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June 2, 2020

Mark L. Johnson
Executive Director and Secretary
Washington Utilities & Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Re: Docket No. UE-191023 – Comments of Avista Utilities

Dear Mr. Johnson,

Avista Corporation, dba Avista Utilities (Avista or Company), submits the following comments in accordance with the Washington Utilities and Transportation Commission's ("Commission") Notice of Opportunity to File Written Comments ("Notice") issued in Docket UE-191023 on May 5, 2020 regarding the implementation of Chapter 19.405 RCW, Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act. Pursuant to the Notice, Avista provides responses to the questions posed in the Notice:

Clean Energy Implementation Plans (CEIP)

1. As stated in the Issues Discussion, draft WAC 480-100-600, Definitions, is a set of definitions that will apply to both the IRP and CEIP rules as first proposed in the IRP rulemaking, Docket UE-190698. We are interested in hearing responses to the draft's use of the term "resource" throughout these draft rules, in particular, if its use is consistent with your understanding of the term and is appropriate for these rules.
    a. "Lowest reasonable cost." Does the use of the term "resource" in this definition limit the types of costs that are included in an assessment of "lowest reasonable cost"?
    b. "Resource need." Is it appropriate to include "delivery system infrastructure needs" in the definition of "resource need"?
    c. "Integrated resource plan." Is it appropriate to include "delivery system infrastructure needs" in the definition of "integrated resource plan"?
    d. Do changes to the integrated resource planning statute, RCW 19.280, especially the additions of RCW 19.280.100 (Distributed energy resources planning) and RCW 19.280.030(2)(e) affect the definition of "resource"? Does the term "resource" refer

to more than just energy and capacity resources for meeting (or reducing) customer demand for electricity?

Avista Response:

a. The use of the term "resource" does not limit the types of costs that are included in an assessment of "lowest reasonable cost."

b. "Delivery system infrastructure needs" should not be included in the definition of "resource need." A resource typically means "a method" to generate energy, store energy, or reduce the consumption of energy. Delivery system infrastructure is not a resource, but rather a way to move energy from source to load.

c. Yes, "delivery system infrastructure needs" should be included in the definition of "integrated resource plan," specifically as it relates to new generation resources. The IRP should consider costs and requirements to move power from source to load (unlike "resource need" discussed in part b above, which is simply the identification of potential methods to address a projected deficit). It should also consider avoided delivery system infrastructure investment if a resource is capable of replacing the need for such additional investment.

d. Yes, in the case where the term resource or distributed energy resource is considered as an alternative to other requirements to serve customers such as wire or non-wire solutions, the definition of resource has been affected. The term "resource" also refers to more than just energy and capacity resources for meeting or reducing customer demand for electricity in the situations, such as that just described.

2. The purpose of CETA is to transition the electric industry to 100 percent clean energy by 2045. To achieve this policy, each utility must fundamentally transform its investments and operations. In draft WAC 480-100-650, Clean energy standard, the discussion draft states that "planning and investment activities undertaken by the utility must be consistent with the clean energy standards [Chapter 19.405 RCW]." While RCW 19.405 refers to the percentage of retail sales served by non-emitting and renewable resources as the "standard," the draft rule describes a clean energy standard that incorporates the additional requirements found in the statute. Is this term useful in clarifying the rule? If not, please recommend an approach for including the additional requirements from the statute.

Avista Response:

The term "clean energy standard" may be helpful in clarifying the totality and overall goals of the rule by providing a reference to all of the subsequent goals and requirements under CETA, however, the term may lead to confusion and unintended consequences when it comes to implementation and compliance.

The "Clean Energy Standards" section includes seven different requirements and standards established throughout Chapter 19.405 RCW. These seven standards have specific

compliance requirements and enforcement parameters under the law that make it problematic to group them into one set of standards that are referred to as a requirement to be met throughout the draft rule. Like in the law, these standards, in most cases, deserve unique treatment in terms of the utility's obligation to meet and verify each of them.

For example, the draft rule requires the utility in its CEIP to describe progress toward meeting the broad list of "clean energy standards." This may be beyond the scope of the CEIP as a plan for meeting the standards under RCW 19.405.040(1) and 19.405.050(1) and to propose specific targets for energy efficiency, demand response, and renewable energy.

If the Commission desires to refer to the "clean energy standards" throughout the rules as drafted, additional clarification would be helpful to specify which of the seven requirements is being referred to when discussing implementation, compliance, and/or enforcement.

