

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

AVISTA CORPORATION d/b/a
AVISTA UTILITIES,

Schedule 62 Tariff Revisions and Request
for Exemption from WAC 480-106-
040(1)(b)

DOCKET UE-210815

ORDER 01

APPROVING TARIFF REVISIONS;
GRANTING EXEMPTION FROM
WAC 480-106-040(1)(b)

BACKGROUND

- 1 On October 29, 2021, Avista Corporation d/b/a Avista Utilities (Avista or Company) 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).
- 2 Avista also requests an exemption from WAC 480-106-040(1)(b), which requires utilities to file a schedule of estimated avoided costs that includes specific items based on the utility's most recently acknowledged Integrated Resource Plan (IRP). The Commission most recently acknowledged Avista's 2017 IRP. Avista requests to use the information included in its most recently filed IRP, which was submitted to the Commission on April 1, 2021, in Docket UE-200301 (2021 IRP) but has not been acknowledged. Avista seeks to use its 2021 IRP in lieu of its 2017 IRP because it contains the most current information available.
- 3 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.¹

4 On December 8, 2021, Northwest & Intermountain Power Producers Coalition and Renewable Energy Coalition (Joint Commenters) filed comments opposing the filing because Avista did not include the incremental costs of renewable energy as part of its avoided cost rates.² After discussions with Staff, Avista agreed to extend the effective date of its tariff filing.

5 On February 4, 2022, Avista filed responsive comments and tariff revisions. Avista cites WAC 480-106-050(4)(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 19.285.030.³ 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.

6 On March 3, 2022, Joint Commenters narrowed their recommendations to the following three changes to the Schedule 62 Tariff revisions:

- Require Avista to include the renewable energy value in its avoided costs starting in 2025 because its next planned energy resource is a renewable resource;⁴

¹ 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.

² Joint Commenters raised additional issues in their December 8 comments but identify in their March 3 comments the issues they believe are most critical to resolve.

³ As part of its response, Avista accepted some of the changes requested by the joint commenters. Staff supports Avista retaining the changes filed on February 4.

⁴ Avista can either: 1) offer one rate based on its avoided costs for a renewable resource in which the qualifying facility surrenders the renewable energy certificates to Avista; or 2) offer a non-

- Require Avista to use its renewable, clean energy premium from its IRP as its renewable avoided cost rate; and
- Require Avista to refile and update its avoided costs for solar resources with capacity contribution values from the Western Resource Adequacy Program (WRAP) once those values are released.

7 After reviewing all comments and the newly filed revisions to Tariff WN U-28, Schedule 62, Staff recommends the Commission grant Avista’s request for an exemption from WAC 480-106-040(1)(b).

8 Staff further recommends the Commission accept Avista’s Schedule 62 Tariff Revisions subject to the condition that Avista revises its February 4, 2022, avoided cost rates on or before March 18, 2022, in Docket UE- 210815 to incorporate the renewable energy values as described in the March 3, 2022, Joint Commenters’ recommendations. However, Staff disagrees with the Joint Commenters that Avista should be required to revise the capacity components of its avoided cost rates when its work with WRAP is complete. 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 supports the changes already made by Avista in its February 4, 2022, filing.

9 Staff further recommends the Commission clarify that compliance with WAC 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 from FERC.⁵

DISCUSSION AND DECISION

10 We concur with Staff’s recommendation to grant Avista’s request for an exemption from WAC 480-106-040(1)(b) to base its avoided costs on the most recent filed IRP, but decline to adopt Staff’s additional recommendations and instead approve Avista’s most

renewable rate and a renewable rate that a qualifying facility decides whether to get paid a non-renewable rate and keep the renewable energy certificates or get paid a renewable rate and surrender the renewable energy certificates to Avista.

⁵ California Pub. Utilities Comm’n S. California Edison Co. Pac. Gas & Elec. Co. San Diego Gas & Elec. Co., 133 FERC ¶ 61,059, 61266 (2010).

recent revisions to Tariff WN U-28, Schedule 62, without conditions, for the reasons explained below.

11 *Avoided Capacity Costs.* Staff argues that compliance with WAC 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.

12 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. Among other things, CETA 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.

13 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.

14 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. However, utilities may still utilize market energy resources that are not greenhouse gas neutral until that date.

