

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE JOINT )  
APPLICATION OF AVISTA CORPORATION ) CASE NO. AVU-E-11-06  
AND STIMSON LUMBER COMPANY FOR )  
APPROVAL OF A POWER PURCHASE ) ORDER NO. 32436  
AGREEMENT. )**

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On November 25, 2011, Avista Corporation and Stimson Lumber Company (the Parties) filed a Joint Application with the Commission requesting approval of a five-year Power Purchase Agreement (Agreement, proposed Agreement) between Avista and Stimson Lumber dated November 16, 2011. The Application states that Stimson Lumber operates a thermal wood waste small power electric generation plant located at Plummer, Idaho. Stimson Lumber is a qualifying facility under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA) and is capable of generating up to 6.5 megawatts (maximum capacity, nameplate) of energy. The Parties asked that the Commission approve the Agreement with an effective date of December 1, 2011.

On December 15, 2011, the Commission issued a Notice of Application/Notice of Modified Procedure setting a comment deadline of December 30, 2011. Staff was the only party to file comments. By this Order, the Commission approves the Agreement between Avista and Stimson Lumber effective January 15, 2012, without change or condition and declares that all payments made by Avista to Stimson Lumber be allowed as prudently incurred expenses for ratemaking purposes.

**THE AGREEMENT**

The Application states that, upon its effective date, the Agreement will replace the power purchase agreement (Original Agreement) between the Parties originally approved by the Commission in Order No. 30224, issued on January 19, 2007. The Original Agreement expired on September 30, 2011. The Commission approved an Amendment to the Original Agreement, extending the term “until either the effective date of a new power purchase agreement executed between the Parties or January 2, 2012, whichever is earlier” in order to allow the Parties additional time to complete their negotiations and execute a new agreement. Order No. 32382 at 2. The Amendment utilizes the published avoided cost rates applicable to PURPA contracts entered into on or after August 30, 2011.

The Application states that the Parties have now completed their negotiations and have executed an Agreement. The Parties request that the Commission approve the Agreement without change or condition, with an effective date of December 1, 2011, and declare that all payments made by Avista for purchases of energy under the Agreement be allowed as prudently incurred expenses for ratemaking purposes.

#### STAFF COMMENTS

Several minor changes were made between the Original Agreement and the proposed Agreement. Market energy cost has been re-defined in the proposed Agreement to now reference daily firm Mid-C on-peak and off-peak index prices reported by the Intercontinental Exchange (ICE), rather than non-firm prices reported by Dow Jones. Staff believes that the practical effect of the change in indexes will be very minor. Under additional terms in the proposed Agreement, Stimson is required to pay \$790 per month for sole use of facilities installed, owned, operated and maintained by Avista. While facilities charges were inadvertently omitted in the 2006 power purchase agreement, facilities charges for these dedicated facilities were included in the 2003 power purchase agreement. Avista rebuilt its Plummer Substation in March 2009 and the facilities charges included in the current Agreement reflect the cost of the upgraded dedicated facilities. Staff believes facilities charges are appropriate in this instance because they compensate Avista for Stimson's use of *dedicated* facilities.

The Original Agreement made no reference to Renewable Energy Credits (RECs; Environmental Attributes). The new Agreement defines them, but simply states that ownership of RECs "shall be determined consistent with applicable State and Federal law." Staff believes this is reasonable. Finally, under the new Agreement, Stimson is required to carry and maintain comprehensive general liability insurance of not less than \$2 million per occurrence. This is an increase from \$1 million in the Original Agreement. Order No. 29482 requires that general liability insurance of at least \$1 million be carried by owners of PURPA projects. Avista negotiated a higher minimum insurance requirement because it believes the \$1 million insurance requirement of the Original Agreement may no longer be sufficient to cover the potential cost of current industry claims. Staff does not oppose the \$2 million amount in the new Agreement since it was mutually agreed upon by the Parties and exceeds the minimum requirement in Order No. 29482.

Staff maintained that the only significant difference between the proposed Agreement and the Original Agreement is that the rates have been updated. Rates in the proposed Agreement are the current non-levelized rates from Order No. 32337. These rates are approximately 12-14 percent less than the rates in the Original Agreement, due primarily to lower natural gas prices. Staff recommended approval of the proposed Agreement without change or condition, with an effective date of January 15, 2012.

#### **FINDINGS AND CONCLUSIONS**

The Idaho Public Utilities Commission has jurisdiction over Avista, an electric utility, and the issues raised in this matter pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities (QFs) and to implement FERC rules.

The Commission has reviewed the record in this case, including the Application, the Agreement, and the comments of Staff. Based on the record, we find that the proposed Agreement submitted in this case contains acceptable contract provisions including the current, non-levelized published avoided cost rates approved by the Commission in Order No. 32337. We further find that the modifications regarding market energy cost, facilities charges, general liability insurance and treatment of RECs are reasonable, negotiated terms between the Parties.

The proposed Agreement provides that “this Agreement shall be effective at 0000 hours on December 1, 2011, or such other date as ordered by the IPUC, (“Effective Date”); provided the Agreement is executed by the Parties on or prior to the [sic] December 1, 2011.” Agreement ¶ 5.1. The Commission finds that the Agreement shall become effective January 15, 2012. Regardless of any stated effective date, the published avoided cost rates do not change between the Amendment approved by the Commission on October 13, 2011, and the proposed Agreement. We also find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

**ORDER**

IT IS HEREBY ORDERED that the Power Purchase Agreement executed between Avista Corporation and Stimson Lumber Company on November 16, 2012, is approved without change or condition, effective January 15, 2012.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 13<sup>th</sup> day of January 2012.

  
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PAUL KJELLANDER, PRESIDENT

  
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MACK A. REDFORD, COMMISSIONER

  
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MARSHA H. SMITH, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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