



City and Borough of Juneau
City & Borough Manager's Office
155 South Seward Street
Juneau, Alaska 99801

Telephone: 586-5240 | Facsimile: 586-5385

DATE: February 21, 2018

TO: Mayor and Assembly

FROM: Rorie Watt, City Manager

RE: Staff Report on RCA/AELP Update for Assembly Meeting 2/26/18

At the request of the Assembly, staff has opened negotiations with AELP to determine if our municipal goals can be met outside of the RCA consideration of Docket U-17-097. These negotiations are concurrent with the Assembly request to hear an appropriation Ordinance to fund intervention, that public hearing is on the agenda for a Special Assembly meeting on 2/26 at 5:30pm.

Negotiations consisted of discussions between CBJ, AELP and their counsel (upon consultation with Hydro One and Avista), resulting in back and forth discussion and proposed agreement that attempts to address the Assembly's identified policy goals. Those goals are as follows, I have included notes on the conformance of the proposal with those goals:

1. Snettisham (Agreement, I) – The power companies have proposed that they will not exercise the purchase option to acquire the Snettisham Hydroelectric Project “unless doing so will provide overall net benefits to AELP customers.”

This appears to substantially meet the intent of our goal.

Note: Order #2 from the RCA states that it will “not address issues related to any possible transfer of Snettisham in this proceeding.”

2. 55 Commitments (Agreement, II) –The power companies propose a more detailed list of AELP-specific agreements and commitments similar to those provided in other jurisdictions.

This provision of greater detail appears to substantially meet our goal.

3. Open Access/Transmission (Agreement III) – The companies propose to “make available the public process” and “will comply with joint use obligations in a fair and non-discriminatory manner.”

Conformance with our goal will likely be debated.

Note: Order #2 from the RCA states that it “will not be addressing an OATT or interconnection tariff in this proceeding.”

4. Resource Planning (Agreement IV) – The companies agree to biannually “present to the Juneau public AELP’s planned generation” including stand-by and emergency generation plans.

This meets the intent of our goal.

5. Mining Unitization Agreement – This document is over thirty years old and over forty pages long and is the result of substantial policy level negotiation. The agreement may be terminated by either party. Upon review of the document, I did not find it appropriate or possible to negotiate changes, and did not request concessions from AELP.
6. \$50M Bond – A bond, help by AIDEA would incur new costs to AELP rate payers. Upon analysis, I believe that the company has sufficient assets to self-perform system repairs in the event of a disaster (avalanche or otherwise). Combined with the agreement in #1 above, I find this bond to be unnecessary. If (at a future date and for whatever reason) the company was not fit willing and able to maintain the infrastructure, then RCA processes would apply.
7. Land Assets – I did not raise specific land parcels in our negotiations, AELP does have extensive land holdings and has historically cooperated with CBJ on their management of those lands. The commitment to retain a local office, staffing and brand are somewhat relevant to the continued approach to land management.

Request By AELP/Avista/Hydro One

In exchange for the above, the companies have requested that CBJ:

- A. Write to the RCA stating that CBJ does not oppose the Application or the proposed transaction
- B. Not file a petition to intervene as a party in RCA Docket U-17-097 (if a petition has not yet been filed); withdraw any pending CBJ petition to intervene (if a petition has been filed but not ruled on); or, withdraw from the proceeding (if the CBJ has already been granted party status).

Action Required:

Prior to the 26th, CBJ will have filed a Petition for Formal Proceedings and Petition for Intervention with the RCA.

The Assembly must choose to either appropriate funds for continued intervention OR direct staff to agree to the negotiated agreement and withdraw the Petition and write to the RCA.

AGREEMENT REGARDING JUNEAU-SPECIFIC COMMITMENTS

This Agreement is by and among Hydro One Limited (“Hydro One”), Avista Corporation (“Avista”), Alaska Electric Light and Power Company (“AELP”), Snettisham Electric Company (“SEC”), and the City and Borough of Juneau (“CBJ”) (collectively, the “Parties”). This Agreement will become effective when it has been signed by all the Parties.

