

**PUBLIC UTILITY COMMISSION
OF
OREGON**

UG 171(3)

STAFF/AVISTA/NWIGU/CUB EXHIBIT 200

**Joint Testimony in Support of Stipulation
In the Matter of Avista's
SB 408 2008 Tax Report**

January 22, 2010

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

3 A. My name is Carla Owings. I am employed by the Public Utility
4 Commission of Oregon ("PUC") as a Senior Revenue Requirement Analyst in
5 the Electric and Natural Gas Section. My business address is 550 Capitol
6 Street NE Suite 215, Salem, Oregon 97301-2551. I have been employed by
7 the PUC since April 2001 and have provided testimony as a Senior Analyst in
8 several PUC dockets. Prior to that, I was employed by the Oregon
9 Department of Revenue for seven years as a Senior Appraiser for the
10 Property Tax division. In that capacity I performed appraisals for several
11 investor-owned utilities throughout the State of Oregon.

12 My name is Deborah Garcia. I am employed by the PUC as a Senior
13 Revenue Requirement Analyst in the Electric and Natural Gas Section. My
14 business address is 550 Capitol Street NE Suite 215, Salem, Oregon 97301-
15 2551. I joined the PUC in 1989 and I have provided testimony and comments
16 on policy and financial issues in a variety of PUC dockets.

17 My name is Dustin Ball. I am a Senior Financial Analyst employed by
18 the PUC of Oregon. My business address is 550 Capitol Street NE Suite
19 215, Salem, Oregon 97301-2551. I am a graduate of Western Oregon
20 University with a Bachelor of Science in Business, focusing in Accounting. I
21 have been employed with the Oregon Public Utility Commission since
22 August 2007. Prior to that, I was employed by the Oregon Real Estate
23 Agency as a Financial Investigator in the Regulations Division from January

1 2006 to August 2007, and by the Oregon Department of Revenue as an
2 Income Tax Auditor, in the Personal Tax and Compliance Section from
3 January 2004 to January 2006. I am also a licensed Tax Consultant in the
4 State of Oregon.

5 My name is Kelly O. Norwood. I am the Vice President for State and
6 Federal Regulation employed by Avista Corporation. My business address
7 is 1411 E. Mission Avenue, Spokane, WA 99025. I am a graduate of
8 Eastern Washington University with a Bachelor of Arts Degree in Business
9 Administration, majoring in Accounting. I joined the Company in June of
10 1981. Over the past 28 years, I have spent approximately 17 years in the
11 Rates Department with involvement in cost of service, rate design, revenue
12 requirements and other aspects of ratemaking. I spent approximately 11
13 years in the Energy Resources Department (power supply and natural gas
14 supply) in a variety of roles, with involvement in resource planning, system
15 operations, resource analysis, negotiation of power contracts, and risk
16 management. I was appointed Vice-President of State & Federal Regulation
17 in March 2002.

18 My name is Paula E. Pyron. I am an experienced energy law attorney
19 serving the last nine years as the Executive Director of the Northwest
20 Industrial Gas Users ("NWIGU"). In addition to my 27 years of energy law
21 experience, I have a Bachelor of Science in Economics from the University of
22 Texas at Dallas. My business address is 4113 Wolf Berry Court, Lake
23 Oswego, OR 97035. NWIGU is a non-profit trade association of 38 industrial-

1 sized natural gas end users who have facilities in the states of Oregon,
2 Washington and Idaho. NWIGU provides information to its members on
3 natural gas issues that impact their facilities and represents its members'
4 interests in proceedings before the Federal Energy Regulatory Commission
5 and the Pacific Northwest state utility commissions, including the PUC of
6 Oregon. As Executive Director, my responsibilities include the review of all
7 filings made by LDCs in Oregon as well as the representation of the industrial
8 customers in connection with this Docket.

9 My name is Bob Jenks. I am the Executive Director of the Citizens'
10 Utility Board ("CUB"). My business address is 610 SW Broadway, Suite 308,
11 Portland, OR 97205. I am a graduate of Willamette University with a
12 Bachelor of Science Degree in Economics. I have provided testimony and
13 comments in a variety of PUC dockets. Between 1982 and 1991, I worked for
14 the Oregon State Public Interest Research Group, the Massachusetts Public
15 Interest Group and the Fund for Public Interest Research on a variety of
16 public policy issues. As Executive Director, my responsibilities include the
17 review of all utility and telecom filings in Oregon and in this particular docket
18 the representation of customers concerns that have arisen from this Docket.

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

20 A. Staff, Avista, NWIGU and CUB (collectively, the "Stipulating Parties"), provide
21 this testimony in support of the Joint Stipulation filed in Docket No. UG
22 171(3), regarding Avista's tax filing as it relates to Senate Bill 408 ("SB 408"),
23 covering calendar year 2008.

1 **Q. HOW IS SB 408 CODIFIED AND IMPLEMENTED BY THE OPUC?**

2 A. SB 408 is codified as ORS 757.267 and 757.268. The Commission issued
3 OAR 860-022-0041 to implement SB 408. Pursuant to this rule, Avista filed
4 its tax report for calendar years 2006, 2007, and 2008 on October 15, 2009
5 ("Tax Report").

