

## DECISION MEMORANDUM

**TO:** COMMISSIONER ANDERSON  
COMMISSIONER HAMMOND  
COMMISSIONER LODGE  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL

**FROM:** YAO YIN  
MICHAEL DUVAL, DEPUTY ATTORNEY GENERAL

**DATE:** FEBRUARY 13, 2024

**RE:** IN THE MATTER OF THE JOINT PETITION OF AVISTA CORPORATION AND CLEARWATER PAPER CORPORATION FOR APPROVAL OF AMENDMENT NO. 1 TO POWER PURCHASE AND SALE AGREEMENT; CASE NO. AVU-E-23-15.

On October 2, 2023, Avista Corporation d/b/a Avista Utilities (“Company”) and Clearwater Paper Corporation (“Clearwater”) (collectively as “Parties”) entered into Amendment No. 1 to amend the Power Purchase and Sale Agreement (“Agreement”) to extend the Term for three additional years.

On November 26, 2023, the Parties entered into Amendment No. 2 to (i) correct references to Amendment No. 1 to the Renewable Energy Certificate (“REC”) Agreement, (ii) replace Exhibit F with Revised Exhibit F, and (iii) update the definition of “REC Agreement.”

On December 29, 2023, the Commission issued Order No. 36046 extending the Agreement through December 31, 2026, subject to further compliance filing. Specifically, the Order required the Company to update avoided cost rates according to Section II of the Order, include the 90/110 Rule, update Exhibit B, update Schedule 25P, include language to address modifications to the Facility, and include language that Commission approval is required when the Agreement is modified.

On January 19, 2024, the Parties entered into Amendment No. 3 to comply with Order No. 36046.

On February 2, 2024, the Parties entered into Amendment No. 4 to correct Revised Exhibit B contained in Amendment No. 3.

## STAFF ANALYSIS

Staff has reviewed the Company's compliance filings and believes that the Company has complied with Order No. 36046 with one exception. Staff does not believe that the Company has complied with Order No. 36046 in determining avoided cost rates. Specifically, the Company did not use the first capacity deficiency date authorized when the original Agreement was signed. However, Staff recommends approval of the avoided cost rate, because the rate will be offset by the Schedule 25P Block 2 Generation Load rate Clearwater pays Avista.

Order No. 36046 required the Company to determine avoided costs using the first capacity deficiency date authorized when the original Agreement was executed. The original Agreement was executed on November 20, 2018. The authorized first capacity deficiency period at that time was December of 2026. Order No. 33958. Therefore, the Company should have included capacity payments for December of 2026, the last month of the extended contract term. However, the Company failed to include any capacity payments in its avoided cost rates, because the Company believes "the contract is not in a capacity deficit period." Amendment No. 3 Letter at 2. Despite this error, Staff recommends approval of the avoided cost rate, because the rate will be offset by the Schedule 25P Block 2 Generation Load rate Clearwater pays Avista. Staff also believes capacity payments should start immediately if the Parties renew the Agreement beyond 2026.

## STAFF RECOMMENDATION

Staff recommends the Commission approve the Company's Amendment Nos. 1, 2, 3, and 4.

## COMMISSION DECISION

Does the Commission wish to approve the Company's Amendment Nos. 1, 2, 3, and 4?



Michael Duval  
Deputy Attorney General