15 Joint Commenters describe Avista's most recent IRP,⁶ Clean Energy Implementation Plan, and request for proposals as all identifying a need for renewable resources and argue this identification reflects the Company's real avoided cost. The Joint Commenters thus agree with Staff that the rule should be interpreted to require the cost of renewable energy, capacity, or both.

16 On March 10, 2022, at the Commission's regularly scheduled open meeting, Avista noted that in both 2019 and 2020, the Company's IRP identified a need for renewable energy, the Company used the same calculation method proposed here for its avoided costs, and the Commission approved the related tariff revisions without conditions.

⁶ March 3, 2022, comments page, Joint Comments, p. 3. Staff concurs; *See* Staff's Memo, p. 2.

17 We find that Avista's calculation of its avoided cost of energy complies with WAC 480-106-040(1)(a). Because the Company's estimate does not include costs related to compliance with CETA's energy source standards, we acknowledge Staff's and the Joint Commenters' observation that Avista's calculation does not reflect its likely avoided cost of energy beginning in 2026. However, Avista's estimated avoided cost of energy draws on energy market forecasts that include all generation types that are currently allowed under CETA if Avista generated such power itself.

18 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]. *emphasis added.*⁷

19 Avista eventually will need to purchase energy from generators with specific characteristics to comply with CETA. To the extent that the Company would, in the future incur a different cost to acquire CETA-compliant energy rather than the cost of all energy available on the market, the Company will need to reflect the cost of renewable resources in its avoided costs. However, we decline to modify or waive our rule here, finding that no substantial changes have occurred in Avista's IRP projections since the last accepted avoided cost tariff update, and that modifying our rule will impact more than just one company and should involve more consideration than is possible in this specific filing.

20 Accordingly, we approve Avista's Schedule 62 Tariff revisions.

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

21 *Request for an Exemption.* Under WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. We find that the Company's request meets this standard. WAC 480-106-040(1)(b) requires an estimated avoided cost of capacity based on the utility's most recently acknowledged IRP. The purpose of this rule is to use the most recent and reliable information to calculate the avoided cost. Avista's last acknowledged IRP was in 2017. Granting Avista's request to base its avoided costs on its most recently filed, but not acknowledged, 2021 IRP is consistent with the intent of the rule because it contains the most current information available.

FINDINGS AND CONCLUSIONS

- 22 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies.
- 23 (2) Avista is an electric company and a public service company subject to Commission jurisdiction. Avista is a qualifying electrical company under RCW 80.04.010.
- 24 (3) On October 29, 2021, Avista filed revisions to Tariff WN U-28, Schedule 62, Small Power Production and Cogeneration, reducing the avoided cost rates paid to QFs. Avista also requested an exemption from WAC 480-106-040(1)(b) to use its most recently filed 2021 IRP as the basis for its estimating its avoided costs.
- 25 (4) Avista's proposed tariff revisions are consistent with WAC 480-106, and with PURPA.
- 26 (5) Pursuant to WAC 480-07-110(1), the Commission may grant an exemption from any of its rules if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 27 (6) This matter came before the Commission at a regularly scheduled open meeting on March 10, 2022.
- 28 (7) After reviewing Avista's filing and giving due consideration to relevant matters and for good cause shown, the Commission finds that approving the Schedule 62 Tariff revisions and granting an exemption from WAC 480-106-040(1)(b), are

consistent with the public interest, the purposes underlying regulation, and applicable statutes.

ORDER

THE COMMISSION ORDERS:

- 29 (1) The proposed revisions to Tariff WN U-28, Schedule 62 filed by Avista Corporation d/b/a Avista Utilities, is APPROVED.
- 30 (2) Avista Corporation d/b/a Avista Utilities' request for an exemption from WAC 480-106-040(1)(b) is GRANTED.
- 31 (3) This Order shall not affect the Commission's authority over rates, services, accounts, valuations, estimates, or determination of costs, on any matters that may come before it. Nor shall this Order be construed as an agreement to any estimate or determination of costs, or any valuation of property claimed or asserted.
- 32 (4) The Commission retains jurisdiction over this matter for purposes of effectuating this Order.

DATED at Lacey, Washington, and effective March 11, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner