



July 22, 2010

VIA: Electronic Mail

David Danner
Executive Director and Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, Washington 98504-7250

RE: Inquiry on Regulatory Treatment of Renewable Energy Resources -
Docket UE-100849

Dear Mr. Danner,

On May 19, 2010, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Opportunity to File Written Comments in the above-referenced docket. The notice indicated that on June 30, 2010, the Commission would provide a consolidated issues list to help structure interested persons' comments. On July 1, 2010, the Commission provided a Consolidated List of Issues and requested interested persons to file comments on the Statement of Inquiry in this proceeding by addressing the issues identified in the list. The following is the Company's response to the consolidated list of issues:

General

- 1) *Definitions.* What is "distributed generation" as applied to solar PV projects?
What is an "integrated cluster of renewable resources"?

Avista Response: As is standard in our industry, all qualifying renewable resource output should be measured, for purposes of defining distributed generation, at their alternating current (A/C) level. Simply because a PV solar project initially generates its output as direct current (D/C) does not mean it should be measured at the D/C level. A solar PV system converts D/C energy into A/C energy by using an inverter. The inverter is an integral part of the Solar PV system and output should be measured based on its A/C output.

Clustering, as it pertains to distributed generation, should be limited by grid interconnection levels. No renewable generation project(s) should be eligible for distributed generation benefits (i.e., double RECs as provided under the Energy

Independence Act, I-937) where shared interconnection facilities transmit more than 5 MW to the grid, as defined in RCW 19.285.030 (9).

Recovery of Costs and Demonstration of Need

- 2) *Determination of Prudence.* Does the Renewable Portfolio Standard (RPS) in I-937 supersede the “need requirement” used by the Commission for its determination of prudence? Why should the Commission treat the acquisition of a renewable different from the acquisition of a gas-fired plant when considering “need”?

Avista Response: I-937 adds a new component of need as applied under Title 80. The Commission should treat the acquisition of renewable resources differently because I-937 creates a third need category (in addition to energy and capacity) for use in the prudence determination of renewable generation projects. As I-937 does not apply to gas-fired and other non-renewable generation assets, its concept of need should not affect how the Commission has historically treated the acquisition of those resources on a stand-alone basis.

Renewable resource acquisition is also different from gas-fired resource acquisition because of common compliance threshold dates and the complexities of securing and developing a site. Flexibility, including the opportunity for early acquisition, is essential to ensure that utilities have the opportunity to effectively manage renewable generation acquisition processes. Further discussion on this matter is detailed in 4) below.

- 3) *Integration of Renewables.* Will future acquisition of non-renewable resources that support the integration of renewable resources encounter the same demonstration of need issue? Discuss what new “litmus” tests may be necessary to evaluate the prudence of renewable integration generating resources and why the current tests may not be applicable.

Avista Response: It is likely that new non-renewable assets will be necessary to enable a system to integrate new renewable generation resources as the percentage of renewable generation resources in a balancing authority increases over time. Where this is the case, utilities should demonstrate that the new non-renewable asset is integral to maintaining system reliability or optimizing the operational value of intermittent renewable resource.

- 4) *Increased Certainty of Recovery of Costs of Renewables.* Should the Commission take action to provide utilities with increased certainty for recovery of costs associated with renewable resources before they are constructed or acquired? What administrative actions should the Commission take to provide such increased certainty?

Avista Response: The Commission should provide guidance through rules explaining under what conditions a utility may acquire qualifying renewable resource sites or qualifying renewable resources ahead of acquisition threshold dates set in I-937. Because

I-937 sets compliance threshold dates, the rush by all utilities to acquire sites, apply for transmission interconnection, secure transmission rights, design project layout, bid and select turbines, and bid and execute on balance of plant construction during a period immediately preceding the I-937 acquisition threshold date, higher costs and construction impacts may occur absent flexibility granted by the Commission.

