

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

CITY OF SPOKANE

For an Order Declaring that the City of
Spokane Waste to Energy Facility is not
“baseload electric generation” under RCW
80.80.010(4) and WAC 480-100-405(2)(a)

DOCKET _____

Declaration of Marlene Feist in Support of
City of Spokane’s Petition for Declaratory
Order

1. I, Marlene Feist, declare under penalty of perjury under the laws of the State of Washington that the following is true and correct.

2. I am the Public Works Director for the City of Spokane (“City”). My responsibilities as the Public Works Director include overseeing critically important utility and transportation services and infrastructure throughout the City, including the Waste to Energy (“WTE”) Facility. I supervise 800 employees and a department with an operating and capital budget of around \$400 million annually.

3. Prior to assuming the role of Public Works Director, I served as the City’s Strategic Development Director for Public Works. I have spent the last eight years in public works and have held numerous leadership positions during my more than 22 years with the City.

4. To my knowledge, there are no other municipally-owned or -operated WTE facilities, or plans for any such facilities, in the State of Washington.

The City's Power Purchase Agreement with Avista Utilities

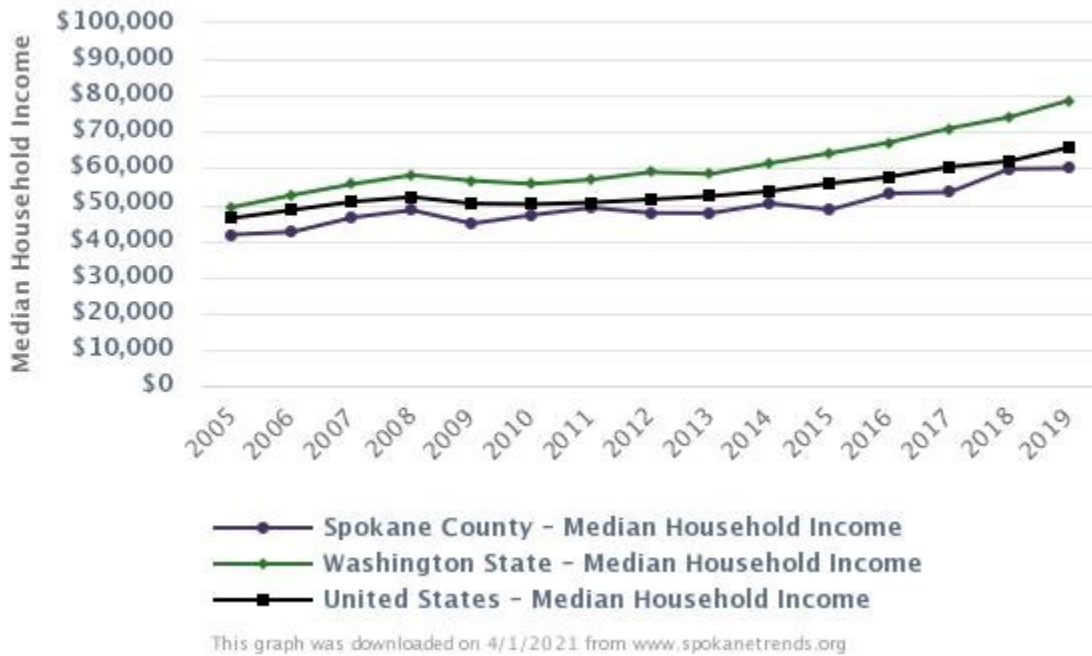
5. Attached as Exhibit A are true and correct copies of Section 3 (Term of Agreement; Delivery Term) and Section 4 (Purchase and Sale of Delivered Net Output) of the Power Purchase Agreement (“PPA”) Between Avista Utilities (“Avista”) and the City, pursuant to which the City currently sells electric power generated at the WTE Facility to Avista.

6. The City and Avista have entered into a series of five year PPAs for electricity generated by the WTE Facility. The current PPA has a term of five years that began on January 1, 2018, and ends on December 30, 2022. *See* Exhibit A (Section 3(b)). It is for “as delivered” power and requires no minimum output, *see* Exhibit A (Section 4(a)), and does not require the City to provide alternate or backup capacity to Avista when the WTE Facility’s electric generator is running at partial load or not running at all.

7. The City is negotiating a new PPA with Avista and desires to enter into a PPA with a term of 15 years. A term of 15 years would allow the City to maximize the benefit of the WTE Facility for its residents. The City estimates a 15-year PPA would result in an additional \$7.5 to \$10 million for its citizens over the life of the contract.

