

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF AVISTA CORPORATION TO REVISE) CASE NO. AVU-E-07-03
THE RESIDENTIAL AND SMALL FARM)
ENERGY RATE ADJUSTMENT CREDIT,)
SCHEDULE 59.) ORDER NO. 30327
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On May 22, 2007, Avista Corporation (Company) filed a Tariff Advice to revise the Residential and Small Farm Rate Adjustment Credit, Schedule 59. The Company requested expedited treatment of its filing. The Commission finds good cause to act on the Company's filing in an expedited manner, and approves it as set out below.

THE RESIDENTIAL EXCHANGE PROGRAM

All citizens of the Pacific Northwest are entitled to share in the benefits from the region's federal hydroelectric power system. *See* 16 U.S.C. §§ 832, 837-839. As a regional utility, Avista is entitled to participate in the Residential Exchange Program (REP), which is the mechanism designed to extend the benefits of low-cost federal power to residential and small irrigation customers served by investor-owned utilities in the region. 16 U.S.C. § 839c.¹ The REP is administered by the Bonneville Power Administration (BPA), the federal agency tasked with marketing the power generated by the federally owned dams on the Columbia River.

BPA's public power utility customers, such as municipalities, cooperatives, and public utility districts, typically benefit from the federal hydroelectric system through their preferential access to low-cost federal power provided by BPA. The residential and irrigation customers of the regional investor-owned utilities, such as PacifiCorp, Idaho Power, and Avista, share in the benefits of the federal hydroelectric system through the REP, by receiving credits on their electric bills. The investor-owned utilities provide electricity to approximately 60% of the Northwest's population. BPA uses formulas based on various factors, including a utility's average system cost for producing power, to distribute benefits through the REP. In application, the REP acts as a cash rebate to the residential and small farm customers of the investor-owned utilities as required by the Northwest Power Act (NWPA).

¹ 16 U.S.C. §§ 839-839h (2000) is titled the Pacific Northwest Electric Power Planning and Conservation Act of 1980, and is commonly referred to as the "Northwest Power Act" (NWPA).

In 2000, BPA offered the region's investor-owned utilities the option of entering into a settlement of the REP (2000 REP Settlement) in lieu of the traditional REP calculation. The entire region's investor-owned utilities, including Avista, entered into the REP Settlement with BPA. Payments to Idaho's regional utilities under the REP Settlement totaled approximately \$259 million for the 2002-2006 term, and \$35 million for the first four months of 2007. As previously stated, these payments were passed through directly to customers as credits on their electric bills.

THE 9TH CIRCUIT DECISIONS

On May 3, 2007, the 9th Circuit Court of Appeals issued two opinions in 18 consolidated appeals concluding that certain BPA actions in entering the 2000 REP Settlement with the region's six investor-owned utilities, including Avista, Idaho Power, and PacifiCorp, were "not in accordance with law." *Portland General Electric Co. v. Bonneville Power Admin.*, ___ F.3d ___, 2007 WL 1288786 (9th Cir); *Golden Northwest Aluminum, Inc. v. Bonneville Power Admin.*, ___ F.3d ___, 2007 WL 1289539 (9th Cir) (Court Decisions). Consequently, on May 21, 2007, BPA issued letters to Avista, Idaho Power, and PacifiCorp indicating that because of the Court Decisions it was suspending the monthly payments or credits that it was making pursuant to the REP settlements.

THE COMPANY'S FILING

On May 22, 2007, Avista Corporation (Company) filed a Tariff Advice to revise the Residential and Small Farm Rate Adjustment Credit, Schedule 59. The revised tariff sheet eliminates the Residential and Small Farm Energy Rate Adjustment Credit of 0.459 cents per kilowatt-hour and establishes a proposed charge of 0.144 cents per kilowatt-hour rate to recover the over-refunded exchange credit balance over a 12-month period.

The Company stated that it uses a balancing account for the receipt of REP benefits from BPA. At the end of April 2007, there was an over-refunded balance and associated interest of approximately \$913,000 for Idaho customers. The existing Schedule 59 rate credit of 0.523 cents per kilowatt-hour will continue until the rate is eliminated. The longer the existing rate remains in place, the larger the over-refunded balance becomes. When the existing rate credit was established, it was projected that the balancing account would reach zero at the end of October 2007. The Company stated that because the Schedule 59 rate credit is a uniform cents

per kilowatt-hour rate, and because the REP benefit payments from BPA are lower in the winter and higher in the summer, the result is the current over-refunded balance.

