



Avista Corp.
1411 East Mission P.O. Box 3727
Spokane, Washington 99220-0500
Telephone 509-489-0500
Toll Free 800-727-9170

August 5, 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: Avista Utilities Reply Comments - Inquiry on Regulatory Treatment for Renewable Energy Resources – Docket No. 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. On July 22, 2010, Avista and other parties provided their issues identified in the list. The Company appreciates the opportunity to provide reply comments and looks forward to participating in the upcoming workshop on August 18, 2010. The following are the Company's reply comments:

Regarding - The joint comments of Renewable Northwest Project, Northwest Energy Coalition, Climate Solutions, Cascade Chapter of the Sierra Club, and Washington

Environmental Council, hereinafter referred to as “RNP, et. al.”, at page 11, at 10) represent that WAC 480-109-020(1)(2) are faithful to RCW 19.285.040(2)(e).

Avista Response – Avista respectfully disagrees with RNP et al. The statute expressly contemplates that qualified utilities may acquire renewable energy credits during or even after a given year in order to satisfy the annual target for that year. As discussed more fully below, the ability to acquire renewable energy credits during or after a given year is essential to allow qualifying utilities to achieve compliance where qualifying renewable resources generate less energy than expected in the given year. In contrast to the statute, the rule removes the ability for qualifying utilities to acquire renewable energy credits during or after a given year by expressly requiring that all renewable energy credits used to comply with the annual renewable resource requirement must be “acquired by January 1 of the target year.” Proposed WAC 480-109-020(2).

For background, the full text of state law, RCW 19.285.040(2), is provided below. The pertinent section is highlighted in bold.

(2)(a) Each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least fifteen percent of its load by January 1, 2020, and each year thereafter.

(b) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(c) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

(d) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

(e) The requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section.

(f) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable

energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW [19.29A.090](#).

(g) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

(h)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

(i) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006.

RCW 19.285.040 clearly outlines the renewable energy target required in each year. For example, 19.285.040 2(a)(i) requires utilities in calendar year 2012 to meet 3% of their retail loads with renewable energy credits. Section 2(e) of RCW 19.285.040 explains that such credits can come from the preceding year, the current year, or the subsequent year. Unlike WAC 480-109-020, there is no requirement in the statute to acquire all renewable energy credits to be used for compliance in any target year by January 1 of such year. The law correctly allows utilities flexibility in meeting their REC requirements given the inherent variability in renewable generation levels. There are at least three essential reasons for the flexibility that must be addressed through the modification of WAC 480-109-020.

The first is that utilities will not know their target year load levels with precision by January 1. The RCW, and associated WAC provisions, require a qualifying utility to calculate target year obligations using loads through December 31 of the year immediately prior to the target year. By itself this provision is arduous, as the law does not consider that utilities do not have access to full-year retail loads until sometime after January 1 of the target year and, therefore, utilities will never know their target year loads on January 1. Avista is hopeful that this uncertainty can be rectified through modifications to regulations or the law to move the

period over which the target-year obligation is created back by 3 months or more. However, in the interim this uncertainty exists and furthers the need for the flexibility allowed in state law to acquire needed RECs during the target year, prior to the target year, or subsequent to the target year.

Second, renewable resource output variation is well documented. Annual renewable generation variation can exceed 25%.¹ It is therefore impossible to know what the output of a renewable generation resource over the year will be on January 1.

Finally, REC contracting flexibility over a 3-year window enables utilities to effectively manage their REC burdens, just as they manage their power portfolios. REC purchases managed over time to take advantage of depressed market conditions, to avoid high-price periods, and to permit the use of purchasing strategies such as “dollar-cost averaging” will lower overall compliance costs.

Under the proposed WAC 480-109-020(2), utilities will necessarily build or contract to obtain REC levels greatly exceeding their targets to insure against shortages. This means that customer costs will be unnecessarily higher than they otherwise would be because qualifying utilities will purchase additional RECs to ensure compliance. Proposed WAC 480-109-020(2) should be modified to eliminate the requirement that renewable energy credits used to comply with the annual renewable resource requirement must be acquired by January 1, of the target year. Avista respectfully submits that such requirement is inconsistent with, and is not authorized by, the Washington Energy Independence Act (“Act”). Consistent with the Act, proposed WAC 480-109-020(2) should be revised as follows:

(2) Renewable energy credits produced during the target year, the preceding year or the subsequent year may be used to comply with this annual renewable resource requirement ~~provided that they were acquired by January 1 of the target year.~~

¹ In the case of a catastrophic event, the entire output of a renewable generation facility could be lost, magnifying the impact to a utility much further.

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 Power Supply Analyses at 509-495-4532 or myself at 509-495-4975.

Sincerely,

/Linda Gervais/

Linda Gervais
Manager, Regulatory Policy
Avista Utilities
linda.gervais@avistacorp.com
509-495-4975