

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE JOINT PETITION ) CASE NO. AVU-E-24-03**  
**OF AVISTA CORPORATION AND STIMSON )**  
**LUMBER COMPANY FOR APPROVAL OF ) ORDER NO. 36189**  
**AMENDMENT NO. 6 TO POWER )**  
**PURCHASE AND SALE AGREEMENT )**  
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On February 6, 2024, Avista Corporation d/b/a Avista Utilities (“Avista”) and Stimson Lumber Company (“Stimson”) (collectively “the Parties”) jointly petitioned the Idaho Public Utilities Commission (“Commission”) requesting an order approving Amendment No. 6 to the Power Purchase Agreement (“PPA”) between the Parties (“Petition”). The Parties represented that Amendment No. 6 would account for the anticipated periods when the Facility<sup>1</sup> does not operate between January 1, 2024, and December 31, 2025. The Parties requested that the Commission issue an order accepting Amendment No. 6 with a retroactive effective date of February 2, 2024.

On March 4, 2024, the Commission issued a Notice of Petition and established public comment and Party reply deadlines. Order No. 36106. Commission Staff (“Staff”) filed comments to which the Parties replied.

With this Order, the Commission rejects the Parties’ proposed Amendment No. 6. to the PPA as described below.

**THE PETITION AND BACKGROUND**

The Parties represented that the original PPA was extended by Amendment No. 2 through December 31, 2023. Then, Amendment Nos. 3 through 5 extended the term of the PPA through December 31, 2025, and updated the PPA to apply the current published avoided cost rates to all power purchases by Avista from January 1, 2024, through December 31, 2025.

The Parties stated that Stimson informed Avista that Stimson expects there to be extended periods when the Facility will not be operating during the updated contract term. As a default, Section 31 of the PPA requires Stimson to pay Avista a use-of-facilities (“UOF”) charge during

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<sup>1</sup> The Facility is a 6.5 megawatt, “thermal wood waste small power electric generation plant located in Plummer, Idaho.” Petition at 2.

the entire PPA term. The proposed Amendment No. 6 would alter the requirement of Section 31 and allow Stimson to not pay the UOF charge for any months that the Facility is not used.

## **PARTY COMMENTS**

### **A. Staff Comments**

Staff recommended the Commission reject Amendment No. 6 due to its treatment of the UOF charge. However, Staff was open to the Parties filing a new Joint Petition wherein UOF charges could be approved for only the months when the Facility operates but the annual UOF charge would remain at the full amount of \$8,448.

#### **Purpose of UOF Charge**

Staff argued that the Parties' Petition defeats the purpose of UOF charges. Staff noted that, originally, UOF charges were implemented to recover the initial investment as well as the operation and maintenance ("O&M") of the interconnection facilities. However, the initial investment was recovered in 2020, so the specific UOF charge is now designed to recover the O&M costs only. Staff discussed the equation used to calculate UOF charges and argued that "if Stimson is allowed to pay [UOF] only in the months when the Facility operates, the purpose of the [UOF] charge is compromised and Stimson's share of Avista's annual O&M-driven costs will not be fully recovered." Staff Comments at 2.

#### **Impacts on Ratepayers**

Staff stated that the Parties proposal would have a negative effect on ratepayers during months when the Facility did not operate. The UOF charge is based on an annual charge of \$8,448, or \$704 monthly. Staff stated that if the UOF rate is charged at a monthly rate of \$704 for *only* the months where the facilities are used, then the annual UOF charges would be below the \$8,448 annual rate needed for O&M—with the other customers paying the difference.

#### **Potential Development of Tariff Schedule**

Staff noted that Avista's UOF charges are subject to a case-by-case determination and recommended that Avista coordinate with Staff before its next general rate case to potentially develop a tariff schedule for UOF costs.

### **B. Avista's Comments**

Avista reaffirmed its request to modify the UOF charges Stimson pays to only the months Stimson operates its Facility. Avista argued the Petition's proposal "attempts to find a solution that

preserves both the QF's ability to generate and sell its output, and the utility's ability to collect the use-of-facilities charge if and when the QF does generate." Reply Comments at 1.

Because Staff's minimum UOF charge proposal would "not relieve the economic impact" of Stimson's inactive months, Avista did not express interest in the minimum annual \$8,448 UOF charge covering only those months that the Facility operated. *Id.* Avista is willing to meet with Staff to explore developing a tariff schedule for UOF costs. However, Avista opined this might be unnecessary because of the uniqueness of this case and the arrangement with Stimson.

### **COMMISSION FINDINGS AND DECISION**

The Commission has jurisdiction over the Parties' Petition and the issues in this case under Title 61 of the Idaho Code including *Idaho Code* §§ 61-301 through 303. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of all public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provisions of law, and to fix the same by order. *Idaho Code* §§ 61-501 through 503.

Having reviewed the record in this case the Commission finds that the Parties' proposed Amendment No. 6 is not fair, just, or reasonable in certain situations because it would shift recovery of costs to other customers. While the Commission understands Avista's desire to charge Stimson a lower rate tied to the months Stimson uses the facilities, such a design would alter the purpose of UOF fees.

Avista believes this case is unique and thus justifies unique treatment through Amendment No. 6. The Commission does not believe that the factors in this case are so unique as to justify the disparate treatment that the Parties are proposing or the cost-shifting that could arise from Amendment No. 6. As noted above, fairness is a factor that the Commission must consider. The Parties have failed to convince the Commission that offering Stimson beneficial treatment is fair. Even if the amount in question is modest, the Commission finds that this amount would unfairly benefit Stimson at the expense of Avista's other customer classes. For these reasons, the Commission rejects the Parties proposed Amendment No. 6.

We encourage Avista to meet with Staff before its next general rate case to explore the possible development of a tariff schedule in the next general rate case for the recovery of UOF related costs.

**ORDER**

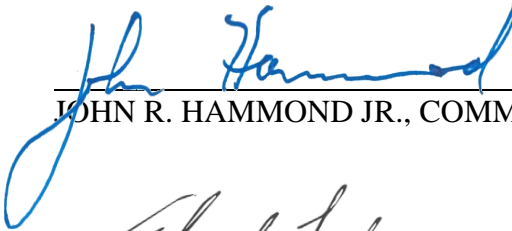
IT IS HEREBY ORDERED that the Commission hereby rejects the Parties' proposed Amendment No. 6. to the PPA as discussed above.

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 about 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 21<sup>st</sup> day of May 2024.



ERIC ANDERSON, PRESIDENT



JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Monica Barrios-Sanchez  
Commission Secretary

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