6 **Q. PLEASE DESCRIBE THE ACTIVITY THAT HAS OCCURRED IN THIS**
7 **PROCEEDING.**

8 A. On November 6, 2009, Administrative Law Judge Michael Grant entered a
9 procedural schedule for the docket. On November 10, 2009, Staff convened
10 a workshop, and on November 23, 2009, Staff convened a settlement
11 conference which was noticed to all parties, and was attended by the
12 Stipulating Parties. Pursuant to the procedural schedule, on December 18,
13 2009, Staff and NWIGU filed their respective issues lists, and on December
14 28, 2009, the Company filed responsive comments.¹ The Parties reached
15 agreement-in-principle on a final resolution on January 6, 2010.

16 The Parties have agreed to the terms of the Stipulation and submit the
17 Stipulation, along with this Joint Testimony in support of the Stipulation, to the
18 Commission. The Parties request that the Commission issue an order
19 approving the Stipulation and implementing its terms. A copy of the
20 Stipulation is included in Exhibit 201.

¹ Staff's and NWIGU's Issues lists and Avista's responsive comments are attached to the Stipulation as Exhibit B.

1 **Q. PLEASE DESCRIBE THE NATURE OF THE REVIEW OF THE**
2 **COMPANY'S 2008 TAX REPORT FILING UNDERTAKEN BY STAFF AND**
3 **OTHER PARTIES.**

4 A. All of the Parties had full opportunity to review the filing. Staff issued data
5 requests to which the Company responded, and held additional conference
6 calls for the purpose of clarifying issues.

7 **Q. ARE THERE ANY OUTSTANDING ISSUES RELATED TO THE**
8 **COMPANY'S 2008 TAX REPORT?**

9 A. Yes. After Staff conducted its audit of the 2008 Report, two issues remain
10 unresolved: calculation of interest expense, and the application of a Business
11 Energy Tax Credit ("BETC") during a tax year when an investment has
12 previously gone into service but has not yet been added to rates. However,
13 the Parties agree that resolution of these issues will not affect the results of
14 the 2008 Tax Report.

15 **Q. DO THE PARTIES AGREE THAT THE STIPULATION IS REASONABLE?**

16 A. Yes. The Parties agree that a refund to customers in the amount of \$850,000,
17 plus approximately \$154,000 in interest (which represents an estimate of
18 interest through the refund period of June 1, 2010 through May 31, 2011) is a
19 reasonable resolution of all issues in this docket.

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

21 A. Yes.

**PUBLIC UTILITY COMMISSION
OF
OREGON**

UG 171(3)

EXHIBIT 201

**Exhibit of Joint Testimony in Support of
Stipulation
In the Matter of Avista's
SB 408 2008 Tax Report**

January 22, 2010

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 UG 171(3)

4 In the Matter of

5 Avista Corporation, dba AVISTA
6 UTILITIES

7 Filing of tariffs establishing automatic
8 adjustment clauses under the terms of SB 408

STIPULATION

9 This Stipulation resolves all issues among the Parties to this Stipulation related to
10 Avista's 2008 Tax Report, filed in UG 171(3) pursuant to Senate Bill 408 ("SB 408"). SB 408 is
11 codified in ORS 757.267, 757.268 and 757.210. Those statutes are implemented through OAR
12 860-022-0041.

13 **PARTIES**

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

17 **BACKGROUND**

18 SB 408 requires most Oregon public utilities to file an annual tax report with the Public
19 Utility Commission of Oregon ("Commission") that provides information on: (1) the amount of
20 taxes paid by the utility to units of government or that was paid by affiliated groups and that is
21 properly attributed to the utility's regulated operations; and (2) the amount of taxes authorized to
22 be collected in rates. ORS 757.268(1). The law requires the Commission to review the tax
23 report to determine whether the amount of taxes paid differs from the amount of taxes included
24 in rates by more than \$100,000. ORS 757.268(4). If so, the Commission must require the public
25 utility to establish an automatic adjustment clause to account for the difference. Id. The
26 Commission must complete its review of the tax report and order an automatic adjustment clause

1 (“AAC”) if necessary within 180 days after the tax report is filed. ORS 757.268(4); OAR 860-
2 022-0041(7).

3 1. INTRODUCTION

4 As required by SB 408, on October 15, 2009, Avista filed its tax report for calendar year
5 2008 (the “Tax Report”). On November 6, 2009, Administrative Law Judge Michael Grant
6 entered a procedural schedule for the docket. On November 10, 2009, Staff convened a
7 workshop, and a settlement conference was held on November 23, 2009. Both meetings were
8 noticed to all parties to the docket; however only the Parties to the Stipulation attended. On
9 December 18, 2009, Staff and NWIGU each filed issues lists with respect to the Tax Report and
10 on December 28, 2009, the Company filed responsive comments.¹

11 As described in more detail below and in Staff’s issues list, two primary issues surfaced
12 during the Parties’ audit of the Tax Report: the calculation of interest expense, and the
13 application of BETC Credits. While the Stipulating Parties have not agreed on the appropriate
14 method of handling either the interest calculation or the application of BETC Credits, the Parties
15 do agree that whether or not these adjustments are made, there would be no impact to Avista’s
16 originally filed tax report.

