**BEFORE THE**

**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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| **In the Matter of the Joint Application of HYDRO ONE LIMITED (acting through its indirect subsidiary, Olympus Equity LLC)**<br><br>**and**<br><br>**AVISTA CORPORATION**<br><br>**For an Order Authorizing Proposed Transaction** | Docket No. U-17-______<br><br>JOINT APPLICATION FOR AN ORDER AUTHORIZING PROPOSED TRANSACTION |

## I. INTRODUCTION

*1.* Hydro One Limited ("Hydro One"), acting through Olympus Equity LLC an indirect, wholly-owned subsidiary, and Avista Corporation ("Avista") (sometimes hereafter jointly referred to as "Joint Applicants" or the "companies") request an order of the Washington Utilities and Transportation Commission (the "Commission") authorizing the Proposed Transaction whereby Olympus Equity LLC would acquire all of the outstanding common stock of Avista, and Avista would thereafter become a direct, wholly-owned subsidiary of Olympus Equity LLC and an indirect, wholly-owned subsidiary of Hydro One[1] (the combination of these transactions is

[1] On July 19, 2017, Avista, a Washington corporation, Hydro One, a Province of Ontario corporation, Olympus Holding Corp. (also referred to hereafter as "US Parent"), a Delaware corporation, and Olympus Corp. ("Merger Sub"), a Washington corporation and an indirect, wholly-owned subsidiary of US Parent, entered into an Agreement and Plan of Merger. Following all approvals, at the effective time on the closing date, Merger Sub will be merged with and into Avista, and the separate existence of Merger Sub shall thereupon cease, and Avista will be the surviving corporation and will become a direct, wholly-owned subsidiary of Olympus Equity LLC and an indirect, wholly-owned subsidiary of Hydro One. (See Appendix 1)

hereafter "Proposed Transaction"). Appendix 1 depicts (i) a simplified chart of the current relationship of Hydro One and its primary operating subsidiaries (direct and indirect) that are referenced in this Joint Application, and (ii) the corporate structure that adds to the first chart the additional subsidiaries that will result from the consummation of the Proposed Transaction (post-closing).

*2.* Hydro One, operating through its principal subsidiary, Hydro One Inc., is an investor-owned electric transmission and distribution utility headquartered in Toronto, Ontario, Canada. Hydro One provides electric distribution service to more than 1.3 million retail end-use customers, as well as electric transmission service to many local distribution companies and large industrial customers. Avista is an investor-owned utility providing electric generation, transmission, and distribution services to approximately 378,000 retail customers in Washington, Idaho and Montana, and the distribution of natural gas to approximately 342,000 retail customers in Washington, Idaho and Oregon. Alaska Electric Light and Power ("AEL&P"), a wholly-owned indirect subsidiary of Avista, also provides electric generation, transmission and distribution services to approximately 17,000 retail customers in the City and Borough of Juneau, Alaska.

*3.* A table of contents for this Application is as follows:

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**APPENDICES**

## II. JURISDICTION

*4.* Avista is a public service company subject to the Commission's jurisdiction. RCW 80.04.010. Commission authorization is necessary under RCW 80.12.020 for Avista to sell, lease, assign or otherwise dispose of, or merge, or consolidate, any of its franchises, properties or facilities with any other public service company. Under RCW 80.12.040, Commission authorization is necessary before another public service company can, directly or indirectly, purchase, acquire, or become the owner of any of the franchises, properties, facilities, capital stocks or bonds of Avista. RCW 80.01.040 establishes the Commission's general powers and duties and, among other things, empowers the Commission to regulate in the public interest "the rates, services, facilities, and practices" of all persons engaging within Washington in the business of supplying any utility service or commodity to the public for compensation and "related activities."

*5.* On the basis of this statutory authority, the Commission has concluded it has jurisdiction over transactions "whenever the control of a plainly jurisdictional public utility changes through a corporate transaction for the transfer of the whole or a controlling interest in the company."[2]

## III. REQUESTED APPROVAL DATE

*6.* The Joint Applicants respectfully request approval of the Proposed Transaction on or before August 14, 2018, and have made the same request in other state jurisdictions, in order to complete the Proposed Transaction on or before September 30, 2018.[3] The Agreement and Plan

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[2] Docket No. UE-981672, In the Matter of the Application of PacifiCorp and Scottish Power plc ("PacifiCorp/Scottish Power"), Second Supplemental Order at 9 (March 1999).

[3] RCW 80.12.030 requires the Commission to issue its decision within eleven (11) months of the filing (i.e., by August 14, 2018) subject to an additional four (4) month extension for cause.

of Merger (the "Merger Agreement") among Hydro One, US Parent, Merger Sub and Avista permits Hydro One or Avista to terminate the Agreement if the merger has not been consummated by September 30, 2018, subject to extension if certain conditions to closing remain unfulfilled. A copy of the Merger Agreement is included as Appendix 2 to this Application. (See Section 7.1(b))

*7.* The Proposed Transaction is important for the customers, communities, employees, and shareholders of both companies. In order to mitigate both the duration and the effects of uncertainties during the approval process, the Joint Applicants respectfully request that the Commission schedule its review of the Application in a manner that will facilitate issuance of an order on or before August 14, 2018.

## IV. JOINT APPLICANTS' INFORMATION

*8.* Persons authorized on behalf of Avista to receive notices and communications with respect to this Joint Application are:

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9. Persons authorized on behalf of Hydro One to receive notices and communications with respect to this Joint Application are:

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10. Data requests to the Joint Applicants should be addressed to the following:

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Electronic Document Room

11. Hydro One and Avista have created an electronic Document Room containing the documents listed in the Index provided as Appendix 3 to this Joint Application. These documents provide significant foundational information pertaining to both Avista and Hydro One. The Document Room contains documents such as the annual reports of both Avista and Hydro One for 2016 and documents relating to debt and equity issuances.

12. Provisions for access to the electronic Document Room can be arranged by contacting the following representatives of Hydro One: Ben Mayer, K&L Gates, ben.mayer@klgates.com, 206-370-8074; or Dirk Middents, K&L Gates, dirk.middents@klgates.com, 206-370-5705.

## V. DESCRIPTION OF THE PROPOSED TRANSACTION

13. On July 19, 2017, Hydro One, US Parent and Merger Sub entered into the Merger Agreement with Avista which provides for, among other things, the acquisition of Avista by Hydro One through the merger of Merger Sub with and into Avista, with Avista as the surviving corporation in the merger. The Proposed Transaction was unanimously approved by the Boards of Directors of both companies.

14. Following the receipt of all approvals and the closing of the Proposed Transaction, Avista will become a wholly-owned indirect subsidiary of Hydro One. At the close, Avista's common stock will be delisted from the New York Stock Exchange ("NYSE"), and Avista will have one shareholder (i.e., Hydro One).

15. Under the terms of the all-cash transaction, Avista shareholders will receive $53 per common share, representing a twenty-four percent (24%) premium to Avista's last sale price on July 18, 2017 of $42.74 per share. The aggregate purchase price is approximately $5.3 billion,

comprised of an equity purchase price of $3.4 billion and the indirect assumption of approximately $1.9 billion of debt. Hydro One's financing plan is designed to maintain a strong investment grade balance sheet following completion of the acquisition. Hydro One's regulated utility profile will remain intact with approximately ninety-eight percent (98%) of its earnings generated from rate-regulated activities. Hydro One will finance the Proposed Transaction through a combination of medium and long-term borrowings and the net proceeds from its previously completed issue of C$1.54 billion of convertible unsecured subordinated debentures, which will form the permanent equity component of the financing plan upon conversion at closing of the Proposed Transaction. Hydro One's common shares are listed on the Toronto Stock Exchange (TSX: H).

