Agenda Date: January 23, 2020
Item Number: A1

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

Staff: Kyle Frankiewich, Regulatory Analyst

Recommendation

Staff recommends the commission issue an order rejecting Schedule 62 filed by Avista Corporation, and directing the company to file a tariff consistent with the Public Utility Regulatory Policies Act, the commission's Chapter 480-106 WAC and General Order R-597, with the specific details as follows:

1. Remove restrictions around fixed rates and time-of-delivery rates to make these rate options available to QFs that choose to sell less than all energy and capacity.
2. Include in tariff a table delineating the capacity contribution percentages calculated for various QF types, as well as clear guidance on how new QFs can calculate a given rate.
3. Include in tariff language clearly establishing how existing QFs may calculate their capacity contributions based on historical data, or include a rate table specifying capacity contributions for existing QFs based on historical generation for on-peak hours from November to February.
4. Remove tariff language regarding legally enforceable obligations on Sheet 62O, which may conflict with WAC 480-106-030(2).
5. Remove tariff language which requires completed interconnection studies and conditions the utility's obligation to purchase on an executed interconnection agreement.
6. Extend the signing window for the finalized power purchase agreement to 45 days.

Waiver for use of data from 2019 draft IRP: Staff also recommends that the commission waive WAC 480-106-040(1)(b)(i) and direct Avista Corporation to calculate capacity contribution values for various fuel types based on the company's 2019 draft IRP.

Timeline for future compliance filings – Additional time for review of standard Power Purchase Agreements: Finally, staff recommends that the commission require the company to file a tariff revision that addresses the above items by February 28, 2020, and standard power purchase agreements as an attachment to this tariff by May 29, 2020.

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). Each investorowned utility filed tariff revisions in compliance with the commission's General Order R-597, which adopted this new chapter of the WAC after a lengthy rulemaking process.[1] 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 attended an informal workshop on October 2, 2019, to identify key issues and develop a procedural plan for 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. This docket was scheduled for the December 5, 2019, open meeting, but Avista elected to extend the effective date of this tariff revision to allow more time for discussion. All of the comments filed to tis docket are listed in Attachment A to this memo.

Discussion

Avista submitted this compliance filing on August 9, 2019, starting this docket over five months ago. During this period, Avista has engaged in productive conversation with staff and with interested third parties. Also during this period, Avista has made multiple substantive revisions to its original filing in response to staff or stakeholder feedback. Staff commends the utility and stakeholders for this progress. Notwithstanding the improvements made to date, staff believes that some components of Schedule 62's terms and avoided cost rate calculations do not comply with the order, the new rule or with PURPA.

Fundamentally, this tariff revision is a compliance filing that does not do what the commission has required the utility to do; it does not comply with the commission's direction. Staff therefore recommends that the commission reject the tariff revision and direct the company to refile a revised tariff that addresses the components that do not align with the commission's rules and order. In the following discussion, staff considers the January 6, 2020, joint comments of the Northwestern and Intermountain Power Producers Coalition (NIPPC) and the Renewable Energy Coalition (REC).

Options for QFs that provide less than all generation power
NIPPC/REC and staff agree that Avista's language excluding QFs that provide less than all generation power from fixed rates and time-of-delivery rates for energy and capacity is not consistent with the PURPA requirement to make a standard offer available. Staff recommends the commission direct Avista to strike this language, found on Sheets 62, 62G, and 62K, and clarify that QFs are eligible to choose any of the three rate options described in WAC 480-106-050(3) and (4). Staff welcomes continued conversation on this topic, and invites the utility to explore options for applying a discount to capacity for QFs that provide less than all energy and

[1] Docket U-161024.

capacity which is substantiated and transparent. Staff notes that Avista may file revisions to its schedule of avoided costs at any time under WAC 480-106-040(3).

