

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF AVISTA</b>	)	<b>CASE NO. AVU-E-24-06</b>
<b>CORPORATION AND FORD HYDRO</b>	)	
<b>LIMITED PARTNERSHIP’S JOINT</b>	)	
<b>PETITION FOR APPROVAL OF A POWER</b>	)	<b>ORDER NO. 36282</b>
<b>PURCHASE AGREEMENT</b>	)	
	)	

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On May 16, 2024, Avista Corporation d/b/a Avista Utilities (“Company”) and Ford Hydro Limited Partnership (“Seller”) (collectively, “Parties”) submitted a joint petition to the Idaho Public Utilities Commission (“Commission”) for approval of a Power Purchase Agreement (“PPA”) that would authorize the sale of energy from Seller’s hydroelectric facility (“Facility”) to the Company (“Petition”). The proposed PPA was filed concurrently with the Petition as Attachment A.

On June 20, 2024, the Commission issued a Notice of Petition and established public comment and Party reply deadlines. Order No. 36234. Commission Staff (“Staff”) filed comments to which the Parties did not respond.

With this Order, we approve the proposed PPA subject to a compliance filing as discussed below.

**THE PETITION**

The Parties intend the proposed PPA to replace the current PPA which expired on June 30, 2024. The proposed PPA would expire on June 30, 2026.

The Parties stated that the proposed PPA largely parallels the existing PPA but has been updated to reflect or clarify language regarding Commission mandates related to the 90/110 Rule, the PPA’s provisions regarding the modifications to the Facility, and the necessity of obtaining Commission approval for amending the PPA.

**STAFF COMMENTS**

Staff recommended approval of the Parties’ proposed PPA subject to a compliance filing for the items discussed below.

### The PPA's Fourth Recital and the Rolling Window of Delivered Net Output Estimates

The proposed PPA's fourth recital mistakenly states that the current PPA's expiration date is June 29, 2024, instead of June 30, 2024. Likewise, the Company stated during discovery that it desired to adopt a three-month rolling window of Delivered Net Output estimates whereas the PPA mistakenly stated it would have a six-month rolling window. Staff recommended that these errors be corrected.

### Renewable Energy Credits and Technology Type

The PPA stated that, to the full extent allowed by applicable laws or regulations, the Company shall own 50% of the Environmental Attributes associated with the Net Delivered Output. During discovery the Company further clarified that 100% of the Renewable Energy Credits will go to the relevant qualifying facility in accordance with Commission Order No. 32802. Staff also recommended that the PPA specify that the Facility is a non-seasonal hydro project to ensure that it does not get mistakenly identified as a seasonal hydro project.

### Section 10.6 (Modifications), Eligibility for Capacity Payments, and the 90/110 Rule

Staff recommended that Section 10.6 of the PPA cite Section 22 of the PPA (rather than mistakenly citing Section 21) regarding modifications to the Facility. Relatedly, Staff recommended that, regardless of the actual compensation paid to the Facility after modification, the Company should only be allowed to recover (through the Power Cost Adjustment ("PCA")) the net power supply expenses reflecting the authorized rate for energy delivered as of the first operation date of the modified Facility.

Staff also reviewed the Commission's standards for receiving capacity payments and recommended that the Company be granted capacity payments as part of the renewal of the PPA. Staff stated that the Facility has a 1.8-megawatt nameplate capacity. Staff explained that, while the Facility will operate past the operation date of the previous contract, this should not affect capacity payments—since the Facility will not generate energy until December due to a lack of water flow. Staff also discussed the 90/110 Rule and recommended that the PPA adopt it and the associated five-day advanced notice relative to the Seller potentially adjusting its Delivered Net Output Estimates.

### Avoided Cost Rates

Staff noted a mistake in Section 6.1 and recommended that the phrase “not Surplus Energy” should be replaced with “not Surplus Energy or Shortfall Energy.” Staff also believed that the PPA’s usage of the term “Effective Date” indicates July 1, 2024. Staff argued that the term “Effective Date” should be replaced with the proper date of May 15, 2024. Staff stated that this date should be used as this is the date that the Company established Legally Enforceable Obligations and when avoided cost rates were locked in. Lastly, Staff noted that Exhibit E cites Section 11.1—which does not exist. Staff believed that Exhibit E should have referenced Section 6.1. Staff recommended that these items be corrected.

### Lapsed Contract Period

Staff echoed the Commission’s concerns from previous cases regarding late filed renewal contracts (this case was filed approximately 46 days before the requested effective date). Despite the Company’s late filing, Staff recommended that the Commission order a retroactive effective date in this case of July 1, 2024. Staff noted that this way the Parties could use the avoided cost rates in the approved contract and implement the necessary provisions related to the avoided cost rates during the period between July 1, 2024, and the publication of the Final Order in this case. Staff also cited other cases where a retroactive effective date was ordered by the Commission.

## **COMMISSION FINDINGS AND DECISION**

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-502 and 61-503. The Commission is empowered 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. *Idaho Code* §§ 61-502 and 61-503. The Commission also has authority under the Public Utility Regulatory Policies Act of 1978 (“PURPA”) and Federal Energy Regulatory Commission (“FERC”) regulations to set avoided cost rates, to order electric utilities to enter fixed-term obligations for the purchase of energy from qualify facilities, and to implement FERC rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

Having reviewed the record in this case, the Commission finds it reasonable and in the public interest to approve the Company’s request subject to a compliance filing correcting the issues described in Staff’s comments. The Commission notes that Staff’s comments recommended

that several typographical and other errors be corrected. The Company did not file any comments to contest these recommendations. Accordingly, the Commission finds it reasonable to order the Company to fix these issues identified by Staff and submit a compliance filing within 30 days of issuance of this Order.

The Commission also orders that, if the Facility is modified, only the net power supply expense that reflects the proper authorized rate for all energy delivered as of the first operation date of the modified Facility be included in the Company's PCA, regardless of the compensation paid to the modified Facility. This treatment is consistent with the Commission direction in Order No. 35705.

Subject to the Company meeting the requirements of this Order, the Commission orders that the PPA will have an effective date of July 1, 2024, and that all payments for purchases of energy under the PPA be allowed as prudently incurred expenses for ratemaking purposes.

### **ORDER**

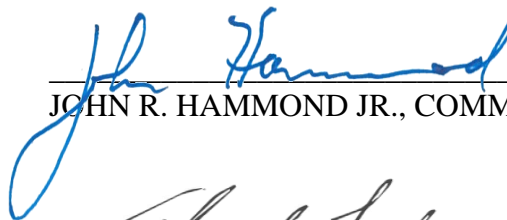
IT IS HEREBY ORDERED that the Company's proposed PPA is approved subject to a compliance filing correcting the typographical and other errors identified by Staff. This filing must be submitted to the Commission within 30 days of the publication of this Order. Once these errors have been corrected, the PPA shall be approved effective July 1, 2024, and all payments for energy and capacity shall be prudent for ratemaking purposes.

IT IS FURTHER ORDERED that, if the Facility is modified, only the net power supply expense reflecting the authorized rate for all energy delivered as of the first operation date of the modified Facility shall be included in the Company's PCA.

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 5<sup>th</sup> day of August 2024.

  
ERIC ANDERSON, PRESIDENT

  
JOHN R. HAMMOND JR., COMMISSIONER

  
EDWARD LODGE, COMMISSIONER

ATTEST:

  
Monica Barrios Sanchez  
Commission Secretary

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