*16.* Following closing of the Proposed Transaction, Avista's customers and the communities Avista serves will see little or no change in Avista's operations. Avista will maintain its existing corporate headquarters in Spokane, Washington, and will continue to operate as a standalone utility in Washington, Oregon, Idaho, and Montana. Avista's subsidiary, AEL&P, will continue to operate as a standalone utility in Alaska. Avista will maintain office locations throughout its service areas, continue to operate under the same Avista name and seek to retain its existing employees and management team. All of these features together with other provisions embedded within the Merger Agreement are designed to ensure that Avista's customers will continue to receive the service they have come to expect from a company that has been a Pacific Northwest presence for more than 100 years. Avista will continue to have a local Board of Directors consisting primarily of either board members chosen by Avista, and/or members that reside in the Pacific Northwest. Moreover, the communities Avista serves will see increased charitable contributions and a continuation of the strong support Avista provides in economic development and innovation.

17. Through this unique arrangement with Hydro One, Avista's customers can receive the benefits of scale that come with joining a larger organization while also avoiding the risk of a potential subsequent acquisition by another party that may not share Avista's culture and values. Avista and Hydro One believe this preservation of Avista's name and brand, its headquarters, its employees, its culture and its way of doing business is important to Avista's customers, in that customers can continue to expect and experience reliable service and a high level of customer satisfaction.

18. Customers will see immediate financial benefits in the form of proposed retail rate credits beginning upon the closing of the Proposed Transaction. In addition, over time the merger will provide increased opportunities for innovation, research and development, and efficiencies by extending the use of technology, best practices, and business processes over a broader customer base and a broader set of infrastructure between the two companies. These immediate and longer-term benefits to Avista's customers are benefits that will otherwise not occur absent the Proposed Transaction.

19. The Proposed Transaction is subject to receipt of Avista shareholder approval and certain regulatory and governmental approvals, including the expiration or termination of any applicable waiting period under the HSR Act, clearance of the Proposed Transaction by CFIUS, the approval by each of the WUTC, IPUC, OPUC, MPSC, RCA, FERC, and the FCC; and the satisfaction of other customary closing conditions.[4] No additional approvals are required from Canadian

[4] HSR Act (Hart-Scott-Rodino Antitrust Improvements Act of 1976), CFIUS (Committee on Foreign Investment in the United States), WUTC (Washington Utilities and Transportation Commission), IPUC (Idaho Public Utilities Commission), OPUC (Public Utility Commission of Oregon), MPSC (Public Service Commission of the State of Montana), RCA (Regulatory Commission of Alaska), FERC (Federal Energy Regulatory Commission), and FCC (Federal Communications Commission).

authorities.[5] The closing of the Proposed Transaction is currently expected to occur in the second half of 2018.

## VI. AVISTA'S REASONS FOR THE PROPOSED TRANSACTION

*20.* Avista's decision to enter into the Proposed Transaction with Hydro One was driven by the unique partnership that is possible with Hydro One. The merger with Hydro One will allow Avista and its customers to benefit from being part of a larger organization (the benefits of scale), while at the same time preserving local control of Avista, its commitment to community involvement, and the retention of Avista's employees and management team, as well as its culture and its way of doing business.

*21.* With regard to scale, the number of investor-owned electric and/or natural gas utilities in North America has decreased significantly over the years through consolidation. When comparing the size of investor-owned utilities from largest to smallest, Avista is one of the smallest investor-owned utilities remaining in North America.[6] A bar chart indicative of the investor-owned utilities in North America, from largest to smallest, is provided in Appendix 4. The merger of Avista and Hydro One will place the combined companies toward the middle of the range of investor-owned utilities, in terms of size. Through consolidation, larger utilities have the opportunity to spread costs, especially the costs of new technology, over a broader customer base and a broader set of infrastructure, which inures to the benefit of customers.

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[5] The Ontario Energy Board (OEB) regulates the rates and practices of certain affiliates of Hydro One. Its approval is not required in order to effectuate this transaction.

[6] As measured by equity value.

22. Hydro One has more than 1.3 million electric distribution customers, and Avista has 378,000 electric customers and 342,000 natural gas customers. This combination will provide opportunities for efficiencies in the long-term through the sharing of best practices, technology and innovation. The merger will provide benefits to Avista's customers that otherwise would not occur.

23. These benefits of scale will not occur in the near term following the closing of the merger, but are expected to occur over the long-term. After all approvals are received and the companies merge, both companies will work together to identify, evaluate and execute on opportunities to reduce costs for both companies through, among other things, the sharing of technology, best practices, and business processes. The benefits from these cost savings will be flowed through to customers in future general rate cases.

24. Avista chose to merge with Hydro One, under the specific provisions in the Merger Agreement, in part, to preserve its culture and the way it does business for the long-term. This will enable Avista to continue to focus on providing reliable service to customers and high customer satisfaction at a reasonable cost. In addition, provisions in the Merger Agreement are designed to increase the level of support provided by Avista to the local communities it serves, including, among other things, charitable giving and continued support of economic development. The combination with Hydro One accomplishes all of these important goals for the indefinite future.

25. Details of the agreements between Hydro One and Avista designed to protect and benefit Avista's customers were memorialized in Exhibits A ("Governance Requirements") and B ("Post-Closing Matters" and "Approval Requirements") to the Merger Agreement, hereafter collectively referred to as the "Delegation of Authority" (see Appendix 5 to this Application). Under the Delegation of Authority, Avista's Board of Directors retains its authority to review, authorize and

approve certain specified matters related to Avista, without any obligation to obtain separate authorization or approval from the Hydro One Board. Among the matters retained by the Avista Board pursuant to the Merger Agreement are decisions to do the following:

1. Keeping Avista's headquarters in Spokane;
2. Keeping Avista's brand the same;
3. Keeping Avista's office locations in each of its service areas, with no less of a significant presence in each location than that in place prior to the merger;
4. Preventing workforce reductions resulting from the Proposed Transaction;
5. Retaining Avista's existing management team;
6. Maintaining existing compensation and benefit practices;
7. Negotiating and entering into agreements with bargaining unit employees;
8. Maintaining Avista's safety and reliability standards and policies and service quality measures in a manner that is substantially comparable to, or better than, those prior to the merger;
9. Maintaining Avista's community involvement and support initiatives at levels equal to or greater than those prior to the merger;
10. Maintaining a $4.0 million annual budget for charitable contributions (funded by both Avista and the Avista Foundation) as compared to an approximate $2.5 million level prior to the merger;
11. Making a $2.0 million annual contribution to the Avista Foundation (following an initial contribution to the Foundation of $7.0 million at the time the merger closes);
12. Maintaining at least the level of economic development that existed prior to the merger, including the expenditure of funds to support regional economic development and related strategic opportunities consistent with past practices;
13. Maintaining existing levels of capital allocations for capital investment in strategic and economic development, including property acquisitions in the university district, support of local entrepreneurs and seed-stage investments;
14. Continued development and funding of Avista's existing and future innovation activities; and

15. Maintaining dues paid by Avista to various industry trade groups and membership organizations.

*26.* The Delegation of Authority is designed to ensure that local knowledge and control will preserve reliable service and a high level of customer satisfaction for the benefit of Avista's customers. Changes to these provisions in the Merger Agreement require a two-thirds majority vote of the Avista board.

