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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT PETITION OF AVISTA CORPORATION AND STIMSON LUMBER COMPANY FOR APPROVAL OF POWER PURCHASE AND SALE AGREEMENT	**CASE NO. AVU-E-19-16** **COMMENTS OF THE COMMISSION STAFF**

The Staff of the Idaho Public Utilities Commission ("Staff") submits the following comments regarding the above referenced case.

BACKGROUND

On December 31, 2019, Avista Corporation ("Avista") filed a Joint Petition ("Petition") seeking approval of a proposed Power Purchase Agreement ("Agreement") with Stimson Lumber Company ("Stimson" or "Seller") for the energy generated by a thermal wood waste small power electric generation plant operated by Stimson in Plummer, Idaho ("Facility"). The Facility is a qualifying facility ("QF") under the Public Utility Regulatory Policies Act of 1978 ("PURPA").

The proposed Agreement replaces a prior power purchase agreement which was approved by the Commission in Order No. 30224 on January 19, 2007. The original term of the previous agreement was five years, expiring on September 30, 2011. Order No. 30224. The Commission

approved an amendment to this agreement extending the term "until either the effective date of a new power purchase agreement executed by the Parties or January 2, 2012, whichever is earlier" in order to allow them additional time to complete their negotiations and execute a new power purchase agreement. *See* Order No. 32382 at 2. A new power purchase agreement with a five year term between Stimson and Avista was approved by the Commission on January 13, 2012, and became effective on January 15, 2012. *See* Order No. 32436. The agreement approved in Order No. 32436 was amended to extend its term through December 31, 2019. *See* Order No. 33678.

Avista states that if the proposed Agreement is approved by the Commission prior to February 21, 2020, that the term of the agreement commence on January 1, 2020, and extend for a term of one year following this requested effective date.

Avista represents that in the event the Commission does not approve the Agreement by February 21, 2020, or approves it subject to conditions unacceptable to the parties, the Agreement will terminate. In such event, Stimson shall refund certain amounts to Avista pursuant to Section 5.4 of the proposed Agreement.

STAFF ANALYSIS

Staff recommends approval of the proposed agreement between Avista and Stimson conditioned on the parties: (1) applying the "82.4%" discount rate to the Intercontinental Exchange firm energy index to determine a non-firm market price for the 90/110 rule; (2) modifying the Agreement so that the contract price during the period that the contract has lapsed will be the lesser of the avoided cost rates approved by the Commission for this Agreement or the "Market Energy Cost", which should be 85% of the non-firm market energy price for each month;[1] and (3) correcting the date on the Replacement Exhibit E. In addition, Staff also has concerns regarding renewal contracts with a one-year term that includes capacity payments and recommends avoided cost rates without them for the period after the approval date.

[1] The lesser of 85 percent of the market price or the contract price is defined as "Surplus Energy Cost" in section 11.2 of the Agreement and is the same rate Staff is proposing to use for generation delivered to Avista during the lapsed contract period as described later in these comments. The rate is also equivalent to the "Short-Term Rate" under Avista's Schedule 62 – Cogeneration and Small Power Production Schedule – Idaho.

90/110 Rule

QFs provide a monthly estimate of the amount of energy they expect to produce. If the QF delivers more than 110 percent of the estimated amount, energy delivered in excess of 110 percent is priced at the lesser of 85 percent of the market energy price or the contract price. If the QF delivers less than 90 percent of the estimated amount, total energy delivered is priced at the lesser of 85 percent of the market price or the contract price. Order No. 29632 at 20. Staff in the following analysis examined three specific areas: the "market price" used in the rule, the timeframe for providing monthly estimates, and the timeframe for revising monthly estimates.

Market Price

Staff believes Avista is using the incorrect market price when the Facility delivers monthly energy outside of the 90/110 band. The proposed Agreement specifies using 85% of the Intercontinental Exchange ("ICE") daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg index prices, which is a "firm" market price for energy, when the delivered energy falls outside of the 90/110 band. However, Staff believes that the "Market Energy Cost", as defined in the agreement, for purposes of the 90/110 rule is supposed to use 85% of a market price for "non-firm" energy, instead. This would require that Avista first take 82.4% of the ICE daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg index prices in order to get a non-firm energy price prior to applying the 85%.

