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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UI 180

In the Matter of the Application of Avista Utilities )  
for Approval of an Agreement for Gas ) ORDER  
Procurement and Related Services with Avista )  
Energy, Inc., an Affiliated Interest. )

**DISPOSITION: APPLICATION APPROVED WITH CONDITIONS**

On July 1, 1999, the Commission received an application from Avista Utilities (Company), filed pursuant to ORS 757.480 and ORS 757.495, requesting authority to engage in certain affiliated interest transactions. The application was filed as Attachment B to the company's proposal for a natural gas benchmark mechanism under a new tariff schedule 464. That advice was approved by the Commission at its August 10, 1999, Public Meeting.

Based on a review of the application and the Commission's records, the Commission finds that the application satisfies applicable statutes and administrative rules. At its Public Meeting on August 24, 1999, the Commission adopted Staff's recommendation to approve the application with conditions. Staff's recommendation is attached as Appendix A and is incorporated by reference.

**OPINION**

**Jurisdiction**

ORS 757.005 defines a "public utility" as anyone providing heat, light, water or power service to the public in Oregon. The Company is a public utility subject to the Commission's jurisdiction.

**Affiliation**

An affiliated interest relationship exists under ORS 757.015.

**Applicable Law**

ORS 757.495 requires public utilities to seek approval of contracts with affiliated interests within 90 days after execution of the contract. The intent of the statute is to protect ratepayers

from the abuses which may arise from less than arm's length transactions. *Portland General Electric Company*, UF 3739, Order No. 81-737 at 6. Failure to file within the 90-day time limit may preclude the utility from recovering costs incurred under the contract. *See* ORS 757.495.

ORS 757.495(3) requires the Commission to approve the contract if the Commission finds that the contract is fair and reasonable and not contrary to the public interest. However, the Commission need not determine the reasonableness of all the financial aspects of the contract for ratemaking purposes. The Commission may reserve that issue for a subsequent proceeding.

Ratepayers should not be harmed by approval of this application.

### CONCLUSIONS

1. The Company is a public utility subject to the jurisdiction of the Commission.
2. An affiliated interest relationship exists.
3. The agreement is fair, reasonable, and not contrary to the public interest.
4. The application should be granted.

### ORDER

IT IS ORDERED that the application of Avista Utilities for authority to engage in certain affiliated interest transactions with Avista Energy, Inc., is granted, subject to the conditions stated in Appendix A.

Made, entered, and effective \_\_\_\_\_.

BY THE COMMISSION:

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**Vikie Bailey-Goggins**  
Commission Secretary

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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 of 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. A party may appeal this order pursuant to ORS 756.580.

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Appendix A

ITEM NO. CA 1

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: AUGUST 24, 1999**

**REGULAR AGENDA**\_\_ **CONSENT AGENDA** **X** **EFFECTIVE DATE** \_\_\_\_\_

**DATE:** August 10, 1999

**TO:** Bill Warren through Marc Hellman and Mike Myers

**FROM:** Marion Anderson

**SUBJECT:** UI 180 – Avista Utilities Application for Approval of an Agreement for Gas Procurement and Related Services with Avista Energy, Inc., an Affiliated Interest

**SUMMARY RECOMMENDATION:**

I recommend approval with conditions.

**DISCUSSION:**

The application underlying this docket was filed as Attachment B to Avista Utilities proposal for a natural gas benchmark mechanism under new tariff schedule 464 on July 1, 1999. That Advice No. 99-6-G; P.U.C. Oregon No. 4, was approved by the Commission as a regular agenda item at today's Public Meeting. The agreement for this arrangement between the parties will be executed and implemented on September 1, 1999.

**PERTINENT ISSUES:**

I have investigated the following issues to determine if the agreement is fair and reasonable, and not contrary to the public interest.

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1. Scope of Services

Avista Utilities will transfer to and consolidate in Avista Energy, Inc. all gas procurement activities.

2. Transfer Pricing Methods and Cost Allocations

3. Determination of Public Interest Compliance

These considerations are rendered moot by Avista Energy, Inc.'s absorption of all gas procurement administrative costs.

4. Records Availability, Audit Procedures and Reporting Requirements

I believe that Detailed Recommendation Condition 1 affords the Commission adequate access to records and provides for the auditing of transactions between Avista Utilities and Avista Energy, Inc.

**CONCLUSIONS:**

Based on an investigation and review of this application, my conclusions are as follows:

1. Avista Utilities is a regulated gas company subject to the jurisdiction of the Public Utility Commission of Oregon.
2. An affiliated interest relationship exists between Avista Utilities and Avista Energy, Inc.
3. The application appears to be fair and reasonable and not contrary to the public interest.

**DETAILED RECOMMENDATION:**

Based on the preceding discussion and conclusions, I recommend that this application presenting the gas provisioning services agreement between Avista Utilities and Avista Energy, Inc., be approved with the following conditions:

1. Avista Utilities shall provide the Commission access to all books of account, as well as all documents, data and records of Avista Utilities and Avista Energy, Inc., that pertain to transactions between the two.
2. The Commission reserves the right to review for reasonableness all financial aspects of this arrangement in any rate proceeding or earnings review under an alternative form of regulation.

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3. Avista Utilities shall notify the Commission in advance of any substantive changes to the agreement, including any material changes in any cost. Any changes to the agreement terms that alter the intent and extent of activities under the agreement from those approved herein shall be submitted for approval in an application for a supplemental order (or other appropriate format) in this docket.
4. Avista Utilities shall maintain records to show, upon Commission request, the cost of Avista Energy, Inc.'s provisions to Avista Utilities under this contract. The return component used in that calculation shall be Avista Utilities' currently authorized Oregon overall rate of return multiplied by the portion of Avista Energy, Inc.'s net assets employed in those provisions.

5. The term of approval hereby conferred is coincident with the experimental period defined in the tariff filing i.e. end date March 31, 2002.

cc: Lee Sparling