



Oregon

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Public Utility Commission

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January 11, 2011

Via Electronic filing and U.S. Mail

OREGON PUBLIC UTILITY COMMISSION
ATTENTION: FILING CENTER
PO BOX 2148
SALEM OR 97308-2148

**RE: Docket No. UG 171 – In the Matter of OREGON PUBLIC UTILITY
COMMISSION STAFF Requesting the Commission direct AVISTA UTILITIES, to
file tariffs establishing automatic adjustment clauses under the terms of
SB 408.**

Enclosed for electronic filing in the above-captioned docket is the Public Utility
Commission Staff's Direct Testimony.

/s/ Kay Barnes

Kay Barnes

Regulatory Operations Division

Filing on Behalf of Public Utility Commission Staff

(503) 378-5763

Email: kay.barnes@state.or.us

c: UG 171 Service List (parties)

**PUBLIC UTILITY COMMISSION
OF OREGON**

UG 171 (4)

**STAFF DIRECT TESTIMONY OF
Carla Bird
Dustin Ball**

**In the Matter of
OREGON PUBLIC UTILITY COMMISSION STAFF
Requesting the Commission direct AVISTA
UTILITIES, to file tariffs establishing automatic
adjustment clauses under the terms of SB 408**

REDACTED VERSION

January 11, 2011

CASE: UG 171
WITNESS: Bird-Ball

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 100

Direct Testimony

January 11, 2011

**CERTAIN INFORMATION CONTAINED IN STAFF EXHIBIT 100 OF
UG171 IS HIGHLY CONFIDENTIAL AND SUBJECT TO
PROTECTIVE ORDER NO. 06-333 in UE177/UE178/UG170/UG171.**

**YOU MUST HAVE SIGNED
APPENDIX B OF THE PROTECTIVE ORDER IN
DOCKET UE177/UE178/UG170/UG171 TO RECEIVE THE
HIGHLY CONFIDENTIAL VERSION
OF THIS EXHIBIT.**

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS**
2 **ADDRESS.**

3 A. My name is Carla Bird. My business address is 550 Capitol Street NE Suite
4 215, Salem, Oregon 97301-2551.

5 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**
6 **EXPERIENCE.**

7 A. My Witness Qualification Statement is found in Exhibit Staff/101.

8 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS**
9 **ADDRESS.**

10 A. My name is Dustin Ball. My business address is 550 Capitol Street NE Suite
11 215, Salem, Oregon 97301-2551.

12 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**
13 **EXPERIENCE.**

14 A. My Witness Qualification Statement is found in Exhibit Staff/102.

15 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

16 A. We are writing testimony in support of Staff's recommendation for Avista's
17 2009 SB 408 Tax filing.

18 **Q. CAN YOU PLEASE SUMMARIZE STAFF'S RECOMMENDATION FOR**
19 **THIS CASE?**

20 A. Yes. Staff recommends that Avista *refund* approximately \$1.2 million related to
21 the 2009 true-up for taxes paid and taxes collected without consideration of
22 interest accruals.¹

¹ Specific break-outs related to interest accruals are provided on page 6 of this testimony.

1 **Q. WHAT AMOUNT DOES AVISTA PROPOSE REPRESENTS THE 2009**
2 **TRUE-UP FOR TAXES PAID AND TAXES COLLECTED IN THIS FILING?**

3 A. Avista proposes a *surcharge* of approximately \$1.3 million (also without
4 consideration of interest accruals).

5 **Q. IN STAFF'S ISSUES LIST THAT WAS PUBLISHED ON DECEMBER 23,**
6 **2010, STAFF SUPPORTED AVISTA'S PROPOSED SURCHARGE OF**
7 **APPROXIMATELY \$1.3 MILLION, BUT NOW STAFF IS RECOMMENDING**
8 **A REFUND RATHER THAN A SURCHARGE. PLEASE EXPLAIN WHY**
9 **THE CHANGE IN STAFF'S RECOMMENDATION.**

10 A. On page 3 of the Staff Issues List, Staff provided an explanation of an
11 inconsistency between SB 408 and OAR 860-022-0041 that related to the
12 manner for determining the existence of a normalization violation under (4)(d)
13 of the commission rule. Staff was investigating that issue at the time of the
14 publication of the Staff's Issues list. Staff stated then that if this inconsistency
15 existed, it "would likely result in a significant change to Avista's 2009 SB 408
16 filing." Staff has determined that there is an inconsistency between SB 408
17 and OAR 860-022-0041 and withdraws its support of Avista's original filing.

