



Oregon

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Public Utility Commission

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January 25, 2008

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

RE: **Docket No. UG 171** - In the Matter of Avista's SB 408 2006 Tax Report.

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

/s/ Lois Meerdink

Lois Meerdink
Regulatory Operations Division
Filing on Behalf of Public Utility Commission Staff
(503) 378-8959
Email: Lois.Meerdink@state.or.us

cc: UG 171 Service List - parties

**PUBLIC UTILITY COMMISSION
OF OREGON**

UG 171

STAFF DIRECT TESTIMONY OF

**Carla Owings
Dustin Ball**

**In the Matter of
Avista's SB 408 2006 Tax Report**

January 25, 2008

CASE: UG 171

WITNESS: Carla Owings and
Dustin Ball

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 100

**Direct Testimony
In the Matter of Avista's
SB408 2006 Tax Report**

January 25, 2008

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

3 A. My name is Carla Owings. I am a Senior Revenue Requirements Analyst
4 employed by the Public Utility Commission of Oregon. My business address is
5 550 Capitol Street NE Suite 215, Salem, Oregon 97301-2551.

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

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

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

11 A. My name is Dustin Ball. I am a Senior Financial Analyst employed by the
12 Public Utility Commission of Oregon. My business address is 550 Capitol
13 Street NE Suite 215, Salem, Oregon 97301-2551.

14 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**
15 **EXPERIENCE.**

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

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

18 A. The purpose of our testimony is to provide the Staff recommendation regarding
19 Avista's (Avista or the Company) tax filing as it relates to Senate Bill 408 (SB
20 408), codified in ORS 757.267, 757.268 and OAR 860-022-0041.

21 **Q. CAN YOU PLEASE SUMMARIZE THE PURPOSE OF SB408?**

22 A. SB 408 was passed by the 2005 Legislative Assembly. It requires investor-
23 owned utilities to file an annual Tax Report on or before October 15 following

1 the year for which the filing is being made. The Commission must determine if
2 taxes paid by the utility differ from the amounts collected in rates by a variance
3 of greater than \$100,000. If so, the Commission must require the utility to
4 implement an automatic adjustment clause refunding or surcharging the
5 variance.

6 **Q. PLEASE DESCRIBE STAFF'S REVIEW OF THE COMPANY'S TAX**
7 **REPORT.**

8 A. On October 15, 2007, the Company submitted its tax report for the 2006 tax
9 period. The Company reported the outcome of its 2006 Tax Report is as
10 follows:

Taxes Paid to units of Government	Taxes Collected	Difference between Taxes Paid and Collected Surcharge or (Refund)
\$3.2 million	\$4.3 million	(\$1.1 million)

11
12 Staff requested that the Company provide further clarification related to the
13 following items:

- 14 • adjustments made to the collection of revenues;
- 15 • a break-out of its Oregon wages and salaries and to review the source
16 information and the apportionment factor used to derive the calculation of
17 Oregon wages and salaries;
- 18 • documentation of the Federal Taxpayer amount used for wages and
19 salaries;
- 20 • adjustments made to its Oregon situs property;

- 1 • the method Avista used to calculate its Oregon Stand-Alone tax liability;
- 2 • reclassification entries;
- 3 • adjustments made to the application of Schedule M's;
- 4 • the calculation of deferred Taxes; and
- 5 • its application of Federal and State Tax Credits.

6 **Q. DID AVISTA PROVIDE STAFF WITH A REVISION OF ITS TAX REPORT**
7 **BASED ON STAFF'S FINDINGS?**

8 A. No. However, Avista did provide Staff with detailed explanations to the
9 Company's position on all issues raised in Staff's issue list.

10 **Q. ARE THERE ANY REMAINING UNRESOLVED ISSUES IN THIS**
11 **DOCKET?**

12 A. Yes, there are two remaining unresolved issues. The first is related to the
13 application of Oregon Business Energy Tax Credits (BETC). Staff
14 recommends that Avista revise its state Stand-Alone tax calculation to include
15 Oregon tax credits associated with Oregon regulated operations and BETC's
16 prior to entering the State Stand-alone tax liability on Page 3 of the Staff
17 Template. The second is related to the general outcome of Avista's filing and
18 is described in more detail later in this testimony.

19 **Q. COULD YOU PLEASE DESCRIBE THE FIRST ISSUE REMAINING IN**
20 **THIS DOCKET?**

21 A. Yes. In calculating the state Stand-alone tax liability which was reported on
22 Page 3 of the Staff Template, Avista did not apply the Oregon BETCs to the
23 resulting tax liability. Staff believes that the application of all appropriate tax

1 credits results in a more accurate Stand-alone Tax liability. Page 5 of Staff's
2 Template requires the Company to add back the investment tax credits. In its
3 filing, Avista performs the add-back. However, because the investment tax
4 credit was never applied to tax liability, Staff believes the add-back of the
5 Oregon BETC is inappropriate. Staff recommends the Company revise its
6 state Stand-alone calculation to apply the appropriate Oregon BETCs to the tax
7 liability prior to bringing the tax liability forward to Page 5 of the Staff Template.

