



Oregon

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July 28, 2009

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 (Phase II) – In the Matter of AVISTA CORPORATION,
dba AVISTA UTILITIES SB 408 Tax Report for Calendar Year 2007.**

Enclosed for electronic filing in the above-captioned docket is the Public Utility
Commission Staff's Opening 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
Phase II**

STAFF OPENING TESTIMONY OF

**Deborah Garcia
Steve Storm**

**In the Matter of
AVISTA CORPORATION, dba AVISTA UTILITIES
SB 408 Tax Report for Calendar Year 2007.**

July 28, 2009

CASE: UG 171, Phase II
WITNESS: Deborah Garcia

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 200

Opening Testimony

July 28, 2009

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

3 A. My name is Deborah Garcia. I am a Senior Revenue Requirements Analyst in
4 the Electric & Natural Gas Revenue Requirements section of the Public Utility
5 Commission of Oregon. My business address is 550 Capitol Street NE Suite
6 215, Salem, Oregon 97301-2551.

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

9 A. My Witness Qualification Statement is found in Exhibit Staff/201.

10 **Q. DID YOU PREPARE AN EXHIBIT FOR THIS DOCKET?**

11 A. Yes. I prepared Exhibit Staff/202, consisting of six pages.

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

13 A. The purpose of my testimony is to provide (a) Staff's review of Avista Utilities'
14 (Avista) earnings as submitted in its June 15, 2009, opening testimony, and
15 other background as necessary; and, (b) provide Staff's recommendation to the
16 Commission in this docket. I also introduce the other Staff witness who
17 provides testimony in this docket.

18 **Q. PLEASE NAME THE OTHER STAFF WITNESS AND PROVIDE A**
19 **SUMMARY OF HIS TESTIMONY.**

20 A. Staff Witness, Steve Storm, provides testimony on whether Avista should
21 provide a refund to customers from the perspective of whether doing so
22 consistent with OAR 860-022-0041(10) would result in confiscatory rates.

1 **Q. BRIEFLY DESCRIBE THE STANDARD REQUIRED BY TEMPORARY**
2 **ADMINISTRATIVE RULE 860-022-0041(10).**

3 A. The rule requires the Commission to “examine the utility’s projected earnings
4 during the period the automatic adjustment clause (AAC) would be in effect.”
5 In this case, the effective period of the AAC, related to the findings for Avista’s
6 2007 tax year, is from June 1, 2009 through May 31, 2010 (Test Year).

7 **Q. DID AVISTA SUBMIT A PROJECTED TEST YEAR FILING? IF SO,**
8 **PLEASE PROVIDE A BRIEF DESCRIPTION.**

9 A. Yes, Avista provided a filing and comprehensive work papers projecting its
10 earnings for the Test Year. Avista’s calculations began with its actual
11 adjusted¹ 2008 Results of Operations (ROO) escalated by estimated changes²
12 to arrive at a projected Test Period ROO.

13 **Q. HAVE YOU REVIEWED AVISTA’S TEST PERIOD ROO?**

14 A. Yes. Staff performed a thorough review of the Test Period ROO filing,
15 associated work papers, and Avista’s 2008 ROO. This review included
16 multiple telephone conferences between Staff and Avista to answer Staff
17 questions regarding Avista’s methodology and calculations.

18 **Q. DO YOU AGREE WITH AVISTA’S REPRESENTATION OF ITS**
19 **ESTIMATED EARNINGS FOR THE TEST YEAR ROO?**

20 A. Yes, considering the limitations inherent in an estimate of any utility’s future
21 earnings.

¹ Avista’s 2008 Results of Operations was adjusted in accordance with the Commission-prescribed methodologies for natural gas utilities, adopted in multiple dockets.

² Staff and Avista agreed on the type of adjustments that Avista should include in its escalations.

1 **Q. PLEASE ELABORATE.**

2 A. There are two major limiting factors in an estimate of a utility's future earnings.
3 The first is whether there is agreement on the financial results at the point from
4 which earnings are projected; and, the second is whether unknown future
5 events will create a substantial difference between a utility's estimated and
6 actual revenues and expenses.

7 **Q. DOES STAFF AGREE WITH THE FINANCIAL RESULTS FROM WHICH**
8 **AVISTA'S EARNINGS WERE PROJECTED?**

9 A. Yes. Although Avista began its calculations of the Test Year ROO with its
10 actual, adjusted 2008 ROO, the Staff review for any utility's ROO, outside of a
11 general rate case (GRC), is typically limited for the most part to the information
12 provided by the utility in the ROO and responses to Staff data requests. Due to
13 time constraints, an ROO review is not the same in-depth analysis of a utility's
14 operations and accounts as is conducted during the six to nine month time
15 period of a GRC. Notwithstanding this limitation, Staff finds that Avista's use of
16 its 2008 ROO with known and measurable adjustments to reflect normal
17 ongoing operations is a reasonable approach for forecasting test period
18 earnings.³

19 **Q. ARE THERE ANY KNOWN MAJOR FUTURE EVENTS THAT WILL**
20 **AFFECT THE TEST YEAR EARNINGS?**

³ See Avista/500/Pluth/pgs. 3-4.

