

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF AVISTA AND THE ) CASE NO. AVU-E-22-04**  
**UNIVERSITY OF IDAHO’S JOINT )**  
**PETITION FOR APPROVAL OF A POWER )**  
**PURCHASE AGREEMENT (SOLAR ) ORDER NO. 35440**  
**FACILITY) )**  
**)**

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On February 23, 2022, Avista Corporation (“Company”) and the Regents of the University of Idaho (“University”) (collectively, the “Parties”) petitioned the Commission for an order approving a power purchase agreement (“Agreement”) between the Company and the University for the University’s 132.32 Kilowatt (“kW”) solar facility (“Facility”). The Parties requested a Commission order approving the Agreement’s effective date of February 16, 2022.

On March 18, 2022, the Commission issued a Notice of Application and Notice of Modified Procedure and set public and Company reply deadlines. Order No. 35347.

On May 4, 2022, the Commission Staff (“Staff”) filed comments recommending specific amendments be made to the Agreement being it is approved by the Commission.. The Company filed reply comments on May 10, 2022, and attached a “First Amended and Restated Purchase Power Agreement” (“Amended Agreement”) to its reply comments which incorporated Staff’s recommendations.

With this Order, we approve the Company’s Petition and the Amended Agreement.

**PETITION**

The Facility is in Moscow, Idaho and is a Qualifying Facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”). The University intended to use the output from the Facility to serve the University’s load. Under the Agreement, the University would sell to the Company all output from the Facility that exceeds the University’s load. The Company represented that such output would be sold at the “avoided cost calculated at the time of delivery, which shall be, for each hour in which the University delivers such output to the Company at the Point of Delivery the Market Energy Price for such hour expressed in \$ per [kilowatt hour] multiplied by the total [kilowatt hour] delivered to Avista at the Point of Delivery for such hour.” Petition at 3-4. The avoided cost rates used in the Agreement would be calculated at the time of

delivery, using the PowerDex hourly Mid-Columbia (“Mid-C”) index price, or other mutually agreed-to index. The term of the Agreement is for two years from February 16, 2022.

### **STAFF COMMENTS**

Based on its review, Staff recommended the parties make the following changes to the Agreement: (1) remove the option, “other mutually agreed-to index”; (2) set avoided cost rates at 85 percent of the PowerDex hourly Mid-C index price and apply this rate for any potential lapsed contract period; and (3) update Article 21 to ensure any amendment or modification did not become valid without Commission authorization.

Staff further recommended the Parties verify that the Nameplate Size and the Maximum Generation Injection at Point of Interconnection amounts in the Agreement were correct. Staff Comments at 2.

#### **1. Avoided Cost Rates**

Staff noted the Agreement proposed to use the “PowerDex hourly Mid-C index price”—a purely market-based rate—as the avoided cost rates in the Agreement. *Id.* at 3. Staff noted that market-based rates for legally enforceable obligation purchases have been approved by the Commission before and did not disagree with allowing these rates in the Agreement. *Id.*

That said, Staff recommended the Parties remove the option of “other mutually agreed-to index” in Articles 1.16 and 5.2 of the Agreement because to change the Agreement to use another market price index the Parties would need to obtain prior Commission approval.

Staff further recommended that an 85 percent adjustment factor be applied to the PowerDex hourly Mid-C index price for avoided cost rates for non-firm energy generation, consistent with prior Commission orders.

#### **2. Nameplate Size and Maximum Generation Injection at Point of Interconnection**

Staff noted that Exhibit A of the Agreement stated that the Nameplate Size and the Maximum Generation Injection at Point of Interconnection were the same. However, Staff further noted that Federal Energy Regulatory Commission (“FERC”) Form 556 for the Facility indicated otherwise. Thus, Staff recommended that the Parties verify that the Nameplate Size and the Maximum Generation Injection at Point of Interconnection were correct. Staff believed the Maximum Generation Injection at Point of Interconnection would account for any consequential line losses between the Facility and the Point of Interconnection.

### **3. Lapsed Contract Period**

Staff recommended that if the final approved effective date resulted in a lapsed contract period that required retroactive rates, the Parties use 85 percent of the PowerDex hourly Mid-C index price for the energy delivered during the lapsed contract period.

### **4. Article 21: AMENDMENT**

Staff believed that Article 21 of the Agreement, which states that, “[n]o change, amendment or modification of any provision of this Agreement shall be valid unless set forth in a written amendment to this Agreement signed by both Parties,” should include additional language reflecting that Commission approval was required for any amendment to the Agreement to become valid.

Staff recommended the Parties file an updated agreement as a compliance filing to reflect Staff’s recommended changes.

### **COMPANY REPLY COMMENTS**

The Company filed reply comments stating that it agreed with all of Staff’s recommendations and that it followed them. The Company filed the Amended Agreement which incorporated all of Staff’s recommendations as an attachment to its comments.

### **COMMISSION DISCUSSION AND FINDINGS**

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, -502, and -503. *Idaho Code* § 61-501 authorizes the Commission to “supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the [Public Utilities Law].” *Idaho Code* §§ 61-502 and -503 empower the Commission to investigate rates, charges, rules, regulations, practices, and contracts of public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provision of law, and to fix the same by order. In addition, the Commission has authority under PURPA and FERC regulations to set avoided costs, to order electric utilities to enter fixed-term obligations for the purchase of energy and capacity from QFs, and to implement FERC rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

The Commission has reviewed the record, including the Company’s Filing, Staff’s comments, and the Company’s reply comments. The Amended Agreement incorporates all of Staff’s recommendations. We find it to be fair, just, and reasonable to approve the Company’s Amended Agreement that was filed with its reply comments.

**ORDER**

IT IS HEREBY ORDERED that the Amended Agreement between the Company and the University is approved, effective February 16, 2022.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order regarding any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 22<sup>nd</sup> day of June 2022.



ERIC ANDERSON, PRESIDENT

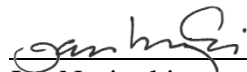


JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki  
Commission Secretary

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