Service Date: March 12, 2020

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of AVISTA CORPORATION, d/b/a AVISTA UTILITIES, Schedule 62 Tariff Revision	DOCKET UE-190663 ORDER 01 ACCEPTING REVISIONS TO SCHEDULE 62 FILING SUBJECT TO CONDITIONS; GRANTING EXEMPTION FROM WAC 480-106-040(1)(b)(i)

BACKGROUND

1 On June 12, 2019, the Washington Utilities and Transportation Commission (Commission) concluded its rulemaking in Docket U-161024 and entered an order amending, adopting, and repealing parts of the Washington Administrative Code (WAC). Among other changes, the Commission added a new Chapter 480-106 WAC modifying the implementation of the Public Utility Regulatory Policies Act (PURPA), which requires utilities to purchase energy and capacity from small power producers, also called qualifying facilities (QFs).

2 Each investor-owned utility filed tariff revisions in response to the Commission's General Order R-597, which adopted final rules implementing PURPA after a lengthy and complex rulemaking process. The three electric utilities regulated by the Commission filed revisions updating their respective tariffs implementing the requirements of the new rules on August 9, 2019. Discussions with the utilities and interested stakeholders prompted Commission staff (Staff) to bring these tariff revisions to the Commission's regularly scheduled open meeting on September 12, 2019, for Commission discussion and stakeholder input.

3 During and after the September 12, 2019, open meeting, Avista Corporation, d/b/a Avista Utilities (Avista or Company), the other two electric utilities, interested stakeholders, and Staff agreed to build a record to encompass the multiple tariff revisions necessary to implement the new rule. The parties attended an informal workshop on October 2, 2019, to identify key issues and develop a procedural plan for the dockets. Since the workshop, Avista and other stakeholders have continued to work together and hone the Company's filing, reaching consensus on some issues and building an understanding of differing views where consensus was not achieved. This docket was scheduled for the December 5, 2019, open meeting, but Avista elected to extend the effective date of this tariff revision to allow more time for discussion.

4 This docket was also discussed at the Commission's regularly scheduled January 23, 2020, open meeting, after which Avista again extended the effective date to March 13, 2020.

5 Avista initially filed proposed tariff revisions in this Docket on August 9, 2019. In the interim, the Company has engaged in productive discussions with Staff and interested third parties. During this period, Avista also made multiple substantive revisions to its original filing in response to Staff and stakeholder feedback.

6 The Commission previously received public comments from 12 interested persons, several of which are addressed below.

7 Sheep Creek Hydro filed comments on October 20, 2019, limited to small hydro facilities. Sheep Creek Hydro asked that it be able to sell energy and capacity; that QFs have the option to sell at the posted Mid-C price without a discount; that capacity be valued based on commitment to the utility over critical months; that a QF be allowed to commit less than all of its output; and that the methodology calculating avoided costs of capacity be clear and transparent.

8 Staff noted in its December 5, 2019, open meeting memo that Avista addressed many, but not all, of the Sheep Creek Hydro's concerns. Staff supports the changes already made by Avista, and explained that Staff's additional recommendations would address Sheep Creek Hydro's remaining concerns.

9 Sun2o Partners, LLC, (Sun2o) and DGEP Holdings, LLC, (DGEP) filed joint comments on November 13, 2019. Sun2o and DGEP identify four main issues:

- These organizations proposed a different approach to determining a QF's capacity contribution, which has a significant impact on the size of a capacity payment earned by a QF. They proposed that capacity contribution "be calculated by analyzing on-peak operating production in November to February, as well as in May to August." The joint commenters made a number of observations that dispute the validity of Avista's capacity contribution approach. The parties asserted that Avista's tariff creates rates that do not align with QFs' value generated, in that "[s]olar QFs online in 2018 would have contributed beneficial capacity during Avista's peak load hours, both winter and summer, yet been paid $0 under Avista's [t]ariff." The commenters further contended that recent peak load events have occurred in the summer as much as the winter, and solar resources would have been useful to meet recent peak loads in both summer and winter. They also noted that the resource used as a proxy for solar is aging; although Avista intends to use updated solar proxy data for the 2019 IRP, rates are still based on the 2017 IRP.

