



April 26, 2017

Via Overnight Mail

Diane Hanian
Idaho Public Utilities Commission
472 W. Washington Street
Boise, ID 83702

**Re: Comments of Avista Corporation
IPUC Docket No. IPC-E-17-01**

Dear Ms. Hanian:

Please find enclosed for filing in the above-referenced docket an original and seven copies of the Comments of Avista Corporation. Please let me know if you have any questions regarding this filing.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael G. Andrea", is written over a faint, circular watermark or stamp.

Michael G. Andrea
Senior Counsel

Enclosures

cc: Service List

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IDAHO PUBLIC
UTILITIES COMMISSION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 26th day of April, 2017, served the foregoing comments in Docket No. IPC-E-17-01, upon the following parties, by mailing a copy thereof, properly addressed with postage prepaid to:

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IDAHO PUBLIC UTILITIES COMMISSION

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Attorney for Avista Corporation

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF)	
IDAHO POWER COMPANY FOR A)	
DECLARATORY ORDER REGARDING)	NO. IPC-E-17-01
PROPER CONTRACT TERMS,)	
CONDITIONS, AND AVOIDED COST)	COMMENTS OF AVISTA
PRICING FOR BATTERY STORAGE)	CORPORATION
FACILITIES)	
_____)	

Idaho Power Company (“Idaho Power”) initiated this proceeding by filing a Petition for Declaratory Order (“Petition”) seeking a ruling from the Idaho Public Utilities Commission (“Commission”) that battery storage facilities over 100 kW should be treated in the same manner as variable resources. That is, such battery storage facilities should receive a negotiated avoided cost rate determined by the integrated resource plan (“IRP”) methodology and utilities should only be required to offer a contract with a two year term.¹ In Order No. 33729, the Commission issued notice that the above-captioned proceeding will be processed by modified procedure and established deadlines for submitting comments. Pursuant to Order No. 33729, Avista, as an affected utility, submits the following comments:

¹ Petition at 2.

COMMENTS

I. There is a Real and Substantial Controversy that is Properly Raised by Idaho Power in its Petition for Declaratory Order

In its Petition, Idaho Power notes that the Commission has jurisdiction to issue declaratory orders if there is an actual or justiciable controversy that is real and substantial, definite and concrete, touching the legal relations of parties having adverse legal interests.² Idaho Power further notes that the Commission may clarify any order on its own motion.³ Idaho Power asserts that “[t]here is a real and substantial controversy as to the proper application of this Commission’s implementation of PURPA with regard to specific requests and actual and existing facts, applicable to the Proposed Battery Storage Facilities.”⁴

In its comments, Franklin Energy Storage Projects (“Franklin Energy”) asserts that Idaho Power is not seeking a declaration of legal rights, but rather is requesting that the Commission reconsider its prior orders. Accordingly, Franklin Energy argues that a Petition for Declaratory Order is not the proper vehicle for Idaho Power to make its request.

Franklin Energy is incorrect. The issue raised by Idaho Power in this proceeding is whether output provided by a battery storage facility that is fueled by output from a solar facility should be classified, and treated in the same manner, as a solar QF or whether the output from such battery storage facility should be treated in the same

² Petition at 5 (citing Title 61 of the Idaho Code and the Idaho Uniform Declaratory Judgments Act of 1933 and quoting Order No. 33667 at pp. 5-6).

³ Petition at 6 (citing RP 325).

⁴ Petition at 7. The Proposed Battery Storage Facilities are the five proposed projects identified in Idaho Power’s Petition at footnote 1.

manner as non-variable QFs. This issue presents a real and substantial controversy that is properly raised in Idaho Power's Petition.

II. Battery Storage Facilities, Like Other QFs, Should be Classified Based on the Primary Energy Source (Fuel) Used to Energize Such Facilities.

