



Avista Corp.

1411 East Mission P.O. Box 3727
Spokane, Washington 99220-0500
Telephone 509-489-0500
Toll Free 800-727-9170

April 17, 2017

Steven V. King
Executive Director and Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive S. W.
P.O. Box 47250
Olympia, Washington 98504-7250

Re: Docket No. U-161024 - Comments of Avista Utilities on Public Utility Regulatory Policies Act, Obligations of the Utility to Qualifying Facilities, WAC 480-107-105

Dear Mr. King,

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 Submit Written Comments ("Notice") issued in Docket UE- U-161024 on March 20, 2017 regarding whether revisions are necessary to rules in WAC 480-107 that outline a utility's obligation to a Public Utility Regulatory Policy Act ("PURPA") qualifying facility ("QF"). In the Notice, the Commission stated that it "wishes to explore whether providing further guidance on the terms, conditions, and practices for standard contracts for QFs will aid the efficiency of the market."¹ Accordingly, the Commission invited comments on PURPA issues. Pursuant to the Notice, Avista submits the following comments.

¹ Notice at 2.

I. SUMMARY

The Commission requested comments on certain questions regarding the appropriate methodology for determining avoided cost rates and standard PURPA practices. To the extent the Commission revises its PURPA rules, the Commission should, as more fully discussed below: (i) require avoided cost rates to be calculated using an Integrated Resource Planning (“IRP”) methodology, (ii) the avoided cost rate should include an energy component and a capacity component, (iii) require standard offer rates only for QFs with a maximum design capacity of 100 kW or less, (iv) establish a test for determining if facilities are separate projects or a single project that is being disaggregated to circumvent FERC’s one-mile separation rule, (iv) specify that utilities are not required to offer contracts to QFs with a term longer than five years, and (v) establish a clearly defined QF contracting process to be included in each utility’s tariff. These steps will help ensure that avoided cost rates for QF purchases are just and reasonable to utility customers and that such rates do not discriminate against QFs.²

In addition, the Commission should consider addressing the ownership of environmental attributes generated by QFs. Ownership of environmental attributes generated by QFs should depend on whether the avoided cost rate to be paid to the QF includes the value of such environmental attributes. To the extent that the Commission decides to address ownership of environmental attributes in this proceeding, the Commission should invite additional comments on this issue.

II. Comments

A. Avoided Cost Methodology

- 1. What is the appropriate avoided cost methodology for calculating QF energy and capacity rates? A brief review of commonly cited literature identifies five**

² See 18 C.F.R. § 292.304(a)(1).

methodologies: Proxy Unit, Peaker Method, Difference in Revenue Requirement, Market-Based Pricing, and Competitive Bidding.

Under PURPA, utilities are generally required to purchase QF generation at a rate equal to the utilities avoided cost.³ “Avoided costs” are the incremental costs to the electric utility of power which, but for the purchase from the QF, such utility would generate itself or purchase from another source.⁴ The avoided cost rates for all QF purchases must be just and reasonable to utility customers and cannot discriminate against QFs.⁵ In short, the avoided cost rate that a QF is paid by a utility should be comparable to the costs associated with resources the utility would build or own or otherwise acquire.

The IRP methodology is the most appropriate methodology for calculating avoided cost rates because it calculates a rate that reflects the utility’s actual avoided cost. The IRP methodology calculates the avoided cost to the utility for the power provided by the QF in the same way that the utility would calculate the value of that same resource built and owned by itself. The IRP methodology determines the value of the QF’s attributes, including the value of the resource’s energy and on-peak capacity contribution.

The Commission notes that Proxy Unit, Peaker Method, Difference in Revenue Requirement, Market-Based Pricing, and Competitive Bidding are five of the commonly cited methodologies. The IRP Methodology is similar to the Difference in Revenue Requirement methodology. The Competitive Bidding process can be a useful alternative in some cases, but for utilities not acquiring resources regularly, prices would not be available to help set avoided cost rates. Market-based pricing could provide a useful alternative for setting rates, but likely undervalues capacity contributions from resources providing such capacity. The remaining options (i.e., the Proxy Unit and Peaker Method methodologies) are holdovers from decades ago when it was necessary to simplify rate calculations because computers were not powerful enough to approximate avoided costs more accurately.

