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September 11, 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 and UE-190698 – 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 and UE-190698 on August 13, 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.

Prior to addressing the questions posed in the Notice, the Company would like to reiterate an overarching concern with the draft rules. CETA is a transformational law changing how utilities operate and how the Commission regulates them. Much is left unknown regarding the actual implementation of CETA, and the rules implementing CETA will likely need to be updated and revised before prior to 2030. As written, the draft rules require a significant amount of work pertaining to public participation, reporting, administrative process, and Commission involvement and approvals. At this time, much of the new requirements seem excessive, administratively burdensome for all stakeholders, and may slow progress in meeting the goals of CETA. Upon review of the draft rules issued by the Commission and the Department of Commerce ("Commerce") the Company has identified the following reporting requirements, which shows the breadth of the body of work stakeholders will be a part of:

- Electric IRP Work Plan (every four years on April 1st, one year before IRP is filed)
- Electric IRP (every four years on April 1st)

- Electric IRP Update (two years in between IRPs)
- CEIP (every four years on January 1st)
- CEIP Public Participation Plan (odd numbered years on March 1st)
- Biennial CEIP Update (odd numbered years on November 1st)
- Clean Energy Compliance Report (every four years on June 1st)
- Annual Clean Energy Progress Report (annually on June 1st)
- EIA Report for both the Commission and Commerce (annually on June 1st)
- Energy & Emissions Intensity Report (annually on June 1st)
- Commerce Interim Compliance Report for the GHG Neutral Standard (every four years beginning in 2034 on July 1st)
- Commerce Fuel Mix Source and Disposition Report (annually on June 1st)
- Commerce GHG Content Calculation Report (annually on June 1st)

The list of reporting requirements above is substantial and is not comprehensive of the work and processes involved to arrive at the submission of each report. The Company urges the Commission to review the draft rules for what is necessary to comply with the law by year end and for what provisions can be deferred until the first Clean Energy Implementation Plans are filed or eliminated altogether.

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

1) Do you agree with Staff's interpretation of RCW 19.405.060(1)(c) that Commission approval is contingent upon the utility justifying and supporting each specific action it takes or intends to take, including providing the business cases supporting each specific action identified in the CEIP? Please explain your response.

   Avista Response:
   Avista recommends only including business cases supporting specific actions that are part of the Company's CEIP, or if a specific target deviates from its IRP.

2) Several comments submitted in response to the first draft CEIP rules proposed that the Commission require some form of funding to support equity-related public engagement. Specific proposals ranged from requiring utilities to provide funding support for participation in a utility's equity advisory group to utilities funding support for equity-focused intervenors.

a. Does the Commission have the authority to require utilities to provide funding to support equity participation such as intervenor funding or direct payments to advisory group members?

b. If so, what type(s) of funding should the Commission require, and how would utilities implement such funding? For example, if you advocate direct payments to advisory group members, how would the utilities structure those payments (e.g., based on an hourly rate, per diem, etc.)?

c. What other issues arise if the Commission were to require utilities to provide funding or direct payments to support equity advisory group members?

Avista Response:

a. Avista is not certain if the Commission has the authority to require utilities to provide intervenor funding or direct payments to advisory group members. In any event, the company does not agree that the Commission should require utilities to provide funding to advisory group members, rather the Commission may encourage utilities to provide such funding, in which case a policy statement outlining who may qualify for funding, the method for determining how much funding a party should receive, how to validate a party's participation and contributions makes them eligible for funding, etc.

   Organizations exist today that participate and represent equity engagement in utility planning, such as, WUTC Staff, the Attorney General, The Energy Project, the Northwest Energy Coalition, Climate Solutions, and others. Equity-related interests should not be treated differently from other stakeholders who must fund their engagement and trade off of expending limited dollars and time on utility planning versus other important priorities.

b. Please see response to part a.

c. Issues include equality and equity of funding, cost recovery of funding, verification of who receives funding, what amount, and if funding received was commensurate with input and contributions provided.