1 A. Yes. As shown in Avista's filing,⁴ Avista has included additional revenues of
2 \$3.521 million⁵ in its Test Year ROO which is intended to represent the effect
3 of its recently filed GRC (Docket No. UG 186) on the last three months⁶ of the
4 Test Period ROO. As filed, this results in a projected test period Return on
5 Equity (ROE) of 5.94 percent prior to any refund.

6 **Q. DOES THIS ADDITION TO REVENUES NECESSARILY ACCURATELY**
7 **REFLECT THE IMPACT THE GRC WILL HAVE ON THE TEST YEAR**
8 **ROO?**

9 A. No. The estimated earnings in the Test Year ROO are not only highly
10 dependent on the magnitude of the GRC increase and the ROE that is
11 established, but also on the date rates are implemented. It is not unusual for a
12 rate case to conclude early with rates taking effect well before the end of the
13 suspension period. Alternately, if the GRC is fully contested, new rates might
14 not be in effect until the end of the suspension period.

15 To better understand the implications of various GRC results, Staff sent two
16 Data Requests⁷ asking Avista to calculate Test Year ROE with GRC
17 implementation dates of January 1, 2010, and April 25, 2010 as follows:
18 Revenue requirement increase at 100%, 75%, and 50% of the filed request at
19 both 10.0 and 10.5 ROE. As shown in Staff Exhibit 202, depending on the
20 combination of these factors that occur, there is a wide variation in projected

⁴ See Avista/500/Pluth /p. 8/lines 3-8 & Exhibit 502/ Column M.

⁵ This amount assumes the Commission approves in full Avista's request of a \$14.2 million increase in revenue requirement at an ROE of 11%.

⁶ Rates related to UG 186 are currently scheduled to take effect on April 27, 2010.

⁷ See Staff Exhibit 202 for Avista responses to Data Requests 34 and 35.

1 earnings. For example, 100 percent rate relief at 10.0 ROE with rates effective
2 on January 1, 2010 results in an ROE of 8.45 percent prior to the refund and
3 6.27 percent after.⁸ Alternatively, 50% rate relief at 10.5 percent ROE with
4 rates effective on April 25, 2010 results in an ROE of 3.47 percent prior to the
5 refund and 1.31 percent after.⁹ This is a wide range of potential results. Staff
6 Witness Storm assumes that rates are effective at the end of the suspension
7 period with a 10.0 percent ROE, and finds in this case it would be confiscatory
8 to require a refund based on the level of projected ROE, prior to any refund.

9 **Q. WHAT IS STAFF'S RECOMMENDATION?**

10 A. Even if no other unknown future changes to revenues or expenses during the
11 Test Period were considered, the magnitude and timing of the rate relief
12 resulting from the GRC make the earnings review highly speculative. Staff
13 intends in the near future to recommend that the Commission consolidate this
14 docket with UG 186 to recognize that the result in UG 186 will impact the
15 conclusion on whether Avista's rates are confiscatory for the Test Year.¹⁰
16 Specifically, the projected \$3.521 million GRC revenue assumption in Avista's
17 filing should be updated based on the outcome of the GRC, so that the Test
18 Period ROE may be recalculated. At that time, a determination may be made
19 as to how much, if any, of the refund should be required. The Commission

⁸ See Staff Exhibit 202, p. 2.

⁹ See Staff Exhibit 202, p. 3.

¹⁰ Alternatively, the Commission could issue an order in UG 171, Phase II, finding that no refunds are required and reopen the docket should rates in the GRC be effective prior to the end of the suspension period.

1 should further suspend Schedule 408, Income tax Adjustment – Oregon, for an
2 additional three months pursuant to ORS 757.215(1)¹¹ if necessary.

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

4 A. Yes.

¹¹ This schedule was suspended for six months until December 1, 2009 by Order No. 09-167.

CASE: UG 171, Phase II
WITNESS: Deborah Garcia

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 201

Witness Qualification Statement

July 28, 2009

WITNESS QUALIFICATIONS STATEMENT

NAME: DEBORAH A. GARCIA

EMPLOYER: PUBLIC UTILITY COMMISSION OF OREGON

TITLE: SENIOR REVENUE REQUIREMENT ANALYST

ADDRESS: 550 CAPITOL ST NE SUITE 215, SALEM, OREGON 97301-2551

EDUCATION:

- o Western Utility Rate School, San Diego, California. (2002)
- o The Center For Public Utilities at New Mexico University and the National Association of Regulatory Commissioners' Annual Regulatory Studies Program. (2000)
- o National Association of Regulatory Utility Commissioners' Annual Regulatory Studies Program at Michigan State University. (2000)
- o Certificate in Mediation Training (1994)
- o College-level coursework in financial accounting, business law, business management, and economics.