- The commenters expressed further concern that Avista's avoided cost calculations did not adequately include the social cost of carbon.

- If their proposed capacity contribution methodology is not adopted, Sun2o and DGEP requested that the Commission require Avista to offer a rate schedule for solar QFs paired with energy storage by various duration hours.

- The commenters objected to the limited contract length offered to large QFs and QFs that are considering a sales option other than the 12-15 year fixed term offer.

10 On January 6, 2020, the Northwestern and Intermountain Power Producers Coalition (NIPPC) and the Renewable Energy Coalition (REC) filed joint comments on a variety of issues. The following is an outline of the joint comments, which Staff thoroughly commented on in its January 23, 2020, memo.

- *Options for QFs that provide less than all generation power.* NIPPC/REC argued that Avista's language excluding QFs that provide less than all generation power from fixed rates and time-of-delivery rates for energy and capacity is inconsistent with the PURPA requirement to make a standard offer available.

- *Capacity Contribution Values for New and Existing QFs*: Avista described the capacity contribution for existing and new resources on Sheet 62 and Sheet 62H. NIPPC/REC contended that capacity contribution values and capacity factors should be contained within Schedule 62, and that Avista should display this information in a table within the tariff, thereby allowing a QF of a given fuel type to easily understand the rate offered without reference to documents outside of the tariff. NIPPC/REC further recommended Avista clarify how non-wind, non-solar resources will be treated under the tariff. They suggested non-wind, non-solar resources be treated as baseload resources with a 100 percent capacity value contribution. Staff generally concurred but noted that Avista's 2019 IRP Progress Report tabulated capacity contributions for many other fuel types.

- *LEO Standard*. NIPPC/REC believed that Avista's proposed paragraph addressing the legally-enforceable obligation (LEO) on Sheet 62O(III)(1)(D) beginning "In the event…" substantially limits the Commission's discretion when deciding an issue.

- *Avoided Cost of Energy*. Avista's most recent market forecast was generated as a part of its 2019 IRP process using the Company's IRP tools and data inputs. The forecast projects significantly lower market prices; relatedly, the 2019 IRP Progress Report contemplated the impacts of the Clean Energy Transformation Act (CETA). NIPPC/REC arguedthat CETA's impact to market prices – including the possible shutdown of coal assets in the near term – is hard to ascertain and urged the Commission to set this filing for hearing to resolve this issue, although they did not provide an alternative estimate of avoided costs.

- *Energy Shaping Factors*. Avista's tariff includes energy-shaping factors that bring in the seasonal variation of the value of energy to Avista's system. NIPPC/REC urged the Commission to set this filing for hearing to resolve this issue, although they did not provide an alternative set of seasonal rates.

- *Contracting Process and Timeline – remove interconnection study requirement in tariff*. Avista's Sheet 62R, paragraph III(2)(A)-(B) stated that Avista's obligation to purchase is conditioned "on the existence of a fully executed interconnection agreement." NIPPC/REC argued that this requirement is inconsistent with PURPA, and suggested that Avista clarify that these requirements apply to commercial operations, not to the execution of a contract. NIPPC/REC recommended the Commission direct the utility to revise the language accordingly.

- *Contracting Process and Timeline – extend 20-day signing window for final PPA.* Avista's step L on sheet 62R in its contracting procedures provided that "the Customer shall, within twenty (20) days of its receipt of a final, executable version of the power purchase agreement, execute and return the final power purchase agreement to the company." NIPPC/REC requested to extend the 20-day signing window to 45 days. NIPPC/REC pointed out that Puget Sound Energy's (PSE) contracting procedures provide 45 days for QFs to sign, and that some entities that may be pursuing a QF arrangement may have monthly legal or management review cycles. They additionally requested several additional changes to Avista's contracting process and timeline without providing specific suggested language changes.