3) The Commission appreciates the value stakeholders have said they see in having commissioners and the agency participate in broad conversations about equity needs. Due to restrictions on commissioners taking part in ex parte conversations concerning items that are before the Commission to decide, the commissioners cannot engage in such conversations or otherwise participate in utility advisory groups to discuss issues related to

particular CEIPs. However, the Commission will be involved in the process through workshops, special open-meetings, and other available proceedings with stakeholders to discuss important issues. The Commission additionally awaits guidance from the state Environmental Justice Task Force on agency engagement with equity issues and looks forward to addressing recommendations internally and throughout agency divisions as needed. The Commission is further committed to addressing agency awareness of equity issues and needs through continued agency-wide learning. The concerns stakeholders raised through their comments are beyond what this single rulemaking can address and may be better addressed outside of this docket. In preparation for future process and discussions, please provide a list of CETA-related topics the Commission should address immediately following or concurrent with this rulemaking.

Avista Response:
Avista appreciates the draft rule requirements to assist vulnerable populations and highly impacted communities. The draft rules are a balance to the needs of these communities and practical outcomes in how the utility may be able to assist these communities. Avista is awaiting further details regarding the designation of Highly Impacted Communities from the Department of Health. Further, Avista appreciates the flexibility in the rules to allow the advisory groups to help direct the needs of the vulnerable communities.

The Company recommends deferring the public participation plan to be first filed by May 1, 2021, in order to allow for additional time for the utilities to staff and plan for this new utility function.

4) Draft WAC 480-100-610(6) requires each utility to adaptively manage its portfolio of activities to achieve the requirements in the section. Some commenters recommended that this section belongs in the section that describes the CEIP. Staff proposes to place this provision in section 610 because adaptive management is an expectation of all the utility's investments and operations for achieving the requirements of CETA. Please state whether you agree that this adaptive management requirement is appropriately placed in section 610 and explain your response.

Avista Response:
Avista takes no issue with the notion of adapting to changing market conditions and developing/emerging technologies as utilities do this in their normal course of business. However, it is unclear what the expectations are regarding the continuous review and update of planning and investment activities that have been approved by the Commission. If required to update and refile plans after approval, it would lead to a continuous cycle of

administrative process with no clear ending, impeding the implementation of complying with CETA. Accordingly, this section of the draft rules should be deleted in its entirety.

5) When a utility files its CEIP, it will include an estimate of its incremental cost of compliance, which is the difference between the portfolio of actions it will take to comply with RCW 19.405.040 and RCW 19.405.050 and the portfolio of the alternative lowest reasonable cost and reasonably available actions (the baseline portfolio). At this stage, both portfolios will estimate inputs, such as natural gas prices, over the four-year period. When the utility files its CEIP compliance report and calculates the actual incremental cost at the end of the four years, the utility will use the actual costs for the portfolio of actions it took. However, for purposes of determining if the utility may rely on the incremental cost provision, the Commission must determine whether the utility should update the inputs to the baseline portfolio as well. If the utility does not update the inputs to the baseline portfolio, then it is not measuring the true incremental cost between the two portfolios because they use different input assumptions. However, updating the assumptions may leave the utilities exposed to unknowable changes in circumstances for which they could not reasonably plan, such as a rapid increase or decrease to natural gas prices.

   In draft WAC 480-100-660(4)(c), Staff proposes to require the utility to update the verifiable inputs of the alternative lowest reasonable cost and reasonably available portfolio (baseline portfolio). Please respond if the utility should be required to update the assumptions in its baseline portfolio when reporting its actual incremental costs, or if it should not.

   Avista Response:
   Avista agrees updating the baseline affords the best method to calculate the actual incremental costs of CETA so that customers and policy makers understand the actual cost of transitioning to clean energy. But ideally the utility should be afforded the opportunity to determine if the changes are material enough to warrant the additional significant effort necessary to update these assumptions. Although if the calculation is required, the utility shall not be financially responsible for underestimating the actual cost of compliance if it projects to exceed the cost cap in the CEIP, but the actual cost of compliance does not exceed the cost cap.

   Avista advocates that the baseline portfolio used for the incremental cost calculation not consider expenses and investments due to the Social Cost of Carbon (SCGHG) or from improvements of equity to vulnerable populations and highly impacted communities. Including these costs in the baseline does not provide customers with correct information

regarding the true cost of the utility's transition to clean energy and is against the intent of the legislation of limiting rate increases to two percent per year.