The Commission, through Order No. 29632, specified using the "monthly weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index ("Dow Jones Mid-C Index") prices as the market price for non-firm energy. This is the same market price index used in this Facility's first contract approved in Case No. AVU-E-06-10.

However, the Dow Jones Mid-C Index was discontinued in 2013, and Case No. IPC-E-13-25 was initiated to find a replacement market index for non-firm energy. Because firm energy is more valuable than non-firm energy, parties in that case agreed and the Commission authorized that 82.4% of the monthly arithmetic average of each day's ICE daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg index prices can be used as a replacement market index for non-firm energy. *See* Order No. 33053.

Timeframe for Providing Monthly Estimates

The proposed Agreement uses a rolling window method approved in Order No. 29632, which allowed QFs on Idaho Power system to provide one year of monthly generation estimates and beginning at the end of month nine and every three months thereafter provide an additional three months of forward estimates so that there will always be six months of QF production estimates available on a rolling basis. *See* Order No. 29632 at 23. Order No. 29880 further clarified that "the 90/110 performance band established in Order No. 29632 is applicable to all three Idaho public electric utilities: PacifiCorp, Idaho Power, and Avista. *See generally* Order No. 29880. The Commission develops its PURPA contract standards and requirements in generic methodology, ratesetting, and complaint cases." Thus, Staff believes the proposed timeframe for providing monthly estimates is reasonable and complies with existing orders.

Timeframe for Revising Monthly Estimates

Although this Facility did not adopt Order No. 29632's timeframe for revising monthly estimates, Staff believes that the proposed use of five-day advance notice is reasonable and acceptable. Order No. 29632 allowed QFs to revise estimates at the end of month three and every three months thereafter for the forward period beginning the fourth month out through the end of the estimate period.

The Commission has approved five-day advance notice for several Idaho Power cases, including Case Nos. IPC-E-19-01, IPC-E-19-03, IPC-E-19-04, IPC-E-19-07, and IPC-E-19-12. The justification was based on revision estimates closer to the time of delivery can improve the accuracy of input used for short-term operational planning. Staff believes this reasoning can be applied to any utility. In addition, this Facility has a long generation history. Staff believes the five-day advance notice in the Agreement is sufficient.

Capacity Payments

In Order No. 32697, the Commission stated that, "if a QF project is being paid for capacity at the end of the contract term and the parties are seeking renewal/extension of the contract, the renewal/extension would include immediate payment of capacity." Order No. 32697 at 21. Furthermore, the Commission on petitions of reconsideration and clarification in Order Nos. 32737, 32871 and 32802, reiterated its ruling and implied that it applies generally for all

PURPA contracts. Stimson was receiving capacity payments at the end of its previous contract; therefore, Staff believes that the proposed Agreement complies with past Commission orders. However, because the Agreement only has a one-year term, Staff believes that including immediate capacity payments is not appropriate. At the time of issuing the above orders, renewal contracts were generally longer than one year. Staff believes the avoided cost for a one-year contract, even if a renewal of a previous contract, shouldn't include capacity payments.

The rationale the Commission took regarding whether or not a renewal contract was eligible for immediate capacity payments was rearward looking. It determined if the QF was receiving capacity payments at the end of its previous contract, "an existing QF's capacity would have already been included in the utility's load and resource balance and could not be considered surplus power." Order No 32697 at 21. However, Staff's concerns are forward-looking, especially when combined with a short-term contract and the uncertainty it creates for the utility. Specifically, Staff is concerned that: (1) Avista cannot count on the capacity contribution from a contract that would be considered "short-term" from a long-term resource planning perspective; (2) one-year contracts should only be valued at market from an operational planning perspective; and (3) having the choice to enter into a one-year contract could encourage gaming by a QF developer.

First, Staff believes that for a utility to include an avoided cost of capacity for a PURPA QF, it must be considered as a long-term resource that can be included in the utility's long-term integrated resource plans ("IRP") and will eventually contribute capacity at a time of a future deficiency. Generally, Idaho's electric utilities only include long-term contracts in their IRP. This is because resources that only commit to short-term contracts typically sign contracts with the highest bidder once their contract expires. Because of this uncertainty, utilities will ignore short-term contracts in their IRPs and are forced to plan capacity only using resources that can and will provide long-term commitments. As an extension of this reasoning, a resource such as Stimson's, that only commits to a one-year contract, should not be included in Avista's IRP's and thus will not avoid the cost of future capacity since the utility must have a resource that can be relied upon to meet future load. This is the primary reason Staff believes that Stimson should not be entitled to an avoided cost of capacity unless it can commit to providing a contract with more certainty.

