

Avista Corp.  
1411 East Mission P.O. Box 3727  
Spokane, Washington 99220-0500  
Telephone 509-489-0500  
Toll Free 800-727-9170



RECEIVED

2012 OCT 25 AM 10:17

IDAHO PUBLIC  
UTILITIES COMMISSION

October 24, 2012

Ms. Jean Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
472 W. Washington  
Boise, ID 83702

**RE: GNR-E-11-03 - Comments of Avista Corporation in Support of Partial Settlement Stipulation**

Dear Ms. Jewell:

Enclosed please find the Comments of Avista Corporation in Support of Partial Settlement Stipulation, submitted for filing in the above-referenced docket on behalf of Avista Corporation. Per the Commission's Rules of Procedure, we have enclosed and original (unbound and unstapled) and seven (7) copies.

If you have any questions regarding this filing, please contact Michael Andrea at 509.495.2564 or me at 509.495.4584.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Kimball".

Paul Kimball  
Regulatory Analyst

Enclosures

## **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that I have served the Comments of Avista Corporation in Support of Partial Settlement Stipulation in GNR-E-11-03, by electronic mail to the following:

Daniel E. Solander  
PacifiCorp/ dba Rocky Mountain Power  
201 S., Main St., Suite 2300  
Salt Lake City, UT 84111  
[daniel.solander@pacificorp.com](mailto:daniel.solander@pacificorp.com)

Donovan E. Walker  
Jason B. Williams  
Idaho Power Company  
PO Box 70  
Boise, ID 83707-0070  
[dwalker@idahopower.com](mailto:dwalker@idahopower.com)  
[jwilliams@idahopoer.com](mailto:jwilliams@idahopoer.com)

Robert D. Kahn  
Executive Director  
Northwest and Intermountain Power  
Producers Coalition  
117 Minor Ave., Suite 300  
Seattle, WA 98101  
[rkahn@nippc.org](mailto:rkahn@nippc.org)

Robert A. Paul  
Grand View Solar II  
15690 Vista Circle  
Desert Hot Springs, CA 92241  
[Robertapaul08@gmail.com](mailto:Robertapaul08@gmail.com)

Ronald L. Williams  
Williams Bradbury, P.C.  
1015 W. Hays Street  
Boise, ID 83702  
[ron@williamsbradbury.com](mailto:ron@williamsbradbury.com)

C. Thomas Arkoosh  
Capital Law Group, PLLC  
205 N. 10<sup>th</sup> St., 4<sup>th</sup> Floor  
Boise, ID 83701  
[tarkoosh@capitallawgroup.com](mailto:tarkoosh@capitallawgroup.com)

Donald I. Howell, II  
Kristine A. Sasser  
Deputy Attorneys General  
Idaho Public Utilities Commission  
472 W. Washington  
Boise, ID 83702-0074  
[don.howell@puc.idaho.gov](mailto:don.howell@puc.idaho.gov)  
[kris.sasser@puc.idaho.gov](mailto:kris.sasser@puc.idaho.gov)

Peter J. Richardson  
Gregory M. Adams  
Richardson & O'Leary, PLLC  
PO Box 7218  
Boise, ID 83702  
[peter@richardsonandoleary.com](mailto:peter@richardsonandoleary.com)  
[greg@richardsonandoleary.com](mailto:greg@richardsonandoleary.com)

Don Sturtevant  
J.R. Simplot Company  
PO Box 27  
Boise, ID 83707-0027  
[don.sturtevant@simplot.com](mailto:don.sturtevant@simplot.com)

James Carkulis  
Exergy Development Group of Idaho, LLC  
802 W. Bannock St., Suite 1200  
Boise, ID 83702  
[jcarkulis@exergydevelopment.com](mailto:jcarkulis@exergydevelopment.com)

Dr. Don Reading  
6070 Hill Road  
Boise, ID 83703  
[dreading@mindspring.com](mailto:dreading@mindspring.com)

Don Schoenbeck  
RCS  
900 Washington St., Suite 780  
Vancouver, WA 98660  
[dws@r-c-s-inc.com](mailto:dws@r-c-s-inc.com)

John R. Lowe, Consultant  
Renewable Energy Coalition  
12050 SW Tremont St.  
Portland, OR 97225  
[jravensanmarcos@yahoo.com](mailto:jravensanmarcos@yahoo.com)

Bill Piske  
Interconnect Solar Development, LLC  
1303 E. Carter  
Boise, ID 83706  
[billpiske@cableone.net](mailto:billpiske@cableone.net)

Lori Thomas  
Capital Law Group, PLLC  
PO Box 2598  
Boise, ID 83701-2598  
[lthomas@capitallawgroup.com](mailto:lthomas@capitallawgroup.com)

Wade Thomas  
General Counsel  
Dynamis Energy, LLC  
776 W. Riverside Dr., Suite 15  
Eagle, ID 83616  
[wthomas@dynamisenergy.com](mailto:wthomas@dynamisenergy.com)