18 **Q. IS AVISTA'S INTERPRETATION OF THE CURRENT RULE LANGUAGE**
19 **IN OAR 860-022-0041(4)(d) CONSISTENT WITH THE INTENT OF SB**
20 **408?**

21 A. No. Staff believes that OAR 860-022-0041(4)(d) is intended to provide a
22 protection against a normalization violation by requiring that there be a
23 comparison between the balance attributable to the deferred tax floor ((4)(d)

1 limitation) and the calculation of taxes paid in methods that could potentially be
2 impacted by accelerated depreciation. However, Staff agrees that the current
3 rule language could be read to require Staff to compare the (4)(d) limitation to
4 all three methods (Stand-alone, Consolidated and Apportionment) employed to
5 calculate taxes paid, not just the method where the potential for the benefit of
6 accelerated depreciation could exist. Because the intent is to protect from a
7 normalization violation, Staff believes the (4)(d) limitation should be limited to
8 only the method where the potential for the benefit of accelerated depreciation
9 could exist.

10 **Q. HOW DOES STAFF'S RECOMMENDATION COMPLY WITH OAR 860-**
11 **022-0041(4)(d)?**

12 A. Because of the ambiguity in the current rule language, Staff has begun a
13 temporary rule-making proceeding to clarify and change this section of the
14 commission's administrative rules and make it consistent with the intent of SB
15 408.

16 **Q. WHY WOULD IT MATTER IF STAFF COMPARED ALL THREE METHODS**
17 **USED TO CALCULATED TAXES PAID TO THE (4)(d) LIMITATION?**

18 A. The (4)(d) limitation was created solely to prevent a normalization violation. A
19 normalization violation can only occur if ratepayers share in the benefit of
20 accelerated depreciation. Staff's investigation was to determine whether the
21 methods employed to calculate taxes paid on a Stand-alone and Consolidated
22 basis should have been included in the comparison of the (4)(d) limitation.
23 Staff concluded that because Stand-alone and Consolidated never consider

1 the application of accelerated depreciation, there is no purpose in measuring
2 the outcome of this method to the (4)(d) limitation.

3 Further, Staff's investigation into the matter discovered discussions in
4 Commission Order No. 07-401² (the rule-making that established the (4)(d)
5 limitation) that specify that only the Apportionment Method needed this
6 additional parameter to prevent normalization, contrarily, the rules seem to
7 require that all three methods be subjected to the (4)(d) limitation. Staff
8 believes the final rule language (which incorporates the comparison into all
9 three methods) was unintended and the current interpretation conflicts with the
10 intent of SB 408, which is to rely upon the lowest of the three methods without
11 creating a normalization violation.

12 **Q. PLEASE EXPLAIN WHY LIMITING THE COMPARISON OF THE (4)(d)**
13 **LIMITATION TO ONLY THE APPORTIONMENT METHOD CREATES**
14 **SUCH A DIFFERENCE IN THE OUTCOME OF AVISTA'S 2009 SB 408**
15 **FILING?**

16 A. Avista's original filing concluded that the amount representing taxes paid for
17 2009 was based upon the balance of deferred taxes during the tax period (the
18 (4)(d) limitation). This amount (approximately [REDACTED]) was compared to
19 the calculation of taxes collected (approximately [REDACTED]) to determine a
20 variance of approximately \$1.3 million *more* of taxes paid than taxes collected.
21 Because the current rule language in OAR 860-022-0041(4)(d) seems to
22 require that the comparison of the (4)(d) limitation apply to all three methods,

² At page 5.

1 Avista relied upon this balance for taxes paid. Under Staff's current
2 interpretation of the rule, if the Stand-alone method or the Consolidated
3 Method results in a lower taxes paid amount than the (4)(d) limitation, the
4 lowest of those three numbers should be relied upon for taxes paid. In Avista's
5 case, Stand-alone is the lowest of the three numbers (resulting in a taxes paid
6 amount of approximately [REDACTED]). Comparing this result for taxes paid to
7 the taxes collected amount (approximately [REDACTED]) results in a *refund* of
8 approximately \$1.0 million.

9 **Q. DOES AVISTA SUPPORT THE CHANGES STAFF RECOMMENDS TO ITS**
10 **FILING?**

11 A. No. Avista believes that it has complied with the language in the current rules;
12 therefore, subsequent rule changes should not impact current filings. Staff
13 does not disagree that Avista has followed the mechanics of the current rules.
14 However, Staff cannot support the implementation of a surcharge that is based
15 upon an outcome that does not follow what Staff believes is the intent of the SB
16 408 legislation. To that end, Staff will propose a temporary rule to clarify these
17 requirements.

