

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE JOINT)
APPLICATION OF AVISTA CORPORATION) CASE NO. AVU-E-12-01
AND KOOTENAI ELECTRIC)
COOPERATIVE FOR APPROVAL OF A) ORDER NO. 32459
POWER PURCHASE AGREEMENT.)**

On January 9, 2012, Avista Corporation and Kootenai Electric Cooperative (Kootenai Electric) (collectively “the Parties”) filed a Joint Application with the Commission requesting approval of a Power Purchase Agreement (Agreement) between Avista and Kootenai Electric. Kootenai Electric is an electric cooperative that proposes to own and operate a landfill gas electric power generating facility (the Project) located at the Kootenai County Solid Waste Facility near Bellgrove, Idaho. The Project is a qualifying facility under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA) and is capable of generating up to 3.2 megawatts (maximum capacity, nameplate) of energy. The Parties ask that the Commission approve the Agreement with an effective date of January 5, 2012.

On January 18, 2012, the Commission issued a Notice of Application/Notice of Modified Procedure and established comment deadlines. Order No. 32438. Staff was the only person or party to file comments. Avista filed reply comments. By this Order, the Commission approves the Agreement between Avista and Kootenai Electric for the sale and purchase of electric energy.

BACKGROUND

Kootenai Electric initially approached Avista seeking to sell the output of the Project on a long-term basis at a point of delivery within Idaho. However, Kootenai maintains that Avista would not agree to disclaim ownership of the environmental attributes associated with generation by the facility (also known as renewable energy certificates or RECs), or to provide compensation for such attributes. Rather than engage in protracted litigation over environmental attribute ownership with Avista, Kootenai states that it decided to attempt to sell instead to the nearest investor-owned utility in the State of Oregon because the Oregon Public Utilities Commission requires its investor-owned utilities to disclaim ownership of environmental attributes. Kootenai believes that Idaho Power Company is the nearest utility in another state to which it can most easily wheel the output without operating at a substantial loss. Reference

generally IPC-E-11-23, Kootenai Electric Cooperative, Inc.'s Answer and Motion to Dismiss Idaho Power's Petition for a Declaratory Order.

Kootenai Electric is currently engaged in negotiations with Idaho Power to sell the output of the Project on a long-term basis. Kootenai proposes that the Project will interconnect with its own electrical distribution system and then deliver the output to Avista. Kootenai Electric then proposes to wheel the generation across Avista's system for delivery to Idaho Power. Idaho Power has filed a Petition for a Declaratory Order asking that the Commission assert primary jurisdiction over the proposed sale to Idaho Power and require that a power sales agreement between Kootenai and Idaho Power be subject to Idaho's rates, rules and regulations. Case No. IPC-E-11-23.

The purpose of this Agreement is to enable Kootenai Electric to sell the output produced by the Project to Avista on a short-term basis, while Kootenai Electric pursues a long-term power sales agreement with Idaho Power.

THE AGREEMENT

The Application states that the Agreement shall commence on the effective date and continue through December 31, 2012, unless the Agreement is terminated earlier pursuant to its terms.¹ The Agreement states that Kootenai Electric will generate and deliver and Avista will purchase the net output of the Project on an as-available basis.

The Application further outlines that Avista will purchase the Project's net output (up to a maximum of 10 aMW) pursuant to Schedule 62 of its Idaho tariff at the lesser of (i) 85% of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Non-Firm Index, or (ii) the applicable rate based upon the on-peak or off-peak avoided cost rates for non-fueled projects smaller than ten average megawatts – non-levelized (avoided cost rates) in effect on the effective date of the Agreement. Application at 3.

The Parties request that the Commission approve the Agreement without change or condition, with an effective date of January 5, 2012, and declare that all payments made by Avista for purchases of energy under the Agreement be allowed as prudently incurred expenses for ratemaking purposes.

¹ Kootenai Electric may terminate the Agreement at any time during the term by providing Avista 30 days' written notice.

COMMENTS

Staff Comments

The Agreement states that Kootenai Electric will generate and deliver and Avista will purchase the net output of the Project on an as-available basis. The Application outlines that Avista will purchase the Project's net output pursuant to Schedule 62 of its Idaho tariff at the lesser of (i) 85% of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia (Mid-C) Non-Firm Index, or (ii) the applicable rate based upon the on-peak or off-peak published avoided cost rates for non-fueled projects smaller than ten average megawatts – non-levelized (avoided cost rates) in effect on the effective date of the Agreement. Application at 3. Staff's analysis revealed that, given that Mid-C electric market prices are currently far below published avoided cost rates and that market prices are forecasted to remain low for the remainder of 2012, it is highly likely that the prices to be paid to Kootenai will be 85% of Mid-C non-firm rates rather than published rates.

Although very short-term, the proposed Agreement contains nearly the same terms and conditions as Avista's recent contracts for other PURPA projects. Staff carefully reviewed all of the terms and conditions contained in the Agreement and believes they are fair, reasonable, and not in conflict with prior Commission Orders.

Avista asks that the Commission approve the Agreement with an effective date of January 5, 2012. However, the Agreement was not filed with the Commission until January 9, 2012. Consequently, Staff recommended that the Agreement commence on the date of issuance of the Commission Order approving the Agreement, not on January 5, 2012, as requested.

Avista Reply Comments

Avista filed a reply to Staff's comments. Avista explained that its request for a January 5, 2012, effective date was based on Kootenai Electric commencing operation as early as February 8, 2012. Consequently, in order to allow the Project to deliver its output to Avista pursuant to the terms of the Agreement, Avista requests that the Commission approve the Agreement with an effective date of January 5, 2012, or, in the alternative, no later than February 8, 2012.

DISCUSSION AND CONCLUSIONS

The Idaho Public Utilities Commission has jurisdiction over Avista Corporation, an electric utility, and the issues raised in this matter pursuant to the authority and power granted it

under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities (QFs) and to implement FERC rules.

The Commission has reviewed the record in this case, including the Application, the Agreement, the comments of Commission Staff, and reply of Avista. Avista will purchase the Project's net output pursuant to Schedule 62 of its Idaho tariff at the lesser of (i) 85% of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia (Mid-C) Non-Firm Index, or (ii) the applicable rate based upon the on-peak or off-peak published avoided cost rates for non-fueled projects smaller than ten average megawatts – non-levelized (avoided cost rates) in effect on the effective date of the Agreement. Consequently, we find that the avoided cost rates set out in the Agreement are just and reasonable. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

The Agreement between Avista and Kootenai Electric specifically states that the Agreement “shall be effective on the date last signed below or such other date set by Commission order. . . .” Agreement, ¶ 4.1. The Agreement was signed by Kootenai Electric on January 3, 2012, and Avista on January 5, 2012. The Parties to the Agreement ask that the Commission approve the Agreement with an effective date of January 5, 2012. Based on the express terms of the Agreement and the consent of the Parties, we find that an effective date of January 5, 2012, is appropriate.

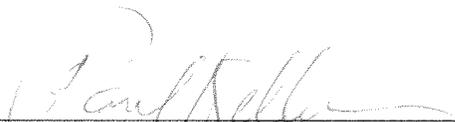
ORDER

IT IS HEREBY ORDERED that the Power Purchase Agreement executed on January 5, 2012, between Avista Corporation and Kootenai Electric Cooperative is approved without change or condition.

IT IS FURTHER ORDERED that the Agreement shall be effective January 5, 2012.

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. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 15th
day of February 2012.



PAUL KJELLANDER, PRESIDENT



MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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