*27.* In addition to the authority to effect these decisions and other commitments, the makeup of the Avista Board of Directors will further reinforce and preserve the way Avista currently does business, for the benefit of its customers. The Avista board will be a local board primarily consisting of either board members who are, or who are chosen by, Avista designees, and/or members who reside in the Pacific Northwest. Specifically, after closing, Avista will be governed by a nine member Board of Directors, with Avista's CEO Scott Morris serving as the Chairman of the Board. Three additional board members will be chosen by Avista, and these three board members together with the CEO will be referred to as Avista designees. There will always be a total of four Avista designees, and these Avista Board members, as a group, will choose their successors. Of the five board members chosen by Hydro One, three of the five will reside in the Pacific Northwest. The remaining two board members will be executives of Hydro One or one of its subsidiaries.

*28.* The Delegation of Authority included in the Merger Agreement and the makeup of the Avista Board of Directors is intended to ensure that Avista's culture and its way of doing business will continue for the long-term, inuring to the benefit of customers. The Proposed Transaction is not designed to target the elimination of jobs, or cost cutting that may lead to a deterioration of customer service, customer satisfaction, safety, reliability, or a deterioration of charitable giving, economic development or innovation in the communities Avista serves. [7]

## VII. HYDRO ONE'S REASONS FOR THE PROPOSED TRANSACTION

29. For more than 100 years and until just two years ago, Hydro One, and its predecessor Ontario Hydro, was owned solely by the Province of Ontario. In 2015, Hydro One became a commercially operated investor owned utility. Over the years, Hydro One had acquired a number of local distribution companies in Ontario to increase its distribution footprint. Hydro One continues to pursue growth and the benefits that will accrue to its customers, communities and shareholders from that growth.

30. Hydro One is a pure play transmission and distribution utility located solely within Ontario. It seeks diversification both in terms of jurisdictions and service areas. The Proposed Transaction with Avista achieves both goals by expanding Hydro One into the U.S. Pacific Northwest and expanding its operations to natural gas distribution and electric generation. The Proposed Transaction with Avista will deliver the increased scale and benefits that come from being a larger player in the utility industry.

31. The utility industry is changing dramatically, with the deployment of distributed generation and storage resources, and the ever increasing reliance on renewable generation. Avista and Hydro

[7] On July 19, 2017, S&P affirmed its ratings, including the 'BBB' issuer credit rating, on Avista and revised the outlook to positive from stable. The positive outlook reflects S&P's view of the potential for higher ratings on Avista if the merger is completed as proposed based on its view that Avista will be an important member of the Hydro One group, highly unlikely to be sold and integral to the overall group strategy and operations. In addition, on July 19, 2017, Moody's affirmed the ratings of Avista's (i) issuer rating (Baa1); (ii) multiple seniority medium-term note program ((P)A2); (iii) senior secured medium-term notes (A2); (iv) senior secured first mortgage bonds (A2); (v) senior secured medium-term note program ((P)A2); and (vi) senior unsecured medium-term note program ((P)Baa1) and kept the outlook at stable. Moody's indicated that the stable rating outlook on Avista reflects its view that the merger will not materially affect the credit quality of Avista.

One acting separately will be challenged to participate in these innovations on a scale similar to the larger utilities due to the size of their balance sheets and customer bases. Combined, however, Avista and Hydro One will become more competitive by creating scale and cost efficiencies over time. Hydro One and Avista intend to continue investing in innovation. Together, with nearly two million customers, they can spread these costs over a larger base.

*32.* Finally, Hydro One and Avista believe that the Proposed Transaction will deliver cost savings over the next five to ten years. While Hydro One and Avista cannot quantify those savings at this time, the companies should achieve savings through scale and collaboration in supply chain activity, IT development and implementation, innovation, and potentially other areas.

*33.* Both Hydro One and Avista have similar cultures and values, including a strong commitment to their respective communities, which will enable a seamless integration. Both companies make customer service, high customer satisfaction, reliability, safety, respect for the environment, and reasonable retail rates a high priority. Because of their shared culture and values, both companies have high expectations that Avista's and Hydro One's reasons for the Proposed Transaction will be achieved.

## VIII. OVERVIEW OF HYDRO ONE

*34.* Hydro One is an investor-owned electric transmission and distribution utility headquartered in Toronto, Ontario, Canada.[8] Through its subsidiaries, Hydro One provides electric distribution service to more than 1.3 million retail end-use customers, as well as electric transmission service to many local distribution companies and large industrial customers.

[8] Please see Appendix 9 for identification of the officers, Executive Leadership Team and SVP of Finance (acting in the capacity of CFO) of Hydro One.

35. The operations of Hydro One originated in 1906 as the Ontario-owned Hydro-Electric Power Commission of Ontario. In 1999, Ontario Hydro was restructured into five separate entities, including Hydro One Inc. as the successor to its transmission and distribution business, and Ontario Power Generation Inc., as the successor to its generation business. Hydro One Inc., Hydro One's wholly-owned subsidiary, was incorporated on December 1, 1998 under the *Business Corporations Act* (Ontario) as a separate corporation providing transmission and distribution services, with the Province of Ontario as its sole shareholder. Hydro One was incorporated by the Province of Ontario on August 31, 2015 under the *Business Corporations Act* (Ontario). On October 30, 2015 Hydro One's articles of incorporation were amended to authorize the creation of an unlimited number of Series 1 preferred shares and an unlimited number of Series 2 preferred shares, with the Series 1 preferred shares to be issued to the Province. On October 31, 2015, all of the issued and outstanding shares of Hydro One Inc. were acquired by Hydro One from the Province in exchange for the issuance to the Province of commons shares and Series 1 preferred shares of Hydro One. On November 4, 2015, the articles of Hydro One were amended to authorize the consolidation of its outstanding common shares such that 595,000,000 common shares of Hydro One were issued and outstanding.

36. On November 5, 2015, Hydro One completed its initial public offering on the Toronto Stock Exchange by way of a secondary offering of common shares by the Province of Ontario, with the goal of 60% of the company being held by private investors. The Province of Ontario is a shareholder and pursuant to its governance agreement with Hydro One it does not hold or exercise any managerial oversight over Hydro One. As of July 31, 2017, the Province owned 49.9% of Hydro One's shares with the remainder of shares held by private investors. Based on facts known today and assuming the Proposed Transaction is completed, the Province's level of

ownership of Hydro One will decline to below 45%. In addition, the Ontario *Electricity Act, 1998*, restricts the Province from selling voting securities (including common shares of Hydro One) if it would own less than 40% of the outstanding number of voting securities of that class or series after the sale. If as a result of the issuance of additional voting securities of any class or series by Hydro One, the Province would own less than 40 percent of the outstanding number of voting securities of that class or series, then the Province shall, subject to certain requirements, take steps to acquire as many voting securities of that class or series of voting securities as are necessary to increase the Province's ownership to not less than 40 percent of the outstanding number of voting securities of that class or series.

