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AVISTA Corp.

April 21, 2011

Via Overnight Mail and Email
Jean Jewell
Idaho Public Utilities Commission
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Email: jean.jewell@puc.idaho.gov

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2011 APR 22 AM 10: 24
IDAHO PUBLIC
UTILITIES COMMISSION

Re: Rebuttal Testimony of Clint Kalich on Behalf of Avista Corporation
IPUC Docket No. GNR-E-11-01

Dear Ms. Jewell:

Please find enclosed for filing an original and nine copies of the Rebuttal Testimony of Clint Kalich on behalf of Avista Corporation for filing in the above-referenced docket on April 22, 2011. Also enclosed is a CD with an electronic copy of Mr. Kalich's rebuttal testimony in Word. The first enclosed copy is hereby designated as the reporters copy. Please let me know if you have any questions regarding this filing.

Sincerely,

Michael G. Andrea
Senior Counsel

Enclosures

cc: Service List

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO DISAGGREGATION AND AN APPROPRIATE PUBLISHED AVOIDED COST RATE ELIGIBILITY CAP STRUCTURE FOR PURPA QUALIFYING FACILITIES	)	CASE NO. GNR-E-11-01

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REBUTTAL TESTIMONY OF CLINT KALICH

AVISTA CORPORATION

APRIL22, 2011

1 **Q. Please state your name, the name of your employer, and your business**
2 **address.**
3 A. My name is Clint Kalich. I am employed by Avista Corporation ("Avista") at
4 1411 East Mission Avenue, Spokane, Washington.
5 **Q. Did you provide direct testimony in this proceeding?**
6 A. Yes. I submitted the Direct Testimony of Clint Kalich that was filed in this
7 proceeding on behalf of Avista Corporation on March 25, 2011.
8 **Q. Do you have any corrections to your direct testimony that was previously**
9 **filed in this proceeding?**
10 A. Yes. On pages 24 and 25 of my direct testimony, I testified that, at a published
11 rate of approximately $77 per MWh plus the value of RECs, the 20-year
12 additional profit to the PURPA developer, as compared to a fair market for wind
13 projects near $60 per MWh with RECs, is around $56 million. I further noted that
14 it is customers who would bear the burden of that additional profit; however, I
15 inadvertently testified that such burden was $47 million instead of the $56 million
16 previously stated. Accordingly, the "$47 million" that appears on page 25, line 10
17 of my direct testimony should be "$56 million"
18 **Q Renewable Northwest Project ("RNP") submitted testimony in this**
19 **proceeding regarding certain factors to consider in determining eligibility for**
20 **published avoided cost rates. If the Commission adopts a published avoided**
21 **cost rate eligibility cap structure that allows QFs as large as 10 aMW to take**
22 **advantage of published avoided cost rates, will consideration of these factors**
23 **prevent disaggregation?**

A. No. As I testified in my direct testimony, it will be extremely difficult or impossible to prevent disaggregation if the published avoided cost rate is available to QFs as large as 10 aMW. RNP presents a laundry list of no fewer than 14 factors that may need to be considered in determining whether a QF is a single project or a piece of a disaggregated project. The number of factors for consideration on RNP's list itself illustrates the high level of complexity and burden that will be required in any effort to prevent disaggregation if a published avoided rate eligibility cap structure that provides published rates to QFs as large as 10 aMW is adopted.

Q. Does RNP in its testimony provide any insights that you wish to highlight here?

A. Yes. RNP makes three statements that warrant further discussion. The first begins at line 4 of page 12 of Ms. Decker's direct testimony. Ms. Decker states:

> "for enforcing the PURPA published rate threshold, where the rationale for published rates is driven by the QF's level of economic and bargaining power, the most important characteristics may be financial in nature: beneficial ownership, financing, cost and revenue sharing, combined purchases of generating equipment, and combined construction contracts. However, <u>because each of those factors could be relatively easy to obscure</u> with extra paperwork and possibly difficult to determine at the time of initial contracting, a distance factor between projects may be a necessary addition to the framework." (Emphasis added.)

In this testimony, RNP itself acknowledges that, absent a distance requirement, QF developers could circumvent limitations on factors such as beneficial ownership, financing, cost and revenue sharing, combined purchases of generating equipment, and combined construction contracts that the Commission

may adopt to prevent disaggregation. RNP, as discussed below, goes further and acknowledges that even distance limits can also be circumvented.

Q. Explain what you mean when you state that RNP acknowledges that even distance limitations can be circumvented.

A. At line 14 of page 12 of Ms. Decker's testimony, she states that:

> "...any distance rule can be overcome with creative planning, [but] a larger distance requirement is more likely to deter a project from organizing into smaller pieces to obtain published rates."

At a minimum, this acknowledgement by RNP illustrates that even enhanced physical separation requirements may not prevent disaggregation. This acknowledgment is also instructive in that it explains that "creative planning" can be used to circumvent the intent of disaggregation rules. The current published avoided cost rates are attracting a significant level of wind development, and Avista is concerned that developers will use such creative planning to enable their large projects to qualify for the published avoided cost rates.

