with Hydro One, Avista's customers can receive the benefits of scale that come with joining a larger organization while also avoiding the risk of a potential subsequent acquisition by another party that may not share Avista's culture and values. These immediate and longer-term benefits to Avista's customers are benefits that will otherwise not occur absent the merger.

Following completion of the merger, the communities Avista serves will see increased charitable contributions and a continuation of the strong support Avista provides in economic development and innovation. Finally, Avista and Hydro One employees will experience career development, professional employment opportunities and personal growth as the two companies pursue efficiencies and innovation through the use of technology, best practices and business processes.

Q. Why did Avista choose to enter into the Merger Agreement with Hydro One in the first place?

A. Avista's decision to merge with Hydro One was driven by the unique partnership that is possible with Hydro One. The merger with Hydro One will allow Avista and its customers to benefit from being part of a larger organization (the benefits of scale), while at the same time preserving local control of Avista and the retention of Avista's employees and management team, as well as its culture and its way of doing business.

With regard to scale, the number of investor-owned electric and/or natural gas utilities in North America has decreased significantly over the years through consolidation. When comparing the size of investor-owned utilities, Avista is one of the smallest remaining in North America.[9]

[9] As measured by equity value.

The merger of Avista and Hydro One will place the combined company toward the middle of the range of investor-owned utilities, in terms of size. Through consolidation, larger utilities have the opportunity to spread costs, especially the costs of new technology, over a broader customer base and a broader set of infrastructure which inures to the benefit of customers.

Hydro One has more than 1.3 million electric distribution customers, and Avista has approximately 378,000 electric customers and approximately 342,000 natural gas customers. This combination will provide opportunities for efficiencies in the long-term through the sharing of best practices, technology and innovation. The merger will provide benefits to Avista's customers that otherwise would not occur.

These benefits of scale will not necessarily occur in the near-term following the closing of the transaction, but are expected to occur over the long-term. After all approvals are received and the companies merge, both companies will work together to identify, evaluate and execute on opportunities to further reduce costs for both companies through, among other things, the sharing of technology, best practices, and business processes. The benefits from these cost savings will be flowed through to customers in future general rate cases.

Q. How was the Merger Agreement structured in order to preserve Avista's culture and its way of doing business, for the benefit of Avista's customers and the communities it serves?

A. The specific provisions in the Merger Agreement will allow Avista to preserve its culture and the way it does business for the long-term, including the retention of its employees and management team. This includes a continued focus on providing reliable service to customers and high customer satisfaction at a reasonable cost. Provisions in the Merger Agreement are also designed to increase the level of support provided by Avista to the local communities it serves, including, among other things, charitable giving and continued support of economic development. The combination with Hydro One accomplishes all of these important goals for the indefinite future.

The agreements between Hydro One and Avista for operation of the business post- closing were memorialized in Exhibits A and B to the Merger Agreement, hereafter referred to as the "Delegation of Authority" (see Appendix 5 in the Joint Application). The Stipulated Commitments regarding governance address many of these agreements. Under the Delegation of Authority, Avista's Board of Directors retains its authority to review, authorize and approve certain specified matters related to Avista, without any obligation to obtain separate authorization or approval from the Hydro One Board.

The Joint Applicants' agreements included in the Merger Agreement, the makeup of the Avista Board of Directors, and the governance-related Stipulated Commitments are designed to ensure that Avista's culture and its way of doing business will continue for the long-term, inuring to the benefit of customers. The Proposed Transaction is not designed to target the elimination of jobs, or cost cutting that may lead to a deterioration of customer service, customer satisfaction, safety, reliability, or a deterioration of charitable giving, economic development or innovation in the communities Avista serves.

Q. Will Avista retain the autonomy that it needs to run the business in the same manner as befits its corporate culture and dedication to customers, employees and the communities it serves?

A. Yes, it will. Without those assurances, Avista would never have agreed to recommend to our board of directors to proceed with this transaction.

Q. Can Avista illustrate this point?

A. Yes. At the very outset of negotiations with Hydro One, Mr. Morris of Avista had a private conversation with Mayo Schmidt, the CEO of Hydro One, in which he made very clear to Mr. Schmidt, that Avista needed these types of assurances on autonomy for Avista to run its business as it sees fit. Without a moment of hesitation, Mr. Schmidt slid a pen across the table and said, words to the effect, “Scott, you have the drafting pen. Write it up the way you want.” This ultimately resulted in a set of conditions (see Avista/303 to Joint Application), styled as a Delegation of Authority, which ultimately found their way into commitments, as further revised by the Parties to the Stipulation. (See Appendix A to the Stipulation). Indeed, to Avista’s knowledge, this approach may be unique in the world of utility mergers and acquisitions.

Q. Does the Stipulation further these objectives of Avista self-governance and local control for the purpose of maintaining safe and reliable service to natural gas customers?

A. Yes. This is reflected in Stipulated Commitments relating to Avista board membership and preservation of Company headquarters in Spokane, along with retention of existing management and employees. In short, all the existing pieces that make Avista, “Avista,” will remain in place. Avista believes that this will best serve the public interest, given our rich heritage of serving customers with safe, reliable, and cost-effective service. By selecting an acquisition partner (Hydro One) that truly understands this heritage of Avista, we may avoid the potential of someday being acquired by others who might be less appreciative of how we do business.

Q. Will customers also benefit from other Commitments insuring financial integrity, as well as “ring-fencing”?

A. Yes. Avista will be subject to tighter controls and restrictions than currently exist, such as maintaining a specified equity component of the capital structure as well as restrictions on dividend payments. In addition, the various ring-fencing provisions further insulate the Company from external financial risks.

Avista and Hydro One believe that customers are receiving a benefit in this regard. While it may be argued that these Stipulated Commitments merely satisfy a “no harm” standard, some of them provide customers with protections that do not presently exist (e.g., “financial integrity”), thereby providing benefits to customers.

Q. Please provide an overview of the merger commitments included in the Stipulation.

A. The Stipulation includes a robust set of Stipulated Commitments made by Hydro One and Avista to ensure the Proposed Transaction is in the public interest and provides net benefits to Avista’s customers in Oregon. The Stipulated Commitments address Avista’s post-closing operations, ratemaking and rate credits, corporate structure, governance matters, financial stability and integrity, and ring-fencing. The Stipulated Commitments provide security to Avista’s customers in Oregon by, among other things, offering substantial financial commitments to those customers through rate credits and low-income programs. Finally and importantly, the Stipulated Commitments confirm the Commission’s ongoing regulatory authority over Avista and its utility operations, including the maintenance of and access to books and records, allocation of costs, ratemaking, and enforcement of the Stipulated Commitments.

Q. Are the merger commitments in the Stipulation different than the merger commitments included in the Joint Application?

A. Yes, they are substantially more robust. Although Hydro One and Avista included merger commitments in their Joint Application, the Parties collectively agreed during settlement negotiations upon various changes and additions to those commitments. The result is a group of comprehensive and substantial Stipulated Commitments that provide net benefits to Avista's customers and result in a transaction that is in the public interest.

Q. Beyond "ring fencing" commitments, what are among the more tangible commitments reflected in the Stipulation?

A. Benefits associated with the Proposed Transaction and captured in the Stipulation include the following Stipulated Commitments, among others:

- Avista will provide Rate Credits for Oregon customers totaling approximately $7.5 million in the first five (5) years after the merger closes;
- Over $2.1 million dollars in funding in Oregon for weatherization, low-income rate assistance program, and additional funding for software licenses;
- A substantial contribution to Avista's charitable foundation and community programs, including a one-time $7 million system-wide contribution to the Avista Foundation upon closing of the Proposed Transaction; and
- Over time, both Avista's and Hydro One's customers will benefit from their utilities' increased purchasing power, sharing of best practices and economies of scale.

Q. What are Hydro One's plans for the operations of Avista post-merger?

A. Avista will operate in much the same way as it does today. Avista will become a separate indirect subsidiary of Hydro One. Avista will have its own management and its own board of directors. In short, Avista will have the same look and feel to customers after the merger as it has today. This will ensure that Avista's customers do not experience any disruption associated with the Proposed Transaction. Rather, Avista's customers will continue to receive the high-level utility service and customer service they have grown accustomed to receiving from Avista.

Q. Is Hydro One prepared to own a gas utility?

A. Yes. As Hydro One was looking for potential U.S. partners, one of its goals was to diversify its business lines into related businesses. Hydro One's diversification strategy includes entering the natural gas utility business. Hydro One is well prepared to own a gas utility.

First, because Avista will remain as a stand-alone utility, the gas utility will continue to be operated by Avista's existing management and employees and governed by the Avista Board of Directors.

Moreover, while Hydro One expects Avista's managers and employees to continue to operate Avista's natural gas utility at the high standards it has always met, as described above, Hydro One's Chief Operating Officer, Greg Kiraly, has significant experience in energy transmission and distribution, in gas as well as electricity.

Q. How much funding is included in the merger commitments as a result of the Stipulation?

A. Hydro One and/or Avista have agreed to provide in Oregon a total of $9.6 million in funding over time, none of which will be recoverable through charges to customers. This represents an <u>additional</u> $6.7 million in funding over time, on top of the $2.9 million in funding provided in the original commitments (exclusive of charitable contributions), to address customer rates and low-income customer issues, and other worthy programs and projects. As noted in the table below, if this total funding of $9.6 million in Oregon were applied to other jurisdictions on a "most favored nations" basis (see Stipulated Commitment 115), the quantifiable benefits to customers would approximate $78.6 million over the five to ten year period (depending on the specific Stipulated Commitment) after the merger closes.

	Benefits Funded by Hydro One and Avista	System *	Oregon
	Rate Credit	**$ 55,067,259**	**$ 7,541,159**
A	Total Rate Credit	55,067,259	7,541,159
	Colstrip	**$ 4,500,000**	**$ -**
B	Community Transition Fund (SH Portion)	4,500,000	-
	Low-Income, Weatherization, Miscellaneous (total of lines C - J)	**$ 19,049,348**	**$ 2,075,000**
C	Professional Home Energy Audits	600,000	-
D	Weatherization	5,275,000	1,275,000
E	Manufactured Home Replacement	2,000,000	-
F	On-Bill Repayment Software	65,500	-
G	Renewables (Low-Income)	5,000,000	-
H	General Fund for Energy Efficiency, Weatherization, Conservation, and Low-Income Assistance	5,308,847	
I	Low-Income Rate Assistance Program	500,000	500,000
J	SENDOUT Seats	300,000	300,000
	Total	**$ 78,616,607**	**$ 9,616,159**

* This assumes "most favored nations" (MFN) treatment across all jurisdictions.

The $7.5 million of rate credits is comparable to other jurisdictions on a per-customer basis (Oregon has approximately 9% of total customers, while 9% of the system total is $7.4 million).

Q. How, then, does the total level of financial commitments funded by Hydro One and Avista (excluding charitable contributions) in Oregon compare with what was originally proposed in the Application?

A. Approximately $2.9 million (Oregon share) of such commitments were made in the original Application. That number has more than tripled to $9.6 million, as a result of the Stipulation, representing an increase of approximately $6.7 million over what was originally proposed.

Q. Are Avista and Hydro One also making financial commitments to support charitable and community needs?

A. Most certainly, and this is something that Avista is particularly passionate about. Avista's budget will be almost doubled for purposes of charitable giving, with an additional $2 million annual contribution to Avista Foundation – the charitable giving arm of Avista (see Stipulated Commitment 90). On top of that, an additional one-time contribution of $7 million will be made to the Avista Foundation at closing. The Foundation provides funding to non-profit organizations throughout our service territory, addressing the needs of citizens served by Avista. When assessing whether the Proposed Transaction serves the public interest, this additional funding should be recognized. Moreover, the people ultimately benefiting from this funding are largely customers of Avista. Our customers may use services made possible by this funding. Absent a merger, less funding would be available.[10] Avista also commits to begin contributing to charitable organizations in Oregon, moving toward distributing charitable donations in proportion to each state's portion of Avista's system. In recent history, Avista has not made charitable contributions to organizations operating in Oregon. Thus, in Avista's Opinion, this commitment provides a benefit to Oregon and may benefit Oregon ratepayers.

Q. On June 14, 2018, Judge Power issued a Bench Request requiring Hydro One to file a report on the following issues: (1) implications of the recent Ontario election for (a) the future management and plans of Hydro One, and (b) Hydro One's acquisition of Avista; (2) a plan for keeping the Commission informed on a timely basis as to new developments; and (3) what further measures might be necessary to fully develop the record if material changes are made in Hydro One's management or Board of Directors ("Board"). How has Hydro One responded?

[10] As always, any charitable contributions are "below the line" costs and are not recovered from customers.

A. Hydro One has prepared a detailed report in response to the Bench Request. The report is attached as Exhibit 102 to this Joint Testimony.

Q. Please briefly summarize Hydro One's response to the Bench Request.

A. As background, the response describes how key provisions of Hydro One's Governance Agreement as well as certain Stipulated Commitments protect Avista and its customers from any potential interference or influence associated with politics in Ontario. The report then reviews the results of the recent election in Ontario: the new government will be led by the Progressive Conservative Party, replacing the Liberal government led by Kathleen Wynne. The Premier-Designate Doug Ford has stated that he wanted to remove Hydro One's CEO Mayo Schmidt and some or all of the members of Hydro One's Board of Directors. It is uncertain what if anything he will try to do in that regard. He has indicated that he will reconvene the provincial legislature in July. Next, Hydro One's report details how, if Mr. Ford and his Progressive Conservative Party wished to seek to remove some or all of Hydro One's Board and its CEO, they could accomplish these objectives either through procedures established by the Governance Agreement, or through legislation. Finally, Hydro One's report provides a plan to keep the Commission informed: Hydro One will file reports in this docket (until the docket is closed) whenever a significant event occurs or statement is made by the Province's new leadership that provides further new insight regarding the future of Hydro One's executive leadership and/or Board. Hydro One requests that such reports be made part of the record in the docket.

Q. In closing, what final observations do Hydro One and Avista have to offer?

A. Avista and Hydro One have appreciated the opportunity to work with the Parties in achieving a Stipulation that provides substantial net benefits and serves the public interest.

VII. STAFF'S SUPPORT FOR THE STIPULATION[11]

Q. Why does Staff support the Stipulation?

A. Avista and Hydro One listened to concerns about the Proposed Transaction that were identified by Staff and Commissioners, and made numerous material changes to the earlier proposed merger framework and commitments offered in Hydro One's Application. With these changes memorialized in the Stipulated Commitments, and Oregon's usual and necessary regulatory safeguards found in prior-approved mergers, the proposed acquisition of Avista by Hydro One meets the legal standard for approval in Oregon.

Q. How does the Proposed Transaction create a Net Benefit for Avista's Oregon ratepayers?

A. In aggregate, with many risks previously identified by Staff in Reply Testimony mitigated or precluded, the benefits described by Staff are sufficient to create a net benefit for Avista's Oregon ratepayers.

Q. How does this transaction compare to that of Berkshire Energy's purchase of PacifiCorp?

A. With the purchase of Avista, Ontario and other investors in Hydro One gain an asset with very low risk but higher associated cash flows from dividends than can be currently realized by holding risk free securities like U.S. Treasuries. This combination of relatively low risk and higher returns means that Ontario benefits from both regular quarterly dividends and from growing Avista firm valuation over time. Essentially Ontario is tapping into the same type of investment that Berkshire Energy made in purchasing PacifiCorp.

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[11] The views expressed by each of the Parties in this section are the views of that Party only and may or may not represent the views of other Parties.

Q. Although investors gain greater certainty through diversity of regulators and geography, as well as opportunities articulated by Avista and Hydro One in terms of scale and long-term synergies, how does this merger help Oregon ratepayers and Oregonians?

A. The Oregon Stipulated Commitments are designed to insulate Avista from financial risks occurring in the corporate chain up to its parent, while supporting Avista financially so that Avista will be a healthy company for the long run, with a continuing commitment to providing safe and reliable utility service in Oregon and the Greater Northwest. Further, the Oregon Stipulated Commitments cause Oregon ratepayers to be positive foci in Hydro One's and Avista's long-term strategic planning and associated budgeting.

Q. Didn't Hydro One and Avista indicate in the Application that they already planned to take appropriate actions in the future to address concerns of Oregon Staff and Commissioners and therefore Staff's level of interlocking Stipulated Commitments was unnecessary?

A. That is correct, but we have just met Hydro One. Hydro One has transformed itself to become a much more valuable asset to Ontario and other investors. However, Staff and the intervening parties require as much certainty as possible that the potential risks posed by Hydro One and international ownership are fully mitigated, or otherwise minimized to the fullest extent possible, now. Formalizing the robust set of ring-fencing protections and other commitments reached in the Stipulated Commitments now, reduces Staff worries that a change in government, executive teams, or future policies might result in harm to Avista customers in Oregon.

Q. If investors gain greater certainty through diversity of regulators and geography, as well as opportunities articulated by Avista and Hydro One in terms of scale

and long-term synergies, how does this merger help Oregon ratepayers and Oregonians, and importantly, how are the risks of the transaction mitigated?

A. Oregon ratepayers derive various certain benefits and various potential benefits from the proposed transaction. In terms of scale, Avista and its ratepayers have the potential to realize improved credit ratings, and where practicable, future financing opportunities that reduce the cost of funding currently available for Avista utility functions, reducing the cost of financing to customers. Avista customers will derive certain benefits from the retail rate credit and other low income commitments agreed to by Hydro One and Avista. Further, the risks of the transaction to Avista customers are mitigated due to two key areas of commitments.

Q. What is the first of these key areas?

A. The financial relationship between Avista and Hydro One is now structurally predicated on certain integral incentives which align Hydro One investors and management with best practices and improvements at Avista in Oregon. As shown in Table 2 of Appendix A to the Stipulation, and supported by all Stipulated Commitments referencing this table, Hydro One is allowed greater flexibility regarding issuance of dividends to the parent and its required level of common equity in Avista's capital structure when S&P and Moody's raise their ratings for Avista. Said another way, Avista is protected from the unreasonable extraction of dividends by Hydro One and from Hydro One negatively impacting Avista's hard-earned credit ratings as a result of such extractions. Moreover, Table 2 creates the incentive for Hydro One to work to improve Avista's credit ratings from where they are today pre-merger if it desires greater flexibility to withdraw dividends from Avista. Preserving or improving Avista's credit ratings is an important customer protection because high credit ratings lower the cost of borrowing for Avista's Oregon ratepayers. Similarly, there can be more money withdrawn through Avista dividends for Ontario investors if Avista is thriving than if Avista is financially stressed.

This alignment of Hydro One interests with Oregon ratepayer interests occurs through Table 2's required equity and credit rating thresholds; Stipulated Commitment 45's imposition of a Common Equity Floor for Avista's Capital Structure consistent with Table 2 and never lower than 44%; Stipulated Commitment 50's restriction on upward dividends if any of three factors are present; Stipulated Commitment 45's requirement that Avista maintain the ability to issue first mortgage bonds, a very low cost method of financing that benefits customers; Stipulated Commitment 44's requirement that Hydro One provide equity injections to support Avista; and Stipulated Commitment 43's hold harmless requirement that no cost of capital element may be more costly after the close of the merger than it would have been had the merger not occurred. All of these Stipulated Commitments are key reasons why Staff now believes that the risks of the Proposed Transaction are adequately mitigated and can recommend approval of the Proposed Transaction.

Q. With the Stipulated Commitments, can Avista still issue First Mortgage Bonds (FMB) that are more highly rated than unsecured debt and reduce bond issuance costs for the benefit of ratepayers?

A. Yes. Stipulated Commitment 47 is an example of where Hydro One heard that certain current beneficial practices were important to Oregon ratepayers and positively addressed that concern. It is also an example of where Canadians benefit by having strong, fiscally-sound programs at Avista continue into the future. By sustaining the Avista FMB program and other Avista successful practices, Hydro One signals that it is identifying and preserving Avista strengths.

Q. Has Hydro One addressed other material financial concerns raised in Oregon?

A. Yes. Hydro One has agreed to boost its liquidity and access to capital as outlined in Stipulated Commitment 53. Staff sees this as evidence that Hydro One is a more valuable self-reliant, investor-owned multinational company (as opposed to its prior position as a Crown Corporation) able to compete with Berkshire Energy and Fortis, Inc. These steps might have been just around the corner in Hydro One's internal financial planning, but they were not offered in the Application. Now the capital support from Avista's soon-to-be parent is a certainty. Again, this is an example of actions that in no way harm Hydro One or its investors, but ensure that Hydro One is ready and fully equipped to operate and compete successfully in a bigger arena, while maintaining the financial security of Avista. Certainty with regard to liquidity, as supported by a variety of Oregon Stipulated Commitments, is also likely to be credit positive for Avista.

Q. Why has Staff insisted S&P and Moody's continue to rate Avista debt?

A. These ratings regularly assess the financial health of Avista and provide a warning system for the Commission. Stipulated Commitment 48, interlaced with other related Stipulated Commitments, markedly improves the chance that the Commission will know of any future financial problems at Avista in time to take effective corrective action.

Q. What other early warning elements are built into Oregon Stipulated Commitments?

A. Major elements are all structured to inform the Commission if trends are not favorable. As demonstrated in Stipulated Commitment 50, integrated with Table 2, the Oregon Commission will learn before, rather than after, major financial events occur that could affect Avista.

Q. Can you expand on Staff's earlier concept of this proceeding serving as an introduction for Hydro One toward forming a constructive relationship between the Commission and Hydro One to the benefit of Avista and its ratepayers?

A. Yes. A large part of rating agency assessments is based on evaluating relationships between regulators and jurisdictional utilities. Just as these Stipulated Commitments align incentives and actions of Hydro One with Avista's Oregon ratepayers and Oregonians in general, they also serve to align future outcomes for Avista with best performance and success of Hydro One.

Q. What is the second key area of Stipulated Commitments that mitigate risk to Avista?

A. Hydro One and Avista's agreement to the bankruptcy-related ring-fencing Stipulated Commitments is the second key area of Stipulated Commitments. These include the addition of a Golden Share holder in Stipulated Commitment 55; the requirement that the majority of Independent Directors on Avista's post-merger board also vote for a voluntary bankruptcy in Stipulated Commitment 56; restrictions on the pledging of Avista's assets, inter-company loans, lending, and debt-holding in Stipulated Commitments 59-63; and the non-consolidation opinion that is determined to hold up in both U.S. and Canadian bankruptcy courts.

Q. Please discuss how bankruptcy ring fencing Stipulated Commitments shield Oregon ratepayers and Oregon residents from Avista being drawn into a bankruptcy originating outside Avista.

A. To pull Avista voluntarily into the bankruptcy of its parent, the Golden Share holder (see Stipulated Commitment 55) would have to vote in favor of a voluntary Avista bankruptcy; importantly, the Golden Share is held by a third-party that solely represents the interests of Avista's utility customers. This requirement is especially critical in this case where Hydro One is the sole shareholder of Avista, meaning that if the Golden Share holder were to vote in the interests of Avista shareholders, it would be voting in Hydro One's favor, negating the benefit of a Golden

Share holder provision. Additionally, a vote of the majority of independent Avista board of director members must also be in favor of voluntary bankruptcy.

Further, entities outside Avista are restricted by Stipulated Commitment 59 in their reliance on Avista's utility assets in conducting their business. Olympus Equity, LLC, as described in Stipulated Commitment 58, is constructed as a bankruptcy remote entity with clear and separate financial transactions that demonstrate that Avista is operated at arm's length from other Hydro One affiliates and activities. Similarly, as provided in Stipulated Commitments 62 and 63, there can be no inter-company debt or lending that might open the door to pierce the corporate veil in a bankruptcy proceeding. In other words, the corporate protections that Avista enjoys today will be preserved by express disallowance of any comingling of Avista funds with Hydro One or any of its holdings outside of Avista. In aggregate, these interlocked and supporting provisions create a formidable defense to isolate Avista utility operations from other potentially riskier future Hydro One holdings in the United States and elsewhere.

Q. Is there to be an external evaluation of these ring fencing Stipulated Commitments to ensure that they are strong enough to protect Avista when it becomes part of an international corporation?

A. Yes. Stipulated Commitment 57 requires an affirmative non-consolidation opinion determining that even if other divisions and affiliates of Hydro One were to find themselves in bankruptcy, Avista would not be drawn involuntarily into the bankruptcy proceedings of its parent according to both U.S. and Canadian bankruptcy law.

Q. Now, what are the benefits to Oregon customers that would result from the Stipulated Commitments?

A. Avista and Hydro One have agreed to 115 Stipulated Commitments (with additional Contract Labor Stipulated Commitments). Some of these commitments will or are likely to provide a benefit to Oregon and Oregon ratepayers, while other commitments (discussed above) seek to mitigate a risk or to maintain the pre-merger status quo. Staff highlights the primary Stipulated Commitments designed to address each of these areas below:

<u>BENEFITS</u>

Rate Credits to Oregon Ratepayers – Avista and Hydro One commit to a rate credit to Oregon gas customers of $7,541,159 over 5 years. It is true that a portion of this rate credit ($1,131,174 over 5 years) is offsetable, but only to the extent that Avista can demonstrate that benefits from the merger are already being passed on to customers through base rates set in a general rate case.

Safety and Reliability Standards and Service Quality Measures – Avista and Hydro One agree to "maintain and improve, to the extent reasonably practicable, Avista's natural gas safety and reliability and resilience standards, policies, and service quality measures."

Oregon Winter Protection Program – Avista has agreed to submit to the Commission a proposal for a Winter Protection Program against winter shut-offs for at-risk customers.

Oregon Low Income Weatherization – Avista will increase current funding for Oregon low-income weatherization programs by paying $1,275,000 over five years to agencies in charge of Avista Oregon Low Income Energy Efficiency Program (AOLIEE). This payment cannot be recovered from ratepayers. Avista and Hydro One agree that Avista will make an effort to improve the penetration of Avista low-income programs in Oregon and to keep sufficient data analysis to identify effective program elements and opportunities for more beneficial outcomes.

Oregon Low-Income Rate Assistance Program (**LIRAP**) **–** Avista will increase LIRAP funding for Oregon customers by paying $100,000 per year over five years. This payment cannot be recovered from ratepayers. This is a benefit to low income customers. This funding will increase Oregon LIRAP funding by roughly 50% for five years.[12]

Oregon SENDOUT Seats – Avista will provide $30,000 annually for ten years for the purpose of obtaining SENDOUT seats for Staff, CUB, and AWEC. This money is not recoverable in customer rates. This will help Staff, CUB, and AWEC better assess Avista's IRP portfolios and rate case load forecasts.[13]

On Bill Repayment Program (**OBRP**) **–** Hydro One will arrange funding of the costs to start up an on-bill repayment program for customer investments in energy efficiency through customers' Avista bills. This will help Avista customers who want to invest in energy efficiency to finance their investment in a simplified, manageable way.

Tax Cuts and Jobs Act – Avista commits to not using an earnings test when amortizing to customers the deferral balance of the tax benefits associated with the Tax Cuts and Jobs Act. This will guarantee that customers see the benefits of any reduction in Avista's taxes due to the Tax Cuts and Jobs Act.

STATUS QUO

Customer Service Quality – Avista and Hydro One also provide several customer service commitments that are designed to maintain the status quo or result in improvements, as well as submit reports to the Commission and customers on customer service performance. The customer

[12] See UG 325. Staff/102, Gardner/5.

[13] See UG 325. Avista/401 Morehouse/Page 28 of 164

service reporting Stipulated Commitments are new and ensure a continuation of current service quality.

RISK MITIGATION

Financial Ring-Fencing – Avista and Hydro One also provide several financial ring fencing Stipulated Commitments. These Stipulated Commitments are designed to mitigate the financial risks attendant with the Proposed Transaction by restricting parent behavior and also insulating Avista from the parent. However, some of the financial ring-fencing Stipulated Commitments also provide the incentive to produce, but not a guarantee, benefits to Oregon customers.

Q. Would the "BENEFITS" (identified above) alone have been sufficient to allow Staff to recommend approval of the Proposed Transaction to the Commission?

A. No. It is only by reducing the risk of the transaction through the entire package of Stipulated Commitments, particularly the financial ring-fencing Stipulated Commitments that the benefits identified by Staff in this case result in a net benefit. Clearly, each individual merger case and set of circumstances requires the tailoring of ring-fencing conditions and other commitments specific to the case in order to adequately mitigate risk and produce a net benefit. Had Hydro One and Avista not moved substantially to provide usual and customary ring-fencing commitments to safeguard Oregon ratepayers, the above limited benefits would not have been enough to provide a net benefit.

Q. Might these Stipulated Commitments be overly strong or demanding for the purposes for which they are constructed?

A. Absolutely not. The interlocking, robust ring fencing Stipulated Commitments form a powerful deterrent for financial misbehavior at the entities above and around Avista in its post-merger corporate family. Staff characterizes the Oregon Stipulated Commitments as reducing future uncertainty to ensure that the expectations of all Parties to this docket, and Avista customers, are met. This is achieved without harming any entity participating or having a stake in the Proposed Transaction.

