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Attorney for the Commission Staff

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 POWER PURCHASE) COMMENTS OF THE
AGREEMENT.) COMMISSION STAFF
)

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Kristine A. Sasser, Deputy Attorney General, and in response to the Notice of Application and Notice of Modified Procedure issued in Order No. 32438 on January 18, 2012, in Case No. AVU-E-12-01, submits the following comments.

BACKGROUND

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, not regulated by the Commission, that proposes to own and operate a landfill gas electric power generating facility (the Project) located at the Kootenai County Fighting Creek 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.

STAFF ANALYSIS

Kootenai Electric initially approached Avista seeking to sell the output of the Facility 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. Reference 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 and while the parties try to resolve the issues in dispute in Case No. IPC-E-11-23. The Agreement is proposed to extend for less than one year, until December 31, 2012, unless terminated earlier by the parties.

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. Avista's Schedule 62 is a tariff that reflects Idaho's published avoided cost rates for PURPA projects. 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 has 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.

The Parties ask 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, because this is a new Project and a new Agreement, Staff recommends that the Agreement commence on the effective date of the Commission Order approving the Agreement, not on January 5, 2012 as requested.

RECOMMENDATIONS

Staff recommends that the Commission approve the Agreement without change or condition, with an effective date commencing on the date of Commission approval. Staff further recommends that the Commission declare that all payments made by Avista for purchases of energy under the Agreement be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 8TH day of February 2012.


Kristine A. Sasser
Deputy Attorney General

Technical Staff: Rick Sterling

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 8TH DAY OF FEBRUARY 2012, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. AVU-E-12-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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