

Agenda Date: December 5, 2019  
Item Number: A1

**Docket:** UE-190663  
**Company:** Avista Corporation d/b/a Avista Utilities

**Staff:** Kyle Frankiewicz, Regulatory Analyst

### **Recommendation**

Staff recommends that the commission suspend this tariff for adjudication of any components of the tariff under dispute, including but not limited to a review of the terms and conditions of the form power purchase agreements and a determination on whether Avista Corporation's proposed tariff revisions provide adequate provisions for qualifying facilities that wish to sell an amount less than all generated energy and capacity to the utility.

### **Background**

On June 12, 2019, the Washington Utilities and Transportation Commission (commission) concluded its rulemaking under Docket U-161024 with an order amending, adopting, and repealing parts of the Washington Administrative Code (WAC). Among other changes, the commission added a new Chapter 480-106 WAC revamping the implementation of the Public Utility Regulatory Policies Act (PURPA), which requires utilities to purchase energy and capacity from small power producers, also called qualifying facilities (QFs). The three electric utilities regulated by the commission filed tariff revisions updating their tariffs implementing the requirements of the new rules on August 9, 2019. Discussions with the utilities and interested stakeholders prompted commission staff (staff) to bring these tariff revisions to the open meeting on September 12, 2019, for commission discussion and stakeholder input.

During and after the September 12 open meeting, Avista Corporation d/b/a Avista Utilities (Avista), the other two electric utilities, interested stakeholders and staff agreed to build a record for the many moving pieces of these tariff revisions implementing the new rule. The parties also attended an informal workshop on October 2, 2019, to identify key issues and develop a procedural plan the dockets. Since the workshop, Avista and other stakeholders have continued to work together and hone the company's filing – getting to consensus on some issues and building an understanding of differing views where consensus proved unreachable.

### **Discussion**

Staff's memo for the September 12, 2019, open meeting included an attachment delineating staff's understanding of the many components required of the three electric utilities' PURPA tariffs by the new Chapter 480-106 WAC. This memo provides an overview of progress made since then. Staff believes that, through continued conversation and collaboration with staff and other interested parties, Avista has resolved many of the identified issues in the replacement pages filed on November 12, 2019.

Nonetheless, because of the many moving pieces of this filing and the remaining issues that have not yet been addressed, staff recommends suspending this docket. Issues remain that require definitive resolution from the commission. Staff understands that Avista will file a final set of revisions to its tariff on December 3, which is after the internal deadline for this memo. Staff's position as described in this memo is based on conversations with the utility regarding these changes. At the open meeting, staff will highlight any relevant discrepancies between staff's description of the tariff in this memo and Avista's finalized tariff as filed, if necessary.

This tariff revision was first filed on August 9, 2019, and the effective date been extended multiple times since that date, often at staff's request. The parties have discussed these issues extensively, including at an informal workshop, providing ample opportunity to get to consensus. Indeed, Puget Sound Energy was able to reach such a consensus with its QF counterparts, which has enabled staff to recommend no action for docket UE-190665. However, in drafting this memo for Avista's PURPA tariff, staff found that the issues at play were not developed enough to make a clear recommendation. As a result, staff has no choice but to recommend suspension.

Staff commends Avista and QF stakeholders for finding agreement where possible. The next step is to clarify the areas of disagreement so that the commission can make a determination. While staff recognizes that the record is developed to some degree, and the list of disagreements among parties is not long, the process for clarifying areas of disagreement for the purposes of making an informed decision is exactly what suspension and adjudication entails. A more formalized process may also incentivize the utility and stakeholders to reach a settlement, resolving the issues and preventing the need for an affirmative determination from the commission.

Attachment A itemizes the requirements of the new rule and assesses whether Avista has, in staff's view, satisfied each requirement. Staff has included the assessment of Avista's original filing to highlight the amount of progress that has been made. Areas of concern and topics that require more context are discussed below.

Staff's priorities in vetting Avista's implementation of the new PURPA rule have not changed since the September 12 open meeting:

- *Accuracy*: Rates in tariff are fairly considered to be a utility's true avoided costs.
- *Transparency*: Members of the public can access and assess a utility's avoided cost inputs and calculation methodology to form their own opinions on a utility's outputs.
- *Simplicity*: Avoided cost calculation methodologies are simple to use and understand.
- *Consistency*: To the extent feasible, the utilities' PURPA filings implement the new WAC 480-106 in a similar way. Any variances in approach are identified and justified.

***Topic requiring more context: Avoided cost methodology for large QFs***

WAC 480-106-050(5) states, "Each utility shall file and obtain commission approval of its avoided cost rate methodology for qualifying facilities with capacity greater than five megawatts." Staff has interpreted this rule to mean that Avista should file a petition for approval of its large QF methodology, filed to a new docket, to be reviewed and approved with an order from the commission. Accordingly, the language in Avista's proposed Schedule 62I states, "The IRP Methodology for calculating IRP-Based Rates will be filed with the Commission and, once

that IRP Methodology is approved by the Commission, such methodology will be used to calculate IRP-Based Rates.”<sup>1</sup> Staff supports the company’s handling of this WAC requirement.