6) The Commission is considering two alternative interpretations of the incremental cost of compliance option in RCW 19.405.060. First, both interpretations find the Directly Attributable Costs of compliance by finding the difference between the RCW 19.405.040 and RCW 19.405.050 Compliant Portfolio and the Baseline Portfolio.

$$.040 \ \& \ .050 \ Compliant \ Portfolio - Baseline \ portfolio = Directly \ Attributable \ Costs$$

To determine whether the utility can exercise the incremental cost compliance option, the Commission is considering two alternative interpretations. One interpretation calculates incremental cost as the directly attributable cost in any given year, and the other interpretation calculates incremental cost as the year-over-year change in directly attributable cost. The Department of Commerce's draft rule, WAC 194-40-230(1)(b) – Compliance using 2% incremental cost of compliance, takes the second approach.

Interpretation 1: $$\frac{Directly \ Attributable \ Costs}{Weather \ Adjusted \ Sales \ Revenue}$$

Interpretation 2: $$\frac{Change \ in \ Directly \ Attributable \ Costs \ from \ Previous \ Year}{Weather \ Adjusted \ Sales \ Revenue}$$

Please respond with a recommendation for the appropriate calculation. See attachment C to the Notice for sample calculations of these two interpretations.

Avista Response:
Avista does not agree with either interpretation, however, the Company proposes an alternative that aligns with the legislative intent. Note this proposal is close to interpretation number one. It is our understanding that the investor owned utilities are in general agreement on the proposed methodology.

The Company proposes that the average incremental cost of the four-year implementation period be compared to the most recent known revenue requirement from a utility's

commission basis report of the year preceding the 4-year period.[1] The statute reads that a utility has complied if the average annual incremental cost over the period is equal to a two percent increase in the electric weather adjusted sales revenues from the previous year. In this case the interpretation for previous year is the previous year prior to the four-year compliance period. For example, in 2028, if the utility's weather adjusted revenue requirement is $1,000, then the maximum required spending is $20 in each year of the four-year period for a total of $80. The utility should be able to allocate the $80 total to any of the years of the compliance period.

To show compliance in the CEIP, the utility shall demonstrate it will spend equal to or greater than $80 over the four-year period using the example below that illustrates spending more than the $80. This method is transparent, clear, easy to follow, and matches the legislative language to outline the requirements for utility spending on clean energy in its CEIP.

	a	b	c	d	e	f	g
	Year	Revenue Requirement	Revenue Requirement Baseline	Forecasted Incremental Cost (c-b)	Cost Cap (2% x b)	Cost Cap Comparison (e-d)	Notes
	2028	$ 1,000			$ 20		Previous year sales from most recent commission basis report.
	2029	$ 1,018					This year is excluded from the calculation.
CEIP Period	2030	$ 1,023	$ 1,013	$ 10	$ 20	$ (10)	Below annual cost cap, excess applies to other years.
CEIP Period	2031	$ 1,028	$ 1,018	$ 10	$ 20	$ (10)	Below annual cost cap, excess applies to other years.
CEIP Period	2032	$ 1,058	$ 1,028	$ 30	$ 20	$ 10	Above annual cost cap- but below four year cap.
CEIP Period	2033	$ 1,063	$ 1,033	$ 30	$ 20	$ 10	Above annual cost cap- but below four year cap.
	Total			$ 80	$ 80	$ -	Utility meets cost cap on a four-year basis.

7) Commenters have raised additional concerns about how utilities should demonstrate the elimination of coal from the allocation of electricity. Current draft rule language relies on attestations or audits and e-tags. Some commenters suggest waiting for the work of the markets workgroup to finish before developing rules for compliance with RCW 19.405.030(1)(a). Do stakeholders have concerns about whether e-tags are capable of tracking all electricity generated from coal-fired resources? Should the commission wait

[1] If the four-year period is 2030-2033; the preceding year is 2028 rather than 2029 due to the fact the commission basis report to determine the weather adjusted sales revenue is not available until mid-2029 and the CEIP must be file prior to the four-year period.

for recommendations or comments from the markets workgroup before addressing this issue in rule?

Avista Response:
Avista has concerns about considering e-tags as a possible tracking mechanism to demonstrate the elimination of coal from the allocation of electricity. E-tags are used to track the transfer of energy and/or capacity between or within a balancing authority. Only a small portion of e-tags include the specific source from where the electricity was generated, with the vast majority of e-tags being tagged as system power. The use of e-tags as designed raises the following concerns regarding their use to track electricity generated from coal:

1) When a utility purchases system power from other utilities (specifically utilities outside of Washington) the e-tag is for system power. If the utility making the sale has coal within its system power, the e-tag will have a portion of coal. The draft rules would not allow these purchases to exceed one-month which could prevent utilities from buying long-term system power from other utilities.