17 Staff and the Company have not agreed on the appropriate method for calculating interest
18 expense pursuant to OAR 860-022-0041(2)(p). Staff has proposed the use of the annual average
19 capital structure and annual average cost of debt to calculate the weighted cost of debt for
20 purposes of calculating interest expense.² Avista, however, used the capital structure authorized
21 by the Commission in its most recent rate case and the cost of debt on December 31, 2008 to
22 derive the weighted cost of debt. Staff has proposed a rulemaking docketed as AR 541 to
23 address this issue. However, as identified by Avista in its response to Staff’s issues list (*see*
24

25 ¹ Copies of Staff’s issues list, NWIGU’s issues list, and Avista’s responsive comments are attached to this
26 Stipulation as Exhibit B.

² See Exhibit B, Staff issues list, pages 1 through 7 for Staff’s discussion.

1 Exhibit B), Staff's proposed revision of \$78,495 does not increase the refund amount, since the
2 taxes paid amount is not impacted.

3 **II. SPECIFIC TERMS**

4 A. The Parties have agreed to the terms of this Stipulation and to submit the
5 Stipulation to the Commission. The Parties request that the Commission issue an order
6 approving the Stipulation and implementing its terms.

7 B. As filed, Avista's 2008 Tax Report results in a refund to customers of \$850,000,
8 plus approximately \$154,000³ in interest, to be implemented on June 1, 2010, and amortized on
9 an equal margin basis over a 12-month period. The resulting rate impact will be an overall
10 decrease to net revenues of 0.95 percent. The Parties agree that the amount of the refund as
11 contained in the 2008 Tax Report is consistent with applicable Commission rules. The Parties
12 further agree that rates reflecting this refund are fair, just, and reasonable.

13 **III. GENERAL TERMS**

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

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

22 C. The Parties have negotiated this Stipulation as an integrated document. If the
23 Commission rejects all or any material portion of this Stipulation, or imposes additional material
24 conditions in approving this Stipulation, any Party disadvantaged by such action shall have the

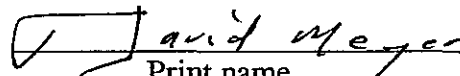
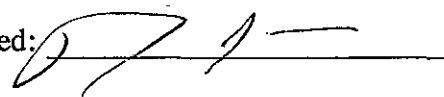
25 _____
26 ³ This total consists of approximately \$144,000 accruing from July 1, 2008 through May 31, 2010, and
approximately \$10,000 which will accrue during amortization. See Exhibit A to this Stipulation for a summary of
the proposed amortization amount.

1 rights provided in OAR 860-14-0085 and shall be entitled to seek reconsideration or appeal of
2 the Commission's Order.

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

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

11 This Stipulation is entered into by each Party on the date entered below such Party's
12 signature.

13	AVISTA CORPORATION	NORTHWEST INDUSTRIAL GAS USERS
14	Dated: <u>1/22/10</u>	Dated: _____
15	By:  <u>David Meyer</u>	By: _____
16	Print name	Print name
17	Signed:  _____	Signed: _____
18		

19	PUBLIC UTILITY COMMISSION STAFF	CITIZENS' UTILITY BOARD
20	Dated: _____	Dated: _____
21	By: _____	By: _____
22	Print name	Print name
23	Signed: _____	Signed: _____
24		

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12 signature.

13 AVISTA CORPORATION NORTHWEST INDUSTRIAL GAS USERS

14 Dated: _____ Dated: 1/22/2010

15 By: _____ By: Chad Stokes
16 Print name Print name

17 Signed: _____ Signed: [Signature]

19 PUBLIC UTILITY COMMISSION STAFF CITIZENS' UTILITY BOARD

20 Dated: _____ Dated: _____

21 By: _____ By: _____
22 Print name Print name

23 Signed: _____ Signed: _____


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14	Dated: _____	Dated: _____
15	By: _____	By: _____
16	Print name	Print name
17	Signed: _____	Signed: _____

19	PUBLIC UTILITY COMMISSION STAFF	CITIZENS' UTILITY BOARD
20	Dated: <u>1/25/10</u>	Dated: _____
21	By: <u>Jason Jones</u>	By: _____
22	Print name	Print name
23	Signed: 	Signed: _____

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2 the Commission's Order.

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12 signature.

13 AVISTA CORPORATION NORTHWEST INDUSTRIAL GAS USERS

14 Dated: _____ Dated: _____

15 By: _____ By: _____
16 Print name Print name

17 Signed: _____ Signed: _____

19 PUBLIC UTILITY COMMISSION STAFF CITIZENS' UTILITY BOARD

20 Dated: _____ Dated: 1-22-10

21 By: _____ By: G. C. McCracken
22 Print name Print name

23 Signed: _____ Signed: 