³ 18 C.F.R. § 292.304(b)(2).

⁴ 18 C.F.R. § 292.304(b)(6).

⁵ 18 C.F.R. § 292.304(a)(1).

2. Are there multiple methodologies that may be appropriate for calculating the energy and capacity payments, depending on its circumstances? If so, what criteria should the Commission use to identify the most appropriate methodology for a specific utility, at a specific point in time?

The IRP methodology provides a single methodology that can be used for all resources under the various circumstances that may be present at the utility at the time. While each utility may have a slightly different set of modeling tools, all of the utilities can follow a single defined IRP methodology.

The IRP methodology looks at each QF on a case-by-case basis and calculates the avoided cost to the utility related to the utility having access to the QF power. The IRP methodology is regularly updated to account for changes in circumstances, such as changes in market conditions and changes in the utility's capacity needs. Since the IRP methodology looks at the specific characteristics of each QF and is updated regularly, it provides an appropriate avoided cost rate for each QF at any specific point in time.

3. Is it appropriate for a utility to calculate separate avoided capacity rates based on short-run and long-run resource requirements?

Different resources provide different capacity values. Also, utilities should not pay for capacity unless they have a capacity need. Thus, the capacity component of the avoided cost rate for a QF should be based on (i) the capacity contribution of the particular resource, and (ii) the utility's need for capacity.

Some resources, such as biomass resources, are base-load resources and therefore can be relied on to generate on peak. Resources that can be relied on to provide capacity in years where the utility needs it, or for many years into the future, can received higher payments. Other resources, generally variable resources such as wind and solar, do not necessarily provide

significant on-peak contributions and, therefore, such resources should get a lower capacity payment and, in some cases, no capacity payment.⁶

Avista recommends calculating annual capacity values assuming a full on-peak capacity contribution. Then in years where capacity is not required, or the resource cannot be relied upon fully to generate during times of system peak, the payments can be reduced accordingly.

4. Should avoided costs be separated to reflect each type of resource’s capacity value through a peak credit, Effective Load Carrying Capability, or some other calculation?

The avoided cost rate should be broken out such that it is comprised of an energy component and a capacity component. A QF should only be compensated for capacity to the extent the QF contributes to the utility’s actual capacity need. Thus, if a QF does not provide any capacity, or the utility does not have a capacity need, the avoided cost rate for such QF should compensate the QF only for the energy that it delivers to the utility. When, and to the extent that a QF contributes to a utility’s actual capacity need, the avoided cost rate should compensate the QF for both the energy that it delivers to the utility and its contribution to the utility’s capacity need.

Avista does not support using the Effective Load Carrying Capability methodology to calculate capacity value because it can overstate the relative contribution of variable generation resources during times of critical peak demand.

B. Standard Practices

1. What should be the maximum design capacity of a facility to qualify for the standard offer? Should the Commission differentiate between types of resources

⁶ Further, to the extent a resource “consumes” capacity, such as with variable wind and solar resources, payments should be adjusted downward to reflect those costs.

for determining the maximum design capacity of a facility to qualify for a standard contract?

Under the Federal Energy Regulatory Commission's regulations, standard rates must be available for QFs with a design capacity of 100 kW or less, but each state is afforded the ability to require standard rates for QFs with a design capacity greater than 100 kW.⁷ Since standard rates do not consider the particular characteristics of any QF eligible for such standard rates, such rates may not reflect the utility's actual avoided costs. Accordingly, setting the maximum design capacity eligible for the standard rates at 100 kW as authorized by FERC's rules, will allow utilities to calculate an avoided cost rate that reflects its actual avoided costs for larger QFs, while still providing a standard rate for small QFs. The 100 kW limit for standard rates strikes an appropriate balance between precision in the calculation of the avoided cost rate with the burden associated with performing such calculation (considering both utility and QF developer efforts).