2) Multistate utilities that serve states where coal is acceptable to serve load would still show coal consumption within its e-tags. E-tags are not specific to the state in which load is served. In this case the utility would have to indicate these e-tags were not used for consumption in the state of Washington using a letter of attestation.

Avista is not opposed to deferring to the market work group for recommendations or comment on the use of e-tags, but also recognizes that it is likely not necessary. The utilization of attestations or audits should be deemed as sufficient to comply with CETA.

Additional Comments
In addition to the responses above, Avista offers the following general comments regarding the draft rules.

Integrated Resource Planning

WAC 480-100-605 – The definition of "Nonemitting Electricity Generation" appears to enable storage resources fueled by non-renewable resources to be classified as non-emitting, as this resource does not by strict definition "emit greenhouse gases." Is this the intent of the rule?

WAC 480-100-610(5) – The requirement to demonstrate that a utility has made progress towards and met the standards within this section conflict with one another. If

a utility has met the standards there is no need to document it has made progress towards the same standard. Additional clarity in this section would be appreciated.

WAC 480-100-620(3)(c) - The draft rules require an assessment in the IRP for Combined Heat and Power (CHP) potential. Most applications of CHP require use natural gas or other heating source from another process then such heat is then used to create power. For purposes of complying with CETA, Avista questions who will be responsible for any emissions associated with CHP or whether or not these resources are considered non-emitting. Further, CHP projects must be initiated by the owner of the process. While the utility may partner with these customers, the decision and ability of the CHP project is based on customer appetite, similar to roof top solar. These are not projects utilities can effectively plan for in an IRP setting, but only study if there are customers with the potential to offer CHP. This requirement seems no longer applicable to IRPs as these customers have ample opportunity to develop projects using PURPA or RFP processes during resource acquisition.

WAC 480-100-620(9)(b) - The draft rules require a specific scenario regarding future climate change. This scenario is beyond the requirements set forth by the legislature for integrated resource planning. While this scenario may assist with prudent utility planning, the decision on the specific scenarios should not be prescriptive and rather left between the utility and its TAC. If this scenario is necessary, WUTC Staff may request it as a member of the TAC.

WAC 480-100-620(12) - Avista agrees with publishing Avoided Costs in the CEAP. Avista has published these costs in the past. We find the list of requirements regarding publishing avoided costs to be beyond the scope of the IRP. The Company does agree with listing avoided costs for energy and capacity, considering transmission/distribution costs and GHG costs. Utilities should not be required to perform this calculation for all supply and demand side resources as there are infinite number of potential resource profiles and thousands of demand response programs. Rather, the utility should publish the avoided cost for specific time periods of avoided energy such as on-peak, off-peak, and all hours so users of the data can apply it to their specific project. Avista currently offers this information as part of its annual Schedule 62 filing which provides a much timelier estimation of avoided costs than a four-year requirement and is adjudicated before the Commission. Further avoided costs for non-resource related transmission/distribution should be part of the company's distribution and transmission plan and not in the IRP. The requirements for listing nonenergy costs/benefits should not be part of the avoided cost.

WAC 480-100-620(13) - Avista requests data shall only be provided where it does not violate confidentiality or is applicable the planning process. Avista is concerned the requirement to make all data public without confidentiality problematic as we may no longer be able to use 3rd party consultant data sources nor use 3rd party models with proprietary data or software. Further, specific customer data is often found in IRP work papers, which is confidential. While this is also addressed later in in 480-100-630(5), the language should be consistent. Avista's comments on data disclosure are applicable to all areas of the rules that discuss providing data publicly.

WAC 480-100-620(16) - The requirement to respond to each public comment is not required by the legislature and is burdensome to the utility. The IRP is the utility plan in which it considers public input. The public has the opportunity to provide feedback through public forums and TAC processes. Utilities do listen to concerns and often times incorporate sound and reasonable input. This requirement could lead to voluminous and burdensome requirements on utilities (and likewise costs to customers), rather than to make a more viable utility plan in the best interest of all utility customers.

Avista finds it acceptable for the utility take and publish notes during public meetings and make any unique written comments available on its website, but the requirement to respond to all comments and input is duplicative. The IRP is the Company's plan with consideration given to input from the public.

WAC 480-100-630(1)(d) – The utility should have some discretion as to posting all comments received to its website. Comments unrelated to the contents of the IRP should not be required to be posted and may not warrant response.

WAC 480-100-630(2) and (4) - The five-day requirement should be revised to two days. Minimizing the days between distributing material and IRP TAC meetings will allow for a more meaningful IRP process. Avista has been using the two-day time period for TAC process over the last two cycles per the recommendations of its members. Additional days have not been requested by its members and the members understand the need for more time for a better informative meeting. Note Avista has this same concern for the CEIP process and other public meeting processes.

WAC 480-100-640(1) – As stated in comments filed on June 2, 2020, Avista remains concerned with the requirement to file its first CEIP by October 1, 2021. The Company has reviewed Staff's response to this concern and continues to believe the first CEIP should be filed by January 1, 2022 in accordance with the law.

WAC 480-100-650(3)(g) – This section refers to energy capacity; however, energy capacity is not a valid term. Avista suggests using the term resource capacity instead.

WAC 480-100-655(3) – As noted above, the Company requests that the requirement to provide presentation materials to its advisory group be two business days, rather than five business days.

WAC 480-100-655(7) – Utilities should have a minimum of 30 days and up to 60 days to provide notice to its customers following the filing of its CEIP. The most highly used customer notice comes in the form of a bill insert, which utilities provided over a 30-day billing cycle. Utilities should have the flexibility to utilize its existing communication channels rather than send a separate notice to customers regarding the filing of its CEIP.

WAC 480-100-655(8) – It is unclear what the expectation is for a utility after submitting a customer notice to the commission for review. If the expectation is to allow the commission to provide feedback it expects a utility to incorporate into the notice, five business days is not enough time to allow for this process to take place.

WAC-480-100-660(1)(c) and (2)(d) – Avista believes this subsection may inadvertently exclude from a utility's incremental costs actions required to comply with RCW 19.405.040 and 19.405.050. Certain requirements in these sections are reiterated or expanded upon in other sections of Chapter 19.405 RCW. Additional clarification on the inclusion of the costs to comply in the incremental cost cap calculation is requested.

WAC 480-100-665 – Avista continues to take issue with the inclusion of this subsection in the draft rules, specific to the fact that RCW 19.405.090 does not establish penalties for interim targets. This topic was addressed in the Notice for Comments issued May 5, 2020. The Company stands by its comments filed on June 2nd:

> "It is Avista's belief that the Legislature did not intend for the interim targets to be enforced. RCW 19.405.090 states that a penalty can only be assessed for an electric utility's failure to "meet the standards under RCW 19.405.030(1) and RCW 19.405.040(1)," with the latter including establishment of "four-year compliance period[s]." Note, the interim targets are not discussed in either RCW 19.405.030(1) or RCW 19.405.040(1).

Further, enforcement of penalties should not be applied to RCW 19.405.060 and its interim targets. If the Commission were to make the interim targets enforceable, it could result in electric utilities being given disparate treatment depending simply on their ownership structure (i.e., consumer owned utilities may face differing enforcement of penalties under the Department of Commerce). This outcome would be contrary to the intent of the Legislature, which is that the Act's requirements should apply uniformly to all electric utilities regardless of their corporate structure.

It's important to highlight that no penalties are to be imposed prior to 2030, that penalties imposed thereafter with respect to the "standard" under RCW 19.405.040(1) would apply to the "four-year compliance period[s]." There is an important distinction between the interim targets and four-year compliance periods. Under RCW 19.405.040(1), an electric utility must, during a four-year compliance period, "demonstrate its compliance with [the] standard using a combination of nonemitting electric generation and electricity from renewable resources, or alternative compliance options." This is a relatively general requirement. The interim targets, on the other hand, are very prescriptive, with specific "proposed" targets for renewable energy, energy efficiency, and demand response.

The law is clear that failure to make the demonstration required under RCW 19.405.040(1) is punishable, not failure to meet the interim targets. It can further be noted that because the Commission has the authority under RCW 19.405.060(1)(c) to "approve, reject, or approve with conditions an investor-owned utility's clean energy implementation plan", as well as to "adjust or expedite timelines" associated with proposed interim targets, the Commission can effectively give an investor-owned both assurance about investment decisions, as guided by the interim targets, but can also establish expectations for the utility to follow."

Retail Load - The rules should clarify "retail load" pertaining to customer programs and qualified resources. Specifically, cases where the utility does not control the renewable attributes.

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. 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