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February 26, 2007

Carol Washburn, Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250

Re: Rulemaking to Implement Initiative Measure No. 937
Docket UE-061895

Record Center:

Thank you for the opportunity to provide comments in the above referenced docket. Avista's comments regarding the Commission's implementation of Initiative Measure No. 937 are as follows:

A. With regard to utility energy conservation potential, conservation targets, and conservation performance:

1) Existing Integrated Resource Plan (IRP) requirements call for a comprehensive assessment of resource supply and demand-side resource opportunities. These plans are quite thorough, with extensive documentation, are completed with substantial public involvement, and become a cornerstone of the utility's planning process. We believe these plans should serve as the basis for establishing the expected cost-effective resource opportunity for each utility. Avista would also suggest the Commission encourage the use of regional DSM resource acquisition as part of the utility's DSM savings achievement. This is currently under discussion by Northwest Energy Efficiency Alliance and the Washington utilities. In this approach, current information and analysis of DSM, in the IRP, could provide both long-term and biennial compliance with Resource Portfolio Standards.

2) As the Commission is well aware, existing IRP rules establish the biennial planning target and associated targets for demand-side management resource acquisition. This process appears to function effectively, has withstood the test of time, provides substantial opportunity for public involvement, and has proven itself to be adequate for establishing utility conservation targets. For

implementation of this subject rulemaking, Avista believes consideration could be given by the Commission to modifying their "recognition" standard for the IRP, to incorporate an order stipulating targets for energy efficiency Resource Portfolio Standards. If the Commission moved in that direction, the process provided by WAC 480-107-015(3)(b) could be appropriate. (This process requires a utility to submit to the commission a proposal and accompanying documentation no later than one hundred thirty-five days after the utility's integrated resource plan is due to be filed with the commission. Interested persons have sixty days from the proposal's filing date with the Commission to submit written comments to the Commission. The Commission approves or suspends the proposal within thirty days after the close of the comment period.)

3) Our sense is the Commission may want to avoid trying to establish, at this time, standard input assumptions and formulae regarding the qualification of customer-owned cogeneration facilities toward a utility's conservation target. In each case where application is made under this provision, the thermal and electrical energy characteristics of the proposed equipment will have to be carefully scrutinized with regard to the rule. A case-by-case approach to this analysis would likely provide a cumulative insight on the review process and promote a more effective implementation of the rule than might flow from a prescription developed on a pro-forma basis.

B. With regard to renewable resource targets and exceptions:

1) Avista believes it would be useful for the Commission to develop a definition of the electricity product(s) allowed under this rule. For instance, "real time" is not an industry standard term. "Real-Time" trading refers to intra-day trading of energy and capacity blocks as short as one hour, and extending up to many hours.

   For example, products used by SCL to delay the delivery and firm and shape its output for delivery months later, clearly represent an integration service. One might also argue that the integration service BPA used to offer also was not real-time. Regarding the demonstration of compliance, we believe it's more the *absence* of integration services contracts like these that demonstrates compliance with the rule and real-time, rather than some form of affirmative documentation the utility would provide.

2) Regarding the status of renewable energy credits, it appears the Commission may want to make a determination of an entity qualified to certify the REC status of energy from eligible renewable sources. A couple approaches could range from participation in a program like the Western Renewable Energy Generation Information System (WREGIS) under WECC, to the delegation of the certification responsibility to a Washington state agency, such as CTED. Our understanding is that CTED already receives information on renewables

generation from each utility. This existing reporting / tracking program might be able to be tailored to meet a need for certification.

We believe documentation of an electric utility's compliance with the rule can be provided either through an attestation received as part of a power purchase that includes RECs or through an attestation by the utility for RECs produced by certified generation that it owns.

3) Regarding the prohibition of old-growth forest materials used to fire eligible renewable resources, we have thought about a couple options for the Commission to ensure a utility's compliance with this rule. One approach would involve a certification process for the fuels supplier, who would provide documentation of the origin of the fuels or an attestation as to their stand-age composition. Another similar approach would be for the utility to require an attestation from the fuels supplier in their supply contracts, which would be available for review by the Commission. We believe there are likely many other approaches to this question of documentation.

   A related question we have discussed is whether there already exists the criteria that would be used to define "old growth forests" under this rule.

   Additionally, in our view, any documentation / certification protocol developed for wood-waste fuels under this rule should be realistic, practical, and workable. It would be a shame if the fuels certification process was so onerous that it precluded the full development of this eligible resource potential.

   Finally, we would advocate for consideration of a certification process that would discount from eligibility, under this rule, a percentage of the output of a plant that corresponded the known or suspect percentage of the fuel supply composed of material from old-growth forests. This approach might be particularly useful in the event there is no possible way to guarantee the stand-age composition of all materials in the subject fuel supply.

