

Avista Utilities

1411 East Mission PO Box 3727 MSC-25
Spokane, Washington 99220-3727
Telephone 509-489-0500
Toll Free 800-727-9170
Facsimile 509-495-8734



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Michael D. Olsen
Principal Deputy Assistant Secretary-Indian Affairs
Section 1813 ROW Study
Office of Indian Energy and
Economic Development
1849 C St. NW, Mail Stop 2749 - MIB
Washington, DC 20240

Dear Deputy Secretary Olsen:

RE: Comments on Section 1813 of the Energy Policy Act of 2005

On behalf of Avista Corporation (Avista), I am pleased to provide you with Avista's comments and recommendations on the study regarding energy rights-of-way on tribal lands required by Section 1813 of the Energy Policy Act of 2005. Avista is interested in participating in the Section 1813 study process.

Energy rights-of-way on tribal lands should be valued in a fair manner to the satisfaction of all concerned, including tribes, utilities and consumers. Fairness, security and reliable energy delivery are very important to all parties. However, securing and renewing permits on tribal lands for either new or existing facilities has become problematic for some utilities because in certain instances tribes are demanding many times the market value of a right-of-way. In addition, the process is often very slow due to the lack of clear procedures and confusion regarding who has negotiation authority. Avista is pleased that Section 1813 of the 2005 Energy Policy Act provides for a study to consider these issues and hopes that the study leads to the timely implementation of solutions.

By way of background, Avista is an electric and natural gas energy company, operating in the states of Idaho, Montana, Oregon and Washington. It provides service to 330,000 electric and 285,000 natural gas customers in these western states. It is one of the major generators and transmitters of electricity in the Northwest, as Avista operates 2,160 miles of electric transmission lines and generates 1,663 MW of electricity. In addition, Avista wheels electricity across its transmission system for other utilities. Avista's stock is traded under the ticker symbol "AVA." For more information about Avista, please visit www.avistacorp.com.

Concerns and recommendations

All citizens of the United States, tribal and non-tribal, have a strong interest in the delivery of energy at fair and affordable rates. Consequently, an appropriate resolution of issues surrounding energy rights-of-way on tribal and allotted lands is in the public interest.

In addition, maintaining and enhancing positive relationships with tribes and tribal members is very important to Avista. We recognize that tribes are sovereign nations concerned about the use of their land for utility rights-of-way and the revenues that can be obtained from the purchasers of such rights-of-way. However, it seems reasonable that some standards should be applicable to permits and compensation for rights-of-way located on tribal or allotted lands.

Historically, the valuation of rights-of-way on federal lands has followed the "Uniform Appraisal Standards for Federal Land Acquisitions (The Yellow Book) and the Uniform Standards of Professional Appraisal Practice (USPAP) by the Appraisal Foundation, as authorized by Congress, as the source of appraisal standards and appraiser qualifications. Unfortunately, in certain cases recent valuations by tribes have not followed these standards and tribes have demanded multiples of the fair market determinations. The end result is compensation demands by certain tribes that are well beyond the standard market rate. If this trend continues it could result in significant rate increases for consumers served by utilities that must rely on such rights-of-way.

Action must be taken now to develop and implement an equitable, transparent and efficient process with valuation standards that are fair to the interests of all parties. In addition, because right-of-way issues often arise on allotted lands, Avista believes that it is important that any standard valuation procedures apply to both tribal and allotted lands. These procedures should follow The Yellow Book and USPAP requirements. In addition, the Appraisal Foundation and/or the American Institute of Real Estate Appraisers should be consulted to develop the valuation procedures and to assist in completing the required studies under Section 1813.

One issue that has arisen in the allotted lands context is in regards to a current valuation of allotted lands for an existing Avista right-of-way. The BIA has elected to not share appraisal information with Avista. This is unfair to Avista. It is a major barrier to the conduct of productive negotiations when one party is left completely in the dark regarding the basis of the request for compensation by the other party. Avista believes that sharing appraisal information, so that both parties are working from a common set of facts, is essential to the negotiation of a transaction that is equitable to both parties. Therefore, the new procedures should allow for the sharing of BIA appraisal information with the utility.

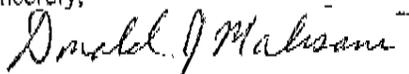
Energy facilities must pass through many types of land ownership in order to supply energy to both Indian and non-Indian consumers. It is important to have access to lands both on and off reservations to provide these services and to have an equitable, comparable system to compensate property owners regardless if they are Indian or non-Indian. The permitting and valuation processes on all Indian lands (tribal or allotted) should be a streamlined, uniform process.

In conclusion, securing new permits or renewing existing permits on tribal or allotted lands has become quite problematic for some utilities. We hope the Section 1813 study will provide clear recommendations and direction regarding future energy rights-of-way to the satisfaction of all concerned, including the tribes, allottees, utilities and consumers. Again, fairness, security and reliable energy delivery are very important to all parties.

Avista greatly appreciates the opportunity to comment on this matter and looks forward to participating in future workshops and meetings.

Please feel free to call me if you have any questions. My telephone number is (509) 495-4063.

Sincerely,



Donald J. Malisan, SR/WA
Manager, Real Estate Department
Avista Corporation
Real Estate Department MSC-25
P.O. Box 3727
Spokane, Washington 99220-3727