- *Avoided Cost of Capacity and Capacity Contribution Values*. NIPPC/REC requested that Avista "perform an actual capacity contribution study and provide detailed support for the capacity contribution values."

- *Additional time for review of standard Power Purchase Agreements (PPA)*. Avista and interested stakeholders have not yet begun to negotiate the PPA terms and conditions. At the September 12, 2019, open meeting, representatives from NIPPC and REC proposed addressing avoided costs and tariff language first, then negotiating and finalizing the PPA later. NIPPC/REC have since included this request in most of their joint comments.

11 At the Commission's regularly scheduled January 23, 2020, open meeting, Staff recommended that the Commission require Avista to adopt six specific changes to Avista's tariff. Based on the Commission's direction from the January open meeting, Staff and Avista worked together to implement those recommendations. Staff commends Avista for the Company's willingness to engage in productive collaboration, and believes the resulting product is a tariff that fully and fairly implements the letter and intent of the Commission's new PURPA rules.

12 The following is a list of Staff recommendations that the Company has since implemented:

1. Remove restrictions around fixed rates and time-of-delivery rates to allow QFs who sell less than all energy and capacity to select these rate options.
2. Include in tariff a table delineating the capacity contribution percentages calculated for various QF types, as well as clear guidance on how to calculate a given rate.
3. Include tariff language clearly establishing how existing QFs may calculate their capacity contributions based on historical data or include a rate table specifying capacity contributions for existing QFs based on historical generation for on-peak hours from November to February.

4. Remove tariff language regarding legally enforceable obligations on Sheet 62O, which may conflict with WAC 480-106-030(2).
5. Remove tariff language that requires completed interconnection studies and conditions the utility's obligation to purchase an executed interconnection agreement.
6. Extend the signing window for the finalized power purchase agreement to 45 days.

13 Staff is satisfied with the Company's changes, and no new comments have been filed in this Docket. Staff does not know whether Avista engaged with representatives from NIPPC or REC to gain consensus on the final changes.

14 In its January 23 memo, Staff recommended that the Commission grant a waiver for use of data from the Company's 2019 integrated resource plan (IRP). WAC 480-106-040(1)(b)(i) requires capacity calculations based on Avista's most recently acknowledged IRP, which is the 2017 IRP. Previous Commission action pushed back the Company's 2019 IRP deadline into 2020, then waived the acknowledgement process.[1] In Staff's view, WAC 480-106-040(1)(b)(i) is based on the premise that IRPs get regularly filed and expediently acknowledged. Notably, to Staff's knowledge, no parties have objected to this request. Staff therefore believes it is in the public interest to use the capacity contribution values as presented in the Company's recently filed IRP.

15 Finally, Staff recommends that the Commission require the Company file finalized standard PPAs as attachments to the tariff by May 29, 2020. This will allow time to discuss their terms, and for drafting a form PPA that can be flexible enough to handle almost all QF types – a concern raised by NIPPC/REC in their request for more and clearer contract options. Staff is recommending similar treatment for PPAs attached to Pacific Power & Light Company's PURPA tariff.[2]

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[1] Docket UE-180738 Order 02, November 7, 2019.

[2] Docket UE-190666. Docket UE-190665; PSE's attachments to the company's small QF tariff, Schedule 91, went into effect on December 7, 2019. PSE and interested stakeholders were able to find agreement with PSE's PPAs, so staff had no reason to propose an alternative.

DISCUSSION AND DECISION

16 We agree with Staff's recommendation and accept Avista's Schedule 62 compliance filing, allowing the tariff and rate portions to go into effect. We additionally require the Company to file its standard power purchase agreements as attachments to this tariff by May 29, 2020. The Commission, on its own motion, will waive the application of WAC 480-106-040(1)(b)(i) to allow Avista to calculate capacity contribution values for various fuel types based on the Company's 2019 integrated resource plan. For the reasons stated below we find this filing is consistent with our General Order R-597, the new rules in WAC 480-106, and with PURPA.