The Federal Energy Regulatory Commission ("FERC") has suggested that energy storage facilities such as the proposed battery storage facilities may be QFs.⁵ Contrary to the Proposed Battery Storage Facilities' assertions that "[t]he sole source of electric power and energy provided to the purchasing utility will be the electro-chemical reaction giving rise to the discharge of electric power and energy by the battery"⁶, FERC found in *Luz* that:

the primary energy source of the battery system is not the electro-chemical reaction. Rather, it is the electric energy which is utilized to initiate that reaction, for without that energy, the storage facility could not store or produce the electric energy which is to be delivered at some later time."⁷

For a battery storage facility to be a QF, there must be a demonstration by the QF "that the primary energy source behind the electric energy input to the facility is biomass, waste, renewable resources, geothermal resources, or any combination thereof or that the use of oil, natural gas or coal contribute no more than 25 percent as a source of that energy and that such use, if any, is for an appropriate purpose."⁸

⁵ *Luz Development and Finance Corp.*, 51 FERC ¶ 61,078 at 61,170-61,172 (1990) ("*Luz*"). As noted by Idaho Power, the determination of whether a facility is or is not a QF is within the exclusive jurisdiction of FERC and therefore whether any specific energy storage facility is or is not a QF is not an issue for the Commission in this proceeding. Accordingly, Avista does not take any position in this proceeding as to whether the proposed battery storage facilities are or are not QFs.

⁶ *E.g.*, Franklin Energy Storage One, LLC's FERC Form 556 at page 9 (attached to Idaho Power's Petition at Attachment 1).

⁷ *Luz*, 51 FERC at 61,171.

⁸ *Luz*, 51 FERC at 61,170; *see also* 18 C.F.R. § 292.204(b).

The Proposed Battery Storage Facilities at issue here have each submitted substantially similar FERC Forms 556 for self-certification as QFs. Each of the proposed battery storage project's FERC Form 556 states:

The energy storage system that comprises the energy storage Qualifying Facility is designed to, and will, receive 100% of its energy input from a combination of renewable energy sources such as wind, solar, biogas, biomass, etc. The current initial design utilizes solar photovoltaic (PV modules mounted to single-axis trackers to provide the electric energy input to the Qualifying Facility's battery storage system. The PV modules are planned to be connected in series/parallel combinations to solar inverters, rated approximately 2.5 MWac each, (subject to change).⁹

Although each of the Proposed Battery Storage Facilities have attempted to convolute the issue by suggesting that the primary energy source will be a combination of renewable energy sources, it is clear that the primary energy source for each of the Proposed Battery Storage Facilities will actually be solar energy.

Absent a demonstration by each of the Proposed Battery Storage Facility that the primary energy source for each such project is something other than solar energy, to the extent that such facility is a QF, the facility is properly characterized, and treated, as a solar QF. Accordingly, the Commission should issue an order that, to the extent that such facilities are QFs, the Proposed Battery Storage Facilities are properly characterized, and treated, as solar QFs.

⁹ See FERC Forms 556 attached to Idaho Power's Petition at Attachment 1

III. To the Extent the Commission Does Not Find that the Treatment of Battery Storage QFs Should be Based on the Primary Energy Source for Such QFs, the Commission Should Initiate a Generic Proceeding to Determine the Appropriate Treatment of Such QFs.

As discussed above, to the extent that a battery storage facility is a QF, it should be classified and treated in the same manner as the facilities that provide the primary energy source for such QFs. That is, if the primary energy source of a proposed battery storage facility is wind or solar facilities, the proposed battery storage facilities should be treated in the same manner as wind or solar QFs. If, however, the Commission determines that battery storage facilities that use wind or solar facilities as their primary energy source should not be treated in the same manner as the primary energy source, the Commission should initiate a generic proceeding to determine the appropriate treatment of battery storage facilities. Further, to ensure utility customers are protected during such proceeding, a moratorium should be placed on energy storage QFs with nameplate capacities above the 100 kW threshold until the completion of the generic proceeding.

CONCLUSION

As discussed herein, to the extent that battery storage facilities are QFs, such facilities should be classified, and treated, in the same manner as the facilities that provide the primary energy source for such battery storage facilities. To the extent that the Commission does not find in this proceeding that battery storage facility QFs should be treated in the same manner as the facilities that provide the primary energy source for such battery storage facilities, Avista requests that the Commission initiate a generic proceeding to determine the appropriate treatment of such facilities. Finally, if the Commission initiates a generic proceeding on this matter, the Commission should place a

moratorium on energy storage QFs with nameplate capacities above 100 kW to protect utility customers during such proceeding.

Respectfully submitted this 26th day of April 2017.

AVISTA CORPORATION

A handwritten signature in black ink, appearing to read "M. G. Andrea", written over a horizontal line.

Michael G. Andrea
Senior Counsel