3. The proposed rules make a distinction between determining whether the planning and investment activities undertaken by the utility are in compliance with the clean energy standards of CETA and approving the specific actions the utility undertakes to comply with the clean energy standards. In draft WAC 480-100-650, the discussion draft requires that all planning and investment activities undertaken by the utility must be consistent with the clean energy standards.
    a. Should the commission determine whether all the activities, rather than the planning and investment activities, undertaken by the utility are consistent with the clean energy standards?
    b. Does the draft rule need to more clearly delineate the review of activities as being separate from the approval of the specific actions?

    Avista Response:
    a. The Company believes that just the planning and investment activities should be reviewed to determine consistency with clean energy standards, if just for the fact that "all the activities" is not defined. That phrasing is so broad and has the potential for the Commission to need to review, and in essence, manage every operational aspect of the Company. Further clarification and discussion on this provision would be helpful.

    b. Yes, the draft rule needs to more clearly delineate between the review of activities as being separate from the approval of the specific actions.

4. RCW 19.405.060 requires a utility to file a CEIP by January 1, 2022. However, Staff is proposing a timeline that requires utilities to file CEIPs in advance of January 1. Draft WAC 480-100-655 requires utilities to file a CEIP by October 1, 2021, and draft WAC 480-100-670(4) requires the utility to provide a draft of the CEIP to its advisory group two months before filing it with the Commission. The purpose of Staff's proposed timeline is to align the CEIP with the existing process established for reviewing utility biennial conservation plans, as required by the EIA. As indicated in the Issue Discussion section,

Staff's intent is to reduce the number of utility filings so that the CEIP can satisfy both the EIA and CEIP conservation target setting requirements. Staff also believes that approving the CEIP earlier will give the utility more certainty of its requirements and better enable utility planning. Please respond to the merits of this proposed timeline.

Avista Response:
The Company appreciates Staff's efforts to reduce the number of utility filings such that the CEIP can satisfy both the EIA and CEIP conservation target setting requirements. However, Avista believes that the proposed timeline may be too aggressive, given the requirement to provide advisory groups with a complete draft including appendices two months prior to the filing date. This requires a draft be complete by August 1, 2021, which is only four months after the Company files its IRP (April 1, 2021). Given traditional timing, the Commission most likely would not have acknowledged the IRP by the time the CEIP draft needs to be provided to the advisory groups. As such, the CEIP should be required to be filed on January 1, 2022, as the legislature proposed, and the draft should be given to the advisory groups by November 1, 2021. The Company would be open to a change in timeframe after the first CEIP, as all interested parties will be better able to ascertain any unidentified issues that may appear in the first filing.

5. RCW 19.405.060(1)(b)(iii) refers to "demonstrating progress toward" meeting the clean energy standards and interim targets.
    a. Is it clear from the draft rules that such a demonstration within a four-year compliance period would encompass compliance with the various components of the statute?
    b. Is it clear from the draft rules that some components of the statute (*e.g.,* RCW 19.405.030 and RCW 19.405.040(8)) would be evaluated relative to the four-year compliance period rather than relative to 2030 or 2045?

Avista Response:
    a. Yes, Avista believes that the requirements in RCW 19.406.060(1)(b)(iii), are demonstrated in these rules.

    b. Yes, the proposed rules show this four-year requirement, although the draft rules for these specific RCW requirements may extend beyond the intent of the law. For example, the compliance requirements prior to 2030 and applying the provisions of RCW 19.405.040(8) more broadly than potentially intended. Further discussion specific to the broad application of RCW 19.405.040(8) beyond the CEIP would be beneficial.

6. Interim targets
    a. Draft WAC 480-100-655(2)(b) requires utilities to propose interim targets for meeting the 2045 standard under RCW 19.405.050. Noting that RCW 19.405.060(1)(a)(ii) requires utilities to propose interim targets for meeting the standard under RCW 19.405.040 <u>but not .050</u>, is it appropriate for the Commission

to establish interim targets for making progress toward meeting the standard in .050?

b. Draft WAC 480-100-665(1)(b) requires utilities to meet their interim targets. However, RCW 19.405.090 does not establish penalties for interim targets. Is it appropriate for the commission to enforce compliance with the interim targets through its own authority?