Q. How do Stipulated Commitments address cross border concerns in Oregon?

A. Dovetailed commitments such as Stipulated Commitments 78 and 112 addressing venue for disputes involving Avista, Stipulated Commitment 72 addressing NAFTA concerns, and Stipulated Commitment 39 addressing currency exchange and hedging, directly address and mitigate concerns regarding Avista having an international (Canadian) parent.

Q. Did Hydro One understand the need for comprehensive hold-harmless commitments that clarify that risks and associated costs beyond Avista, even for tax management purposes, must stay beyond Avista?

A. Yes. Stipulated Commitments 34-39 protect Avista's Oregon ratepayers comprehensively from tax management and hedging initiatives, a variety of potential costs and risks not associated with Avista's utility operations, and costs that would not occur but for the Proposed Transaction.

Q. In addition to addressing cross border and parent-specific risks associated with the Proposed Transaction, were all usual and customary ring fencing provisions incorporated into the Stipulated Commitments?

A. Yes. The Stipulated Commitments, in conjunction with the benefits described herein, constitute a net benefit for Oregon ratepayers and no harm for Oregonians as a whole.

Q. Does this mean that Hydro One and Avista agree with Staff on all details including what Stipulated Commitments constitute benefits for Oregon ratepayers?

A. No. Some Stipulated Commitments that Avista and Hydro One identify as beneficial, Staff sees as ensuring that no harm will come to Avista and its Oregon ratepayers from activity beyond Avista that would not occur but for the propose transaction, or simply preserve the status quo. However, with the Stipulated Commitments taken in aggregate, all Parties support the Stipulation and recommend that the Commission approve the Proposed Transaction subject to the modifications of the Stipulation and Appendix A list of Stipulated Commitments. This recommendation is also informed by Stipulated Commitment 115, the "Most Favored Nations" Commitment that is structured to allow the Commission to adopt certain other commitments from decisions by other State Commissions even after the Oregon Commission issues an order in this case.

Q. Does this conclude Staff's testimony in support of approval of the Proposed Transaction, provided the Stipulation and Stipulated Commitments are adopted by the Commission in their entirety?

A. Yes.

VIII. CUB'S SUPPORT FOR THE STIPULATION

Q. Why does CUB support the Stipulation?

A. CUB supports the stipulation because it addresses several of CUB's concerns. CUB views the stipulation as a reasonable compromise of the parties' issues in this proceeding, and believes that it provides a net benefit to Avista's Oregon customers while ensuring that Oregonians as a whole are not harmed. Merger dockets at the Commission are subject to a net benefit test were benefits are weighed against the costs and risk of a merger. In response to CUB's concerns about the merger, Avista and Hydro One have made numerous changes to the merger commitments. The Stipulation contains a series of conditions that reduce risks to customers. Other conditions provide a direct benefit to customers: the rate credit, increased funding for low income weatherization and bill payment assistance, and a three-year commitment to not sell Avista's natural gas operation in Oregon. By adding conditions that minimize the risk and including conditions that offer benefits, CUB's concerns have effectively been alleviated.

Q. Does CUB believe that the Stipulated Commitments provide a net benefit for Oregon ratepayer?

A. Yes.

Q. Does CUB agree with Avista and Hydro One on all details of this testimony, including which Stipulated Commitments are a benefit to Oregon ratepayers?

A. No. CUB would characterize several of these elements as no harm commitments. However, CUB does still support the Stipulation in aggregate.

Q. Does this conclude CUB's testimony in support of conditional approval of the Proposed Transaction, provided the Stipulated Commitments are adopted by the Commission in their entirety?

A. Yes.

IX. AWEC'S SUPPORT FOR THE STIPULATION

Q. Mr. Mullins, why does AWEC support the Stipulation?

A. AWEC supports the Stipulation in conjunction with the Stipulated Commitments as in the public interest and asks the Commission to approve the Proposed Transaction only upon approval of such conditions. While each of the parties may have different opinions or views of the Proposed Transaction and each of the Stipulated Commitments, from AWEC's perspective, the Proposed Transaction, as a whole, meets the standard for approval under Oregon law.

Q. Do you believe the Proposed Transaction will result in net benefits to ratepayers?

A. I believe that the Proposed Transaction has the potential to produce, and will likely produce, net benefits to Oregon ratepayers. Whether the transaction ultimately results in a net benefit, however, will depend on how Avista and Hydro One are integrated in the coming years. The analysis of benefits in this case did not consider that incremental costs might be allocated from Hydro One to Avista as an intercompany service or other similar form of cost allocation. To ensure that net benefits are recognized under this Stipulation, it is, therefore, necessary for any intercompany cost allocation to be carefully scrutinized in general rate cases. Going forward, each and every intercompany service or charge needs to be justified economically, and shown to result in a net cost reduction to the utility in order to ensure that net benefits are realized. I believe that the utility will be able to meet this standard in rate cases going forward, which has informed my testimony that the proposed transaction is likely to produce a net benefit.

Q. What are the specific benefits AWEC identified with respect to the Proposed Transaction?

A. The end result of the Proposed Transaction, in conjunction with the Stipulated Commitments, allows the Proposed Transaction to go forward with reduced potential for harming Avista's customers. In particular, Avista's customers are protected through strict ring fencing provisions, hold harmless provisions, access to records, dividend restrictions, safety and service quality measures and other measures that have been designed to protect customers. Customers also receive benefits from the Proposed Transaction through rate credits and a rate case stay out.

Numerous Commitments protect Avista and its customers by ring fencing Avista in the event of financial stress of Hydro One or its affiliates. Within 90 days of the Proposed Transaction closing, Avista will file a non-consolidation opinion with the Commission which concludes that the ring fencing provisions are sufficient such that a bankruptcy court would not order the substantive consolidation of the assets and liabilities of Avista with those of Hydro One or its affiliates or subsidiaries. Further provisions limit Avista's ability to pay upstream dividends under certain circumstances to protect Avista's financial health and its customers, and the Stipulated Commitments ensure that taxes paid by Avista's customers will not increase because of the Proposed Transaction. Avista also agreed that all net benefits of the Tax Cuts and Jobs Act will be returned to customers, and waived the right to argue the benefits should be retained for ensuring that Avista can earn its authorized rate of return.

Avista's customers further benefit from $7,541,159 in rate credits, $1,131.179 of which can be off set to the extent Avista demonstrates in a future rate proceeding that cost savings or benefits directly related to the Proposed Transaction are being flowed to customers through base rates. The annual rate credit to customers for the first 5 years of the transaction will be approximately $1.5 million. These credits will be returned on an equal percent of margin basis to all natural gas customers. The Stipulation and Stipulated Commitments also preclude Avista from seeking to recover the legal and financial advisory costs of the Proposed Transaction from ratepayers.

All in all, AWEC's concerns raised in testimony have been addressed by Avista and Hydro One through the terms of the Stipulation and Stipulated Commitments.

X. OSIDCL'S SUPPORT FOR THE STIPULATION

Q. Why does OSIDCL support the Stipulation?

A. The Stipulation helps establish a partnership between Avista and the OSIDCL. The Commitments address the concerns and take advantage of opportunities described in the testimonies of Chad Fenison, Aida Aranda, and Gary Jackson. Collectively, their testimonies described the role of the contracted out workforce on the Avista system, safety issues that arise for pipeline workers, factors that affect pipeline durability and reliability, LIUNA's expertise in training and preparing workers for careers in natural gas construction, turnover problems for construction contractors working on the Avista system, and economic benefits of higher wages and benefits to reduce turnover and improve workforce quality in Southern Oregon.

The testimonies of Chad Fenison and Gary Jackson highlight the importance of having well-trained and qualified contractor employees for both reliability and safety. The testimony of Gary Jackson, as well as the accompanying statements, also highlights the importance of adequate compensation on employees' morale, commitment to the work, and quality of work. The testimony of Gary Jackson showed that in the past, construction contractor employees have worked for low wages on the Avista system leading to productivity and safety problems. To ensure construction contractor employees will be the best trained and most productive, Avista's commitments regarding contract labor, as detailed in Addendum 1 of the Stipulated Commitments, promise to utilize OSIDCL members on future natural gas replacement, construction, and flagging work, with certain exceptions. This will ensure that post-merger there will be continuity in the workforce needed to conduct the ongoing pipe replacement program, installation of new gas lines, and ongoing maintenance needed to ensure the general public is protected from leaking gas lines. Ratepayers will benefit from experienced contractor employees working on Avista's system, which will minimize safety concerns that come with having inexperienced and untrained workers.

Consequently, ratepayers will also benefit from efficiencies in the future capital expenditure program post-merger.

Should Avista decide to expand their hydroelectric capacities into Oregon, there is a Commitment to meet and confer with OSIDCL to discuss possible involvement in additional projects within OSDICL's expertise. This will ensure Oregon ratepayers will have the opportunity to have trained and experienced Laborers working on the construction of any future hydroelectric facilities or infrastructure in Oregon.

The testimony of Aida Aranda illustrated the numerous training opportunities provided by the Oregon and Southern Idaho Laborers-Employers Training Trust ("OSILETT"). The Stipulated Commitments ensure that Avista construction contractors will utilize OSILETT for required training, resulting in construction personnel being well qualified and trained. A trained and qualified workforce will prevent situations that have been observed in the past where untrained and inexperienced contractor employees are working on the system, which can compromise the reliability of the system and increase safety risks. Oregon ratepayers can rest assured knowing that the people working on the transmission, distribution, and service lines are qualified and trained.

Lastly, the Stipulated Commitments ensure that the bid evaluation process includes analysis of other factors that impact the quality of work provided by any given contractor, including minimum staffing requirements, training programs, documented qualification programs, safety track records, OSHA 300 reportables, and other records. This further ensures that Avista's system is reliable and safe for workers, ratepayers, and community members in general.

Q. Does this conclude your testimony?

A. Yes.

DISCUSSION OF SPECIFIC COMMITMENTS

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Q. Please generally describe the merger commitments agreed to by the Parties.

A. The Stipulation provides a robust set of commitments made by Hydro One and Avista that are designed to help ensure that the Proposed Transaction provides a net benefit to Avista's Oregon customers and results in no harm to Oregonians as a whole. The Stipulated Commitments (attached as Appendix A to the Stipulation) cover, among other things, governance, transactions, safety and service quality measures, hold harmless provisions, rate credits, taxes, financial ring-fencing, bankruptcy, access to information, accounting, allocations, regulatory controls, environmental, renewable energy and energy efficiency, community and low-income assistance, contract labor, reporting and enforcement, and most favored nations.

Q. How much funding is included in the merger commitments as a result of the Stipulation?

A. Hydro One and/or Avista have agreed to provide in Oregon a total of $9.6 million in funding over time, none of which will be recoverable through customer rates. This represents an <u>additional</u> $6.7 million in funding over time, on top of the $2.9 million in funding provided by Hydro One and/or Avista in the original Application commitments (exclusive of charitable contributions), to address customer rates and low-income customer issues, and other worthy programs and projects.

In addition, Avista and Hydro One have proposed charitable contributions only made possible through the merger. Stipulated Commitment 88 ensures that Oregon will receive a pro-rata portion of Avista's charitable donations. Stipulated Commitment 89 provides for a one-time $7 million contribution to Avista's charitable foundation at closing. Stipulated Commitment 90 increases Avista's annual budget for charitable contributions in recent years, nearly doubling it to $4 million per year, and additionally provides for a $2 million annual contribution to Avista's charitable foundation for five years after the close of the Proposed Transaction, none of which will be recoverable in customer rates.

Q. What is the impact of all of the 115 Stipulated Commitments on Hydro One's Application?

A. With the approval and implementation of the Stipulated Commitments, the Parties believe the Application meets the net benefit test as required under Oregon law and therefore should be approved by the Commission.

Q. What are the Parties' individual positions on whether the Stipulated Commitments discussed below provide a benefit to Avista customers?

A. For every Stipulated Commitment explained in this Joint Testimony/101 a question is posed as to whether the Stipulated Commitment provides a benefit to Avista customers. Hydro One and Avista included this question and do not intend for this question to always refer to the "net" benefit calculation. Rather, as used in this Joint Testimony/101, an assertion that a Stipulated Commitment results in "a benefit to Avista customers" *may* indicate that the Stipulated Commitment contributes to the public interest part of ORS 757.511 that requires no harm to Oregonians as a whole *or* contributes to the "net" benefit calculation.

For each and every Stipulated Commitment, the Parties may have different opinions about whether a particular commitment should be used for the "net" benefit calculation or should be used to determine whether the Proposed Transaction meets the no harm standard as a whole. For example, Staff and Intervenors believe that many of the "no harm" Stipulated Commitments simply maintain the status quo at Avista and in fact would not be necessary but for the Proposed Transaction. In contrast, Hydro One and Avista have categorized some of these Stipulated Commitments as "benefits" that would be used for the "net" benefits calculation, or has called them "benefits" in the sense of benefiting the public generally and communities that Avista serves. Therefore, in this explanatory Joint Testimony/101, when a position on the benefit question (which could also mean no harm as phrased by Hydro One and Avista) is one of Hydro One and/or Avista only, it is so indicated. Further, for Staff and Intervenor positions on the "net" benefit of this transaction, please see their individual testimony contributions in Joint Testimony/100.

A. Definitions

Q. Do the commitments contain definitions?

A. Yes. The Stipulated Commitments define the following terms:

a. Affiliate
b. AVA and Avista
c. Beneficial Ownership
d. Capital Structure
e. CEF
f. Commission or OPUC
g. Credit Ratings
h. $ or Dollar
i. Golden Share
j. GRC
k. H1 or Hydro One
l. Independent Directors
m. Investment Grade
n. Long-Term Debt
o. M&A
p. Major Shareholder
q. Pacific Northwest Region
r. Parent
s. Parties (or Party individually)
t. Pre-Merger
u. Proposed Transaction
v. Rating Agencies
w. Transaction Costs
x. Transition Costs

B. Applicability

Q. What is the Parties' proposed Stipulated Commitment 1?

A. *"Unless otherwise stated, all commitments herein are binding upon Avista, Hydro One, and all companies in between in the post-close corporate organization chart (as those companies in between may change over time; but see commitments regarding ORS 757.511 and 757.480)."*

Q. Why did the Parties agree to include Stipulated Commitment 1?

A. Stipulated Commitment 1 makes commitments binding on all companies in the post-close corporate organization chart, and all future companies in the post-close corporate organization chart should it change over time.

Q. How did Stipulated Commitment 1 change from the Application to the Stipulation?

A. The Application did not contain Stipulated Commitment 1 or language similar to Commitment 1.

Q. Does Stipulated Commitment 1 provide a benefit to Avista customers?

A. This commitment is benefit-neutral.[1]

Q. What is the Parties' proposed Stipulated Commitment 2?

A. *"Avista and Parent commit that no amendments, revisions, or modifications will be made to the any of the commitments herein without prior Commission approval. Also see "Most Favored Nations" Commitment."*

Q. Why did the Parties agree to include Stipulated Commitment 2?

A. Stipulated Commitment 2 ensures that Avista and Hydro One cannot change any of the commitments without Commission approval. Avista and Hydro One agreed to seek

[1] Note that throughout this Joint Testimony commitments described as "neutral" or "status quo" are designed to ensure Avista will continue to be prudently managed and shielded from any perceived risk associated with the Proposed Transaction. *See In re MidAmerican Energy Holdings Company Application for Authorization to Acquire Pacific Power & Light, dba PacifiCorp*, Docket UM 1209, Order 06-082 at 3 (Feb. 24, 2006) (Additionally, in this case, the Commission will measure the benefits by comparing the application and supplemental terms to "the continued prudent and well managed operation of PacifiCorp, [which] under ScottishPower, has maintained PacifiCorp's system; provides good customer service; and ready access to capital at relatively favorable rates").

Commission approval for any amendment, revisions or modifications to the Stipulated Commitments in order to provide the Commission with greater oversight.

Q. How did Stipulated Commitment 2 change from the Application to the Stipulation?

A. Commitment 1 in the Application allowed Avista to change commitments 2 through 15 with a two-thirds (2/3) vote of the Avista Board of Directors. Stipulated Commitment 2 now requires Commission approval for an amendment, revision, or change to *any* Stipulated Commitment, including Commitments 2 through 15 in the Application.[2]

Q. Does Stipulated Commitment 2 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 2 provides a benefit to Avista customers because the various benefits from the merger, guaranteed to Avista customers and the public (e.g., charitable contributions), cannot be amended, revised, or modified without prior Commission approval. For example, today, there are no restrictions on the ability of Avista's board to reduce its charitable contributions, its investments in economic development, and similar matters that typically rest within the discretion of a utility's board of directors.

Q. What is the Parties' proposed Stipulated Commitment 3?

A. *"Nothing in these commitments prevents Avista or Parent from requesting confidential or highly confidential treatment of information."*

Q. Why did the Parties agree to include Stipulated Commitment 3?

A. Several of the Stipulated Commitments impose on both Avista and Hydro One the responsibility to provide financial and other highly sensitive information to the Commission. This

[2] The Parties reorganized and added to the Application commitments, so the numbering of the Application commitments does not match with the numbering of the Stipulated Commitments.

commitment simply recognizes that such information may be produced under the protections provided by the Commission's rules for confidential filings.

Q. How did Stipulated Commitment 3 change from the Application to the Stipulation?

A. Commitment 28 in the Application provided that "[n]othing 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." The Parties agreed to clarify the language to clearly convey the underlying meaning and intent of the commitment.

Q. Does Stipulated Commitment 3 provide a benefit to Avista customers?

A. Stipulated Commitment 3 is benefit-neutral.

C. <u>Governance</u>

Q. What is the Parties' proposed Stipulated Commitment 4?

A. *"Subject to the remaining provisions of this commitment and subject to voluntary retirements and resignations that may occur, Avista and Parent agree that Avista will retain all current executive management of Avista for a period of three years. 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 post-Proposed Transaction Avista board retains its current 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 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."*

Q. Why did the Parties agree to include Stipulated Commitment 4?

A. Retaining Avista's executive management enables the combined company to satisfy its promises to Avista's customers by assuring continuity in its business and operations after the close of the Proposed Transaction. This commitment ensures that Avista's culture and its way of doing business will continue for the long-term.

Q. How did Stipulated Commitment 4 change from the Application to the Stipulation?

A. The only change is that Avista will seek to retain all current executive management of Avista, "subject to voluntary retirements and resignations that may occur." This addition recognizes that executive management may voluntarily resign in addition to voluntarily retiring.

Q. Does Stipulated Commitment 4 provide a benefit to Avista customers?

A. Hydro One and Avista believe Stipulated Commitment 4 will provide a benefit because ratepayers will benefit from the certainty and stability provided by continuity of leadership.

Q. What is the Parties' proposed Stipulated Commitment 5?

A. *"Avista and Hydro One agree that after closing of the Proposed Transaction, Avista will have a separate board of directors from Hydro One that consists of nine (9) members, determined as follows:*

Five Hydro One Designated Directors:

Two executives of Hydro One or any of its subsidiaries, and

Three Independent Directors who are residents of the Pacific Northwest Region.

Four Avista Designated Directors:

Three directors who as of immediately prior to the closing of the Proposed Transaction are members of the Board of Directors of Avista, including the Chairman of Avista's Pre-Merger Board of Directors (if such person is different from the Chief Executive Officer of Avista), and

Avista's Chief Executive Officer.

At least two of the Avista directors must be 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.

Hydro One shall have the unfettered right to designate, remove and replace the Hydro One designees as directors of the Avista Board with or without cause or notice at its sole discretion, subject to the requirement that:

(i) two of such directors are executives of Parent or any of its subsidiaries; and

(ii) three of such directors are Independent Directors who are residents of the Pacific Northwest region, while such requirement is in effect (subject in the case of clause (ii) hereof to Hydro One determining, in good faith, that it is not able to appoint an Independent Director who is a resident of the Pacific Northwest region in a timely manner, in which case Hydro One may replace any such director with an employee of Hydro One or any of its subsidiaries on an interim basis, not exceeding six months, after which time Hydro One shall replace such interim director with an Independent Director who is a resident of the Pacific Northwest region)."

Q. Why did the Parties agree to include Stipulated Commitment 5?

A. The makeup of the Avista Board of Directors will reinforce and preserve the way Avista currently does business, for the benefit of its customers. The Avista board will be a local board primarily consisting of either board members who are, or who are chosen by, Avista designees, and/or who reside in the Pacific Northwest. Specifically, after closing, Avista will be governed by a nine member Board of Directors, with Avista's CEO Scott Morris serving as the Chairman of the Board. Three additional board members will be chosen by Avista—two of whom must be Independent Directors—and these three board members, together with the CEO, are referred to as Avista designees. There will always be a total of four Avista designees, and these Avista Board members, as a group, will choose their successors. Of the five board members chosen by Hydro One, three must be Independent Directors that reside in the Pacific Northwest. The remaining two board members will be executives of Hydro One or one of its subsidiaries.

The agreed upon structure of Avista's Board of Directors is structured so that customer interests will remain Avista's top priority and that Avista's culture and its way of doing business will continue for the long-term. The clarification that five (5) of the nine (9) board members must be Independent Directors will help keep corporate interests aligned with Avista long term customer interests.

Q. How did Stipulated Commitment 5 change from the Application to the Stipulation?

A. Stipulated Commitment 5 is based on Commitment 3 from the Application. Commitment 3 required that three (3) directors of the Avista Board be individuals "who are not officers, employees or directors (other than as an independent director of Avista or Olympus Equity LLC) of Hydro One or any of its affiliates and who are residents of the Pacific Northwest region to be designated by Hydro One" and "three (3) directors who as of immediately prior to the closing of the Proposed Transaction are members of the Board of Directors of Avista[.]"

The Parties revised Commitment 3 from the Application so that five (5) of the nine (9) Avista Board of Directors must be Independent Directors. All three (3) Pacific Northwest Region directors must be Independent Directors, and two (2) of the four (4) Avista designees must be Independent Directors. Stipulated Commitment 5 also now contains the industry standard for "Independent Directors," as defined by section 303A.02 of the New York Stock Exchange Listed Company Manual.

Additionally, the term "Pacific Northwest Region" is defined as the "the Pacific Northwest states in which Avista serves retail electric or natural gas customers, currently the states of Alaska, Idaho, Montana, Oregon and Washington."

Q. Does Stipulated Commitment 5 provide a benefit to Avista customers?

A. Hydro One and Avista believe Stipulated Commitment 5 provides a benefit to Avista customers because ratepayers will benefit from having a number of directors that are based in the states that make up Avista's service territory, a number that are independent, and two from Hydro One who can help identify areas where efficiencies can be gained from the sharing of best practices, technology and innovation between the two companies.

Q. What is the Parties' proposed Stipulated Commitment 6?

A. *"At least one of the members of the board of directors of Olympus Equity LLC will be an Independent Director. The same individual may serve as an Independent Director of both Avista and Olympus Equity LLC."*

Q. Why did the Parties agree to include Stipulated Commitment 6?

A. Independent Directors are powerful deterrents to help keep corporate interests aligned with Avista customer interests. Stipulated Commitment 6 is designed to help ensure that Avista customers remain a priority.

Q. How did Stipulated Commitment 6 change from the Application to the Stipulation?

A. Stipulated Commitment 6, "Olympus Equity, LLC Board of Directors," is based on a provision in Commitment 40, "Independent Directors", in the Application. Application Commitment 40 stated, "[a]t least one of the members of the board of directors of Olympus Equity LLC will be an independent director who is not a member, stockholder, director (except as an independent director of Olympus Equity LLC or Avista), officer, or employee of Hydro One or its affiliates. The same individual may serve as an independent director of both Avista and Olympus Equity LLC". Hydro One and Avista agreed to make this a standalone commitment.

Q. Does Stipulated Commitment 6 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 6 provides a benefit to Avista customers because ratepayers will benefit from having board members that are Independent Directors.

D. Future Transactions

Q. What is the Parties' proposed Stipulated Commitment 7?

A. *"Hydro One and Avista agree not to sell Avista's Oregon natural gas operations for three (3) years following the Commission's approval of the Proposed Transaction. During that time, Avista and Hydro One agree to provide safe and reliable service and commit to keeping Avista's Oregon natural gas operations in the same or better condition than existed prior to the Proposed Transaction."*

Q. Why did the Parties agree to include Stipulated Commitment 7?

A. The Parties agreed to include this commitment to alleviate concerns that Hydro One and Avista might seek to immediately sell Avista's Oregon natural gas business. Avista and Hydro One represent that there are no plans to sell this line of Avista's business.

Q. How did Stipulated Commitment 7 change from the Application to the Stipulation?

A. The Application did not contain Stipulated Commitment 7, "Long-Term Ownership," or a similar commitment.

Q. Does Stipulated Commitment 7 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 7 provides a benefit to Avista customers because it provides Avista's customers in Oregon with certainty as to the identity and capability of their utility provider. Today, Avista has no such restriction. Staff and Intervenors do not believe this commitment contributes to the "net" benefit calculation because it maintains the status quo. Further, any effort to sell Avista's Oregon gas operations would require Commission approval.

Q. What is the Parties' proposed Stipulated Commitment 8?

A. *"Avista and Parent agree they will continue to provide timely courtesy copies, information and reporting to the Commission of AERC/Alaska Electric Light and Power Co. (AELP) resource (long-term) plans and plan updates submitted to the Regulatory Commission of Alaska (RCA), and topical energy information as described herein when Avista or Parent find such information relevant or material to Oregon, or when requested by the Commission or Staff. This continues Avista's tradition of contributing to informed Northwest regulation.*

Parent and Avista agree that if AERC, or components thereof, such as but not limited to AELP is transferred from its current position under Avista, Hydro One must give notice to the Commission and provide pro forma documents showing the proportion of debt and equity to be removed from Avista. This information will be used for the purpose of potential adjustments in Avista's next GRC."

Q. Why did the Parties agree to include Stipulated Commitment 8?

A. Staff wishes to continue to receive information about Avista's Alaska subsidiary utility, AERC/AELP. Avista and Hydro One agreed to continue this practice after the Proposed Transaction is consummated. Further, Stipulated Commitment 8 will ensure that the Commission receives notification in the event that Avista and Hydro One engage in a corporate reorganization that results in AERC/AELP no longer existing as a subsidiary of Avista. Avista and Hydro One must report on how any such reorganization changes Avista's debt and equity.

Q. How did Stipulated Commitment 8 change from the Application to the Stipulation?

A. Stipulated Commitment 8, "Avista and AERC Corporate Relationship," or a similar commitment, was not included in the Application.

Q. Does Stipulated Commitment 8 provide a benefit to Avista customers?

A. Stipulated Commitment 8 is benefit-neutral because Avista will continue its tradition of providing courtesy copies, information and reporting to the Commission regarding applicable AERC and AELP activities and corporate structure.

Q. What is the Parties' proposed Stipulated Commitment 9?

A. *"Parent and Avista agree to comply with and interpret ORS 757.511 (Application for authority to exercise influence over utility) as triggered if any of the entities in the post-Proposed Transaction chain of corporate entities between Hydro One and Avista, and including Hydro One, undergoes a corporate reorganization or if any of those entities enter into a transaction that results in the addition of a new entity in the chain of entities that may exercise any substantial influence over Avista.*

Additionally, Parent and Avista agree to interpret ORS 757.480 (Approval needed prior to disposal, mortgage or encumbrance of certain operative utility property or consolidation with another public utility) to require Commission approval of any transaction which results in a merger of Avista with another public utility, without regard to whether that public utility provides service in Oregon."

Q. Why did the Parties agree to include Stipulated Commitment 9?

A. The Parties adopted Stipulated Commitment 9 to clarify the types of Hydro One and Avista corporate reorganizations and acquisitions that will be subject to the Commission's jurisdiction in the future. For example, arguments can be made as to whether a reorganization of the Parent company—Hydro One—would trigger an ORS 757.511 filing. This commitment clarifies that such a reorganization will trigger an ORS 757.511 filing so that this question will not need to be litigated in future proceedings.

Q. How did Stipulated Commitment 9 change from the Application to the Stipulation?

A. Stipulated Commitment 9, "Reorganization and Sale Triggers," or a similar commitment, was not included in the Application.

Q. Does Stipulated Commitment 9 provide a benefit to Avista customers?

A. Stipulated Commitment 9 is neutral, as it establishes the Parties' agreement to submit certain types of Hydro One and Avista corporate reorganizations and acquisitions to the Commission for approval in the future. In Staff's position, it serves to mitigate potential future harm to Avista's customers should, for example, the structure or ownership of its ultimate parent Hydro One change significantly and would be subject to another ORS 757.511 approval.

E. <u>Safety and Service Quality Measures</u>

Q. What is the Parties' proposed Stipulated Commitment 10?

A. *"Avista and Parent agree that neither the proposed Hydro One merger, nor future acquisitions, may diminish delivery of safe and reliable utility service in Oregon as compared to Avista's performance pre-close of the Proposed Transaction.*

Avista and Parent agree that Avista will continue to fully comply with US Code of Federal Regulations (CFR) Title 49 Parts 190 to 199 (Pipeline Safety), as applicable.

Avista and Parent agree that Avista will maintain and improve, to the extent reasonably practicable, Avista's natural gas safety and reliability and resilience standards, policies, and service quality measures.