***Topic requiring more context: Avoided cost of energy***

Avista’s most recent market forecast was generated as a part of its 2019 IRP process, using the company’s IRP tools and data inputs. The forecast projects significantly lower market prices; relatedly, 2019 IRP contemplated the impacts of the Clean Energy Transformation Act (CETA). Staff agrees with other stakeholders that CETA’s impact to market prices – including the possible shutdown of coal assets in the near term – is hard to ascertain. Still, in the absence of better information, staff does not at this time dispute the reasonableness of Avista’s forecast. Staff encourages the company to include a synopsis of its forecasting inputs and procedures in its next avoided cost update.

***Staff concern: Options for QFs providing less than all generation power to Avista***

Avista’s Schedule 62 offers fixed rates for a term of not less than 12 years and up to 15 years, and short-term rates for energy and capacity to QFs that agree “to supply all QF output” to the utility.<sup>2</sup> QFs that also provide power to local load are limited to an as-available power rate.<sup>3</sup> In Avista’s comments responding to the collation of third-party comments, the utility contended that, if “a QF elects to sell some of its output to another entity or use some of its output for some other purpose, the output that is delivered to Avista is per se non-firm (that is, the output that is in excess to the output that is sold to another entity or used for another purpose) and therefore is being provided on an as-available basis.”<sup>4</sup> However, in their joint comments filed on November 15, Northwestern and Intermountain Power Producers Coalition (NIPPC) and the Renewable Energy Coalition (REC) contend that “a QF can still provide firm output and reserve some of its output for its own or other uses,” pointing to neighboring states for examples of how this issue might be addressed.<sup>5</sup>

Staff struggles to find a satisfying way to reconcile the idea that a QF can commit to selling energy and capacity, but only energy and capacity that is available after first meeting local load. Staff’s uncertainty regarding this issue is one of the key reasons for its recommendation that this docket be suspended for further adjudication. Suspension of this docket would allow consideration of other approaches to handling this complexity.

***Staff concern: Power Purchase Agreement (PPA) as attachment to Schedule 62***

WAC 480-106-030(4) states, “All utilities shall file standard contract provisions for the purchases from a qualifying facility with a capacity of five megawatts or less.” In the September 12 open meeting, the commission heard from some stakeholders that more time was needed to

---

<sup>1</sup> Docket UE-190663, Schedule 62, issued November 12, 2019, at Sheet 62I.

<sup>2</sup> Docket UE-190663, Schedule 62, issued November 12, 2019, at Sheet 62 and Sheet 62G.

<sup>3</sup> Staff uses the term “local load” to mean any non-negligible use of electricity for a purpose other than supporting the QF. For example, a light at the gate of a QF facility is not local load; an irrigation pump or bitcoin mining operation is local load.

<sup>4</sup> Docket UE-190663, Comments of Avista Utilities, filed September 27, 2019, at page 6.

<sup>5</sup> Docket UE-190663, Comments of Avista Utilities, filed September 27, 2019, at page 6.

review the contract terms and negotiate with the utilities. In the months since the commission last reviewed the dockets implementing the new PURPA rule, utilities, stakeholders and staff have participated in many discussions and a workshop to better understand each other, and to hone these filings in an efficient manner. A consistent theme from the informal workshop held in October was a need for more time to review the companies' form PPAs.

Staff relies on third-party stakeholders and the utilities for their expertise in vetting the utilities' form PPAs, and has heard from interested stakeholders who have remaining concerns regarding Avista's Attachment A. Staff reached out to Avista to gauge whether the company intended to file a petition for an order enabling commission review and approval of the PPA at a later date, likely the first quarter of 2020. Avista has opted not to do so. In the absence of a thorough analysis and discussion of the terms in the PPA, staff can only recommend suspension of the docket to further explore this issue.

***Potential staff concern: Capacity contribution for existing wind and solar QFs***

Avista's Schedule 62 offers a fixed rate and a short-term power rate for new and existing QFs. The valuation of capacity contribution for existing QFs is prescribed as follows: "The capacity contribution for existing non-wind and non-solar resources, with an operating history of thirty-six (36) or more months, shall be the average on peak delivery for up to the past five (5) years for the November through February months."<sup>6</sup> The tariff does not describe how the capacity contribution of existing wind and solar QFs will be determined. Staff has communicated this concern to Avista and understands that this issue will be addressed in the company's update filed on December 3.

