

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UG 171

In the Matter of)	
)	
AVISTA CORPORATION, dba AVISTA)	
UTILITIES)	ORDER
)	
Filing of tariffs establishing automatic)	
adjustment clauses under the terms of SB 408.)	

DISPOSITION: STIPULATION ADOPTED

In this order, the Public Utility Commission of Oregon (Commission) approves a Stipulation that resolves all issues relating to the annual income tax report filed by Avista Corporation, dba Avista Utilities (Avista). The Stipulation requires Avista to refund \$1,500,000 to customers for excess amounts collected in rates for federal, state, and local income tax liability.

INTRODUCTION

Senate Bill 408 (SB 408), passed by the 2005 Legislative Assembly, establishes a new method for the rate treatment of utility income taxes. Generally, SB 408, which is codified at ORS 757.268, requires a utility to true-up any differences between the amounts of income taxes authorized to be collected in rates from customers and amounts of taxes actually paid that are “properly attributed” to the utility’s regulated operations. *See* ORS 757.268(4). The utilities must make annual tax filings reporting these amounts on October 15 of each year. If amounts collected and amounts paid differ by more than \$100,000, the Commission must order the utility to establish an automatic adjustment clause to account for the difference, with a rate adjustment to be effective June 1 of each year. *See* ORS 757.268 (4), (6)(a); OAR 860-022-0041(8).

On October 15, 2007, Avista filed its annual tax report containing information for the 2006 tax year (2006 Tax Report). That report showed that Avista had overcollected \$1.1 million in rates for income taxes that should be refunded to customers. Through established procedures, the Commission Staff (Staff) and other parties reviewed the report for compliance with ORS 757.268 and Commission rules codified in OAR 860-022-0041.

On December 20, 2007, Staff filed its initial findings with respect to the report. Staff asserted that Avista had calculated its state stand-alone tax liability by not applying the Oregon Business Energy Tax Credits (BETCs). Because Avista did not apply those credits, Staff concluded that Avista's add-back of those credits in its report violated OAR 860-022-0041(4)(d)(D). According to Staff, including the BETCs would increase Avista's refund to customers to \$1.6 million.

On January 18, 2007, Avista filed a claim, pursuant to OAR 860-022-0041(10), that any refund under SB 408 would significantly impact its earnings and violate ORS 756.040. Specifically, Avista claimed that its actual 2006 return on equity (ROE), if it were to make a \$1.1 million refund to customers, would be 4.75 percent. Avista added that its 2006 ROE would drop to 3.59 percent if it were to refund \$1.6 million to customers, based on Staff's adjustment related to BETCs.

Meanwhile, on December 20, 2007, Avista filed Advice No. 07-10-G, an automatic adjustment clause tariff related to its 2006 Tax Report. The Commission approved Advice No. 07-10-G at its January 22, 2008, Public Meeting. Although review of the tax report was still pending, the Commission adopted Staff's recommendation to adopt the tariff, subject to later revision to incorporate any changes deemed necessary by the Commission. *See* Order No. 08-045.

STIPULATION

Position of the Parties

On March 3, 2008, Avista, Staff, the Citizens' Utility Board of Oregon (CUB) and the Northwest Industrial Gas Users (NWIUGU) filed a Stipulation intended to resolve all issues related to Avista's 2006 Tax Report. A copy of the Stipulation is attached as Appendix A and incorporated by reference. The parties supported the Stipulation with joint testimony.

Although Avista and Staff do not agree on the treatment of the BETCs in the stand-alone calculation or whether the customer refund will result in a violation of ORS 756.040, all stipulating parties agree that a refund to customers in the amount of \$1.5 million is a reasonable resolution of all contested issues in this docket. The stipulating parties further agree that this refund amount, which includes interest through the refund period of June 1, 2008 through May 31, 2009, is consistent with ORS 757.268, ORS 756.040, and OAR 860-022-0041.

The stipulating parties assert that the Stipulation resolves all issues in this proceeding and request the Commission issue an order approving the Stipulation and implementing its terms. No party objected to the Stipulation, and the time for doing so has expired. *See* Administrative Law Judge Ruling, March 5, 2008.

Discussion and Ruling

The Commission encourages parties to resolve issues and narrow the scope of the proceedings to the extent that such actions further the public interest. Stipulations reduce the burdens of the parties and the Commission and facilitate the prompt completion of matters brought before the Commission for its consideration. In this instance, there has been participation and agreement by parties representing a broad range of interests and no persons have interposed any objections to the Stipulation.

