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April 13, 2018

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

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 U-161024 on March 14, 2018 regarding informal draft Public Utility Regulatory Policy Act ("PURPA") rules.

I. BACKGROUND

On February 26, 2018, the Commission received a Joint Recommendation Regarding Implementation of Public Utility Regulatory Policy Act for Utilities and Qualifying Facilities ("Select Parties' Recommendations"). The Select Parties' Recommendations were developed by one utility, Puget Sound Energy, and several stakeholders. Avista was not provided an opportunity to participate in the development of the Select Parties' Recommendations. On March 9, 2018, Avista filed comments in response to the Select Parties' Recommendations. On March 13, Pacific Power and Light Company also filed comments in response to the Select Parties' Recommendations.

As the Commission was close to finalizing its informal PURPA draft rules prior to receiving the Select Parties' Recommendations, it released an informal draft without comment on the Select Parties' Recommendations. The notice invites the public to file comments with the Commission in Docket U-161024 that address the informal PURPA draft rules, the Select Parties' Recommendations, and Avista's and Pacific Power and Light Company's responses to the Select Parties' Recommendations.

II. COMMENTS

Avista appreciates the opportunity to provide comments on the Commission's informal draft PURPA rules. The rules implementing PURPA have a significant impact on both PURPA developers and utility customers. That is particularly true given the significant development of renewable resources in the region and the movement towards new and developing energy imbalance and other organized energy markets in the west.

Given the dynamic nature of the energy market in the region, and the potential for significant change in the future, any rules implementing PURPA should be fully vetted by all stakeholders in order to ensure that such rules properly balance the requirement that such rules protect consumers (utility customers)[1] and satisfy the requirements of PURPA. Avista appreciates the opportunity to submit these comments and looks forward to working with Commission Staff, utilities, and other stakeholders to develop final rules to implement PURPA in the State of Washington.

In response to the Commission's request for comments, Avista provides the following comments and responses to the Commission's specific questions:

1. Is the proposed definition of *capacity*, as described in WAC 480-106-DDD, an appropriate definition for the purpose of this rule?

Avista Response:

[1] WAC 480-100-001.

The proposed definition of "capacity" in the proposed rule is "the capability to produce or avoid the need to produce electric energy measured in kilowatts (kW)." Capacity represents the capability of a facility to meet various system requirements, not just electric energy. For illustration, proposed section 480-106-HHH(5)(b) expresses many capacity values beyond the production of electric energy. Given that later in the rule utilities are expected to credit PURPA projects for many values of capacity, the Commission might consider broadening the definition either to include reference to 480-106-HHH(5)(b), or use another definition that speaks more broadly to the production of energy and other ancillary services necessary to support a reliable power grid. Avista has made a recommended change to this definition in the attached redline of the draft rules.

2. WAC 480-106-GGG strengthens the relationship between a utility's integrated resource plan and the avoided cost rates available to qualifying facilities. Consequently, avoided cost rates calculated at the time a legally enforceable obligation is incurred will reflect the utility's own forecasts and plans for meeting anticipated demand through a combination of supply-side and demand-side resources over a specified future period. Please comment on the merits of strengthening the relationship between a utility's integrated resource plan and its avoided cost.

Avista Response:

The Company supports a stronger relationship between the integrated resource plan and avoided costs. The IRP methodology should be emphasized, especially for larger Qualifying Facilities (QF) to ensure that the specific attributes of each QF are recognized and to ensure the correct avoided cost price is offered. Use of a standard published avoided cost rate does not, and cannot, reflect the specific attributes of a particular QF and, therefore, it is likely that the published avoided cost rate will not reflect the utility's actual avoided costs. Accordingly, the IRP methodology should be used to establish avoided cost rates for all QFs. To the extent a different methodology is to be used, such different methodology should be used only for very small QFs where the magnitude of the impact to customers that results from the delta between the published avoided cost rate and the utility's actual avoided costs will be relatively small.

