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IDAHO PUBLIC  
UTILITIES COMMISSION

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE PETITION  
FILED BY IDAHO POWER COMPANY  
FOR APPROVAL OF MODIFICATIONS  
TO THE SECURITY PROVISIONS  
REQUIRED TO BE INCLUDED IN  
POWER PURCHASE AGREEMENTS  
BETWEEN ELECTRIC UTILITIES  
(IDAHO POWER, AVISTA  
CORPORATION DBA AVISTA  
UTILITIES, AND PACIFICORP DBA  
UTAH POWER & LIGHT COMPANY)  
AND PURPA QUALIFYING  
FACILITIES (QFS)

CASE NOS. IPC-E-03-16  
AVU-E-03-9  
PAC-E-03-13

REPLY COMMENTS OF  
AVISTA CORPORATION TO  
COMMENTS OF PACIFICORP

**I. INTRODUCTION**

Avista Corporation ("Avista"), by and through its undersigned attorneys respectfully requests that the Commission consider and receive these Reply Comments, filed in response to PacifiCorp's comments. In its order dated December 5, 2003, the Commission in this matter established a comment deadline of January 15, 2004. Avista is mindful of that deadline. PacifiCorp's comments were filed with the Commission on January 15, 2004, the normal deadline date, and were not received by the undersigned by mail until January 21, 2004. Therefore, Avista respectfully requests that these comments be received as a reply to PacifiCorp's comments, Avista believes that PacifiCorp's

REPLY COMMENTS OF  
AVISTA CORPORATION  
TO COMMENTS OF PACIFICORP - 1

comments may inadvertently lead to unintended consequences if adopted by the Commission.

## II. COMMENTS

In Section III of its written comments, PacifiCorp recommends that classes of liability insurance coverage be added to those listed in Idaho Power's Petition and Exhibits, to wit: Automobile liability coverage with limits of \$1 million dollars per incident and workers compensation coverage with limits of \$1 million dollars per incident.

Avista certainly does not dispute the prudence of insurance coverage related to automobile liability and workers compensation. However, Avista normally requires insurance coverage of these types from any PURPA project from which it purchases power, irrespective of whether the PURPA project has contracted to sell at a levelized or unlevelized PURPA purchase rate. The insurance requirements to which Idaho Power's Petition only relate are those that secure the financial capacity of a PURPA project to discharge its contract obligation to the purchasing utility purchase contract, when the purchase contract provides for a levelized rate. If property and personal injury liability insurance is added to the schedule of insurance referred to in Idaho Power's petition, then PURPA project developers might conclude that they have no obligation to obtain liability insurance if they elect to receive an unlevelized rate. Allowing PURPA projects to interconnect their generators into a utility electric grid without liability insurance would be an unintended and possibly risky result.

Avista submits that it is prudent as a matter of normal business practice to require PURPA projects to provide assurances that they have automobile, workers compensation

and general liability insurance. Liability insurance requirements are normally requested by Avista, because of the possibility that the utility, as a purchaser of power from a small PURPA project, may be sued by people who have suffered property damage or personal injury resulting from the PURPA project's activities. Absent such insurance, PURPA projects may be financially unable to defend such lawsuits, thereby compelling Avista to assume the full cost of defense of lawsuits in those instances where both the utility and the PURPA projects are joint defendants. Also, if Avista is a named insured under a PURPA project's liability policies, then the possibility of cross litigation between the PURPA project and Avista is minimized.

The Commission has not standardized for all utilities in Idaho the magnitude and structure of property and personal injury liability insurance required of PURPA developers. Avista recommends that the Commission not address such liability insurance requirements in this docket. Each utility should be permitted to negotiate such coverage individually.

Each utility may have a different level of liability coverage that it believes prudent. For instance, different utilities may have different self-insurance levels, and may negotiate liability insurance coverage with PURPA developers to coordinate the Purpa project's liability coverage with the utility's self-insurance.

Moreover, Avista is not aware of any instance where liability insurance has been an obstacle to reaching an agreement with a PURPA Project. Therefore, it is not necessary for the Commission to address the level and structure of liability insurance.

### **III. CONCLUSION**

Avista submits that it would be prudent to permit each utility to individually develop its requirements for personal injury and property damage, and negotiate such requirements with PURPA projects. The Commission has not, heretofore, required uniform and standardized liability insurance requirements for PURPA developers. It would not be appropriate to deal with personal injury and property damage liability insurance in this docket which only addresses the security requirements for PURPA projects that receive payments at levelized avoided cost rates.

Other than the foregoing comments with respect to property and personal injury liability insurance requirements, Avista has no objection to the comments of Staff, or PacifiCorp in this matter. Because, Avista's Reply Comments are prompted and necessitated by the comments filed by PacifiCorp, Avista respectfully requests that these Reply Comments be received out-of-time.

### **IV. SERVICE OF FURTHER PLEADINGS**

Service of further pleadings, and other documents relating to this proceeding should be served upon the following:

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**RESPECTFULLY SUBMITTED** this 23<sup>rd</sup> day of January, 2004.

Paine, Hamblen, Coffin, Brooke & Miller LLP

By: R. Blair Strong  
R. Blair Strong  
Attorneys for Avista Corporation

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the \_\_\_\_ day of January, 2004 I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Ms. Jean Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
Boise, Idaho 83720-0074

Randy C. Allphin  
Contract Administrator  
Idaho Power Company  
P.O. Box 70  
Boise, ID 83707-0070

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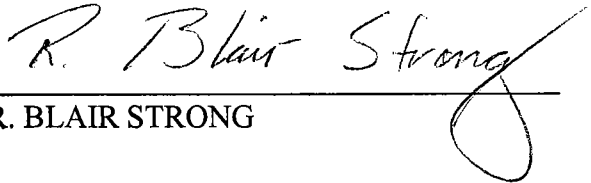
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