*37.* In order to assist the Province in meeting its ownership obligations under the *Electricity Act, 1998*, under the governance agreement with the Province, Hydro One has granted the Province a pre-emptive right to subscribe for and purchase up to 45% of any proposed issuance by Hydro One of voting securities or securities that are convertible or exchangeable into voting securities (other than certain specified excluded issuances). Any offered securities not subscribed for and purchased by the Province pursuant to its pre-emptive right may be issued to any other person pursuant to the proposed offering. Accordingly, the requirement of the Province to maintain a 40% ownership interest in Hydro One does not constrain Hydro One's ability to issue more equity. Hydro One is permitted to issue voting securities or securities that are convertible into or exchangeable for voting securities at any time, provided that it must first give the Province the opportunity to subscribe for the number of securities to which it is entitled pursuant to its pre-emptive right before offering them to others.

38. Of Hydro One's 15 directors, all are independent of the Province within the meaning of Canadian securities laws, and, with the exception of the President and Chief Executive Officer, all of Hydro One's directors are independent of Hydro One.

39. Hydro One connects generating facilities operated by Ontario Power Generation ("OPG"), Bruce Power Limited Partnership ("Bruce Power") and a number of other privately-owned companies to its transmission and distribution systems. OPG is a Crown corporation wholly-owned by the Province. OPG is responsible for approximately half of the electricity generation in the Province of Ontario, Canada. Sources of electricity include nuclear, hydroelectric, wind, gas and biomass.

40. Hydro One purchases power from these generating sources and delivers the power to its retail customers. The costs of these power purchases are a "pass-through" to Hydro One's retail customers, i.e., these customers pay a commodity power cost equal to that paid by Hydro One. Hydro One's wholesale customers and its large-use customers that are market participants purchase commodity directly and do not rely on Hydro One to purchase commodity for them. Therefore, Hydro One has no material exposure to variations in the commodity cost of power.

41. Since 1998, Hydro One has successfully consolidated and integrated approximately 90 separate local distribution electric utilities with sensitivity and respect for the customers and communities it serves and the numerous employees which have joined Hydro One through these acquisitions. These customers are part of Hydro One's more than 1.3 million retail end-use customers.

42. Hydro One is committed to the communities it serves, and has been rated as the top utility in Canada for its corporate citizenship, sustainability, and diversity initiatives. It is one of only

four utility companies in Canada to achieve the Sustainable Energy Company designation from the Canadian Electrical Association.

*43.* Hydro One has approximately 5,400 full-time employees and 3,300 casual and temporary employees (not including external contractors) with total assets of C$25 billion, annual revenues over C$6.5 billion, and with a market capitalization of C$14 billion. Based on pro forma financial information at March 31, 2017, following the merger, Hydro One's total assets will increase from approximately C$25.4 billion to approximately C$34.9 billion.

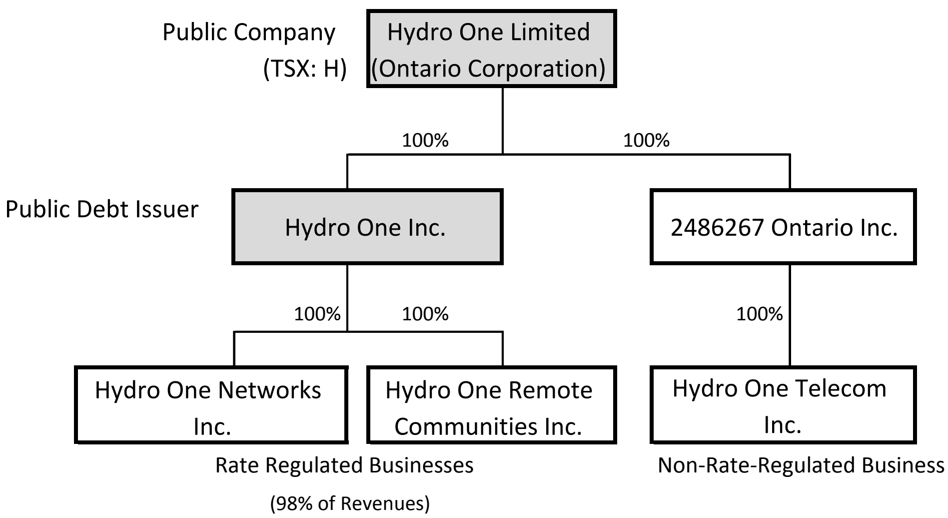
*44.* Hydro One is the largest electricity transmission and distribution company in Ontario. Through its wholly-owned subsidiary, Hydro One Inc., Hydro One owns and operates substantially all of Ontario's electricity transmission network with over 30,000 circuit kilometers (km) (approximately 19,000 miles) of high-voltage transmission lines, and approximately 123,000 circuit km (approximately 77,000 miles) of low-voltage distribution network. The pricing and terms and conditions of Hydro One's transmission and distribution operations (approximately 98% of Hydro One's revenues) are regulated by the OEB.

*45.* Hydro One has three business segments: (i) transmission; (ii) distribution; and (iii) other business. The following corporate organization chart depicts the current relationship of Hydro One and its primary operating subsidiaries (direct and indirect) that are referenced in this Joint Application. Hydro One Networks Inc. owns and operates the transmission and distribution systems. Hydro One Remote Communities Inc. and Hydro One Telecom Inc. will be briefly explained later.

**<u>Illustration No. 1:</u>**

# Current Corporate Structure

The diagram below depicts the current relationship of Hydro One Limited and its <u>primary operating</u> subsidiaries that are referenced in the Joint Application.




*46.* Hydro One's transmission business consists of owning, operating and maintaining its transmission system, which accounts for approximately 98% of Ontario's transmission capacity. Hydro One's transmission business is a rate-regulated business that receives revenues from charging transmission rates approved by the OEB. Hydro One's transmission business accounted for approximately 51% of Hydro One's total assets on December 31, 2016, and approximately 51% of its total revenues, net of purchased power, in 2016. The following map depicts the transmission network:

