

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 25, 2016

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: October 18, 2016

TO: Public Utility Commission

FROM: Scott Gibbens 

THROUGH: Jason Eisdorfer and Marc Hellman  

SUBJECT: AVISTA UTILITIES: (Docket No. UI 372) Requests approval of a Multi-Tenant Lease Agreement with Steam Plant Square, LLC, an Affiliated Interest.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve the lease of property by Avista Utilities (Avista or Company) from Steam Plant Square, LLC (Steam Plant Square) subject to the following conditions:

1. Avista shall notify the Commission of any substantive changes to the contract, including any material changes in price or other parameters specified in the Agreement. Any such changes shall be filed in this docket.
2. Avista shall report to the Commission all transactions entered into under the contract with Steam Plant Square as part of its annual affiliated interest report.
3. The Commission reserves judgment on the fairness and reasonableness of the contract for ratemaking purposes.

DISCUSSION:

Issue

Whether the Commission should allow Avista to enter into a Multi-Tenant Lease agreement with Steam Plant, an affiliated interest, in order to free up space for renovations at their corporate headquarters.

Applicable Law

"Affiliated interest," as defined in ORS 757.015, includes every corporation five percent or more of whose voting securities are owned by any corporation or person owning at least five percent of the voting securities of a public utility or by any person or corporation in any chain of successive ownership of at least five percent of voting securities of the utility. See ORS 757.015(3). ORS 757.495 requires a public utility to seek approval of contracts with affiliated interests within 90 days after execution of the contract. The required process for submitting an agreement for review by the Commission is set forth in ORS 757.015(2) and OAR 860-027-0040.

ORS 757.495(3) provides that the Commission may approve an affiliated interest agreement if the agreement is fair and reasonable and not contrary to the public interest. Under OAR 860-027-0048(4)(g), for cost allocation purposes, "when services or supplies are sold to an energy utility by an affiliate under contract, the transfer price shall be based upon the tariff or terms of the contract approved by the Commission Order under ORS 757.495." The Commission need not determine the reasonableness of all financial aspects of the contract for ratemaking purposes, but, rather, may reserve that issue for subsequent proceedings. See Commission Order No. 11-071.

Discussion and Analysis

Avista has an 85 percent ownership stake in Steam Plant Square, LLC (Steam Plant Square) and is an affiliated interest as defined in ORS 757.015.

Steam Plant Square is a retail and commercial building located in downtown Spokane, WA. Formerly an operating Steam Plant owned by a predecessor to Avista, the building was renovated and repurposed in 1996. At this time, a partnership between Avista and Wells and Company (experts in historic rehabilitation) created Steam Plant Square, LLC in order to manage and own the property. The entire property contains more than 80,000 square feet of office, retail, and dining space.

In 2007, Avista began a multi-year HVAC office building renovation project at its corporate headquarters. In order to provide employees with an adequate working space as the work was completed, Avista entered into an affiliated interest agreement with Steam Plant Square to lease three suites. The Commission approved the affiliate interest transaction in Commission Order No. 11-043.

Avista is now in the process of renovating the Company's service building, including the Spokane Construction Office, in the same manner as the previous HVAC office building renovation that replaced fifty-year-old ventilation systems. Some employees will need to be moved off-site in order to complete the renovations which are expected to occur

through the first quarter of 2017. Avista and Steam Plant Square have effectively extended their previous contract on a month-to-month basis for one of the three suites.

Staff issued ten information requests and utilized the Company's application and confidential exhibits in its analysis of the filing. Staff investigated the following issues in considering whether the agreement is fair, reasonable, and not contrary to the public interest:

1. Terms and Conditions of the Agreement;
2. Transfer Pricing and Historical Trends;
3. Public Interest Compliance; and
4. Records Availability, Audit Provisions, and Reporting Requirements.

Terms and Conditions of the Agreement

Staff reviewed the Lease Agreement between Avista and Steam Plant Square and did not observe any unusual terms or conditions.

Transfer Pricing and Historical Trends

The rent for Suite 211 is \$2,000 per month (system), Oregon's allocated portion is approximately \$142. There are no capital costs associated with the rental as those were all paid for in 2011 during the previous transaction between the two parties.

OAR 860-027-048(4)(e) requires that when services or supplies are sold to an energy utility by an affiliate, sales shall be recorded in the energy utility's accounts at the lower of either the affiliate's cost or the market rate. Cost is defined as the fully distributed cost, including the energy utility's authorized rate of return and all overheads. "Market rate" is defined as the lowest price that is available from nonaffiliated suppliers for comparable services or supplies.

Staff submitted several information requests regarding market valuation analysis and capital and operational costs that the affiliate has. Staff's calculations based on the Company's responses found that the proposed agreement meets cost standards. When including a provision for the Company's authorized rate of return in the cost calculation the difference between that and actual rent paid is *de minimis* (\$6 per month Oregon allocated). The absence of additional capital costs to house the displaced employees which was the result of previous tenancy meant that the location was by far the lowest cost market option available.

Public Interest Compliance

Although there is no direct public benefit, the agreement is in the public interest. In accordance with the previous Commission ruling, the HVAC renovation will increase employee morale and potentially productivity. Because Staff found the terms and

conditions of the agreement to be reasonable, and the lease agreement is the lowest cost option available, Staff believes that the contract is consistent with the public interest.

Records Availability, Audit Provisions, and Reporting Requirements

Staff notes that the Commission retains the ability to review all affiliated transactions of the Company through both its annual affiliated interest report and in general rate case filings. Staff's recommended conditions provide for Commission examination of Avista's records concerning the Agreement as may be necessary.

Conclusion

Based on the review of this Application, Staff concludes:

1. The Application concerns an affiliated interest agreement that Staff concludes is fair and reasonable and not contrary to the public interest with inclusion of the proposed ordering conditions; and
2. Necessary records are available.

Avista has reviewed this memo and has no objections or concerns.

PROPOSED COMMISSION MOTION:

Approve Avista's Affiliated Interest Agreement with Steam Plant Square, LLC subject to the conditions recommended by Staff.