Capacity Contribution Values for New and Existing QFs
Avista describes the capacity contribution for existing and new resources on Sheet 62 and Sheet 62H. NIPPC/REC and staff agree that capacity contribution values and capacity factors should be contained within Schedule 62, presumably presented as a table within the tariff, thereby allowing a QF of a given fuel type to easily understand the rate offered without reference to documents outside of the tariff. Staff understands that Avista is receptive to this request but has not yet filed replacement tariff pages implementing it.

NIPPC/REC further recommends Avista clarify how non-wind, non-solar resources will be treated under the tariff. They suggest non-wind, non-solar resources be treated as baseload resources with a 100 percent capacity value contribution.[2] Staff concurs broadly, but notes that Avista's 2019 draft IRP tabulated capacity contributions for many other fuel types. Staff recommends the commission direct Avista to clarify the language on Sheets 62 and 62H that the Flat 7x24 capacity rates in the tariff are available for any resources not included in its capacity contribution table. Staff's recommendation to use the utility's 2019 draft IRP capacity contribution calculations is discussed later in this memo.

Staff broadly supports the company's proposal for existing QF capacity contribution valuation. However, the tariff's description is brief, and would benefit from language clarifying how this contribution is calculated, and how existing QFs may obtain the information needed to calculate their rate. It may also be possible to implement the company's proposal in the form of a table, which would increase accessibility. Staff recommends that the commission require at least one of these approaches; either include in tariff language clearly establishing how existing QFs may calculate their capacity contributions based on historical data, or include a table specifying capacity contributions for existing QFs based on historical generation for on-peak hours from November to February. Staff will collaborate with the utility and stakeholders to work out the precise implementation of this direction.

LEO Standard
NIPPC/REC and staff agree that Avista's proposed paragraph addressing the legally-enforceable obligation (LEO) on Sheet 62O(III)(1)(D) beginning "In the event…" substantially limits the commission's discretion in deciding an issue. Staff recommends the commission direct Avista to delete the paragraph.

Avoided Cost of Energy
Avista's most recent market forecast was generated as a part of its 2019 IRP process, and using the company's IRP tools and data inputs. The forecast projects significantly lower market prices; relatedly, the 2019 IRP Progress Report 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.

[2] Docket UE-190663, NIPPC/REC comments, November 14, 2019, page 8.

NIPPC/REC urge the commission to set this filing for hearing to resolve this issue, although they did not provide an alternative estimate of avoided costs. Thus, in the absence of better information, staff does not at this time dispute the reasonableness of Avista's forecast. If the commission does set this matter for additional hearing, staff's position may change. Staff recommends the commission reject NIPPC/REC's arguments on this issue, and allow Avista to use the market forecast from its 2019 IRP Progress Report.

Energy Shaping Factors
Avista's tariff includes energy-shaping factors that bring in the seasonal variation of the value of energy to Avista's system. Staff believes these factors are an improvement in the granularity of the utility's pricing signal to QFs about the seasonal variation, and finds them particularly relevant in Avista's hydro-dominated system. NIPPC/REC urge the commission to set this filing for hearing to resolve this issue, although they did not provide an alternative set of seasonal rates. If the commission does set this matter for additional hearing, staff's position may change. Staff recommends the commission reject NIPPC/REC's arguments on this issue, and allow Avista to use the calculated energy shaping factors. Staff agrees with NIPPC/REC that "QFs should be provided the option to either not deliver during these months or sell their power to another third party" when prices are negative, and sees this nuance as something which could be contemplated in the standard PPA.[3]

Contracting Process and Timeline – remove interconnection study requirement in tariff
Avista's Sheet 62R, paragraph III(2)(A)-(B) states that Avista's obligation to purchase is conditioned "on the existence of a fully executed interconnection agreement." NIPPC/REC argue that this requirement is inconsistent with PURPA, and suggest that Avista clarify that these requirements apply to commercial operation, not to the execution of a contract.[4] Staff concurs with NIPPC/REC, and recommends the commission direct the utility to revise the language accordingly. Further, paragraph III(1)(K) requires QFs to provide "evidence that all relevant interconnection studies are complete." Staff views this requirement as similarly inconsistent with PURPA, and recommends that the commission direct the utility to remove it from its tariff as well.

Contracting Process and Timeline – extend 20-day signing window for final PPA
On Avista's tariff sheet 62R, step L in its contracting procedures provide that "the Customer shall, within twenty (20) days of its receipt of a final, executable version of the power purchase agreement, execute and return the final power purchase agreement to the company."

Staff agrees with NIPPC/REC's request to extend the 20-day signing window to 45 days. NIPPC/REC point out that Puget Sound Energy's (PSE) contracting procedures provide 45 days for QFs to sign,[5] and that some entities pursuing a PPA may have monthly legal or management review cycles. Staff believes adjusting this window to 45 days is a simple way to maintain

[3] Docket UE-190663, NIPPC/REC comments, November 14, 2019, page 9.
[4] Docket UE-190663, NIPPC/REC comments, November 15, 2019, page 12.
[5] Docket UE-190665, PSE's Schedule 91, Section 8.E.

consistency across Washington utilities, one of staff's goals throughout this PURPA implementation process.

NIPPC/REC request several additional changes to Avista's contracting process and timeline without providing specific language changes. In the absence of such specificity, staff recommends the commission reject NIPPC/RECs other arguments on this issue, and approve Avista's contracting process and timeline with the changes mentioned above.

Avoided Cost of Capacity and Capacity Contribution Values
NIPPC/REC request that Avista "perform an actual capacity contribution study and provide detailed support for the capacity contribution values."[6] Staff believes NIPPC/REC set a reasonable standard. In conversations with staff, Avista have suggested using the capacity contribution study and related values for wind and solar from the company's 2019 draft IRP.[7] Staff supports the company's proposal for wind, solar, and other QF fuel types for which a capacity contribution has been calculated.

Staff believes that the analysis provided in Avista's 2019 draft IRP satisfies the standard proposed by NIPPC/REC. Ideally, Avista's capacity contribution calculations would benefit from a robust public process as well as fresh information. Given the recent order in Avista's 2019 IRP docket granting the suspension of process for IRPs in the near term,[8] staff believes using the draft 2019 IRP is the best option available, and strikes an appropriate balance between these competing priorities. The commission should direct Avista to change its tariff accordingly, and waive WAC 480-106-040(1)(b)(i), which requires Avista to base its avoided capacity calculations on its 2017 IRP.

Additional time for review of standard Power Purchase Agreements
Though Avista's form PPA was filed over five months ago, staff understands that the company and interested stakeholders have not yet started negotiations over the PPA terms and conditions. At the September 12, 2019, open meeting, representatives from NIPPC and REC proposed addressing avoided costs and tariff language first, then negotiating and finalizing the PPA later. NIPPC/REC have included this request in most of their joint comments since.[9] Staff concurs that more time, and a specific window to focus solely on PPA issues, will lead to a more polished standard PPA.

Staff recommends that the commission issue an order creating two compliance filings for Avista. The avoided costs rates and tariff language must be filed by February 28, 2020, and the PPA(s)

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[6] Docket UE-190663, NIPPC/REC comments, January 6, 2020, page 2.
[7] Avista's Integrated Resource Plan, Technical Advisory Committee Draft, page 9-26, Table 9.1: Peak Credit, estimated publishing date February 28, 2020. This draft was circulated to the Technical Advisory Committee on December 18, 2019.
[8] Docket UE-180738, Order 02 granting commission staff's petition, November 7, 2019.
[9] Docket UE-190663, NIPPC/REC comments, November 15, 2019, page 12; December 9, 2019, page 18; January 6, 2020, page 4.

must be filed as attachments to the tariff by May 29, 2020. This will allow time for discussion of terms, and for drafting a form PPA that can be flexible enough to handle almost all QF types – a concern raised by NIPPC/REC in their request for more and clearer contract options.[10] Staff is recommending similar treatment for PPAs attached to Pacific Power & Light Company's PURPA tariff.[11, 12]

Staff hesitates to recommend this as part of the order without broader discussion with Avista and stakeholders, but offers a standard PPA structure which may lead to a standard PPA that would provide additional clarity and flexibility to all parties. Staff proposes three separate PPAs: one for new QFs, one for existing QFs, and one for QFs that do not meet the state's greenhouse gas emissions performance standards under RCW 80.80.040. The PPAs will address the differing terms required pursuant to WAC 480-106-050(4).

Further, staff proposes that these PPAs use various exhibits to address differentiation based on the supply characteristics of different technologies. QFs of different types would identify the exhibit that applies to their prospective project.

- Exhibit A: project details and PPA terms specific to baseload QFs and QFs without a calculated and substantiated capacity valuation, such as biomass and small hydro.
- Exhibit B: project details and PPA terms specific to fixed solar.
- Exhibit C: project details and PPA terms specific to tracking solar.
- Exhibit D: project details and PPA terms specific to wind.
- Exhibit E: project details and PPA terms specific to QFs pairing generation with energy storage, and describing capacity valuation adjustments based the project's specific details.

Stakeholder comments

A list of comments from all parties in this docket are found in the attachment to this memo. NIPPC/REC have been engaged and helpful in providing feedback on the company's tariff iterations. Staff responds to the Jan. 6, 2020, joint comments of NIPPC/REC in its discussion above.

Sheep Creek Hydro filed comments on October 20, 2019. The QF limited its comments to small hydro facilities. Sheep Creek Hydro asked that it be able to sell energy and capacity; that QFs have the option to sell at the posted Mid-C price without a discount; that capacity be valued based on commitment to the utility over critical months; that a QF be allowed to commit less than all of its output; and that the methodology calculating avoided costs of capacity be clear and transparent. Staff notes that Avista has addressed many, but not all, of the QF's concerns. Staff

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[10] Docket UE-190663, Comments on behalf of NIPPC and REC, December 9, 2019, page 15.
[11] Docket UE-190666.
[12] Docket UE-190665; PSE's attachments to the company's small QF tariff, Schedule 91, went into effect on December 6, 2019. PSE and interested stakeholders were able to find agreement with PSE's PPAs, so staff had no reason to propose an alternative.

supports the changes already made by Avista, and believes that Sheep Creek Hydro's remaining concerns would be addressed if the commission adopts staff's recommendation.

Sun2o Partners, LLC (Sun2o), and DGEP Holdings, LLC (DGEP) filed comments on November 13, 2019. 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."[13] The joint 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."[14] The parties contend that recent peak load events have occurred in the summer as much as the winter, and solar resources would have been useful to meet recent peak loads in both summer and winter. They also note that the resource used as a proxy for solar is aging, and while Avista 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.

Staff disagrees with the joint commenters' proposals, and urges the commission to accept the recommendations in the discussion section above.

Conclusion

Staff recommends that the commission issue an order rejecting the revisions to Schedule 62 filed by Avista Corporation, and directing the utility to file a tariff consistent with PURPA, the commission's Chapter 380-106 WAC and General Order R-597 by February 28, 2020, with PPA attachments submitted by May 29, 2020. Staff further recommends that the commission incorporate staff's recommendations from this memo into its order, waive WAC 480-106-040(1)(b)(i) and direct Avista Corporation to use capacity contribution values as calculated in the company's 2019 draft IRP, and require the company to submit two compliance filings: a tariff revision that addresses the above items by February 28, 2020, and standard power purchase agreements as an attachment to this tariff by May 29, 2020.

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[13] Docket UE-190663, comments on behalf of Sun2o Partners, LLC and DGEP Holdings, LLC, filed November 13, 2019, page 3.
[14] *Ibid.*