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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IDAHO PUBLIC UTILITIES COMMISSION

CASSIA GULCH WIND PARK, LLC AND )  
CASSIA WIND FARM, LLC, )

CASE NO. IPC-E-06-21

COMPLAINANTS, )

AVISTA CORPORATION

v. )

COMMENTS

IDAHO POWER COMPANY, )

RESPONDENT. )

**I.**

**INTRODUCTION**

The Commission on September 27, 2006, requested comments to be filed with respect to the responsibility of QFs under the Public Utility Regulatory Policies Act ("PURPA") to share in electric transmission system upgrade costs that are necessitated, in part, by QF requests for interconnection.

Avista Corporation ("Avista") has no position with respect to the specific transmission costs associated with the complaint of Cassia Gulch Wind Park, LLC and Cassia Wind Farm, LLC against Idaho Power Company.

Avista contends herein that as a practical matter the allocation of extraordinary transmission costs associated with QF projects must be determined on a case-by-case basis that takes into account the factors unique to the particular QF project, and the nature of transmission upgrades, if any are required, because of the QF development. Avista recommends against a generic formula applicable to all utilities. Instead, Avista submits that a utility should be permitted to negotiate transmission arrangements, including costs, with QF's on an individual basis. If negotiations fail, then the purchasing utility should determine, subject to Commission review, the costs associated with transmission upgrades for an individual QF that should be assumed by the QF as a condition of receiving a contract under PURPA.

## II.

### RECOMMENDED APPROACH

- 1. A utility purchasing QF output should be free to individually negotiate transmission arrangements with individual QF projects, based on the unique terms of the contract (including length), location and generating characteristics of the project.**

Individually negotiated transmission arrangements may include (i) transmission routing over third party transmission systems, (ii) the right to dispatch generating plants, (iii) a sharing of the transmission upgrade costs between the utility and the QF project, because of overall benefit to the purchasing utility's system, (iv) construction of the QF at a more advantageous location, (v) or some other solution unique to the situation.

Avista recommends negotiations on a case-by-case basis because of the great variety of possible situations involving QF development (for instance, QFs near load centers, QFs in rural low-load areas, QF output which is wheeled to Avista over third party facilities, multiple QFs located at a single site, etc.). Additionally, transmission arrangements may be influenced by the utility's plans to expand transmission, and requirements of federal regulatory or transmission reliability authorities. Therefore, it is impossible to assess the need or cost of transmission on a generic basis. However, it may be possible to mitigate the need or cost of transmission improvements if individual negotiations between the utility and the QF developer are encouraged by the Commission.

An example of individually negotiated transmission arrangements are those set forth in the power purchase and sale agreement between Avista and Thompson River Co-Gen LLC, a QF located in the state of Montana. (*See* Docket No. AVU-E-05-7). Although the QF output is wheeled to an Idaho point of delivery with Avista, the agreement also authorizes delivery to alternate points of delivery, in the event that Avista, due to transmission limitations, cannot accept delivery at the primary point of delivery. Absent individually negotiated arrangements, QF developers may insist that the utility make expensive transmission expansions that are not otherwise required for its system.

**2. Absent mutually negotiated arrangements, the costs of transmission upgrades caused by the QF should be paid by the QF developer.**

If the costs of transmission improvements necessitated by QF development are assigned as a matter of Commission policy to the utility, then QFs will have little or no incentive to negotiate alternative transmission arrangements that may not require substantial construction. While utilities have a continuing incentive to minimize unnecessary rate impacts upon customers and operate their transmission systems in a least cost manner, QF developers have no similar incentive, unless they have ultimate responsibility for transmission upgrade costs associated with their projects.

QF projects should not be placed in a position substantially superior to other vendors of electric power with respect to transmission upgrade costs. QF projects should not escape the transmission upgrade costs caused by their projects, although appropriate contract provisions may be negotiated to require a partial contribution to these costs by subsequent QFs that utilize the same transmission.

### **III.**

#### **GENERAL PRINCIPLES**

While Avista contends that arrangements for transmission should be individually negotiated, subject to the QFs obligation to pay for such necessary upgrades, these negotiations between Avista and the QF developer should be guided by the following general principles:

**1. The utility's customers should not incur costs as a consequence of a purchase from a QF in excess of costs that the utility would have incurred had it purchased or constructed the surrogate avoided resource.**

Transmission capital costs are not currently figured into the costs of the surrogate avoided resource. In Case No. WWP-E-89-6, Order No. 23349, the Commission determined avoided transmission costs associated with a generic coal plant, because the plant was assumed to be located in the Powder River Basin. In Case No. WWP-E-93-10, Order No. 25883, the Commission replaced the coal plant with a combined-cycle combustion turbine generator ("CCCT") as the surrogate for determining published avoided cost rates.

In Order No. 25883, the Commission expressly deferred to the Regional Power Council's selection of a CCCT as a preferred source of regional generation. The Regional Council Plan associates no transmission costs with CCCTs, presumably because CCCTs are not site specific resources and can be optimally located within service territories.

The avoided cost methodology applied by the Commission to small QFs only establishes the cost of the QF output. Transmission upgrades occasioned by QFs result in costs additional to those that a utility would incur if it acquired a CCCT as assumed by the Regional Council Plan or the Commission surrogate avoided cost methodology. These transmission upgrade costs are not "avoided" by a purchase from the QF. In fact, they are costs that the utility would not incur, but for the purchase from the QF. It would be inconsistent with the Commission's average system cost methodology to require the utility and its customers to absorb these costs.