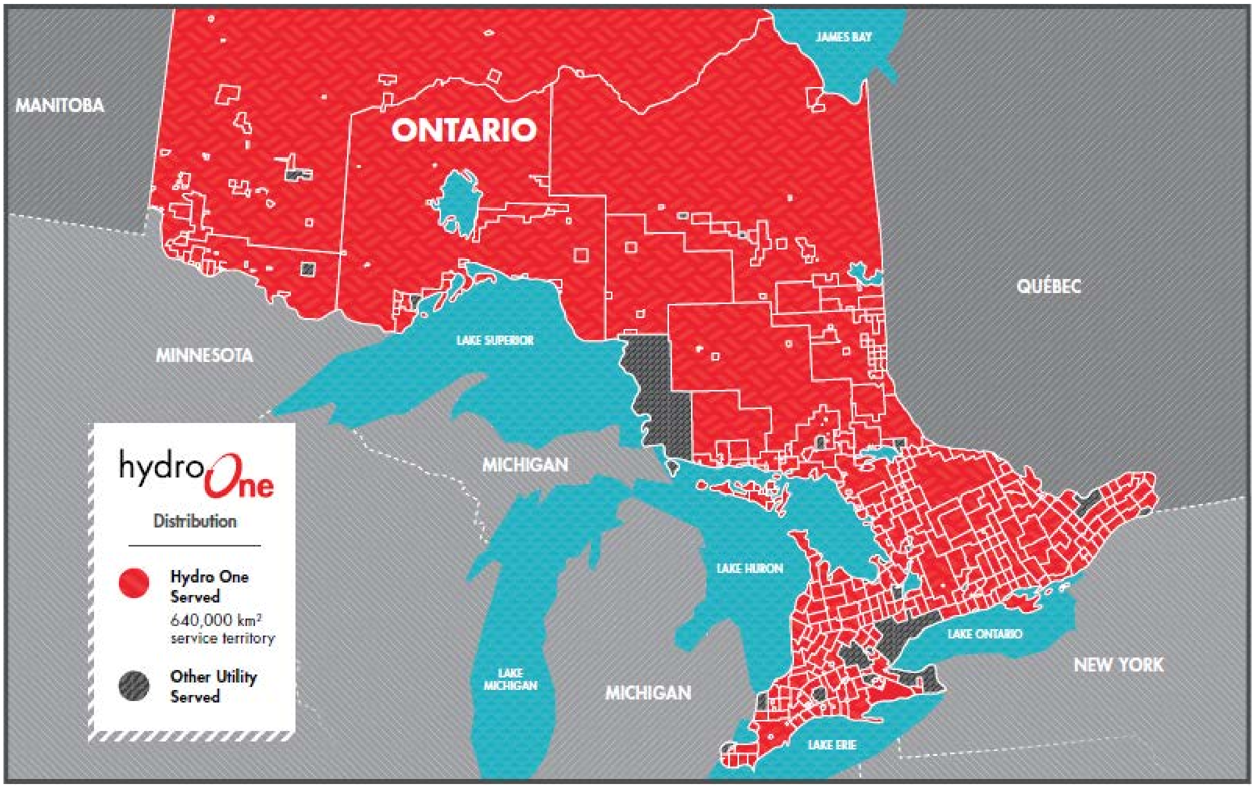
**Illustration No. 2:**

## Electric Transmission System Map


*47.* Hydro One's distribution business consists of owning, operating and maintaining its distribution system. Hydro One's distribution system is the largest in Ontario, and principally serves rural communities. Hydro One's distribution business is a rate-regulated business that receives revenues by charging distribution rates that are approved by the OEB. Hydro One's distribution business accounted for approximately 37% of its total assets on December 31, 2016, and approximately 47% of its total revenues, net of purchased power, in 2016. The following map depicts the distribution footprint of Hydro One:

**Illustration No. 3:**

## Electric Distribution System Map




48. Through Hydro One Remote Communities Inc., Hydro One also operates and maintains the generation and distribution assets used to supply electricity to 21 communities across northern Ontario that are not connected to the Province's electricity grid, 15 of which are First Nations reserves.[9]

49. Hydro One's other business segment consists principally of Hydro One's telecommunications business (Hydro One Telecom Inc.), as well as certain other corporate activities.[10] The telecommunications business provides telecommunications support for Hydro

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[9] The First Nations are the predominant Indigenous group of Canada south of the Arctic. There are currently 634 recognized First Nations governments or bands spread across Canada, roughly half of which are in the provinces of Ontario and British Columbia.

[10] Hydro One Telecom Inc. is not regulated by the OEB. It is registered with the Canadian Radio-television and Telecommunications Commission (CRTC) as a non-dominant, facilities-based telecommunications carrier.

One's transmission and distribution businesses. The telecommunications business also offers communications and information technology solutions to organizations with broadband network requirements.

*50.* On July 19, 2017, Standard and Poors ("S&P") affirmed an 'A' long-term corporate credit rating on both Hydro One and Hydro One Inc. On July 19, 2017, Moody's affirmed the ratings of Hydro One Inc.'s: (i) senior unsecured regular bonds (A3); (ii) senior unsecured medium-note program ((P)A3); and (iii) senior unsecured commercial paper (P-2). On July 19, 2017, the rating agency DBRS (originally known as Dominion Bond Rating) expressed its view that, should the merger be financed as contemplated in the announcement, it will have no impact on Hydro One Inc.'s credit profile. The recent financial statements of Hydro One are included in Appendix 6, including a copy of Hydro One's 2016 Annual Report and the 2016 Annual Information Form filed with Canadian Securities regulators. Hydro One witness Lopez further addresses these credit ratings in his direct testimony.

## IX. OVERVIEW OF AVISTA

*51.* Avista Utilities, headquartered in Spokane, Washington, and an operating division of Avista (not a subsidiary), provides electric and natural gas service within a 30,000 square mile area of eastern Washington and northern Idaho.[11] Of Avista's approximate 378,000 electric and 342,000 natural gas customers (as of June 30, 2017), 248,000 and 160,000, respectively, were Washington customers. Avista also serves approximately 30 retail electric customers in western Montana, many of whom are Avista employees who operate Avista's Noxon Rapids generating facility. Avista also provides natural gas distribution service in southwestern and northeastern

[11] Please see Appendix 9 for identification of the corporate officers of Avista.

Oregon. In 2014, Avista acquired AEL&P, which serves electric power to approximately 17,000 customers in the City and Borough of Juneau, Alaska.

*52.* Avista operates a vertically-integrated electric system in Washington, Idaho, and western Montana. Avista's owned generating resource portfolio includes a mix of hydroelectric generation projects, base-load coal and base-load natural gas-fired thermal generation facilities, waste wood-fired generation, and natural gas-fired peaking generation. Avista-owned generation facilities have a total capacity of 1,925 MW, which includes 56% hydroelectric and 44% thermal resources. Avista has approximately 18,300 miles of primary and secondary electric distribution lines, and has an electric transmission system of 685 miles of 230 kV lines and 1,534 miles of 115 kV lines.

*53.* Avista owns and maintains a total of 7,650 miles of natural gas distribution lines, and is served off of the Williams Northwest and Gas Transmission Northwest (GTN) pipelines. Avista is also one of the three original developers of the underground storage facility at Jackson Prairie, which is located near Chehalis, Washington.

*54.* A map showing Avista's electric and natural gas service area in Washington, Idaho, Montana and Oregon is provided below in Illustration No. 4.

**Illustration No. 4:**


55. On December 31, 2016, Avista Utilities had total assets (electric and natural gas) of approximately $5.0 billion (on a system basis), with electric retail revenues of $760 million (system) and natural gas retail revenues of $294 million (system). In December 2016, the Utility had 1,742 employees.