WORK EXPERIENCE:

- o Sr Revenue Requirement Analyst --Public Utility Commission of Oregon Lead accounting witness for revenue requirement in various proceedings. (2007 - present)
- o Utility Analyst -- Public Utility Commission of Oregon Focus on utility policies, natural gas purchased gas adjustment issues, utility territory allocation issues, consumer issues, tariff review, promotional concessions, rate case review & witness, and rulemakings. (2002 - 2007)
- o Research Analyst -- Public Utility Commission of Oregon Focus on SB 1149 implementation, rulemaking, various utility and electric service supplier policies, including certification of electric service suppliers, tariff review, rate case review & witness. (2000 -2002)
- o Compliance Specialist -- Public Utility Commission of Oregon--Handled consumer complaints, liaison between the public, regulated utilities and various Commission staff, reviewed proposed tariffs, administrative rules, and policies with an emphasis on potential impact to consumers. Identified trends, services, and policies where no statute, rule or precedent applied and recommended appropriate action. (1992 - 2000)

CASE: UG 171, Phase II
WITNESS: Deborah Garcia

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 202

**Exhibits in Support
Of Opening Testimony**

July 28, 2009

Staff/202
Garcia/1

**AVISTA CORP.
RESPONSE TO REQUEST FOR INFORMATION**

JURISDICTION:	Oregon	DATE PREPARED:	7/09/2009
CASE NO:	UG 171	WITNESS:	Jeanne Pluth
REQUESTER:	OFUC Staff	RESPONDER:	Ron McKenzie/Jeanne Pluth
TYPE:	Data Request	DEPT:	State and Federal Regulation
REQUEST NO.:	34	TELEPHONE:	(509) 495-4320/2204

REQUEST:

For the Avista refund period, which is June 2009 through May 2010, under staff's review of costs, etc. for that period, and assuming Avista got its rates increased to earn an authorized return with rates effective for service on and after the day after the end of the rate case suspension period, what is Avista's return on equity over the SB 408 period ending May 31, 2010? Assume a 10.5% ROE is Avista's new ROE. Does the answer change assuming Avista's authorized ROE remains the same as is currently established?

RESPONSE:

Attached are two spreadsheets. Page one is based on a revenue requirement using Avista's authorized ROE of 10.0%, and page two is based on using a 10.5% ROE. The effective date for the general rate increase is assumed to be April 25, 2010, the end of the rate case suspension period. Based on a ratio of therm sales, 7.67% of the respective projected revenue increase is forecast to occur during the period from April 25, 2010 through May 31, 2010. The spreadsheets show the forecasted ROE results assuming 100%, 50%, and 75% of the revenue increase is granted. The ROE results are also shown with and without the SB 408 refund.

Scenarios Assuming Rate
Relief on April 25, 2010

AVISTA UTILITIES
OREGON JURISDICTION
GRC REVENUE ADJUSTMENT
TWELVE MONTHS ENDED MAY 31, 2010

ASSUMED LEVEL OF RATE RELIEF	100%	50%	75%
Total Projected Rate Increase for 2010-10.0% ROE	\$ 12,925,000	\$ 6,462,500	\$ 9,693,750
% of Rate Increase for April 25 - May 31, 2010	7.67%	7.67%	7.67%
OPERATING REVENUES			
1 Total General Business	991,348	495,674	743,511
2 Transportation	-	-	-
3 Other	-	-	-
4 Total Operating Revenues	<u>991,348</u>	<u>495,674</u>	<u>743,511</u>
5 Gas Purchased	-	-	-
6 Operations & Maintenance	-	-	-
0.005575 Uncollectible expense	5,626	2,813	4,219
Customer assistance expenses (DSM Amort)	-	-	-
Customer assistance expenses (LIRAP)	-	-	-
7 Administrative & General	-	-	-
0.002500 Commission fees	2,478	1,239	1,859
0.000687 Energy Resource Supplier Assessment adj	681	341	511
8 Taxes Other Than Income	-	-	-
0.021097 Franchise Fee	20,914	10,457	15,686
9 Depreciation & Amortization	-	-	-
10 Total Operating Expenses	<u>29,699</u>	<u>14,850</u>	<u>22,275</u>
11 OPERATING INCOME BEFORE INCOME TAX	961,649	480,824	721,236
INCOME TAXES			
12 0.350000 Current Federal Income Taxes	314,363	157,181	235,772
13 Deferred Federal Income Taxes	-	-	-
14 0.066000 State Income Taxes	63,469	31,734	47,602
15 Total Income Taxes	<u>377,832</u>	<u>188,915</u>	<u>283,374</u>
16 NET OPERATING INCOME	<u>583,817</u>	<u>291,909</u>	<u>437,862</u>
FORECASTED RETURN ON EQUITY-w/refund	1.69%	1.29%	1.48%
FORECASTED RETURN ON EQUITY-without refund	3.86%	3.45%	3.66%