We agree with the stipulating parties that a refund to customers of \$1.5 million, which includes interest through the refund period of June 1, 2008 through May 31, 2009, is consistent with ORS 757.268, ORS 756.040, and OAR 860-022-0041.

The Stipulation and supporting testimony are admitted into evidence pursuant to OAR 860-014-0085. Official notice is taken of the highly confidential information contained in Avista's 2006 Tax Report.¹ The Stipulation should be adopted in its entirety.

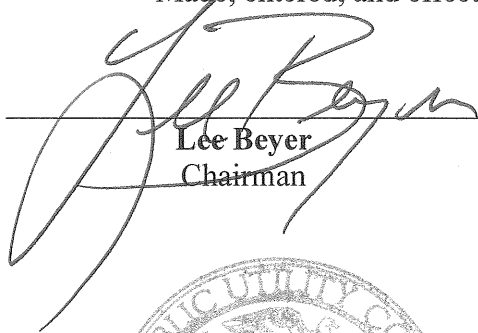
¹ Any party may object to a fact noticed within 15 days of this order. See OAR 860-014-0050(2).

ORDER

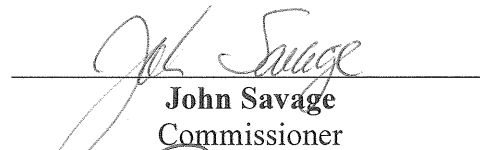
IT IS ORDERED that:

1. The Stipulation, filed by Avista Corporation, dba Avista Utilities, the Citizens' Utility Board of Oregon, the Northwest Industrial Gas Users, and the Staff of the Public Utility Commission of Oregon is adopted in its entirety.
2. Avista Corporation, dba Avista Utilities, shall file compliance tariffs consistent with the terms of this order that supersede Advice No. 07-10-G approved at the January 22, 2008, Public Meeting.

Made, entered, and effective APR 11 2008.



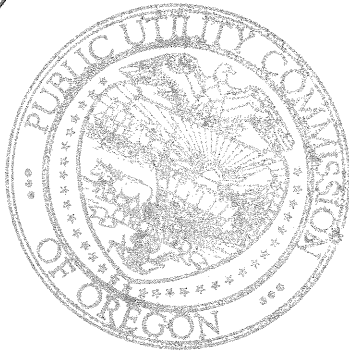
Lee Beyer
Chairman



John Savage
Commissioner



Ray Baum
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UG 171

In the Matter of

Avista Corporation, dba AVISTA
UTILITIES

Filing of tariffs establishing automatic
Adjustment clauses under the terms of SB 408

STIPULATION

This Stipulation is entered into for the purpose of resolving all issues within this docket. Specifically, this Stipulation concludes that Avista will refund \$1.5 million, which includes interest through the refund period of June 1, 2008 through May 31, 2009, as a result of Avista Corporation's Tax Report in this docket.

PARTIES

The parties to this Stipulation are Avista Corporation (Avista), the Citizens' Utility Board (CUB), the Northwest Industrial Gas Users (NWIGU), and the Public Utility Commission of Oregon Staff (Staff) (collectively, the "Parties").

1. INTRODUCTION

Pursuant to ORS 757.268 and OAR 860-022-0041, on October 15, 2007, Avista filed its tax report establishing an automatic adjustment clause under the terms of SB 408 (Tax Report). As filed, Avista's Tax Report would have resulted in refund to customers of \$1.1 million. On November 7, 2007, Administrative Law Judge Michael Grant entered a procedural schedule for the docket. Pursuant to the procedural schedule, on December 20, 2007, Staff filed its initial findings with respect to the Tax Report. On January 9, 2008, the Parties held a settlement conference. On January 18, 2008, Avista filed a claimed violation of ORS 756.040 pursuant to

1 OAR 860-022-0041(10). On January 25, 2008, Staff filed direct testimony. The Parties held
2 additional settlement discussions on February 4, 2008.

3 As a complete settlement of issues in this proceeding, the Parties have agreed to the terms
4 of this Stipulation and to submit the Stipulation to the Commission. The Parties request that the
5 Commission issue an order approving the Stipulation and implementing its terms.

6 **II. SPECIFIC TERMS**

7 A. The Parties agree and acknowledge that a refund amount to customers of \$1.5 million,
8 which includes interest through the refund period of June 1, 2008 through May 31, 2009, is
9 consistent with ORS 757.268, ORS 756.040, and OAR 860-022-0041.

