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September 21, 2018

Mark L. Johnson
Executive Director and Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, Washington 98504-7250

Re: Docket No. UE-161024 – Comments of Avista Utilities on Rulemaking for Competitive Resource Acquisition by Request for Proposals (RFP), WAC 480-107.

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 Submit Written Comments (“Notice”) issued in Docket UE-161024 on August 24, 2018 regarding the Commission’s rulemaking for Competitive Resource Acquisition by Request for Proposals (RFP), WAC 480-107. Pursuant to the Notice, Avista submits the following comments to the questions posed in the Notice:

- 1. The proposed draft rules apply to electric utilities only. Should the Commission propose similar competitive procurement rule language for natural gas utilities? How would the competitive procurement rules for natural gas utilities need to be different than those for electric utilities? Should there be similar language for natural gas conservation and delivery services procurement?*

Avista Response: Avista does not see a need at this time to apply these draft rules to natural gas utilities because the criteria for asset procurement to meet supply-side deficiencies differs fundamentally for electric and natural gas systems. The Avista gas distribution company does not own gas production or transportation assets. Natural gas companies can rely only on their

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contracted firm transport resources to meet demand. With few exceptions, natural gas companies do not have alternatives to meet their customers' needs in specific service territories. For example, only a single pipeline option for physical supply transport may be available. Furthermore, gas production supply hubs from which gas is physically able to be delivered to specific distribution territories are limited to only a few. Most, if not all, of Avista's gas supply is currently purchased in the market rather than procured through an RFP process. Accordingly, the Company believes that the rules for the gas IRP process should not be modified to be more similar to that of electric utilities. With regard to the question on similar language for natural gas conservation and delivery services, please refer to Avista's answer to question No. 9. Please also refer to Avista's comments submitted on May 16, 2018 for additional information.

2. *To the extent possible, commenters should provide example language for consideration throughout the document. Stakeholder input on the precise language used, in the form of a redline response, would be particularly helpful in the following instances.*

a. *Is the language in the draft rule at WAC 480-107-015 sufficient to require an all- source RFP for most resource needs, while allowing sufficient flexibility in the process to allow limited scope RFPs when they are most useful?*

Avista Response: Avista believes the modified language goes a long way in meeting this intent. Please refer to Avista's specific comments on the redline version provided as Attachment A. Additionally, the Company should not be required to keep a list of potential vendors. Instead, Avista recommends issuing a press release, posting the RFP on its website and making reasonable efforts to advertise the RFP.

b. *In WAC 480-107-035(3) the draft contains the term net benefits. Language around this concept has been evolving recently. Would using a different phrase, such as costs and benefits, or impacts, be clearer?*

Avista Response: The term, "net benefits" has been adequately defined and should remain flexible. Additionally, Avista has concerns with section 480-107-035(5) that requires RFP projects to be made publically available on the Company's website. The requirement could allow non-winning bidders access to information considered confidential by the Company and RFP bidders.

3. *In order to accommodate long lead-time resources, such as non-wires alternatives for distribution needs or distributed generation for capacity needs, the commission has considered expanding the window of time in which a resource need triggers an RFP from three years to ten years. Under the previous guideline, by the time a utility solicits bids for a need, many resources with lead times longer than three years are no longer eligible to compete.*

While there is good reason to use the longest lead-time resource as a guide for this rule, the extended time frame to solicit bids to meet needs also creates significant challenges. Integrated resource plans are less accurate at ten years than at three. Utilities may be issuing RFPs for a need that never materializes. A resource should not be built until it will be used and useful and thus, if a long lead time resource is not chosen, this may require a utility to issue a second RFP to identify the lowest cost resource when it comes time to build. This would result in additional

cost and effort and could lead to vendor fatigue.

Is there a way to ensure long-lead time technologies have an equal opportunity to meet resource needs anticipated ten years out without requiring RFPs at such an early stage?