Attachment to Response to
OPUC Staff Data Request No. 34
Page 1 of 2

Staff/202
Garcia/3
Scenarios Assuming Rate
Relief on April 26, 2010

AVISTA UTILITIES
OREGON JURISDICTION
GRC REVENUE ADJUSTMENT
TWELVE MONTHS ENDED MAY 31, 2010

ASSUMED LEVEL OF RATE RELIEF	100%	50%	75%
Total Projected Rate Increase for 2010-10.5% ROE	\$ 13,552,000	\$ 6,776,000	\$ 10,164,000
% of Rate Increase for April 26 - May 31, 2010	7.67%	7.67%	7.67%
OPERATING REVENUES			
1 Total General Business	1,039,438	519,719	779,579
2 Transportation	-	-	-
3 Other	-	-	-
4 Total Operating Revenues	<u>1,039,438</u>	<u>519,719</u>	<u>779,579</u>
5 Gas Purchased	-	-	-
6 Operations & Maintenance	-	-	-
0.005675 Uncollectible expense	5,899	2,949	4,424
Customer assistance expenses (DSM Amort)	-	-	-
Customer assistance expenses (LIRAP)	-	-	-
7 Administrative & General	-	-	-
0.002560 Commission fees	2,599	1,299	1,949
0.000887 Energy Resource Supplier Assessment adj	714	357	536
8 Taxes Other Than Income	-	-	-
0.021097 Franchise Fee	21,929	10,965	16,447
9 Depreciation & Amortization	-	-	-
10 Total Operating Expenses	<u>31,141</u>	<u>15,570</u>	<u>23,356</u>
11 OPERATING INCOME BEFORE INCOME TAX	1,008,297	504,149	756,223
INCOME TAXES			
12 0.350000 Current Federal Income Taxes	329,612	164,806	247,209
13 Deferred Federal Income Taxes	-	-	-
14 0.066000 State Income Taxes	66,548	33,274	49,911
15 Total Income Taxes	<u>396,160</u>	<u>198,080</u>	<u>297,120</u>
16 NET OPERATING INCOME	<u>612,137</u>	<u>306,069</u>	<u>459,103</u>
FORECASTED RETURN ON EQUITY-w/refund	1.73%	1.31%	1.52%
FORECASTED RETURN ON EQUITY-without refund	3.90%	3.47%	3.68%

Attachment to Response to
OPUC Staff Data Request No. 34
Page 2 of 2

**AVISTA CORP.
RESPONSE TO REQUEST FOR INFORMATION**

JURISDICTION:	Oregon	DATE PREPARED:	7/20/2009	Staff/202
CASE NO:	UG 171	WITNESS:	Jeanne Pluth	Garcia/4
REQUESTER:	OPUC Staff	RESPONDER:	Jeanne Pluth	
TYPE:	Data Request	DEPT:	State and Federal Regulation	
REQUEST NO.:	35	TELEPHONE:	(509) 495-2204	

REQUEST:

As a follow up to Staff Data Request No. 34: Please provide the same information in the same format, but assume a January 1, 2010, implementation date for rates in UG 186.

RESPONSE:

Attached are two spreadsheets. Page one is based on a revenue requirement using Avista's authorized ROE of 10.0%, and page two is based on using a 10.5% ROE. The effective date for the general rate increase is assumed to be January 1, 2010. Based on a ratio of term sales, 50.65% of the respective projected revenue increase is forecast to occur during the period from January 1, 2010 through May 31, 2010. The spreadsheets show the forecasted ROE results assuming 100%, 50%, and 75% of the revenue increase is granted. The ROE results are also shown with and without the SB 408 refund.