4) Avista believes the Commission should not establish assumptions and formulae to evaluate a utility's exemption from the requirement to meet annual renewable targets. In our discussions, as we've envisioned the myriad combinations of events that could produce an exemption case, we think it's nearly impossible to develop an evaluation template prospectively. As we suggest in A(3) above, we believe a case-by-case approach to this analysis would promote the most effective implementation of the rule in both the short and longer term.

   What we believe would be useful in the implementation of the exemption rules would be the development of a process for a utility to follow in filing a notice that it intends to qualify for an exemption in a given year. This work

would provide clarity of process for both the filing utility and those participating in and making the determination of the claim.

We believe the Commission should interpret 'revenue requirement' under this rule, as the last approved normalized level of revenue.

5) Regarding the pro-rata eligibility of output from a plant cofired by fossil and renewable resources, we believe there may already exist sources of information needed to demonstrate compliance under this rule. Generally, operators of thermal-fueled projects perform a BTU analysis of the fuel taken under contract. Utilities provide quarterly to the FERC a Cost and Quantity of Fuels report that contains information that might prove useful in this regard. Documentation of the heat value of the renewable fuel under this rule could be provided by the qualifying utility, through either a contract attestation from the fuels suppliers, or in the FERC fuels report.

6) Avista believes the Commission could substantially clarify the interpretation of the "percent of revenue requirement cost exemption" rule by formulating a detailed listing of the renewable resource costs allowable as incremental costs of eligible resources.

   First, we believe the calculation of incremental cost for conventional and renewable resources should be based on substantially similar energy products in terms of firmness, heavy and light-load-hour characteristics, and seasonality. We also believe the accounting of incremental costs should also include substantial detail, including at least, the following costs:

   - Capital (including financing) and operating costs.
   - Fuel costs.
   - Quantifiable environmental externalities.
   - Royalty or land right payments.
   - Incentives or other payments from state or federal governments.
   - Transmission interconnection – costs associated with substation and feeder lines required to physically connect the output of the generating resource into the high-voltage transmission system, transmission losses, and upgrades and expansions to the bulk, long-distance transmission system required to transfer the energy to loads.
   - Regulation – costs to follow moment-to-moment changes in system balance. This is usually provided by power plants on Automatic Generation Control.
   - Load following – costs associated with balancing loads and resources over longer time periods, beyond the moment-to-moment changes associated with regulation.
   - Forecast Error – costs associated with balancing the difference between a forecast timeframe (e.g. hour ahead) forecast of energy

delivery and the actual delivery of energy from the resource over the hour.

- Capacity cost – If new resources are predominantly wind, additional dispatchable, capacity-type resources will ultimately be required to meet system reliability standards.
- Portfolio costs – utilities often perform a portfolio or system analysis that includes their current power supply system and the prospective new resources. This portfolio analysis approach estimates the total system cost associated with building and operating the new resource as well as the costs of the existing system. Comparing the system cost of a renewable resource scenario with the system cost of an alternate resource provides a comprehensive estimate of the total incremental cost of the renewable.

A utility's total incremental cost on eligible renewable resources should also include research and demonstration costs associated with developing new renewable resources. These types of expenditures are often made in achieving commercialization of non-commercial renewable resources, or efficiency improvements to commercial renewable resources.

In addition, a utility's incremental cost should also include the substantial portion of any "dry-hole" costs associated with meeting the renewables target. These dollars are expended toward development of a renewable-resource project that, due to economic changes, force majeure, or other circumstances beyond the control of the utility, results in project termination prior to commercial operation. The portion of dry hole costs included in the incremental spend calculation would be related to the additional risk of developing mandated renewable resources, compared with the least-cost approach of developing conventional generation.

For existing, eligible renewable resources (commencing operations after March 31, 1999), we believe it's likely these base costs are already accounted for in rates. Applicable incremental costs (from the list above) could then be added to the base costs to develop the full incremental cost for the existing renewable resource.

7) Avista believes the Commission should address cost recovery issues for multi-state electric utilities on a case-by-case basis.

C. With regard to penalties for noncompliance and whether such penalties may be recovered in customer rates:

1) Avista believes the Commission should address the issue of factors evaluated in consideration of penalties on a case-by-case basis.

2) Avista believes the Commission should evaluate the prudency of a qualifying utility's actions on a case-by-case basis in determining whether to allow the recovery of administrative penalties in electric rates.

D. With regard to reporting requirements:

1) Avista believes the Commission should use the required annual report as the primary basis for determining a utility's compliance with the chapter's requirements. A qualifying utility's annual performance report should include either direct documentation, or ready reference to any documentation, as described at various points in the discussion above, as necessary to evaluate the utility's annual performance with the chapter. This detail will likely fall into place as decisions made in this rulemaking identify performance standards and documentation required to ensure utility compliance.

Please direct any comments or concerns regarding this filing to myself or Linda Gervais at 509-495-4975.

Sincerely,

//Larry La Bolle//
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