Avista Response: The Commission has identified a number of the concerns of moving from three to ten years. In fact, the three-year rule might be inappropriate in some cases. Resource acquisition RFPs are intended to procure commercially-viable projects (including those that are economic), that are “shovel-ready,” and as such, long lead times are not necessary. Resources that don’t fit the commercial definition should fall into another acquisition process, including, but not limited to R&D and demonstration projects.

An alternative might be that utilities could issue an all-resource RFP when they choose to procure a resource that meets the need. This would eliminate a potential timeline that would compromise RFP processes and/or create fatigue. It would also ensure resources would be procured competitively. Avista does not see a need for RFPs to be tied to the IRP and believes it is best to remove this link.

4. *Thresholds for exemption - In the proposed draft language for WAC 480-107-015(3) there are thresholds and circumstances that would exempt utilities from issuing an RFP without requesting an exemption.*

a. Are the thresholds proposed appropriate?

Avista Response: Avista believes a tie between an IRP deficit and RFP procurement is not the best means to procure resources. Instead, a competitive process that meets the specific needs of the utility at the time of procurement would be preferred. To the extent the Commission intends to keep the link between the IRP and RFP, the exemptions are acceptable.

b. Are there other circumstances appropriate to qualify for exemption from the rule?

Avista Response: If a utility is already in the middle of an RFP process they should be exempt from issuing a new one. PURPA projects can also un-expectantly change a resource need because utilities are obligated to accept PURPA contracts when they meet federal and state regulations. A new PURPA project may offset the need for Avista to procure new resources through an RFP. Besides these examples, the exemption process appears to be sufficient.

c. Are there other types of thresholds that should be incorporated for these resource needs?

Avista Response: Avista believes the 50 MW threshold should be increased to at least 100 MW. If the threshold remains at 50 MW, it would effectively require an RFP to acquire small amounts of energy if the resource is intermittent. Additionally, an RFP should not be required if the utility is upgrading or modifying an existing facility.

d. *What other types of resources would benefit from a threshold?*

Avista Response: Avista does not have a recommendation at this time.

5. *Delivery System RFP - On May 17, 2018, the Commission received comments on draft rules related to distribution system planning (WAC 480-100-238). These comments are in the process of being evaluated. The proposed draft rules for RFPs are intended to ensure investments are being made at the lowest reasonable cost and that new technologies are allowed to compete on equal footing with standard practice. As these two parts of the proposed IRP rule evolve, the areas of overlap and interdependency will be continually reconciled.*

a. *With this in mind, should the proposed definition of Resource Need include local transmission and distribution needs?*

Avista Response: Avista does not believe transmission and distribution needs should be included. In the Company's response to Docket No. UE-161024 regarding rulemaking for Integrated Resource Planning, Avista stated that, "it makes sense to slightly restructure and place the draft rules into their own section, separate and apart from the existing rules governing Integrated Resource Planning." The Company does not feel that Integrated Resource Planning and Transmission and Distribution System Planning belong in the same section, transmission and distribution needs aren't required to maintain consistency between the two rules. Please refer to the comments submitted by Avista on May 16, 2018 for further explanation of the Company's opinion.

b. *The proposed draft language in WAC 480-107-015(3)(e) identifies an automatic exemption from the rule for distribution system or local transmission projects that are projected to cost less than \$10 million. Should the term "project" be replaced with "Major distribution capital investment" as defined in the proposed draft rules for WAC 480-100-238 to clearly connect the two rules? If not, what would be a reasonable definition of project in this case?*

Avista Response: Avista does not believe the term project should be replaced with, "major distribution capital investment" because the Company previously recommended that the draft rules for WAC 480-100 be managed separately from the existing IRP rules. Additionally, the term major distribution capital investment identifies distributed energy resources (DER) as a potential option in lieu of normal infrastructure investments. Typically, DERs are being deployed to address customer or system requirements which differentiates them from resource requirements. The distribution feeder is also limited on the amount of generation resources it can host and supply the larger system demands. DERs can provide local benefits to the system, which may defer fixed plant investment like feeder upgrades, but DER generation assets do not scale well economically against centralized assets. However, due to customer demand, these resources should be offered separate from the IRP resource plan.