8. It is well documented that the income levels of Spokane residents are below state and national averages. The figure below is a true and correct copy of an economic vitality graph reproduced from the Eastern Washington University Institute for Public Policy and Economic Analysis, available at http://spokanetrends.org/graph.cfm?cat_id=2&sub_cat_id=1&ind_id=2 (last visited April 1, 2021). It compares Spokane household income vs Washington state and national averages and highlights the importance of attaining the highest possible value for power generated by the WTE Facility.

2.1.1 Median Household Income



9. Based on Avista’s avoided cost calculation, the City understands that comparable payments would be made to other providers if Avista were to obtain the power from a provider other than the City. Thus, it is my understanding that Avista’s customers are not subject to higher supply costs if the City and Avista enter into the contemplated PPA.

10. Avista has informed the City it will not enter into a PPA with a term of 15 years unless the Washington Utilities and Transportation Commission (“Commission”) determines that the WTE Facility is not “baseload electric generation” under Chapter 80.80 RCW. If the Commission determines that Chapter 80.80 RCW does not prohibit a PPA with a term of 15 years, the City and Avista intend to enter into a 15-year PPA for the WTE Facility. Otherwise, the City and Avista intend to continue to enter into another five-year contract for the facility.

The WTE Facility Was Designed and Operates as an Element of the City’s Solid Waste Management System

11. Attached as Exhibit B are true and correct copies of excerpts of the 1984 Spokane County Comprehensive Solid Waste Manage Plan Update (“1984 WMP”).

12. The 1984 WMP recommended the development and use of the WTE Facility as a key part of the County-wide solid waste management system. *See Exhibit B*, page 2 (“Based on both cost and environmental considerations, the plan update recommends that a waste-to-energy facility be developed as a major element in the County-wide solid waste management system.”).

13. Attached as Exhibit C is a true and correct copy of excerpts of the October 11, 1988 Interlocal Cooperation Agreement Between the City of Spokane and Spokane County, Washington Spokane Regional Solid Waste Management System (“1988 ILCA”).

14. As stated in the 1988 ILCA, the City recognized that existing and continued landfilling threatened the region’s sole-source aquifer, the Spokane Rathdrum aquifer. *See Exhibit C*, page 1 (“[I]n light of existing threats to the [Spokane-Rathdrum] Aquifer and the need for prompt action, the [WMP] placed a high priority on planning and implementing a regional mass burn resource recovery steam and electric generating facility (the “Facility”), which will reduce reliance on landfilling and incorporate recycling facilities into the Facility and into recycling/transfer stations associated with the collection of solid waste.”). In light of this threat, siting a new landfill over a sole-source aquifer was not an acceptable solution to the region’s solid waste management needs.

15. Attached as Exhibit D is a true and correct copy of a December 14, 1983 City Council Resolution authorizing staff to make application to the Washington Department of Ecology for Referendum 39 funds to build a waste to energy facility (“1983 Resolution”).

16. The 1983 Resolution states: “[E]xisting sanitary landfills in Spokane County have limited capacity, and arrangements must be made for future disposal of solid waste in this community.” *See Exhibit D*, page 2.

17. Attached as Exhibit E is a true and correct copy of City Council Findings Relating to the Construction and Operations Contracts for the Regional Solid Waste Disposal Project, OPR 85-585 and 85-586 (“City Council Findings”).

18. The City Council Findings show that the City chose the WTE Facility to meet the region’s solid waste management needs. *See Exhibit E*, page 2, para. 5 (“On December 13, 1983, in its continued quest to find a solution for the disposal of 800 to 1,000 tons of solid waste generated daily in Spokane County, the City Council authorized city staff to apply to the Washington state Department of Ecology for Referendum 39 grant funding for a Waste to Energy Facility.”). It replaced landfills, including the Northside Landfill in Spokane, that were Superfund cleanup sites.

19. The City Council Findings confirm that the “princip[al] purpose of the project is to dispose of solid waste” as “an extension and betterment of the City’s existing refuse collection and disposal system.” *See Exhibit E*, page 1, para. 1 (“The Spokane Regional Solid Waste Disposal Project (hereinafter referred to as “Project”) is a joint undertaking of the city of Spokane and Spokane County. The princip[al] purpose of the project is to dispose of solid waste. The Project when constructed will consist of a solid waste combustion facility with electric power production capability, recycling transfer stations and a state-of-the-art landfill to dispose of ash and nonprocessable materials. It is an extension and betterment of the City’s existing refuse collection and disposal system.”). *See also Exhibit B*, 1984 WMP at VII-11 (“The fact that

energy that can be used to generate steam and or electricity as a by-product of burning solid waste is an additional benefit.”).