Scenarios Assuming Rate
Relief on January 1, 2010
Staff/202
Garcia/5

AVISTA UTILITIES
OREGON JURISDICTION
GRC REVENUE ADJUSTMENT
TWELVE MONTHS ENDED MAY 31, 2010

ASSUMED LEVEL OF RATE RELIEF	100%	50%	75%
Total Projected Rate Increase for 2010-10.0% ROE % of Rate Increase for Jan 1 - May 31, 2010	\$ 12,925,000 50.65%	\$ 6,462,500 50.65%	\$ 9,693,750 50.65%
OPERATING REVENUES			
1 Total General Business	6,546,513	3,273,256	4,909,884
2 Transportation	-	-	-
3 Other	-	-	-
4 Total Operating Revenues	<u>6,546,513</u>	<u>3,273,256</u>	<u>4,909,884</u>
5 Gas Purchased	-	-	-
6 Operations & Maintenance			
0.005675 Uncollectible expense	37,151	18,576	27,864
Customer assistance expenses (DSM Amort)	-	-	-
Customer assistance expenses (LIRAP)	-	-	-
7 Administrative & General			
0.002500 Commission fees	16,366	8,183	12,275
0.000687 Energy Resource Supplier Assessment adj	4,497	2,249	3,373
8 Taxes Other Than Income			
0.021097 Franchise Fee	138,112	69,056	103,584
9 Depreciation & Amortization			
10 Total Operating Expenses	<u>196,126</u>	<u>98,064</u>	<u>147,096</u>
11 OPERATING INCOME BEFORE INCOME TAX	6,350,387	3,175,192	4,762,788
INCOME TAXES			
12 0.350000 Current Federal Income Taxes	2,075,941	1,037,970	1,556,956
13 Deferred Federal Income Taxes			
14 0.066000 State Income Taxes	419,126	209,563	314,344
15 Total Income Taxes	<u>2,495,067</u>	<u>1,247,533</u>	<u>1,871,300</u>
16 NET OPERATING INCOME	<u>3,855,320</u>	<u>1,927,659</u>	<u>2,891,488</u>
FORECASTED RETURN ON EQUITY-w/refund	6.27%	3.58%	4.93%
FORECASTED RETURN ON EQUITY-without refund	8.45%	5.75%	7.09%

Scenarios Assuming Rate
Relief on January 1, 2010
Staff/202
Garcia/6

AVISTA UTILITIES
OREGON JURISDICTION
GRC REVENUE ADJUSTMENT
TWELVE MONTHS ENDED MAY 31, 2010

ASSUMED LEVEL OF RATE RELIEF	100%	50%	75%
Total Projected Rate Increase for 2010-10.5% ROE	\$ 13,552,000	\$ 6,776,000	\$ 10,164,000
% of Rate Increase for Jan 1 - May 31, 2010	50.65%	50.65%	50.65%
OPERATING REVENUES			
1 Total General Business	6,864,088	3,432,044	5,148,066
2 Transportation	-	-	-
3 Other	-	-	-
4 Total Operating Revenues	<u>6,864,088</u>	<u>3,432,044</u>	<u>5,148,066</u>
5 Gas Purchased	-	-	-
6 Operations & Maintenance			
0.005675 Uncollectible expense	38,954	19,477	29,215
Customer assistance expenses (DSM Amort)	-	-	-
Customer assistance expenses (LIRAP)	-	-	-
7 Administrative & General			
0.002500 Commission fees	17,160	8,580	12,870
0.000687 Energy Resource Supplier Assessment adj	4,716	2,358	3,537
8 Taxes Other Than Income			
0.021097 Franchise Fee	144,812	72,406	108,609
9 Depreciation & Amortization	-	-	-
10 Total Operating Expenses	<u>205,642</u>	<u>102,821</u>	<u>154,231</u>
11 OPERATING INCOME BEFORE INCOME TAX	6,658,446	3,329,223	4,993,835
INCOME TAXES			
12 0.350000 Current Federal Income Taxes	2,176,646	1,088,323	1,632,485
13 Deferred Federal Income Taxes			
14 0.066000 State Income Taxes	439,457	219,729	329,593
15 Total Income Taxes	<u>2,616,103</u>	<u>1,308,052</u>	<u>1,962,078</u>
16 NET OPERATING INCOME	<u>4,042,343</u>	<u>2,021,171</u>	<u>3,031,757</u>
FORECASTED RETURN ON EQUITY-w/refund	6.54%	3.70%	5.12%
FORECASTED RETURN ON EQUITY-without refund	8.71%	5.88%	7.28%

CASE: UG 171
WITNESS: Steve Storm

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 300

Opening Testimony

July 28, 2009

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

2 **ADDRESS.**

3 A. My name is Steve Storm. I am employed by the Public Utility Commission of
4 Oregon as the Program Manager of the Economic and Policy Analysis Section
5 in the Economic Research and Financial Analysis Division. My business
6 address is 550 Capitol Street NE Suite 215, Salem, Oregon 97301-2551.

7 **Q. DID YOU PREPARE A WITNESS QUALIFICATIONS STATEMENT?**

8 A. Yes. My Witness Qualifications Statement is found in Exhibit Staff/301.

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

10 A. My testimony addresses whether Avista should be required to provide refunds
11 pursuant to Senate Bill 408 given the company's projected earnings over the
12 refund period, as defined by the temporary Oregon Administrative Rule (OAR)
13 860-022-0041(10).

