



**Avista Corp.**

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June 29, 2020

Mark L. Johnson  
Executive Director and Secretary  
Washington Utilities & Transportation Commission  
621 Woodland Square Loop SE  
Lacey, WA 98503

Re: Docket No. UE-190837 – Comments of Avista Utilities

Dear Mr. Johnson,

Avista Corporation, dba Avista Utilities (Avista or Company), submits the following comments in accordance with the Washington Utilities and Transportation Commission’s (“Commission”) Notice of Opportunity to File Written Comments (“Notice”) issued in Docket UE-190837 on June 1st, 2020 In the Matter of Amending, Adopting, and Repealing WAC 480-107, Relating to Purchases of Electricity (PoE), Docket UE-190837. Pursuant to the Notice, Avista provides comments to the questions posed in the Notice:

**QUESTIONS FOR CONSIDERATION**

1. The draft rule at WAC 480-107-015(4), Solicitation Process, shortens the RFP filing period requirement from 135 days to 45 days after a utility files its IRP, reduces the 60-day comment period to 30 days, and requires a Commission decision 60 days after the RFP is filed. The intended outcome is to reduce the time between identifying the resource need and pursuing resources through an RFP. Does the draft rule contain adequate time for public involvement to assure that, in most circumstances, stakeholder concerns are resolved? If not, please recommend an alternative timeline for these filing requirements.

**Avista Response:**

Avista appreciates the Commission’s efforts in attempting to shorten the time between when a resource need is identified to when an RFP is issued. The current timeline leads to an issuance of an RFP seven and a half months after a utility files its IRP, which is quite long. First, reducing the RFP filing period requirement from 135 days to 45 may be a

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challenging timeframe to meet. In Avista's experience, soliciting feedback and comments and discussing the RFP with Commission Staff and other stakeholders, prior to filing it with the Commission, generally takes more time than 45 days. As such, the Company suggests reducing the filing period requirement from 135 days to 90 days. In terms of the time frame for public involvement and a Commission decision, 30 days for each of those activities seems reasonable. Reducing the timeline from seven and half months to issue an RFP, down to four or five months, would be a welcome improvement.

2. The draft rule at WAC 480-107-015(4), Solicitation Process, includes the requirement that the utility "must accept bids for a variety of energy resources that may have the potential to fill the identified resource needs including, but not limited to..." What burden does this requirement impose? What are the benefits or drawbacks of the rule providing that the utility "may accept bids"?

**Avista Response:**

Requiring utilities to "accept bids for a variety of energy resources that may have the potential to fill the identified resource needs" may lead to difficulties in evaluating bids for energy resources that are not responsive to the specific need. For this reason, Avista suggests revising the draft language to "may accept bids." The utility has the obligation of identifying its resource need and the types of resources that would best fill that need. As a part of that obligation, the utility would of course be cognizant that too narrow of an RFP would put it at risk for full cost recovery. As such, the utility should have the discretion to specify which types of resources it needs when issuing an RFP, rather than issuing an all-resource RFP.

3. The "Contents of a solicitation" section of draft rule WAC 480-107-025(5) requires a sample evaluation rubric or, in the alternative, an explanation of the evaluation criterion. This requirement is intended to better enable bidders to design projects and bids that satisfy the resource needs as identified in the RFP. Does the draft language improve the transparency of the evaluation process? If not, please recommend an alternative approach or alternative components of the evaluation criterion that will provide the necessary transparency.

**Avista Response:**

The draft language does indeed improve the transparency of the evaluation process, but possibly too much so. By including all of the criterion for which a utility will evaluate project bids, it may result in a utility not receiving the best bids from a pricing standpoint if the weight given to price is not the highest weighted criterion. Given the option included in the draft rule, Avista would not be inclined to include a sample evaluation rubric that

“quantifies the weight each criterion will be given during the project ranking procedure.” Instead, Avista would provide a detailed explanation of the criterion. Avista supports providing the summary categories and ranges of weighting of each category rather than specific criterion of each ranking category. This approach would be preferred to ensure the most competitive bids are received and to maintain some element of confidentiality for how bids will be evaluated.