17 *Additional time for standard PPAs in tariff.* Though Avista's form PPA was filed more than six months ago, we understand that the Company and interested stakeholders have not yet begun negotiating the PPA terms and conditions. Based on the comments above, we agree with Staff and stakeholders that more time, and a specific window to focus solely on PPA issues, will lead to a more robust standard PPA.

18 Requiring Avista to file finalized standard PPAs as attachments to its tariff by May 29, 2020, will allow time for stakeholders to discuss terms, and for drafting a form PPA that can be flexible enough to handle almost all QF types – a concern raised by NIPPC/REC in their request for more and clearer contract options.[3] Additionally, this is consistent with Staff's recommendations for PPAs attached to Pacific Power & Light Company's PURPA tariff.

19 *Waiver to use 2019 IRP*. Under WAC 480-07-110, the Commission may grant an exemption from, or modify the application of, any of its rules in individual circumstances if the exemption or modification is consistent with the public interest, the purposes underlying regulation, and applicable statutes. We determine that exempting Avista from the IRP capacity calculation meets each of these requirements.

20 As stated above, Staff previously recommended that the Commission, on its own motion, exempt Avista from the requirement that it use data from the Company's 2019 IRP. WAC 480-106-040(1)(b)(i) requires capacity calculations based on Avista's most recently acknowledged IRP, which is the 2017 IRP.

[3] Docket UE-190663, Comments on behalf of NIPPC and REC, December 9, 2019, page 15.

21 Previous Commission action pushed back the Company's 2019 IRP deadline into 2020, then waived the acknowledgement process. We agree that under normal circumstances IRPs are regularly filed and expediently acknowledged. This does not apply for the current cycle. Given there are no parties that have voiced objection to this request, we agree that it is in the public interest to use the capacity contribution values as presented in the Company's recently-filed IRP.

22 We also agree with Staff that the extended process and incorporation of stakeholder feedback has produced a tariff that fully and fairly implements the letter and intent of the Commission's new PURPA rules.

FINDINGS AND CONCLUSIONS

23 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies.

24 (2) Avista is an electric company and a public service company subject to Commission jurisdiction. Avista is a qualifying electrical company under RCW 80.04.010.

25 (3) On August 9, 2019, Avista filed a compliance tariff in this docket.

26 (4) Pursuant to WAC 480-07-110 the Commission, on its own motion, determines that waiving the application of WAC 480-106-040(1)(b)(i) is consistent with the public interest, the purposes underlying regulation, and applicable statutes in the specific circumstances presented here.

27 (5) This matter came before the Commission at a regularly scheduled open meeting on March 12, 2020.

28 (6) After reviewing the tariff revision filed by Avista on August 9, 2019, as revised on March 4, 2020, and giving due consideration, the Commission finds that the tariff revisions should be allowed to become effective subject to the condition that Avista file finalized standard PPAs as attachments to the tariff by May 29, 2020.

ORDER

THE COMMISSION ORDERS:

29 (1) The tariff revisions filed by Avista Corporation, d/b/a Avista Utilities, to its Schedule 62 filing will become effective on March 13, 2020, by operation of law, subject to the condition that Avista Corporation, d/b/a Avista Utilities, files standard power purchase agreements as an attachment to its tariff by May 29, 2020.

30 (2) The Commission, on its own motion, grants an exemption from WAC 480-106-040(1)(b)(i) to allow Avista Corporation, d/b/a Avista Utilities to calculate capacity contribution values for various fuel types based on the Avista Corporation, d/b/a Avista Utilities' 2019 integrated resource plan.

31 (3) The Commission retains jurisdiction over this matter for purposes of effectuating this Order.

DATED at Lacey, Washington, and effective March 12, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner