

120 FERC ¶ 61,046  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

July 13, 2007

In Reply Refer To:  
Avista Corporation  
Docket No. OA07-5-000

Paine Hamblen LLP  
717 West Sprague Avenue, Suite 1200  
Spokane, WA 99201-3505

Attention: Gary A. Dahlke  
Attorney for Avista Corporation

Reference: Order No. 890 Compliance Filing

Dear Mr. Dahlke:

1. On April 16, 2007, in accordance with the procedures established in Order No. 890,<sup>1</sup> Avista Corporation (Avista) submitted its Federal Power Act (FPA) section 205 compliance filing to address those previously approved variations to the *pro forma* Open Access Transmission Tariff (OATT) that Avista seeks to retain in its OATT. Avista's filing is conditionally accepted in part and rejected in part, as discussed below.

2. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. Among other things, Order No. 890 amended the *pro forma* OATT to require greater consistency and transparency in the calculation of available transfer capability, open and coordinated planning of transmission systems and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights and reassignments of transmission capacity.

---

<sup>1</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007).

3. The Commission established a series of compliance deadlines to implement the reforms adopted in Order No. 890. Transmission providers that have not been approved as independent system operators (ISOs) or regional transmission organizations (RTOs), and whose transmission facilities are not under the control of an ISO or RTO, were directed to submit FPA section 206 filings that conform the non-rate terms and conditions of their OATTs to those of the *pro forma* OATT, as reformed in Order No. 890, within 120 days from publication of Order No. 890 in the Federal Register, *i.e.*, July 13, 2007.<sup>2</sup>

4. The Commission recognized, however, that some of these non-ISO/RTO transmission providers may have provisions in their existing OATTs that the Commission previously deemed to be consistent with or superior to the terms and conditions of the Order No. 888<sup>3</sup> *pro forma* OATT, but which *pro forma* terms and conditions were modified by Order No. 890. The Commission provided an opportunity for such transmission providers to submit an FPA section 205 filing seeking a determination that a previously-approved variation from the Order No. 888 *pro forma* OATT substantively affected by the reforms adopted in Order No. 890 continues to be consistent with or superior to the revised *pro forma* OATT. The Commission directed applicants to make those filings within 30 days from publication of Order No. 890 in the Federal Register, *i.e.*, April 16, 2007, and to request that the proposed tariff provisions be made effective as of the date of the transmission provider's FPA section 206 compliance filing, described above, except for imbalance-related provisions, which may become effective on the first day of the billing cycle following that date. The Commission also requested that applicants state that the Commission has 90 days following the date of submission to act under section 205.

5. Avista states that the Commission has previously accepted variations of service schedules under its OATT including: Schedule 3 - Regulation and Frequency Response; Schedule 5 - Operating Reserves - Spinning Reserve Service; and Schedule 6 - Operating Reserves Supplemental Reserve Service. Avista states its variations under Schedule 3

---

<sup>2</sup> The original 60-day compliance deadline provided for in Order No. 890 was extended by the Commission in a subsequent order. *See Preventing Undue Discrimination and Preference in Transmission Service*, 119 FERC ¶ 61,037 (2007).

<sup>3</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub. nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

provide flexibility for the benefit of transmission customers and its variations under Schedules 5 and 6 provide further clarification regarding the nature of the service provided. Avista contends that the variations therefore continue to be consistent with or superior to the *pro forma* OATT.

6. Avista also proposes to retain previously accepted variations for Schedule 4 Energy Imbalance Service. Avista's proposed Energy Imbalance Service includes three deviation bands. Deviation band 1 applies to hourly imbalance deviations within  $\pm 1.5$  percent of the scheduled amount of energy or  $\pm 2$  MW, whichever is larger. Under deviation band 1, the transmission customer may elect to settle imbalance deviations by the return of energy or by financial settlement.<sup>4</sup> For financial settlement of negative deviations<sup>5</sup> in band 1, Avista proposes to charge 100 percent of the hourly pricing proxy.<sup>6</sup> For positive deviations,<sup>7</sup> Avista will credit the transmission customer 100 percent of the hourly pricing proxy. Deviation band 2 applies to the portion of the hourly deviation greater than  $\pm 1.5$  percent of the scheduled amount of energy or  $\pm 2$  MW, whichever is larger up to and including  $\pm 7.5$  percent of the scheduled amount of energy or  $\pm 5$  MW, whichever is larger. For negative deviations, Avista proposes to charge 110 percent of the hourly pricing proxy. For positive deviations, Avista proposes to credit the transmission customer 90 percent of the hourly pricing proxy. Deviation band 3 applies to the portion of an hourly imbalance deviation greater than  $\pm 7.5$  percent of the scheduled amount of energy or greater than  $\pm 5$  MW, whichever is larger. For negative deviations, Avista proposes to charge 125 percent of the hourly pricing proxy or

---

<sup>4</sup> The service agreement must specify the transmission customer's initial election and the transmission customer may change such election no more often than once per year upon ninety days' notice prior to such change.