Additionally, Parent and Avista agree that Avista commits to providing the following Service Quality, Safety and Planning measures:"

Q. Why did the Parties agree to include Stipulated Commitment 10?

A. Stipulated Commitment 10 ensures that Avista and Parent commit that the Proposed Transaction will not diminish Avista's delivery of safe and reliable utility service in Oregon as compared to Avista's performance pre-closing. This commitment is especially important because the comparator for calculating the net benefit test is the prudent and well-run Avista utility existing today. Stipulated Commitment 10 requires Avista to continue to comply with 49 CFR Parts 190-199 and to make necessary capital investments in order to maintain and improve safety, reliability, and service quality levels.

Q. How did Stipulated Commitment 10 change from the Application to the Stipulation?

A. Stipulated Commitment 10 was Commitment 15 in the Application. In the Application, Commitment 15 stated that "Avista will maintain Avista's safety and reliability standards and policies and service quality measures in a manner that is substantially comparable to, or better than, those currently maintained." Hydro One and Avista agreed to revise the commitment so that the Proposed Transaction, as well as any future acquisitions, may not diminish Avista's delivery of safe and reliable utility service in Oregon as compared to Avista's performance pre-closing. Stipulated Commitment 10 was also revised to reference 49 CFR Parts 190-199 and to require Avista to make necessary capital improvements in order to maintain and improve Avista's safety, reliability, and service quality levels.

Q. Does Stipulated Commitment 10 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Commitment 10 provides a benefit to Avista customers because it provides new assurances of safety and customer service not in place today.

Q. What is the Parties' proposed Stipulated Commitment 11?

A. *"Avista will maintain a call center managed by high-performing personnel to ensure the maintenance of high quality service and customer standards in Oregon. Personnel at such call centers will have training and experience commensurate with Avista's Oregon pre-Proposed Transaction customer service system and standards."*

Q. Why did the Parties agree to include Stipulated Commitment 11?

A. Stipulated Commitment 11 ensures that Avista will maintain a call center managed by high-performing personnel to provide high quality service to Avista customers in Oregon, and that call center personnel will have the training and experience commensurate with Avista's pre-Proposed Transaction customer service system and standards in Oregon.

Q. How did Stipulated Commitment 11 change from the Application to the Stipulation?

A. The Application did not include Stipulated Commitment 11, "Avista Call Center." While the Application included Commitment 10, which stated that Avista would "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," Hydro One and Avista agreed to add Stipulated Commitment 11 to provide more specificity.

Q. Does Stipulated Commitment 11 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 11 provides a benefit to Avista customers because it provides new safety and customer service assurances not in place today.

Q. What is the Parties' proposed Stipulated Commitment 12?

A. *"Avista regulatory liaison staff will retain high-performing personnel. Personnel will have training and experience in Oregon regulatory matters, commensurate with Avista's operations in Oregon prior to the Proposed Transaction."*

Q. Why did the Parties agree to include Stipulated Commitment 12?

A. The Parties agreed to include Stipulated Commitment 12 to ensure that Avista maintains high-performing and high-quality regulatory staff and personnel in Oregon so that the proposed merger with an international parent would not negatively impact Avista operations, regulatory staff, or the level of specific knowledge and familiarity with Oregon regulatory matters and practices.

Q. How did Stipulated Commitment 12 change from the Application to the Stipulation?

A. The Application did not include Stipulated Commitment 12, "Avista Oregon Regulatory Affairs and Liaison Staff." While the Application included Commitment 10, which stated that Avista would "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," Hydro One and Avista agreed to add Stipulated Commitment 12 to provide more specificity.

Q. Does Stipulated Commitment 12 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 12 provides a benefit to Avista customers because it provides new safety and customer service assurances not in place today.

Q. What is the Parties' proposed Stipulated Commitment 13?

A. *"Avista and Parent commit that Avista will prepare all opening and closing bills using actual reads acquired manually or electronically in accordance with Oregon's administrative rules, unless the open or close date is within +/- 5 days of regular normal cycle read, whereupon a prorated read may be used."*

Q. Why did the Parties agree to include Stipulated Commitment 13?

A. The Parties agreed to this commitment to maintain or improve Avista's service quality policies. Avista's current billing practice for arriving or departing customers utilizes actual meter reads when available. If there is a meter read within three days (past or future) from the requested start or stop date, Avista will use that meter reading as the start or stop date. If there is a meter read scheduled between four to 15 days in the future, Avista will prorate a customer's opening or closing bill using that read. If a read is scheduled more than 15 days in the future, Avista will estimate the meter read or request a service order to obtain an actual read. When estimating, the estimate is done using the prior meter read and historical usage information.

Avista has agreed to modify its billing practices as stated in Stipulated Commitment 13. Stipulated Commitment 13 requires Avista to read the meter at the time the customer is leaving service or beginning service, if the time for reading the meter is going to be more than five days from when the customer departs or a new customer is connected. This will result in more accurate billing and improve Avista's service quality.

Q. How did Stipulated Commitment 13 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 13 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 13 provides a benefit to Avista customers because this change in practice—from estimated billing usage to actual meter reads—will result in more accurate billing. Hydro One and Avista also believe Stipulated Commitment 13 provides new assurances of customer service not in place today.

Q. What is the Parties' proposed Stipulated Commitment 14?

A. *"Avista and Parent agree that by October 31, 2018, Avista will submit to the Commission for approval a proposal for a Winter Protection Program against winter shut-offs for low-income, elderly and other at-risk customers that explains how Avista balanced collection and customer service goals, and where applicable drew on Hydro One experience."*

Q. Why did the Parties agree to include Stipulated Commitment 14?

A. The Parties agreed to include Stipulated Commitment 14 to further improve Avista's Oregon service quality measures.

Q. How did Stipulated Commitment 14 change from the Application to the Stipulation?

A. The Application did not include this commitment.

Q. Does Stipulated Commitment 14 provide a benefit to Avista customers?

A. Hydro One and Avista, and Staff believe that Stipulated Commitment 14 provides a benefit to Avista customers because it provides new assurances of customer service not in place today.

Q. What is the Parties' proposed Stipulated Commitment 15?

A. *"Avista commits, and Hydro One agrees, that Avista will seek to appropriately engage Native American communities."*

Q. Why did the Parties agree to include Stipulated Commitment 15?

A. The Parties agreed to include Stipulated Commitment 15 to advance Avista's community engagement with Native American communities.

Q. How did Stipulated Commitment 15 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 15 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 15 provides a benefit to Avista customers because it provides new assurances of engagement with Native American communities that do not exist today.

Q. What is the Parties' proposed Stipulated Commitment 16?

A. *"Hydro One and Avista agree that Avista will increase current funding for Avista Oregon low-income weatherization programs by making a payment of $1,275,000, to be paid in equal increments over a 5-year period to the agencies that are in charge of the Avista Oregon Low Income Energy Efficiency Program (AOLIEE). The first annual payment will begin in the calendar year following closing of the Proposed Transaction. The Parties agree that this commitment is not recoverable in customer rates and will not be booked to utility accounts; in other words, in no way or form will the cost of this commitment appear in Avista's regulated utility earnings.*[3]

[3] The Parties' expectation is that this commitment will be funded through a reduction in retained earnings or shareholder dividends.

Hydro One and Avista agree that Avista will undertake a targeted effort with a goal of improving the penetration of Avista low-income programs in Oregon with a focus on underserved, vulnerable, and high energy burden households. Further, Avista commits to keep sufficient data analysis to clearly articulate what program elements and methods were effective as well as to identify opportunities for delivering more beneficial outcomes with resources available."

Q. Why did the Parties agree to include Stipulated Commitment 16?

A. The Parties agreed to include this commitment to benefit low income customers by providing increased funding for and access to energy efficiency programs and to identify and track effective program elements and methods.

Q. How did Stipulated Commitment 16 change from the Application to the Stipulation?

A. Stipulated Commitment 16 was not included in the Application.

Q. Does Stipulated Commitment 16 provide a benefit to Avista customers?

A. Hydro One and Avista, Staff, and Intervenors believe that Stipulated Commitment 16 provides a benefit to Avista customers—in particular, to Avista's low-income and vulnerable customers—because it increases funding for low income weatherization for low income customers in Oregon. This additional funding cannot be recovered from Avista's ratepayers.

Q. What is the Parties' proposed Stipulated Commitment 17?

A. *"Hydro One and Avista agree that Avista shall increase funding for LIRAP for Oregon customers as provided in this commitment. Hydro One and Avista agree that Avista will provide a payment of $500,000 payable at the rate of $100,000 per year with the first annual payment beginning in the calendar year following closing of the Proposed Transaction. The Parties agree that this commitment is not recoverable in customer rates and will not be booked to utility accounts; in other words, in no way or form will the cost of this commitment appear in Avista's regulated utility earnings.[4]"*

Q. Why did the Parties agree to include Stipulated Commitment 17?

[4] The Parties' expectation is that this commitment will be funded through a reduction in retained earnings or shareholder dividends.

A. The Parties agreed to include this commitment as a benefit to Avista's low income customers by increasing funding for rate assistance for those customers. Stipulated Commitment 17 requires Avista to provide additional funding over a 5-year period for LIRAP in Oregon. Avista will provide $500,000—not recoverable in customer rates—in $100,000 annual increments to LIRAP in Oregon over five years after the closing of the Proposed Transaction.

Q. How did Stipulated Commitment 17 change from the Application to the Stipulation?

A. Stipulated Commitment 17, "Oregon Low-Income Rate Assistance Program (LIRAP)," or a similar commitment, was not included in the Application.

Q. Does Stipulated Commitment 17 provide a benefit to Avista customers?

A. Hydro One and Avista, Staff, and Intervenors believe that Stipulated Commitment 17 provides a benefit to Avista customers—in particular, to Avista's low-income customers—because it provides additional LIRAP funding in Oregon.

Q. What is the Parties' proposed Stipulated Commitment 18?

A. *"Avista and Parent commit that Avista will continue to work with low-income agencies to address other issues of low-income customers, including funding for bill payment assistance."*

Q. Why did the Parties agree to include Stipulated Commitment 18?

A. The Parties agreed to include this commitment as an assurance to Avista's low-income customers that Avista will continue to work with low-income agencies to address other issues of low-income customers, including funding for bill payment assistance, even when owned by an international parent who could have other regional priorities.

Q. How did Stipulated Commitment 18 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 18 provide a benefit to Avista customers?

A. Hydro One and Avista believe Stipulated Commitment 18 provides a benefit to Avista customers because in the future Avista will continue to work with low-income agencies to address other issues of low-income customers.

Q. What is the Parties' proposed Stipulated Commitment 19?

A. *"Avista and Parent commit that for the first three years following close of the Proposed Transaction Avista shall report to the Commission's Consumer Services Section any incidence of a billing error that results in the issuance of a corrected bill if the correction is $35 or more, and an explanation for the causes of the error."*

Q. Why did the Parties agree to include Stipulated Commitment 19?

A. Stipulated Commitment 19 is designed to ensure that the Commission's Consumer Services Section can monitor Avista billing errors that result in the issuance of a corrected bill if the correction is $35 or more.

Q. How did Stipulated Commitment 19 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 19 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 19 provides a benefit to Avista customers because it provides new customer service assurances not in place today.

Q. What is the Parties' proposed Stipulated Commitment 20?

A. *"Avista and Parent commit that the level of customer satisfaction with telephone service, as provided by Avista's Contact Center, will be at least 90 percent, where:*

a. The measure of customer satisfaction is based on customers who respond to Avista's quarterly survey of customer satisfaction, known as the Voice of the Customer, as conducted by its independent survey contractor;

b. The measure of satisfaction is based on customers participating in the survey who report the level of their satisfaction as either "satisfied" or "very satisfied"; and

> *c. The measure of satisfaction is based on the statistically-significant survey results for both electric and natural gas service for Avista's entire service territory for each quarter surveyed, and will also separately be reported for Oregon customers only."*

Q. Why did the Parties agree to include Stipulated Commitment 20?

A. Stipulated Commitment 20 ensures that Avista's Contact Center will provide its customers with excellent customer service.

Q. How did Stipulated Commitment 20 change from the Application to the Stipulation?

A. This commitment was not included in the Application. While the Application had Commitment 15, which stated that "Avista will maintain Avista's safety and reliability standards and policies and service quality measures in a manner that is substantially comparable to, or better than, those currently maintained", Hydro One and Avista agreed to add Stipulated Commitment 20 to provide more specificity.

Q. Does Stipulated Commitment 20 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 20 provides a benefit to Avista customers because it provides new assurances of customer service not in place today.

Q. What is the Parties' proposed Stipulated Commitment 21?

A. *"Avista commits, and Parent agrees, that the number of complaints filed with the Commission by Avista's natural gas customers will not exceed the rate of 0.3 complaints per 1,000 customers for the calendar year.*[5]*"*

Q. Why did the Parties agree to include Stipulated Commitment 21?

A. Stipulated Commitment 21 ensures that Avista's customer service will not decline as a result of the Proposed Transaction.

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[5] Note that the current 5 year average rate is 0.145 percent. This target is moved by Staff to slightly over 200% of current performance metrics.

Q. How did Stipulated Commitment 21 change from the Application to the Stipulation?

A. This commitment was not included in the Application. While the Application included Commitment 15, which stated that "Avista will maintain Avista's safety and reliability standards and policies and service quality measures in a manner that is substantially comparable to, or better than, those currently maintained", Hydro One and Avista agreed to add Stipulated Commitment 21 to provide more specificity.

Q. Does Stipulated Commitment 21 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 21 provides a benefit to Avista customers because it provides a safety and customer service assurance not in place today.

Q. What is the Parties' proposed Stipulated Commitment 22?

A. *"Avista commits, and Parent agrees, that the percentage of customer calls answered by a live representative within 60 seconds will be at least 80 percent per month, where:*

a. The measure of response time is based on results from Avista's Contact Center, and is initiated when the customer requests to speak to a customer service representative or presses a key to bypass an IVR system if in use; and

b. Response time is based on the combined results for both electric and natural gas customers for Avista's entire service territory."

Q. Why did the Parties agree to include Stipulated Commitment 22?

A. Stipulated Commitment 22 ensures that Avista's customer service will not decline as a result of the Proposed Transaction and that customers will continue to have the opportunity to interact with a live representative.

Q. How did Stipulated Commitment 22 change from the Application to the Stipulation?

A. This commitment was not included in the Application. While the Application included Commitment 15, which stated that "Avista will maintain Avista's safety and reliability standards and policies and service quality measures in a manner that is substantially comparable to, or better than, those currently maintained", Hydro One and Avista agreed to add Stipulated Commitment 22 to provide more specificity.

Q. Does Stipulated Commitment 22 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 22 provides a benefit to Avista customers because it provides a customer service assurance not in place today.

Q. What is the Parties' proposed Stipulated Commitment 23?

A. *"Avista and Parent commit that Avista's average response time to a natural gas system emergency in Oregon will not exceed 55 minutes for the calendar year (or consistent with future Commission standards), where:*

a. Response time is measured from the time of the customer call to the arrival of a field service technician; and

b. "Natural gas system emergency" is defined as an event when there is a natural gas explosion or fire, fire in the vicinity of natural gas facilities, police or fire are standing by, leaks identified in the field as "Grade 1," high or low gas pressure problems identified by alarms or customer calls, natural gas system emergency alarms, carbon monoxide calls, natural gas odor calls, runaway furnace calls, or delayed ignition calls."

Q. Why did the Parties agree to include Stipulated Commitment 23?

A. Stipulated Commitment 23 ensures that Avista's safety will not decline as a result of the Proposed Transaction.

Q. How did Stipulated Commitment 23 change from the Application to the Stipulation?

A. This commitment was not included in the Application. While the Application included Commitment 15, which stated that "Avista will maintain Avista's safety and reliability standards and policies and service quality measures in a manner that is substantially comparable to, or better than, those currently maintained", Hydro One and Avista agreed to add Stipulated Commitment 23 to provide more specificity.

Q. Does Stipulated Commitment 23 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 23 provides a benefit to Avista customers because it provides a safety and customer service assurance not in place today. Staff believes Stipulated Commitment 23 formalizes the status quo and provides a benchmark for incremental reliability and resilience improvement over time.

Q. What is the Parties' proposed Stipulated Commitment 24?

A. *"Avista and Parent commit that Avista will keep mutually agreed upon appointments for natural gas service re-lights, connections and reconnections where a service line is already installed, scheduled in the time windows of either 8:00 a.m. – 12:00 p.m. (morning), or 12:00 p.m. – 5:00 p.m. (afternoon), except for the following instances:*

a. When the customer or applicant cancels the appointment;

b. The customer or applicant fails to keep the appointment; or

c. Avista reschedules the appointment with at least 24-hours' notice."

Q. Why did the Parties agree to include Stipulated Commitment 24?

A. Stipulated Commitment 24 ensures that Avista's customer service will not decline as a result of the Proposed Transaction.

Q. How did Stipulated Commitment 24 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 24 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 24 provides a benefit to Avista customers because it provides a customer service assurance not in place today.

Q. What is the Parties' proposed Stipulated Commitment 25?

A. *"Avista and Parent commit that Avista will provide a cost estimate to the customer or applicant for new natural gas supply within 10 business days upon receipt of all the necessary information from the customer or applicant."*

Q. Why did the Parties agree to include Stipulated Commitment 25?

A. Stipulated Commitment 25 ensures that Avista's customer service will not decline as a result of the Proposed Transaction.

Q. How did Stipulated Commitment 25 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 25 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 25 provides a benefit to Avista customers because it provides a customer service assurance not in place today.

Q. What is the Parties' proposed Stipulated Commitment 26?

A. *"Avista and Parent commit that Avista will respond to all billing inquiries at the time of the initial contact, and for those inquires that require further investigation, Avista will investigate and respond to the customer within 10 business days."*

Q. Why did the Parties agree to include Stipulated Commitment 26?

A. Stipulated Commitment 26 ensures that Avista's customer service will remain timely and not decline as a result of the Proposed Transaction.

Q. How did Stipulated Commitment 26 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 26 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 26 provides a benefit to Avista customers because it provides a customer service assurance not in place today.

Q. What is the Parties' proposed Stipulated Commitment 27?

A. *"Avista and Parent commit that Avista will investigate customer-reported problems with a meter, or conduct a meter test within 15 business days of the request, and report the results to the customer within 15 business days from the date of the report or request."*

Q. Why did the Parties agree to include Stipulated Commitment 27?

A. Stipulated Commitment 27 ensures Avista's customer service will not decline as a result of the Proposed Transaction.

Q. How did Stipulated Commitment 27 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 27 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 27 provides a benefit to Avista customers because it provides a customer service assurance not in place today.

Q. What is the Parties' proposed Stipulated Commitment 28?

A. *"(Expires 3 years from closing of the Proposed Transaction) Avista commits, and Parent agrees, that for failure to meet a customer service guarantee for service provided to a gas customer, Avista will apply a $50 credit to the customer's account. For failure to meet a customer service guarantee for service provided to an applicant, Avista will mail a check for $50 to the applicant. Avista will timely provide the qualifying customer credit or applicant check without any requirement on the part of the customer or applicant to either apply for, or request, the applicable credit or check. Payment of service guarantee credits and any service quality penalties shall be excluded from revenue requirements in GRCs.*

Tracking of Avista's performance on the customer service guarantees, including the application of customer credits, will begin on January 1, 2019."

Q. Why did the Parties agree to include Stipulated Commitment 28?

A. Stipulated Commitment 28 ensures Avista's customer service will not decline as a result of the Proposed Transaction and provides monetary relief to customers in the event a service quality measure is not complied with.

Q. How did Stipulated Commitment 28 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 28 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 28 provides a benefit to Avista customers because it provides new customer service assurance that are not in place today.

Q. What is the Parties' proposed Stipulated Commitment 29?

A. *"Avista and Parent agree that Avista commits to eliminate security deposits for new Avista residential customers at close of Proposed Transaction, and to return existing security deposits to Oregon customers who have a deposit held longer than 6 months. In any subsequent Avista GRC before the Commission, any Party may request the Commission Order in that rate case to modify or remove this commitment if that Party successfully argues that the application of this commitment had an unreasonable impact on Avista's uncollectible debt."*

Q. Why did the Parties agree to include Stipulated Commitment 29?

A. The Parties agreed to include this commitment to eliminate security deposits because it further improves Avista's service quality measures and benefits Avista's low-income customers.

Q. How did Stipulated Commitment 29 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 29 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 29 provides a benefit to Avista customers because it returns money back to existing Avista customers and eliminates the barrier of a security deposit for future customers.

Q. What is the Parties' proposed Stipulated Commitment 30?

A. *"Avista and Parent commit that Avista will include the results of its Service Quality Measures Program in an annual report to be filed with the Commission on or before April 30th of each year."*

Q. Why did the Parties agree to include Stipulated Commitment 30?

A. Stipulated Commitment 30 ensures that Avista will continue to provide its customers with excellent customer service and safety standards after the Proposed Transaction closes, and provides the Commission, Commission Staff, and Intervenors the ability to track Avista's implementation of its Service Quality Measures Program.

Q. How did Stipulated Commitment 30 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 30 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 30 provides a benefit to Avista customers because it provides new customer service assurances that are not in place today.

Q. What is the Parties' proposed Stipulated Commitment 31?

A. *"Avista commits, and Parent agrees, that within 90 days of Avista filing its Annual Service Quality Measures Report, Avista will send a Service Quality Measures Program Report Card to its customers, which will include the following:*

a. Results for each of Avista's customer service measures, compared with the respective performance benchmarks;

b. Results for each of the customer service guarantees, compared with the respective benchmarks, and including the number of events for each measure where a credit was provided, and the total dollar amount of the credits paid for each measure; and

c. Performance highlights for the year.

d. Avista will issue its first Report Card to customers on or before July 31, 2020.

> *e. Avista, or any interested party, may separately petition the Commission, for approval of changes to the customer service guarantees, and reporting thereon, as set forth in Commitments 20-31, to assure that such commitments continue to accomplish their intended purposes."*

Q. Why did the Parties agree to include Stipulated Commitment 31?

A. Stipulated Commitment 31 ensures that Avista will continue to provide its customers with excellent customer service after the Proposed Transaction closes and that customers have the ability to track customer service measures.

Q. How did Stipulated Commitment 31 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 31 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 31 provides a benefit to Avista customers because it provides new customer service assurances and transparency that are not in place today.

Q. What is the Parties' proposed Stipulated Commitment 32?

A. *"Parent and Avista agree that Avista will provide, for a period of 10 years, $30,000 annually for the purpose of obtaining SENDOUT seats for Commission Staff, CUB, and AWEC for SENDOUT dispatch optimization and gas portfolio cost assessment and reliability software with SENDOUT or a division of ABB. The Parties agree that this $30,000 commitment is not recoverable in customer rates and will not be booked into utility accounts; in other words, in no way or form will the cost of this commitment appear in Avista's regulated utility earnings.*[6] *Nothing in this commitment precludes Avista from replacing SENDOUT with a different comparable service provided that Avista continues to provide the $30,000 annual contribution for Staff, CUB, and AWEC use of SENDOUT or such comparable service for the agreed upon ten-year period."*

Q. Why did the Parties agree to include Stipulated Commitment 32?

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6 The Parties' expectation is that this commitment will be funded through a reduction in retained earnings or shareholder dividends.

A. It is important that the Parties have access to the systems and models used by Avista in its utility operations. SENDOUT is a linear optimization model used by Avista and other Northwest local distribution companies for purposes of load forecasting. Such load forecasts are used in general rate cases, integrated resource planning, and other regulatory and planning proceedings. Avista and Hydro One supported a contribution of $30,000 per year, for ten years, not recoverable in customer rates, towards the cost of three SENDOUT licenses—one for Staff, one for AWEC, and one for CUB—for the load forecasting purposes described above.

Q. How did Stipulated Commitment 32 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 32 provide a benefit to Avista customers?

A. Hydro One and Avista, Staff, and Intervenors believe that Stipulated Commitment 32 provides a benefit to Avista customers because it provides $30,000 per year for 10 years to obtain SENDOUT seats for Commission Staff, CUB, and AWEC. This commitment provides Staff, CUB, and AWEC the ability to better review Avista's load forecasting and other planning methodologies that it does not currently have access to today, and provide that access at a reduced cost that might not occur absent the agreement between the Parties.

Q. What is the Parties' proposed Stipulated Commitment 33?

A. *"Hydro One will arrange funding of the approximately $100,000 (system-wide basis) initial investment in software upgrades and $5,000 in administrative costs to implement an on-bill repayment program. Under no circumstance will Avista's ratepayers be responsible for any default related to the OBRP.*

OBRP is a pass-through billing service for energy efficiency loans, where Avista would collect loan payments on customers' bills then transmit the sum monthly to the third-party lender. Only non-profit lenders would be eligible, offering low rates for energy efficiency loans. The lender has no ability to shut off power (due to non-

payment) and all lending activity is managed separate from the utility, where the lender:

- *Provides all capital and bears full risk;*
- *Manages delinquent files and collections off-bill;*
- *Handles loans/balances separate from utility financial systems; and*
- *Meets consumer lending regulatory requirements."*

Q. Why did the Parties agree to include Stipulated Commitment 33?

A. The Parties agreed to include this commitment in order to implement an on-bill repayment program (OBRP). Hydro One and Avista believe that this new benefit for Oregon customers will help facilitate customers in adopting, among other things, more energy efficient space and water heating appliances. Under no circumstance will the ratepayers be responsible for any default on the loan offered by the third-party lender related to the OBRP. As discussed in Stipulated Commitment 33, the lender has no ability to shut off power.

Q. How did Stipulated Commitment 33 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 33 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 33 provides a benefit to Avista customers, especially Avista's most vulnerable ratepayers, because it provides new customer service assurances that are not in place today.

F. <u>Hold Harmless</u>

Q. What is the Parties' proposed Stipulated Commitment 34?

A. *"Parent and Avista agree that Avista will hold Avista Oregon customers harmless if the Hydro One-Avista merger results in a higher revenue requirement for Avista than if the merger had not occurred. Avista bears the burden of showing no increase in the revenue requirement consistent with this commitment."*

Q. Why did the Parties agree to include Stipulated Commitment 34?

A. Stipulated Commitment 34 is designed to ensure that Avista's customers will not pay higher rates because of the Proposed Transaction. Avista may not request increases in rates for costs it would not have incurred but for the Proposed Transaction.

Q. How did Stipulated Commitment 34 change from the Application to the Stipulation?

A. Stipulated Commitment 34, "Revenue Requirement" was not included in the Application. While the Application included related provisions in Commitment 24—which provided that "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"—and Commitment 44—which stated that "Avista will generally hold Avista customers harmless from any business and financial risk exposures associated with Olympus Holding Corp., Hydro One, and Hydro One's other affiliates"—Hydro One and Avista agreed to add Stipulated Commitment 34 to provide more specificity on the revenue requirement in a stand-alone commitment.

Q. Does Stipulated Commitment 34 provide a benefit to Avista customers?

A. Stipulated Commitment 34 is designed so that the Proposed Transaction will cause no harm to Avista's customers by providing that the Proposed Transaction will not result in a higher revenue requirement for Avista than if the merger had not occurred and makes it clear that Avista bears the burden of proof on this matter indefinitely.

Q. What is the Parties' proposed Stipulated Commitment 35?

A. *"Avista and Parent agree that 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 Cost of Long-Term Debt will be no higher than such costs would have been, absent Hydro One's ownership, assuming Avista's Credit Ratings as such ratings were in effect on the day before the Proposed Transaction closes and applying those credit ratings to then-current debt;

b. Avista bears the burden to prove prudent in a future GRC any increased cost of Long-Term Debt associated with existing Avista debt retired, repaid, or replaced as a part of the Proposed Transaction; and

c. *Determination of the authorized Return on Equity (ROE) in future GRCs will include selection and use of one or more proxy group(s) of companies engaged in businesses substantially similar to Avista's Oregon LDC operations, without any limitation related to Avista's ownership structure."*

Q. Why did the Parties agree to include Stipulated Commitment 35?

A. The Parties agreed to include this commitment to ensure that Avista's cost of debt or equity capital will not increase as a result of Hydro One's ownership. Stipulated Commitment 35 provides that 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. Increases to costs of debt or equity that result from causes other than Hydro One's ownership are not covered by this commitment. Like Stipulated Commitment 34, the burden lies with Avista for this commitment indefinitely.

Q. How did Stipulated Commitment 35 change from the Application to the Stipulation?

A. **Stipulated** Commitment 35 is based on Commitment 24 from the Application. Commitment 24(a) in the Application stated:

> Determination of Avista's debt costs will be no higher than such costs would have been assuming Avista's credit ratings by at least one industry recognized rating agency, including, but not limited to, S&P, Moody's, Fitch or Morningstar, in effect on the day before the Proposed Transaction closes and applying those credit ratings to then-current debt, unless Avista proves that a lower credit rating is caused by circumstances or developments not the result of financial risks or other characteristics of the Proposed Transaction[.]

