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June 29, 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 June 12, 2020 regarding the implementation of Chapter 19.405 RCW and revisions to Chapter 80.28 RCW, Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act.

The guidance for the requirements discussed in the Notice is extremely important. The rules need to be clear for utilities to comply with the Clean Energy Transformation Act ("CETA") in a manner that is cost-effective and preserves system reliability. Further, the rules relating to "use" must be consistent between investor-owned utilities and consumer-owned utilities due to potential impacts to the wholesale electric market that may arise from disparate treatment, as all utilities need to use the same rules for energy trading. Lastly, the interpretation of "use" impacts the quantity of qualifying energy each utility will need to add to its system. For these reasons, more discussion on these provisions of the rules is needed and alignment between the final rules adopted by the Commission and the Department of Commerce is crucial.

Given the divergent proposals by the Commission and the Department of Commerce on the issues underlying the questions posed in the Notice, it will be beneficial for the two agencies to hold a workshop and other coordination discussions with stakeholders to seek to reconcile their different approaches. Avista respectfully requests that the Commission schedule such workshop

to allow all stakeholders an opportunity to work with the Commission and the Department of Commerce to address technical issues and harmonize the proposed rules to effectuate the intent of CETA in a manner that is cost-effective and preserves system reliability.

Pursuant to the Notice, Avista provides the following responses to the questions posed in the Notice:

> **ISSUE DISCUSSION**
> RCW 19.405.040(1)(a) provides that to comply with standards in the Act, a utility, in part, must "use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility's retail electric loads over each multiyear compliance period." Staff's initial draft rules did not explicitly address how utilities can comply with this use requirement. Draft rules prepared by the Department of Commerce, however, provide guidance to the consumer-owned utilities on this issue. The Commission seeks responses from interested parties on how investor-owned utilities should comply with this requirement.
>
> Staff's preliminary interpretation of RCW 19.405.040(1)(a)(ii) is that "use" means delivery to retail customers of "bundled" renewable and nonemitting electricity. Staff bases its interpretation on the juxtaposition of requirements in RCW 19.405.040(1)(a) and RCW 19.405.040(1)(b). RCW 19.405.040(1)(b) allows a utility to satisfy up to twenty percent of its compliance obligation with alternative compliance options. RCW 19.405.040(1)(b)(ii) identifies unbundled renewable energy credits as an alternative compliance option, so long as the nonpower attributes associated with the renewable energy credit (REC) are not double counted. This implies that if unbundled RECs were sufficient to meet the eighty percent compliance obligation, they would not be considered "alternative" options within the law.

QUESTIONS FOR CONSIDERATION

1. Do you agree with Staff's preliminary interpretation? Please explain why or why not and how the term "use" should be interpreted.

Avista Response:
Avista's main concern with Staff's interpretation is the impact it will have on the timing of the REC/power creation and the ultimate load the REC/power serves. The 2030 greenhouse gas neutral standard and the 2045 100 percent clean energy requirements are four-year obligation requirements in alignment with a Clean Energy Implementation Plan, rather than annual, hour-by-hour, or real-time delivery requirement based on retail sales. **If this obligation is not a**

four-year requirement, it will pose a number of significant issues and detrimental, unintended consequences for utilities and its customers.

The following example highlights one nuance if the requirement is anything other than a four-year requirement:

> Example 1: A utility generates or controls clean power in excess of its total Washington load for the hour. Excess generation is sold as unspecified for the hour to balance its system and the utility retains the REC. For compliance purposes does the REC held by the utility for the power sold count towards the 80 or 100 percent requirement, or must this REC only be used as alternative compliance?

An hourly compliance obligation would require utilities to overbuild generation and/or storage due to only generation being consumed within the hour qualifying, and due to the unpredictability of renewable generation. Due to the correlation between wind and solar resources, each utility will have many hours of excess energy generation that can be used to offset other regional thermal generation. Overbuilding these resources will add unnecessary increased rate pressure to the region. Further as utilities move to the Energy Imbalance Market, transactions will occur on a five-minute basis and it will further increase the complexity of tracking real-time generation.

The next example highlights another point of consideration for the discussion of "use".

> Example 2: A utility generates clean power in excess of its Washington load but not its system load. The clean power serves its customers outside of Washington, but the REC is retained for its Washington customers. Is the REC only able to be used as alternative compliance or shall both the energy and REC be allowed to be used toward the 80 or 100 percent requirement since it served system load? This example is similar to the first example, but the REC and power does not change utility ownership.

Any renewable resource or clean energy generation under the utility's control (own or purchase) should qualify for the 80 or 100 percent requirement, notwithstanding the location, jurisdictional allocation, or ultimate consumption of the energy, so long as the utility had control of the generation at the time of its creation. In the event the utility purchases a REC, where the utility has no control or delivery of generation, then the REC should qualify as alternative compliance.

In reviewing the Department of Commerce's draft rule WAC 194-40-320 – Use of electricity from renewable resources and nonemitting electric generation, it appears their proposed rules

more accurately reflect the intent of CETA and are closer aligned with Avista's position. The Company suggests the Commission consider similar language as a starting point for discussion as it is important that the rules applying to all utilities are aligned.