***Potential staff concern: Determining capacity contribution for new QFs that are not easily categorized as wind, solar or 7x24***

The rates offered in Avista's Schedule 62, as well as the schedule of estimated avoided cost providing indicative pricing for large QFs, are all designed around three fuel types and energy production assumptions: wind, solar, and always-on, flat power production. It is unclear to staff whether prospective small QF projects with production curves that differ from these three options would still receive one of these capacity calculations. Staff acknowledges that including all imaginable fuel types and combinations would result in an overly complex and unwieldy tariff structure and agrees that prospective QFs will almost always fit in one of these three categories. Still, this opportunity for confusion should be avoided if possible, and could be addressed during an adjudication.

**Stakeholder comments**

Staff has worked in collaboration with Avista and third-party stakeholders, primarily representatives from NIPPC and REC, to refine the utility's filing.

---

<sup>6</sup> Docket UE-190663, Schedule 62, issued November 12, 2019, at Sheet 62, Sheet 62A and Sheet 62H.

*NIPPC/REC*: While NIPPC/REC's representation helped to hone many aspects of the tariff and contract, some issues remain. The organizations filed joint comments on November 14 discussing Avista's avoided cost calculations. The main issues identified by NIPPC/REC are as follows:

- Energy, Market Forecast: Avista's market forecast departs dramatically from its prior IRP forecasts. The filing lacks an explanation for this departure, and it is not clear whether supply resource adequacy (e.g., coal retirements) has been accounted for.
- Energy, Shaping Factors: These factors are confusing for smaller unsophisticated QFs, given the negative factors. NIPPC and REC believe that it should simply be an average annual price or there should be some alternative option such as allowing the QF to not deliver during months with negative factors or deliver to a third party.
- Capacity contribution: Avista's zero percent contribution values for wind and solar do not appear to be well supported. NIPPC/REC proposes higher capacity contributions.

NIPPC/REC filed another set of comments on November 15 focusing on contracting procedures. As discussed, the commenters objected to Avista's requirement that QFs offer all output to obtain a 12-15-year fixed rate. NIPPC/REC also voiced concerns about imbalanced contracting timeline obligations and contended that separate procedures for QFs of 5 MW or smaller would be clearer. The organizations identified some gaps in the timelines and deadlines described in Avista's contracting procedures and recommend removal of some steps that they contend are unnecessary. Finally, the organizations argue that QFs are entitled to standard prices and contracts even if a QF provides only part of its energy or capacity to a utility.

Staff notes that many of the concerns raised by NIPPC/REC were discussed with staff and Avista on November 21. Many of the concerns raised by NIPPC/REC may be addressed by Avista in its December 3 filing. Nonetheless, that parties have continued disagreement over key issues strengthens staff's recommendation of suspension. Staff encourages NIPPC/REC to highlight any issues that the open meeting.

*Sheep Creek Hydro*: This existing small QF started selling power to Avista under PURPA in 1986, and the PPA is set to expire soon. The facility limits its comments to small hydro projects. Sheep Creek contends that energy sales should not have an 85 percent derate, that capacity and energy should be saleable as separate commodities, and that QFs should have the option of committing some but not all of its output. These comments were filed in October; Avista has since removed the 85 percent derate from its as available and short-term power rates.

*Sun2o Partners, LLC (Sun2o), and DGEP Holdings, LLC (DGEP)*: Sun2o and DGEP identify four main issues:

- The organizations propose a different approach to determining a QF's capacity contribution, which has a significant impact on the size of a capacity payment earned by a QF. The parties propose that capacity contribution "be calculated by analyzing on-peak operating production in November to February, as well as in May to August."<sup>7</sup> The joint

---

<sup>7</sup> Docket UE-190663, comments on behalf of Sun2o Partners, LLC and DGEP Holdings, LLC, filed November 13, 2019, page 3.

commenters make a number of observations that dispute the validity of Avista's capacity contribution approach. The parties contend that Avista's tariff causes rates that do not align with QFs' value generated, in that "[s]olar QFs online in 2018 would have contributed beneficial capacity during Avista's peak load hours, both winter and summer, yet been paid \$0 under Avista's [t]ariff."<sup>8</sup>

- Recent peak load events have occurred in the summer as much as the winter.
- Solar resources would have been useful to meet recent peak loads in both summer and winter.
- The resource used as a proxy for solar is aging, and while the utility intends to use better solar proxy data for the 2019 IRP, rates are still based on the 2017 IRP.
- The parties contend that Avista's avoided cost calculations do not adequately include the social cost of carbon.
- If their proposed capacity contribution methodology is not adopted, Sun2o and DGEP request that the commission require Avista to offer a rate schedule for solar QFs paired with energy storage by various duration hours.
- The commenters object to the limited contract length offered to large QFs and QFs that are considering a sales option other than the 12-15-year fixed term offer.

### **Conclusion**

Staff recommends suspension and adjudication of this tariff revision.

---

<sup>8</sup> *Ibid.*