Second, from an operational planning perspective, a one-year contract should only be valued at market and no further consideration for the value of capacity should be considered. The main goal of operational planning is to optimize cost given that Avista has planned enough long-term resources to reliably meet load. All fixed costs are considered sunk costs and operational planning decisions are all based on costs that can be changed during the operational planning time horizon.

Third, allowing one-year contracts while still allowing capacity payments could encourage gaming. A single year contract could allow a developer to delay signing a longer-term contract until avoided cost rates become more favorable. However, as explained above, one-year short-term contracts do not provide the type of certainty needed to continue avoiding or avoid future capacity. Staff believes one-year short-term contracts should be allowed, but they should not include an avoided cost of capacity in their rates.

Given these concerns, Staff believes that a one-year renewal contract with immediate capacity payments is not appropriate. Staff has recalculated the rates included in Replacement Exhibit E to the Agreement without an avoided cost for capacity in the table below.

Contract Term	Heavy Load Hours ($/MWh)	Light Load Hours ($/MWh)
January to February of 2020	32.88	27.48
March to June of 2020	25.57	21.37
July to December of 2020	32.88	27.48

Lapsed Contract Price

The current contract expired as of December 31, 2019, the day that Avista filed the proposed Agreement. The parties have proposed to backdate the contract price starting January 1, 2020, using the current approved avoided cost rates for renewal projects during the lapsed period, if the Agreement is approved by the Commission by February 21, 2020. If the proposed Agreement is not approved by this date, the parties have agreed to terminate it with no obligation to buy or sell power between the parties moving forward and the agreed-upon price Avista will pay for power generated during the lapsed period (January 1 through the Commission decision date) is the lesser of the current approved avoided cost (as shown in Replacement Exhibit

E of the Agreement) or the "Market Energy Cost", which should be 85% of the non-firm market energy price for each month.

However, Staff believes that a lapsed or expired contract period is avoidable, and the Commission should not encourage operating a project without a contract. Since the Facility is technically not operating with a contract in place during the lapsed period, Staff believes there is no obligation set forth by Commission order or by the Federal Energy Regulatory Commission to guarantee a specific rate. However, there is value in the generation supplied during this interim period, but the value does not rise to the level of a guaranteed contract price inclusive of contractual obligations and guarantees that accompany it. Thus, Staff believes it is appropriate to use the lesser of the avoided cost proposed by Staff (without capacity payments) as shown in the table above or 85% of the non-firm market energy price for each month, regardless of whether the Commission approves the Agreement by February 21 or not.

Error in Replacement Exhibit E

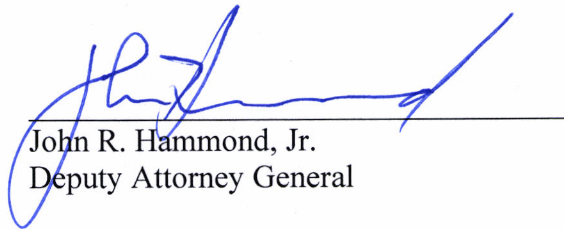
Replacement Exhibit E in the Agreement states "[t]he pricing information provided herein is based on current avoided cost rates in Idaho (August 30, 2011)…" Staff believes the date should be June 1, 2019 and recommends Avista should correct the mistake.

STAFF RECOMMENDATION

Staff recommends the Commission approve the agreement with the Staff proposed changes and conditions listed below. Staff also recommends Avista's payments to Stimson for the purchase of energy generated by the thermal wood waste small power electric generation plant under the Agreement be allowed as prudently incurred expenses for ratemaking purposes.

a. Using the "82.4%" discount when applying the Intercontinental Exchange index for the 90/110 rule;
b. Modifying avoided cost rates without capacity payments for the Agreement term after the approval date;
c. Modifying prices for the lapsed contract period to be the lesser of the avoided cost rates approved by the Commission for this Agreement or 85% of the non-firm market energy price for each month; and
d. Correcting the date on the Replacement Exhibit E.

Respectfully submitted this 7th day of February 2020.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 7th DAY OF FEBRUARY 2020, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF,** IN CASE NO. AVU-E-19-16, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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