The Company proposed an effective date of June 22, 2007, to accomplish a 30-day notice. However, the Company also notes that the delay in the effective date will increase the credit deferral balance subject to later recovery and therefore requests approval of the tariff change as soon as possible. In support of its filing the Company submitted the affidavit of David J. Meyer regarding the emergency situation and need for the filing, a copy of the letter from BPA regarding the elimination of REP payments, and a press release, as well as the revised Tariff Sheet 59 and the associated workpapers.

STAFF RECOMMENDATION

Staff reviewed the Company's filing and supports emergency revision of the Residential and Small Farm Energy Rate Adjustment Credit. Failure to take immediate action will result in significant overpayment of credits to Avista's customers with rapid growth in the credit deferral balance subject to later recovery through customer surcharge. Staff further recommended that the proposed surcharge rate of 0.144 cents per kilowatt-hour be implemented with an effective date of June 1, 2007. Staff supported both eliminating the existing credit and imposing the requested surcharge to collect the over-refunded balance as requested by the Company. Staff stated that its support of the surcharge is on an interim basis in an effort to impose a single change in the rate credit. Staff further recommended Modified Procedure with a 30-day comment/investigation period to conduct additional audit of the deferral balance amount and to determine if the surcharge is properly allocated and appropriate for the full period as proposed by Avista.

DISCUSSION/FINDINGS

We find that good cause exists to issue this Order on an expedited basis, based upon the suspension of the REP payment/credits by BPA to Avista that are passed directly through to customers. Continuation of the credit after the suspension of payments by BPA would result in a rapid accumulation of a negative balance. Failure to take immediate action will result in significant overpayment of credits to customers with rapid growth in the credit deferral balance subject to later recovery through customer surcharge. We recognize that this suspension of the REP benefits to customers will result in an immediate and substantial increase in residential and small farm/irrigation customers' electric bills. However, we also acknowledge that this credit is

a direct pass-through by the utilities of a federal benefit, and the actions of the federal court and federal agency with authority over such benefits are what require our actions in eliminating the billing credit.

We find the immediate elimination of the existing credit to be just, reasonable, and necessary to stop the accumulation of the over-refunded balance to customers. We further find that the surcharge rate of 0.144 cents per kilowatt-hour should be implemented on an interim basis to bring the over-refunded balance back to zero. The surcharge amount will be subject to refund. We find that Modified Procedure with a 30-day comment period is reasonable and warranted with regard to the amount of the surcharge needed to collect the over-refunded balance. We direct Staff to audit the deferral balance amount, to review the assumptions and calculations leading to the surcharge rate, and advise the Commission as to whether it is properly allocated, whether it is in the proper amount, and whether the recovery period is appropriate. The proposed revisions to the Company's Schedule 59 are approved.

ORDER

IT IS HEREBY ORDERED that the filing of Avista Corporation to revise the Residential and Small Farm Rate Adjustment Credit, Schedule 59, is approved. The rate credit is eliminated and a surcharge rate of 0.144 cents per kilowatt-hour is hereby implemented. The proposed revisions to Schedule 34 are approved as filed, with an effective date of June 1, 2007.

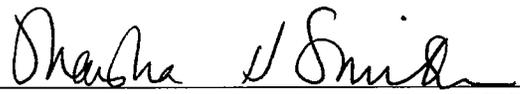
IT IS FURTHER ORDERED that the surcharge rate of 0.144 cents per kilowatt-hour be implemented on an interim basis in order to bring the over-refunded balance back to zero. This amount will be subject to refund based on Staff's audit and investigation and subsequent Commission Order. Staff is directed to audit the deferral balance amount, to review the assumptions and calculations leading to the surcharge rate, and to advise us as to whether it is properly allocated, whether it is in the proper amount, and whether the recovery period is appropriate. A separate Notice of Modified Procedure will be issued setting forth a 30-day comment period for the purposes stated above and for public comment.

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 with regard to 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. *See Idaho Code* § 61-626.

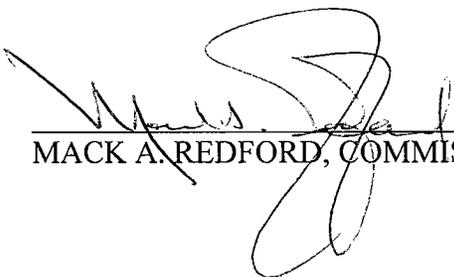
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 31st
day of May 2007.



PAUL KJELLANDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER



MACK A. REDFORD, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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