Compressing the numerous and complex set of steps necessary to acquire renewable resources into a short timeframe for all utilities may give suppliers negotiating leverage, create transmission interconnection queue congestion, and lead to a scarcity of specialized construction labor and/or equipment, resulting in delays and additional costs, among other impacts. Flexibility is essential to ensure that utilities have the opportunity to effectively manage: 1) the interconnection process that can take many years and is often not predictable; 2) the inherent ebbs and flows of project development; and 3) the large step increase in requirements that come into existence in a specified year (i.e., 2012, 2015, 2020) as the renewable standard increases.

RCW 19.285.060 (4) states that the Commission may provide positive incentives for a utility to exceed the calendar goals. At a minimum the Commission should interpret this language to affirm that utilities may meet their RPS goals earlier than the minimums dictated by the law. Administrative rules should be drafted in this regard.

- 5) *Consideration of Costs for Pre-approved Facilities.* Assuming the Commission pre-approves an acquisition of a site for a renewable resource like a wind site, to what extent would the Commission be limited in its review of the costs at a later time?

Avista Response: The Commission should require that the costs and performance generally comply with the initial filing that resulted in the pre-approval. To the extent that conditions (e.g., costs, government incentives, and output) substantially change from the pre-approval filing, the utility should be responsible to support the reasonableness of the changes or other modifications. These differences should be subject to a further prudence review.

Early Compliance with RPS

- 6) *Statutory Barrier.* Is the early acquisition of RPS resources limited by the Washington statutory provision (RCW 80.04.250) requiring an asset must be used and useful to earn a return?

Avista Response: The early acquisition of RPS resources is not limited by the referenced provision. The Commission has, within its purview, the ability to flexibly apply the concept of “used and useful” in the context of meeting I-937 requirements. The application of “used and useful” principles is flexible enough to allow for the acquisition of a resource in advance of need, given difficulties in precisely timing resource acquisitions to perfectly coincide with need. This has been the case with conventional

generating resources. As discussed elsewhere, a variety of factors may dictate the prudent acquisition of a renewable resource in advance of need (e.g., availability of tax credits, incentives, etc.).

- 7) *Changing Technology.* Does a company that acquires renewable resources early, run the risk of missing future technological changes that may have the potential to reduce the costs of the new resources if acquired at a later time?

Avista Response: Yes. However, this outcome is not unique to renewable generation assets, and the Commission should not limit a utility's acquisition plan based on the mere possibility of future technological changes that are not known at the time of the proposed acquisition. The Commission should continue to adhere to the convention that utilities make resource decisions based upon what is known at the time the resource decision was made.

- 8) *External Incentives.* To what extent should external incentives that are short-term in nature be a factor in Commission approval of acquisition of renewable resources in advance of RPS requirements (e.g., Production Tax Credits, Investment Tax Credits and Treasury Grants)? Will the subsidized costs attributed to external incentives compensate ratepayers for early recovery in rates?

Avista Response: Incentives in general reflect society's desires to promote a specific policy. To the extent that such incentives are available, the Commission's treatment of a renewable resource acquisition should reflect this preference. As explained above, and in the spirit of current state law, the Commission should provide rules under which utilities can acquire renewable generation assets ahead of need, including the benefits of incentives that might be available. Utilities proposing advance acquisition should demonstrate the financial impact of the incentive, and how early acquisition is expected to benefit customers over the life of the asset based upon what the utility knows about the availability of incentives at the time it decides to acquire the resource.

- 9) *Additional Flexibility:* Does the Commission presently have authority to consider a more "flexible" or "systematic approach" for assessing renewable resources? If so, what specific mechanism is needed?

Avista Response: Yes, the Commission has broad enabling authority allowing it to establish and revise policy through the adoption of rules that provide specificity to general statutory authorities. Specific recommendations are detailed in response to other queries contained in this response.

