

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

**FROM: BRADEN LANG
FELLOW – OFFICE OF THE ATTORNEY GENERAL**

DATE: MAY 1, 2012

**SUBJECT: AVISTA CORPORATION’S APPLICATION FOR A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY, CASE NO. AVU-E-12-04**

On April 20, 2012, Avista Corporation filed an Application for a Certificate of Public Convenience and Necessity (“CPCN”) pursuant to *Idaho Code* §§ 61-526 through 61-528 and IDAPA 31.01.01.112 seeking certification for its previously constructed 15 kW solar generation test facility (“the Solar Facility”) in Kootenai County located near Rathdrum, Idaho.

THE APPLICATION

Avista is a Washington corporation providing electrical service to customers in northern Idaho and western Washington. Avista’s Application states that the Solar Facility consists of sixty 250-watt poly-crystalline solar panels mounted in fixed arrays and connected via inverters to the utility grid. The Solar Facility is located in one test block as part of a six-block test complex directly adjacent to Avista’s natural gas combustion turbine generation site near Rathdrum, Idaho. The Application further states that the Solar Facility is necessary both to meet the demand for renewable resources created by “Avista’s Buck-a-Block” renewable energy program and to provide information on the costs and benefits associated with solar energy generation.

Because the Solar Facility is already constructed, no additional construction is required at this time. Avista states that the total cost of construction was less than \$80,000. Avista insists that all costs above the market rate for electricity will be funded through the “Buck-a-Block” program in accordance with Schedule 95 of Avista’s Idaho tariff. “Buck-a-Block” is a voluntary program that allows customers to purchase 300 kWh “blocks” of

renewable power through special assessments to their monthly bill. Avista does intend to include investment in the Solar Facility in its rate base in future rate proceedings, but it expects the effect of the Solar Facility on revenue requirements to be zero.

Although Avista applies for a CPCN “out of an abundance of caution,” Avista asserts that a CPCN for the Solar Facility is not required under *Idaho Code* § 61-526. Application at 2. Avista maintains that the Solar Facility constitutes an extension of an existing plant within territory already served. Avista does not appear to claim that the installation of solar generation on the site of its existing natural gas combustion plant constitutes an increase of capacity of the existing plant.

STAFF RECOMMENDATIONS

Based on its review of Avista’s Application and current Idaho tariff, Staff recommends that the Commission grant Avista’s request. Staff believes that the project complies with the minimum statutory requirements found in *Idaho Code* § 61-526 that: (1) the present or future public convenience or necessity requires or will require the construction of the Solar Facility; and (2) the Solar Facility will not interfere with the line, plant or system of another public utility.¹

As a preliminary matter, Staff believes a CPCN for the Solar Facility is required by the *Idaho Code* § 61-526. Section 61-526 states:

No . . . electrical corporation . . . shall henceforth begin the construction . . . of a line, plant, or system . . . without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require such construction

Avista claims that the Solar Facility fits within a statutory exception to this baseline requirement as an “extension within any city or county within which it shall have theretofore lawfully commenced operation.” *Id.* Avista’s argument is that construction of a separate and distinct solar generation facility on the same site where it currently operates a large natural gas combustion generation facility and other smaller test facilities constitutes an extension of a pre-existing plant. Staff disagrees. The more practical construction of the statute’s extension exceptions pertains to extensions of existing transmission lines or the like-for-like expansion of

¹ Consideration of the potential for interference with other public utilities is made unnecessary in this case by the location of the facility on a pre-existing certificated generation site, the territorial franchise granted to Avista as a regulated utility, and the absence of any expansion of service area.

capacity at an existing generation plant. Accordingly, Staff suggests that the Commission treat the distinct solar facility as a new facility under Section 61-526 and require a distinct CPCN.

Staff notes that the 15 kW nameplate capacity of the Solar Facility is small with respect to the total of both the capacity of Avista's existing generation and customer demand. Furthermore, this size is consistent with Avista's "Buck-a-Block" program and Avista's stated desire to gather trial data on the costs and benefits of solar generation. To that extent, the Solar Facility is consistent with both present and future public convenience and necessity.

Staff also notes the *de minimus* financial impact of the cost of the Solar Facility. The reported costs of less than \$80,000 are consistent with Avista's assertion that the Solar Facility will have zero effect on its revenue requirements. Staff believes that the benefits of supporting pre-existing renewable energy programs, combined with the negligible effect on Avista's rate base and zero impact on Avista's revenue requirements, merit the issuance of a CPCN for the Solar Facility.

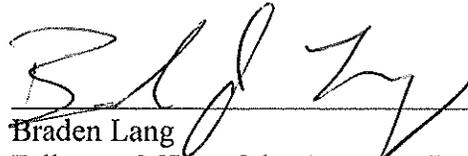
Finally, given that the Solar Facility is already-constructed has a *de minimus* financial impact, Staff believes that a hearing pursuant to *Idaho Code* § 61-528 "involving the financial ability and good faith of the applicant" is unnecessary under these circumstances. Accordingly, Staff recommends that the Commission act on its authority under IDAPA 31.01.01.013 to deviate from the rules of normal procedure when "compliance with them is impracticable, unnecessary or not in the public interest" and to approve Avista's Application for a CPCN directly and without further process.

In summary, Staff bases its recommendation supporting the issuance of a CPCN upon the following:

- The Solar Facility is properly viewed as a new plant under *Idaho Code* § 61-526 and thus a CPCN is required by statute for its legal operation.
- The Solar Facility is consistent with Avista's existing Idaho tariff, will contribute to Avista's "Buck-a-Block" renewable energy program, and will provide information on the costs and benefits of solar generation.
- The Solar Facility is fully constructed at a cost of less than \$80,000 and will not raise Avista's revenue requirements.
- The *de minimus* financial impact of the Solar Facility and benefit of expediency justify a departure from regular procedure and the direct issuance of a CPCN without hearing.

COMMISSION DECISION

Does the Commission wish to issue a Certificate of Public Convenience and Necessity for Avista's 15 kW solar generation test facility?



Braden Lang
Fellow – Office of the Attorney General

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