<sup>5</sup> A negative deviation occurs when energy taken by the transmission customer is greater than the energy scheduled.

<sup>6</sup> The hourly pricing proxy price is defined as the Dow Jones Mid-Columbia Daily Firm Index, On-Peak (hours ending 0700 through 2200 Pacific prevailing time Monday through Saturday inclusive) and Off-Peak (all other hours) (Dow Jones Mid-C). Also for any on-peak or off-peak period during which Avista's Clark Fork River system is in a forced spill condition, Avista will provide no compensation for a positive deviation for any hour of such on-peak or off-peak period. Situations in which Avista chooses to spill (for example, for fish, or when all of Avista's available hydro units on its Clark Fork River System are generating at full load) are not forced spill conditions.

<sup>7</sup> A positive deviation occurs when energy taken by the transmission customer is less than the energy scheduled.

100 mills per kilowatt hour, whichever is greater. For positive deviations, Avista proposes to credit the transmission customer 75 percent of the hourly pricing proxy.

7. Avista states that its use of a defined hourly pricing proxy is consistent with the use of decremental cost adopted in Order No. 890 and is consistent with the proxy used by the Bonneville Power Administration.<sup>8</sup> According to Avista, the index is reliable, verifiable and indicative of the prevailing price in liquid markets in the Pacific Northwest and the use of this hourly pricing proxy reduces contract administration costs for both the transmission provider and transmission customer. In addition, Avista states that its deviation bands and financial settlements within these deviation bands are consistent with Order No. 890. Avista further notes its proposal to retain a 100 mill per kilowatt minimum charge for deviations in band 3 provides a necessary disincentive to keep a transmission customer from leaning on the transmission provider's system during peak hours where real-time prices may exceed the on-peak-hour index prices defined in the hourly pricing proxy.

8. In addition, Avista submitted variations to certain non-rate terms and conditions including: Attachment A - Long-Term Firm Point-to-Point Transmission Service, Attachment B - Short-Term Point-to-Point Transmission Service and Section 4 addressing Wholesale Electric Quadrant Business Practices. Avista explains that although these schedules are not substantively affected by Order No. 890, Avista requests that the Commission confirm that these provisions continue to be consistent with and/or superior to the *pro forma* tariff.

9. Notice of Avista's filing was published in the Federal Register, 72 Fed. Reg. 20,524 (April 18, 2007), with comments, protests or interventions due on or before May 7, 2007. Powerex Corporation filed a motion to intervene. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

10. We conclude that the previously approved variations in Avista's Service Schedules 3, 5 and 6 are consistent with the *pro forma* OATT as modified in Order No. 890 and hereby accept those schedules for filing. Avista's Attachment A- Long-Term Firm Point-to-Point Transmission Service, Attachment B - Short-Term Point-to-Point Transmission Service and Section 4 addressing Wholesale Electric Quadrant

---

<sup>8</sup> Avista explains that its proposal is the result of extended negotiations between Avista and Bonneville Power Administration in association with the conversion of an expired transmission agreement to transmission service under Avista's OATT. Avista states that the negotiated energy imbalance service provision was subsequently incorporated into Avista's OATT.

Business Practices are rejected because they are not substantively affected by Order No. 890 and are therefore unnecessary.

11. With respect to Avista's Schedule 4 - Energy Imbalance Service, we conclude that Avista's proposed three-tiered deviation band and the parameters established for these deviation bands is consistent with our adoption, in Order No. 890, of graduated deviation bands which recognize the link between escalating deviations and potential reliability impacts on the system. However, under deviation band 3 for negative deviations, Avista's proposal to charge the greater of 125 percent of the hourly pricing proxy or 100 mills per kilowatt hour, whichever is greater, is inconsistent with our finding in Order No. 890, "that charges for energy imbalance service should be based on incremental cost or some multiple thereof."<sup>9</sup> Therefore, we conditionally accept Avista's Schedule 4 - Energy Imbalance Service effective July 13, 2007, subject to Avista's modifying its tariff sheet to remove the 100 mill per kilowatt hour charge for negative deviations in band 3 within 30 days of the date of this order. To the extent that, as Avista suggests, real-time prices may exceed the on-peak-hour index prices defined in the hourly pricing proxy, Avista may revise its proposal consistent with our principles adopted in Order No. 890.<sup>10</sup>

12. The Commission has considered only those previously-approved variations from the *pro forma* OATT that Avista contends in its transmittal letter are consistent with or superior to the reforms adopted in Order No. 890. Acceptance of these proposed variations to the *pro forma* OATT tariff sheets does not relieve Avista of the obligation to make a section 206 compliance filing for requirements of Order No. 890 not addressed in the instant filing as required by Order No. 890 on or before July 13, 2007.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

---

<sup>9</sup> Order No. 890 at P 663.

<sup>10</sup> *Id.*