Because standard rates do not always reflect a utility's actual avoided cost, the standard rate may, in some circumstances, be higher than a calculated avoided cost rate. Under such circumstances, QFs are motivated to take steps, such as disaggregating projects, in order to take advantage of standard rates. Such steps can result in very large QFs, or even utility scale projects, being eligible for standard rates higher than the utility's actual avoided cost. Such a result would cause costs to utility customers to be higher than they otherwise would be, and would not be just and reasonable.⁸ A 100 kW design capacity cap on eligibility for standard rates can prevent QFs from disaggregating large projects to take advantage of standard rates.⁹

2. For the purpose of setting the maximum design capacity of a facility to qualify for a standard contract, is it necessary for the Commission to set a minimum distance between QFs belonging to the same owner? If so, what is the appropriate distance or test for determining a minimum distance? Should the Commission set different minimum distance requirements based on the type of QF resource?

⁷ 18 C.F.R. § 292.304(c).

⁸ 18 C.F.R. § 292.304(a)(1).

⁹ See IPUC Order No. 32697 at pp. 3-4 (discussing disaggregation).

Under FERC regulations, “the power production capacity of a facility for which qualification is sought, together with the power production capacity of any other small power production facilities that use the same energy resource, are owned by the same person(s) or its affiliates, and are located at the same site, may not exceed 80 megawatts.”¹⁰ “[F]acilities are considered to be located at the same site as the facility for which qualification is sought if they are located within one mile of the facility for which qualification is sought and, for hydroelectric facilities, if they use water from the same impoundment for power generation.”¹¹ This minimum distance applies to all QFs—not only those QFs that qualify for standard rates.

Although FERC regulations establish a minimum distance—one mile—between QFs, developers have found ways to disaggregate large projects located on a single site into multiple QFs by simply establishing multiple entities to own various components of what otherwise would be a single generating resource. As discussed above, establishing a 100 kW maximum design capacity cap for eligibility for standard rates mitigates much of the potential for such disaggregation. However, the Commission should also consider additional protections against disaggregation. For example, Avista recommends that the Commission consider adopting a test for determining if facilities are actually separate projects or a single project that is being disaggregated. Such a test should require the developer(s) of any projects located within the one geographical mile of any other project to demonstrate that there is: (i) no co-ownership of or membership in any entities that purport to own such projects; (ii) no non-utility shared facilities up to the point of interconnection; (iii) no common financing; (iv) no shared land leases and/or land rights; and (v) regulatory applications for all such projects are separate. In addition, for hydroelectric facilities, developers should be required to demonstrate that no two (or more) projects can use water from the same impoundment.

3. If the Commission were to specify the term length of a standard offer power purchase agreement, how should it best balance the preference of project developers for longer term agreements to mitigate their risks against the uncertainty that the avoided cost rates in effect at the time will accurately reflect

¹⁰ 18 C.F.R. § 292.204(a)(1).

¹¹ 18 C.F.R. § 292.304(a)(2).

the true avoided cost to the utility in the future? Should the Commission differentiate standard contract lengths based on the type of resource?

Avista understands developers' desire for longer-term contracts. However, PURPA does not mandate any specific term.¹² In contrast, PURPA does mandate that the rate paid by utilities to purchase QF generation is to equal the utilities avoided cost.¹³ The avoided cost rates for all QF purchases must be just and reasonable to utility customers and cannot discriminate against QFs.¹⁴ While a longer-term contract may provide developers more certainty, such longer-term contracts also increase the probability that, over time, the rate provided in the contract will not reflect the utility's actual avoided cost and, therefore, that the rate paid for QF generation will not be just and reasonable to utility customers.¹⁵ Accordingly, the Commission should specify that utilities are not required to offer a contract with a term longer than five years.¹⁶ A five-year maximum required term strikes an appropriate balance between developers' desire for longer-term contracts and the risk that avoided cost rates for QF purchasers diverge over time from the utility's actual avoided cost such that those rates are not just and reasonable to utility customers.