Recitals

A. Currently pending in Regulatory Commission of Alaska (“RCA”) Docket U-17-097 is a joint application (“Application”) for authorization to acquire a controlling interest in AELP (“proposed transaction”), filed by Hydro One, acting through its indirect, wholly-owned subsidiary Olympus Equity LLC, and Avista (collectively, the “Applicants”).

B. Under the proposed transaction, Hydro One, through a subsidiary, will acquire the outstanding stock of Avista. Avista will continue to exist and will continue to own Alaska Energy and Resources Company (“AERC”), and AERC will continue to own AELP and SEC.

C. As stated in the Application, the proposed transaction will not change AELP’s management, personnel, operations, facilities, services, rates, or tariffs.

D. The CBJ is interested in the proposed transaction to ensure that it will not adversely affect AELP customers and that it is consistent with the public interest.

Agreement

I. Hydro One, Avista, AELP, and SEC agree that, if the Application receives all necessary approvals and the proposed transaction closes, SEC will not exercise the option to acquire ownership of the Snettisham Hydroelectric Project (“Snettisham”), as provided for in the Snettisham Option Agreement dated August 18, 1998, unless doing so will provide overall net benefits to AELP customers. For purposes of this commitment, “benefits” means: (a) causing AELP customer rates (base rates and cost of power adjustment (“COPA”)) to, in net total customer impact, be lower than they would have been without SEC exercising the option (i.e., reducing then-current rates or avoiding future rate increases); (b) improving, or avoiding degradation of, the availability or reliability of the electric service provided to AELP customers; or (c) a combination of (a) and (b) that yields an overall net beneficial effect on the price and quality of AELP electric service for customers. To exercise the Snettisham purchase option, SEC will have to obtain prior RCA approval of the transfer of the Alaska Industrial Development and Export Authority’s (“AIDEA’s”) Snettisham Certificate of Public Convenience and Necessity (“CPCN”), or RCA approval of a new CPCN, for the sale of Snettisham output, which will require proving that the CPCN transfer or new CPCN is in the public interest.¹ If SEC files an application for any such CPCN transfer or new CPCN, it will on the date of filing provide a copy of the complete application to the CBJ Municipal Manager’s office. If Hydro One, Avista,

¹ See RCA Order No. U-17-097(2) at 7-8.

AELP, or SEC violates this commitment, or if the CBJ believes that a proposed exercise of the option will violate this commitment, the CBJ can present and use this Agreement as evidence in advocating that the RCA not approve the CPCN transfer or new CPCN, or that the RCA impose conditions on them.

II. In addition to any commitments made in the Application, Hydro One, Avista, AELP, and SEC (as applicable) agree that if the Application receives all necessary approvals and the proposed transaction closes, they will honor the following commitments, some of which are derived from the 55 commitments in other jurisdictions, which were set forth in Exhibit 9 to the Application (“Hydro One/Avista Commitments”):

(1) The proposed transaction will not alter the direct ownership of AELP by AERC or the direct ownership of AERC by Avista, or any aspect of AELP’s management, operations, facilities, financing, services, rates, or tariffs.

(2) Consistent with past practice, AELP will continue to operate independently from Avista and Hydro One, under the same experienced management team and employees as existed prior to the proposed transaction. (This overlaps with Hydro One/Avista Commitment 2).

(3) AELP employee compensation and benefits levels will be maintained for a period of three years and will not be less favorable than the current compensation and benefits, in the aggregate. (This overlaps with Hydro One/Avista Commitments 8, 37).

(4) AELP will not seek to recover in rates (a) any premium or acquisition adjustment associated with the proposed transaction, or (b) any transaction costs associated with the proposed transaction. (This overlaps with Hydro One/Avista Condition 17).