Avista Response:

a. The law does not require utilities to propose interim targets for making progress towards 2045 standard under RCW 19.405.050, thus it is not appropriate for the Commission to establish interim targets for making progress toward meeting the standard in .050. It is appropriate for the Commission to require utilities to establish targets for the four-year CEIP window. The law indicates the proposed interim targets should be made in a CEIP, but does not indicate which CEIP, so each CEIP should only focus on the four-year period for that particular filing. The IRP, which the CEIP uses, may estimate proposed targets beyond the four years to assist in informing the proposals in the CEIP.

b. It is Avista's belief that the Legislature did not intend for the interim targets to be enforced. RCW 19.405.090 states that a penalty can only be assessed for an electric utility's failure to "meet the standards under RCW 19.405.030(1) and RCW 19.405.040(1)," with the latter including establishment of "four-year compliance period[s]." Note, the interim targets are not discussed in either RCW 19.405.030(1) or RCW 19.405.040(1).

   Further, enforcement of penalties should not be applied to RCW 19.405.060 and its interim targets. If the Commission were to make the interim targets enforceable, it could result in electric utilities being given disparate treatment depending simply on their ownership structure (i.e., consumer owned utilities may face differing enforcement of penalties under the Department of Commerce). This outcome would be contrary to the intent of the Legislature, which is that the Act's requirements should apply uniformly to all electric utilities regardless of their corporate structure.

   It's important to highlight that no penalties are to be imposed prior to 2030, that penalties imposed thereafter with respect to the "standard" under RCW 19.405.040(1) would apply to the "four-year compliance period[s]." There is an important distinction between the interim targets and four-year compliance periods. Under RCW 19.405.040(1), an electric utility must, during a four-year compliance period, "demonstrate its compliance with [the] standard using a combination of nonemitting electric generation and electricity from renewable resources, or alternative compliance options." This is a relatively general requirement. The interim targets, on the other hand, are very prescriptive, with specific "proposed" targets for renewable energy, energy efficiency, and demand response.

The law is clear that failure to make the demonstration required under RCW 19.405.040(1) is punishable, not failure to meet the interim targets. It can further be noted that because the Commission has the authority under RCW 19.405.060(1)(c) to "approve, reject, or approve with conditions an investor-owned utility's clean energy implementation plan", as well as to "adjust or expedite timelines" associated with proposed interim targets, the Commission can effectively give an investor-owned both assurance about investment decisions, as guided by the interim targets, but can also establish expectations for the utility to follow.

7. Chapter 19.405 RCW requires the utility to demonstrate its compliance with RCW 19.405.040(1) and 050(1) using a combination of non-emitting and renewable resources. Because there are additional requirements in the statute, draft WAC 480-100-665 requires the utility to report more than just its non-emitting and renewable resources. Is the reporting under draft WAC 480-100-665 necessary and appropriate?

Avista Response:
The draft rule relating to reporting may go beyond the scope intended by the legislature. While many of the elements may not be necessary per the RCW, they may be appropriate to determine progress made towards meeting the clean energy standard. The Company looks forward to a more robust conversation regarding reporting and the elements to be included in both a CEIP and clean energy compliance report.

8. RCW 19.405.040(1)(a)(ii) establishes multiyear compliance periods between 2030 and 2045. RCW 19.405.060(1)(a)(ii) requires the utility to propose interim targets during the years prior to 2030 and between 2030 and 2045. Draft WAC 480-100-655(2), uses the term "implementation period" to avoid confusion with the compliance periods in the statute. It also requires a series of interim targets for 2022 to 2030 and 2030 to 2045. Does the draft rule clearly demonstrate that intent? Is this approach appropriate?

Avista Response:
Overall, the use of implementation period and compliance period, given they both are tied to a four-year CEIP period, may be confusing. The term "implementation period" is preferred prior to 2030. For periods after 2030, "compliance periods" match the terminology in CETA. Proposing interim targets for years outside of the four-year compliance period (i.e., outside of the period a CEIP covers) are not likely to be beneficial due to the potential for changes in cost, technology, resource availability, expectations of customers, and the general economy. Utilities should only be required to propose interim targets for the implementation or compliance period the CEIP pertains to. The rules should clarify these requirements.

9. In draft WAC 480-100-665, Reporting and compliance, the discussion draft implies that the utility must demonstrate that the utility has met both its interim and specific targets while also demonstrating that it is making progress towards meeting its clean energy standards, as described in draft WAC 480-100-650. It is possible that a utility could

demonstrate that it will likely meet the clean energy standards, or is meeting the clean energy standards, but may not meet a specific target. Should the Commission always issue a penalty to a utility for failing to meet a specific target or should it take into consideration the utility's achievement for the clean energy standard, interim target, and other specific targets?

Avista Response:
It may be possible for a utility to demonstrate it will likely meet the clean energy standards, but that it may not meet a specific target, due to economic and/or technological circumstances that can change during the course of a four-year period included in a CEIP.