10 B. The Parties agree that the refund to customers in the amount of \$1.5 million resolves
11 all issues related to Avista's Tax Report and its claimed violation of ORS 756.040.

12 **III. GENERAL TERMS**

13 A. The Parties agree that this Stipulation represents a compromise in the positions of the
14 Parties. As such, conduct, statements and documents disclosed in the negotiation of the
15 Stipulation shall not be admissible as evidence in this or any other proceeding.

16 B. This Stipulation will be offered into the record of this proceeding as evidence
17 pursuant to OAR 860-14-0085. The Parties agree to support this Stipulation throughout this
18 proceeding and any appeal, provide witnesses, if necessary, to sponsor this Stipulation at the
19 hearing and recommend that the Commission issue an order adopting settlements contained
20 herein.

21 C. The Parties have negotiated this Stipulation as an integrated document. If the
22 Commission rejects all or any material portion of this Stipulation, or imposes additional material
23 conditions in approving this Stipulation, any party disadvantaged by such action shall have the
24 rights provided in OAR 860-14-0085 and shall be entitled to seek reconsideration or appeal of
25 the Commission's Order.

26

1 D. By entering into this Stipulation, no party shall be deemed to have approved,
2 admitted, or consented to the facts, principles, methods, or theories employed by any other party
3 in arriving at the terms of this Stipulation including those set forth in the written testimony
4 submitted in support of this Stipulation, other than those specifically identified in the body of this
5 Stipulation. No party shall be deemed to have agreed that any provision of this Stipulation is
6 appropriate for resolving issues in any other proceeding.

7 E. The Stipulation may be executed in counterparts and each signed counterpart shall
8 constitute an original document.

9 This Stipulation is entered into by each party on the date entered below such party's
10 signature.

11 AVISTA CORPORATION

NORTHWEST INDUSTRIAL GAS USERS

12 Dated: 3/3/08

Dated: _____

13 By: David J. Meyer
14 Print name

By: _____
Print name

15 Signed: [Signature]

Signed: _____

17 PUBLIC UTILITY COMMISSION STAFF

CITIZENS' UTILITY BOARD

18 Dated: _____

Dated: _____

19 By: _____
20 Print name

By: _____

21 Signed: _____


Signed: _____

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10 signature.

11	AVISTA CORPORATION	NORTHWEST INDUSTRIAL GAS USERS
12	Dated: _____	Dated: _____
13	By: _____	By: _____
14	Print name	Print name
15	Signed: _____	Signed: _____

17	PUBLIC UTILITY COMMISSION STAFF	CITIZENS' UTILITY BOARD
18	Dated: <u>2/27/08</u>	Dated: _____
19	By: <u>Jason Jones</u>	By: _____
20	Print name	
21	Signed: 	Signed: _____

ORDER NO. 08-203

1 D. By entering into this Stipulation, no party shall be deemed to have approved,
 2 admitted, or consented to the facts, principles, methods, or theories employed by any other party
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 8 constitute an original document.

9 This Stipulation is entered into by each party on the date entered below such party's
 10 signature.

11 AVISTA CORPORATION
 12 Dated: _____
 13 By: _____
 14 Print name
 15 Signed: _____

NORTHWEST INDUSTRIAL GAS USERS
 Dated: February 27, 2008
 By: Paula E. Pyron
 Print name
 Signed: Paula E. Pyron

17 PUBLIC UTILITY COMMISSION STAFF
 18 Dated: _____
 19 By: _____
 20 Print name
 21 Signed: _____

CITIZENS' UTILITY BOARD
 Dated: _____
 By: _____
 Signed: _____

ORDER NO. 08-203

1 D. By entering into this Stipulation, no party shall be deemed to have approved,
 2 admitted, or consented to the facts, principles, methods, or theories employed by any other party
 3 in arriving at the terms of this Stipulation including those set forth in the written testimony
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11 AVISTA CORPORATION

NORTHWEST INDUSTRIAL GAS USERS

12 Dated: _____

Dated: _____

13 By: _____

By: _____

14 Print name

Print name

15 Signed: _____

Signed: _____

17 PUBLIC UTILITY COMMISSION STAFF

CITIZENS' UTILITY BOARD

18 Dated: _____

Dated: 2-29-08

19 By: _____

By: Bob Wilson

20 Print name

21 Signed: _____

Signed: _____