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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Stephen McAlpine, Chairman
Paul F. Lisankie
Rebecca L. Pauli
Robert M. Pickett
Janis W. Wilson

In the Matter of the Joint Application Filed by Hydro)
One Limited and Avista Corporation for Authority)
for Hydro One Limited to Acquire a Controlling)
Interest in ALASKA ELECTRIC LIGHT & POWER)
COMPANY)

U-17-097
ORDER NO. 3

**ORDER DENYING MOTION TO STRIKE, GRANTING PETITION TO
INTERVENE, SCHEDULING PREHEARING CONFERENCE, AND
ESTABLISHING DEADLINE FOR FILING PETITIONS TO INTERVENE**

BY THE COMMISSION:

Summary

We deny the motion to strike filed by Juneau Hydropower, Inc. (JHI). We grant the petition to intervene as a party in this proceeding filed by the City and Borough of Juneau (CBJ). We schedule a prehearing conference and establish a deadline for filing petitions to intervene.

Background

Alaska Electric Light & Power Company (AEL&P) provides electric utility service in portions of the City and Borough of Juneau under Certificate of Public Convenience and Necessity No. 1. AEL&P is a wholly owned subsidiary of Alaska Energy and Resources Company, which is a wholly owned subsidiary of Avista Corporation (Avista).¹ Hydro One Limited (Hydro One), a publicly traded corporation organized under

¹Order U-13-197(2), *Order Approving Joint Application for Authority to Acquire Controlling Interest in Alaska Electric Light and Power Company*, dated May 30, 2014.

1 the laws of the Province of Ontario, Canada, is in the process of acquiring ownership of
2 Avista. As part of this process, Hydro One and Avista (jointly Hydro One/Avista) filed an
3 application for Hydro One to acquire an indirect controlling interest in AEL&P.²

4 We issued public notice of the Application with comments due by
5 December 21, 2017. We received approximately 100 comments from customers or
6 potential customers of AEL&P. Hydro One/Avista filed responses to these comments in
7 December and in February.³ JHI filed a motion to strike the February Reply.⁴ We
8 scheduled a public conference in Juneau for the evening of February 27, 2018, and
9 addressed the scope of this proceeding.⁵ Hydro One/Avista filed a response to the Motion
10 to Strike.⁶ CBJ filed a petition to intervene.⁷ We received oral comments at the
11 conference in Juneau and have received additional written public comments. Hydro
12 One/Avista filed a response to the Petition to Intervene.⁸

13 14 Discussion

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16 ²*Joint Application for Authorization to Acquire a Controlling Interest in Alaska
Electric Light and Power Company*, dated November 21, 2017 (Application).

17 ³*Applicants' Joint Reply to Comments*, filed December 11, 2017; *Applicants' Joint
Reply to Comments*, filed February 6, 2018 (February Reply).

18 ⁴*Juneau Hydropower's Motion to Strike or in the Alternative Reopen Public
Comments*, filed February 7, 2018 (Motion to Strike).

19 ⁵*Order U-17-097(2), Order Scheduling Public Conference, Addressing Scope of
Proceeding, and Redesignating Commission Panel*, dated February 9, 2018 (Order
20 U-17-097(2)).

21 ⁶*Applicants' Joint Response to JHI's Motion to Strike and AIPPA's Request for
Additional Public Comment Period*, filed February 9, 2018.

22 ⁷*Petition for Formal Proceedings and Petition for Intervention*, filed February 22,
23 2018 (Petition to Intervene).

24 ⁸*Applicants' Joint Response to Petition for Formal Proceedings*, filed March 1,
25 2018 (Response to Petition to Intervene).

1 Motion to Strike

2 JHI asserts that we should strike the February Reply from our record
3 because reply comments are not authorized by our regulations. JHI also asserts that the
4 February Reply should be stricken because it included new information that was not
5 included with the Application, and the public had no opportunity to respond to this
6 information. JHI asks us to reopen the public comment period if we do not strike the
7 February Reply.⁹

8 In nonhearing matters, any interested person may file any documents at
9 any time without first obtaining permission.¹⁰ In hearings, we have the discretionary
10 authority to receive statements from participants, protestants, or interested members of
11 the public at any point in the hearing that is convenient.¹¹ The February Reply was not
12 filed in a manner contrary to our regulations. Also, we provided the public with an
13 additional opportunity to offer comment at the February 27, 2018, conference and have
14 continued to accept comments after the conference.¹² For these reasons, we deny the
15 Motion to Strike.

16 Petition to Intervene

17 CBJ requests that we issue an order scheduling formal proceedings on the
18 Application and grant the CBJ's Petition to Intervene.¹³ This docket has been a formal
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21 ⁹Motion to Strike at 3-4.

22 ¹⁰3 AAC 48.110(a).

23 ¹¹3 AAC 48.151(5).

24 ¹²See Correspondence from S. Behnke, filed March 6, 2018; Correspondence from
B. Weed, filed March 6, 2018.

25 ¹³Petition to Intervene at 15.

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1 proceeding from the time a complete Application was filed.¹⁴ However, we will only
2 consider a petition to intervene in those cases to be decided upon an evidentiary record
3 after notice and a hearing.¹⁵ Given the context of the Petition to Intervene, we interpret
4 the CBJ's request for an order scheduling formal proceedings to be a request for an order
5 scheduling an evidentiary hearing in this matter.

