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Date: April 1, 2019

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. U-161024 –Comments of Avista Utilities

Dear Mr. Johnson,

Avista Corporation, dba Avista Utilities (Avista or Company), submits the following reply comments in accordance with the Washington Utilities and Transportation Commission's ("Commission") Notice of Opportunity to Submit Written Comments on Proposed Rules and Notice of Proposed Rule Adoption Hearing ("Notice") issued in Docket U-161024 on February 22, 2019. The Commission proposes to adopt a new chapter in the WAC (WAC 480-106) to implement the Public Utility Regulatory Policies Act of 1978 ("PURPA"). The Commission also proposes to adopt revisions to its RFP rule in WAC 480-107. Avista appreciates the Commission's work on these rules and the improvements that were incorporated into the current versions. Avista submits the following comments:

Proposed WAC 480-106

The proposed new rule improves upon prior drafts of the rule in several significant ways. For example, the new proposed rule clearly requires utilities to file a contracting procedure that sets forth the obligations of both the utility and the qualifying facility, it provides more flexibility for utilities to request the information that they need from qualifying facilities by removing the prescriptive list of required information, and clarifies that the standard rate is available to qualifying facilities with a nameplate capacity of five megawatts or less. More importantly, the new proposed rule more clearly articulates the requirement for establishing a legally enforceable obligation. Avista appreciates the Commission's efforts to clarify the rule.

Avista continues to be concerned about several aspects of this rule, including the requirement to offer fixed rates for a term of fifteen years to new qualifying facilities that have a nameplate capacity of five megawatts or less (proposed WAC 480-106-050(4)(a)(i)). As noted in Avista's prior comments, the term that is required should balance the risk and burden of longer-term contracts to utility customers[1] against qualifying facility developers' desire for longer-term contracts.

A fifteen-year term is significantly longer than Avista's current five-year term for such qualifying facilities. By tripling the required term, utility customers are forced to bear the risk that the utility's actual avoided cost will be substantially lower over time than the rate that the utility is required to provide a qualifying facility. This is particularly problematic given that unlike other resource acquisitions, the utility is required to purchase qualifying facility output regardless of the utility's need. There has been no showing in this proceeding that shorter contracts prevent qualifying facility developers from being able to obtain financing for their projects. Ultimately, utility customers are being asked to bear the burden of any delta between the utility's actual avoided cost and the rates that are locked in as much as fifteen years earlier—even where a utility does not have a resource need—in order to make qualifying facilities *more easily* financeable (a requirement that does not exist in PURPA or FERC regulations).

Avista understands that the fifteen-year term may actually be twelve years after commercial operation (proposed WAC 480-106-050(4)(a)(i)). This appears to allow developers of qualifying facilities with a nameplate capacity of five megawatts or less to obtain a fixed avoided cost rate as early as three years prior to commercial operation. This is problematic for several reasons. First, the avoided cost rate that the developer obtains three years prior to commercial operation almost certainly will not reflect the utility's avoided cost rate three years later. More fundamentally, this shifts all of the risk to utility customers. If the avoided cost rate decreases

[1] WAC 480-100-001.

over the three-year period prior to commercial operation, the qualifying facility developer obtains a fixed rate that exceeds the utility's actual avoided cost. If the avoided cost rate increases significantly, the qualifying facility developer simply dissolves its special purpose LLC and reappears as a new LLC. The utility will then be required to enter into a new contract with that qualifying facility at the higher avoided cost rate. In short, three years provides qualifying facility developers a free put option and shifts all of the risk to utility customers.

Avista appreciates the opportunity to provide these comments. Please direct any questions regarding these comments to Clint Kalich at (509) 495-4532, or myself at 509-495-4975.

Sincerely,

/S/Linda Gervais

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