4. Comments received from stakeholders in this docket on March 13, 2020, presented a variety of options for determining when a utility should be required to use an independent evaluator. Several commenters recommend including a capacity threshold ranging from 20 MW to 100 MW.
  - a. Are there unintended consequences of using a capacity threshold in WAC 480-107-AAA to decide whether an independent evaluator will add value to the Commission’s review?
  - b. If a capacity metric (i.e., MW) is used in WAC 480-107-AAA(1)(a), what is the justification for requiring a capacity metric as a threshold for retaining an independent evaluator?
  - c. Should a metric(s) other than capacity be used in WAC 480-107-AAA(1)(a), in addition to financial interest, to decide whether or not the utility must use an independent evaluator? If so, what considerations should be used to determine the value of that metric.

**Avista Response:**

- a. Avista is unaware of any unintended consequences, beyond the additional cost to consumers, of using a capacity threshold to decide whether an independent evaluation will add value to the Commission’s review.
- b. As Avista stated in its comments submitted on March 13, 2020, Avista suggests a megawatt-hour threshold, rather than a capacity threshold, be used for primarily energy resources compared to capacity resources that may produce less annual energy or may even be an energy consumer, such as storage. The “energy” resource threshold should be an expected delivery of 440,000 MWh (50.2 aMW) in a year, or if a “capacity” resource, it should be in excess of 80 MW as proposed in the draft rule.
- c. See response to part b. Also, the Company would like to reiterate its position that no independent evaluator should be necessary if all projects to be considered are not self-build options. An independent evaluator should only be required if the resource in question is greater than the threshold and self-build is considered (currently says 80 MW “or” financial interest).

5. The draft rule at WAC 480-107-135(1)(a) provides for the use of an independent evaluator when a utility has a financial interest in the resource choice, including when a utility is considering repowering one of its owned resources at the end of the resource's life to fulfill the resource need identified in the RFP. The draft rule requires that the repowering of the utility-owned resource be evaluated with the other responsive bids to the RFP. What are the benefits and drawbacks of this requirement?

**Avista Response:**

As drafted, the need for evaluating the repowering of a utility-owned resource against other responsive bids to an RFP is too broad. For example, if a utility wanted to bid repowering an existing wind farm, it makes sense to evaluate that option against other responsive bids through an RFP with the aid of an independent evaluator. However, if a utility is replacing or upgrading a turbine at a hydroelectric facility, evaluating against responsive bids through an RFP should not be required. In this case, the replacement of the turbine may be done for a variety of reasons including safety, reliability, regulatory and maintenance issues. The utility should have discretion to determine when an RFP is necessary. Ultimately, the utility bears the burden of proof to justify an investment. During the cost recovery process, the Commission and intervening parties have the opportunity to review a capital upgrade such as a turbine replacement, to determine if it was a prudent investment.

6. Under certain circumstances, the draft rules at WAC 480-107-AAA require utilities to use independent evaluators, approved by the Commission, to assist in the evaluation and ranking of bids. What qualifications demonstrate that independent evaluators have the training or experience to appropriately weigh and consider CETA's equity provisions in their ranking of project bids?

**Avista Response:**

Avista does not believe utilities should be required to consult with Commission Staff or interested persons regarding the issuance of an RFP for an independent evaluator, nor should approval by the Commission of an independent evaluator be required. The burden lies on the utility to select an independent evaluator and similarly, there is a burden on the evaluator to state and maintain their independence as part of the evaluation process. During the rate recovery process, the Commission and intervenors have the opportunity to evaluate how an independent evaluator was chosen and their qualifications. Pre-approval of an independent evaluator by the Commission seems inefficient and overly burdensome.

Avista is not yet certain what qualifications will demonstrate that independent evaluator has the training or experience to appropriately weigh and consider CETA's equity

provisions in their ranking of project bids. At first, it may be difficult to find independent evaluators that have the qualifications to evaluate equity provisions, given that this is new to resource acquisition, however over time a base level of knowledge and skills will be developed in the independent evaluator industry related to equity.

7. In previous comments, stakeholders have requested various provisions for the consideration of minority-, women-, disabled- and veteran-owned businesses as bidders or subcontractors in utility RFPs. Please provide citations to existing federal, state, or local laws applicable to the requirements of utility RFPs related to minority-, women-, disabled- or veteran-owned businesses and how these affect the language in the draft rule.

**Avista Response:**

Avista is not aware of any existing federal, state, or local laws applicable to the requirement of a utility RFP for generation resources, specific to the groups identified.

**Additional Comments**

In addition to the responses above, Avista offers the following general comments regarding the draft rules.

Proposed WAC 480-107-015(2): This rule as drafted encourages utilities “to consult with commission staff and other interested persons during the development of the RFP and associated evaluation rubric.” While not required, this encouragement lacks clarity in terms of what “consult” entails. Additional clarity would be helpful, such that, a utility is not questioned about their efforts on this topic after an RFP has been issued.

Proposed WAC 480-107-015(3): This rule requires utilities to conduct outreach to potential bidders. Utilities cannot be aware of all potential bidders, making this requirement problematic and potentially discriminatory. Project developers are constantly changing, coming, and going based on market conditions and their own organizational needs. Avista has attempted to make developers aware of an RFP through a number of means, such as, media releases, direct communication, and posting the RFP on its website. Further this section requires that bidders have “equitable” access to information relevant to an RFP. This should be revised to state “equal” access. As has been discussed through the Commission’s various rulemakings, equality and equity are not the same standards.

Proposed WAC 480-107-025(1): As stated in its comments submitted on March 13<sup>th</sup>, Avista again asks for clarification as to why the IRP avoided costs are necessary to include in an RFP. The avoided costs are public information and developers are aware of each utility’s IRPs and avoided

costs. Further, the IRP avoided costs are based on generic assumptions of resource costs. The RFP provides specific costs for specific projects. The RFP should not include any information regarding what the utility expects to pay for a proposal, for the benefit of its customers. Avista also does not find it necessary to list the technology besides identifying the utility's energy or capacity requirement as well as any renewable or emissions requirements in the proposal.

Proposed WAC 480-107-AAA(5): Section (d) as drafted requires that the independent evaluator provide "minutes of meetings and full text of written communications..." This may be overly burdensome to an independent evaluator and redundant to the evaluator being an independent participant in the RFP. Instead, Avista suggests only requiring the independent evaluator to provide a summary of meetings and communications.

Proposed WAC 480-107-035(5): This section requires utilities "within five days after the sealed project proposals have been opened" to post a summary of each project to its website. Avista requests that this requirement be extended to 10 days to accommodate holidays and the time it may take to summarize all projects if there is a high number of bids received.

Proposed WAC 480-107-065: Avista requests that the language in section (2) be modified to state that "...a project proposal must have the intention to produce savings or identify new savings sources..." It is common that engagements occur with the intention of identifying new measures that have the potential to produce savings. However, it is not known until the conclusion of the engagement if savings did occur. Avista also requests that the language include an exemption for any conservation and efficiency-related project proposal with the intent to further conservation education. It is common that such behavioral projects do not produce savings that can be measured using engineering, statistical, or meter-based methods as required in section (2).

Please direct any questions regarding these comments to James Gall at 509-495-2189 or me at 509-495-2782 or [shawn.bonfield@avistacorp.com](mailto:shawn.bonfield@avistacorp.com).

Sincerely,

/s/ *Shawn Bonfield*

Sr. Manager Regulatory Policy and Strategy  
Avista Utilities