Stipulated Commitment 35(a) now references the defined term, "Credit Ratings," which requires credit ratings by both S&P and Moody's, as opposed to "at least one" credit rating. For sake of clarity and specificity, subsection (a) also now incorporates the defined term "Long-Term Debt." Subsection (b) also now relies on the defined term "Long-Term Debt" as opposed to the more generic "cost of debt" language. Finally, in contrast to the proposal in the Application, subsection (c) requires a proxy group of companies substantially similar to Avista's Oregon LDC operations in particular.

Q. Does Stipulated Commitment 35 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 35 benefits Avista customers because ratepayers will enjoy any reduction in cost of capital that results from the Proposed Transaction while Hydro One and Avista bear any risk that capital costs could increase as a result of the Proposed Transaction. As described in Christopher Lopez's rebuttal testimony (Exh. 900, pages 34-35), one rating agency has indicated that Avista's credit rating may be improved by the merger,[7] which in turn should translate to a lower cost of capital.

Q. What is the Parties' proposed Stipulated Commitment 36?

A. *"Hydro One and Avista agree that Parent and 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.*

Avista and Parent agree that Avista and Olympus Holding Corp. will provide notice to current and prospective lenders describing the ring-fencing controls in these commitments and stating that such controls provide no recourse to Avista assets as collateral or security for debt issued by Hydro One or any of its subsidiaries; this provision does not prohibit Avista from pledging its own assets as collateral or security for Avista debt. Avista and Parent will file with the Commission prior to close of the Proposed Transaction a copy of said notice.

[7] *See* HYDRO One/Exh. 901, "S&P Global Ratings, Avista Corp. Outlook Revised to Positive From Stable on Planned Acquisition by Hydro One Ltd" (July 19, 2017).

> *Should any regulatory, taxing or other governmental entity or subdivision thereof in the United States of America or elsewhere make a determination that any company organizationally situated between Avista and Hydro One, individually or collectively:*
>
> *i. Lacks a genuine business purpose;*
>
> *ii. Fails to constitute a separate and distinct business and not a single economic unit containing one or more intermediate companies and Avista;*
>
> *iii. Exhibits substantial and material entanglement of operations or finance with Avista;*
>
> *iv. Fails to comply with all tax and other monetary obligations, including but not limited to the timely obtaining of pertinent taxing authority letters of determination authorizing the form and nature of any tax management construct for the specific company housing the tax management construct for the specific intended purpose directionally specific to the application executed;*
>
> *v. Is determined to be inadequately capitalized for its business purposes, or*
>
> *vi. Engages in financial hedging or other risk management predicated on historical correlations which do not hold true in future markets, however disrupted or distressed, then:*
>
> *Avista and its ratepayers will be held harmless from any claim, suit, action, loss, damage, or legal liability, including all expenses, penalties, judgements fees (including attorney fees), interest, charges, expert representation costs, and amounts actually and reasonably incurred in connection with any litigation, defense, penalty, or fine."*

Q. Why did the Parties agree to include Stipulated Commitment 36?

A. Stipulated Commitment 36 includes a number of provisions designed to ensure Avista's customers are held harmless from certain events and that such events are subject to regulatory supervision. Stipulated Commitment 36 also requires Avista and Olympus Holding Corp. to notify current and prospective lenders about the ring-fencing controls in the Stipulated Commitments.

Q. How did Stipulated Commitment 36 change from the Application to the Stipulation?

A. Stipulated Commitment 36 is based on Commitment 44 in the Application. While the Application included Commitment 44, "Hold Harmless; Notice to Lenders; Restriction on Acquisitions and Dispositions", which stated that "Avista will generally hold Avista customers harmless from any business and financial risk exposures associated with Olympus Holding Corp., Hydro One, and Hydro One's other affiliates", Hydro One and Avista agreed to add Stipulated Commitment 36 to provide more specificity on the hold harmless provisions in a standalone commitment.

Q. Does Stipulated Commitment 36 provide a benefit to Avista customers?

A. Stipulated Commitment 36 is designed to ensure that the Proposed Transaction will cause no harm to Avista's customers by providing that Avista customers will be held harmless from any business and financial risk exposures associated with any company organizationally situated between Avista and Hydro One, individually or collectively.

Q. What is the Parties' proposed Stipulated Commitment 37?

A. *a. "Avista commits, and Parent agrees, that Avista's regulated utility customers will be held harmless from the liabilities of any unregulated activity of Hydro One and its subsidiaries and affiliates, including Avista. In any proceeding before the Commission involving Avista rates, the revenue requirement for Avista will be determined without recovery of costs related to unregulated activities.*

b. Avista commits, and Parent agrees, that Avista and AELP will continue to be operated consistent with Commission Order 14-112, including Attachment B, entered April 1, 2014 in Docket Numbers UF 4283 and UI 343."

Q. Why did the Parties agree to include Stipulated Commitment 37?

A. Avista commits 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. Stipulated Commitment 37 also provides that Avista and AELP will continue to operate consistent with Commission Order 14-112, which approved Avista's request to issue up to 7,250.000 shares of stock to purchase AERC.

Q. How did Stipulated Commitment 37 change from the Application to the Stipulation?

A. Commitment 44(c)(i) in the Application included a provision on unregulated activities:

> Avista commits 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.

In the Stipulated Commitments, the Parties agreed to make "Unregulated Activities" now a standalone commitment. Stipulated Commitment 37(a) omits Application Commitment 44(c)(i)'s reference to "[m]easures providing for separate financial and accounting treatment will be established for each unregulated activity" and also states that the "revenue requirement," as opposed to the "fair rate of return," will be determined without recovery of costs related to unregulated activities. Stipulated Commitment 37 also now includes subsection (b), which references Commission Order 14-112 from Docket Nos. UF 4283 and UI 343, regarding Avista's 2014 purchase of AERC.

Q. Does Stipulated Commitment 37 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 37 ensures that Avista's customers will not be harmed by any unregulated activity of Hydro One and its subsidiaries and affiliates, including Avista, and that the commitment requires Avista to operate in accordance with Commission Order 14-112 from Docket Nos. UF 4283 and UI 343.

Q. What is the Parties' proposed Stipulated Commitment 38?

A. *"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."*

Q. Why did the Parties agree to include Stipulated Commitment 38?

A. Hydro One, like most utilities that have been in operation for decades, has certain environmental and other obligations associated with its historic Ontario operations. Hydro One and Avista agreed to clarify that Avista's Oregon ratepayers will never be responsible for paying any amounts toward those obligations.

Q. How did Stipulated Commitment 38 change from the Application to the Stipulation?

A. The Application did not contain this commitment.

Q. Does Stipulated Commitment 38 provide a benefit to Avista customers?

A. Stipulated Commitment 38 is benefit-neutral. It ensures that Avista's customers will not pay for environmental obligations or liabilities of Hydro One or its affiliates other than Avista.

Q. What is the Parties' proposed Stipulated Commitment 39?

A. *"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 Oregon utility operations and not usual and customary prior to close of the Proposed Transaction."*

Q. Why did the Parties agree to include Stipulated Commitment 39?

A. Stipulated Commitment 39 confirms that currency exchange rates will not operate to the detriment of Oregon ratepayers.

Q. How did Stipulated Commitment 39 change from the Application to the Stipulation?

A. The Application did not contain this commitment.

Q. Does Stipulated Commitment 39 provide a benefit to Avista customers?

A. Stipulated Commitment 39 is designed to ensure that Avista's customers will not be harmed from any currency exchange or related cash flow smoothing or hedging costs pertaining to activities beyond Avista's Oregon utility operations and not usual and customary prior to close of the Proposed Transaction.

G. <u>Rate Credit</u>

Q. What is the Parties' proposed Stipulated Commitment 40?

A. *"Avista and Hydro One will flow through to Avista's retail customers in Oregon a Rate Credit of $7,541,159*[8] *over a 5-year period, beginning at the time the Proposed Transaction closes. The Parties agree that the rate credits shall be spread to customers on an equal percentage of margin basis.*

	Rate Credit	
	Oregon Annual Credit Years 1-5	*Oregon Total Credit*
Total Credit	*$1,508,232*	*$7,541,159*
Offsetable Credit	*$226,235*	*$1,131,174*

The total Rate Credit to customers for the five years following the closing would be $1,508,232 per year. A portion of the annual total Rate Credit could be offsetable, in the amount of $226,235.[9] *During the 5-year period, the financial benefits will flow through to customers through the Rate Credit described above on customers' bills. The offsetable portion may be achieved through a reduction to the underlying cost of service as reflected in the test period numbers used for ratemaking.*

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

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8 The total rate credit for Oregon will be $7,541,159. The rate credit will be allocated in Oregon on the basis of Year End Customers for the year ending December 31st, 2016. In 2016, Avista's Oregon Service Territory had 100,472 customers. Avista's total number of customers was 717,579 in 2016. Therefore, Oregon customers represented 14% of Avista total number of customers.

9 The offsetable portion of the Rate Credit was calculated as 15% of the jurisdictional total of the rate credit.

> *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 $7.54 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 GRCs 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."*

Q. Why did the Parties agree to include Stipulated Commitment 40?

A. The Parties agreed to include Stipulated Commitment 40 to ensure Avista's Oregon customers would receive an immediate financial benefit from the Proposed Transaction. Under this commitment, Hydro One and Avista will flow through to Avista's retail customers approximately $7,541,159 in Rate Credits over a 5-year period. Avista customers will see some level of financial benefit from the Rate Credits beginning upon the closing of the Proposed Transaction. The annual Rate Credit to customers for the first five years following the closing will be approximately $1.50 million, spread on an equal percent of margin basis.

A portion of the total credit is offsetable, as indicated in the table above. 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.

Q. How did Stipulated Commitment 40 change from the Application to the Stipulation?

A. Stipulated Commitment 40 is based on Commitment 18 in the Application, which proposed a Rate Credit for retail customers in Washington, Idaho and Oregon over a 10-year period. Stipulated Commitment 40 has been revised to address the Rate Credit as it pertains to Oregon, only. Under Application Commitment 18, the Rate Credit would have provided $244,515 per year for the first five years to Avista's Oregon customers,[10] but under Stipulated Commitment 40, Hydro One and Avista will flow through to Avista's retail customers in Oregon approximately $1.50 million per year for five years.

Q. Does Stipulated Commitment 40 provide a benefit to Avista customers?

A. Hydro One and Avista, and Staff believe that Commitment 40 provides a benefit to Avista customers because it provides approximately $7.54 million in benefits to Avista customers over the first five years. Absent the proposed merger, this $7.54 million rate credit would not have been promised to Oregon ratepayers by Hydro One and Avista.

H. <u>Taxes</u>

Q. What is the Parties' proposed Stipulated Commitment 41?

A. Taxes

a. "Federal, state, and local taxes and assessments included in customer rates shall be no greater than they would be had Avista not been acquired by Hydro One.

b. Tax benefits that would not exist absent the Proposed Transaction may be addressed in future proceedings before the Commission; however, until that time, Avista, in compliance with ORS 757.511(4)(b), shall make a filing with the Commission for approval to establish a balancing account to track income tax expense, subject to Commission approval and Commission conditions. Avista shall also submit an application to the Commission to establish an ORS 757.259 deferral to track Avista's income tax expenses and revenues (including tax benefits resulting from the Proposed Transaction), the net revenues of which could be deliverable to Avista's Oregon customers if a Party prevails in a future proceeding before the Commission. Avista shall make its initial ORS 757.259 filing as soon as practicable after the Commission issues its final order in this

[10] *See* Ehrbar, Avista Ex. 702, page 1.

docket, but prior to closing of the Proposed Transaction. Avista shall continue to renew its application for an ORS 757.259 deferral annually. This commitment does not require Parent to pass Parent-related tax benefits to Avista customers unless ordered by the Commission in a later proceeding, nor does it permit Parent to pass Parent-related tax expenses to Avista customers."

Q. Why did the Parties agree to include Stipulated Commitment 41?

A. Stipulated Commitment 41(a) ensures that the taxes paid by Avista's customers in rates will not increase because of the Proposed Transaction. Stipulated Commitment 41(b) provides that the allocation of the tax benefits that are a result of the Proposed Transaction (including at the parent-level) will be addressed in future proceedings before the Commission, and requires that Avista set up an ORS 757.511(4)(b) balancing account, and make an ORS 757.259 deferral filing to ensure that no retroactive ratemaking obstacles prevent tax benefits from being flowed to customers in the future if such an argument prevails in a future proceeding before the Commission.

Q. How did Stipulated Commitment 41 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 41 provide a benefit to Avista customers?

A. Stipulated Commitment 41 is neutral as it ensures that taxes paid by Avista's customers in rates will not increase because of the Proposed Transaction and reserves the question of whether or not tax benefits realized as a result of the merger must be flowed to Avista ratepayers to be decided in a future proceeding.

Q. What is the Parties' proposed Stipulated Commitment 42?

A. Tax Cuts and Jobs Act

a) "Avista and Parent agree that Avista will identify and quantify the impact on Avista of the December 22, 2017 U.S. "Tax Cuts and Jobs Act," which lowered U.S. corporate federal income tax rates from 35 percent to 21 percent and modified or eliminated certain federal income tax deductions. Avista will *report on this impact in compliance with other Commission proceedings. Within this reporting, Avista will identify specific metrics of concern to Rating Agencies.*

b) Regarding the deferral of net tax benefits associated with the Tax Cuts and Job Act, currently docketed as UM 1918 and UM 1923, Avista agrees that it will waive, and not seek to apply, an earnings test (see ORS 757.259(5)) when Avista decides, or is required by the Commission, to amortize the deferred tax benefit into customer rates; in other words, Avista will not use any of the deferred tax benefits to achieve its authorized ROE of 9.4% (ROE in 2018 and beyond). The Parties agree that the amount of the tax benefit has not yet been determined, but will be determined consistent with the Commission's direction in the UM 1918 and UM 1923 dockets, and other applicable docket(s) should one be opened."

Q. Why did the Parties agree to include Stipulated Commitment 42?

A. Post filing of the merger application, the Tax Cuts and Jobs Act was signed into law. As part of the process in Oregon Dockets UM 1918 and 1923, Staff, utilities, and other parties are working through the process of determining how to return to customers certain tax benefits resulting from the federal tax reform. Certain utilities in Oregon have suggested that perhaps some of the tax reform benefits should be retained by utilities for purposes of increasing their actual return on equity towards their authorized levels, in other words, the application of an earnings test is appropriate in this context. Through Stipulated Commitment 42, Avista formally and legally waives any right to seek to retain any portion of the federal tax reform benefits.

Q. How did Stipulated Commitment 42 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 42 provide a benefit to Avista customers?

A. Stipulated Commitment 42 is neutral and does not provide a benefit, unless the Commission ultimately determines that utilities in Oregon would be allowed to retain some or all of the tax relief benefit for purposes of increasing actual return on equity, rather than returning those full benefits to customers, in which case this commitment would be a benefit to Avista's customers. Staff sees this commitment as a small benefit because it guarantees that Avista will not apply an earnings test when seeking to or ordered to amortize the deferred federal tax benefits in UM 1918 and 1923 into customer rates.

I. <u>Financial Ring-Fencing</u>

Q. What is the Parties' proposed Stipulated Commitment 43?

A. *"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. Consistent with Commitment 35(a), Avista bears the burden of proving that increases in Avista's Cost of Capital, including Avista's ROR, common equity, and Long-Term Debt, is caused by circumstances or developments that are unrelated to the financial risks or other characteristics of the Proposed Transaction."*

Q. Why did the Parties agree to include Stipulated Commitment 43?

A. Stipulated Commitment 43 ensures that the Proposed Transaction will not cause Avista's cost of capital to increase. If there are increases to Avista's cost of capital, Avista bears the burden to prove that the increase is unrelated to the financial risks or other characteristics of the Proposed Transaction. This commitment is indefinite and serves to mitigate the concern that ratepayers could experience a rate increase resulting from increases to the cost of capital elements as a result of the Proposed Transaction and future actions by the Parent.

Q. How did Stipulated Commitment 43 change from the Application to the Stipulation?

A. This commitment relates to Commitment 24 in the Application, which provided in part that, "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."

Q. Does Stipulated Commitment 43 provide a benefit to Avista customers?

A. Hydro One and Avista believe Stipulated Commitment 43 provides a benefit to Avista's customers because Avista ratepayers will enjoy the upside of Avista having a lower cost of capital due to having a financially strong parent (Hydro One). Hydro One, however, will bear the downside risk of the cost of capital increases due to the merger and subsequent actions or investments by Parent.

Q. What is the Parties' proposed Stipulated Commitment 44?

A. *"Hydro One will provide equity injections to support Avista's capital structure thereby allowing Avista to access its usual and customary financial markets under reasonable terms and on a sustainable basis. This commitment should include commercial paper programs, FMBs, credit facilities, letters of credit or usual debt capital market transactions as exhibited in Avista's business activity prior to execution of the Proposed Transaction, unless other comparable, lower-cost methods exist in the future."*

Q. Why did the Parties agree to include Stipulated Commitment 44?

A. Once the Proposed Transaction is completed, Avista will no longer need to access the capital markets for equity. The equity will be supported through retained earnings, and equity injections from Hydro One. Hydro One has a strong balance sheet and ready access to both debt and equity markets. Staff and intervenors wanted reassurance that Hydro One was committed to taking adequate steps to support Avista's healthy capital structure and cash flows going forward and into the future.

Through Stipulated Commitment 44, Hydro One will make equity injections from Hydro One when necessary to support a capital structure that includes a strong common equity ratio, and Hydro One has a demonstrated ability to support such a commitment. This strong common equity ratio is an important component in supporting financial metrics that are designed to allow Avista access to debt financing under reasonable terms and on a sustainable basis.

Q. How did Stipulated Commitment 44 change from the Application to the Stipulation?

A. Stipulated Commitment 44, "Capital Support," is based on Commitment 33, "Capital Structure Support," from the Application. Commitment 33 in the Application stated that "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." The Parties agreed to revise the commitment to include more specificity regarding Hydro One's capital support because the language of "under reasonable terms and on a sustainable basis" is subject to different interpretations and perspectives.

Q. Does Stipulated Commitment 44 provide a benefit to Avista customers?

A. Hydro One and Avista believe Stipulated Commitment 44 provides a benefit to Avista customers because Avista presently has no such committed source of funds to support its capital structure.

Q. What is the Parties' proposed Stipulated Commitment 45?

A. *"The applicable CEF shall correspond to the applicable Credit Ratings for FMBs as determined in Table 2 in accordance with the following paragraph of this commitment. Hydro One will make such equity injections as necessary to maintain the applicable CEF consistent with Table 2.*

When S&P and Moody's Credit Ratings are within one notch of each other, the CEF will be determined by the higher of those ratings. When the difference between S&P and Moody's is greater than 1 notch, the CEF will be determined by the rating level that is one notch below the higher of the S&P and Moody's ratings.

If Avista or Parent finds that the actual or projected CEF will drop below one-half of one percent above the required target based on the applicable Credit Ratings in Table 2, then Avista and Parent will:

a) *Within 5 business days, notify the Commission explaining why.*

b) *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 common equity ratio at or above the required CEF.*

c) Subsequent to the filing of the Compliance Plan, Avista shall file progress reports every 90 calendar days detailing its efforts to restore its equity component to the required CEF or above, in addition to detailing how Avista has met each requirement in the Compliance Plan.

d) If Hydro One and Avista find it reasonably likely that Avista common equity ratio could fall below one half of one percent above the required CEF in Table 2 based on a preceding or projected thirteen month average, Avista and Parent shall provide a report to Staff with its projections and take the steps listed above."

Q. Why did the Parties agree to include Stipulated Commitment 45?

A. Avista is a well-run utility with strong finances, favorable access to capital, and a current BBB credit rating from S&P and Baa1 from Moody's. Hydro One's credit ratings are even stronger.[11] Avista's customers' rates reflect its credit ratings through an attractive cost of capital. While S&P indicated at the outset of the Proposed Transaction that the Proposed Transaction may actually result in an improved credit rating for Avista,[12] Stipulated Commitment 45 is designed to ensure that Avista and its customers are protected even if the unexpected were to occur and Avista were to experience financial weakness as a result of the merger or unfavorable actions by the Parent. However, this Stipulated Commitment is intended to help facilitate positive financial outcomes for Avista and its ratepayers by incentivizing Hydro One to support improved credit ratings for Avista.

Under Stipulated Commitment 45, the CEF corresponds to the applicable Credit Ratings for FMBs as determined in Table 2. Hydro One will make the necessary equity injections to

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[11] *See* HYDRO One/Exh. 901, "S&P Global Ratings, Avista Corp. Outlook Revised to Positive From Stable on Planned Acquisition by Hydro One Ltd" (July 19, 2017).

[12] *See* HYDRO One/Exh. 901, "S&P Global Ratings, Avista Corp. Outlook Revised to Positive From Stable on Planned Acquisition by Hydro One Ltd" (July 19, 2017).

maintain the applicable CEF. Additionally, Stipulated Commitment 45 requires Hydro One and Avista to notify the Commission if the actual or projected CEF will drop below one-half of one percent above the required target based on the applicable Credit Ratings in Table 2. Consistent with the Commission's order in MidAmerican Energy Holdings Company's acquisition of PacifiCorp, the Parties understand and agree that the Commission, on its own motion or at the request of any party, may re-examine the minimum common equity percentages as financial conditions or accounting standards warrant.

Q. How did Stipulated Commitment 45 change from the Application to the Stipulation?

A. Stipulated Commitment 45, "Common Equity Floor in Capital Structure," is based upon Commitment 25, "Avista Capital Structure", in the Application. While Commitment 25 from the Application stated that "At all times following the closing of the Proposed Transaction, Avista will have a common equity ratio of not less than 44 percent, (as calculated for ratemaking purposes) except to the extent the Commission establishes a lower equity ratio for Avista for ratemaking purposes", Hydro One and Avista worked with the other Parties to add more rigor and specificity regarding Avista's CEF by tying it directly to the health of Avista's credit ratings in Stipulated Commitment 45.

Table 2 ("Common Equity Floor Requirement") ties Avista's CEF to the applicable Credits Ratings for FMBs. Coupled with Table 2, Stipulated Commitment 45 now requires Hydro One and Avista to maintain a 46% equity floor so long as Avista maintains its current FMB credit rating. A different equity floor would apply under certain other specified credit ratings. Stipulated Commitment 45 also requires Avista and Hydro One to comply with various notice and filing requirements if the actual or projected CEF will drop below one-half of one percent above the required target based on the applicable Credit Ratings in Table 2.

Q. Does Stipulated Commitment 45 constrain the Commission's authority to adopt a hypothetical capital structure for Avista for ratemaking purposes?

A. No, the Commission retains full ratemaking authority, including authority over a hypothetical capital structure for ratemaking purposes. If the Commission were to depart from its long-standing policy approach toward the debt and equity ratios for capital structure and instead adopt a substantially different hypothetical capital structure from what exists for Avista today, any party could make a request supported by evidence that the Commission revise the equity floors required by Table 2.

Q. Does Stipulated Commitment 45 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 45 provides a benefit to Avista customers. Avista currently has no obligation to maintain any particular equity floor or credit rating, nor is it required to report or take action if its equity layer drops. This commitment adds a protection and notice requirements not currently present.

Q. What is the Parties' proposed Stipulated Commitment 46?

A. *"Avista and Parent agree that any debt, commercial paper programs, revolving credit facilities and preferred stock of Avista will be maintained separately to support Avista utility operations.*

Parent and Avista agree that no incremental new debt related to financing the transaction at closing or thereafter for this or future Parent or affiliate M&A will be in any way incurred, guaranteed, or pledged with Avista assets or otherwise by Avista. Avista's financial integrity will be protected from the separate operations of the Parent and its affiliates. Should any entity claim or assert otherwise in any forum, whether regulatory, political, legal or otherwise, the Parent will assert that said debt or other financial instrument and any penalties or interest or other obligations thereon is the sole responsibility of the Parent and its subsidiaries other than Olympus Holding Corp. and all entities in the chain below it.

> *Neither Parent nor Avista will include in any of their debt or credit agreements cross-default provisions between the debt of Avista and the debt of Parent or any current and future Affiliates, or any government or political subdivision thereof with a direct or indirect ownership interest in the Parent. Parent and Avista agree that in no way may the assets of Avista be used to guarantee the finances, securities, transactions, or credit of any government or subdivision thereof, and that the acquisition of power to exercise substantial influence over Avista by any person or entity in the future may only occur subject to Commission approval as required by ORS 757.511 and as specified in these commitments.*
>
> *Except as provided in commitments 62 and 63 Avista will enter into no inter-company debt transactions with, or lend money to, or borrow money from: Parent, or current or future affiliates, or any government or political subdivision thereof with a direct or indirect ownership interest in the Parent.*
>
> *Avista commits, and Hydro One agrees, that neither Avista nor Avista's subsidiaries will, without the approval of the Commission:*
>
> *a) Make loans or transfer funds (other than dividends and payments pursuant to the MSA or equivalent cost allocation manual) to Parent or its affiliates;*
>
> *b) Assume any obligation or liability as guarantor, endorser, surety, or otherwise for Parent or its affiliates;*
>
> *c) Transfer any of Avista utility assets or property to Parent or its affiliates, or any government or political subdivision thereof;*
>
> *d) Seek to pledge Avista's assets as backing for any hedging, indebtedness, or securities of Parent or its affiliates;*
>
> *e) Enter into cross-default provisions involving Parent or its affiliates; or*
>
> *f) Participate in a money pool."*

Q. Why did the Parties agree to include Stipulated Commitment 46?

A. Stipulated Commitment 46 ensures that Hydro One and its affiliates and subsidiaries will not rely on Avista's assets to support any Hydro One transactions or the transactions of its affiliates and subsidiaries. Stipulated Commitment 46(a-f) prohibits Avista from engaging in financial transactions with Hydro One or Hydro One affiliates without first seeking Commission approval. The activities in Stipulated Commitment 46(a-f) all require Commission approval under current Commission rules, because they are affiliate transactions.

Q. How did Stipulated Commitment 46 change from the Application to the Stipulation?

A. Commitment 46, "Avista Debt and Preferred Stock," is based on Commitment 33 from the Application, "Utility-Level Debt and Preferred Stock" in the Application. While Commitment 34 in the Application stated that "Avista will maintain separate debt and preferred stock, if any, to support its utility operations", Hydro One and Avista worked with the other Parties to provide more specificity to this commitment.

Q. Does Stipulated Commitment 46 provide a benefit to Avista customers?

A. Stipulated Commitment 46 is neutral, as it maintains the status quo.

Q. What is the Parties' proposed Stipulated Commitment 47?

A. *"Avista and Parent agree that Avista will also maintain adequate: (a) interest coverage and (b) pool of qualified Avista assets to maintain the ability to issue FMB."*

Q. Why did the Parties agree to include Stipulated Commitment 47?

A. Because the Parties concluded that Avista's FMB program is important to the financial health of Avista and the low-cost access to capital that currently benefits ratepayers, Stipulated Commitment 47 ensures that Avista will maintain both adequate interest coverage and pool of qualified assets to maintain the ability to issue FMB.

Q. How did Stipulated Commitment 47 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 47 provide a benefit to Avista customers?

A. According to Hydro One and Avista, Stipulated Commitment 47 provides Avista customers a benefit that does not exist today because it imposes an obligation to maintain sufficient resources to support Avista's FMB program in the future.

Q. What is the Parties' proposed Stipulated Commitment 48?

A. *"Avista and Parent agree that Avista debt (other than private placement debt), will continue to be rated by both S&P and Moody's without substitution, except as provided under the definition of Rating Agencies. Avista will make Rating Agencies' credit ratings and all related presentations to or from Avista and Rating Agencies, and Rating Agencies' reports and analysis pertaining to Avista, available to the Commission upon the Commission's request."*

Q. Why did the Parties agree to include Stipulated Commitment 48?

A. Avista is currently rated by both S&P and Moody's. Stipulated Commitment 48 ensures that this practice will continue after the Proposed Transaction, except as provided for in the definition of Rating Agencies.

Q. How did Stipulated Commitment 48 change from the Application to the Stipulation?

A. Stipulated Commitment 48, "Continued Credit Ratings," is based on Commitment 35, "Continued Credit Ratings," in the Application. In the Application, Commitment 35 required Hydro One and Avista to be rated by at least one nationally recognized "Rating Agency," and to obtain and maintain a separate credit rating for Avista within 90 days following the closing of the Proposed Transaction. Stipulated Commitment 48 now provides that Avista debt will continue to be rated by both S&P and Moody's, except as provided under the definition of "Rating Agencies." Avista will also make all credit rating reports and analysis pertaining to Avista available to the Commission at its request.

Q. Does Stipulated Commitment 48 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 48 provides a benefit to Avista customers because it preserves the status quo by imposing an obligation on Avista that does not exist today.

Q. What is the Parties' proposed Stipulated Commitment 49?

A. *"Parent and Avista agree that Avista will prudently manage its revolving credit facilities and, as part of the renewal of the current credit facilities, will proactively arrange for multiple one year maturity extensions and accordion features allowing enlargement of facilities to protect Avista from unnecessary credit risk, if available at a reasonable cost in the market. Further, Parent and Avista agree to prudently diversify institutions participating in revolving Avista credit facilities to preclude concentration in any one country or institution*

Avista will share no credit facilities with Parent or affiliates or any government or political subdivision thereof with a direct or indirect ownership interest in the Parent."