3. WAC 480-106-GGG(1)(a) requires a utility to file an avoided energy cost based on the utility's forecast of market prices. WAC 480-106-GGG(1)(b) requires the utility

to determine the avoided capacity cost using the Proxy Unit method. When using the Proxy Unit method, one option is to set the avoided energy price based on the energy price of the proxy resource. Should the avoided energy price be based on the market forecast or the price of the energy used for the proxy resource?

Avista Response:

Energy prices paid to QFs should not be based on the cost of operating a proxy resource. Peaking resources rarely are dispatched to serve customer loads, being relied upon mostly during reliability or extreme regional load events. Therefore the cost of a proxy resource would greatly overstate the value of a PURPA resource.

4. WAC 480-106-GGG(1)(a) requires utilities to file an avoided energy cost on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year. Should the Commission also require the avoided energy cost to include hourly or blocks of hourly periods?

Avista Response:

Providing less-granular prices, as in the proposed rule, provides indicative information for a QF resource. For small PURPA resources of a size well below that being proposed in the rule (i.e., <1 MW), paying based on these less granular rates is of marginal consequence to customers. However, offering such rates to larger QFs puts customers at significant risk of paying too much since the output profile of different resource technologies and locations can vary greatly. The use of simple average prices substantially increases the risk that utility customers will pay too much.

Most developers, even developers of relatively small projects, should have (or have access to) the sophistication necessary to understand granular pricing data. However, Avista does understand that providing more granular looks at data might overwhelm some very small developers. One approach to address this issue is to include with each filing a spreadsheet whereby the PURPA developer could input a "12x24" generation profile and get an energy price reflective of its profile. Annual rates then would both be known and customized to the specific QF. This file could be easily standardized and managed by the Commission.

5. WAC 480-106-GGG(2)(iii) discusses schedules of estimated avoided cost. Is discounting the capacity payment from the utility's year of need to the present day an

appropriate way to represent the avoided costs of a resource the utility has identified a need for in the future? In balance, does it provide the required price signal for capacity? Does this subsection require additional rule language and specificity?

Avista Response:

Customers should not pay for capacity twice, which absent an adjustment for years of no need is what will happen. Discounting is therefore essential. Levelizing the payment might appear to be a useful means to provide a price signal, but it risks overstating the need and paying for capacity years ahead of any need for such capacity. Such levelizing can result in intergenerational inequity and, at a minimum, forces customers to bear the risk of any QF default. A better approach is to pay for capacity as follows: valuing the capacity based on the ability of the QF to perform and paying for capacity only when a resource is actually needed. Paying for capacity ahead of need magnifies the incentives for resource development when the utility does not have a need. Where the utility has no need for capacity, the avoided cost of capacity is zero.

6. WAC 480-106-GGG(c) is intended to permit utilities to offer standard rates that take into account the differing qualities of various generation types, such as variations in capacity factors. Currently, the informal PURPA draft rules do not specify how a utility might identify these qualities and use them to calculate avoided capacity costs. Does this subsection provide enough specificity or is additional rule language needed?

Avista Response:

Please see the response to Question 4 above. As discussed in that response, the proposed "12x24" rate calculation should address this concern well.

a. No resource, including thermal generation, has a one hundred percent capacity factor. Should the rules require applying a calculation that compares the qualifying facility to the highest capacity factor resource? For example, if the highest capacity factor plant has a capacity factor of 90 percent, and the qualifying facility has a capacity factor of 30 percent, then the capacity credit to the qualifying facility is 30% ÷ 90% = 33%.

Avista Response:

Yes. However, Avista's IRP already accounts for this discrepancy and other utility plans likely do too. A better approach would be to require the utility to account for this difference when generating its schedule, whether done within the IRP, or if not there, using a calculation such as the one proposed above when creating the schedule.