18 **Q. BASED UPON STAFF'S FINDINGS, PLEASE PROVIDE THE SPECIFIC**
19 **INFORMATION THAT RELATES TO INTEREST ACCRUALS AND**
20 **IMPLEMENTATION OF A \$1.0 MILLION REFUND.**

21 A. Staff recommends that Avista implement a refund of \$1, 209,551 on June 1,
22 2011. Staff calculates interest of \$ 185,551 that has accrued beginning July 1,
23 2009 through May 31, 2011. This interest accrual is included in the

1 \$1,209,551. Staff estimates additional interest of \$12,066 that will accrue
2 during the amortization phase beginning June 1, 2011 through May 31, 2012.

3 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

4 A. Yes.

CASE: UG 171
WITNESS: Bird-Ball/1

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 101

Witness Qualification Statement

January 11, 2011

WITNESS QUALIFICATION STATEMENT

NAME: Carla M. Bird
EMPLOYER: Public Utility Commission of Oregon
TITLE: Senior Utility Analyst/Revenue Requirement/Rates and Regulation
ADDRESS: 550 Capitol Street NE Suite 215, Salem, Oregon 97301-2115.
EDUCATION: Professional Accounting Degree
Trend College of Business 1983

EXPERIENCE: I have been employed by the Public Utility Commission of Oregon since April of 2001. I am the Senior Utility Analyst for revenue requirement for the Rates and Regulation Division of the Utility Program. Current responsibilities include leading research and providing technical support on a wide range of policy issues for electric and gas utilities.

From September 1994 to April 2001, I worked for the Oregon Department of Revenue as a Senior Industrial/Utility Appraiser. I was responsible for the valuation of large industrial properties as well as utility companies throughout the State of Oregon.

I have testified in behalf of the Public Utility Commission in Docket Nos. UE 177, UE 178, UG 170, UG 171, UE 180, UM 1234, UE 167, UE 180, UE 188, UE 197, UE 177, UE 178, UM 1121, UM 1261 and UM 1271 and numerous other dockets.

OTHER EXPERIENCE: I received my certification from the National Association of State Boards of Accountancy in the Principles of Public Utilities Operations and Management in March of 1997. I have attended the Institute of Public Utilities sponsored by the National Association of Regulatory Utility Commissioners at Michigan State University in August of 2002 and the College of Business Administration and Economics at New Mexico State University's Center for Public Utilities in May of 2004.

In 2008, I attended the Energy Utility Consultants presentation on Performance Benchmarking in Denver, Colorado. In 2005, I attended the National Association of Regulatory Utility Commissioners Advanced Course at Michigan State University. I worked for seven years for the Oregon State Department of Revenue as a Senior Utility and Industrial Appraiser.

CASE: UG 171
WITNESS: Bird-Ball/1

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 102

Witness Qualification Statement

January 11, 2011

WITNESS QUALIFICATION STATEMENT

NAME: DUSTIN BALL

EMPLOYER: PUBLIC UTILITY COMMISSION OF OREGON

TITLE: SENIOR FINANCIAL ANALYST, ECONOMIC RESEARCH & FINANCIAL ANALYSIS DIVISION

ADDRESS: 550 CAPITOL STREET NE SUITE 215, SALEM, OREGON 97301-2115.

EDUCATION: Bachelor of Science, Business focusing in Accounting, Western Oregon University (2003)

EXPERIENCE: Employed with the Oregon Public Utility Commission since August 2007. I am a Senior Financial Analyst for the Economic Research & Financial Analysis Division.

Employed by the Oregon Real Estate Agency as a Financial Investigator in the Regulations Division from January 2006 to August 2007.

Employed by the Oregon Department of Revenue as an Income Tax Auditor, in the Personal Tax and Compliance Section from January 2004 to January 2006.

Licensed Tax Consultant in the State of Oregon.

CERTIFICATE OF SERVICE

UG 171

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-001-0180, to the following parties or attorneys of parties.

Dated this 11th day of January 2011, at Salem, Oregon.



Kay Barnes
Public Utility Commission
Regulatory Operations
550 Capitol St NE Ste 215
Salem, Oregon 97301-2551
Telephone: (503) 378-5763

UG 171
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