

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT PETITION) CASE NO. AVU-E-18-05
OF AVISTA AND THE CITY OF COVE,)
OREGON, TO APPROVE POWER)
PURCHASE AGREEMENT) ORDER NO. 34177
)

On June 19, 2018, Avista Corporation dba Avista Utilities (“Avista” or “Company”) and the City of Cove, Oregon, jointly petitioned the Commission for an Order approving a Power Purchase Agreement (“PPA” or “Agreement”). The PPA is for an 800 kW hydroelectric generating facility (“Facility”) in or around Cove, Oregon. The Facility is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”). Application at 2. The term of the Agreement runs through June 12, 2038. *Id.* at 3.

The Commission issued a Notice of Petition and Notice of Modified Procedure setting comment and reply deadlines.¹ Order No. 34115. Commission Staff timely filed comments and no other comments were received. Following the reply comment deadline, the Company amended its Application. The Commission issued a Notice of Extended Comment Period to give the public the opportunity to comment on the amended Application. Order No. 34140. Staff filed supplemental comments and no other comments were received.

BACKGROUND

PURPA was enacted in 1978 “to lessen the country’s dependence on foreign oil and to encourage the promotion and development of renewable energy technologies as alternatives to fossil fuels.” Order No. 32580 at 3, *citing FERC v. Mississippi*, 456 U.S. 742, 745-46 (1982). PURPA and its implementing regulations require electric utilities to purchase the power produced by QFs. 16 U.S.C. § 824a-3(b); 18 C.F.R. § 292.303(a).

The rate that a QF receives for the sale of its power to a utility, called the “avoided cost” rate, is approved by the Commission, and represents “the ‘incremental cost’ to the purchasing utility which, but for the purchase of power from the QF, such utility would either generate itself

¹ Avista and the City of Cove styled their filing as a “Petition.” Under Commission Rule 52, the proper term for the submission in this case is an Application. We will therefore refer to the filing as an Application in this Order.

or purchase from another source.” Order No. 33419 at 3, *citing Rosebud Enterprises v. Idaho PUC*, 128 Idaho 624, 627, 917 P.2d 781, 784 (1996); 18 C.F.R. § 292.101(b)(6) (defining “avoided cost”).

For non-wind and non-solar QFs generating less than 10 average megawatts (aMW) of energy, the Commission calculates and publishes rates using a Surrogate Avoidable Resource (“SAR”) methodology. Order No. 32697 at 14 (maintaining a 10 aMW project eligibility cap for non-wind and non-solar projects). The Commission uses a combined-cycle combustion turbine as the SAR for establishing published avoided cost rates. *Id.* at 17. The Commission updates the published avoided cost rates annually based on natural gas forecasts provided by the U.S. Energy Information Administration’s Annual Energy Outlook. *Id.* at 16.

THE APPLICATION

The Application was subject to numerous amendments. On July 13, 2018, the Company filed Amendment No. 1. The Amendment revised the PPA to clarify that the rate paid for Surplus Energy and Shortfall Energy, which is the energy delivered outside of the 90/110 performance band, will be the lesser of 85% of the current month’s Market Energy Price or the avoided cost rates. The Amendment also revised the Agreement to provide that Monthly Net Output Estimates are to be updated on a month-ahead basis, consistent with Commission Order No. 33103.

On July 23, 2018, the Company filed Supplement to Amendment No. 1. The Supplement contained the avoided cost rates the Company proposed to use in the Agreement, which were the levelized non-seasonal hydroelectric avoided cost rates for QFs smaller than ten average MW in place when the parties began negotiating the Agreement.

On August 6, 2018, the Company filed Amendment No. 2. The Amendment rectified a discrepancy between the effective dates in Amendment No. 1 and the original Application and set a proposed effective date of July 31, 2018, or such other date as set by the Commission. The Agreement anticipates a November 1, 2018 initial delivery date. Application at 3.

On August 24, 2018, two days after the comment reply period expired, the Company filed Amendment No. 3. The Amendment updated the avoided cost rates to reflect the rates in effect when both parties signed the Agreement. The Company also updated the security deposit required for levelized rates.

On September 13, 2018, the Company submitted Amendment No. 4. The Amendment corrected a rounding error in the security deposit schedule.

STAFF'S COMMENTS

Staff filed the only comments in this matter. In its first comments, Staff recommended the Commission approve the Agreement with updated avoided cost rates. In its Supplemental Comments, Staff recommended the Commission unconditionally approve the Agreement as amended.

COMMISSION FINDINGS AND DECISION

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-502 and 61-503. The Commission has the express statutory authority to investigate rates, charges, rules, regulations, practices, and contracts of public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provision of law, and may fix the same by order. *Idaho Code* §§ 61-502 and 61-503. In addition, the Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission ("FERC") to set avoided cost rates, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities and to implement FERC rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

The Commission has reviewed the record, including the Application, the PPA, the amendments, and the comments and recommendations of Commission Staff. We find that the City of Cove hydroelectric facility is qualified to receive the levelized non-seasonal hydroelectric avoided cost rates for QFs smaller than ten average MW in effect on the date the agreement was signed by both parties. Such rates were included in Amendment No. 3. We further find that the PPA contains acceptable contract provisions consistent with PURPA, FERC regulations, and this Commission's prior orders. We therefore approve the Agreement as amended without further change or condition. Finally, we find it reasonable to allow payments made under the Agreement as amended as prudently incurred expenses for ratemaking purposes.

ORDER

IT IS HEREBY ORDERED that the PPA as amended between Avista and City of Cove, Oregon, is approved, effective July 31, 2018.

IT IS FURTHER ORDERED that all payments made by Avista for purchases of energy under the PPA as amended are allowed as prudently incurred expenses for ratemaking purposes.

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 *25th* day of October 2018.



PAUL KJELLANDER, PRESIDENT




KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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