7. Joint Recommendations – The discussion draft rules do not include any option or the requirement to transfer any renewable energy credits (RECs) generated by qualifying facilities. The Joint Recommendations propose that RECs should be included in the sale when the avoided costs used to determine a utility's offered standard rate are based on a resource that would also generate RECs. Would this arrangement be satisfactory for all parties? In the instance where standard rates are based on a resource that does not generate RECs, is there reason to permit, or to require, the utility to offer a tariff schedule to qualifying facilities, which include the avoided cost of RECs? This arrangement would enable smaller developers to sell RECs at a set price and avoid the challenge of navigating a complex market, mirroring the rationale that PURPA uses in compelling utilities to purchase of capacity and energy.

Avista Response:

The issue of ownership of RECs associated with QFs is a complex issue that requires further development. Accordingly, Avista is not taking a position on the ownership of RECs at this time.

To the extent that the Commission decides that title to RECs generated by QFs do not transfer to the utility with the sale of the QF's output, the Commission should not require utilities to purchase those RECs from the QF. Such a requirement would effectively provide QF developers a "put option" (paid for by utility customers) for developers to arbitrage against. Rather, under such circumstances, the Commission should require the developer, not utility customers, to bear the burden of marketing and selling the RECs generated by its QF.

8. Joint Recommendations – If the Commission adopts the recommendation to require the inclusion of limited contract provisions to qualifying facilities of all sizes, should the rule specify contract provisions that utilities must offer?

Avista Response:

In Avista's experience, the general terms and conditions of PURPA PPAs (that is terms other than how the avoided cost price is set and the length of the term) are relatively standard and non-controversial. Requiring standard contract provisions only serves to restrict the ability to adapt PPAs to different circumstances or other changes that are not contemplated by the mandated contract terms.

Rather than attempt to develop one-size-fits-all general contract terms, the Commission should work with utilities and stakeholders to develop and adopt contracting procedures. Such contracting procedures should state the specific obligations of both parties and timelines for completing each step of the process. These contracting procedures are used in other states and have worked well to reduce conflict that would otherwise require Commission intervention. Avista provided its Idaho tariff as an example of these procedures in this docket. Avista understands that there is broad support for adopting such procedures.

9. Joint Recommendations – Does the recommendation that each utility file and obtain Commission approval of its avoided cost rate methodology for qualifying facilities above the size threshold for standard rate eligibility impose an unnecessary burden on utilities, stakeholders, and the Commission? Should the avoided cost rate for larger qualifying facilities depend on facts and circumstances that cannot be easily accounted for by rule?

Avista Response:

It is not clear how utilities would document a methodology for approval by the Commission. Circumstances and resource options and capabilities vary greatly. Where the IRP provides the basis for such methodology, it would seem that acknowledgement by the

Commission of the IRP itself, unless such acknowledgement comes with a specific exemption of acknowledgement for the PURPA methodology based on Commission concerns, would suffice.

Additional Comments:

Without limiting its interest in helping to strengthen the rules in various areas beyond what is described above and in this response, Avista highlights three additional concerns: 1) contract term; 2) maximum standard offer eligibility; and 3) time between contract execution and first power deliveries.

1. Contract Term

Longer contract terms will likely adversely impact utility customers. This is particularly true for larger QFs. Where, as here, the Commission proposes to provide a standard offer to QFs as large as seven megawatts, longer-term contracts even for QFs that are eligible for a standard offer avoided cost rate can significantly adversely impact utility customers. As discussed above there is a significant likelihood that a standard offering, especially when proposed to be 70 times larger than federal law requires, will not accurately value a PURPA resource and, therefore, the price paid for the QF's output will not reflect the utility's actual avoided cost. The impact of longer-term contracts for larger QFs that exceed the standard offer cap is even more problematic. A longer-term contract magnifies the impact on customers of the delta between the price to be paid to the QF (either based on an inaccurate standard offer rate or changes over time) and the utility's actual avoided cost. Because the utility is required to purchase from a QF regardless of need and without other benefits that typically are associated with a utility-owned resource (such as dispatchability), this type of long-term risk should not be borne by utility customers. Some states that have experienced significant PURPA development have recognized the need to shorten the contract term, especially for larger QFs. In Idaho, for example, the term for QFs that exceed the published avoided rate cap is as short as two years.

