



**Avista Corp.**

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**U-210183**

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Mr. Jeff Killip  
Executive Director and Secretary  
Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE  
Lacey, WA 98503

**RE: Docket U-210183 - Relating to Electricity Markets and Compliance with the Clean Energy Transformation Act “use” Rules – Comments of Avista Utilities**

Dear Mr. Killip:

Avista Corporation, dba Avista Utilities (Avista or the Company), submits the following comments in accordance with the Washington Utilities and Transportation Commission’s (WUTC or the Commission) Notice of Opportunity to File Written Comments on Draft Rules (Notice) issued in Docket U-210183 on April 9, 2024, relating to electricity markets and compliance with the Clean Energy Transformation Act (CETA) “use” rules.

Avista appreciates the Commission’s continued diligence in taking the time necessary to get the “use” rules workable for Avista’s customers after roughly two years of working on this rulemaking. The adoption of complex “use” rules is important for the equitable implementation of CETA. With that being said, Avista has reservations with the current iteration of draft rules, particularly as they depart from the annual demonstration of compliance standard (i.e., the period by which renewable or nonemitting energy may be used for purposes of primary compliance) adopted by the Department of Commerce (Commerce) for public utilities. This departure, if adopted by the Commission, would lead to an inequitable and disparate application of the law for electric utilities across the state of Washington, clearly putting investor-owned utilities customers at a disadvantage compared to public utilities, resulting in higher costs of compliance.

**Annual vs Monthly Demonstration of Compliance**

For purposes of demonstration of compliance, the impact of allowing utilities to only use renewable or nonemitting energy in the month generated, as opposed to annually, will drive utilities to acquire and overbuild energy resources. With a monthly demonstration of compliance standard, due to inherent volatility in renewable generation and loads, resources will need to be acquired at significant costs in order to comply with the greenhouse gas neutral standard in a few months of the year, as compared to more efficient resource acquisitions to meet an annual demonstration of compliance

standard. CETA's four-year compliance period was included in law to moderate known intra- and inter-year variability in renewable energy generation. A monthly demonstration of compliance standard will essentially eliminate the legislative intent and compromise the provisions put in place to address intra- and inter-year variability of renewable generation output. Based on Avista's analysis of its current qualifying generation, the monthly demonstration of compliance standard removes more than 594,000 MWh of clean energy (in a normal water year) that could otherwise be used towards an annual demonstration of compliance standard, as this amount of generation exceeds retail load in Q2 months (April-July). Replacing this amount of energy will require Avista to invest hundreds of millions of dollars in additional renewable energy facilities to make up for the lost renewable generation that would be invalidated by the proposed monthly compliance burden. Adding generation simply to meet renewable compliance via a monthly demonstration of compliance standard will certainly lead to higher customer rates.

Some may argue the utilities will have to meet the hourly planning requirement using expected conditions (i.e. average hydro, load, wind, and solar), and the monthly compliance is at no additional cost to them. However, this argument does not account for the additional resources required to manage compliance risk rather than "planning" for expected generation. Avista has determined the four-year period is not a long enough time to manage multiple low renewable generation production years and will have to acquire additional renewables to ensure it has enough qualifying generation, the monthly demonstration of compliance standard increases this requirement. One way to mitigate this risk is by allowing for an annual demonstration of compliance standard, as Commerce has done for the public utilities. The annual demonstration of compliance standard would still require Avista to procure 484,000 MWh (55 aMW) of renewable energy to manage four-year compliance risk (if planning to the 95 percent of potential outcomes over the 4-year compliance period). Moving to the monthly demonstration of compliance standard increases this risk adder to 1,063,000 MWh (121 aMW), an increase of 579,000 MWh of additional renewables to manage generation risk over the four-year compliance period, which ultimately will increase Commission-regulated customer costs.

The cost of wind generation is a proxy for the additional generation that would be needed. However, wind generation occurs in the spring months, at that same time that hydro generation is at its peak, meaning it would likely limit our ability to count additional renewables toward compliance, resulting in the excess wind generation needing to be sold. Because of this risk and to ensure enough generation is available to meet the monthly demonstration of compliance standard, Avista may need to acquire upwards of 250 MW of additional wind beyond what would be needed in an annual demonstration of compliance standard. This additional wind generation would have a potential cost of approximately \$383 million or more in capital and at least \$9-12 million in annual O&M (2024 \$). While it is possible that this excess generation may be sold in years where resources are sufficient in order to recover some of these additional costs, Avista customers will bear the risk of selling excess generation on the wholesale market at potentially lower prices than the cost to own/contract the facility that are embedded in rates. In the end, a monthly compliance standard puts even more pressure on Washington investor-owned utilities to construct or purchase generation beyond that which is already required to meet compliance targets.

### **2030 vs 2045 Compliance Standard**

Avista recommends a change to the compliance obligation of the greenhouse gas neutral standard. In part (3) of the draft rule it specifies that "The amount of renewable or nonemitting energy that a utility

retires for primary compliance in each month<sup>1</sup> may not exceed the **retail load** served within the utility’s Washington service territory within the same month.” [emphasis added] In comparing this to the compliance standard for the 100 percent renewable or nonemitting standard, part (1) states “The amount of renewable or nonemitting energy that a utility counts towards compliance with 19.405.050(1) in each month may not exceed the **load** served by that utility within the same month.” [emphasis added] Avista suggests the Commission use “Retail Load adjusted for delivery losses”, so it aligns with the 2045 standard that includes these losses. This change aligns CETA with the Climate Commitment Act law, where line losses are explicitly accounted for to address the loss of energy between generation sources and the final delivery points.

### **Other Comments**

Avista finds the hourly planning requirement will create an unrealistic forecast of generation expectations of renewable resource production given it requires a 20-year forecast of hourly variable resource generation. Avista suggests a monthly planning standard due to the unknown nature of renewable generation on an hourly basis. Avista does find value of an hourly basis to determine the plausibility or implausibility to deliver 100 percent clean energy in 2045 using a specific expected case scenario, but this should not be required in the rule.

Avista suggests adding language to the rules for demonstrating compliance of nonemitting resources that are not eligible for entry into WREGIS as required for renewable generation. Lastly, regarding the portfolio planning requirements to comply with the greenhouse gas neutral standard and the use of nonpower attributes (NPAs) to comply with the 100 percent renewable or nonemitting standard, Avista supports the rule as drafted.

If you have any questions regarding these comments, please contact me at 509-495-2782 or [shawn.bonfield@avistacorp.com](mailto:shawn.bonfield@avistacorp.com).

Sincerely,

/s/ *Shawn Bonfield*

Shawn Bonfield  
Sr. Manager of Regulatory Policy & Strategy

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<sup>1</sup> Avista also recommends this monthly requirement be changed to “annual”.

