

## DECISION MEMORANDUM

**TO:** COMMISSIONER KJELLANDER  
COMMISSIONER REDFORD  
COMMISSIONER RAPER  
COMMISSION SECRETARY  
COMMISSION STAFF  
DAPHNE HUANG

**FROM:** DON HOWELL  
DEPUTY ATTORNEY GENERAL

**DATE:** MARCH 3, 2015

**SUBJECT:** AVISTA'S PETITION TO REDUCE THE LENGTH OF ITS PURPA CONTRACT ON AN INTERIM AND PERMANENT BASIS CONSISTENT WITH THE COMMISSION'S RECENT ORDER IN AN IDAHO POWER CASE (IPC-E-15-01), CASE NO. AVU-E-15-01

On February 27, 2015, Avista Corporation filed a Petition requesting that the Commission issue an Order modifying the terms and conditions of Avista's standard power purchase agreements (PPAs) with qualifying facilities (QFs) under the Public Utility Regulatory Policies Act of 1978 (PURPA). Avista's Petition seeks an Order granting interim relief consistent with the relief the Commission granted to Idaho Power Company in Order No. 33222 (Case No. IPC-E-15-01). More specifically, Avista requests that the length of its standard PPA be reduced from 20 years to 5 years. Avista filed the supporting testimony of Clint Kalich with its Petition.

### BACKGROUND

#### *The Idaho Power Case*

On January 30, 2015, Idaho Power filed a petition requesting that its IRP-based power purchase agreements (PPAs) with QFs be reduced in length from 20 years to 2 years. Application at 1-2. In its petition Idaho Power generally alleged that it has experienced a dramatic increase in the number and size of PURPA projects requesting PPAs with the utility. In particular, Idaho Power witness Randy Allphin stated that Idaho Power has "an additional 885 MW of PURPA solar capacity in the queue actively seeking PURPA energy sales agreements to be on-line in 2016." *Id.* at 2, 18 *citing* Allphin Direct at 3-4; Exh. 3. Idaho Power asserted that

the mandatory acquisition of this amount of power over a 20-year period exceeds the operational needs of the Company, places undue risk on customers when the Company has sufficient resources to meet demand, and is unreasonable and contrary to the public interest. Application at 2, 20, 27-34.

On February 6, 2015, the Commission issued Order No. 33222 partially granting Idaho Power's request to reduce the length of its PURPA contracts. The Commission found that a "temporary reduction of the maximum contract term for Idaho Power's QF contracts [shall be] five years while the Commission reviews the issue of contract length in greater detail." Order No. 33222 at 4.<sup>1</sup>

On February 19, 2015, Avista filed a Petition to Intervene in the Idaho Power case. In its petition, Avista asserted that all utilities subject to PURPA in Idaho "should be afforded the same interim protections that [are] provided in Order No. 33222 issued in [Case No. IPC-E-15-01]." Petition at 2. Avista's Petition to Intervene in the Idaho Power case was granted in Order No. 33239 issued March 3, 2015.

#### **AVISTA'S PETITION IN THIS CASE**

As mentioned above, Avista seeks the same interim relief that the Commission granted Idaho Power in Order No. 33222. Avista expressed its concern that "PURPA developers that previously planned to sell the output from their [projects] to Idaho Power may seek to sell such output to Avista. Thus, as a direct result of the Commission's action affording one utility interim relief, Avista could be required to enter into a significant number of PURPA contracts." Avista Petition at 3. To prevent a rush of PURPA projects being delivered to Avista's door, it "requests immediate Commission action ordering that the maximum required contractual term for Avista's new PURPA contracts shall, pending further order of the Commission, be five years." *Id.* at 4. In addition to the interim relief, Avista requests that it be afforded the same permanent relief that the Commission may provide to other utilities regarding the length of PURPA contracts. *Id.*

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<sup>1</sup> Several parties have filed petitions to clarify the scope of the five-year interim relief, i.e., applicable to just IRP-based rate contracts or just wind and solar PPAs. In a discovery response dated February 24, 2015, Idaho Power stated that its requested interim relief "is limited to [PPAs] that exceed the published rate eligibility cap." Resp. No. 1 to Simplot.

### STAFF RECOMMENDATION

Given Avista's request for the same interim treatment afforded Idaho Power regarding the length of PURPA contracts, the Commission Staff recommends that the Commission consolidate the Avista case with Idaho Power Case No. IPC-E-15-01. Staff believes it is appropriate to take up the issue of contract length in the Idaho Power case. Consolidating the Avista Petition (as well as the PacifiCorp Petition) with the Idaho Power case will allow the Commission to efficiently and expeditiously examine the issue of PURPA contract lengths. Commission Staff also recommends that the parties to the Idaho Power case be deemed parties to the Avista and PacifiCorp cases.

### COMMISSION DECISION

1. Does the Commission grant Avista the same interim relief it granted Idaho Power in Order No. 33222, namely reducing the standard contract length for Avista's new PURPA contracts to five years pending completion of the 15-01 case?
2. Does the Commission wish to consolidate the Avista Petition with Idaho Power Case No. IPC-E-15-01?
3. Does the Commission wish to designate the parties in the Idaho Power case as parties to this Avista case?
4. Anything else?

*/s/ Don Howell*

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Don Howell

Deputy Attorney General

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