- c. *In the notice accompanying the draft distribution system planning rules, the Commission asked for criteria to consider when defining a “Major distribution system capital investment.” In the proposed draft RFP rules, a similar set of criteria could be used to allow an automatic exemption from the rule to relieve the burden of issuing an RFP for smaller projects identified in a distribution system plan. Is a \$10 million threshold appropriate? Would a threshold that is not cost-based be more appropriate for delivery system resources? If so, what should be the criteria of this threshold?*

Avista Response: Avista believes transmission and distribution planning shouldn't be included in this rule so the threshold would be irrelevant. Please refer to the Company's response to question 3a. If the threshold were included, \$10 million is a reasonable threshold because the majority of Avista's projects wouldn't cost more than \$10 million and the Company is well equipped at a resource level to perform most functions internally.

- d. *Are there other circumstances concerning the delivery system that are appropriate to qualify for exemption from the RFP rule?*

Avista Response: Assuming the proposed rules are adopted, utilities should also be exempt from the RFP rule in the following circumstances: when developers initiate the construction of facilities that offset the need for additional infrastructure (net-zero buildings, etc.); and when utilities have a current contract with a business and pre-unit pricing is in place.

- e. *Some commenters on the draft distribution system planning rules suggested a utility-specific criteria, approved by the Commission or with input from an advisory group. Many other commenters suggested flexibility in the distribution system planning rule. The draft RFP rules propose a utility-specific framework for conservation RFPs. Would a similar framework be useful for delivery system RFPs? If so, what would the process of developing, approving, and renewing the framework entail?*

Avista Response: Avista does not have a recommendation at this time.

6. *In order to reduce the need for exemptions and to allow resource needs to be covered by short-term market purchases without additional process, the proposed rules rely on a third-party determination of regional resource adequacy. This is not intended to eliminate the need for a utility to perform its own resource adequacy assessment within an IRP and has no bearing on the determination of market risk. In this version, the Commission has chosen to reference the Northwest Power and Conservation Council's resource adequacy assessment.*

- a. *Are there other third-party sources that would be more appropriate to reference?*

Avista Response: The language should be broad enough to allow for other third-party alternatives, but presently Avista is not aware of any.

- b. *Are there other methods that are easier, more transparent, or more accurate than relying on third-party analysis?*

Avista Response: Avista cannot identify other methods at this time. However, utilities should have the option to perform their own analyses to the extent they see value, and the Commission should recognize the new assessment for use in the RFP so long as the analyses are similar to, or superior to the NPCC work.

7. *The draft rule WAC 480-107-AAA requires the use of an independent evaluator under certain circumstances.*

- a. *Does this section identify the proper circumstances or are there other circumstances under which an independent evaluator should be required?*

Avista Response: Avista does not have a recommendation at this time.

- b. *Is there value in requiring an independent evaluator for large projects when a utility will not be bidding? If so, is a 50 megawatt resource need an appropriate threshold?*

Avista Response: Avista does not believe the Commission should require the use of an independent evaluator. Hiring an evaluator can cost tens or hundreds of thousands of dollars and may not provide sufficient benefits in every situation. There may be times when an independent evaluator could be useful due to complex modeling issues or staffing concerns, but not every situation is the same and requiring the use of an evaluator may add unnecessary costs. The Commission should allow utilities to determine when it's appropriate to use an independent evaluator.

- c. *Does this subsection provide enough specificity concerning the independent evaluator's role, or is additional rule language needed?*

Avista Response: Yes, there is adequate language here.

- d. *Should the Commission require that the independent evaluator be certified or accredited? If yes, provide specific qualifications the independent evaluator should possess.*

Avista Response: Avista is not aware of such a certification process. In lieu of a formal process, the evaluator should be shown to have experience in the industry and with resource acquisition. Because the language envisions the Commission will be involved in the selection, additional language isn't needed.

8. *The draft rules require an initial and then a final report from the independent evaluator. We envision the final report to be the initial report plus the evaluator's response to the reconciliation process and stakeholder comments. The purpose of this two-step process is to ensure that the evaluator's report is free from editorial influence.*

However, we recognize that a two-step reporting process will increase the cost and length of the independent evaluator's review. Could the Commission require the reconciliation process to occur prior to the issuance of a single final report and still ensure that the evaluator's work is free from outside influence?

Avista Response: Avista does not agree with a two-step process and does not see substantial value in separating the reports. The Company is concerned that initial reports will contain key assumptions or analyses that are greatly mistaken and don't correctly consider significant variables such as system impacts. The reports could mislead the participants. RFP evaluation is a complex process and providing edits is an essential component. The Commission could require utilities to file the initial draft version from the independent evaluator with the final report, along with explanations of major changes from the draft. This would reduce the timeline and overall cost, while still addressing concerns by the Commission and interested parties.

9. *A periodic conservation RFP issued to explore what is available in the competitive market is useful to confirm that conservation resources are being delivered at least cost to ratepayers, and that all cost-effective conservation is being pursued by helping to identify innovative approaches and technologies. However, since utility conservation programs operate on a different cycle than the IRP, tying conservation acquisition directly to the IRP schedule could make program planning unworkable.*

Avista Response: When Avista issues an RFP to conservation suppliers to deliver a program, least cost may not necessarily be the best choice. The supplier must be able to meet the Company's objectives and requirements. In addition to cost, the experience and knowledge of the conservation supplier, prior interactions, and other considerations should be taken into account when determining who to award a contract to. Avista takes into consideration the fact that the supplier will often work directly with its customers and the desire is for that interaction to be up to the Company's standards. Least cost is a viable choice when the supplier is able to meet all of the Company's objectives.

- a. *Does the proposed rule language in WAC 480-107-015(3)(d) and WAC 480-107- 065 adequately encourage competitive procurement of conservation resources without negatively affecting current program planning and implementation?*

Avista Response: Avista is unclear as to the draft WAC reference. In the Commission's redline version, this is the only section of subpart 015(3):

(3) The solicitation process in this section is required whenever a utility's most recently acknowledged integrated resource plan demonstrates that the utility has a resource need within [XX] years.

Avista is concerned that the requirement to submit conservation RFPs to the Commission for review and public comment could increase delays, interfere with the established bidder selection process, and potentially reveal sensitive or confidential information about bidders. The current conservation RFP process is well-vetted and has been reviewed by Avista's Advisory Group when relevant. Based on Avista's location

and size, the available conservation suppliers are limited, thus the majority of Avista's programs are operated in-house using internal Energy Efficiency staff.

Specific to draft 480-107-065 requirements, Avista does not feel this is applicable to programs that it plans to manage using internal Energy Efficiency program staff. Specifically, in reference to 480-107-065(1): *A utility or a utility subsidiary may participate as a conservation supplier, on conditions described in WAC 480-107-135 Conditions for purchase of resources from a utility's subsidiary or affiliate.* As previously stated, the draft rules could have a potentially negative effect on conservation program planning, implementation, and ultimately, the achievement of conservation targets.

- b. The proposed language describes a role for the advisory group that is not currently explicit in rule, approving a framework for issuing conservation RFPs. Does this advisory group role fit with the current function of the conservation advisory group? The proposed rule specifies the competitive procurement framework must receive the support of the advisory group. Is this a reasonable condition?*

Avista Response: Avista believes that approving a framework for issuing conservation RFPs is consistent with the current role and responsibilities of Avista's Advisory Group. The Advisory Group provides review and guidance during the program planning and vendor selection process. Avista's Energy Efficiency's conservation program RFP process is well-vetted and adheres to its corporate purchasing and contracting policies, is thorough, and transparent.

- c. Do the minimum procurement percentages provide reasonable guidance in the development of a competitive procurement framework for conservation?*

Avista Response: Avista does not believe the minimum procurement percentages provide reasonable guidance. Avista is unclear as to how the percentages were established and is also unclear as to whether those percentages pertain to overall programs or overall planned savings.