In summary, over a 15-year period there is a substantial risk that, over the term of the contract, the avoided cost rate calculated at the beginning of (or prior to) the contract term will deviate substantially from the utility's actual avoided cost. Shorter contract terms ensure that the avoided cost rate is periodically adjusted to reflect the utility's actual avoided cost, which protects utility customers and, if the utility's avoided cost increases, also benefits the QF. For these reasons,

Avista supports retaining the current five-year maximum required term for QFs that are eligible for the standard offer rate. Avista also supports applying the same five-year maximum required term to larger QFs.

It is worth noting that, pursuant to RCW 80.80, the contract term for certain QFs must be less than five years. The Commission should ensure that any rule regarding contract term for QFs does not conflict with the requirements of RCW 80.80.

2. Standard Offer Eligibility

In today's market environment, with competitive wholesale and transmission markets, the need for a standard offering to access the market is questionable. The cost of scheduling very small projects might warrant a more standardized product, but seven megawatts is too large. Since standard offer avoided cost rates do not, and cannot, reflect the actual attributes of any particular QF, the standard offer avoided cost rates will not accurately reflect the utility's actual avoided costs, a requirement specifically laid out in section 480-106-FFF(1). The impact of this delta is small for very small projects, but the larger the project the greater the risk to customers.

Standard offer avoided cost rates are not necessary except for very small developers. Development of all but the very smallest of QF resources requires a significant level of developer sophistication. Even if a developer needs to obtain certain legal and other expertise to negotiate the contract, the investment required to obtain such expertise should be very small relative to the cost of developing even a small QF. Therefore, there is no need to provide standard offer rates to most QFs.

While each state can establish a higher standard offer cap, FERC rules require published avoided cost rates to be available only for QFs that are 100 kW or less. To ensure that utility customers are not harmed by standard offer rates, the Commission should reduce the maximum eligibility level of a PURPA for standard rates to a level much closer to the federal requirement of 100 kW and in no event should the eligibility be increased above Avista's current eligibility level of five megawatts. Allowing only very small QFs to obtain published avoided costs is especially important if the Commission intends to increase the required term for contracts that include such standard offer rates.

To the extent that standard offer rates exceed actual avoided costs calculated for a particular QF, such standard offer rates provide a significant incentive for large QFs to disaggregate in order to take advantage of the more favorable standard offer rates. Allowing larger QFs to avail themselves to such standard offer rates makes it easier for QF developers to disaggregate very large (even utility scale) projects into multiple QFs owned by separate LLCs, each of which is small enough to take advantage of favorable standard offer rates. Maintaining standard offer cap that only allows relatively small QFs to avail themselves of such rates mitigates the risk of large QFs disaggregating and, therefore, mitigates the risk that customers will bear the burden of paying what are effectively large QFs favorable standard offer rates that were intended to apply only to very small QFs.

3. First Delivery Timeframe

It is not necessary to require utilities to enter into PURPA contracts as early as three years prior to the time that the PURPA developer delivers its first contracted power. A utility's avoided cost rate can change significantly over a three-year period. To the extent that the utility's avoided cost rate decreases over that period, utility customers are committed to paying something more than the utility's avoided cost even before the QF achieves commercial operation. To the extent that the utility's avoided cost increases over that three-year period, the QF can, if the change is significant enough, simply dissolve its current LLC and form a new LLC. Because of the mandatory purchase obligation, the utility will be required to give the new LLC a new contract at the higher rate. In sum, requiring utility's to enter into contracts three years before commercial operation puts customers at risk while providing substantial optionality for QFs.

III. CONCLUSION

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,

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