ORDER NO. 01-818

ENTERED SEP 20 2001

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UF 4171

In the Matter of the Application of Avista Corporation Requesting an Amendment to Order No. 01-331.	)))	SUPPLEMENTAL ORDER

DISPOSITION: ORDER NO. 01-331 AMENDED WITH CONDITIONS

On August 6, 2001, Avista Corporation filed an application requesting the Commission amend Order No. 01-331. The basis for the current request is detailed in Staff's recommendation memo, attached as Appendix A. [1]

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 September 11, 2001**,** the Commission adopted Staff's recommendation to approve Avista's current request.

ORDER

IT IS ORDERED THAT the application of Avista Corporation to amend Order No. 01-331 is granted, subject to the conditions and reporting requirements, as specified in Appendix A. All other conditions, reporting requests, and other provisions of Order No. 01-331, shall, to the extent not modified by this order, remain in full force and effect.

Made, entered, and effective ______________________________.

BY THE COMMISSION:

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Vikie Bailey-Goggins
Commission Secretary

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[1]The attached memo refers to a filing date of July 9, 2001, which is in error. The correct date is August 6, 2001.

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A party may appeal this order to a court pursuant to ORS 756.580.

ITEM NO. CA 2

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: September 11, 2001

REGULAR ___ **CONSENT** _X_ **EFFECTIVE DATE** ____________________

DATE: August 28, 2001

TO: Phil Nyegaard through Marc Hellman and Bryan Conway

FROM: Ming Peng

SUBJECT: UF 4171 - Avista Requests the Commission Amend Order No. 01-331

SUMMARY RECOMMENDATION:

I recommend approving the application with reporting requirements.

DISCUSSION:

On May 1, 2000, Avista Corp. (Avista) filed an application under Oregon Revised Statute (ORS) 757.415 and Oregon Administrative Rule 860-27-030 for authority to issue and sell not more than 3.7 million shares of common stock. At that time, Avista projected gross proceeds of $111 million and total issuance fees were not expected to exceed $2,775,000 or 2.5% of gross proceeds[2]. On June 23, 2000, the Commission granted the requested authority and issued Order No. 01-331.

On July 9, 2001, Avista filed an application requesting the Commission amend Order No. 01-331. The Company requests two specific amendments:

(1) **Shares**: Amend the Company authority by increasing the shares of common stock that may be issued from 3.7 million to 10 million.

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[2] **Gross proceeds**
The total amount raised from an Initial Public Offering (IPO: the first sale of stock by a company to the public).

(2) **Fees**: Amend the any underwriting discount or agency commission[3] that may be paid from 2.5% to a maximum of 6% of the price to the public.

Reasons for Avista's Request to Increase Its Expenses for Issuing Common Stock

In Order No. 00-331, the Commission authorized the Applicant to issue up to 3.7 million shares of its Common Stock under a **Periodic Offering Program (POP)**. The POP incorporated an agreement between the Company and an agent to sell, periodically, common stock to the public. The POP's advantage is that selling stock through an agent in this manner is less costly than the general underwriting process. The underwriter's commission under the POP was up to 2.5% of gross proceeds.

Avista represents that the current capital market for utilities in the western United States have changed due to circumstances out of its control and that these changes have caused the costs associated with issuing common stock as previously described to increase. Avista represents that the POP plan is no longer the most cost-effective method for issuing common stock. According to Avista, the POP does not allow common stock to be issued in large quantities. Additionally Avista represents that even if Avista did not issue common stock under the POP, it had to pay annual legal and audit fees. Due to these circumstances, Avista believes the POP is no longer the most cost-effective method for issuing common stock and has de-activated its POP program.

For the above reasons, Avista is considering a **fully underwritten transaction** that will shorten the time needed to issue the stock and the new option will allow all or most of the shares authorized to be issued in one or more transactions. Using a fully underwritten transaction will allow Avista to issue the shares in a shorter timeframe and in larger quantities. Additionally, Avista will receive the funds from the stock issuances at the time of the sale. The fully underwritten transaction, however, typically has higher fees (up to 6.0% of gross proceeds) associated with it.

Expenses

Avista projects gross proceeds of $180 million (Gross proceeds of $180,000,000 = 10,000,000 shares x $18.00 price per share) and total issuance fees are not

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[3] **Underwrite**
A process whereby investment bankers (underwriters) buy a new issue of securities from the issuing corporation or government entity and resell them to the public. The underwriter makes a profit from the **underwriting spread**--the difference between the price paid to the issuer and the public offering price.

expected to exceed $10.8 million or 6.0% of gross proceeds ($10.8 million = $180 million x 6.0%). Such fees and expenses appear high.

Concern

I am concerned that the fully underwritten transaction as described by Avista may not be the most cost-effective method for issuing common stock available to the Company. Avista's fully underwritten transaction could potentially cost $6.3 million more than if Avista had used its POP. I address this concern by recommending an additional reporting requirement that requires that Avista be required to submit a report demonstrating that the stock issuance under the fully underwritten transaction described in this application was cost-effective when compared to the POP before Avista seeks to include any of the costs associated with this stock issuance in rates. Avista has agreed to this additional reporting requirement.

STAFF RECOMMENDATIONS:

I recommend the Commission approve Avista's application to amend Order No. 00-331, subject to the following conditions: Avista should be required to demonstrate that the underwriting fees it pays are competitive with other issuances within or near the same timeframe by similarly situated utilities with similar credit ratings. Avista should also file the usual Report of Securities Issued and Disposition of Net Proceeds Statements after each issuance and sale. Lastly, before Avista seeks to include any of the costs associated with this stock issuance in rates, Avista should be required to submit a report demonstrating that the stock issuance under the fully underwritten transaction described in this application was cost-effective when compared to the POP. The conditions, reporting requirements, and other terms of Order No. 00-331 not amended hereby should remain in full force and effect.

For ratemaking purposes, the Commission reserves judgment on the reasonableness of the Company’s capital costs and capital structure. In its next rate proceeding, Avista will be required to show that its capital costs and structure are just and reasonable.