Lastly, the Commission should also consider the storage of energy in this discussion. Utilities will add storage resources to deal with intermittency of renewable resources. For example, 100 MWh are generated at a solar facility, the 100 MWh is then stored in a pumped hydro facility via transmission, but only 70 MWh are available in the storage facility due to transformation losses on the transmission system and the storage facility. The rules should be clear on the amount of qualifying energy in this situation. In this example, the rules should be clear on whether the utility would record 100 MWh or 70 MWh of clean energy.

The storage nuance, along with the requirements for accounting for renewable and clean energy, indicate a technical joint workshop hosted by the Commission and Department of Commerce is likely necessary. The purpose of the workshop would be to discuss these complexities and come up with a specific methodology for accounting of clean energy where all utilities will be required to comply with the same rules within the state and not overburden Washington COU or IOU customers. Further, based on our cursory review of the Public Generating Pool's legal interpretation of the law, we find that their argument has merit and should be worthy of evaluation as the two agencies along with stakeholders endeavor to harmonize the draft rules. The joint workshop would provide the opportunity for stakeholders to discuss the Public Generating Pool's interpretation.

It is also important to note that, at its third workshop, the Carbon and Electricity Markets Stakeholder Work Group intended to educate stakeholders on the topics of accounting for fuel type, emissions, and renewable energy. Specifically, the scoping document for the Work Group's third workshop included the following description:

> *This workshop will cover and compare accounting of energy, emissions, and renewable attributes under various regulatory and voluntary programs, including renewable portfolio standards, fuel mix/power source disclosure, cap and trade, and voluntary renewable and green programs. The workshop will also explore how the accounting approaches interact with existing and potential future energy market frameworks, including the EIM and EDAM.*

Because of the importance of the issues discussed herein and potential resulting impacts on and from electricity markets, decisions on these issues should not be rushed. It would be helpful to allow time for the Work Group to further educate stakeholders on electric markets and to

discuss and explore how renewable and clean energy will be used to comply with CETA. This includes the topics of bundled, unbundled, and nonemitting electricity.

2. If Staff's preliminary interpretation were memorialized in rule, how should the Commission require a utility to demonstrate that it delivered "bundled electricity" to its customers and ensure that the nonpower attributes are not double counted either within Washington programs or in other jurisdictions, as required by RCW 19.405.040(1)(b)(ii)? Please explain your position on each of the compliance options provided below:

    a. The source and amount of all power injected into the bulk electric system is known and documented at the time retail load is being served. In setting the requirements for demonstrating compliance with RCW 19.405.040(1)(a), should that information and supporting documentation be required? If not, why not?
    b. Is it possible to use the utility's fuel mix disclosure, as required by RCW 19.29A.060, to demonstrate compliance with Staff's preliminary interpretation of RCW 19.405.040(1)(a)? How would the Commission ensure that the nonpower attributes are not double counted?
    c. If the Commission relied on utility attestation for compliance with RCW 19.405.040(1)(a), what underlying documents would the utility rely on to make that attestation?
    d. Do you propose another alternative? If so, please describe it and how it complies with the letter and the spirit of the Act.

Avista Response:

a. Avista proposes to use WREGIS to account for all clean energy and RECs it retires within the Western Interconnect. It is the Company's understanding that there is a process for WREGIS to certify RECs outside of the Western Interconnect. The Company would support this process such that all eligible RECs be certified in WREGIS. Absent this process, if a utility uses RECs generated outside of WREGIS to meet the requirement, the utility should hold the burden for demonstrating it is not double counting those RECs by showing certificates from the accounting system in the area the REC is generated or by the selling party's attestation.

b. Avista does not recommend using the Fuel Mix Disclosure to determine a utility's qualifying clean energy. The Fuel Mix Disclosure may be close to determining the utility's qualifying clean energy but may not properly allocate power from other jurisdictions the utility serves or properly account for unspecified power in relation to meeting the Washington law.

c. Avista proposes demonstrating the owned/controlled (i.e., purchased) qualifying generation each year with WREGIS certificate numbers, showing the net amount of clean wholesale sales compared to annual billed customer retail sales. Annual shortfalls or surpluses may then be used over the four-year compliance periods. This is a similar process for utilities complying with the Energy Independence Act.

   The underlying documents will ultimately depend on the methodology selected by the Commission to comply with this requirement. Utilities generally have hourly records of their generation, purchases, and sales and already submits renewable generation data to WREGIS for REC accounting.

   If the Commission pursues the hour-by-hour compliance route, Avista has concerns about whether or not it can actually determine its Washington retail sales each hour. While Avista has made efforts to deploy AMI, hourly data will not be available for all customers. Further, system level load data includes losses and may not be split out by state due to substations feeding multiple states. In the end, only an estimate can be made about the amount of retail sales for Washington made each hour as compared to the actual billed meter reads. This is a further reason why compliance should be demonstrated on a four-year basis.

d. Avista has no further comments.

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

Shawn Bonfield
Sr. Manager of Regulatory Policy & Strategy