Q. Does RNP's testimony raise any additional concerns regarding the ability of ownership restrictions to prevent disaggregation?

A. Yes. At line 6 of page 13 of Ms. Decker's testimony, RNP raises questions regarding the benefits of using ownership as a measure for preventing disaggregation by stating that "the presence of separate LLCs should not determine whether ownership is separate, because separate LLCs are relatively simple to create." RNP's acknowledgements of the potential limitations in imposing ownership limitations and other factors to prevent disaggregation is consistent with Avista's position that PURPA developers will find creative ways

1 to get around any such rules to take advantage of the published avoided cost rates
2 if such rates provide an economic incentive to do so.
3 As long as the published avoided cost rates are available to large QFs, and those
4 rates provide an economic advantage to developers, Avista is concerned that
5 developers will find ways to disaggregate to take advantage of the favorable
6 published rates.
7 **Q. RNP cites Oregon disaggregation rules as a template for preventing**
8 **disaggregation. Does Avista have any concerns with the Oregon rules?**
9 A. Yes. As outlined in my direct testimony and the direct testimony of Bruce
10 Griswold that was also submitted in this proceeding, the Oregon disaggregation
11 rules were circumvented to enable nine disaggregated projects to qualify in that
12 State. The Oregon example does not support the use of distance and ownership
13 requirements to prevent disaggregation; rather, the experience with Oregon's rules
14 illustrates Avista's concern that eliminating the 100 kW eligibility cap in favor of
15 an eligibility cap structure that returns the cap to 10 aMW will not prevent
16 disaggregation.
17 **Q. In its Exhibit 1901 to Ms. Decker's testimony, RNP presents a proposal for**
18 **determining whether a project is a single QF or a disaggregated project.**
19 **Does Avista have any concerns with that proposal?**
20 A. Yes. RNP's Exhibit 1901 sets out four criteria for determining whether a project
21 with multiple generation sources qualifies as a single QF or is part of a larger
22 disaggregated project. Under that proposal, if the PURPA project does not meet
23 all of four criteria, it would be considered to be a single QF and not part of a

larger disaggregated project. Such a rule could be circumvented easily. For example, a five-investor development company could develop a single large 150 MW project and simply separate the project into five 30-MW project companies before requesting published rate contracts. In that example, ownership would be separate, but the five investors could share in all other development costs and risks and benefit from economies of scale as if they built the project as one. By not violating this one aspect of the rules set forth in Exhibit 1901, the developers could circumvent the intent of the disaggregation rule and the utility would find itself offering five published rate contracts.

Q. Does Idaho Conservation League ("ICL") provide any insights that you wish to highlight here?

A. Yes. On page one of its statements of position and strawman proposal submitted in this proceeding, ICL makes the following statement:

> "Of course, a complete resolution of this dispute requires addressing two elements: which QFs are eligible to receive published rates, and how to set an appropriate rate upon which published rates are based."

ICL also acknowledges that a resolution requires eligibility criteria <u>and</u> an appropriate published rate and that setting an eligibility criterion is "an important first step." These statements are consistent with Avista's position that published rates should not be made available to QFs as large as 10 aMW without, at a minimum, first ensuring that the published avoided cost rate reflects the utilities' actual avoided costs.

Q. Do you have any comments on ICL's strawman proposal?

1 A. Yes. ICL presents a litany of rules that will need to be fleshed out greatly to
2 provide any chance of preventing disaggregation. In addition to many criteria,
3 ICL already envisions litigation around eligibility that Avista believes would be
4 burdensome on the utilities, the developers, and the Commission. ICL sets out a
5 process whereby the QF developer would make a determination of eligibility with
6 its application. The utility would then need to expend resources to makes its own
7 determination. Where the parties disagree on eligibility, the Commission would
8 be called upon to make the final determination.

9 **Q. Does Avista have any summary thoughts at this juncture?**

10 A. Yes. Developers in Idaho have demonstrated their ability to find means to
11 disaggregate larger projects to qualify for published avoided cost rates when such
12 rates are provided to projects as large as 10 aMW. Similarly in Oregon, even with
13 restrictive rules such as distance and ownership, QF developers have managed to
14 disaggregate. Even the testimony of RNP and ICL illustrate the risk of making
15 published avoided cost rates available to large QFs. These proponents of
16 returning the published rate eligibility cap to 10 aMW themselves acknowledge
17 that ownership and distance rules can be easily circumvented.
18 Avista is concerned that so long as published avoided cost rates provide
19 developers an economic advantage (i.e., where rates exceed the true avoided cost
20 of the utility), developers will find ways to circumvent even the best-intended
21 rules. Ultimately Avista's customers end up with retail rates that are higher than
22 they otherwise would be.

23 **Q. Does this conclude your rebuttal testimony?**

1 A. Yes.

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of April 2011, true and correct copies of the foregoing Rebuttal Testimony of Clint Kalich were delivered to the following persons via Email (unless otherwise indicated).

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