Q. Why did the Parties agree to include Stipulated Commitment 49?

A. The Parties wished to confirm that Avista will prudently manage its revolving credit facilities and that these facilities are insulated from Hydro One and any changes that may occur at the Hydro One-level of the corporate structure.

Q. How did Stipulated Commitment 49 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 49 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 49 provides a benefit to Avista customers because it imposes specific obligations on Avista that do not exist today.

Q. What is the Parties' proposed Stipulated Commitment 50?

A. Commitment 50, working in parallel with Table 2, imposes restrictions on upwards dividends under several scenarios and also limits the rate of dividend growth as follows:

"No upward dividends, distributions or like payments are authorized from Avista (special, one-time, or otherwise) to Olympus Equity LLC if any of the following conditions are present:

a) The ratio of Avista's earnings before interest, tax, depreciation and amortization (EBITDA) to Avista's interest expense is not greater than or equal to 3.0;

b) *Avista's CEF as calculated for ratemaking purposes in Oregon is less than set forth in Table 2 based on FMB credit ratings. Table 2's application is further described in Commitment 45, "Common Equity Floor (CEF) in Capital Structure" (for example, if Avista's S&P FMB rating is "A" AND Moody's FRB rating is "A2", then the CEF shall be 46%); or*

c) *Avista's S&P or Moody's long-term (local currency) issuer credit ratings drop below Investment Grade. Note that subsection (c) is an exception to the definition of Credit Ratings, but not an exception to the definition of Investment Grade.*

For five years after the closing of the Proposed Transaction, Avista and Parent agree to decline to request any extraordinary or special upward dividends or payouts. Further as an exception to ORS Chapter 757 inclusive of ORS 757.420, Avista and Parent consent that the Commission shall have 60 days to review any application for a special upward dividend made beyond five years post Proposed Transaction, and agree that comprehensive supporting justification will be filed with the Commission in support of any said future application.

Without prior Commission approval, Avista and Parent agree that Avista's regular quarterly dividends from Avista to Olympus Equity LLC or otherwise upward toward Hydro One, may to grow at a Compound Annual Growth Rate (CAGR) of no more than seven (7) percent CAGR.[13]

In all cases, Parent and Avista agree that Hydro One shall notify the Commission of:

i. *Any intention to transfer more than five (5) percent of Avista retained earnings, out of Avista, at least seven (7) days prior to starting this transfer;*

ii. *Any intention to transfer more than ten (10) percent of Avista retained earnings out of Avista over a six-month period, at least 30 days prior to starting those transfers;*

iii. *Any intention to declare a special cash dividend payment at least 30 days before declaring the special cash dividend or like transfer of funds; and*

iv. *Its most recent quarterly cash dividend payment within 30 days after declaring each dividend.*

Annual Affiliated Interest (AI) reports must itemize all Parent M&A divestitures, and reorganization activities since the prior annual AI report."

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13 See page 21 of Avista's investor presentation, "Positioned for Performance – An overview of Q3 2017 and beyond" released in December 2017 for the 2013 through 2017 4 percent to 5 percent trend of annual dividend growth.

Q. Why did the Parties agree to include Stipulated Commitment 50?

A. To address concerns that post-merger Avista could be pressured to issue dividends in a manner that could erode Avista's financial condition, Stipulated Commitment 50 includes several limitations on upward dividends, distributions or like payments from Avista to Hydro One. It also limits that growth rate of quarterly dividends. Thus, Stipulated Commitment 50 is designed to work together with and strengthen the other financial ring-fencing commitments provided in the Stipulation.

Q. Please explain the restrictions on all dividends in Stipulated Commitment 50.

A. The first part of Stipulated Commitment 50 prohibits any sort of upward dividends if any one (or more) of three conditions is present. First, if the ratio of Avista's EBITDA to interest expense is less than 3.0, dividends are prohibited. Second, if Avista's common equity floor falls below the level designated on Table 2 (based on credit rating), dividends are prohibited. Finally, if Avista's S&P or Moody's long-term (local currency) issuer credit ratings drop below Investment Grade, dividends are prohibited.

Q. Please explain the restrictions on special dividends in Stipulated Commitment 50.

A. In the second part of Stipulated Commitment 50, Avista and Hydro One agree not to even request Commission approval for any special or extraordinary dividends for the first five years after closing. This is an important Stipulated Commitment to Staff that is designed to control the outflow of capital from Avista. Stipulated Commitment 50 should encourage Hydro One to think like a long term investor in Avista and to work diligently to maintain and improve Avista's performance. Beyond that time, if Avista and Hydro One do request Commission approval for any special or extraordinary dividends, the application for approval will contain comprehensive supporting justification and the Commission will have 60 days to review the application.

Q. Please explain the restrictions on dividend growth rate in Stipulated Commitment 50.

A. The third part of Stipulated Commitment 50 provides that Avista's regular quarterly dividends may grow at a Compound Annual Growth Rate (CAGR) of no more than seven percent (7%). This section of Stipulated Commitment 50 is designed to be another control valve on cash flows leaving Avista that provides clarity and limits on the expectations of Hydro One and its investors regarding what rate of quarterly dividend increases are reasonable. Avista has been conservatively managed to date in terms of payout ratio and rate of growth for quarterly dividends. Predictable dividend growth rates and unbroken patterns of quarterly dividends prevent surprises not only for the Commission but also for other stakeholders.

Q. Does Stipulated Commitment 50 also contain notice and reporting requirements?

A. Yes. The last part of Stipulated Commitment 50 requires notice to the Commission under four circumstances. These include: seven days notice prior to transferring more than 5% of Avista's retained earnings out of Avista; 30 days notice prior to initiating a transfer of more than 10% of Avista's retained earnings over a six-month period; 30 days notice prior to declaring a special cash dividend; and notice of its most recent quarterly cash dividend within 30 days after declaring a dividend. When the Commission is forewarned, it may have the opportunity to work proactively with Avista to remedy any deteriorating financial conditions or develop a plan to rectify impaired credit ratings. It is far easier to patch or fix lesser problems than to rebuild finances or work to restore credit downgrades after the fact. This Stipulated Commitment requires timely material feedback to the Commission.

Q. How did Stipulated Commitment 50 change from the Application to the Stipulation?

A. Stipulated Commitment 50, "Restrictions on Upward Dividends and Distributions," is based on Commitment 36, "Restrictions on Upward Dividends and Distributions", in the Application, which stated:

> a) If either (i) Avista's corporate credit/issuer rating as determined by at least one industry recognized rating agency, including, but not limited to, S&P, Moody's, Fitch, or Morningstar 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 on the date of such Avista distribution after giving effect to such Avista distribution, except to the extent the Commission establishes a lower equity ratio for ratemaking purposes. 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) Under any other circumstances, distributions from Avista to Olympus Equity LLC are allowed only with prior Commission approval.

Stipulated Commitment 50 now contains much more detailed, and additional, limitations on upward dividends, distributions, or other payments in Stipulated Commitment 50.

Q. Does Stipulated Commitment 50 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 50 provides a significant benefit to Avista customers because no such restriction on making dividends applies today. Stipulated Commitment 50 helps ensure financial stability for Avista and its ratepayers.

Q. What is the Parties' proposed Stipulated Commitment 51?

A. *"Following closing of the Proposed Transaction, Avista will continue to make its own applicable separate filings with the U.S. Securities and Exchange Commission (SEC)."*

Q. Why did the Parties agree to include Stipulated Commitment 51?

A. Following the closing of the Proposed Transaction, Avista will file required reports with the Securities Exchange Commission ("SEC"). Avista currently has an obligation to file periodic and current reports (10-K, 10-Q and 8-K) with the SEC pertaining to common stock and debt. Additionally, Avista's debt agreements require it to provide quarterly financial statements, as well as audited annual financial statements to bondholders. Upon consummation of the Proposed Transaction, Avista will continue to file periodic and current reports with the SEC related to the issuance of public debt. Following the merger, Avista may be able to follow a reduced disclosure format eliminating certain disclosures, but many of the SEC reporting requirements are expected to remain in effect. Avista's periodic reports will still provide a comprehensive review of Avista's financial performance, including audited financial statements on an annual basis and condensed financial statements on a quarterly basis. Staff will be able to continue to rely on Avista's financials breaking out Avista's regulated utility performance, rather than having to disaggregate consolidated financial statements addressing financial activity across multiple utilities, and across regulated and unregulated activities.

Q. How did Stipulated Commitment 51 change from the Application to the Stipulation?

A. Stipulated Commitment 51 is based on Commitment 38 in the Application, which provided that, "*Following the closing of the Proposed Transaction, Avista will file required reports with the SEC*." The commitment's language is altered to note that Avista will make its own, individual filings with the SEC, as applicable.

Q. Does Stipulated Commitment 51 provide a benefit to Avista customers?

A. Hydro One and Avista believe this is a neutral commitment as it provides neither a benefit nor prevents a harm resulting from the merger. Avista will continue to file 10Ks and 10Qs, as well as certain other required types of financial disclosures, following the close of the Proposed Transaction.

Q. What is the Parties' proposed Stipulated Commitment 52?

A. *"Following the closing of the Proposed Transaction, Avista and Parent will comply with applicable requirements of the Sarbanes-Oxley Act with regard to all activity at Avista and Olympus Equity, LLC."*

Q. Why did the Parties agree to include Stipulated Commitment 52?

A. The Parties included this commitment to confirm that the Proposed Transaction will have no impact on Avista's and Olympus Equity LLC's obligations to comply with the applicable requirements of the Sarbanes-Oxley Act.

Q. How did Stipulated Commitment 52 change from the Application to the Stipulation?

A. Stipulated Commitment 52 is based on Commitment 39 in the Application, which provided, "*Following the closing of the Proposed Transaction, Avista will comply with applicable requirements of the Sarbanes-Oxley Act.*" The commitment has been broadened to state that both Avista and Parent, as opposed to Avista alone, will ensure that Avista and Olympus Equity LLC will comply with the applicable requirements of the Sarbanes-Oxley Act.

Q. Does Stipulated Commitment 52 provide a benefit to Avista customers?

A. Hydro One and Avista believe this is a neutral commitment as it confirms the maintenance of the status quo.

Q. What is the Parties' proposed Stipulated Commitment 53?

A. Sources of Funds for Hydro One Commitments and Guarantees (Other than for Customer Service, Communities and Charitable Purposes)

> a. *Within 18 months of the close of the Proposed Transaction, Hydro One will establish and maintain a Canadian $2 billion universal shelf prospectus in Canada which will allow it to issue debt, common equity and preferred equity.*
>
> b. *Hydro One agrees to increase its Canadian $250 million credit facility to at least $500 million, increasing its liquidity and enabling it to fund any equity injection required at Avista on short notice.*
>
> c. *Hydro One agrees that Avista will continue to be able to issue FMBs, and that Hydro One will be supportive of Avista's FMB credit ratings.*
>
> d. *Hydro One agrees that it will not allow Avista's S&P or Moody's long-term (local currency) issuer credit ratings to drop below Investment Grade. Note that this is an exception to the definition of Credit Ratings, but not an exception to the definition of Investment Grade*."

Q. Why did the Parties agree to include Stipulated Commitment 53?

A. The Parties included this commitment to ensure that Hydro One would have sufficient financial resources to: (1) pay for various commitments in the Stipulation that must be funded, (2) provide equity injections to Avista, (3) support Avista's ability to issue FMBs, and (4) ensure Avista's S&P or Moody's long-term issuer credit ratings do not drop below Investment Grade.

Hydro One and Avista will maintain investment grade status following the completion of the Proposed Transaction. Strong credit ratings are an important component to Avista having access to capital markets on reasonable terms and low costs to customers. Avoiding non-investment grade status provides more stability for Avista, which is also beneficial for customers. Hydro One's overall financing plan for the purchase is structured and targeted to maintain Hydro One's strong investment grade status.

Q. How did Stipulated Commitment 53 change from the Application to the Stipulation?

A. This commitment was not included in the Application. In several of the Stipulation's other commitments, Hydro One agreed to fund a number of programs. In addition, the Parties sought assurances from Hydro One and Avista that Avista would have sufficient equity to continue its FMB program and Investment Grade credit ratings. To ensure that Hydro One has the financial resources to support these commitments, the Parties negotiated Stipulated Commitment 53 to establish that a Canadian $2 billion universal shelf prospectus and a $500 million Canadian credit facility will be available to Hydro One.

Q. Does Stipulated Commitment 53 provide a benefit to Avista customers?

A. Hydro One and Avista believe this commitment provides a substantial benefit to Avista's customers. Avista will have the backing of a parent company with a substantial balance sheet and strong investment grade status to fund programs that provide benefits to Avista's customers, to continue Avista's FMB program, and to ensure Avista's continued investment grade credit rating status. Without the merger, Avista would not have this guarantee of financial support by Parent. Stipulated Commitment 53 takes this benefit one step further by requiring Hydro One to establish a Canadian $2 billion universal shelf prospectus and a $500 million Canadian credit facility to ensure that Hydro One will continue to have the financial resources on hand and ready to honor these commitments for the long-term. Avista will be able to focus its efforts on safety and other service-related projects that will benefit ratepayers over the long-term.

J. <u>Bankruptcy Ring-Fencing</u>

Q. What is the Parties' proposed Stipulated Commitment 54?

A. "*Avista commits, and Parent agrees, that prior to upward dividends from Avista to Olympus Equity LLC, Avista cash flows will not be commingled in common accounts with cash 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*."

Q. Why did the Parties agree to include Stipulated Commitment 54?

A. As an element of ring-fencing, Stipulated Commitment 54 prevents Hydro One and its subdivisions and affiliates and Olympus Equity LLC, prior to the issuance of an upward dividend, from placing Avista's revenues in the accounts of Hydro One and its subdivisions and affiliates or Olympus Equity LLC, in other words, prohibits commingling of Avista funds in common accounts prior to an upward dividend issuance out of Avista.

Q. How did Stipulated Commitment 54 change from the Application to the Stipulation?

A. Commitment 21 in the Application stated that "Avista will maintain separate books and records." Stipulated Commitment 54 in the Stipulation makes Avista's and Hydro One's commitment to maintain separate books and records even more clear and extends the commitment to requiring separate accounts to prevent any comingling or appearance of comingling of money or assets.

Q. Does Stipulated Commitment 54 provide a benefit to Avista customers?

A. This is a neutral commitment that ensures Avista's revenues will continue to be deposited in, and expenditures will continue to be made from, accounts separate from Hydro One and its subdivisions and affiliates and Olympus Equity LLC's accounts. Further, Stipulated Commitment 54 prevents the commingling of funds between Avista, Hydro One and its subdivisions and affiliates, and Olympus Equity LLC, which will ensure Commission Staff can continue to track Avista's revenues and expenditures after the merger and aids with keeping Avista separate from the Parent in cases of bankruptcy of the Parent.

Q. What is the Parties' proposed Stipulated Commitment 55?

A. "*Entering into voluntary bankruptcy shall require the affirmative vote of a "Golden Share" of Avista stock. The Golden Share is defined in the Definitions section of these commitments and is 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 Hydro One or any of its affiliates including Avista, or is any lender to Hydro One or its affiliates, or Avista or its affiliates. The holder of the Golden Share must be approved by the Commission. In matters of voluntary bankruptcy, this Golden Share will override all other outstanding shares of all types or classes of stock and the holder of the Golden Share solely represents the interests of Avista's utility customers.[Footnote omitted]*

The cost of the Golden Share is considered a transaction cost and not included in rates. Once a viable candidate for holder of the Golden Share is identified, Avista must report to the Commission the following:

a) The name and contact information of the holder of the Golden Share;

b) How this person/entity meets the definition and purpose of the Golden Share holder as explained in the commitments herein; and

c) Provide a copy of the draft agreement between the purchaser and Avista.

After receiving Commission approval of the holder of the Golden Share, Avista shall file the following:

i. The Report of Securities Issued and Disposition of Net Proceeds promptly after the sale; and

ii. Final copies of:

1. The Board resolution authorizing the transaction;

2. The resolutions of the Board and the shareholder approving and adopting the Amended and Restated Articles of Incorporation of Avista, including the rights and preferences of the Golden Share;

3. A copy of the Amended and Restated Articles of Incorporation of Avista;

4. A copy of the Golden Share certificate; and

5. A copy of the agreement between the holder of the Golden Share and Avista.

Further, Avista will seek Commission approval prior to consenting to any future sale, trade, or transfer of the Golden Share by the Commission-approved-holder thereof. Avista will provide supplemental information at that time in a manner and *form consistent with that which was provided in the review of the initial purchaser in this docket*."

Q. Why did the Parties agree to include Stipulated Commitment 55?

A. This ring-fencing provision provides an extra layer of bankruptcy protection. It requires the issuance of a single share of Preferred Stock of Avista, known as a "Golden Share," for bankruptcy purposes. This "Golden Share" must be in the custody of an independent third party and must be voted in the affirmative for Avista to be included in voluntary bankruptcy proceedings. The independent third party that holds and has the right to vote the Golden share must have 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. Importantly, the holder of the Golden Share solely represents the interest of Avista's utility customers. Further, in matters of voluntary bankruptcy, this Golden Share will override all other outstanding shares of all types or classes of stock.

Q. How did Stipulated Commitment 55 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 55 provide a benefit to Avista customers?

A. Hydro One and Avista believe an independent, autonomous third party with the right to vote on whether Avista files a petition for voluntary bankruptcy provides a benefit to Avista's customers. Currently, whether Avista can petition for voluntary bankruptcy is a decision left to its existing board. The third-party holder of the Golden Share in Stipulated Commitment 55 will not be associated with or beholden to Avista shareholders or its lenders who, in a bankruptcy, might have divergent interests from Oregon ratepayers. The holder of the Golden Share will make its decision based solely on the best interests of Avista's utility customers.

Q. What is the Parties' proposed Stipulated Commitment 56?

A. "*Avista and Parent agree that the organizational documents of Avista and Olympus Equity LLC will provide that Avista and Olympus Equity LLC will not, and their organizational documents will not permit Avista or Olympus Equity LLC to, consent to the institution of voluntary bankruptcy proceedings or to the inclusion of Avista in bankruptcy proceedings of Parent, absent a two-thirds majority vote of all Avista directors, including the affirmative vote of a majority of the Independent Directors at Avista, which must include the affirmative vote of at least two of the Avista designated Independent Directors.*

Avista and Parent agree that Avista will present the organizational documents of Avista and Olympus Equity, LLC to the Commission before the Commission's decision in this proceeding.

In addition to an affirmative vote of a majority of the Independent Directors, the vote of the holder of the Golden Share shall also be required for Avista to enter into a voluntary bankruptcy."

Q. Why did the Parties agree to include Stipulated Commitment 56?

A. This Stipulated Commitment responds to concerns that, if Hydro One, Avista, or Olympus Equity LLC were to become financially distressed, Hydro One might pressure Olympus Equity LLC or Avista to petition for voluntary bankruptcy, even if this course of action might be contrary to the best interests of Oregon ratepayers. To mitigate this risk, Stipulated Commitment 56 requires that a voluntary petition in bankruptcy not be made without the two-thirds majority vote of all Avista directors, which must include the affirmative vote of the majority of Independent Directors, as well as a vote in favor by the holder of a "Golden Share." This commitment helps to ensure that Avista will not place itself into bankruptcy voluntarily, unless such a decision is consistent with the interests of ratepayers.

Q. How did Stipulated Commitment 56 change from the Application to the Stipulation?

A. Commitment 40 in the Application required the vote of just one of the Independent Directors to include Avista in voluntary bankruptcy proceedings. Hydro One and Avista agreed to revise this commitment to clarify that inclusion of Avista in a voluntary bankruptcy requires both the vote of a majority of Avista's Independent Directors and the vote of a Golden Share in Stipulated Commitment 55.

Q. Does Stipulated Commitment 56 provide a benefit to Avista customers?

A. Hydro One and Avista believe the benefits that will accrue to Oregon ratepayers as the result of this Commitment mirror those derived from the implementation of the "Golden Share," as detailed above.

Q. What is the Parties' proposed Stipulated Commitment 57?

A. "*As soon as it is obtained, but by no later than ninety (90) days after the Proposed Transaction closing, Avista and Hydro One will file a non-consolidation opinion with the Commission which concludes, subject to customary assumptions, that the commitments herein are sufficient that any U.S. bankruptcy court or Canadian bankruptcy court would not order the substantive consolidation of the assets and liabilities of Avista with those of Hydro One or any of its affiliates or subsidiaries. Avista commits to promptly file such opinion with the Commission as soon as it is obtained.*

If the ring-fencing provisions in these commitments are not sufficient to obtain a non-consolidation opinion, Hydro One and Avista will immediately take the following actions:

a. Notify the Commission of this inability to obtain a non-consolidation opinion.

b. 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.

c. Obtain a non-consolidation opinion, and otherwise complete above steps.

Hydro One and Avista recognize that OPUC adoption of the stipulation in this docket and the list of commitments herein is conditioned on and subject to Hydro One and Avista filing a satisfactory non-consolidation opinion with the OPUC."

Q. Why did the Parties agree to include Stipulated Commitment 57?

A. This commitment requires that within 90 days of the closing of the Proposed Transaction, Avista and Hydro One will file a non-consolidation opinion with the Commission, which concludes that the ring-fencing provisions are sufficient such that a bankruptcy court in both the United States and Canada would not order the substantive consolidation of the assets and liabilities of Avista with those of Hydro One or with any of its affiliates or subsidiaries.

Q. How did Stipulated Commitment 57 change from the Application to the Stipulation?

A. The language of this commitment compared to that of the Application now requires a non-consolidation opinion that opines on both U.S and Canadian law, which Staff and intervenors felt was essential due to the fact that the Parent is a Canadian corporation. Hydro One and Avista understand that they must obtain a non-consolidation opinion that satisfies the terms of this Stipulated Commitment or the Commission's approval of this transaction will be void.

Q. Does Stipulated Commitment 57 provide a benefit to Avista customers?

A. Hydro One and Avista believe that the non-consolidation opinion provides additional assurance that the ring-fencing conditions agreed to by the Parties are sufficient to protect Avista ratepayers in the event Hydro One or one its affiliates were to become insolvent. Avista's and Hydro One's inability to provide the non-consolidation opinion would alert the Commission that additional ring-fencing is required to protect Oregon ratepayers. In that event, the Commitment allows Hydro One and Avista to present additional ring-fencing protections to the Commission for approval.

Q. What is the Parties' proposed Stipulated Commitment 58?

A. "*Olympus Holding Corp.'s indirect subsidiaries will include Olympus Equity LLC and Avista. See the post-acquisition corporate organizational chart in Table 1.*

Following closing of the Proposed Transaction, all of the common stock of Avista will be owned by Olympus Equity LLC, a limited liability company.

Avista will become a wholly-owned subsidiary of Olympus Equity LLC, a bankruptcy-remote Special Purpose Entity (SPE) established for the purpose of ring-fencing Avista, with the intention of removing Avista (and all of its current subdivisions and holdings in all states) from the bankruptcy estate of Parent and other divisions and affiliates. Olympus Equity LLC will issue no preferred stock; will not issue nor carry notes, bonds, or other forms of indebtedness; and will not engage in financial derivatives, hedging, or like financial activities beyond those entirely consistent with the above stated purpose of the bankruptcy-remote SPE.

Olympus Equity LLC, Avista and Avista's subsidiaries will not hold other Parent corporation investments or financial obligations without prior Commission approval.

Hydro One will provide copies of the articles of incorporation and bylaws for Olympus Holding Corp. and of the membership agreement for Olympus Equity's LLC to the Commission prior to the Commission's decision in this matter. In the instance that any of the articles of incorporation or bylaws of the abovementioned companies conflict with any commitment listed herein, Olympus Holding Corp. and Olympus Equity LLC agree to amend such documents to reconcile the conflict so that the terms of the commitments herein prevail.

Avista and Parent commit that Olympus Equity LLC will not operate or own any business and will limit its activities to investing in and attending to its shareholdings in Avista.

Avista and Parent further commit that the revised articles of incorporation and bylaws of Olympus Holding Corp, and Olympus Equity LLC, reflecting their specific business purposes will be provided to the Commission prior to the Commission's decision on the Proposed Transaction."

Q. Why did the Parties agree to include Stipulated Commitment 58?

A. The Parties included this commitment as a ring-fencing mechanism, establishing Olympus Equity LLC, the immediate parent of Avista, as a bankruptcy-remote SPE.

Q. How did Stipulated Commitment 58 change from the Application to the Stipulation?

A. Commitment 42 from the Application was revised to reflect the fact that Olympus 1 LLC and Olympus 2 LLC are no longer proposed as part of the Hydro One post-closing corporate structure. Olympus 1 LLC and Olympus 2 LLC were originally designed to help navigate Canadian and U.S. federal tax laws and jurisdictions. U.S. federal tax reform has, however, made those entities unnecessary. Hydro One agrees to remove those LLCs in order to simplify the post-closing corporate structure. In addition, Stipulated Commitment 58 includes additional language that defines the limits on the corporate activities that Olympus Equity LLC and Avista may undertake. These limits ensure that Olympus Equity LLC's and Avista's financial status is sound and that Olympus Equity LLC's activities are entirely consistent with the above stated purpose of the bankruptcy-remote SPE. Finally, Stipulated Commitment 58 requires Avista and Hydro One to provide copies of the articles of incorporation and bylaws for Olympus Holding Corp. and of the membership agreement for Olympus Equity LLC to the Commission prior to the Commission's decision in this matter so that the Parties may verify that these documents are consistent with Stipulated Commitment 58.

Q. Does Stipulated Commitment 58 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Olympus Equity LLC's function is to shield Avista from the effects of a bankruptcy of Hydro One or any of its affiliates. Guarding the company from a potential bankruptcy protects and provides benefits to Oregon ratepayers.

Q. What is the Parties' proposed Stipulated Commitment 59?

A. "*Absent a Commission order providing otherwise, Avista and Hydro One agree that under no circumstance will Avista loan, pledge, or transfer Avista utility assets to Hydro One, Olympus Holding Corp., or any of Parent's subsidiaries or affiliates, other than Avista, without Commission approval. In addition, Avista and Hydro One agree that Avista's assets will not be loaned, pledged, or transferred by Avista or any of its affiliates, including Hydro One and Olympus Holding Corp. and any of their subsidiaries or affiliates*."

Q. Why did the Parties agree to include Stipulated Commitment 59?

A. The Parties included Stipulated Commitment 59 as a ring-fencing provision to ensure that none of Avista's assets would be entangled with a bankruptcy of Hydro One, Olympus Holding Corp., or any of Hydro One's subsidiaries and affiliates. The Parties recognize, however, that Avista may agree to loan, pledge, or transfer its assets to other Avista subsidiaries, but only if it has been previously approved by the Commission. Stipulated Commitment 59 also is designed to protect Avista's long-term financial integrity, by ensuring that Avista's utility assets will be used solely for Avista's ratepayers and to support the financial health of Avista, and avoids the perception of comingling for bankruptcy avoidance purposes.

Q. How did Stipulated Commitment 59 change from the Application to the Stipulation?

A. Commitment 43 in the Application precluded Avista from loaning or pledging utility assets to Hydro One, Olympus Holding Corp., or any of their subsidiaries or affiliates, without Commission approval. Hydro One and Avista agreed to alter the commitment to state that "Avista's assets will not be loaned, pledged, or transferred by Avista or any of its affiliates, including Hydro One and Olympus Holding Corp. and any of their subsidiaries or affiliates."

Q. Does Stipulated Commitment 59 provide a benefit to Avista customers?

A. Hydro One and Avista believe that in the event of an upstream bankruptcy, Stipulated Commitment 59 protects Avista's utility assets from being subject to such proceedings. Furthermore, the restrictions on the loans, transfers or pledges of Avista's utility assets will ensure that these utility assets are used only for the benefit of Avista's ratepayers and Avista's financial health.

Q. What is the Parties' proposed Stipulated Commitment 60?

A. "*Avista and Parent agree that Avista will submit a written report on Major Shareholders consistent with OAR 860-027-0175(2) (Major Shareholders Report).*

When holdings of all entities are not available because filings for those certain entities have not yet been made or are not available, Avista and Parent agree that Avista will use best available information in a preliminary filing to the Commission by the due date provided for in OAR 860-027-0175, supplemented by a final filing to the Commission no later than June 1 of each year."

Q. Why did the Parties agree to include Stipulated Commitment 60?

A. This Commitment confirms that Avista will provide to the Commission information that is necessary to ensure compliance with OAR 860-027-0175(2).

Q. How did Stipulated Commitment 60 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 60 provide a benefit to Avista customers?

A. Hydro One and Avista believe this is a neutral commitment because it ensures compliance with a reporting requirement existing under the status quo.