8 **Q. HOW DOES AVISTA RESPOND TO STAFF'S RECOMMENDATION TO**
9 **REVISE ITS STATE STAND-ALONE TAX LIABILITY?**

10 A. On December 31, 2007, Avista stated in a written response that it believes that
11 its Oregon state income tax Stand-alone calculation complies with the rules
12 because the Company believes it followed the Staff template by adding back
13 the tax credits. Staff disagrees. OAR 860-022-0041(2)(p) describes the
14 Stand-alone tax liability to mean "...the amount of income tax liability calculated
15 using a pro forma tax return and revenues and expenses in the utility's results
16 of operations report for the year..." Staff contends that this rule directs the
17 Company to calculate its tax liability in a manner consistent with a pro forma
18 tax return which contemplates the application of tax credits once the initial tax
19 liability is determined. If the Company were to file as a Stand-alone utility, the
20 Oregon BETCs would be applied prior to arriving at the Company's state
21 Stand-alone tax liability.

22 Avista is correct in the assertion that Page 5 of the Staff Template calls for an
23 add back of the "tax credits associated with Oregon regulated operations for

1 which expenditures not included in rates, plus all other Oregon BETCs of
2 unitary Group” under all three methods. However, the Staff Template allows
3 for this add back under the assumption that these credits would have
4 previously reduced the tax liability under all three methods (apportioned,
5 Stand-alone, and consolidated) prior to being brought forward to Page 5 of
6 Staff’s Template. Staff contends that because there was no tax benefit of
7 Oregon BETCs recognized in the Stand-alone calculation, an add back of such
8 credits would be inappropriate and violates OAR 860-022-0041(4)(d)(D), which
9 requires “An increase equal to the tax benefit of Oregon business energy tax
10 credits. . .” In other words, an add back is needed only if a BETC-related tax
11 benefit had reduced Avista’s stand-alone tax liability. This is not the case.

12 Additionally, Staff believes that the Staff Template was designed as a tool
13 for filing the SB408 tax reports and that the template does not, and cannot,
14 prevent the application of the Oregon Administrative Rules.

15 The outcome of incorporating Staff’s recommended adjustment to Avista’s
16 filing results in approximately an additional \$0.5 million in refund to ratepayers.

17 **Q. COULD YOU PLEASE DESCRIBE THE SECOND REMAINING ISSUE IN**
18 **THIS DOCKET?**

19 A. The remaining issue is related to the overall outcome of Avista’s filing. By
20 letter dated January 18, 2008, Avista filed a claim that a rate adjustment in
21 connection with its tax report for 2006 will violate ORS 756.040, based on an
22 earnings review for Avista using its results of operations report for the 2006 tax
23 year. OAR 860-022-0041(10) (Annual Tax Reports and Automatic Adjustment

1 Clauses Relation to Utility Taxes) provides for relief where there has been a
2 demonstration that the AAC may violate the “fair and reasonable” rate
3 provisions of ORS 756.040. Avista has indicated that it will file additional
4 support for its position in its reply testimony in this docket scheduled for
5 February 13, 2008. Staff would expect that Avista will support a schedule
6 change that will allow the parties an opportunity to reply to its new testimony.

7 **Q. DO YOU HAVE ANYTHING FURTHER AT THIS TIME ON THESE ISSUES**
8 **OR ANY OTHER ISSUES?**

9 A. No.

10 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

11 A. Yes.

CASE: UG 171
WITNESS: Carla Owings

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 101

Witness Qualification Statement

January 25, 2008

WITNESS QUALIFICATION STATEMENT

NAME: Carla M. Owings
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, telecommunications, 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 180, UM 1234, UE 167, UE 180, UE 188, UM 1234, UM 1261 and UM 1271.

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 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: Dustin Ball

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 102

Witness Qualification Statement

January 25, 2008

WITNESS QUALIFICATION STATEMENT

NAME: DUSTIN BALL

EMPLOYER: PUBLIC UTILITY COMMISSION OF OREGON

TITLE: SENIOR FINANCIAL ANALYSIT, 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 2007.

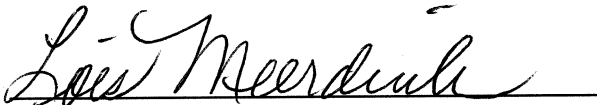
Licensed Tax Consultant in the State of Oregon.

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 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 25th day of January, 2008.

A handwritten signature in cursive script, reading "Lois Meerdink", written over a horizontal line.

Lois Meerdink
Public Utility Commission
Regulatory Operations
550 Capitol St NE Ste 215
Salem, Oregon 97301-2551
Telephone: (503) 378-8959

UG 171
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