(5) Hydro One, Avista, and AELP affirm the commitment to adhere to the affiliated interest transaction cost assignment and allocation methodology that was reviewed in Docket U-13-197. Specifically, to the extent Avista or Hydro One employees dedicate time or otherwise incur costs in the future related to the operation of AELP, those costs will be directly assigned to AELP and will be included in the proposed revenue requirement in future AELP rate cases. Those costs are expected to be relatively small since AELP will continue to be operated by the existing employees, including the existing management team. Any Avista or Hydro One costs charged to AELP will be subject to review by the RCA and potential disallowance from AELP rates under applicable affiliated interest transaction statutes, regulations, and RCA precedent. Likewise, should AELP employees dedicate time or otherwise incur costs related to Avista or Hydro One utility operations, such costs will be directly assigned to Avista or Hydro One. In the future, should there be a consolidation of certain utility functions among Hydro One, Avista, and AELP, it may be appropriate for some form of cost allocation to occur between the utilities, but any such allocation will be subject to review by the RCA as stated earlier. (This overlaps with Hydro One/Avista Commitment 23).

(6) The proposed transaction will not increase AELP rates or revenue requirements. (This overlaps with Hydro One/Avista Commitments 16-18, 23).

(7) The proposed transaction will not impair the ability of AELP to raise necessary capital or maintain a reasonable capital structure. (This overlaps with Hydro One/Avista Commitments 16-18, 23).

(8) Avista and the Avista Foundation provide charitable contributions and support for economic development and innovation in AELP's service territory. Since Avista acquired AERC in 2014, Avista and the Avista Foundation have contributed over \$224,000 to charitable and economic development causes in Juneau. The overall increase in this type of support provided for Avista and the Avista Foundation in the Hydro One/Avista Commitments (see Commitments 11 and 53) will also benefit AELP's customers and the Juneau community. (This overlaps with Hydro One/Avista Commitments 11 and 53).

(9) AELP will provide a rate credit to AELP customers (if and as approved by the RCA). This credit will be in the amount of \$1 million over 10 years. This amount roughly approximates the per-customer rate credits that the Applicants have committed to in the other jurisdictions. AELP will request RCA approval of the credit as follows: The \$1 million rate credit will be provided to AELP customers through AELP's quarterly COPA calculation. Specifically, AELP's COPA calculation will include a \$25,000 credit entry to the COPA balancing account every quarter (\$100,000 per year and \$1 million over 10 years), beginning with AELP's first COPA filing following RCA approval of the Application and closing of the proposed transaction. With that first COPA filing, AELP will file revisions to its COPA tariff sheets (Rate Schedule 98) reflecting these changes. (This overlaps with Hydro One/Avista Commitments 16 and 18).

(10) AELP will maintain AELP's brand and AELP will establish the plan for the operation of its business and any subsidiaries. (Adopting Hydro One/Avista Commitment 4).

(11) Consistent with past practice, AELP will continue development and funding of its and any subsidiaries' innovation activities. (Adopting Hydro One/Avista Commitment 6).

(12) AELP will honor its labor contracts and has the authority to negotiate, enter into, modify, amend, terminate, or agree to changes in any collective bargaining agreement or any of AELP's other material contracts with any labor organizations, union employees, or their representatives. (Adopting Hydro One/Avista Commitment 7).

(13) AELP will maintain its headquarters in Juneau, Alaska, and maintain no less of a significant presence in Juneau than what it maintained immediately prior to completion of the proposed transaction. (Adopting Hydro One/Avista Commitment 9).

(14) AELP will maintain its staffing and presence in the community in which AELP operates at levels sufficient to maintain the provision of safe and reliable service and cost-effective operations and consistent with pre-acquisition levels. (Adopting Hydro One/Avista Commitment 10).

(15) AELP will maintain its safety and reliability standards and policies and service quality measures in a manner that is substantially comparable to, or better than, those currently maintained. (Adopting Hydro One/Avista Commitment 15).

(16) AELP will maintain books and records separate from Hydro One and Avista. (Adopting Hydro One/Avista Commitment 21).

(17) In RCA formal adjudicatory dockets (including AELP rate cases) in which AELP is a party, Olympus Holding Corp. and its subsidiaries, including AELP, will provide the RCA, RCA Staff, the Regulatory Affairs and Public Advocacy section of the Attorney General's office ("RAPA"), and other parties reasonable access to AELP's books and records; access to financial information and filings; audit rights with respect to the documents supporting any costs that may be allocable to AELP; and access to AELP's board minutes, audit reports, and any information provided to credit rating agencies pertaining to AELP.