Renewable Energy Credits (RECs)

- 10) *Do Rules Conflict with Statute?* Does WAC 480-109-020 (1) (2) conflict with provisions in RCW 19.285.040 (2) (e)? Discuss barriers to a company's use of RECs caused by the

statutory timing of their creation?

Avista Response: We do not believe the rules conflict with statute. We believe the statute and the rules provide that the targets for meeting load with renewable resources are to begin with loads starting on January 1. The targets can be met with RECs produced during the year, the preceding year, or the subsequent year. Utilities should have the flexibility to bring resources (or REC purchases) online at any point in time as long as the annual requirement is met.

- 11) *WREGIS Agent.* What agency should be responsible for oversight of registration of renewable resources and confirmation of eligibility in Western Renewable Energy Generation Information System? Discuss the duties and responsibilities of a WREGIS Agent.

Avista Response: A member of the Commission Staff could be assigned as the WREGIS Agent to ensure that RECs submitted as eligible for compliance with a renewable resource acquisition target actually meet the eligibility requirements.

- 12) *REC Banking.* Does the current limited REC banking requirement impede renewable acquisition? How would unlimited banking of RECs remove barriers to the acquisition of RPS resources?

Avista Response: The present REC banking provisions do not impede the acquisition of new renewable resources. Unlimited banking might enable a utility to better optimize the value of a renewable resource acquired in advance of need.

Incentives

- 13) *Incentives.* Should the Commission provide incentives, financial or otherwise, for utilities that exceed their RPS targets or meet them early? If financial incentives were provided, what incentive design would be appropriate and would the incentives be subject to any constraints? What would be examples of non-financial incentives?

Avista Response: We believe additional financial incentives are not necessary at this time. However it is essential that the Commission address early acquisition with new rules, as described earlier in this response, that might allow utilities to take advantage of financial incentives available from the state and/or federal government.

- 14) *Impact on Ratepayers.* What would be the impact on ratepayers of providing incentives to utilities to exceed their RPS targets or meet them early?

Avista Response: The costs of currently-available renewable resources significantly exceed Avista's embedded resource cost, and the short-term wholesale cost of power. Therefore, early acquisition and/or installation of new renewable resources would

increase retail rates.

- 15) *Consideration of Externalities.* To what extent may, or should, the Commission require a utility to consider “positive externalities” in resource acquisition, such as impact on local economy?

Avista Response: The Commission should not require any specific consideration of societal values beyond those accruing directly to the ratepayer. To the extent externalities are reflected in the form of tax credits and/or other measures to encourage certain actions, they should be considered in the decision-making process.

- 16) *Hydroelectric Generation.* How does the restrictive treatment of hydroelectric generation limit clean and low-cost renewable energy options to ratepayers? Does the restriction give companies a sufficient incentive to finance efficiency improvements in older hydroelectric projects?

Avista Response: The present limit on remarketing RECs from hydroelectric generation facilities certainly has the potential to limit the efficient upgrade of hydroelectric generation assets. There are at least two instances where this could occur. First, there may be no financial incentive whatsoever to perform an upgrade to projects owned by a federal agency since there would be no marketable RECs generated by the project. Second, a smaller utility with a large hydroelectric generation facility could find itself in a similar position where it could not remarket surplus RECs for the benefit of its ratepayers.

In these examples, both which are very likely given the ownership of hydroelectric facilities in the Northwest, the hydro owner would not be able to credit the majority of the REC values against its upgrade costs. The likely result is that ratepayers of some hydro-generating utilities could end up financing less cost-efficient renewable generation facilities that better fit their volumetric REC needs. Additionally, utilities without hydroelectric upgrades will then end up purchasing other more expensive renewable options to meet their needs because these hydroelectric upgrade-created RECs are not available in the marketplace for purchase. The restriction therefore creates a potential barrier to the efficient acquisition of new renewable generation in the Northwest. All of this said, the Commission does not have the authority to unilaterally change present state law. Such a change would require new legislation.