- 10. Utilities often have opportunities to procure low-cost resources that are owned by entities that typically will not bid their resources into an investor-owned utility RFP, but will enter into contracts with the IOUs. These types of opportunities can also require the construction of complex components that do not lend themselves to a bid in an RFP. Contracts such as these require proactive behavior from the investor-owned utility outside of the RFP. How can the Commission ensure that utilities are pursuing these low cost opportunities available outside of an RFP? How can this idea be incorporated in rule?*

Avista Response: Avista believes it would be difficult to create such an incentive through rule. Fortunately, procuring low-cost resources is in the interest of customers and the utility, and as such, rules are not likely required except for provisions clearly articulating that the Commission desires such acquisitions, including a simple process whereby utilities can feel confident that these acquisitions will not create greater risk than the traditional process.

11. *One goal of this rulemaking is to increase transparency of the RFP evaluation process. In PSE's recent RFP in Docket UE-180271, several commenters supported applying a weighted percentage to each criteria in order to give bidders an idea of the relative importance of those criteria and make the evaluation process more transparent. However, the utility expressed concerns that providing weighting information creates the potential for bidders to "game" the system. Proposed draft rule 480-107-025(4) requires RFPs to "include a sample evaluation rubric that quantifies the weight each criterion will be given during the project ranking procedure." What are the implications of this language?*

Avista Response: Gaming is a significant concern, however Avista does not believe it is necessary for a utility to provide weighting information to increase transparency. Staff will see the information and use it to regulate a fair process, and if needed, the independent evaluator will also provide a similar discipline. Resource bids are based on the characteristics of the resource the developer has and the developer will not be able to create a new resource based on the weighting criteria. Even without the specific weightings, the RFP and IRP define what attributes the utility is looking for and even helps demonstrate the value of these attributes. Utilities are experienced enough to see the potential for a resource to provide additional value and to contact the bidder to gain these values. Avista would prefer this language not be included in the rule.

12. *In the first round of comments, the Northwest and Intermountain Power Producers suggested that the Commission require a two-stage bidding process to address the inherent utility preference to own a generation asset. First, all utility-owned generation bids are made, and then purchase power agreement bids are informed of the target price and provided an opportunity to beat the first round of bids. Please discuss the advantages and disadvantages of this approach including whether the bidding structure proposed creates asymmetrical bidding opportunities between IPPs that offer power purchase agreements and those offering to sell their generation. How should the sequence of bid offers be designed if the IPP is offering two differently structured offers for the same project, one that is PPA and one that is a contract with transfer of ownership?*

Avista Response: Avista is concerned that it will be impossible to provide a target value because the bid projects will not have the same attributes and may change over time. In previous RFPs, the Company defined a short list and allowed bidders to update their bids, providing them information on how we might see greater value. Additionally, Avista does not see the relevance of a two-stage bidding process in a situation where a power purchase agreement is competing against utility ownership. Where a bidder provides two structures, they are evaluated as separate bids in the overall process and scored as such.

13. *In the proposed draft rules the previous definition of resource block that focused solely on capacity has been replaced with a definition of resource need. This new definition is intended to capture all types of system deficits that may benefit from competitive procurement for example: capacity and associated energy, capacity needed to meet peak demand in any season, FERC-jurisdictional operational requirements, distribution plant investment, or resources required for regulatory compliance, such as renewable resources or cost-effective conservation and efficiency resources. Should the proposed definition of Resource Need above*

include specific resource needs that should be subject to competitive bidding? If so, what should be included in that list?

Avista Response: Avista believes it is better if the definition remains less specific so it's applicable for a majority of technologies that may be necessary in the future.

Avista appreciates the opportunity to provide these comments. Please direct any questions regarding these comments to Garrett Brown at (509) 495-2133 or garrett.brown@avistacorp.com.
Sincerely,

/s/Linda Gervais

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