56. Avista's credit ratings, assigned by S&P and Moody's are as follows:

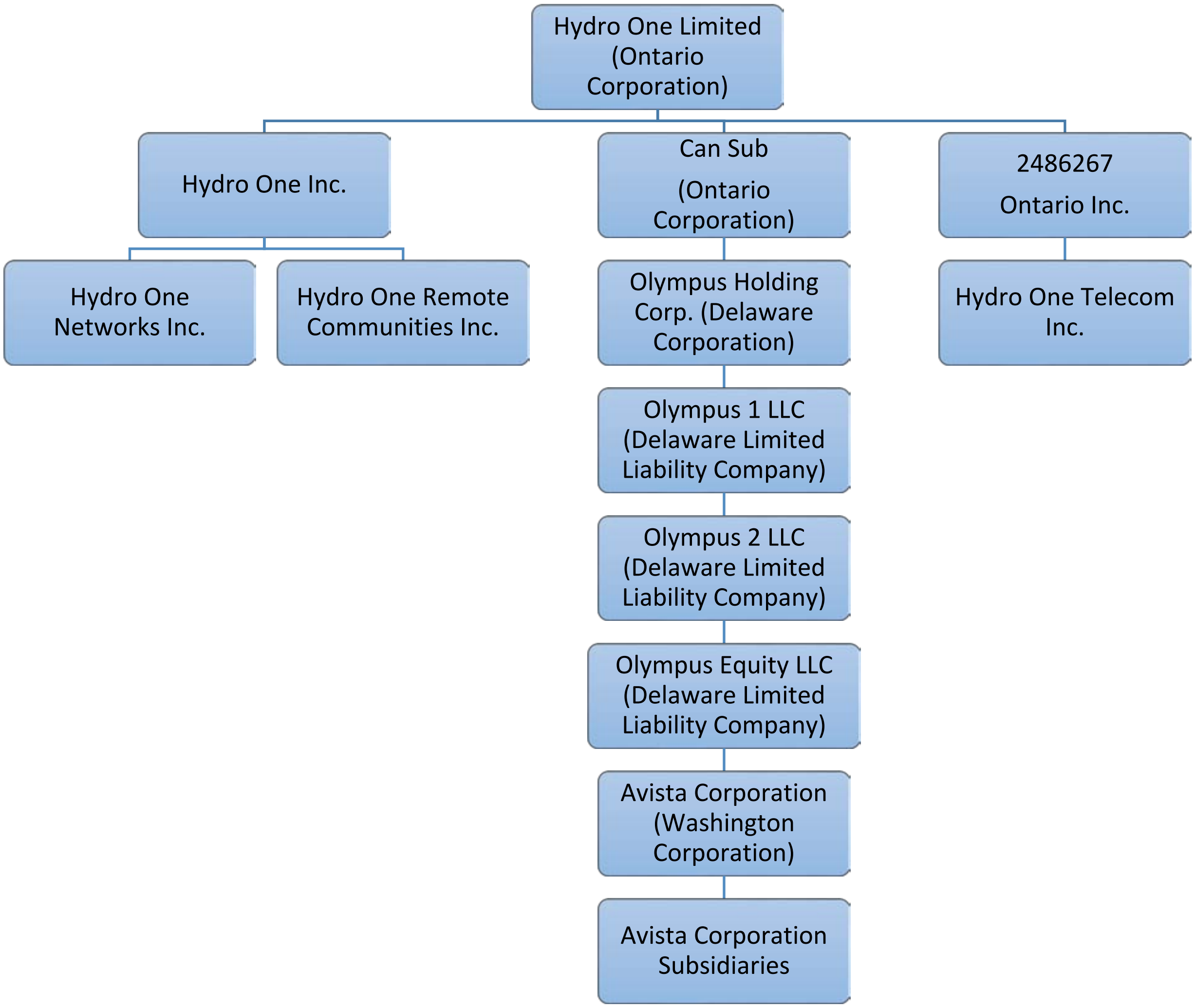
| | S&P | Moody's |
|---|---|---|
| **Corporate Credit Rating** | BBB | Baa1 |
| **Senior Secured Debt** | A- | A2 |
| **Outlook** | Positive | Stable |

57. The recent financial statements of Avista are included in Appendix 6, including a copy of Avista's Form 10-K filed with the Securities and Exchange Commission ("SEC") for the fiscal year ending December 31, 2016, and a copy of Avista's Form 10-Q filed with the SEC for the quarterly period ending June 30, 2017.

## X. POST-CLOSING CORPORATE STRUCTURE

58. After the closing, Avista will be owned by Hydro One, through a series of wholly-owned subsidiaries, as depicted in Illustration No. 5 below:

**Illustration No. 5:**




*59.* Avista will continue to issue debt financing, as needed. Hydro One will provide equity to support Avista's capital structure that is designed to allow Avista access to debt financing under reasonable terms on a sustainable basis.

*60.* Olympus Equity LLC is a debt-free, bankruptcy-remote entity. Following closing of the Proposed Transaction, all of the common stock of Avista will be owned by Olympus Equity LLC, a new Delaware limited liability company, and a wholly-owned indirect subsidiary of Hydro One.

As noted, Olympus Equity LLC will be established as a bankruptcy-remote special purpose entity, and will not have debt.[12]

## XI. POST-CLOSING AVISTA GOVERNANCE, MANAGEMENT AND OPERATIONS

*61.* As explained earlier, as a result of the merger, Avista's customers and the communities Avista serves will see little or no change in the operations of Avista, as compared to Avista's operations prior to the Proposed Transaction. Hydro One and Avista believe that the partnership they have forged will benefit customers in the years to come.

*62.* Avista customers will see immediate financial benefits in the form of proposed retail rate credits (the "Rate Credits") beginning at the close of the Proposed Transaction, as well as opportunities for additional longer-term benefits from efficiencies gained through the sharing of best practices, technology and innovation. The communities Avista serves will see increased charitable contributions and a continuation of the strong support Avista provides in economic development and innovation.

*63.* The Merger Agreement provides for the retention of Avista's existing employees and management team. Following the closing of the Proposed Transaction, Avista will be governed by a nine member Board of Directors, with Scott Morris as the Chairman of the Board. Three additional board members will be chosen by Avista. There will be a total of four Board members

[12] The structure has been set up to provide segregation between the US rate regulated business and the Ontario rate regulated business, which is held through Hydro One Inc. Upon the closing of the Proposed Transaction, Avista will be a wholly owned subsidiary of Olympus Equity LLC, which will be a bankruptcy-remote entity with no debt. Together with the ring-fencing provisions described in Mr. Christopher Lopez's and Mr. Mark Thies's testimony, this structure insulates Avista and its customers from any potential financial weakness at Olympus Equity LLC or other entities up the chain from Olympus Equity LLC. Hydro One has created three intermediate subsidiaries between Avista / Olympus Equity LLC and the Can Sub. The entities are created for Canadian tax planning purposes and to manage intercorporate funds flows. This corporate structure will not result in any additional costs to be recovered from Avista customers.

referred to as Avista designees, and these Avista Board members (Avista designees) will choose their successors. Of the five board members chosen by Hydro One, three of the five will reside in the Pacific Northwest. The remaining two board members will be executives of Hydro One or one of its subsidiaries. Therefore, the Avista Board will be a local board primarily consisting of either board members chosen by Avista, and/or members who reside in the Pacific Northwest. Retaining Avista's employees and management enables the combined company to satisfy its promises to Avista's customers by assuring continuity in its business and operations after the close of the Proposed Transaction.

*64.* State regulators and other stakeholders will see a continued focus by Avista on providing safe and reliable service to customers, high customer satisfaction, and energy service at a reasonable cost. The various provisions of the Merger Agreement are designed to enable Avista to do so for the indefinite future.

## XII. BENEFITS TO CUSTOMERS FROM THE PROPOSED TRANSACTION

*65.* There will be cost savings immediately following the close, such as reduced expenses associated with the fact that Avista will no longer have publicly traded common stock. Some savings will materialize with respect to filings with the SEC, including legal and accounting costs. In addition, the post-close Avista Board of Directors will have fewer non-employee members, which will result in lower costs. These cost savings are discussed in the testimony of Avista witness, Mr. Thies. The total estimated annual cost savings to customers, on a system basis, for Avista is approximately $1.7 million.

*66.* Avista and Hydro One are proposing to flow through to Avista's retail customers in Washington, Idaho and Oregon a Rate Credit of $31.5 million over a 10-year period, beginning at the time the merger closes.[13] The Rate Credit consists of two components, and reflects an increased level of savings in years 6-10 as illustrated in the table below.