Brian Olmstead  
Twin Falls Canal Company  
PO Box 326  
Twin Falls, ID 83303  
[olmstead@tfcanal.com](mailto:olmstead@tfcanal.com)

Bill Brown, Chair  
Board of Commissioners of  
Adams County, ID  
PO Box 48  
Council, ID 83612  
[bdbrown@frontiernet.net](mailto:bdbrown@frontiernet.net)

R. Greg Ferney  
Mimura Law Offices, PLLC  
2176 E. Franklin Rd., Suite 120  
Meridan, ID 83642  
[greg@mimuralaw.com](mailto:greg@mimuralaw.com)

Dean J. Miller  
Chas F. McDevitt  
McDevitt & Miller, LLP  
PO Box 2564  
Boise, WA 83701  
[joe@mcdevitt-miller.com](mailto:joe@mcdevitt-miller.com)  
[chas@mcdevitt-miller.com](mailto:chas@mcdevitt-miller.com)

M.J. Humphries  
Blue Ribbon Energy LLC  
4515 S. Ammon Road  
Ammon, ID 83406  
[blueribbonenergy@gmail.com](mailto:blueribbonenergy@gmail.com)

Arron F. Jepson  
Blue Ribbon Energy LLC  
10660 South 540 East  
Sandy, UT 84070  
[arronesq@aol.com](mailto:arronesq@aol.com)

Ted Diehl  
North Side Canal Company  
921 N. Lincoln St.  
Jerome, ID 83338  
[nscanal@cableone.net](mailto:nscanal@cableone.net)

Ted S. Sorenson, P.E.  
Birch Power Company  
5203 South 11<sup>th</sup> East  
Idaho Falls, ID 83404  
[ted@tsorenson.net](mailto:ted@tsorenson.net)

Megan Walseth Decker  
Senior Staff Counsel  
Renewable Northwest Project  
421 SW 6<sup>th</sup> Avenue, Suite 1125  
Portland, OR 97204  
[megan@rnp.org](mailto:megan@rnp.org)

Benjamin J. Otto  
Idaho Conservation League  
710 N. Sixth Street (83702)  
PO Box 844  
Boise, ID 83701  
[botto@idahoconservation.org](mailto:botto@idahoconservation.org)

Marv Lewallen  
Clearwater Paper Corporation  
601 W. Riverside Ave., Suite 1100  
Spokane, WA 99201  
[Marv.lewallen@clearwaterpaper.com](mailto:Marv.lewallen@clearwaterpaper.com)

Deborah E. Nelson  
Kelsey J. Nunez  
Givens Pursley LLP  
601 W. Bannock Street (83702)  
PO Box 2720  
Boise, ID 83701-2720  
[den@givenspursley.com](mailto:den@givenspursley.com)  
[kjn@givenspursley.com](mailto:kjn@givenspursley.com)


J.Kahle Becker, Idaho  
The Alaska Center  
1020 W. Main St. Suite 400  
Boise, ID 83702  
[kahle@kahlebeckerlaw.com](mailto:kahle@kahlebeckerlaw.com)

Glenn Ikemoto  
Margaret Rueger  
Idaho Windfarms LLC  
672 Blair Ave.  
Piedmont, CA 94611  
[glenni@envisionwind.com](mailto:glenni@envisionwind.com)  
[Margaret@envisionwind.com](mailto:Margaret@envisionwind.com)

Liz Woodruff  
Ken Miller  
Snake River Alliance  
PO Box 1731  
Boise, ID 83701  
[lwoodruff@snakeriveralliance.org](mailto:lwoodruff@snakeriveralliance.org)  
[kmiller@snakeriveralliance.org](mailto:kmiller@snakeriveralliance.org)

Tauna Christensen  
Energy Integrity Project  
769 N 1100 E  
Shelley, ID 83274  
[tauna@energyintegrityproject.org](mailto:tauna@energyintegrityproject.org)

Michael J. Uda  
Uda Law Firm, P.C.  
7 W. 6<sup>th</sup> Avenue, Suite 4E  
Helena, MT 59601  
[muda@mthelena.com](mailto:muda@mthelena.com)

By:   
Paul Kimball  
Regulatory Analyst

October 24, 2012

MICHAEL G. ANDREA (ISB No. 8308)  
Avista Corporation  
1411 E. Mission Ave., MSC-23  
Spokane, WA 99202  
Telephone: (509) 495-2564  
michael.andrea@avistacorp.com

Attorney for Avista Corporation

RECEIVED  
2012 OCT 25 AM 10:17  
IDAHO PUBLIC  
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

|                                   |   |                           |
|-----------------------------------|---|---------------------------|
| IN THE MATTER OF THE COMMISSION'S | ) |                           |
| REVIEW OF PURPA QF CONTRACT       | ) |                           |
| PROVISIONS INCLUDING THE          | ) | CASE NO. GNR-E-11-03      |
| SURROGATE AVOIDED RESOURCES       | ) |                           |
| (SAR) AND INTEGRATED RESOURCE     | ) | COMMENTS OF AVISTA        |
| PLANNING (IRP) METHODOLOGIES FOR  | ) | CORPORATION IN SUPPORT OF |
| CALCULATING AVOIDED COST RATES    | ) | PARTIAL SETTLEMENT        |
|                                   | ) | STIPULATION               |
|                                   | ) |                           |