20. The City did not (and does not) want to burden other communities with its waste, and thus decided against long-hauling or transporting by rail all its municipal solid wastes to the Roosevelt Landfill in Klickitat County about 200 miles southwest of Spokane.

21. Attached as Exhibit F are true and correct copies of excerpts of the 2015 Spokane County Solid Waste and Moderate Risk Waste Management Plan.

22. The 2015 and 1984 WMPs show that the WTE Facility was designed and operates to accomplish the WMP’s goals and objectives. *See* Exhibit F, 2015 WMP at 1-3–1-5 (identifying the WMP’s goals and objectives, including to “[m]anage solid waste in a cost-effective manner that promotes, in order of priority, waste reduction, reuse, and recycling” and to “[e]nsure adequate processing and disposal capacity”) and 1-10 (“Solid waste collection, handling, and management priorities are to be implemented in the following order: Waste Reduction; Recycling; Energy recovery/incineration or landfill disposal of separate and mixed wastes, respectively.”); Exhibit B, 1984 WMP at Executive Summary, page 1 (identifying the WMP’s overall goals).

23. The 2015 and 1984 WMPs discuss the WTE facility’s performance in terms of solid waste disposal capacity. *See* Exhibit F, 2015 WMP at 8-4 (“The available capacity for acceptable MSW is 248,200 tons per year (TPY). Since opening in 1991, the facility has exceeded all operations performance standards. In 2012, the WTE Facility processed 272,799 tons.”); Exhibit B, 1984 WMP at VII-9–VII-10 (“If a waste-to-energy facility plant begins operation in 1990, it will initially process an average of approximately 602 tons per day (TPD). .

. . In addition to a waste-to-energy facility with a maximum capacity of approximately 750 TPD, a number of other facilities comprise the system.”).

The City Generates and Sells Electricity as a Byproduct of its Waste Management Process

24. Attached as Exhibit G is a true and correct copy of a June 12, 2001, City of Spokane, Media Release, Waste-To-Energy Study Raises Some Questions, City Officials Say (“2001 Media Release”).

25. The 2001 Media Release confirms that, although the City generates and sells electricity as a byproduct of the waste reduction process at the WTE Facility, the “sale of electricity was always intended to offset the cost of incinerating garbage” and to “cover the cost of bond payments on the facility.” Exhibit G, page 1. *See also* Exhibit D, 1983 Resolution (“co-generation of electricity and steam at the proposed facility would be used to offset the cost through sales of those energy resources”). The consideration of base load power needs for Avista or any other regional utility was not a planning or engineering input for the WTE Facility.

26. Avista did not purchase power from the WTE Facility during its first 20 years of operation.

Permits for the WTE Facility

27. Attached as Exhibit H is a true and correct copy of the Spokane Regional Health District (“SRHD”) Solid Waste Handling Permit No. SW-SPORSWDP-001 for the WTE Facility (effective Jan. 1, 2021).

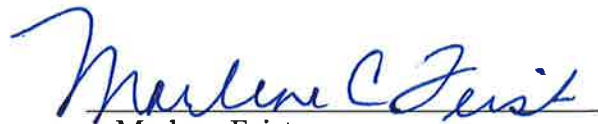
28. Attached as Exhibit I is a true and correct copy of the Spokane Regional Clean Air Agency (“SRCAA”) Air Operating Permit for WTE Plant (issued May 28, 2013).¹

¹ Although the permit expiration date is May 27, 2018, the WTE Facility is operating pursuant to Section I(A)(14) applicable to Permit Renewal and Expiration: “This permit shall be in effect for five years from the date of issuance as indicated on the cover page. The permittee’s right to operate this source terminates with the expiration of this

29. Attached as Exhibit J is a true and correct copy of the SRCAA Notice of Construction (“NOC”) Approval for the WTE Facility (approved on March 3, 1988, last revised Nov. 28, 2012).

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 14th day of April, 2021 at Spokane, Washington.



Marlene Feist
Public Works Director, City of Spokane

permit unless a timely and complete application for renewal is submitted to SRCAA at least 12 months, but no more than 18 months, prior to the date of permit expiration. Upon SRCAA’s receipt of a timely and complete application, the facility may continue to operate subject to final action by SRCAA on the application. This protection shall cease to apply if, subsequent to a completeness determination, the applicant fails to submit, by the deadline specified in writing by SRCAA, any additional information identified as necessary to process the application.”).