

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

POTLATCH CORPORATION,)	
)	CASE NO. AVU-E-02-08
Complainant)	
)	NOTICE OF SCHEDULING
v.)	
)	NOTICE OF HEARING
AVISTA UTILITIES,)	
)	ORDER NO. 29200
Respondent.)	

COMPLAINT

On December 24, 2002, Potlatch Corporation (Potlatch) filed a Complaint with the Idaho Public Utilities Commission alleging that Avista Corporation dba Avista Utilities has failed and refused, and continues to fail and refuse, to purchase the cogeneration output of Potlatch's qualifying facilities (QFs) at its Lewiston facility. Reference Public Utility Regulatory Policies Act of 1978 (PURPA).

Potlatch is a forest products company that operates wood pulp, paper board, tissue and wood products manufacturing plants at Lewiston, Idaho. Potlatch states that it owns and operates four separate qualifying facilities at its Lewiston facility capable of generating approximately 95 MW of energy. From 1991 through December 31, 2001, Potlatch sold the electric energy produced by its QFs to Avista pursuant to the provisions of an Electric Service and Purchase Agreement between Potlatch and Avista dated January 3, 1991. Reference Case No. WWP-E-91-05, Order No. 23858.

On October 2, 2001, Potlatch contends that it filed with Avista, in the manner required by applicable Commission Orders, its written request for a firm quote for Avista's purchase of its qualified facility's generation after the expiration of the 1991 Agreement. The parties have been unable to negotiate a PURPA contract. The meetings between the parties, Potlatch contends, have served only to establish the fact that Potlatch and Avista have fundamental and irreconcilable differences that will not be resolved through further negotiations.

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Potlatch contends that Avista has failed and refused to offer Potlatch a PURPA contract that complies with PURPA's requirements and this Commission's Orders. Specifically, it states, the purchase power rates proposed by Avista are well below Avista's avoided costs as defined in 18 C.F.R. § 292.101 and the Commission's Order establishing a methodology for avoided cost rate negotiations for QFs larger than 1 MW. In addition, Potlatch contends that Avista is attempting to impose unreasonable contract terms and conditions as a prerequisite to any purchase from Potlatch.

ANSWER

On January 27, 2003, Avista filed an Answer, affirmative defense, and Request for Deferral of Hearing. Avista contends that Potlatch has never unconditionally offered a quantity of power to Avista that it desired to supply, the period of time that it desired to supply such power or the non price-related features of the contract that it desired. Avista contends that Potlatch has not been "ready, willing, and able" to enter into a contract for the sale of power that sets forth specific obligations of the parties and that conforms with the requirements of the Commission.

REQUEST FOR DEFERRAL OF HEARING

Avista requests that the Commission defer any action on the Complaint for a period of 90 days and encourage the parties to engage in further settlement discussions, with Staff's active participation. In support of its request, Avista submits that there have been no substantive communications for nearly a year respecting the possible sale of power by Potlatch to Avista. Furthermore, Avista contends that wholesale market conditions have changed subsequent to the last discussion, which may improve the opportunity for Avista and Potlatch to reach agreement on a sale of power from the Lewiston facility. If the Commission defers action upon the Complaint, Avista states that it will endeavor to initiate settlement discussions with Potlatch for the purpose of attempting to resolve disputed matters without the necessity of hearing. Avista notes that it has requested the participation of the Commission Staff to help facilitate settlement discussions, and Commission Staff has agreed to participate.

On February 7, 2003, Potlatch filed a response to Avista's Request for Deferral of Hearing. Potlatch opposes Avista's request. Potlatch contends that despite roughly two years of off and on negotiations, the parties have been unable to come to any type of meeting of the

minds regarding the sale of Potlatch's cogeneration to Avista. Without debating the merits of its case, Potlatch contends that all of Avista's purchase proposals essentially amount to little more than an offer to purchase Potlatch's output at short-term market prices. This, Potlatch contends, is unacceptable. Potlatch concludes that the parties are at an impasse that can only be resolved by a Commission decision.

With respect to Avista's argument that proceedings should be continued to allow further negotiations in the light of recent conditions, Potlatch states that it is always willing to entertain a legitimate and reasonable proposal. The suggestion that such a proposal might be forthcoming is not, however, Potlatch contends, a reasonable ground for delaying these proceedings. If Avista has a new proposal to make to Potlatch, Potlatch contends that it should submit it in writing and Potlatch will respond in good faith. In the meantime, Potlatch contends that there is no reasonable basis for delaying these proceedings.

COMMISSION FINDINGS

The Commission has reviewed the filings of record in Case No. AVU-E-02-08 and has considered Avista's Request for Deferral of Hearing and Potlatch's related response. The Commission sees no reason that negotiation cannot proceed on a simultaneous path with a schedule for hearing. Establishing a hearing date, we find, establishes a date certain for resolution of this matter. That being said, however, the Commission strongly encourages Potlatch and Avista to negotiate towards a proposed settlement of this case. We accordingly find it reasonable to deny Avista's request to stay proceedings and establish the scheduling set forth below.

YOU ARE HEREBY NOTIFIED that the parties and the Commission have agreed to the following scheduling:

Friday, April 25, 2003	Prefile deadline—Potlatch direct testimony
Friday, May 23, 2003	Prefile deadline—Avista/Staff direct testimony
Friday, June 6, 2003	Prefile deadline—Rebuttal testimony

YOU ARE FURTHER NOTIFIED that discovery is available in Case No. AVU-E-02-08 pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.221-234.

YOU ARE FURTHER NOTIFIED that a **technical hearing** in Case No. AVU-E-02-08 is scheduled to commence **MONDAY, JUNE 16, 2003, IN THE COMMISSION HEARING ROOM, 472 WEST WASHINGTON STREET, BOISE, IDAHO,** continuing to June 17 and 18 at the same location if necessary.

YOU ARE FURTHER NOTIFIED that all hearings in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0338 (Telephone)
(208) 334-3762 (FAX)
E-Mail: jjewell@puc.state.id.us

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and the Public Utilities Regulatory Policies Act of 1978 (PURPA) and that the Commission may enter any final Order consistent with its authority.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED that Avista's Request for Deferral of Hearing in Case No. AVU-E-02-08 is denied.

IT IS FURTHER ORDERED and the Commission does hereby adopt the scheduling and hearing dates set forth above.

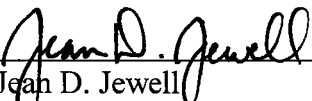
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 21st
day of February 2003.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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