

Agenda Date: March 10, 2022  
Item Number: A1

**Docket:** UE-210815  
**Company:** Avista Corporation d/b/a Avista Utilities

**Staff:** Deborah Reynolds, Assistant Director Conservation and Energy Planning

### **Recommendation**

Issue an order:

1. Granting Avista's request to base its avoided costs on its most recently filed integrated resource plan (IRP),
2. Clarifying that compliance with WAC Chapter 480-106 requires a utility's avoided costs to include real, bona fide costs a utility expects to incur to comply with state law, whether those costs are related to energy, capacity, or both, and
3. Directing Avista Corporation to revise its Feb. 4 avoided cost rates on or before Mar. 18 in Docket UE- 210815 incorporating the renewable energy values as described in the Mar. 3 joint comments.

### **Discussion**

On October 29, 2021, Avista Corporation d/b/a/ Avista Utilities (Avista) filed with the Washington Utilities and Transportation Commission (Commission) revisions to Tariff WN U-28, Schedule 62, Small Power Production and Cogeneration, reducing the avoided cost rates paid to qualifying facilities (QF) within the meaning of the Public Utility Regulatory Policies Act of 1978 (PURPA). Avista requested a waiver of WAC 480-106-040(1)(b), asking for permission to use its most recently filed IRP as the basis for its avoided costs.

WAC 480-106-007 defines "avoided costs" as:

[T]he incremental costs to a utility of electric energy, capacity, or both that, but for the purchase from the qualifying facility or qualifying facilities, the utility would generate itself or purchase from another source.<sup>1</sup>

On December 8, 2021, and March 3, 2022, Northwest & Intermountain Power Producers Coalition and Renewable Energy Coalition (joint commenters) filed comments opposing the filing because it did not include the incremental costs of renewable energy as part of its avoided

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<sup>1</sup> Similarly, the Federal Energy Regulatory Commission's (FERC) regulations at 18 C.F.R. § 292.101(6) implementing PURPA define "avoided costs" as:

[T]he incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from some other source.

cost rates.<sup>2</sup> After discussion with Staff, Avista agreed to extend the effective date of its tariff filing four times.

On February 4, 2022, Avista filed responsive comments, pointing to WAC 480-106-050(4)(b)(ii)(C) which states that QFs smaller than five megawatts shall own the renewable energy certificates and any other environmental attributes associated with the production from such qualifying facility unless the standard rates are based on the avoided capacity costs of an eligible renewable resource as defined in RCW 19.285.030.<sup>3</sup> Avista's standard rates are not based on the avoided cost of capacity of an eligible renewable resource and as such QFs would retain the renewable attributes. Avista appears to argue that this rule creates an option for the utility to decide whether it must base its avoided costs on a renewable resource.

Staff disagrees. The Commission's PURPA rules, WAC 480-106, were largely drafted prior to the legislature enacting the Clean Energy Transformation Act (CETA) and were adopted by the Commission just over a month after CETA was enacted.<sup>4</sup> As such, the Commission's PURPA rules are not written so that they directly harmonize with the additional electric utility requirements imposed by CETA. CETA in part requires an electric utility to ensure that certain resources are removed from its allocation of electricity by certain dates. RCW 19.405.030(1)(a) provides:

On or before December 31, 2025, each electric utility must eliminate coal-fired resources from its allocation of electricity. This does not include costs associated with decommissioning and remediation of these facilities.

Similarly, RCW 19.405.040(1) states:

It is the policy of the state that all retail sales of electricity to Washington retail electric customers be greenhouse gas neutral by January 1, 2030.

Therefore, beginning in 2026 and 2030, an electric utility may not produce or purchase electricity that is generated from coal-fired resources or is not greenhouse gas neutral, respectively, without violating CETA.<sup>5</sup>

The key question before the Commission is whether Avista's next resource is a renewable resource or not. As described in the Mar. 3 joint comments at page 3, and Staff concurs, Avista's

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<sup>2</sup> Joint commenters raised additional issues in their Dec. 8 comments but identify in their Mar. 3 comments the issues most critical to resolve.

<sup>3</sup> As part of its response, Avista accepted some of the changes requested by the joint commenters and revised its tariff pages accordingly. Staff supports Avista retaining the changes filed on Feb. 4.

<sup>4</sup> CETA became effective on May 7, 2019. The Commission adopted its revised PURPA rules (WAC 480-106) on June 12, 2019, with an effective date of July 13, 2019. Docket U-161024.

<sup>5</sup> Subject to the alternative compliance options for greenhouse gas neutrality pursuant to RCW 19.405.040(1)(b).