**Two-Step Rate Credit Proposal**

| | Annual Credit Years 1-5 | Annual Credit Years 6-10 | Total Credit |
|---|---|---|---|
| Total Credit | $2.65 Million | $3.65 Million | $31.50 Million |
| Offsetable Credit | $1.70 Million | $2.70 Million | $22.00 Million |

*67.* The total Rate Credit to customers for the first five years following the closing would be $2.65 million per year, and the credit would increase to $3.65 million per year for the last five years of the 10-year period. During the 10-year period, the financial benefits of the Rate Credit will flow through to customers either through a separate tariff schedule or through a reduction to the underlying cost of service as these benefits are reflected in the test period numbers used for ratemaking as described more fully below. At the time of the closing, the $2.65 million benefit will be provided to customers through a separate Rate Credit, as long as the reduction in costs is not already reflected in base retail rates for Avista's customers.

[13] The AEL&P operations in the City and Borough of Juneau, Alaska, operate substantially independent of Avista Utilities, and the costs from which the merger-related cost savings are derived, are currently not being charged to AEL&P. Therefore, there are no financial cost savings to flow through to AEL&P customers. For Avista's retail operations in Montana, Avista has approximately 30 retail customers and total retail revenue of approximately $74,000. Due to the very limited retail operations by Avista in Montana, for administrative efficiency the past practice by the Montana Public Service Commission has been to review the final rates recently filed and approved in the State of Idaho, and approve those for Avista's Montana customers, when a request is made by Avista. The date of the last approved retail rates in Montana for Avista was April 27, 2011. Since that time electric retail rates have increased in the State of Idaho, but Avista has not proposed similar increases for its Montana customers. Because Avista's current retail rates for its Montana customers are already below its cost of service, and for the sake of administrative efficiency, Avista and Hydro One are not proposing to flow through a financial benefit to Avista's Montana customers related to the Proposed Transaction. (If a proportionate benefit to Montana customers were to be calculated based on the level of retail revenue, the total annual Rate Credit for all customers combined would be approximately $190.)

68. A portion of the annual total Rate Credit would be offsetable, as indicated in the table above. To the extent Avista demonstrates in a future rate proceeding that cost savings, or benefits, directly related to the Proposed Transaction are already being flowed through to customers through base retail rates, the separate Rate Credit to customers would be reduced by an amount up to the offsetable Rate Credit amount. The portion of the total Rate Credit that is not offsetable effectively represents acceptance by Hydro One of a lower rate of return during the 10-year period.

69. Hydro One and Avista considered an electric utility merger in the Pacific Northwest, which involved Puget Sound Energy ("PSE"), and noted that although it was subject to a "no harm" standard in Washington at that time, PSE included a net benefit to its customers through the adoption of a $100 million rate credit over 10 years in its settlement agreement. Hydro One and Avista concluded that it was important to demonstrate their commitment to providing net benefits to Avista's customers at the outset of this proceeding. As explained in the testimony of Mr. Lopez, using the PSE rate credit as a baseline, normalized for the revenue requirement, the equivalent rate credit for Avista's customers would be approximately $31.5 million for a 10-year period.

70. The $31.5 million represents the "floor" of benefits that will be flowed through to Avista's customers, either through the Rate Credit or through benefits reflected in base retail rates. To the extent the identifiable benefits exceed the annual offsetable Rate Credit amounts, these additional benefits will be flowed through to customers in base retail rates in general rate cases as they occur. The increase in total Rate Credits for years 6-10 will provide time for Avista and Hydro One to identify and capture over time an increased level of benefits, directly related to the Proposed Transaction, that can be flowed through to customers. As explained earlier, Avista and Hydro One believe additional efficiencies (benefits) will be realized over time from the sharing of best

practices, technology and innovation between the two companies. Areas Hydro One and Avista expect to prioritize in evaluating opportunities for cost savings include:

- Investing in innovation that could help both Hydro One and Avista to better meet their customers' growing expectations for choice of energy supply and tools to manage energy consumption and costs. Leveraging the innovation, research and development investments of both companies could accelerate their ability to bring the benefits of new ideas and technologies to their customers.

- Exercising their purchasing power at greater scale for equipment and materials.

- Providing mutual assistance during and after storm and emergency events.

- Employment of common technology platforms for outage management, distribution management and other operations.

*71.* It will take time to identify and capture these benefits. The level of annual net cost savings (and/or net benefits) will be tracked and reported on an annual basis, and compared against the offsetable level of savings.

*72.* Avista and Hydro One are not aware of any net increase in costs to Avista's customers related to the Proposed Transaction.[14] Therefore, the annual Rate Credits proposed by the companies represent an immediate "net benefit" to customers. Mr. Ehrbar explains in his testimony the manner in which the Rate Credit is proposed to be flowed through to Avista's electric and natural gas customers.

*73.* In addition to providing net benefits to customers through rate credits, the merger also ensures there will be little to no change in the operations of Avista as a result of the Proposed Transaction, as compared to Avista's operations prior to the Proposed Transaction. As explained in previous sections, the Proposed Transaction does not target the elimination of jobs, or cost-

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[14] None of the costs associated with the Proposed Transaction will be flowed through to the customers of Avista or Hydro One.

cutting that could potentially lead to a deterioration of customer service, customer satisfaction, safety, or reliability.

## XIII. PROTOCOL FOR DIRECT ASSIGNMENT OF COSTS BETWEEN AVISTA AND HYDRO ONE

*74.* Following closing of the Proposed Transaction, to the extent Avista employees dedicate time and incur costs related to the operations of Hydro One, those costs would be directly assigned and billed to Hydro One, and would not be borne by Avista's customers. Likewise, should Hydro One employees dedicate time and incur costs associated with Avista's operations, such costs would be directly assigned and billed to Avista. If a Hydro One employee's time and costs are related to Avista's regulated utility operations, the costs would be subject to review and approval by the Commission prior to being recovered in retail rates.

*75.* The protocol for the direct assignment of costs between the two companies, and the accounting treatment for the costs is included in the memorandum attached as Appendix 7.

## XIV. SATISFACTION OF THE PUBLIC INTEREST AND COMMITMENTS BY JOINT APPLICANTS

### A. Standard for Approval of the Proposed Transaction.

*76.* RCW 80.12.020 provides that Commission approval must be predicated on a finding that the Proposed Transaction would provide a "net benefit" to customers:

> **Order required to sell, merge, etc.—Exemption.**
>
> (1) No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever, which are necessary or useful in the performance of its duties to the public, and no public service company shall, by any means whatsoever, directly or indirectly, merge or consolidate any of its franchises, properties or facilities with any other public

> service company, without having secured from the commission an order authorizing it to do so. The commission shall not approve any transaction under this section that would result in a person, directly or indirectly, acquiring a controlling interest in a gas or electrical company without a finding that the transaction would provide a net benefit to the customers of the company.

*77.* Moreover, WAC 480-143-170 also provides as follows, regarding the "public interest":

> **Application in the Public Interest –** If, upon the examination of any application and accompanying exhibits, or upon a hearing concerning the same, the commission finds the proposed transaction is not consistent with the public interest, it shall deny the application.

*78.* As described in this Joint Application, and in the accompanying testimony, the evidence demonstrates that the Proposed Transaction is in the public interest and should be approved by the Commission. Furthermore, as explained above in Section XII, Avista and Hydro One have proposed immediate financial "net benefits" for Avista's customers, as well as presenting the opportunity for longer-term benefits for customers from efficiencies gained through best practices, technology and innovation.