With one notable exception, there is no reason to have different contract lengths for different resource types. To the extent that utilities are paying avoided costs rates that are based on the utility's actual avoided cost, there should be no difference by QF resource type on contract length. The one exception is, that for certain QFs, the maximum contract term allowed under RCW 80.80 is *less than* five years.¹⁷

¹² FERC regulations provide QFs the option of either (i) provide energy on an as available basis, or (ii) providing energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a "specified term". 18 C.F.R. 292.304(d). Although FERC regulations allow QFs to elect to provide energy and capacity over a "specified term", neither FERC nor PURPA requires any specific length of term.

¹³ 18 C.F.R. § 292.304(b)(2).

¹⁴ 18 C.F.R. § 292.304(a)(1).

¹⁵ See 18 C.F.R. § 292.304(a)(1).

¹⁶ QF developers oftentimes attempt to compare their terms to terms that apply to utility built or acquired resources. However, there are important distinctions between utility built or acquired resources and QFs. For example, utility assets oftentimes have a large fuel component that does not lock the majority of customer costs for a long-term future. Also, utility-owned resources can be dispatched by the utility. In contrast, utilities are generally required to accept QF output even if the utility does not need the energy generated by the QF and the utility is unable to economically dispose of such energy. For these reasons, QFs cannot be fairly compared with utility built or acquired resources.

¹⁷ See RCW 80.80.60(1) (prohibiting certain long-term financial commitments); RCW 80.80.10(16) (defining "long-term financial commitment").

4. Should the Commission specify in rule the point in the standard offer contract process where a utility has a legally enforceable obligation to purchase a facility's output?

The Commission should have a defined process in place to make the QF contracting process clear and concise. Such a process can eliminate, or at least minimize, disputes regarding (i) the information that needs to be provided to the utility by QF developers, (ii) the time for each party to provide and receive draft and final contracts, and (iii) the time when a legally enforceable obligation exists. Avista has attached its Idaho-approved PURPA contracting procedure (Schedule 62 to its Idaho Tariff) as an example of such a process for the Commission to consider in this proceeding.

5. Should the rates and the model standard offer agreements be disaggregated into separate tariffs?

Avista does not have a strong preference on this issue. That said, the contracting process and procedure should be the same for all QFs and, therefore, it is not necessary to have separate tariffs.

C. Environmental Attributes

To the extent that the Commission revises its PURPA rules, the Commission should consider addressing the ownership of environmental attributes generated by QFs. Ownership of environmental attributes generated by QFs has been disputed in other states.¹⁸ Ownership of environmental attributes generated by QFs should depend on how the avoided cost rate to be paid to the QF is calculated. For example, if the avoided cost rate is calculated based on a natural gas resource, the value of environmental attributes probably is not included in the avoided cost rate and, therefore, it may be appropriate for the QF to own the environmental attributes.¹⁹ To the

¹⁸ See, e.g., IPUC Order No. 32697 at pp. 37-47 (Dec. 18, 2012).

¹⁹ Calculating avoided cost rates for variable resources based on a base-load resource may create other issues. For example, the avoided cost rate may overstate the capacity value that the QF actually contributes to the utility.

extent that the Commission decides to address ownership of environmental attributes in this proceeding, the Commission should invite additional input prior to deciding on this issue.

Avista appreciates the opportunity to provide these comments, and we look forward to the continued dialogue in this process. Please direct any questions regarding these comments to Clint Kalich at 509-495-4532 or clint.kalich@avistacorp.com, or Michael Andrea at 509-495-2564 or michael.andrea@avistacorp.com.

Sincerely,

Linda Gervais

Sr. Manager, Regulatory Policy
linda.gervais@avistacorp.com
509-495-4975
Avista Utilities