14 **Q. WHAT IS YOUR SUMMARY RECOMMENDATION?**

15 A. I recommend that the Commission not make a decision on an SB 408 refund
16 until a decision is reached, or at least until more is known, regarding Avista's
17 general rate case filing in Docket No. UG 186. However, if the Commission
18 desires to make a decision based upon information known today, I recommend
19 that the Commission not require Avista to provide an SB 408 refund in light of
20 Avista's projected earnings levels during the refund period.

1 **Q. DID YOU PREPARE AN EXHIBIT FOR THIS DOCKET?**

2 A. Yes. I prepared Exhibit Staff/301.

3 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

4 A. My testimony is organized as follows:

5	Review of Avista's Earnings over the Refund Period.....	2
6	Discussion of Whether Refunds Should be Required.....	3
7	Definition of Confiscatory Rates.....	8
8	Concluding Remarks.....	9

Review of Avista's Earnings over the Refund Period

9 **Q. WHAT IS THE RELEVANT TIME PERIOD FOR WHICH AVISTA'S**
10 **PROJECTED EARNINGS IS DETERMINATIVE AS TO WHETHER**
11 **REFUNDS SHOULD BE REQUIRED?**

12 A. The refund period as identified by temporary rule OAR 860-022-
13 0041(10) is June 1, 2009 through May 31, 2010. Any refunds or
14 charges related to the calendar 2008 tax period pursuant to
15 SB 408 would occur over this period.

16 **Q. DO YOU HAVE AN ESTIMATE OF AVISTA'S EARNINGS OVER THIS TIME**
17 **PERIOD?**

18 A. Yes. In Staff Data Request No. 34, Staff requested that Avista provide a
19 projection of the company's earnings over this time period. A copy of the table
20 provided by Avista is provided in Exhibit Staff/202, Garcia/2. The table shows
21 that Avista's projected returns on equity are 1.69 percent with a refund and
22 3.86 percent without a refund.

1 **Q. AVISTA CURRENTLY HAS A GENERAL RATE REQUEST APPLICATION**
2 **BEFORE THE COMMISSION. WHAT ASSUMPTIONS REGARDING THE**
3 **RATE REQUEST ARE INCLUDED IN THE DERIVATION OF THE RETURN**
4 **ON EQUITY ESTIMATES LISTED IN YOUR RESPONSE TO THE PREVIOUS**
5 **QUESTION?**

6 A. The two key assumptions are the date new rates are effective associated with
7 the general rate case filing and the return on equity (ROE) authorized by the
8 Commission. The return on equity values of 1.69 and 3.86 percent assume that
9 new rates pursuant to the general rate filing are effective as of April 25, 2010.¹
10 The second key assumption in the analysis is that rates are based on a 10
11 percent return on equity (ROE). The Company's UG 186 rate increase,
12 assuming a 10 percent ROE, is \$12.9 million.

Discussion of Whether Refunds Should be Required

13 **Q. IF THE COMMISSION MAKES A DECISION BASED ONLY UPON THE**
14 **EVIDENCE KNOWN TODAY AND GIVEN THAT AVISTA IS PROJECTED**
15 **TO HAVE A RETURN ON EQUITY OF 3.86 PERCENT, DO YOU**
16 **RECOMMEND THE COMMISSION DIRECT AVISTA TO PROVIDE SB 408**
17 **REFUNDS?**

18 A. No. If the Commission makes a decision based upon information known
19 today, I recommend the Commission not require Avista to provide refunds in
20 this docket given that, prior to any refund, Avista is projected to earn a return

¹ The end of the suspension period is actually April 27, 2010, but the data request assumed an April 25, 2010, effective date for new rates resulting from the general rate case order.

1 on equity of 3.86 percent. However, and as previously discussed, my
2 primary recommendation is to wait until more information becomes available
3 regarding Avista's general rate request.

4 **Q. WHAT IS THE BASIS FOR YOUR RECOMMENDATION THAT AVISTA'S**
5 **3.86 PERCENT PROJECTED RETURN ON EQUITY IS TOO LOW TO**
6 **REQUIRE REFUNDS?**

7 A. The standard I used to determine whether refunds should be required is
8 whether any or all of the customer refund obligation, if required, would result
9 in confiscatory rates under Oregon Revised Statute (ORS) 757.040. It is my
10 opinion that requiring refunds when Avista is projected to earn a return on
11 equity of 3.86 percent, prior to any refund and on a normalized basis, would
12 constitute a rate determination resulting in confiscatory rates under
13 ORS 756.040.

14 **Q. WHAT DID YOU CONSIDER IN FORMING THIS CONCLUSION?**

15 A. My first consideration is the utility's cost of equity. While I have not estimated
16 Avista's cost of equity for this proceeding, I think it is likely that Avista's current
17 cost of equity is well above 3.86 percent. My second consideration is the level
18 of precision in estimating a company's cost of equity. Typically when analysts
19 estimate the cost of equity for regulated utilities, their recommendations include
20 a range of estimates—in part because the nature of estimates are imprecise
21 and different methods of estimation yield different values. From my review of
22 past general rate case proceedings, recommended ranges of returns on equity

1 typically span between 100 and 200 basis points. While an analyst might
2 recommend a 10% return on equity, for example, the range of estimates may
3 be from 9 to 11%. The "true" return investors require to hold Avista stock may
4 be as low as 9% or as high as 11%.