## B. <u>How the Public Interest is Served by the Proposed Transaction</u>.

*79.* Avista's choice to merge with Hydro One will allow Avista and its customers to benefit from being a part of a larger organization (the benefits of scale), while at the same time preserving local control of Avista, its culture and its way of doing business.

*80.* As explained earlier, following closing of the Proposed Transaction, Avista will continue to have a local Board of Directors consisting primarily of either board members chosen by Avista, and/or members that reside in the Pacific Northwest. The Avista Board will have the authority to maintain Avista's headquarters in Spokane, Washington, to maintain its other office locations throughout its service areas, to continue to operate under the same Avista name, to retain its existing employees and management team (although CEO selection is subject to Hydro One approval), and to ensure that Avista's culture and its way of doing business will continue for the long-term.

*81.* Following the close of the Proposed Transaction, Avista's customers and the communities it serves will see little or no change in the operations of Avista, as compared to Avista's operations prior to the Proposed Transaction. Customers, however, will see immediate financial benefits in the form of proposed retail Rate Credits beginning at the close of the Proposed Transaction, as well as opportunities for additional longer-term benefits from efficiencies gained through the sharing of best practices, technology and innovation. These immediate and longer-term benefits will not otherwise occur absent the Proposed Transaction.

*82.* Following closing of the Proposed Transaction, the communities Avista serves will see increased charitable contributions and a continuation of the strong support Avista provides in economic development and innovation. Furthermore, Avista and Hydro One employees will see increased opportunities as the two companies pursue efficiencies and innovation through the use of technology, best practices and business processes.

*83.* The Delegation of Authority (Appendix 5) and the make-up of the post-closing Avista Board of Directors ensure that Avista's culture and its way of doing business can continue for the indefinite future. Under the Delegation of Authority, Hydro One's Board of Directors acknowledges that Avista's Board will have the authority to review, authorize and approve certain specific matters related to Avista, without any obligation to obtain separate authorization or approval from the Hydro One Board. These operational matters are summarized in Section VI above and are also set forth in Exhibit B to the Merger Agreement (Appendix 2 to this Application). Changes to these features of the Proposed Transaction require a two-thirds majority vote of the Avista Board.

84. As part of this Joint Application for approval of the Proposed Transaction, Hydro One and Avista offer other commitments in addition to the Delegation of Authority (summarized in Section VI above). The commitments included in the Joint Application total 55 commitments offered by Hydro One and Avista related to approval of the Proposed Transaction. The 55 commitments are grouped together into the categories identified below. The master list of all 55 commitments is attached as Appendix 8.

A. Reservation of Certain Authority to the Avista Board of Directors

   1. Governance
   2. Business Operations
   3. Local Presence/Community Involvement

B. Rate Commitments

C. Regulatory Commitments

D. Financial Integrity Commitments

E. Ring-fencing Commitments

F. Environmental, Renewable Energy, and Energy Efficiency Commitments

G. Community and Low-Income Assistance Commitments

## XV. <u>OTHER REQUIRED APPROVALS</u>

85. The Proposed Transaction was unanimously approved by the Boards of Directors of both companies and is expected to close in the second half 2018. The Proposed Transaction must be approved by Avista's shareholders. A proxy statement will be filed by Avista with the SEC in September 2017, in preparation for a vote of Avista's shareholders related to approval of the Proposed Transaction. Approvals are required by the WUTC, the IPUC, the OPUC, the MPSC,

the RCA, and FERC. All of these filings requesting approval are expected to be made on or around the same date.

*86.* A filing for approval from the FCC will be made related to Avista's radio licenses. In addition, clearance is required by the CFIUS, and compliance with applicable requirements under the HSR Act, as amended, and the satisfaction of customary closing conditions.

## XVI. JOINT APPLICANTS' WITNESSES SPONSORING TESTIMONY

**For Avista:**

*87.* **Scott L. Morris**, Chairman of the Board, President and Chief Executive Officer of Avista, will, among other things, summarize the Proposed Transaction, the reasons why Avista chose to partner with Hydro One, and will describe why the Proposed Transaction is in the best interests of Avista's customers, communities, employees, and shareholders.

*88.* **Mark Thies**, Senior Vice President, Chief Financial Officer, and Treasurer of Avista, will describe Avista from a financial perspective and will testify about the financial details of the Proposed Transaction. Mr. Thies will also describe the corporate and financial structure commitments that will be in place after completion of the Proposed Transaction, and how the Proposed Transaction provides protection for customers by "Ring-Fencing" Avista and its customers from Hydro One and its affiliates.

*89.* **Kevin Christie**, Vice President of Customer Solutions, will provide testimony describing how the Proposed Transaction will be beneficial to Avista's customers. He will also explain Hydro One's commitment to increase funding for Avista's philanthropic initiatives and maintain the support of economic development initiatives, as well as a $2 million annual contribution to the Avista Foundation.

*90.* **Patrick Ehrbar**, Director of Rates of Avista, will describe some of the regulatory commitments being offered by the Joint Applicants, including testimony regarding proposed Rate Credits that would be provided to customers if the Proposed Transaction is approved. He will also discuss the assignment of any costs between Avista and Hydro One before and after the Proposed Transaction, to prevent cross-subsidization. Finally, he will provide testimony related to the interaction of this application and the Proposed Transaction with the pending general rate case currently before the Commission.

**For Hydro One:**

*91.* **Mayo Schmidt**, President and Chief Executive Office of Hydro One, will describe Hydro One and its business platforms, with a specific focus on its utility business. He will describe the Proposed Transaction, explain the reasons for Hydro One's proposed purchase of Avista, and describe the corporate structure of Hydro One and Avista after closing. Mr. Schmidt will also explain why the Proposed Transaction is consistent with the public interest and provides a net benefit to Avista's customers, and will explain that Avista's operations, once the Proposed Transaction closes, will essentially be no different than Avista's current operations.

*92.* **Christopher Lopez**, Senior Vice President, Finance of Hydro One, will provide details regarding Hydro One's corporate structure, Avista's place within that structure, Hydro One's capital structure, the financial and accounting aspects of the Proposed Transaction, how Avista will become a ring-fenced business under Hydro One, including the structural and financial commitments to be provided by Hydro One, to ensure that the Proposed Transaction will not expose Avista's customers to any risk of harm.

*93.* **Ferio Pugliese**, Executive Vice President, Customer Care and Corporate Affairs will provide an overview of Hydro One from a customer care perspective, describing, among other things, the various customer initiatives Hydro One has put into place to provide and enhance service to its customers.

## XVII. JOINT APPLICANTS' REQUEST

94. For the foregoing reasons, Hydro One (through Olympus Equity LLC) and Avista respectfully request that the Commission issue an order pursuant to WAC 480-143-120 approving the Proposed Transaction on or before August 14, 2018.

DATED: September 14, 2017.

K&L GATES, LLP

By: ______________________
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## CERTIFICATION

In accordance with WAC 480-143-140, we hereby certify that the information included in the Application is true and correct to the best of our information and belief, under penalty of perjury as set forth in RCW 9A.72.085.

By: ______________________
Elizabeth Thomas
On Behalf of Hydro One and
its Affiliates

By: ______________________
David J. Meyer
On Behalf of Avista