Q. What is the Parties' proposed Stipulated Commitment 61?

A. "*Parent and Avista agree to comply with ORS 757.511 and ORS 757.480 as applicable and as described in the commitments herein. Hydro One, its Affiliates, and subsidiaries including Avista, will notify the Commission subsequent to the board of Hydro One, its Affiliates or subsidiaries including Avista approving, and as soon as practicable following any public announcement, of:*

a. 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

b. Any change in control or ownership of Avista, inclusive of any change of upstream ownership of Avista among subsidiaries and Affiliates of Hydro One, providing detail of the holding.

This commitment does not prohibit Parent or its affiliates other than Avista from holding diversified businesses.

Neither Avista nor Olympus Holding Corp. will assert in any future proceedings that the Commission is without jurisdiction over any transaction that results in a change of control over Avista pursuant to ORS 757.511 and ORS 757.480, or as those statutes are described in the commitments herein."

Q. Why did the Parties agree to include Stipulated Commitment 61?

A. The Parties included this Commitment to clarify Commitment 19 from the Application, in which Hydro One and Avista committed to comply with applicable requirements on the acquisition and disposition of utility property in Oregon.

Q. How did Stipulated Commitment 61 change from the Application to the Stipulation?

A. Hydro One and Avista revised this commitment to clearly articulate the Oregon laws related to the acquisition and disposition of utility property, i.e., ORS 757.511 and ORS 757.480, to which Hydro One and Avista agree to comply in this commitment. Further, Hydro One and Avista agree to the interpretation of those two statutes as described in Stipulated Commitment 9, Reorganization and Sale Triggers, which could be perceived as being broader than the express language of the statutes but necessary and applicable based on the facts and nature of the Parent in this proceeding.

Q. Does Stipulated Commitment 61 provide a benefit to Avista customers?

A. Hydro One and Avista believe this is a neutral commitment as it relates to compliance with Oregon law and is additive to the agreement made by all Parties in Stipulated Commitment 9.

Q. What is the Parties' proposed Stipulated Commitment 62?

A. *"Avista and Parent agree that, without prior Commission approval, Avista will not enter into any inter-company debt transactions with Olympus Holding Corp., Hydro One, or any of their subsidiaries or affiliates."*

Q. Why did the Parties agree to include Stipulated Commitment 62?

A. The Parties added Stipulated Commitment 62 to ensure that Avista obtains Commission approval before entering into any inter-company debt transactions with Olympus Holding Corp., Hydro One, or any of their subsidiaries or affiliates.

Q. How did Stipulated Commitment 62 change from the Application to the Stipulation?

A. This specific Commitment was not included in the Application.

Q. Does Stipulated Commitment 62 provide a benefit to Avista customers?

A. Hydro One and Avista believe that shielding Avista from the acquisition of additional intercompany debt absent Commission approval is in the best interest of ratepayers.

Q. What is the Parties' proposed Stipulated Commitment 63?

A. "*Avista and Parent agree that, without prior Commission approval, Avista will not lend money to Olympus Holding Corp., Hydro One, or any of their subsidiaries or affiliates*."

Q. Why did the Parties agree to include Stipulated Commitment 63?

A. The Parties added this Commitment to prohibit Avista from lending money to Olympus Holding Corp., Hydro One, or any of their subsidiaries or affiliates without prior Commission approval.

Q. How did Stipulated Commitment 63 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 63 provide a benefit to Avista customers?

A. Hydro One and Avista believe that requiring Commission approval for Avista to lend money up the corporate chain will help maintain Avista's financial integrity.

K. <u>Access to Information</u>

Q. What is the Parties' proposed Stipulated Commitment 64?

A. "*The following commitment applies to information that is reasonably calculated to lead to the discovery of admissible evidence pertaining to, or that may directly or indirectly affect or relate to, Avista, the Oregon-regulated utility: Avista and Parent will provide access to all materials specified in subparagraphs a - d below. Where practicable, this information will be made available directly to the Commission or at Avista's Headquarters in Spokane.*

The Proposed Transaction and Hydro One's post-closing corporate structure will not result in reduced access to books and records for Commission Staff and other parties to regulatory proceedings necessary to investigate, examine, or verify transactions with Avista, or that result in costs that may be allocable to Avista.

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 Oregon laws and administrative rules.

Avista and Parent will provide the Commission with access to:

a. All books of account, budgets, integrated resource planning, documents, data, records, accounting, and financial information which may pertain to transactions between Avista and Hydro One or any Hydro One U.S. affiliate and subdivision.

b. Avista Board of Director (BOD) and Parent BOD meeting minutes and presentations for BOD meetings, Avista and Parent committees and subcommittees thereof, as well as investor presentations and transcripts for Avista and Parent.

c. Such other records of Avista and Parent including 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 subdivisions to assign costs to Avista and amounts subject to allocation or direct charges consistent with the Commission's rules and regulations.

d. All information provided by and to common stock, bond, or bond rating analysts, and Rating Agencies, which directly or indirectly pertains to Avista or any affiliate that exercises influence over Avista. Such information includes, but is not limited to, opinions, reports and presentations made to or provided by common stock analysts and bond rating analysts. Avista's records of such matters will be kept at Avista's headquarters in Spokane.

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 and requests for information."

Q. Why did the Parties agree to include Stipulated Commitment 64?

A. The Parties included this Commitment because it ensures that the Commission will have ready access to books and records, accounts, board and subcommittee meeting minutes, and other reports or information that may lead to evidence pertaining to or affecting Avista.

Q. How did Stipulated Commitment 64 change from the Application to the Stipulation?

A. The Parties improved on this Commitment, which was found in two separate commitments (Commitments 21 and 22 in the Application), by providing the Commission with access to certain records of Hydro One and its affiliates that pertain to Avista and including language to help ensure that the Commission's current unrestricted access to all matters affecting Avista regulation remains unhindered, especially after the close of the Proposed Transaction where multiple subsidiary entities in between Hydro One and Avista, and Avista's ultimate parent is an international entity and holding company.

Q. Does Stipulated Commitment 64 provide a benefit to Avista customers?

A. Hydro One and Avista believe this commitment provides a benefit to Avista's customers as it ensures that the Commission will have access to book and records and other information that may lead to evidence pertaining to or affecting Avista, even if those books and records and other information does not reside at the Avista level.

Q. What is the Parties' proposed Stipulated Commitment 65?

A. "*On or before December 31 of each year, Avista shall make available to the Commission a final copy of its annual capital budget(s) for the succeeding year. Hydro One will provide an annual budget of all transactions between Hydro One and Avista.*"

Q. Why did the Parties agree to include Stipulated Commitment 65?

A. The Parties included this commitment to ensure that the welfare and financial fitness of Avista will remain a top priority for Hydro One. Under this commitment, Avista will provide the Commission with its annual budgets, and Hydro One will provide the Commission with an annual budget of all transactions between Hydro One and Avista in order to give the Commission insight into Avista's planned actions and priorities and to provide the Commission ongoing visibility into Avista's financial and/or operational health and relationship with Hydro One.

Q. How did Stipulated Commitment 65 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 65 provide a benefit to Avista customers?

A. This commitment is benefit neutral.

Q. What is the Parties' proposed Stipulated Commitment 66?

A. "*Hydro One and Avista will seek to maintain a visibly constructive relationship with the Commission and will make their employees and officers available to testify, present or participate in workshops before the Commission at the Commission's request to provide information of interest to the Commission on matters related to Avista's operations in Oregon. Avista will keep the Commission informed on material matters related to Avista's operations in Oregon consistent with Commission statutes and rules*."

Q. Why did the Parties agree to include Stipulated Commitment 66?

A. The Parties included this Commitment to ensure that Avista and Hydro One maintain a productive relationship and an open dialogue with the Commission.

Q. How did Stipulated Commitment 66 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 66 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this commitment will provide a benefit to Avista's customers over the long term because it ensures up front that the Commission will have access to personnel from both Hydro One and Avista on matters related to Avista's operations in Oregon, and that Hydro One understands that becoming the new parent of Avista will require transparency and accountably to the Commission.

L. Accounting

Q. What is the Parties' proposed Stipulated Commitment 67?

A. "*Avista and Parent, including all Hydro One U.S. Affiliates and subdivisions, will maintain the necessary itemized books and records in form that can be viewed, printed, and duplicated so as to document all corporate, Affiliate, or subsidiary transactions with Avista, or that result in costs that may be allocable to Avista. Documentation shall be maintained such that all costs subject to allocation and the basis for the application of the allocation methodology can be specifically identified, particularly with respect to origin and cost drivers.*

Avista and Parent further agree that Avista will maintain separate books and records inclusive of all documentation relating to costs allocated to and from its Parent and Affiliates, with such accounting information and financial books and records kept at Avista's headquarters in Spokane, Washington

Avista will maintain its own accounts and subaccounts, books, computers, data, documents, and documentation with supporting records separate from the Parent's accounting system, with such accounting information and financial books and records kept at Avista headquarters in Spokane, Washington.

Avista assets, cash flows, and financial accounts may not be co-mingled with Parent or Parent's subsidiaries or operations resulting after the merger."

Q. Why did the Parties agree to include Stipulated Commitment 67?

A. The Parties included this commitment because maintaining separate books and records for Avista will allow the Commission, Staff and Intervenors to review cost allocations between Hydro One and its affiliates, on the one hand, and Avista, on the other hand, and to identify and ensure appropriate cost allocations, if any, between the companies. Moreover, it augments other commitments by requiring separate accounts between the companies for avoidance of comingling.

Q. How did Stipulated Commitment 67 change from the Application to the Stipulation?

A. Commitment 21 from the Application was greatly expanded upon not only to require separate books and records but to specify what books and records the companies in the post-close corporate chain of companies must maintain for purposes of transactions with Avista; that Avista must maintain separate books and records and accounting systems at its headquarters in Spokane, Washington; and that Avista's assets, cash flows, and financial accounts may not be commingled with Hydro One's or its subsidiaries (other than Avista) after the merger.

Q. Does Stipulated Commitment 67 provide a benefit to Avista customers?

A. Hydro One and Avista believe this is a neutral commitment.

M. Cost Allocations

Q. What is the Parties' proposed Stipulated Commitment 68?

A. "*Avista and Parent agree that Avista will provide cost allocation methodologies used to allocate to Avista any costs related to Parent, including to Olympus Holding Corp. or its other subsidiaries, and commit that there will be no cross-subsidization by Avista customers of unregulated activities.*

Avista and Parent agree as follows:

- *Hydro One and Avista will not cross-subsidize between the regulated and unregulated businesses or between any regulated businesses, and shall comply with the Commission's applicable statutes, orders, and rules with respect to such matters.*
- *Hydro One shall not subsidize its activities by allocating to or directly charging Avista expenses not authorized by the Commission to be so allocated or directly charged.*

- *For any services rendered to Avista or each cost category subject to allocations to Avista by Hydro One or any of its affiliates, Hydro One must be able to demonstrate that such service or cost category is necessary to Avista for the performance of its regulated operations, is not duplicative of services already being performed with Avista, and is reasonable and prudent and results in a benefit to Oregon customers.*

- *To determine the reasonableness of allocation factors used by Hydro One to assign costs to Avista and amounts subject to allocation or direct charges, the Commission or its staff may investigate the accounts of Hydro One and its subsidiaries which are the bases for charges to Avista. Hydro One agrees to cooperate fully with such Commission investigations.*

Avista commits, and Hydro One agrees, that neither Avista nor Avista's subsidiaries will, without the approval of the Commission:

a. Make loans or transfer funds (other than dividends and payments pursuant to the MSA or equivalent cost allocation manual) to Parent or affiliates;

b. Assume any obligation or liability as guarantor, endorser, surety, or otherwise for Parent or affiliates;

c. Transfer any of its utility assets or property to Parent or affiliates, or any government or political subdivision thereof with a direct or indirect ownership interest in the Parent, except as and when required by ORS 757.511 and ORS 757.480 or expressed in the commitments herein; or

d. Seek to pledge Avista's assets as backing for any hedging, indebtedness, or securities of Parent or affiliates.

Avista will bear the burden of proof in any GRC that any corporate and affiliate cost allocation methodology is reasonable for ratemaking purposes consistent with Commission statutes, orders, and rules. Neither Avista nor Olympus Holding Corp. or its subsidiaries will contest the Commission's authority to disallow, for ratemaking purposes in a GRC, unreasonable, or misallocated costs to Avista.

With respect to the ratemaking treatment of affiliate transactions affecting Avista, Olympus Holding Corp., Hydro One and all its U.S. subsidiaries, will comply with the Commission's rules and practice. However, nothing in this commitment limits Avista from also proposing a different ratemaking treatment for the Commission's consideration, or limits the positions that any other party to the proceeding may take with respect to ratemaking treatment."

Q. Why did the Parties agree to include Stipulated Commitment 68?

A. The Parties agreed to include this commitment to ensure the use of best practices for inter-company allocations. Pursuant to this commitment, allocations must be reasonable, supportable, and transparent, and consistent with Commission statutes, rules, and orders.

Q. How did Stipulated Commitment 68 change from the Application to the Stipulation?

A. Hydro One and Avista offered a similar commitment (Commitment 23) in the Application. Stipulated Commitment 68 expands upon Application Commitment 23 by, among other things, extending its provisions up the post-close corporate chain to Hydro One, including by providing the Commission and Staff access to Hydro One's and its subsidiaries' accounts, which form the bases for charges or the assignment of costs to Avista.

Q. Does Stipulated Commitment 68 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this Commitment ensures that Hydro One and Avista will employ sound allocation methodologies and practices in a manner that provides for full Commission review as and when appropriate, thereby ensuring that Oregon customers are not harmed.

Q. What is the Parties' proposed Stipulated Commitment 69?

A. "*Avista and Parent agree to comply with ORS 757.015 through 757.495, as applicable, and OAR 860-027-0040 through 860-027-0042, as applicable, for transactions between Avista and Parent including subdivisions and Affiliates. Further, Avista and Parent agree that the Commission may investigate the accounting records of Parent and Affiliates that are the bases for charges to Avista, to determine the reasonableness of the costs and the allocation factors used by the Parent or its subdivisions to assign costs to Avista and amounts subject to allocation or direct charges. Parent and Affiliates will cooperate fully with such Commission investigations.*

Parent and Avista will maintain robust systems to track employee, officer, director, agent, and attorney time not spent for Avista utility purposes, which cost thereof shall not be allocated to Avista.

Parent and Avista will comply with all applicable Commission statutes, orders, and rules regarding Affiliated Interest transactions, including timely filing of applications and reports.

Avista will not cross-subsidize between the regulated and unregulated businesses or between any regulated businesses, and shall comply with the Commission's applicable orders and rules with respect to such matters.

a. For services rendered to Avista or each cost category subject to allocation to Avista by Hydro One or any of its affiliates, Avista must be able to demonstrate that such service or cost category is: i) necessary to Avista for the reasonable performance of its regulated operations in Oregon, ii) is not duplicative of services already being performed within Avista, and iii) is reasonable and prudent.

b. Cost allocations to Avista will be directly charged whenever possible, and shared or indirect costs will be allocated based upon the primary cost-driving factors.

c. Hydro One and its subsidiaries will have in place an accounting system adequate to support the allocation and assignment of costs of executives and other relevant personnel to or from Avista.

d. All costs subject to allocation will be documented, such that they can be specifically identified, particularly with respect to their origin.

e. Any corporate cost allocation methodology used for rate setting, and subsequent changes thereto, will be submitted to the Commission for approval. The Master Services Agreement (MSA) or equivalent will be updated to include the corporate and affiliate cost allocation methodologies between Hydro One, Avista and their affiliates. The MSA will be filed with the Commission for review and approval, no later than 90 days after close of the transaction. Thereafter, amendments to the MSA will also be filed with the Commission as material changes occur, or otherwise attached to the annual June Affiliated Interest (AI) report.

f. Avista and Hydro One commit to using asymmetrical pricing as required by OAR 860-027-0048(4).

Any allocation of costs, corporate and Affiliate investments, expenses, or overheads between Avista and Parent or an Affiliate will comply with the following principles:

i. *Cost allocations to Avista will be directly charged whenever possible, and shared or indirect costs will be allocated based upon primary, demonstrable, and transparent cost-driving factors.*

ii. *Parent and all subsidiaries and Affiliates will maintain accounting systems adequate to support the allocation and assignment of costs of executives and other relevant personnel to or from Avista.*

iii. *All costs subject to allocation will be Documented and flagged by origin, so as to be specifically identified, tracked, and trended. Failure to adequately support any allocated cost may result in denial of its recovery in rates.*

iv. *Any corporate cost allocation methodology used for rate setting, and subsequent changes thereto, will be submitted to the Commission for approval.*

v. *Avista's MSA or equivalent, itemizing and explaining corporate cost allocation methods used for rate setting, will be updated to include the corporate and affiliate cost allocation methodologies between Parent (and Hydro One if different), Avista, and Affiliates and filed with the Commission no later than 90 days after execution of the reorganization. Thereafter, the MSA will be appended to the annual June Affiliated Interest report filed with the Commission. This annual filing will capture, highlight and explain all changes from the prior year. The entirety of the MSA and its components are subject to review by Staff in subsequent proceedings before the Commission to confirm that cost drivers, accounting methods, assumptions, and practices result in fair, just and reasonable utility rates. Avista will update, and re-file for approval, the MSA and AI Reporting reflecting Parent (and Hydro One if different) organizational detail and the outcome of Docket No. UM 1897.*

vi. *Costs which would have been denied recovery in rates had they been incurred by Avista will likewise be denied recovery whether they are allocated directly or indirectly through subsidiaries of Parent other than Avista.*

vii. *Avista will file timely applications and reports in compliance with ORS 757.015 through 757.495 and OAR 860-027-0040 through 860-027-0042.*

viii. *Parent and Avista commit that they will interpret ORS 757.015 and 757.495 to require Commission approval of any contract between Avista and (1) any affiliate of Hydro One or (2) any affiliate of Parent. This shall include the MSA discussed herein.*

ix. Avista bears the burden of showing that a particular expense may be allocated to Avista ratepayers."

Q. Why did the Parties agree to include Stipulated Commitment 69?

A. The Parties included this Commitment to ensure compliance with the Commission's statutes and rules on affiliate transactions and to prevent cross subsidization.

Q. How did Stipulated Commitment 69 change from the Application to the Stipulation?

A. This specific commitment was not included in the Application, though similar commitments were provided in Application Commitments 19 and 23. Stipulated Commitment 69 expands up the post-close corporate chain to Hydro One and provides greater specificity on what Hydro One and Avista will do under Oregon law to prevent cross subsidization, including, among other things, maintaining robust systems to track employee, officer, director, agent, and attorney time not spent for Avista utility purposes, the costs of which will not be allocated to Avista.

Q. Does Stipulated Commitment 69 provide a benefit to Avista customers?

A. Hydro One and Avista believe this Commitment ensures that the companies will employ sound allocation methodologies and practices to prevent cross subsidization, thereby ensuring that Oregon customers are not harmed.

Q. What is the Parties' proposed Stipulated Commitment 70?

A. This Commitment refers to the requirement that Avista have a Master Services Agreement (MSA) is place, but references back to: "*Please see Commitment 69*."

Q. Why did the Parties agree to include Stipulated Commitment 70?

A. The Parties included this commitment to establish a process for keeping the Commission informed of any changes to allocation methodologies and updating Avista's Master Services Agreement (MSA) to reflect any changes required by the Proposed Transaction.

Q. How did Stipulated Commitment 70 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 70 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this Commitment will facilitate the sharing of information with stakeholders and ratepayers through annual filings with the Commission and regular updating and approval of any changes to the MSA.

Q. What is the Parties' proposed Stipulated Commitment 71?

A. "*Avista and Parent agree that Avista will file usual and customary Affiliated Interest (AI) reports with the Commission each June. Avista's AI reports filed with the Commission will contain a complete copy of the current corporate organizational chart between Hydro One and Avista, including contact information for those entities, a narrative description of each Affiliate, annual revenue for each Affiliate, and transactions with each Affiliate; and identify in the chart any entities that do business with, share charges with, or have an ownership interest of five percent or more in Avista.*"

Q. Why did the Parties agree to include Stipulated Commitment 71?

A. This Commitment requires Avista and Hydro One to make annual Affiliated Interest reports after the completion of the Proposed Transaction. Hydro One and Avista will provide a corporate organizational chart to the Commission on an annual basis, including contact information for Avista and Hydro One and their affiliates, thereby allowing the Commission information on Avista's and Hydro One's current holdings and growth patterns.

Q. How did Stipulated Commitment 71 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 71 provide a benefit to Avista customers?

A. Hydro One and Avista believe this is a neutral commitment as it ensures transparency regarding Avista's and Hydro One's corporate structures, which will facilitate the Commission's authority and jurisdiction with respect to Stipulated Commitments 68 through 70 and the relevant statutes and regulations.

N. North American Free Trade Agreement (NAFTA)

Q. What is the Parties' proposed Stipulated Commitment 72?

A. "*Avista and Parent agree that the Commission would have jurisdiction in any future proceedings regarding any unrecovered liabilities to the State of Oregon that may result from NAFTA Chapter Eleven mediations, arbitrations, or any other litigation brought by Hydro One's shareholders under NAFTA. Only the Commission or the Oregon Attorney General may initiate such proceeding*."

Q. Why did the Parties agree to include Stipulated Commitment 72?

A. Stipulated Commitment 72 confirms that Hydro One and Avista recognize that NAFTA does not curtail the authority of the Commission to promulgate and enforce relevant rules and regulations, that Hydro One and Avista explicitly recognize that the Commission's authority over Avista's operations will remain unchanged by the Proposed Transaction, that the Parties will comply with all applicable laws and regulations, and that Hydro One and Avista recognize the Commission's jurisdiction.

Q. How did Stipulated Commitment 72 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 72 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral Commitment as it maintains the status quo. Taken together, the established law and precedent regarding NAFTA, particularly when coupled with this Stipulated Commitment 72, leave no reasonable doubt that the Commission's authority will be unencumbered by NAFTA and this merger.

O. Avista Status Quo

Q. What is the Parties' proposed Stipulated Commitment 73?

A. "*Avista and Parent agree that Avista and Olympus Equity LLC will follow GAAP for Oregon regulatory purposes except when otherwise directed by Commission orders and policies, Oregon Revised Statutes (ORS), and Oregon Administrative Rules (OAR).*"

Q. Why did the Parties agree to include Stipulated Commitment 73?

A. As a combination electric and natural gas regulated utility in multiple states, Avista maintains, and will continue to maintain, its books and records in accordance with Generally Accepted Accounting Principles (GAAP), as well as Federal and State regulatory requirements.

Q. How did Stipulated Commitment 73 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 73 provide a benefit to Avista customers?

A. Avista and Hydro One believe that this is a neutral Commitment as it maintains the status quo.

Q. What is the Parties' proposed Stipulated Commitment 74?

A. "*Avista and Parent agree that Avista's corporate travel expenses recovered in rates, including variable costs of flying the Avista corporate jet and commercial travel for all Avista and Parent directors and executives will not exceed 105 percent of 2017 expenses adjusted annually for inflation. However, regardless of the terms of this commitment, Avista still carries the burden of demonstrating the reasonableness and inclusion in rates of any travel expense.*"

Q. Why did the Parties agree to include Stipulated Commitment 74?

A. The Parties agreed to Stipulated Commitment 74 as a means of ensuring that travel expenses recovered in rates are limited, especially given the future likelihood of increased travel as a result of having an international parent, which would not be occurring but for the merger.

Q. How did Stipulated Commitment 74 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 74 provide a benefit to Avista customers?

A. Hydro One and Avista believe it is a benefit to Avista's customers because, in the absence of the merger, Avista's potentially recoverable travel expenses would not be limited to 105 percent of 2017 expenses adjusted annually for inflation.

Q. What is the Parties' proposed Stipulated Commitment 75?

A. "*Avista and Parent agree that Avista management will continue to ensure that delivery of safe and reliable high quality utility service at just and reasonable rates in Oregon is included in its mission and is a top corporate priority post-merger*."

Q. Why did the Parties agree to include Stipulated Commitment 75?

A. The Parties memorialized in Stipulated Commitment 75 that Hydro One and Avista must maintain excellence in safety and high-quality service even after the merger is achieved with an international parent, and that just and reasonable rates as required by law will be a top priority for Avista management even with the new influence of Hydro One.

Q. How did Stipulated Commitment 75 change from the Application to the Stipulation?

A. Commitments 10 and 15 in the Application were merged and revised to memorialize Avista's and Hydro One's broad commitment to work together to deliver safe and reliable high quality utility service at just and reasonable rates in Oregon.

Q. Does Stipulated Commitment 75 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo.

Q. What is the Parties' proposed Stipulated Commitment 76?

A. "*Avista and Parent agree that Avista will maintain its existing levels of capital investment where needed to improve the safety of regulated pipelines and associated controls for the next ten years. Over that period, Parent agrees to provide capital, receiving usual Commission rate case treatment, as necessary to improve the safety of pipelines and associated controls*."

Q. Why did the Parties agree to include Stipulated Commitment 76?

A. Avista provides natural gas distribution service in northern Idaho, in eastern Washington, and in southwestern and northeastern Oregon. Avista owns and maintains a total of 7,650 miles of natural gas distribution lines. The Parties included Stipulated Commitment 76 to ensure that the Proposed Transaction will not impact capital investment where needed to improve *the safety* of Avista's regulated pipelines and associated controls in Oregon, and that the Parent will be responsible for augmenting such support where needed for the next ten years.

Q. How did Stipulated Commitment 76 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 76 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 76 provides a benefit to Avista customers because in the absence of the Proposed Transaction, Avista customers have no guarantee that Avista's current levels of capital investment would continue where needed to improve the safety of regulated pipelines and associated controls for the next ten years. Staff and

Intervenors note that this provision is not intended and should not be construed as preapproval of any particular capital project or level of capital spending after the Proposed Transaction.

Q. What is the Parties' proposed Stipulated Commitment 77?

A. "*Avista and Parent agree to make reasonable commercial efforts to prioritize access for Avista to financial markets at equal or lower cost than absent the Proposed Transaction for Long-Term Debt and Credit Facilities in the U.S. Hydro One agrees to consider listing on the New York Stock Exchanges (NYSE) as and when appropriate and advisable.*

Parent agrees to make reasonable commercial efforts to investigate and arrange innovative financing opportunities that include independent opportunities for Avista financing, utilizing the same investment banks and arranged sellers in the U.S. and Canada, where Avista is responsible for Avista's issuances and proportional cost, but afforded proportional access to larger aggregate securities offerings to achieve lower all-in issuance cost."

Q. Why did the Parties agree to include Stipulated Commitment 77?

A. The Parties included Stipulated Commitment 77 to ensure that the Proposed Transaction will improve Avista's access to capital.

Q. How did Stipulated Commitment 77 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 77 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Avista ratepayers may benefit from lower rates if Hydro One's involvement provides Avista with improved access to capital at a lower cost. While ratepayers enjoy the upside of the merger, leading to a lower cost of capital, Hydro One bears the risk if the merger were to result in a higher cost of capital. Further, Hydro One will consider listing on the NYSE to take advantage of the same investors that have supported Avista over its long history.

Q. What is the Parties' proposed Stipulated Commitment 78?

A. "*Avista and Parent agree that the venue for disputes regarding the operation of Avista will be in state and federal regulatory bodies or courts of competent jurisdiction, as applicable, in Oregon, Washington, Idaho, Montana or Alaska*."

Q. Why did the Parties agree to include Stipulated Commitment 78?

A. Avista operates in multiple states, thereby exposing it to the jurisdiction of each state; further, post close of the transaction, Avista will have a Canadian parent subject to the jurisdiction of courts that Avista and the Commission have no familiarity. This commitment makes clear that venue for resolution of disputes will be in the United States and that Hydro One and Avista will submit to the jurisdiction of all of the appropriate state regulatory authorities that regulate Avista and of the state courts in these jurisdictions for disputes involving Avista.

Q. How did Stipulated Commitment 78 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 78 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral Commitment as it complies with the rules of Federal and State procedure.

Q. What is the Parties' proposed Stipulated Commitment 79?

A. "*Avista and Parent agree that Avista will maintain its headquarters in Spokane, Washington. Any change in the location of Avista headquarters will require Commission approval*."

Q. Why did the Parties agree to include Stipulated Commitment 79?

A. Stipulated Commitment 79 ensures that Avista's Pacific Northwest customers will continue to be served by a utility with its headquarters in the Pacific Northwest despite that its parent corporation will be headquartered in Toronto, Ontario.

Q. How did Stipulated Commitment 79 change from the Application to the Stipulation?

A. Commitment 9 from the Application has been expanded to give the Commission the right to approve the change in location of Avista's headquarters, if ever proposed.

Q. Does Stipulated Commitment 79 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral Commitment as it maintains the status quo.

Q. What is the Parties' proposed Stipulated Commitment 80?

A. "*Avista will maintain Avista's 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, consistent with Pre-Merger levels*."

Q. Why did the Parties agree to include Stipulated Commitment 80?

A. The Parties included Stipulated Commitment 80 to ensure that the Proposed Transaction will not impact Avista's staffing and presence in the communities in which Avista operates, sufficient to maintain the provision of safe and reliable service and cost-effective operations and consistent with levels prior to the completion of the Proposed Transaction.