Olympus Holding Corp. and its subsidiaries, including AELP, will maintain the necessary books and records so as to provide an audit trail for all corporate, affiliate, or subsidiary transactions with AELP, or that result in costs that may be allocable to AELP.

The proposed transaction will not result in reduced access to the necessary books and records that relate to transactions with AELP, or that result in costs that may be allocable to AELP. AELP will provide RCA Staff, RAPA, and other parties to regulatory proceedings reasonable access to books and records (including those of Olympus Holding Corp. or any affiliate or subsidiary companies) required to verify or examine transactions with AELP, or that result in costs that may be allocable to AELP.

Nothing in the proposed transaction will limit or affect the RCA's rights with respect to inspection of AELP's accounts, books, papers and documents in compliance with all applicable laws. Nothing in the proposed transaction will limit or affect the RCA's rights with respect to inspection of Olympus Holding Corp.'s accounts, books, papers and documents pursuant to all applicable laws; provided, that such right to inspection shall be limited to Olympus Holding Corp.'s accounts, books, papers and documents that pertain solely to transactions affecting AELP's regulated utility operations.

Olympus Holding Corp. and its subsidiaries, including AELP, will provide the RCA with access to any written information provided by and to credit rating agencies that pertains to AELP. Olympus Holding Corp. and each of its subsidiaries will also provide the RCA with access to written information provided by and to credit rating agencies that pertains to Olympus Holding Corp.'s subsidiaries to the extent such information may affect AELP.

None of these commitments will preclude Olympus Holding Corp. or any of its subsidiaries, including AELP, from seeking confidential designation for any documents and limiting disclosure thereof to parties to the docket, as provided for under applicable law. (Adopting Hydro One/Avista Commitment 22).

III. If the Application receives all necessary approvals and the proposed transaction closes, AELP will make available to the public the process by which other energy developers become able to use AELP's transmission facilities and the effect on current and future ratepayers. AELP is subject to AS 42.05.311 and AS 42.05.321 (joint use statutes), and AELP will comply with its joint use obligations² in a fair and nondiscriminatory manner. Attached as Exhibit 1 is a flowchart showing AELP's current 15-step interconnection review process applicable to proposed generators having a nameplate capacity of 5,000 kVA or greater. The studies referenced in the flowchart are necessary to ensure that the interconnection will not adversely affect AELP's system or its service to other customers.

IV. If the Application receives all necessary approvals and the proposed transaction closes, every two years AELP will present to the Juneau public AELP's planned generation capacity additions (including stand-by and emergency generation), planned purchases of firm energy and capacity (including from stand-by and emergency generation), and planned generation capacity retirements (including stand-by and emergency generation), for the next ten years. The public will have an opportunity to comment on the information presented.

V. Once this Agreement is signed by all Parties, the CBJ will not seek to intervene as a party in RCA Docket U-17-097. Within two business days after this Agreement is signed by all Parties, the CBJ will: (1) submit a written notice to the RCA stating that the CBJ does not oppose the RCA approving the Application without substantive conditions (and will not subsequently withdraw that non-opposition or oppose such approval); and (2) withdraw any pending CBJ petition to intervene as a formal party in RCA Docket U-17-097 or, if the CBJ has already been granted party status, withdraw from the proceeding. If the CBJ violates any of its obligations under this Section V, or otherwise opposes approval of the Application or proposed transaction, this Agreement shall terminate, and Hydro One, Avista, and their subsidiaries, including AELP and SEC, shall not be bound by this Agreement.

VI. Coincident with, or promptly after, the CBJ's submittals to the RCA under Section V, the Applicants will submit a copy of this Agreement to the RCA in Docket U-17-097.

HYDRO ONE LIMITED

Date: _____

[Title]
AVISTA CORPORATION

² AELP is not obligated to provide transmission or distribution services to an energy developer to facilitate that developer providing retail electric service within AELP's certificated service area.

[Title]

Date: _____

ALASKA ELECTRIC LIGHT AND POWER COMPANY

[Title]

Date: _____

SNETTISHAM ELECTRIC COMPANY

[Title]

Date: _____

CITY AND BOROUGH OF JUNEAU

[Title]

Date: _____

Exhibit 1

Large Generator Interconnection Request Flow Chart