Other Issues

- 17) *Allowing Expanded Area.* If the geographical area for qualifying energy was expanded to areas outside the Pacific Northwest, how would the increase in eligible resources available for RPS compliance benefit ratepayers? To what extent would the expansion of the geographical “footprint” allow for additional delivery flexibility?

Avista Response: An expansion of the geographical footprint for eligible renewable resources would benefit ratepayers, especially in situations where ownership of the facility was not required. Expansion would allow the trading of RECs from various locations and increase market liquidity. Increasing liquidity generally leads to lower prices as well as a more efficient use of capital and scarce resources, especially where other regions are presently able to use Northwest-generated RECs to meet their requirements, because additional renewable resources can be sited in the most cost-effective area. A legislative change to expand the eligible resources and geographic footprint would result in lower costs for Washington ratepayers.

- 18) *Decommissioning Requirements.* Discuss the statutory provisions that recognize the Commission's primacy over the decommissioning of renewable resources held by a regulated utility. To what extent are counties providing for facility decommissioning requirements for regulated utilities and can the companies quantify the excess duplicative costs?

Avista Response: The Company has no comments at this time.

- 19) *Cost Cap for Renewables.* Does the current cost cap provided in RCW 19.285.050 *Resource Costs*, provide effective protection for ratepayers? How specifically should the Commission implement this Cost Cap?

Avista Response: It is difficult to anticipate how future market conditions might impact the costs of renewable resources and RECs. One could conceive of a scenario under which it might be argued that the cost cap is deficient. Lacking actual experience with respect to the application of the cost cap, we would like to reserve the option to comment on this matter at a later date, as may be necessary.

- 20) *Costs and Benefits of Voluntary Green Power Programs.* How can ratepayers that participate in the voluntary green power program participate in the benefits of the program?

Avista Response: Interactions with those who participate in the voluntary green power program indicate that they already derive intrinsic personal benefits from doing so; they believe they are making a contribution to improving environmental and societal conditions. Therefore Avista does not believe any additional efforts are warranted here.

- 21) *Other Issues.* Comment on any other issue relevant to this inquiry that is not covered above.

Avista Response: *Dry Hole Risk.* Renewable project development presents a number of challenges that differ from non-renewable project development. For example, wind projects require a combination of adequate wind, willing landowners, reasonably developable topography, and cost-effective transmission access, among other things. The number of sites meeting these requirements is few, and the timeframes over which a

site's viability may be determined is long. It is not unusual for wind developers to have a considerably larger amount of megawatts under development than ultimately will become completed, cost-effective wind projects.

This scenario implies a utility likely will work on a few "dry holes" in the interest of bringing one or more sites to commercial operation. Fortunately, on a percentage basis, dry hole risks are modest relative to the total cost of a wind project development. The Commission should clarify that cost recovery is allowed for prudently incurred costs associated with "dry hole" sites. The Commission should define renewable energy project development costs that are eligible for recovery. Recovery should include the time value of money, or a return on investment, associated with dry hole risk.

Avista Response: *Environmental Attributes Associated with PURPA Resources*. The passage of I-937 creates a value associated with environmental attributes that did not exist prior to its passage, yet these attributes are not addressed in current rules. Under PURPA, utilities are obligated to purchase the output from "qualified facilities." Utilities have historically been granted all production from the PURPA facilities in exchange for scheduled payments. The Commission should provide needed clarity on this issue, both for existing and future contracts by ruling that the environmental attributes from PURPA resources are for the benefit of the customers of the purchasing utility.

Avista looks forward to participating in the upcoming workshop. If you have any questions regarding these issues, please contact Clint Kalich, Manager, Resource Planning and Analysis at 509-495-4532 or myself at 509-495-4267.

Sincerely,

A handwritten signature in black ink that reads "Kelly Norwood". The signature is written in a cursive, flowing style.

Kelly Norwood
Vice President, State and Federal Regulation