Q. How did Stipulated Commitment 80 change from the Application to the Stipulation?

A. This Commitment is in substantially the same form as in the Application.

Q. Does Stipulated Commitment 80 provide a benefit to Avista customers?

A. Hydro One and Avista believe this is a benefit to customers as Avista currently has no obligation to maintain staffing levels.

Q. What is the Parties' proposed Stipulated Commitment 81?

A. *"Avista and Parent agree that Avista will maintain its pension funding policy in accordance with sound actuarial practice, and comply with Commission Orders regarding best practices on pension policies. Hydro One will not seek to change Avista's pension funding policy or to obtain funds from Avista's pension and post-retirement assets."*

Q. Why did the Parties agree to include Stipulated Commitment 81?

A. The Parties sought to ensure adequate pension funding if the Proposed Transaction is consummated.

Q. How did Stipulated Commitment 81 change from the Application to the Stipulation?

A. Commitment 37 in the Application only specified Avista's role in maintaining its pension funding policy according to "sound actuarial policy." In addition to Avista now expressly committing to comply with Commission orders regarding best practices on pension policies, Hydro One also now agrees to not to seek to change Avista's pension funding policy or to obtain funds from Avista's pension and post-retirement assets.

Q. Does Stipulated Commitment 81 provide a benefit to Avista customers?

A. Hydro One and Avista believe this is a benefit to customers, Avista employees, and Oregon residents generally, as Avista currently has no express obligation to maintain its pension funding policy in accordance with sound actuarial policy and there is no specified limit on the Board's ability to change funding policies.

Q. What is the Parties' proposed Stipulated Commitment 82?

A. "*Operations and maintenance funds dedicated to economic development and non-utility strategic opportunities will be recorded below-the-line to a non-operating account*."

Q. Why did the Parties agree to include Stipulated Commitment 82?

A. The Parties included Stipulated Commitment 82 to confirm that Avista will not recover any costs for economic development and non-utility strategic opportunities from Avista ratepayers. This commitment likely has little to no effect in Oregon because it pertains more to Avista's economic development investments in the state of Washington.

Q. How did Stipulated Commitment 82 change from the Application to the Stipulation?

A. Stipulated Commitment 82 is substantially similar to Commitment 13 (and its footnote 3) in the Application.

Q. Does Stipulated Commitment 82 provide a benefit to Avista customers?

A. Hydro One and Avista believe this is a neutral commitment as it maintains the status quo.

Q. What is the Parties' proposed Stipulated Commitment 83?

A. "*Parent and Avista agree that Avista will approach economic development in a manner consistent with Avista's past practices*."

Q. Why did the Parties agree to include Stipulated Commitment 83?

A. The Parties included Stipulated Commitment 83 to confirm that Avista will continue to engage in economic development activities consistent with Avista's past practices after the consummation of the Proposed Transaction. Again, this commitment likely has little to no effect in Oregon because it pertains more to Avista's economic development investments in the state of Washington. However, it is important to retain continuity with commitments reached in other jurisdictions.

Q. How did Stipulated Commitment 83 change from the Application to the Stipulation?

A. Stipulated Commitment 83 is substantially similar to Commitment 13 in the Application.

Q. Does Stipulated Commitment 83 provide a benefit to Avista customers?

A. Hydro One and Avista believe this is a neutral commitment as it maintains the status quo.

Q. What is the Parties' proposed Stipulated Commitment 84?

A. "*Avista will maintain the dues paid by it to various industry trade groups and membership organizations, where participation is related to the delivery of safe and reliable utility services. However, recovery of all membership and organizational dues will be reviewed in a GRC consistent with Commission orders and rules*."

Q. Why did the Parties agree to include Stipulated Commitment 84?

A. The Parties included Stipulated Commitment 84 to ensure that Avista's participation in various industry trade groups and membership organizations that enhance the skill and ability of Avista regulatory and other staff will continue after the consummation of the Proposed Transaction, where participation is related to the delivery of safe and reliable utility services. Stipulated Commitment 84 also confirms that recovery of the dues paid to these groups will be subject to consideration of the Commission's orders and policies with regard to memberships and dues in future general rate cases.

Q. How did Stipulated Commitment 84 change from the Application to the Stipulation?

A. Stipulated Commitment 84 is similar to Commitment 14 in the Application, with added confirmations that the organizations must be related to the delivery of safe and reliable utility services and recovery of such dues will be considered in future rate cases.

Q. Does Stipulated Commitment 84 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo. These costs will continue to be accounted for consistent with past practice.

Q. What is the Parties' proposed Stipulated Commitment 85?

A. "*Avista and Parent agree that Avista will continue to meet all the applicable Federal Energy Regulatory Commission (FERC) reporting requirements with respect to annual and quarterly reports (e.g., FERC Forms 1, 2, 3-Q) after closing of the Proposed Transaction*."

Q. Why did the Parties agree to include Stipulated Commitment 85?

A. The Parties included Stipulated Commitment 85 to confirm that the Proposed Transaction will not impact Avista's continued obligations to comply with applicable FERC reporting requirements with respect to annual and quarterly reports (e.g., FERC Forms 1, 2, 3-Q).

Q. How did Stipulated Commitment 85 change from the Application to the Stipulation?

A. Stipulated Commitment 85 expands Commitment 26 in the Application to state that Hydro One agrees that Avista must comply with the applicable FERC reporting requirements.

Q. Does Stipulated Commitment 85 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 85 is a neutral commitment as it maintains the status quo.

Q. What is the Parties' proposed Stipulated Commitment 86?

A. "*Avista and Parent agree that Avista will continue to participate, in national and regional forums regarding transmission issues, pricing policies, siting requirements, and interconnection and integration policies, and such forums as necessary to provide safe and reliable electrical and natural gas service and to protect the interest of Avista customers*."

Q. Why did the Parties agree to include Stipulated Commitment 86?

A. The Parties included Stipulated Commitment 86 to confirm Avista's ongoing agreement to participate in national and regional forums regarding transmission issues, pricing policies, siting requirements, and interconnection and integration policies, and such forums as necessary to provide safe and reliable electrical and natural gas service and to protect the interest of Avista customers.

Q. How did Stipulated Commitment 86 change from the Application to the Stipulation?

A. Stipulated Commitment 86 narrows the purpose of Commitment 27 in the Application to include the following: "to provide safe and reliable electrical and natural gas service."

Q. Does Stipulated Commitment 86 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 86 is a neutral commitment as it maintains the status quo.

Q. What is the Parties' proposed Stipulated Commitment 87?

A. "*Avista and Parent will comply with applicable Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR), and Commission Orders. All existing Commission Orders with respect to Avista or its predecessor, Washington Water Power Co., will remain in effect until changed by the Commission including those regarding Avista's acquisition of AERC.*"

Q. Why did the Parties agree to include Stipulated Commitment 87?

A. The Parties included Stipulated Commitment 87 to confirm the Proposed Transaction will have no impact on Avista's compliance with applicable statutory and administrative requirements, including Avista's holding of AERC.

Q. How did Stipulated Commitment 87 change from the Application to the Stipulation?

A. Stipulated Commitment 87 broadens Commitment 20 in the Application to state explicitly that Avista and Hydro One will comply with applicable statutes, administrative rules, and commission orders.

Q. Does Stipulated Commitment 87 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 87 is a neutral as it maintains the status quo.

P. <u>Corporate Citizenship</u>

Q. What is the Parties' proposed Stipulated Commitment 88?

A. "*Hydro One and Avista agree that Avista will contribute charitable donations to Oregon-based organizations. Avista agrees it will, over time, distribute charitable donations in proportion to each state's portion of the system in which Avista operates*."

Q. Why did the Parties agree to include Stipulated Commitment 88?

A. The Parties included Stipulated Commitment 88 to direct Avista to ensure its charitable contributions over time are distributed in proportion to each state's portion of the system in which Avista operates, so that Oregon citizens are able to also recognize the charitable giving that Avista provides in other states.

Q. How did Stipulated Commitment 88 change from the Application to the Stipulation?

A. Stipulated Commitment 88 was not included in the Application. The increase to Avista's charitable contributions in Application Commitment 11 did not include any guidance on distribution between the states in which Avista operates.

Q. Does Stipulated Commitment 88 provide a benefit to Avista customers?

A. According to Avista and Hydro One, Stipulated Commitment 88 provides a public benefit. Today, Oregon has no assurance that it will receive a proportionate share of Avista's charitable contributions.

Q. What is the Parties' proposed Stipulated Commitment 89?

A. "*Hydro One will make a one-time $7,000,000 contribution to Avista's charitable foundation at closing, a portion of which will be allocated to Oregon proportionate to relative revenues in Oregon.*

Commitment 90 contains an additional commitment relating to charitable contributions."

Q. Why did the Parties agree to include Stipulated Commitment 89?

A. This commitment was included as a demonstration of Hydro One's support for Avista's charitable foundation.

Q. How did Stipulated Commitment 89 change from the Application to the Stipulation?

A. Stipulated Commitment 89 broadened Commitment 53 in the Application to include a proportionality qualifier. Avista will distribute proportionally among each state the contributions based on the company's level of revenues.

Q. Does Stipulated Commitment 89 provide a benefit to Avista customers?

A. According to Hydro One and Avista, Stipulated Commitment 89 offers a public benefit. This significantly increases the funds available for charitable donations based on funds provided by Hydro One.

Q. What is the Parties' proposed Stipulated Commitment 90?

A. "*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, which will not be recoverable in customer rates. No approval from any regulatory bodies with jurisdiction over the commitments is required for any changes to this commitment after the sixth year following closing of the Proposed Transaction; however, any such changes will continue to require a two-thirds (2/3) vote of the Avista Board. Avista agrees it will, over time, distribute this annual charitable contributions budget across its entire service territory in proportion to each state's portion of the system.*"

Q. Why did the Parties agree to include Stipulated Commitment 90?

A. The Parties included Stipulated Commitment 90 to demonstrate Hydro One's and Avista's commitment to, and enhancement of, Avista's charitable endeavors, and that they will be made in proportion to each state's portion of the system.

Q. How did Stipulated Commitment 90 change from the Application to the Stipulation?

A. Stipulated Commitment 90 expands Commitment 11 from the Application to confirm that Avista will not seek to recover charitable contributions in customer rates. Stipulated Commitment 90 also directs Avista, over time, to distribute its annual charitable contributions budget across its entire service territory in proportion to each state's portion of the system. Finally, Stipulated Commitment 90 makes clear that Commission approval is needed if Hydro One and Avista propose to change these contribution levels over the next five years and confirms a two-thirds vote of the Avista would be needed to change these contribution levels after year five.

Q. Does Stipulated Commitment 90 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 90 provides a public benefit. This Commitment significantly increases Avista's budget for charitable donations and ensures their proportional distribution around Avista's service territory.

Q. What is the Parties' proposed Stipulated Commitment 91?

A. "*Throughout the list of commitments herein, any commitment that states that Hydro One or Avista will provide funding is a firm commitment to provide the exact 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 commitments, such retained earnings may be used*."

Q. Why did the Parties agree to include Stipulated Commitment 91?

A. Stipulated Commitment 91 makes clear that Hydro One or Avista will pay the full amount specified in individual commitments (it is a legally binding commitment, not a goal or intention), and Stipulated Commitment 91 specifies from where the funding for those commitments may be obtained (i.e., retained earnings). This clarifies that the Companies may not request recovery of such costs in customers' rates, and this understanding is specified in individual commitments.

Q. How did Stipulated Commitment 91 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 91 provide a benefit to Avista customers?

A. Stipulated Commitment 91 is designed to ensure that a number of significant financial obligations made throughout these commitments will be met by Hydro One or Avista.

Q. <u>Future Rates</u>

Q. What is the Parties' proposed Stipulated Commitment 92?

A. "*Avista and Hydro One agree that any net cost savings that Avista achieves 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*."

Q. Why did the Parties agree to include Stipulated Commitment 92?

A. The Parties included Stipulated Commitment 92 to confirm that any net cost savings that Avista achieves as a result of the Proposed Transaction will be reflected in subsequent rate proceedings, to the extent that Avista produces sufficient evidence that supports the existence of quantifiable net cost savings, as such savings materialize and will offset the Rate Credit where appropriate.

Q. How did Stipulated Commitment 92 change from the Application to the Stipulation?

A. Stipulated Commitment 92 expanded Application Commitment 16 to include both Hydro One and Avista.

Q. Does Stipulated Commitment 92 provide a benefit to Avista customers?

A. According to Hydro One and Avista, Stipulated Commitment 92 incentivizes Hydro One and Avista to realize cost savings. The Rate Credit will serve as a guaranteed savings for customers.

Q. What is the Parties' proposed Stipulated Commitment 93?

A. "*Avista last adjusted base rates on November 1, 2017, in Docket No. UG-325. Avista agrees that these base rates will remain in effect until at least January 1, 2020*."

Q. Why did the Parties agree to include Stipulated Commitment 93?

A. Stipulated Commitment 93 establishes that any changes to Avista's base rates will not become effective until at least January 1, 2020.

Q. How did Stipulated Commitment 93 change from the Application to the Stipulation?

A. This commitment was not included in the Application.

Q. Does Stipulated Commitment 93 provide a benefit to Avista customers?

A. Hydro One and Avista believe customers are protected from rate increases from a general rate case through the end of next year. Absent the merger, Avista could file a general rate case at any time.

Q. What is the Parties' proposed Stipulated Commitment 94?

A. "*Avista and Hydro One agree that Avista will attach to its next GRC filing in Oregon, an Officer of Avista Corporation attestation that all Transaction Costs associated with the Hydro One merger have not been included in the GRC filing, and includes a granular assessment of (2) net Transition Costs and (3) cost savings for Oregon customers obtained as a result of the Hydro One merger and its subsequent synergies*."

Q. Why did the Parties agree to include Stipulated Commitment 94?

A. The Parties included Stipulated Commitment 94 to provide a mechanism through which the Commission can confirm that Hydro One and Avista are not including Transaction Costs in rates, as prohibited by Stipulated Commitment 95, and can assess the Companies' current assessment of cost savings being generated as a result of the merger.

Q. How did Stipulated Commitment 94 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 94 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral Commitment as it provides a mechanism to ensure that Avista ratepayers do not bear any costs of the Proposed Transaction, as described in Stipulated Commitment 95.

Q. What is the Parties' proposed Stipulated Commitment 95?

A. "*Avista and Parent agree that Avista and Parent will not seek to recover in rates any acquisition adjustment, control premium, goodwill, or transaction costs associated with the Proposed Transaction. Further:*

a. After the consummation of the Proposed Transaction, any remaining transaction costs or other costs associated with the Hydro One merger will not appear on Avista's regulated utility books in any form. Olympus Holding Corp. and Hydro One transaction costs or other costs associated with the Hydro One merger have not and will never appear on Avista's utility books.

b. 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, costs of necessary filings and recordings, etc.) since the Proposed Transaction was first contemplated, as well as the accounts charged, within 90 days of a Commission order in this docket.

c. Avista will exclude from Avista GRCs, 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 and any other goodwill;*
>
> iv. *M&A consulting and advice, including that of investment banks;*
>
> v. *Preparation of materials or presentations relating to the Proposed Transaction including all costs of related regulatory proceedings;*
>
> vi. *Any senior executive time and compensation or any Avista Board of Director time measured in lowest practicable USD increments associated with the Hydro One merger; and*
>
> vii. *Any other costs associated with the Proposed Transaction.*
>
> *No costs of goodwill of the Parent or affiliates will be includable in Avista rates, including rate base, cost of capital, or operating expenses. Write-downs or write-offs of goodwill will not be included in the calculation of net income for dividend or other distribution payment purposes.*
>
> *Parent will not elect to apply pushdown accounting for this merger so that the merger will have no impact on Avista's assets being acquired, and any incremental goodwill will not be allocated to, or recognized within Avista's balance sheet."*

Q. Why did the Parties agree to include Stipulated Commitment 95?

A. Stipulated Commitment 95 provides that the costs related to the transaction itself, including goodwill, will not be included in the retail rates charged to Avista's customers.

Q. How did Stipulated Commitment 95 change from the Application to the Stipulation?

A. As presented in the Application, Commitment 17 provided that Avista would not recover legal fees, financial advisory fees, the acquisition premium, senior executive compensation, and any other costs directly related to the Proposed Transaction in customer rates. Stipulated Commitment 95 clarifies with more particularity the types of transaction and transition costs that Avista will not recover in rates. It also sets up a transparent process for clearly identifying and tracking those costs and requires Avista to provide the Commission, within 90 days of the final order in this docket, all journal entries and supporting detail showing the nature and amount of all costs of the Proposed Transaction since the Proposed Transaction was first contemplated.

Q. Does Stipulated Commitment 95 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 95 is neutral, as it ensures that Avista customers will not pay for costs associated with the Proposed Transaction.

Q. What is the Parties' proposed Stipulated Commitment 96?

A. "*Parent and Avista will exclude from Avista GRCs, or any other method of cost recovery, all future costs related to the Parent's future business endeavors and mergers, acquisitions (M&A), restructuring, or formation of holding companies*."

Q. Why did the Parties agree to include Stipulated Commitment 96?

A. The Parties included this Commitment because Avista will not seek cost recovery for any of the future costs of Hydro One's mergers, acquisitions, restructurings, or formations.

Q. How did Stipulated Commitment 96 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 96 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo. Avista's ratepayers will not be saddled directly or indirectly with the costs of Hydro One's future transactions.

R. <u>Environmental, Renewable Energy, and Energy Efficiency</u>

Q. What is the Parties' proposed Stipulated Commitment 97?

A. "*Avista and Parent will support Avista's current Natural Gas IRP Greenhouse Gas and Carbon Initiatives. Avista and Parent agree that Avista will continue to seek cost effective and least risk opportunities to reduce greenhouse gas and carbon emissions in Oregon*."

Q. Why did the Parties agree to include Stipulated Commitment 97?

A. The Parties are devoted to working toward environmental protection, conservation, and carbon reduction.

Q. How did Stipulated Commitment 97 change from the Application to the Stipulation?

A. Stipulated Commitment 97 expanded upon Commitment 49 in the Application to have both Hydro One and Avista support Avista's Natural Gas IRP Greenhouse Gas and Carbon Initiatives. Stipulated Commitment 97 also requires Avista to continue to seek cost effective and least risk means to curb emissions.

Q. Does Stipulated Commitment 97 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 97 is a neutral commitment as it maintains the status quo.

Q. What is the Parties' proposed Stipulated Commitment 98?

A. "*Where consistent with Commission orders, Avista commits to Oregon Natural Gas IRP modeling of a range of potential costs for greenhouse gas emissions, and will work with its IRP stakeholders to determine appropriate values to model*."

Q. Why did the Parties agree to include Stipulated Commitment 98?

A. The Parties agreed that Avista should start modeling a range of potential costs for greenhouse gas emissions and to work with its IRP stakeholders to determine the appropriate values to model.

Q. How did Stipulated Commitment 98 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 98 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 98 provides a benefit to Avista's customers and a public benefit because it requires Avista to start modeling a range of potential costs for greenhouse gas emissions.

Q. What is the Parties' proposed Stipulated Commitment 99?

A. "*Avista and Parent agree that Avista will comply with greenhouse gas inventory and other reporting requirements in Oregon*."

Q. Why did the Parties agree to include Stipulated Commitment 99?

A. Stipulated Commitment 99 ensures that Avista will continue to comply with Oregon's greenhouse gas inventory and other reporting requirements after the consummation of the Proposed Transaction.

Q. How did Stipulated Commitment 99 change from the Application to the Stipulation?

A. Stipulated Commitment 99 is substantially similar to Commitment 50 from the Application, with the exception that both Hydro One and Avista commit that Avista will comply with applicable greenhouse gas inventory and other reporting requirements in Oregon.

Q. Does Stipulated Commitment 99 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo via compliance with Oregon's reporting requirements.

Q. What is the Parties' proposed Stipulated Commitment 100?

A. "*Avista and Parent agree that Avista will support Avista's current IRP Energy Efficiency Initiatives. Avista and Parent agree that Avista will continue to seek cost effective and least risk opportunities for energy efficiency in Oregon*."

Q. Why did the Parties agree to include Stipulated Commitment 100?

A. The Parties are devoted to working toward achieving increased rates of energy efficiency in Oregon. Hydro One understands and will support Avista's energy efficiency objectives set forth in Avista's 2017 Integrated Resource Plan and in other plans.

Q. How did Stipulated Commitment 100 change from the Application to the Stipulation?

A. Stipulated Commitment 100 expands Commitment 51 in the Application to have both Hydro One and Avista support Avista's current IRP Energy Efficiency Initiatives. The commitment also now requires Avista to seek cost effective and least risk means by which to achieve greater energy efficiency.

Q. Does Stipulated Commitment 100 provide a benefit to Avista customers?

A. Hydro One and Avista believe that obtaining greater energy efficiency provides a benefit to both Oregon ratepayers and the public at large.

Q. What is the Parties' proposed Stipulated Commitment 101?

A. "*Where consistent with Commission orders and when likely practicable, Avista will evaluate opportunities for lower environmental impact services to customers in Oregon, with its IRP stakeholder input*."

Q. Why did the Parties agree to include Stipulated Commitment 101?

A. The Parties agreed to include this commitment in recognition of the fact that, where consistent with the Commission's orders, and where practicable, Avista is committed to augmenting its goals toward energy efficiency and low environmental impact, and will seek IRP stakeholder input on how to achieve this Commitment.

Q. How did Stipulated Commitment 101 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 101 provide a benefit to Avista customers?

A. Hydro One and Avista believe that limiting adverse environmental impacts provides a benefit to both Oregon ratepayers and the public at large.

Q. What is the Parties' proposed Stipulated Commitment 102?

A. "*Avista and Parent agree that Avista will inform the Commission of natural gas (energy) initiatives and observations of Avista that are material to Avista's natural gas operations in Oregon, on a timely informational basis, when Avista feels material changes are pending or have occurred, or that material best practices or pitfalls in the natural gas industry have been identified*."

Q. Why did the Parties agree to include Stipulated Commitment 102?

A. The Parties included Stipulated Commitment 102 to direct Avista to share developments in the natural gas industry with the Commission, establishing a cooperative regulatory relationship that will ensure best practices are adopted in the future and risks are identified early, and that Avista's attention to Oregon policy does not wane as a result of a new focus on the goals of its international Parent.

Q. How did Stipulated Commitment 102 change from the Application to the Stipulation?

A. This Commitment was not in the Application.

Q. Does Stipulated Commitment 102 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo by confirming the Commission's regulatory role and Avista's responsibility to proactively engage with the Commission as its regulator.

Q. What is the Parties' proposed Stipulated Commitment 103?

A. "*Avista and Parent agree that Avista will share with the Commission on a timely informational basis best IRP and other planning methods discovered across its other state jurisdictions. Avista and Parent agree that Avista will describe the framework of findings and provide supporting materials when not burdensome or proprietary*."

Q. Why did the Parties agree to include Stipulated Commitment 103?

A. The Parties included Stipulated Commitment 103 to direct Avista to share with the Commission best IRP and other planning methods discovered across its other state jurisdictions, establishing a cooperative regulatory relationship that will ensure best practices are adopted in Oregon in the future.

Q. How did Stipulated Commitment 103 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 103 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo by confirming the Commission's regulatory role and Avista's responsibility to proactively engage with the Commission as its regulator.

Q. What is the Parties' proposed Stipulated Commitment 104?

A. "*Recognizing that the Energy Trust of Oregon (ETO) currently administers Avista's voluntary industrial energy efficiency programs, Avista and Parent agree that Avista will make good faith efforts to identify industrial conservation and efficiency opportunities in Oregon that are material to Avista's natural gas operations in Oregon, and to communicate material observations to the Commission and AWEC. In the event of U.S. federal stimulus, Avista commits to make good faith efforts to prepare and document planned energy projects with Avista leadership, or to participate in such projects where available and material to Avista's natural gas operations in Oregon, so as to comply with stimulus and IRP requirements while reducing financing and other costs.*"

Q. Why did the Parties agree to include Stipulated Commitment 104?

A. The Parties are devoted to working toward environmental protection, conservation, and energy efficiency on a broad scale. To advance that goal, Avista will make a good faith effort to identify material industrial conservation and efficiency opportunities and to inform both the Commission and AWEC of the same.

Q. How did Stipulated Commitment 104 change from the Application to the Stipulation?

A. This Commitment was not in the Application.

Q. Does Stipulated Commitment 104 provide a benefit to Avista customers?

A. Hydro One and Avista believe that facilitating greater energy efficiency among industrial customers provides a benefit to both Oregon ratepayers and the public at large.

Q. What is the Parties' proposed Stipulated Commitment 105?

A. "*Avista and Parent agree that Avista will communicate to the Commission practicable opportunities to facilitate environmentally beneficial transportation in Oregon*."

Q. Why did the Parties agree to include Stipulated Commitment 105?

A. The Parties included Stipulated Commitment 105 to direct Avista to share developments in the field of environmentally beneficial transportation with the Commission, establishing a cooperative regulatory relationship that will ensure best practices are adopted in Oregon in the future.

Q. How did Stipulated Commitment 105 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 105 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo by confirming the Commission's regulatory role and Avista's responsibility to proactively engage with the Commission as its regulator, but requires Avista to be the proactive party in communicating any advancements or opportunities regarding transportation to the Commission.

Q. What is the Parties' proposed Stipulated Commitment 106?

A. "*The Parties agree that customers presently served on sales Schedules 424 and 440 should be able to elect to take service, for a minimum of one year, under new transportation service Schedules 425 or 439. Avista commits that this Commitment will not impact other customers, is margin neutral, and does not require hedging. The Parties agree with the parameters of the expanded natural gas transportation service schedules as outlined below:*

a. Eligibility - For Schedules 425, qualifying sales customers must have a minimum annual average usage of 29,000 therms, as stated on Schedule 424. For Schedules 439, qualifying sales customers must have a minimum annual average usage of 50,000 therms, as stated on Schedule 440.

b. The base rates for Transportation Schedules 425 and 439 will be the same as the base rates on Schedules 424 and 440, respectively.

c. For purposes of all future "adder schedule filings" (DSM, Decoupling, LIRAP, etc.), cost of service studies, and rate spread and rate design proposals, Schedule 424 will be grouped with Schedules 425 and Schedule 440 will be grouped with Schedules 439.

d. The Parties further agree that customers served on Transportation Schedules 425 and 439 will be subject to Avista's natural gas decoupling mechanism.

e. Schedules 425 and 439 will contain the same provisions contained in Avista's tariff sheets 456A through 456C, which relate to the transportation of customer-owned natural gas.

f. The Parties agree that Avista will file Schedules 425 and 439 as described above as part of the compliance filing approved as part of the merger proceeding.

g. In the event that the Commission rejects or suspends the proposed revised Schedules 425 and 439, the Parties agree to support Commission approval of tariff provisions with substantially similar terms."

Q. Why did the Parties agree to include Stipulated Commitment 106?

A. Where prudent and customer focused and driven, Avista would like to expand its natural gas firm transportation service currently offered in Oregon. However, the Parties clarified that this Commitment cannot impact other customers, must be margin neutral, and cannot require hedging. Moreover, this commitment provides more choices for Avista's large customers.

Q. How did Stipulated Commitment 106 change from the Application to the Stipulation?

A. This Commitment was not in the Application.

Q. Does Stipulated Commitment 106 provide a benefit to Avista customers?

A. Hydro One and Avista believe that these additional offerings will have value to Avista's larger Oregon sales customers, allowing them to avail themselves of firm transportation service in order to achieve savings in the delivered cost of gas.

Q. What is the Parties' proposed Stipulated Commitment 107?

A. "*Avista will continue to work with its advisory groups on the appropriate level of funding for low income energy efficiency programs*."

Q. Why did the Parties agree to include Stipulated Commitment 107?

A. The Parties recognized the value that Avista provides to its low-income customers and wished to ensure that this value is maintained.

Q. How did Stipulated Commitment 107 change from the Application to the Stipulation?

A. Stipulated Commitment 107 is in substantially the same form as Commitment 54 in the Application.

Q. Does Stipulated Commitment 107 provide a benefit to Avista customers?

A. Hydro One and Avista believe that assisting low-income Oregonians in limiting their electric bills through energy efficiency programs is an important contribution to low-income customers and the community as a whole.

S. <u>Contract Labor</u>

Q. What is the Parties' proposed Stipulated Commitment 108?

A. "*Please refer to Commitment 109. In addition, Avista, Parent, and Oregon and Southern Idaho District Council of Laborers (OSIDCL) agree that Avista has resolved all issues in this proceeding that pertain to the Oregon and Southern Idaho District Council of Laborers (OSIDCL). See "Addendum 1 - Contract Labor, Oregon Commitments", supported by OSIDCL with and all other Parties regarding recommended contract labor conditions*."

Q. Why did the Parties agree to include Stipulated Commitment 108?

A. Avista works with unions throughout its service territory on a regular basis and endeavors to develop a relationship with OSIDCL, while continuing its positive working relationship with unions it already works with in Oregon. Avista also relies on contractors for the construction, repair, and maintenance of its natural gas system. The Parties believe this commitment will help improve the quality of construction work on its system and promote safety and reliability.

Q. How did Stipulated Commitment 108 change from the Application to the Stipulation?

A. This Commitment was not in the Application.

Q. Does Stipulated Commitment 108 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo. OSIDCL believes this commitment will benefit Avista customers by improving the quality of the construction, repair, and maintenance of the natural gas system they pay for. The improved reliability of the system will benefit customers by reducing risks and improving quality.

Q. What is the Parties' proposed Stipulated Commitment 109?

A. "*Avista and Parent agree that Avista will honor its existing labor contracts and will meet the labor participation, safety and training commitments provided herein. Avista 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.*

Avista will maintain compensation and benefits related practices consistent with the requirements of the Merger Agreement.

See Addendum 1 for Oregon contract labor provisions."

Q. Why did the Parties agree to include Stipulated Commitment 109?

A. Avista maintains strong partnerships with its unions on a wide range of matters, including in health, safety, and other areas, and is continually looking for opportunities to improve those partnerships. Hydro One and Avista believe that Avista should maintain constructive relationships with its union partners and that this commitment is a positive step in that direction.

Q. How did Stipulated Commitment 109 change from the Application to the Stipulation?

A. This Commitment was not in the Application.

Q. Does Stipulated Commitment 109 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo.

T. <u>Reporting and Enforcement</u>

Q. What is the Parties' proposed Stipulated Commitment 110?

A. *"Parent and Avista acknowledge that the commitments herein are fully binding on each of them individually, severally and on their successors in interest."*

Q. Why did the Parties agree to include Stipulated Commitment 110?

A. Hydro One and Avista acknowledge their legal responsibility to implement these commitments.

Q. How did Stipulated Commitment 110 change from the Application to the Stipulation?

A. Hydro One and Avista have streamlined Commitment 32 in the Application by removing the previous caveat that the Parties are not seeking from the Commission a determination on the adequacy of these Commitments within the context of the Proposed Transaction.

Q. Does Stipulated Commitment 110 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo.

Q. What is the Parties' proposed Stipulated Commitment 111?

A. "*Avista and Parent understand and agree that the Commission has authority to enforce the commitments herein. If a commitment is violated, the Commission may impose such penalty as the Commission finds appropriate for the severity of the violation.*

The scope of this commitment includes the authority of the Commission to request and where necessary to require attendance of witnesses from Avista and Parent. Avista and Parent agree they will not interpose any legal objection they might otherwise have to the Commission's jurisdiction to require the appearance of any such witnesses."

Q. Why did the Parties agree to include Stipulated Commitment 111?

A. Hydro One and Avista acknowledge the Commission's administrative authority over these commitments and the Commission's authority to prescribe any remedy or penalty it deems fitting for the violation that occurred, subject to the limits imposed by state and federal law.

Q. How did Stipulated Commitment 111 change from the Application to the Stipulation?

A. Commitment 29 from the Application remains in similar form, with the exception of the removal of the Commission's ability to require a 30 calendar day cure period.

Q. Does Stipulated Commitment 111 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo.

Q. What is the Parties' proposed Stipulated Commitment 112?

A. "*Avista and Parent will file with the Commission prior to closing the Proposed Transaction an affidavit affirming that Avista and Parent will submit to the jurisdiction of Oregon courts for enforcement of violations of these commitments and subsequent Commission orders affecting Avista and Parent*."

Q. Why did the Parties agree to include Stipulated Commitment 112?

A. Hydro One and Avista acknowledge the jurisdiction of the Oregon courts.

Q. How did Stipulated Commitment 112 change from the Application to the Stipulation?

A. Commitment 30 from the Application remains in substantially similar form.

Q. Does Stipulated Commitment 112 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this is a neutral commitment as it maintains the status quo for Avista; however, Hydro One realizes that it would not otherwise be subject to the jurisdiction of the Commission but for its new relationship with Avista after the proposed merger. Therefore, Hydro One is clarifying that it will submit to the jurisdiction of the Oregon Commission and Oregon Courts for the enforcement of the Stipulated Commitments.

Q. What is the Parties' proposed Stipulated Commitment 113?

A. *"In addition to providing copies of closing documentation on usual and customary elements of completion of the Proposed Transaction to the Commission, Avista and Parent agree that by June 15, 2019 and each June 15 thereafter through June 15, 2028 inclusive, Avista and Parent agree that Avista will file a report with the Commission on how Avista and Parent are complying or have complied with each of the commitments herein as of December 31 of the preceding year (a total of 11 annual reports). The report will, at a minimum, provide a description of the performance of each of the commitments.*

Failure to comply with a commitment will be brought before the Commission for determination of appropriate remedy and penalty."

Q. Why did the Parties agree to include Stipulated Commitment 113?

A. Stipulated Commitment 113 ensures that Hydro One and Avista will provide the Commission with adequate information to monitor their compliance with the commitments and to impose the appropriate remedies in the event the Companies fail to comply with any request.

Q. How did Stipulated Commitment 113 change from the Application to the Stipulation?

A. As part of the revisions to Commitment 31 from the Application, Avista agrees to submit annual reports on the status of compliance with the commitments for an additional five years through 2028, for a total of ten annual reports (instead of five years in the Application). Avista will file the annual report in this docket and will serve it on all Parties to the docket.

Q. Does Stipulated Commitment 113 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 113 provides a benefit because it ensures that Avista's customers and the public will receive all of the benefits from the Proposed Transaction that Hydro One and Avista have agreed to in the commitments.

Q. What is the Parties' proposed Stipulated Commitment 114?

A. "*Expedited Resolution of Minor and Procedural Compliance Issues: If the Commission or any Party determines that any commitment has not been complied with or is not being complied with, it will first provide notice to Avista and/or Hydro One, as applicable, and may thereafter provide notice to the Commission. Within 7 days of notice to the Commission, Staff will have an opportunity to propose an informal remedy to Avista and/or Hydro One, as applicable, if such remedy is reasonably likely to return full compliance within 14 days of Staff's notice to Avista and/or Hydro One of its proposal. If Avista and/or Hydro One, as applicable, choose not to implement Staff's proposal, or if no such informal remedy is available because full compliance within 14 days is not reasonably likely, Avista and/or Hydro One's alleged failure to comply will be brought before the Commission for determination of an appropriate remedy*."

Q. Why did the Parties agree to include Stipulated Commitment 114?

A. Stipulated Commitment 114 is designed to provide a mechanism to ensure compliance with the commitments for a minor violation only that could be cured in a 14-day period or less.

Q. How did Stipulated Commitment 114 change from the Application to the Stipulation?

A. This Commitment was not included in the Application.

Q. Does Stipulated Commitment 114 provide a benefit to Avista customers?

A. Hydro One and Avista believe that this commitment provides a benefit because it ensures that Avista's customers and the public will receive all of the benefits from the Proposed Transaction that Hydro One and Avista have agreed to in the commitments.

U. <u>Most Favored Nations</u>

Q. What is the Parties' proposed Stipulated Commitment 115?

A. "*All Parties including Avista and Hydro One agree that the Commission shall have an opportunity and the authority to consider and adopt in Oregon any commitments to which Avista and Hydro One have stipulated or otherwise agreed to in another state commission jurisdiction, even if such conditions are agreed to after the Commission enters its order in this Oregon Docket No. UM 1897.*

Avista and Hydro One agree further that that any Party other than Avista and Hydro One may ask that all Parties convene to discuss at earliest practicable convenience, where time is of the essence, if and how such conditions adopted by a commission in another state proceeding should be integrated with any stipulated list of conditions already agreed to by Parties so as to present the Commission with a revised Oregon stipulated set of conditions.

Process for Consideration of Most Favored Nation's Commitments

a. Within five calendar days after Avista and Hydro One file a stipulation with new or amended commitments with a commission in another state jurisdiction, Avista and Hydro One will send a copy of the stipulation and commitments to all Oregon Parties.

b. Within five calendar days after a commission in another state jurisdiction issues an order that accepts a stipulation to which Avista and Hydro One are parties, or an order with a stipulated set of conditions for approval of *the Proposed Transaction, that order, together with all conditions for approval of the Proposed Transaction, will be filed with the Commission and served on all parties to this Oregon docket by the most expeditious means practical.*

c. *Within 10 calendar days after another state jurisdiction filing discussed in (b) above (“Final Filing”), Parties other than Hydro One and Avista may file with the Commission any response such other Parties 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 Oregon) should be adopted in Oregon.*

d. *Within five calendar days after any such response filing, Avista and Hydro One may file a reply with the Commission.*

e. *If any of the dates above fall on Saturday, Sunday, or a holiday, the next business day will be considered as the due date.*

f. *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.*

g. *The Commission may then review the filings and issue an order indicating which other-state-commitments it chooses to adopt.*

Limitations on Adjustment

i. *Only commitments specific to gas service may form the basis for adjustments specific to gas service.*

ii. *Only commitments specific to electric service may form the basis for adjustments specific to electric service.*

iii. *Any commitments relating to support of communities in Montana are not subject to this provision.*

iv. *As Avista does not operate as a utility in Alaska, any commitments made in Alaska are not subject to this provision.*

v. *For purposes of financial commitments or commitments having a financial impact, commitments should be proportionate to Avista’s corresponding business function in Oregon in relation to its corresponding total company business function. The Parties agree that the Oregon Rate Credit, as specified herein, satisfies this corresponding business function standard.*

For purposes of this provision, "financial commitments or commitments having a financial impact" do not include ring fencing provisions."

Q. Why did the Parties agree to include Stipulated Commitment 115?

A. Under Stipulated Commitment 115, Hydro One and Avista agree to a process whereby the Commission will have an opportunity and the authority to consider and adopt commitments made by Hydro One and/or Avista in other jurisdictions, even if those commitments are made after the Commission enters an order accepting the Stipulation and approving the Application in this docket. The process for considering commitments made in other jurisdictions and limits on the types of commitments subject to the MFN are described in detail in Stipulated Commitment 115.

Q. How did Stipulated Commitment 115 change from the Application to the Stipulation?

A. Stipulated Commitment 115, "Most Favored Nations," was not included in the Application.

Q. Does Stipulated Commitment 115 provide a benefit to Avista customers?

A. Hydro One and Avista believe that Stipulated Commitment 115 will provide a benefit to Avista's customers because it entitles Avista's Oregon customers to receive benefits provided to Avista's customers in other jurisdictions. Stipulated Commitment 115 may provide benefits that currently do not exist today.

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1897

In the Matter of the Application of Hydro One Limited (acting through its indirect subsidiary Olympus Equity LLC) for an Order Authorizing Hydro One Limited To Exercise Substantial Influence Over the Policies and Actions of Avista Corporation	))))))	HYDRO ONE LIMITED'S RESPONSE TO JUNE 14, 2018 BENCH REQUEST

1 Hydro One Limited ("Hydro One") provides the following response to Administrative Law Judge Patrick Power's Bench Request issued on June 14, 2018.

I. BENCH REQUEST

2 The Bench Request requires Hydro One to file a report on the following issues: (1) implications of the recent Ontario election for (a) the future management and plans of Hydro One, and (b) Hydro One's acquisition of Avista; (2) a plan for keeping the Oregon Public Utility Commission ("OPUC" or "Commission") informed on a timely basis as to new developments; and (3) what further measures might be necessary to fully develop the record if material changes are made in Hydro One's management or Board of Directors ("Board").

II. BACKGROUND

3 Hydro One provides the following information as context to the specifics of its response to the Bench Request.

A. PROVINCE OF ONTARIO'S ROLE AS HYDRO ONE'S LARGEST SHAREHOLDER

4 Until 2015, Hydro One Inc. was owned by the Province of Ontario and referred to as a Crown Corporation. Hydro One, a new holding corporation, was incorporated by the Province

of Ontario on August 31, 2015, under the *Business Corporations Act* (Ontario). On October 30, 2015, Hydro One's articles of incorporation were amended to authorize the creation of an unlimited number of Series 1 preferred shares and an unlimited number of Series 2 preferred shares, with the Series 1 preferred shares to be issued to the Province. On October 31, 2015, all of the issued and outstanding shares of Hydro One Inc. were acquired by Hydro One from the Province in exchange for the issuance to the Province of common shares and Series 1 preferred shares of Hydro One. On November 4, 2015, the articles of Hydro One were amended to authorize the consolidation of its outstanding common shares such that 595,000,000 common shares of Hydro One were issued and outstanding. The preferred shares continue to be outstanding. On November 5, 2015, Hydro One completed its initial public offering ("IPO") on the Toronto Stock Exchange by way of secondary offering of common shares by the Province of Ontario, with the goal that, over time, approximately 60% of Hydro One would be held by private investors. Today, Hydro One is a public company traded on the Toronto Stock Exchange under the ticker symbol "H."

5 As at June 12, 2018, the Province owned 282,412,648 common shares of Hydro One, representing approximately 47.4% of the common shares. Following conversion of the convertible debentures issued to finance Hydro One's acquisition of Avista, the Province will hold less than 43% of Hydro One's outstanding stock.

6 The 2015 amendments to the Ontario *Electricity Act, 1998* restricts the Province from selling voting securities (including common shares of Hydro One) if it would own less than 40% of the outstanding number of voting securities of that class or series after the sale. If as a result of the issuance of additional voting securities of any class or series by Hydro One, the Province would own less than 40% of the outstanding number of voting securities of that class or series,

then the Province shall, subject to certain requirements, take steps to acquire as many voting securities of that class or series of voting securities as are necessary to increase the Province's ownership to not less than 40% of the outstanding number of voting securities of that class or series.

7 In order to assist the Province in meeting its ownership obligations under the *Electricity Act, 1998*, under the Governance Agreement with the Province, Hydro One has granted the Province a pre-emptive right to subscribe for and purchase up to 45% of any proposed issuance by Hydro One of voting securities or securities that are convertible or exchangeable into voting securities (other than certain specified excluded issuances). Any offered securities not subscribed for and purchased by the Province pursuant to its pre-emptive right may be issued to any other person pursuant to the proposed offering.

8 Hydro One's Board consists of Hydro One's CEO and, in addition, 13 independent directors who must be, and are, independent of both Hydro One and the Province of Ontario. The Governance Agreement ensures autonomous commercial operations, with the Province of Ontario limited to acting as an investor and not a manager.

B. GOVERNANCE AGREEMENT BETWEEN HYDRO ONE AND PROVINCE OF ONTARIO

9 The Governance Agreement between Hydro One and the Province of Ontario (Attachment A to this Response to Bench Request) is a binding contract that was a pre-requisite for Hydro One's IPO. The Province of Ontario understood that Hydro One would not succeed as an investor-owned utility and would lose the trust of its investors if the Province were to meddle in the running of Hydro One's business. As a result, the Province entered into the Governance Agreement to provide the investment and financial communities the assurance that Hydro One

will operate like any other investor-owned utility, even though the Province will likely continue – strictly as an investor – to own at least 40% of Hydro One's shares.

10 The Hydro One Board, and not the Province, is responsible for supervising the management of Hydro One's business and affairs. (Governance Agreement ("GA") 2.1.2 and 2.3) The Province is involved in Hydro One as an investor and not as a manager. (GA 2.1.3) The Province has no role in the processes of appointment, removal, replacement, and compensation relating to executive officers or related succession planning. Hydro One neither takes direction nor seeks consent for its operations from the government of Ontario, outside of the defined regulatory and oversight authority that the government has over the electricity sector. (GA 2.1.3; 2.2)

11 While a 40% or more shareholder of a corporation under most circumstances could control the entire composition of the corporation's board, the Governance Agreement prevents the Province from exercising similar influence over Hydro One. A Nominating and Governance Committee nominates directors and advises the Board regarding its stewardship role in the management of Hydro One. (GA 3.5). The Board consists of a minimum of 10 and a maximum of 15 members and is comprised as follows: (i) the CEO is proposed for election, (ii) the Province nominates 40% of directors (or its proportionate share, whichever is less) proposed for election,[1] and (iii) the Nominating and Governance Committee nominates the remaining directors proposed for election. (GA 3.3.1; 4.1.1)

12 Other than the CEO, each director must be independent of Hydro One and the Province. (GA 4.2.2; 4.2.3) Directors must be high-quality, reputable, experienced leaders with the

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[1] If the Province is diluted below 40%, there will be a minimum 24-month "cure period" before any reduction in its permitted number of nominees occurs. (GA 4.8). In any event, these directors must be independent of the Province and Hydro One.

requisite skills, board experience, time, and motivation for an operation of Hydro One's size and scope. Directors are also chosen in light of Hydro One's core operating principles. (GA 4.2.1) Directors must meet the requirements of applicable securities and other laws and any stock exchange on which Hydro One securities are listed. (GA 4.2.4)

13 The Governance Agreement limits the Province's shareholder rights. The Province cannot initiate fundamental changes to Hydro One described in Part XIV of the *Business Corporations Act* (Ontario) (e.g., amendment to articles, continuance, arrangements, and amalgamations). (GA 2.5) The Province may vote its shares as it sees fit in the event a fundamental change is initiated by another shareholder. (GA 2.5) The Province cannot solicit (either on its own or acting with others) any person to exercise rights as a shareholder in a manner that the Province would be prohibited from doing directly. (GA 2.6). The Governance Agreement may be terminated only with the mutual agreement of both parties. (GA 8.4)

C. SETTLEMENT STIPULATION COMMITMENTS: GOVERNANCE AND FINANCIAL RING-FENCING SEPARATE AVISTA FROM HYDRO ONE

14 Hydro One, Avista, OPUC Staff, the Citizens' Utility Board, Alliance of Western Energy Consumers, and the Oregon and Southern Oregon District Council of Laborers (collectively, the "Parties") filed a Settlement Stipulation on May 25, 2018. The Parties negotiated numerous commitments designed to provide governance and financial ring-fencing between Avista and Hydro One. Certain of these merger commitments were developed to ensure that Avista cannot be subjected to political interference or influence by the Province of Ontario and bolster the protections already provided by the Governance Agreement.

15 First, Avista will have a nine-member board separate from Hydro One that will govern Avista's management and operations. Three of the five Avista directors selected by Hydro One

(not by the Province) must be independent under NYSE rules. Further, those three directors must be residents of the Pacific Northwest. Two of the four directors selected by Avista must be independent under NYSE rules. *See* Stipulation Commitment No. 5. As a result, the Province will not be able to exercise any control over Avista through selection of Avista's board.

16 Second, Avista's CEO must be selected by Avista's board -- not Hydro One or the Province. *See* Stipulation Commitment No. 4.

17 Third, Olympus Equity LLC's three-member board must include one independent director. *See* Stipulation Commitment No. 6.

18 Fourth, Avista's executive management will remain in place and must be selected by Avista's board -- not Hydro One. *See* Stipulation Commitment No. 4.

19 Fifth, Avista's employees will be retained. *See* Stipulation Commitment Nos. 11, 12, 79, 80.

20 Sixth, Hydro One is required to provide Avista with enough equity so that Avista can access debt on reasonable terms. *See* Stipulation Commitment Nos. 44, 47. Therefore, the Province cannot deprive Avista of its capital and assets for the benefit of the Province.

21 Seventh, Avista will continue to have its own credit ratings. Hydro One is required to provide Avista with sufficient equity to ensure that Avista's credit ratings remain investment grade. *See* Stipulation Commitment Nos. 45, 48. Therefore, again, the Province cannot deprive Avista of its capital and assets for the benefit of the Province.

22 Eighth, Avista will be prohibited from issuing dividends if certain financial metrics relating to the equity floor, credit ratings and debt coverage are not met. Basically, this operates to keep retained earnings at the Avista level where they will improve Avista's financial strength.

See Stipulation Commitment No. 50. This too prevents the Province from depriving Avista of its capital and assets for the benefit of the Province.

23 Ninth, several of the Stipulation commitments protect Avista from being drawn into bankruptcy proceedings that are not in the best interest of Avista and its customers. Avista will issue a single share of preferred stock referred to as the Golden Share to an independent third party. The vote of this share will be required to place Avista into voluntary bankruptcy. *See* Stipulation Commitment No. 55. Further, Avista's entry into voluntary bankruptcy would require the consent of a two-thirds majority of all of its directors, including the affirmative vote of a majority of the Independent Directors at Avista, which would have to include the affirmative vote of at least two Avista-designated Independent Directors. *See* Stipulation Commitment No. 56. Hydro One and Avista must also provide a non-consolidation opinion to confirm the effectiveness of the ring-fencing measures to prevent the substantive consolidation of the assets and liabilities of Avista with those of the entities above it in the corporate chain of ownership. *See* Stipulation Commitment No. 57. The corporate structure also includes Olympus Equity LLC, a bankruptcy-remote special purpose entity that will have no debt. *See* Stipulation Commitment No. 58. Therefore, the Province cannot obtain Avista's capital and assets through a bankruptcy proceeding unless that would be in the best interests of Avista's customers.

24 Tenth, Avista's utility assets can be pledged only for the benefit of Avista, not Hydro One. *See* Stipulation Commitment No. 59. Therefore, the Province cannot strip Avista of its capital and assets for the benefit of the Province.

III. RESULTS OF ONTARIO ELECTION

25 On June 7, 2018, voters in the Province of Ontario elected a new government that will be led by the Progressive Conservative Party, replacing the Liberal government led by Kathleen

Wynne. The Premier-Designate is Doug Ford. The Ontario Premier is the equivalent of a state governor in the United States. The new government will be sworn in on June 29, 2018.

26 Mr. Ford has suggested that he is going to call the provincial legislature back into session during the month of July to address several priority issues that arose during the campaign. Normally the provincial legislature would not reconvene until fall. On Friday, June 15, 2018, Mr. Ford stated that his top priority is to dismantle Ontario's cap-and-trade system for carbon emissions and repeal the carbon tax. Mr. Ford also wants to pass legislation that will end a strike at Toronto's York University.

27 During the campaign, Mr. Ford stated that he wanted to remove Hydro One's CEO Mayo Schmidt and some or all of the members of Hydro One's Board of Directors. On Friday, June 15, 2018, Mr. Ford made a statement reiterating his intention to remove Mr. Schmidt. We do not know whether or how Mr. Ford will attempt to follow through on these statements.

28 During the campaign, members of the New Democratic Party stated that they would try to "bring Hydro One back into public hands" by buying back some or all of Hydro One's shares held by entities other than the Province; the precise mechanism by which this would be accomplished was never revealed. The New Democratic Party did not win enough seats to control the provincial government, nor offset the majority of seats now held by the Progressive Conservatives in Ontario's Legislative Assembly. Even if a party were to attempt this in the future, the Governance Agreement would make this more complex than simply buying back shares, as it prevents the Province from buying any additional shares if it owns more than 45% of Hydro One. Mr. Ford and other members of the Progressive Conservative Party have not suggested that they will pursue a policy of returning Hydro One to Crown Corporation status and

had made statements throughout the campaign generally supportive of privatization in Ontario's energy sector.

IV. PROCESS FOR REMOVAL OF HYDRO ONE BOARD OR HYDRO ONE CEO

29 If Mr. Ford and his Progressive Conservative Party wished to seek to remove some or all of Hydro One's Board and its CEO, they could accomplish these objectives in one of two ways: (1) procedures established by the Governance Agreement, or (2) legislation.

30 As explained above, the Governance Agreement establishes an independent Hydro One Board with the following features: the CEO is selected by the Board (not the Province), the Province nominates 40% of the Board's directors (or its proportionate share, whichever is less) proposed for election, the Nominating and Governance Committee (now known as the "Governance Committee") nominates the remaining directors proposed for election, and other than the CEO, each director must be independent of Hydro One and the Province. The Province has no role in the processes of appointment, removal, replacement, and compensation relating to executive officers or over related succession planning.

31 In order to remove the Hydro One Board, the Province must follow the procedures in Article 4.7 of the Governance Agreement: (1) serve a Removal Notice on Hydro One requesting the removal of Hydro One's Board at a shareholder meeting (the Removal Notice does not apply to Hydro One's CEO even though he is a Board member; the Province also can exempt the chair of Board from its Removal Notice) (GA 4.7.1); (2) the chair of the Board will establish a committee comprising representatives of Hydro One's five largest shareholders, except the Province (the "Ad Hoc Nominating Committee") (GA 4.7.2); (3) the Ad Hoc Nominating Committee and the Province will work together to develop a slate of new Board members to be considered at an upcoming shareholder meeting (the "Removal Meeting") (GA 4.7.3); (4) once

the slate of new Board members is established, the shareholder Removal Meeting must be held within 60 days (GA 4.7.4); and (5) at the Removal Meeting, the Province must vote in favor of the slate of new Board members established by the Ad Hoc Nominating Committee and the Province (GA 4.7.6).

32 Under the Article 4.7 procedures, Hydro One's shareholders must remove the entire Hydro One Board; they cannot remove just certain Board members. (GA 4.7.1) Further, the Board cannot be replaced with any board members who were part of the previous Board. (GA 4.7.3) All nominees must be vetted by the Ad Hoc Nominating Committee and must meet the stringent qualification standards set in the Governance Agreement. (GA 4.7.3 and 4.3) Article 4.7 does not permit shareholders to hire or fire Hydro One's CEO or other members of its management team. (GA 4.7.1) Article 4.7 simply provides a process by which Hydro One's shareholders can install a new Board.

33 Although the Province cannot remove the CEO, presumably the new Board installed pursuant to Article 4.7 procedures could take steps to consider removing the CEO if the Province triggers this process.

34 As an alternative to following the Article 4.7 procedures in the Governance Agreement, Mr. Ford and his Progressive Conservative Party could attempt to pass legislation during the upcoming legislative session that would give the Province the authority to remove and replace the Hydro One CEO and/or its Board. We do not know whether Mr. Ford and his party will pursue such legislation, and we do not know what provisions and procedures would be included in that legislation to effect the removal of the Hydro One CEO and/or the Board.

V. REPORTS ON FUTURE POLITICAL DEVELOPMENTS IN ONTARIO

35 Hydro One's plan for keeping the Commission informed on a timely basis as to new developments in Ontario and the management of Hydro One is as follows. Hydro One respectfully requests that each report filed pursuant to the plan described below be included as part of the record in this docket.

36 Hydro One will file reports in this docket (until the docket is closed) whenever a significant event occurs or statement is made by the Province's new leadership that provides further new insight regarding the future of Hydro One's executive leadership and/or Board. The next scheduled significant event would be the convening of the provincial legislature in July if Mr. Ford follows through on his proposal to reconvene the legislature before the regular session this fall or any media statements in the interim period containing new and significant insight into the government's plans with regard to Hydro One. Hydro One will file reports regarding any legislation that is proposed or statements made prior to or during that session regarding Hydro One's executive leadership and Board. Further, Hydro One also will file reports on any significant public statements made by the Province's new leadership that provide new insight regarding the future of Hydro One's executive leadership and Board. Finally, Hydro One will file reports on any efforts made by the Province to trigger the procedures in Article 4.7 of the Governance Agreement to replace Hydro One's Board.

VI. CONCLUSION

37 The Province could trigger the provisions in Article 4.7 of the Governance Agreement to replace Hydro One's Board or the Province's new leadership could introduce legislation for the purpose of dismissing Hydro One's CEO or members of the Board. These are just possibilities,

but even if they were to come to pass, Hydro One, Avista, and the other Parties in this docket have included governance and financial ring-fencing in the Settlement Stipulation that will protect Avista and its customers. Even if Hydro One's CEO and Board are replaced, that would not change anything with respect to Avista as established by the Parties in their Settlement Stipulation.

38 Even if Mr. Ford succeeded in removing Hydro One's CEO or Board, such actions would not diminish Hydro One's deep and highly experienced management and its ability to successfully operate Hydro One's business and be an owner of Avista. Furthermore, as described above, Avista will be governed by its own board and operated by its own management after the merger.

39 Hydro One and Avista, along with the rest of the Oregon Parties, developed the Settlement Stipulation to ensure that Avista could not be negatively impacted in any way by any of the hypothetical events described in the previous sections. If any of the above-described hypothetical events were to occur, Hydro One would still be legally obligated to comply with the Stipulation in this docket, the settlements it has reached in Washington, Montana, and Idaho, the Regulatory Commission of Alaska's June 4, 2018 order approving this merger, the Montana Public Service Commission's forthcoming order approving this merger, and any orders approving this merger issued by this Commission, the Washington Utilities and Transportation Commission, and the Idaho Public Utility Commission. As a result, all of the protections described above that have been built into the Stipulation to ensure that Avista will continue as a financially sound, stand-alone utility will bind Hydro One regardless of political developments (e.g., Avista's independent board, financial ring-fencing, capital support). Furthermore, through the Stipulation in this proceeding and the settlements in Washington and Idaho, Hydro One and

Avista have committed that none of the commitments in the settlements can be amended without approval from Avista's state regulators. *See* Stipulation Commitment No. 2.

40 Finally, the Stipulation in this docket confirms that the Commission will continue to regulate Avista as it always has to ensure that Avista's customers are protected and continue to pay fair, just, and reasonable rates. *See* Stipulation Commitment Nos. 64-71, 110-114.

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K&L GATES LLP on Behalf of Hydro One Limited and Olympus Equity LLC

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