IRP, Clean Energy Implementation Plan, and request for proposals all identify a need for renewable resources.<sup>6</sup>

Although Avista's calculation of its avoided cost of energy facially complies with WAC 480-106-040(1)(a), Staff maintains Avista's calculation does not reflect Avista's actual avoided cost of energy, because the estimate does not include costs related to compliance with CETA's energy source standards referenced above. Rather, Avista's estimated avoided cost of energy draws on energy market forecasts that include all generation types, including generation that would not be allowed under CETA if Avista generated such power itself.

As FERC has explained:

Both section 210 of PURPA and our regulations define avoided costs in terms of costs that the electric utility avoids by virtue of purchasing from a [Qualifying Facility (QF)]. The question, then, is what costs the electric utility is avoiding. Under [FERC]'s regulations, a state may determine that capacity is being avoided, and so may rely on the cost of such avoided capacity to determine the avoided cost rate. Further, in determining the avoided cost rate, just [as] a state may take into account the cost of the next marginal unit of generation, so as well the state may take into account obligations imposed by the state that, for example, utilities purchase energy from particular sources of energy or for a long duration. Therefore, [a state regulator] may take into account actual procurement requirements, and resulting costs, imposed on utilities [in that state].<sup>7</sup>

Therefore, because Avista will need to purchase energy from generators with specific characteristics in order to comply with CETA, Staff contends that Avista's avoided cost of energy calculation should reflect the cost that it would incur to acquire CETA-compliant energy, rather than the cost of all energy available on the market. That is, insofar as the costs of compliance with CETA are real, bona fide costs that Avista would incur, but for the purchase of CETA compliant power from a QF, the cost of CETA compliance should be included in its avoided cost rates for QF purchases.<sup>8</sup> The Commission should require Avista to refile its Feb. 4

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<sup>6</sup> Docket UE-200301, Avista 2021 IRP at 1-6, 1-7, 7-12 (Apr. 1, 2021); Docket UE-210628, Avista 2021 CEIP at 1-5 (Oct. 1, 2021); Docket UE-210832, Updated Draft 2022 All-Source RFP at 2-4 (Jan. 14, 2022).

<sup>7</sup> California Pub. Utilities Comm'n S. California Edison Co. Pac. Gas & Elec. Co. San Diego Gas & Elec. Co., 133 FERC ¶ 61,059, 61266 (2010).

<sup>8</sup> See, California Pub. Utilities Comm'n S. California Edison Co. Pac. Gas & Elec. Co. San Diego Gas & Elec. Co., 133 FERC ¶ 61,059, 61267-68 (2010) ("[FERC] has previously found that an avoided cost rate may not include a 'bonus' or 'add-on' above the calculated full avoided cost of the purchasing utility, to provide additional compensation for, for example, environmental externalities above avoided costs. But, if the environmental costs 'are real costs that would be incurred by utilities,' then they 'may be accounted for in a determination of avoided cost rates.") (citing S. California Edison Co. San Diego Gas & Elec. Co., 71 FERC ¶ 61,269, 62080 (1995)). See also, California Pub. Utilities Comm'n S. California Edison Co. Pac. Gas & Elec. Co. San Diego Gas & Elec. Co., 133 FERC ¶ 61,059, 61267 (2010) ("As discussed

avoided cost rates on or before Mar. 18 incorporating the renewable energy value as described in the Mar. 3 joint comments. This would include replacing the avoided costs on Sheet 62A with the avoided costs as shown on Attachment A to the Mar. 3 joint comments, as well as other necessary changes.

Joint commenters asked the Commission to require Avista to revise the capacity components of its avoided cost rates when work with the Western Resource Adequacy Program (WRAP) is complete. While Staff agrees that Avista should reflect the results of the WRAP in its avoided costs, Staff does not agree that Avista needs to revise its avoided costs immediately upon WRAP's completion. Instead, Staff suggests the Commission require Avista to incorporate those results into its next required avoided cost filing, expected on November 1, 2022. Staff also affirms its support for the changes already made by Avista in its Feb. 4 filing.

### Conclusion

Staff recommends the Commission grant Avista's request to base its avoided costs on its most recently filed IRP because this is the most current information available.

Staff recommends the Commission issue an order clarifying that compliance with WAC Chapter 480-106 requires a utility's avoided costs to include real, bona fide costs a utility expects to incur to comply with state law, whether those costs are related to energy, capacity, or both based on the guidance in the FERC order cited in footnote 7 of this memo.

Staff recommends the Commission require Avista Corporation to revise its Feb. 4 avoided cost rates on or before Mar. 18 in Docket UE- 210815 incorporating the renewable energy values as described in the Mar. 3 joint comments.

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above, permitting states to set a utility's avoided costs based on all sources able to sell to that utility means that **where a state requires a utility to procure a certain percentage of energy from generators with certain characteristics, generators with those characteristics constitute the sources that are relevant to the determination of the utility's avoided cost for that procurement requirement.**") (Emphasis added).