The draft rule requires that the clean energy compliance report demonstrate that the utility has met its specific and interim targets. As discussed above, no such compliance requirement exists under the law prior to 2030. After 2030, the utility must demonstrate it is meeting the requirements of the greenhouse gas neutral standard under section 19.405.040 RCW, but there is no requirement that a utility meet the specific targets for demand response and renewable energy (energy efficiency targets must be met under the requirements of the EIA - RCW 19.285.040.). Recognizing that the Commission would want to know whether a utility has met its specific targets, the clean energy compliance report may include a report by the utility on its achievement of energy efficiency, demand response and renewable energy, and if it has failed to meet a target, provide an explanation of why.

10. RCW 19.280.030(3) specifies when an electric utility must consider the social cost of greenhouse gas emissions when developing integrated resource plans and clean energy action plans. Draft WAC 480-100-675(1)(a) proposes rules that would require utilities, when calculating the incremental cost of compliance, to include in their alternative lowest reasonable cost and reasonably available portfolio the social cost of greenhouse gas emissions, or SCGHG, in the resource acquisition decision. Please comment on (1) whether the inclusion of the SCGHG is required by statute, (2) if not, whether it is still appropriate for the rules to require the SCGHG in the alternative lowest reasonable cost and reasonably available portfolio, and (3) how inclusion of the SCGHG affects the calculation of the incremental cost of compliance.

Avista Response:
The proposed language in WAC 480-100-675 sets forth the terms for calculating a utility's incremental cost. The draft rule requires the utility to incorporate the social cost of greenhouse gas (SCGHG) in its baseline, referred to as the alternative lowest reasonable cost. The requirements for including SCGHG specifically indicates it is only used for selecting conservation, IRP/CEAP, or evaluating/selecting intermediate and long-term resource options; the law does not require the SCGHG to be included in the baseline. Further, if the SCGHG is included in the baseline calculation of portfolio cost, the incremental cost cap and the cost to comply with the entirety of CETA may exceed two percent.

For example, say the baseline excluding the SCGHG is $100. By including the SCGHG in the baseline, the baseline is now increased to $110 (10 percent increase). Then by meeting sections 4 & 5 of the law, the cost increases to $112, which means the two percent threshold is met, but the real cost increase is 12 percent.

The Company believes the treatment of the SCGHG warrants further discussion as it could have a substantial effect on the determination of compliance, resulting in a greater rate impact to customers.

Finally, Avista requests clarity on the calculation method for resource acquisitions and other investments over the four-year compliance period and whether those represent actual or levelized cost.

11. Draft WAC 480-100-675(4), reported actual incremental costs requires the presentation of capital and expense accounts to be reported by Federal Energy Regulatory Commission (FERC) account. For the purpose of reporting electric retail revenues, should the Commission require utilities to use a standard list of FERC accounts as part of the incremental cost calculation?
    a. If yes, please use the table provided below for discussion purposes to indicate if there are any FERC accounts listed that should not be included? Conversely, are there any FERC accounts that are not listed that should be included? Please include comment on the rationale to either include or exclude a particular FERC account.
    b. If no, please provide the challenges encountered by a standard FERC account listing.

FERC Account name	FERC account number
Residential Sales	440
Commercial and industrial sales	442
Public street and highway lighting	444
Other sales to public authorities	445
Sales to railroads and railways	446
Interdepartmental sales	448
Sales for resale	447
Other electric revenues	456
Revenues from transmission of electricity of others	456.1

Regional transmission service revenues	457.1
Miscellaneous revenues	457.2

Avista Response:
Draft WAC 480-100-675(4) mirrors the language from the underlying RCW which states that revenue should be based on "the investor-owned utility's weather-adjusted sales revenue to customers for electric operations…". In Avista's view, that would incorporate FERC Accounts 440, 442, 444, 445, 446 and 448, along with ONLY the portion of 456 related to decoupling. The summation of those accounts is sales revenue to customers, and closely mirrors revenue reported on a Commission-basis (in that report, revenue from adder or tracker schedules, like DSM and LIRAP are eliminated, but the revenues are weather-normalized). For purposes here, tracker revenue is included in sales to customers, so that should be included. All of the other accounts listed above are not considered revenue from electric customers, but rather are more related to off-system sales and revenue from wholesale transmission customers – not Avista's ultimate sales customers.

Additional Comments

In addition to the responses above, Avista offers the following general comments regarding the draft rules.

