

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of  
PUGET SOUND ENERGY, INC.

For a Declaratory Order on the Extra Credits  
for Apprentice Labor Provision of  
RCW 19.285.040(2)(h).

DOCKET NO. U-111663

STATEMENT OF FACT AND LAW OF  
AVISTA CORPORATION

On September 13, 2011, Puget Sound Energy, Inc. (“PSE”) filed a Petition for a Declaratory Order (“Petition”) interpreting RCW 19.285.040(2)(h), the provision of Washington’s Energy Independence Act, Chapter 19.285 RCW (the “Act”), providing extra credits for use of apprentice labor. PSE notes that there is a conflict between certain entities’ interpretation of the Act and PSE’s ability to take full advantage of the extra credits for use of apprenticeship labor to meet its renewable energy target under RCW 19.285.040 and maximize the value of surplus renewable energy credits (“RECs”), through their sale to third parties, for the benefit of its customers. Accordingly, PSE requests that the Washington Utilities and Transportation Commission (“Commission”) enter a declaratory order to resolve the dispute as to how PSE may use these extra apprenticeship credits towards its renewable energy target or for the benefit of PSE customers.

On September 20, 2011, the Commission issued a Notice of Receipt of Petition for Declaratory Order and Opportunity to Submit Statements of Fact and Law (“Notice”) in the above-captioned proceeding. In the Notice, the Commission invited interested persons to submit a statement of fact and law on the issues raised by the Petition. Pursuant to the Notice, Avista Corporation (“Avista”) hereby submits the following Statement of Fact and Law. Avista further

respectfully requests that it be included on the Commission's service list in the above-captioned proceeding.

## I. Communications

All communications, pleadings, and orders with respect to this proceeding should be directed to:

David J. Meyer, Esq.  
Vice President and Chief Counsel for  
Regulatory and Governmental Affairs  
Avista Corporation  
P.O. Box 3727  
1411 E. Mission Avenue, MSC-13  
Spokane, WA 99220-3727  
Phone: (509) 495-4316  
Fax: (509) 495-8851  
E-Mail : david.meyer@avistacorp.com

Clint Kalich  
Manager, Resource Planning and Analysis  
Avista Corporation  
P.O. Box 3727  
1411 E. Mission Avenue, MSC-7  
Spokane, WA 99220-3727  
Phone: 509-495-4532  
Fax: (509) 495-4272  
E-mail: clint.kalich@avistacorp.com

## II. Background

The Act established renewable energy targets requiring "large utilities to obtain fifteen percent of their electricity from new renewable resources such as solar and wind by 2020[.]" RCW 19.285.010. The Act establishes incremental targets for such utilities to comply with the Act (*i.e.*, at least three percent of load by January 1, 2012, at least nine percent of load by January 1, 2016, and at least fifteen percent of load by January 1, 2020). *See* RCW 19.285.040(2)(a).

The Act offers certain incentives, including an incentive for the use of apprentice labor in the development of renewable facilities. RCW 19.285.040(2)(h). According to this provision,

- (i) A qualifying utility that *acquires an eligible renewable resource or renewable energy credit* may count that acquisition at one and two-tenths times its base value:
  - (A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility *used apprenticeship programs approved by the council during facility construction.*

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

(Emphasis added.)

PSE's petition requests an interpretation of RCW 19.285.040(2)(h). Specifically, PSE asks:

under RCW 19.285.040[(2)](h), if a qualifying utility utilized apprentice labor in the construction of its facility, commencing initial operation after December 31, 2005, and sells RECs generated by such facility to a third party, can the utility count the extra apprenticeship credit towards its renewable target – provided that the utility provides documentation in its compliance reports demonstrating that no double-counting of the extra apprenticeship credits will occur?

PSE acknowledges in its Petition that certain entities have interpreted the Act differently, but asserts that the answer to its question is “yes.”

In support of its interpretation of RCW 19.285.040(2)(h), PSE, among other arguments, compares that section of the Act with the language in RCW 19.285.040(2)(b)(i) regarding the apprenticeship credit associated with distributed generation. While not taking a position on PSE's use of RCW 19.285.040(2)(b)(i) to support the bifurcation of apprentice labor benefits, this section of the Act is not at issue in this proceeding and, therefore, Avista requests that the Commission refrain from interpreting that section of the Act in this case. To the extent that the Commission decides to interpret RCW 19.285.040(2)(b)(i), Avista requests that the Commission provide an opportunity for interested parties to provide comments on such interpretation and Avista reserves the right to submit comments on such interpretation at that time. As discussed more fully below, Avista agrees with and supports PSE's interpretation of RCW 19.285.040(2)(h) of the Act.

### **III. Statement of Fact and Law**

Avista supports PSE's Petition and agrees with its conclusions regarding the correct interpretation of RCW 19.285.040(2)(b)(i). Pursuant to the Act, a qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and

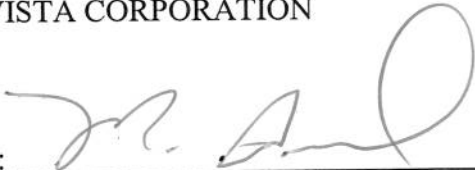
two-tenths times its base value if (i) the eligible renewable resource comes from a facility that commenced operation after December 31, 2005, and (ii) the developer of the facility uses approved apprenticeship programs. RCW 19.285.040(2)(h). This provision of the Act offers a qualifying utility an opportunity to receive 20 percent more RECs from the same eligible renewable resource where apprenticeship labor is used in the development of the resource. Customers will directly benefit from a utility's ability to: 1) qualify renewable resource acquisitions for the apprentice labor adder, and: 2) have the maximum flexibility in their sales of renewable energy credits (REC) in order to best optimize their REC portfolio over time.

#### **IV. Conclusion**

As explained herein, Avista supports PSE's Petition.

Respectfully submitted this 28th day of September 2011.

AVISTA CORPORATION

By:   
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Michael G. Andrea  
Senior Counsel