5 By providing a range of estimates in these analyses, the analyst is conveying
6 that different approaches to estimating the cost of equity yield varying results;
7 and the analyst then provides a point estimate recommendation on which rates
8 are to be established given a host of considerations. The point estimate
9 recommendation may be at the bottom, middle or top of the range. The actual
10 return required by investors may in fact be higher or lower than the
11 recommended point estimate. This is the nature of estimation. Even in
12 considering a range of cost of equity estimates, I am confident that the range of
13 estimates would not include the value of 3.86 percent.

14 This conclusion is further supported by observing current rates on ten- and
15 thirty-year Treasuries, which are relatively riskless (from the perspective of
16 nominal repayment risk) and have yields typically exceeding 3.86 percent. As of
17 July 23, 2009, yields on ten- and thirty-year Treasuries were 3.72 percent and
18 4.58 percent, respectively.²

19 **Q. BESIDES A POINT ESTIMATE FOR AVISTA'S RETURN ON EQUITY AND**
20 **A REASONABLE RANGE AROUND A POINT ESTIMATE, DO YOU HAVE**
21 **ANY ADDITIONAL CONSIDERATIONS IN REACHING A**

² These interest rates are from the Federal Reserve's Statistical Release H.15.

1 **RECOMMENDATION AS TO WHETHER REFUNDS WOULD, IN THESE**
2 **CIRCUMSTANCES, RESULT IN CONFISCATORY RATES?**

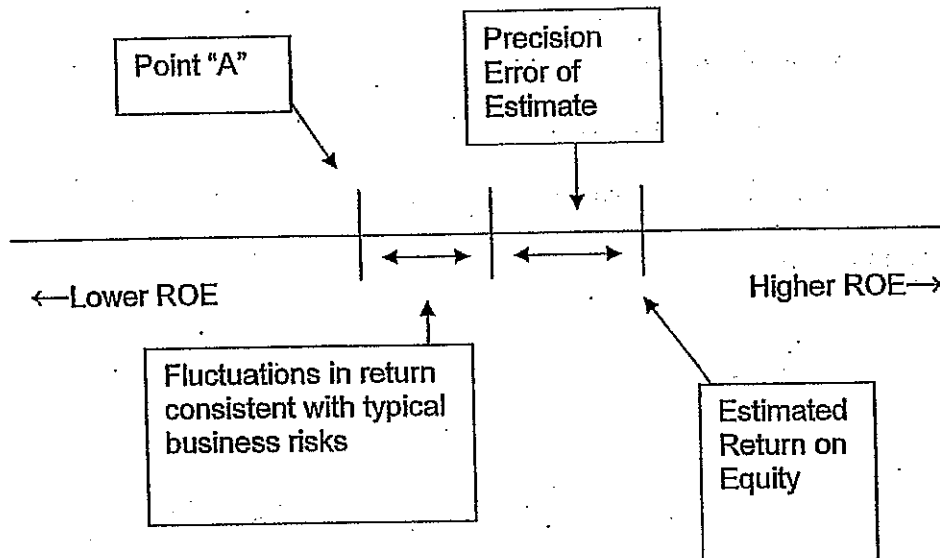
3 A. Yes. My final consideration is the acknowledgement that utility returns on equity
4 are variable given market conditions and cost stresses. I think investors are
5 aware that utility earnings vary. Sometimes actual earnings are above expected
6 levels and sometimes they are below. This is the nature of financial risk and
7 why finance theory maintains that investors should be compensated for
8 exposure to risk to the extent that risks cannot be diversified. That is, a
9 portfolio of investments is held such that some company-specific risks are
10 diversified and where some individual investments in the portfolio earn more
11 than expected and some earn less. I believe that, in considering whether a
12 return on equity is confiscatory, the range of returns should be expanded
13 beyond that attributable to precision issues; i.e., beyond that range which
14 encompasses errors in estimating the true cost of equity. This is somewhat
15 analogous to the kinds of ranges Staff has recommended in the past for
16 deadbands in power cost adjustments and alternative forms of regulation. In the
17 past, such deadbands have ranged from \pm 100 to 150 basis points. Part of the
18 reason for these deadbands has historically been the consideration that it might
19 be reasonable to have mechanisms that serve to protect the companies only
20 from extraordinary risks. Therefore, for purposes of establishing the threshold
21 of return on equity below which confiscatory rates begin, I think it is reasonable
22 to expand the range somewhat beyond that which might encompass an
23 estimated return on equity required by investors.

