



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

POWER SERVICES

June 24, 2009

In reply refer to: PS-6

To Parties Interested in the Residential Exchange Program:

On January 28, 2009, the Bonneville Power Administration (BPA) commenced a public comment process on a proposed settlement with Avista Corporation (Avista) of a longstanding contractual dispute over the “deemer” provision in Avista’s 1981 Residential Purchase and Sales Agreement (1981 RPSA). Comments on the proposed settlement were due on February 26, 2009. Ten parties provided comments, six opposing and four supporting the proposal. After consideration of all comments, BPA has decided to offer the proposed settlement to Avista.

Avista disputes the validity and calculation of the deemer account and account balance assumed in BPA’s WP-07 Supplemental Rate Proceeding. Avista also disputes the legality of the Balancing Account provisions, which is essentially the extension of the deemer account treatment, in the Bridge and Long-Term Residential Purchase and Sale Agreements.

Faced with these pending challenges, BPA and Avista began settlement discussions in the fall of 2008 and reached a tentative agreement in January 2009. The proposed Deemer Account Settlement (Settlement) would resolve all issues related to Avista’s outstanding deemer balance. Specifically, Avista would drop all claims against BPA pending before the Ninth Circuit that seek to challenge BPA’s decisions regarding Avista’s deemer account in both the WP-07 Supplemental Rate Proceeding litigation and in the litigation of the Bridge and Long-Term RPSAs. In addition, Avista would release BPA from any contractual or other claims related to the accumulation, calculation, or validity of Avista’s deemer balance.

In return, BPA would adjust Avista’s deemer balance to \$55 million. The readjusted deemer balance will replace the disputed \$85.6 million deemer balance BPA assumed when calculating Avista’s Lookback Amount in the WP-07 Supplemental Rate Proceeding. BPA will recalculate Avista’s Lookback Amount and Avista’s true-up obligation under the Residential Exchange Interim Relief and Standstill Agreement with this new deemer assumption. BPA will also reflect these recalculated amounts in the FY 2009 ASC True-Up under the Residential Exchange Program and in the WP-10 Final Rate Proposal. The Settlement is expected to have an insignificant impact on FY 2010-2011 power rates.

In reaching this decision, BPA has carefully considered the factual, legal, and equitable issues raised by the commenters on the proposed Settlement. BPA’s consideration of comments and its conclusions are described in the *Deemer Account Settlement Agreement with Avista Corporation Administrator’s Record of Decision* (“Deemer Settlement ROD”), dated June 22, 2009.

The Deemer Settlement ROD, the Settlement Agreement to be offered to Avista, BPA's January 28, 2009, Request for Public Comment, and public comments received on the proposed Settlement are available at: <http://www.bpa.gov/corporate/finance/ascm/>. You may also contact me at 503-230-7640, Chuck Forman at 503-230-3432, your Power Services Account Executive, Constituent Account Executive for more information.

Sincerely,

*/s/ Mark O. Gendron*

Mark O. Gendron, Vice President  
Requirements Marketing