6 CBJ asserts that Hydro One's proposed indirect acquisition of AEL&P may
7 greatly affect the delivery of electric service in AEL&P's service territory, which in turn
8 could affect the welfare of the community and future economic development.¹⁶ CBJ
9 further asserts that it is uniquely qualified to represent community interests in establishing
10 a full and complete record on which we can base our decision in this matter.¹⁷ CBJ states
11 that its participation in this proceeding will not broaden the issues to be addressed or
12 delay its resolution.¹⁸

13 Hydro One/Avista object to intervention by CBJ based upon the assertion
14 that an evidentiary hearing is unnecessary in this docket.¹⁹ We disagree. Hydro
15 One/Avista state that they "are prepared to extend the spirit and effect of their Avista
16 commitments, as applicable in these circumstances [to AEL&P]."²⁰ This commitment is
17 similar to the commitments made by Hydro One/Avista in the February Reply²¹ and orally

18 ¹⁴3 AAC 48.070; 3 AAC 48.648; Order U-17-097(1), *Order Addressing Timeline for*
19 *Decision, Designating Commission Panel, and Appointing Administrative Law Judge,*
dated December 8, 2017 (Order U-17-097(1)), at 2.

20 ¹⁵3 AAC 48.110(a).

21 ¹⁶Petition to Intervene at 13.

22 ¹⁷Petition to Intervene at 13-15.

23 ¹⁸Petition to Intervene at 15.

24 ¹⁹Response to Petition to Intervene at 4-10.

25 ²⁰Response to Petition to Intervene at 10.

26 ²¹February Reply at 4-5.

1 at the February 27, 2018, conference. However, the details of these commitments have
2 not been developed, and this is one of the issues that CBJ has specifically stated it wants
3 to address at hearing.²²

4 As the local government body for the AEL&P service area, we find CBJ to
5 be qualified to assist in developing the record in this docket. Therefore, we grant the
6 Petition to Intervene and designate CBJ as a party in this proceeding. Our granting of the
7 Petition to Intervene is specifically based on CBJ's promise to not broaden the issues to
8 be addressed in this proceeding.²³ We remind CBJ of our holding in Order U-17-097(2)
9 on the scope of this proceeding:²⁴

10 There is currently no application to transfer Certificate No. 549. Therefore,
11 we will not address issues related to any possible transfer of Snettisham
[Hydroelectric Project] ownership in this proceeding²⁵

12 and

13 AIDEA is not a party to this proceeding and would be an essential party to
14 any proceeding in which interconnection ... with the Snettisham
15 transmission line is at issue. For these reasons, we will not be addressing
an [open access transmission tariff] or interconnection tariff in this
proceeding.²⁶

16 Prehearing Conference

17 We are required to issue a final order in this proceeding by May 20, 2018.²⁷
18 To ensure that this proceeding is resolved in a timely manner, we schedule a prehearing
19 conference to set a procedural schedule.

21 ²²Petition to Intervene at 14.

22 ²³Petition to Intervene at 15.

23 ²⁴Order U-17-097(2) at 4-9.

24 ²⁵Order U-17-097(2) at 8.

25 ²⁶Order U-17-097(2) at 9.

26 ²⁷Order U-17-097(1) at 2.

1 Deadline for Petitions to Intervene

2 Any person interested in petitioning for permission to intervene as a party
3 to this docket is required to file a petition in accordance with 3 AAC 48.110 before the
4 start of the prehearing conference.²⁸

5 **ORDER**

6 THE COMMISSION FURTHER ORDERS:

7 1. *Juneau Hydropower's Motion to Strike or in the Alternative Reopen*
8 *Public Comments*, filed February 7, 2018, is denied.

9 2. The *Petition for Formal Proceedings and Petition for Intervention*, filed
10 by the City and Borough of Juneau on February 22, 2018, is granted as discussed in the
11 body of this order.

12 3. A prehearing conference is scheduled to convene at 9:30 a.m.,
13 Thursday, March 15, 2018, in the East Hearing Room of the Regulatory Commission of
14 Alaska, 701 West Eighth Avenue, Suite 300, Anchorage, Alaska.²⁹

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²⁸3 AAC 48.110(d).

22 ²⁹If you are a person with a disability who may need a special accommodation,
23 auxiliary aid or service, or alternative communication format to participate in the
24 scheduled event, please contact Valerie Fletcher-Mitchell at 1-907-276-6222, or
25 TTY/Alaska Relay at 7-1-1 or 1-800-770-8973, or send your request by electronic mail to
26 rca.mail@alaska.gov at least three business days before the scheduled event to make
the necessary arrangements.

Any party wishing to appear telephonically at the scheduled event must advise us
in advance and provide a telephone number where it may be reached for that appearance.

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4. Petitions for permission to intervene in this docket must be filed before 9:30 a.m., March 15, 2018.

DATED AND EFFECTIVE at Anchorage, Alaska, this 9th day of March, 2018.

BY DIRECTION OF THE COMMISSION
(Commissioners Paul F. Lisankie and Rebecca L. Pauli,
dissenting with separate statements.)



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