It clearly would be a violation of PURPA principles embodied within the Commission's avoided cost methodology if the bundle of costs incurred by a utility and its customers, as a consequence of a QF acquisition, included both the avoided cost purchase price paid for the power and transmission costs uniquely caused by the QF project.

**2. The total costs paid by a utility's customers for QF output and transmission upgrades should not exceed that utility's IRP costs for generation and its associated transmission.**

A utility's resource acquisition decision take into account the full bundle of costs associated with particular generating alternatives, in comparison with other alternatives that are known at the time of acquisition. For example, Avista's Integrated Resource Plan ("IRP") and subsequent Requests for Proposals ("RFP") are mechanisms for comparing these resource acquisition alternatives that takes into account all known costs, including transmission. Using these mechanisms, a utility might determine, for instance, that a low-priced remotely located generation project, including associated transmission wheeling costs compares favorably with those of a CCCT optimally located within the utility's service territory.

Assigning to the utility and its customers transmission costs associated with QF development, in addition to costs associated with the surrogate avoided resource would result in total costs to the utility that exceed the IRP or RFP alternatives. While small QFs are entitled to an administratively determined avoided cost rate for their electric output, the Commission should not encourage development of projects that may be uneconomic because of their effect upon transmission costs.

**3. PURPA, as implemented by the Federal Energy Regulatory Commission ("FERC"), does not allow costs of transmission upgrades necessitated by an individual QF development to be assigned to the purchasing utility's customers.**

18 C.F.R. §292.304(a) of the FERC's regulations specifies:

- (1) Rates for purchases shall:
  - (i) Be just and reasonable to the electric consumer of the electric utility and in the public interest; and
  - (ii) Not discriminate against qualifying cogeneration and small power production facilities.
- (2) Nothing in this subpart requires any electric utility to pay more than the avoided costs for purchases. (Emphasis added).

By definition, if a utility is compelled to bear the expenses associated with transmission upgrades caused by the location of the QF project as well as pay for power at the administratively determined avoided cost, the utility will be paying more than "avoided costs" for the QF output. Imposing the total costs of the QF acquisition upon the utility and its customers expressly violates PURPA.

**4. Idaho law does not authorize the Commission to confer a special transmission benefit upon QF developers.**

Idaho law does not authorize or require special transmission privileges to be granted to QF developers. Idaho Code § 61-303 specifies that, "all rules and regulations made by a public utility affected or pertaining to its charges of service to the public shall be just and reasonable." A utility is enjoined from establishing rates or charges which are "preferential or discriminatory." *E.g. Idaho State Homebuilders v. Washington Water Power Co.*, 107 Idaho 415, 690 P.2d 350 (1984). Nothing in Idaho law confers on a QF

developer a statutory right to require the utility to upgrade its transmission system at its expense for the sole convenience of the developer.

A QF is not necessarily a retail or transmission customer of the utility to which it sells its output. Terms of service for transmission customers of a utility, including financial obligations associated with transmission upgrades, are governed by the utility's FERC mandated Open Access Transmission Tariff ("OATT"). If a QF developer is a retail customer (for instance for station service), the serving utility's terms of service are governed by the utility's approved retail schedules. A utility's obligation to construct or upgrade and maintain its transmission and distribution system for its retail customers are determined by the extent of the retail service provided by the utility. However, Avista is unaware of legal authority that requires it to upgrade its electric system in order to confer a financial benefit upon a QF when the QF is only a vendor of power. Even when a QF is a customer of a utility, the utility's service obligation is determined by the amount of power sold to the QF, not by the output that the QF desires to sell to others. There is no statutory right in Idaho for vendors of electricity to transfer transmission and distribution costs that they cause to a utility's retail and transmission customers. If permitted, that transfer would be an unlawful subsidy from the utility's transmission and retail customers to third vendors.

#### **IV.**

#### **CONCLUSION**

Where a utility's existing transmission or distribution will not accommodate the output of a proposed QF, the Commission should encourage QF developers and utilities to negotiate individual transmission and/or dispatch arrangements which mitigate the necessity of expensive transmission construction or upgrades. Individual negotiation of these arrangements will optimize the interests of the QF developer and the utility. A "one size fits all" approach to transmission costs caused by QF development would preclude development of these individual arrangements. Ultimately, however, if the utility and the QF developer are unable to agree upon mutually acceptable transmission arrangements, the QF developer must bear an equitable share of the costs of transmission improvements and upgrades that are required to receive the output of the QF, taking into account the

four principles set forth above. A transfer of these costs to the utility and its customers would be an ill-advised and perhaps illegal subsidy.

Therefore, in the absence of a negotiated agreement, the purchasing utility, subject to Commission review, should determine the appropriate allocation of transmission upgrade costs, as between the purchasing utility and the QF developer, with such determination being based upon the four principles described herein. Although one of the purposes of published avoided cost rates is to simplify the contract negotiation process for small QF developers, the proper allocation of transmissions costs is necessarily specific to the individual QF, and requires an individual analysis.

V.

### COMMUNICATIONS

Communications respecting this matter should be addressed to::

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RESPECTFULLY SUBMITTED this 20<sup>th</sup> day of October, 2006.

**AVISTA CORPORATION**

By: \_\_\_\_\_

  
David J. Meyer

Vice President, Chief Counsel for  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this \_\_\_\_ day of October, 2006, caused to be served the foregoing COMMENTS OF AVISTA CORPORATION upon all parties of record in this proceeding, by mailing a copy thereof, property addressed with postage prepaid, to:

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