



# CABLE HUSTON

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December 18, 2009

**VIA ELECTRONIC FILING  
& FIRST CLASS MAIL**

Oregon Public Utility Commission  
Attn: Filing Center  
550 Capitol Street, N.E., #215  
P.O. Box 2148  
Salem, Oregon 97308-2148

Re: In the Matter of the OREGON PUBLIC UTILITY STAFF Requesting the Commission direct AVISTA UTILITIES to file tariffs establishing automatic adjustment clauses under the terms of SB 408 (**Docket No. UG-171(3)**)

**Issues List for the Northwest Industrial Gas Users**

Dear Filing Center:

Intervenor Northwest Industrial Gas Users identifies the following issues in this proceeding:

1. Has Avista demonstrated that a rate adjustment under ORS 757.268(4) in connection with its tax report for 2008 would violate the "fair and reasonable" rate provisions of ORS 756.040?
2. In resolving Avista's potential claim that ORS 757.268 is unconstitutional as applied to Avista for the 2008 tax year, should the Commission examine Avista's earnings during the 2008 tax year, or should the Commission examine Avista's earnings on a forward looking basis during the time that the rate refund required by ORS 757.268(4) would be in effect?
3. If the Commission should examine Avista's earnings during the 2008 tax year, should the Commission examine Avista's actual results of operations for 2008, or should the Commission examine the rates authorized by the Commission for 2008?

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4. In making a determination regarding Avista's potential claim that a rate adjustment under ORS 757.268(4) would violate ORS 756.040 in connection with its tax report for 2008, are Avista's rates in total for the applicable period so low as to be confiscatory?
5. In making a determination regarding Avista's potential claim that a rate adjustment under ORS 757.268(4) would violate ORS 756.040 in connection with its tax report for 2008, what level of return on equity would be deemed confiscatory pursuant to *Federal Power Commission v. Hope Natural Gas Pipeline*, 320 US 591, 64 S.Ct. 281, 88 L.ed 333 (1944)?
6. In making a determination regarding Avista's potential claim that an automatic adjustment under ORS 757.268(4) would violate ORS 756.040 in connection with its tax report for 2008, what is the appropriate remedy that should be considered by the Oregon Public Utility Commission in protecting the interests of the consumers on Avista's system?

Should you have any questions regarding this filing, please call.

Very truly yours,

/s/ Chad M. Stokes

Chad M. Stokes

CMS:ca

Enclosures

cc: UG-171(3) Service List

## CERTIFICATE OF SERVICE

I CERTIFY that I have on this day served the foregoing document upon all parties of record in this proceeding via electronic mail or by mailing a copy properly addressed with first class postage prepaid if the party had not waived paper service.

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Dated in Portland, Oregon, this 18th day of December, 2009



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