Definitions

Energy Burden is defined as "the share of annual household income used to pay annual energy bills." It would be helpful to clarify what is included in "energy bills" (i.e., only electric bills or bills for all fuel types).

The draft rule adopts a new definition of "integrated resource plan" that is different than the definition that exists under chapter 19.280 RCW. The definition states that the plan must meet the requirement of chapter 19.405 RCW. It is more accurate to state that the plan must meet the requirements of "RCW 19.405. 030 through 050" as stated under the new terms of the IRP statute section 19.280.030 RCW. Furthermore, the requirements included in the draft rule state that an IRP be "clean, affordable, reliable and equitably distributed." These are not direct requirements of the IRP statute and instead are concepts that are undefined, without metrics and may be difficult to balance and to verify.

The definition of "resource need" is a useful term as it relates to the resources adequacy considerations of a utility's clean energy implementation plan (CEIP). As the CEIP is to be consistent with the utility's IRP and the associated clean energy action plan, resource need should include resources needed to meet the resource adequacy metric established by the utility in its IRP, in addition to FERC operational requirements and resources required for regulatory compliance.

The definition of "vulnerable populations" provides a list of indicators for identifying populations. It is unclear who will provide the data and perform the analysis to identify these populations. Additional guidance on the requirements as it relates to identifying the different named groups of customers would be helpful.

Alternative Compliance and Renewable Energy Credits

The draft rules do not provide clarity for meeting the 100 percent requirement or alternative compliance. Guidance is necessary to determine when a utility may claim nonemitting or renewable energy for meeting the 100 percent portion of the requirement. For example, 1) can RECs be bundled with power that did not create the REC and qualify for the 100 percent portion; or 2) can a REC serving utility system load, but not Washington state load, qualify for the 100 percent portion of CETA if the REC is retired on behalf of Washington customers? A joint workshop with the Department of Commerce to determine the specific rules for accounting and tracking of RECs would be helpful, especially prior to any finalized rules of reporting and compliance. Further, the rules applicable to investor-owned utilities and consumer-owned utilities should mirror each other in order to create a fair marketplace for nonemitting and renewable energy in support of meeting the goals of CETA.

Also, additional guidance for RECs meeting alternative compliance will be required concerning any locational restrictions. Specifically, utilities will need to know if any REC qualifies as long as it meets WREGIS requirements.

Draft WAC 480-100-665(3)(h)(i) requires utilities to retire RECs "to comply with the requirements of … specific target or interim target." This implies a requirement to meet these targets, which does not exist except for meeting the greenhouse gas neutral standard beginning in 2030. Requiring the retirement of RECs to meet interim targets may require utilities to purchase additional RECs, causing upward rate pressure for its customers, or may prohibit a utility from monetizing RECs in its possession for the benefit of its customers.

Public Participation & Equity Advisory Group

The draft rules include expansive provisions in the CEIP section related to robust public outreach and participation and demonstration of equitable distribution of benefits and reduction of burdens to vulnerable populations and highly impact communities. These requirements are better suited and specifically referenced in the utilities IRP process, where an active engagement and participation process already exists and can be addressed. As it relates to the CEIP, the law requires the Commission to hold a public hearing prior to the approval, rejection, or approval with conditions of a utility's CEIP. This provides an additional opportunity for stakeholder input outside the IRP process, prior to the Commission acting on the CEIP.

In terms of the newly proposed Equity Advisory Group, the Company does have reservations about the need to establish another advisory group, when it already has a Technical Advisory Committee for its IRP, an Energy Efficiency Advisory Group, a Low-Income Advisory Group, and participates in the Transportation Electrification Stakeholder group. It is unclear how

the various groups will interact with one another, and with the addition of another advisory group comes the challenge of scheduling meetings for the group, especially when many members of the group are on more than one of the Avista advisory groups, and may also be on other utilities' advisory groups. The Company recognizes that some vulnerable populations and/or highly impacted communities may not be represented on the current advisory groups. Rather than create a new Equity Advisory Group to include representatives from these populations, their representatives would be a welcome addition to the existing advisory groups.

The idea of a statewide Equity Advisory Group has been brought up, and we believe this concept is worth exploring if the creation of an Equity Advisory Group is required, recognizing that the challenges with a single statewide group rather than utility specific groups, could outweigh the benefits of doing so.

Avista appreciates the opportunity to collaborate with the Commission and interested stakeholders on the development of CEIP rules, and we look forward to participating in further discussions and workshops. Please direct any questions regarding these comments to me at 509-495-2782 or shawn.bonfield@avistacorp.com

Sincerely,

/s/ Shawn Bonfield

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