---

On October 16, 2012, the Idaho Public Utilities Commission ("Commission") issued a Notice of Partial Settlement Stipulation; Request for Comment ("Notice")<sup>1</sup> in which the Commission invited comments on a partial settlement ("Partial Settlement Stipulation") addressing the issue of delay security and liquidated damages in PURPA power purchase agreements ("PPAs"). The Partial Settlement Stipulation was signed by 13 of the 25 parties in the above-captioned proceeding. Pursuant to the Notice, Avista respectfully submits these comments in support of the Partial Settlement Stipulation.

---

<sup>1</sup> Order No. 32665.

Avista Corporation ("Avista") has consistently asserted that it is imperative that PURPA PPAs contain meaningful security and liquidated damages provisions.<sup>2</sup> In direct testimony submitted by Avista in this proceeding, Mr. Kalich stated:

Liquidated damages provisions, including adequate security to ensure payment of liquidated damages if necessary, are one of two key protections a utility must have with any developer who might otherwise not exercise their "put option" in the absence of an obligation on the part of the QF to perform. Once a PURPA contract is executed by the parties it becomes a firm contract in the utility's resource stack and, as such, the proposed QF resource postpones the development of other resource alternatives; in other words, the contract then allows and obligates the Company to avoid the costs associated with investing in its system to ensure reliable electricity service. To the extent the PURPA developer does not honor its contract commitments the utility ends up at the last moment having to procure other resources, potentially at higher cost. In the absence of meaningful liquidated damages, the QF developer has a free option to either honor its contractual commitment where the avoided cost rate under the contract (agreed to years before commercial operation) is greater than its alternatives at the time of commercial operation, break its commitment and sell to a 3<sup>rd</sup> party if it can secure a higher price, or simply cease development where market conditions have changed.<sup>3</sup>

In the event that a QF fails to honor its contractual obligation, actual damages to the utility and its ratepayers may include, among other things, additional costs associated with procuring replacement energy and the lost opportunity costs associated with projects or other opportunities that were not pursued because the QF was in the utility's resource stack. To be sure, accurate determination of actual damages would be difficult or impossible. Thus, in order to ensure that a utility has some recourse in the event that a QF fails to honor its contractual obligations, Avista recommended that PURPA PPAs require, at a minimum, that QFs post security equal to \$45 per kilowatt based on installed capacity.<sup>4</sup> In the event that the QF failed to achieve commercial operation by the scheduled commercial operation date, damages would be calculated based on the difference between the market price of replacement power and the PPA

---

<sup>2</sup> E.g., Direct Testimony of Clint Kalich on Behalf of Avista Corporation, GNR-E-11-03, at 31-33 (Jan. 31, 2012) ("Kalich Direct").

<sup>3</sup> Kalich Direct at 31-32.

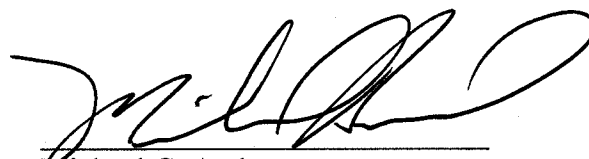
<sup>4</sup> Kalich Direct at 32.

price during a reasonable cure period (90-180 days after the scheduled commercial operation date). If the QF failed to achieve commercial operation prior to the expiration of the cure period, the QF would forfeit its security as liquidated damages and the utility could terminate the PPA.

Although there are some differences between the Partial Settlement Stipulation and Avista's recommendations, the Partial Settlement Stipulation includes many of the elements recommended by Avista, including a requirement that QF developers post security equal to \$45 per kilowatt. The Partial Settlement Stipulation in the above-captioned proceeding, provides for standardization of certain terms in PURPA PPAs, including (i) standard terms with regard to the amount of security that QF developers are required to post, (ii) a standard cure period for QFs that fail to achieve commercial operation by the scheduled operation date, and (iii) a standard for calculating damages incurred by the utility during the cure period. Such standard terms should enhance the process of entering into PURPA PPAs by resolving issues between the utilities and QF developer. Also the requirement that QF developers post security equal to \$45 per kilowatt based on nameplate capacity provides assurance that utilities will have at least some recourse if a QF developer fails to satisfy its contractual obligations. Accordingly, Avista supports the terms of the Partial Settlement Stipulation.

Respectfully submitted this 24<sup>th</sup> day of October 2012.

**AVISTA CORPORATION**

A handwritten signature in black ink, appearing to read 'Michael G. Andrea', is written over a horizontal line.

Michael G. Andrea  
Senior Counsel  
Attorney for Avista Corporation