1 Q. TAKING THESE CONSIDERATIONS INTO ACCOUNT, DO YOU BELIEVE
2 THAT ORDERING REFUNDS WHEN AVISTA IS PROJECTED TO EARN
3 3.86 PERCENT PRIOR TO REFUNDS CONSTITUTES A RATE DECISION
4 RESULTING IN CONFISCATORY RATES?

5 A. Yes.

6 Q. DO YOU HAVE A CHART DISPLAYING THE LOGIC DISCUSSED
7 ABOVE?

8 A. Yes. The chart below illustrates the logic discussed above.



Definition of Confiscatory Rates

1 **Q. WHAT IS YOUR DEFINITION OF CONFISCATORY RATES?**

2 A. I define confiscatory rates as those resulting from the Commission taking
3 affirmative action to reduce rates where the rates, prior to any reduction
4 (refund), are projected to result in an ROE below Point "A" as displayed in
5 the preceding diagram. Point "A" represents a return on equity reflecting the
6 lowest return in both a range of estimates acknowledging measurement
7 error and in a range reflecting variability in earnings associated with typical
8 business risk. Point "A" reflects a return on equity lower than one which is
9 commensurate with the return on investments in other enterprises having
10 corresponding risks and one which is sufficient to ensure confidence in the
11 financial integrity of the utility while allowing it to maintain its credit and
12 attract capital. This is the *Hope*³ standard, which has been codified into
13 Oregon law in ORS 756.040.

14 **Q. IS IT NECESSARY TO ESTIMATE AVISTA'S COST OF EQUITY?**

15 A. No. I did not estimate Avista's cost of equity because Avista is projected to
16 earn a return on equity of 3.86 percent prior to any SB 408 refund. Given
17 this very low projected return on equity, it did not seem necessary.

³ *FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 64 S.Ct. 281 (1944).

1 **Q. DO YOU HAVE ANY ADDITIONAL REMARKS?**

2 A. Yes. The 3.86 percent estimate assumes new rates are not effective until
3 essentially the end of the suspension period associated with Avista's general
4 rate filing. Should the Commission issue an order with new rates effective
5 earlier than the end of the suspension period, any resulting higher revenues
6 will increase Avista's projected return on equity over the 12-month period
7 ending May 31, 2010. The uncertainty regarding the effective date of
8 UG 186 rates and the impact of these rates on the resulting ROE in this
9 docket is why my primary recommendation is to wait until a UG 186 decision
10 is entered, or at least until more information is known in that docket before
11 making a decision in this proceeding.⁴

12 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

13 A. Yes.

⁴ Alternatively, the Commission could issue an order in UG 131 finding that refunds are not required and then later reopen its order should the Commission issue an order in UG 186 with new rates effective much earlier than April 27, 2010, which is the end of the UG 186 suspension period.

CASE: UG 171, Phase II
WITNESS: Steve Storm

**PUBLIC UTILITY COMMISSION
OF
OREGON**

STAFF EXHIBIT 301

Witness Qualification Statement

July 28, 2009

WITNESS QUALIFICATION STATEMENT

NAME Steven T. Storm

EMPLOYER Public Utility Commission of Oregon

TITLE Program Manager, Economic Research and Financial Analysis Division

ADDRESS 550 Capitol Street NE Suite 215
Salem, Oregon 97301-2148

EDUCATION M.B.A. University of Oregon; Eugene, Oregon
A.B. (Economics); Harvard; Cambridge, Massachusetts

EXPERIENCE I have been employed by the Public Utility Commission of Oregon since October 2007. I am currently the Program Manager of the Economic and Policy Analysis Section. My responsibilities include leading a team of analysts engaged in economic and financial research and providing technical support on a wide range of policy issues involving electric, gas, and telecommunications utilities. I have testified before the Commission on policy and technical issues in UE 197, UE 200, and UE 210.

Prior regulatory experience includes 4 years in which my responsibilities included developing responses to data requests regarding the financial analysis of new products and services at US WEST Communications.

OTHER EXPERIENCE I was a self-employed financial planner for 8 years following an 18 year career in management positions engaged in pricing and cost analysis; financial analysis, planning and management; and strategic planning in the publishing and telecommunications industries. I managed the pricing (rate spread and rate design) and cost accounting functions in the Directory department of Pacific Northwest Bell and its successor company, US WEST Direct for 5 years. I was responsible for departmental budgeting and management reporting functions for 3 years at US West Direct and was responsible for corporate financial planning, analysis, and management reporting for 1 year at Electric Lightwave.

I have 7 years experience in capital budgeting, financial analysis, and strategic planning functions at US West Communications.

CERTIFICATE OF SERVICE

**UG 171
Phase II**

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 28th day of July, 2009.

Kay Barnes

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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