

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE DEVELOPMENT</b>	)	
<b>OF REQUEST FOR PROPOSAL (RFP)</b>	)	<b>CASE NO. IPC-E-10-03</b>
<b>GUIDELINES FOR THE PROCUREMENT</b>	)	<b>(Previous Case No. GNR-E-08-03)</b>
<b>OF SUPPLY-SIDE RESOURCES BY IDAHO</b>	)	
<b>POWER COMPANY</b>	)	<b>NOTICE OF CASE DOCKET</b>
	)	
	)	<b>NOTICE OF SCHEDULING</b>
	)	
	)	<b>NOTICE OF WORKSHOP</b>
	)	
	)	<b>ORDER NO. 30999</b>

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**BACKGROUND**

On November 26, 2008, the Northwest and Intermountain Power Producers Coalition (NIPPC), the Industrial Customers of Idaho Power (ICIP), the J.R. Simplot Company, and the Idaho Irrigation Pumpers Association, Inc. (IIPA), collectively Petitioners, filed a Petition with the Idaho Public Utilities Commission (Commission) asking the Commission to open a generic investigation into the desirability of establishing competitive bidding guidelines for the procurement of supply-side resources by Idaho Power, PacifiCorp and Avista.

Petitioners contend that electric utilities in Idaho are free to offer supply-side resource acquisition requests for proposals (RFPs) that are designed and administered completely without Commission or other stakeholder input. Integrated Resource Plans (IRPs), while useful tools in analyzing resource options, Petitioners contend, are generally silent on the method by which any particular resource should be acquired. The IRP process, Petitioners contend, does not provide a framework for oversight of the resource acquisition process. Electric utilities in Idaho, Petitioners state, are even free to make supply-side resource acquisition decisions without the benefit of RFPs. In the Pacific Northwest States of Washington and Oregon, Petitioners contend that the same utilities are required to make resource acquisitions through a Commission-approved, and stakeholder-involved, process. Idaho, Petitioners contend, is the only state in the Pacific Northwest that does not actively oversee

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or provide guidelines for the investor-owned utilities it regulates that govern their acquisition of supply-side resources.

The adoption of guidelines and active oversight of supply-side resource acquisition decisions, Petitioners contend, is increasingly the norm. Petitioners cite a July 2008 Report of NARUC/FERC entitled “Competitive Procurement of Retail Electric Supply: Recent Trends in State Policies and Utility Practices.” That Report concludes:

Competitive procurements for retail electricity supply have been used for many years in different states. More than forty percent of the states now rely on formal policies and rules for procurements, while regulators in many other states encourage use of competitive procurements by utilities in determining which resources to add to their mix of retail supply.

Where regulators have committed to relying upon competitive procurement approaches as a means to help identify the “best” resources needed to meet the needs of the utility’s customers, the process should be designed and implemented so that it reflects the following criteria (and is generally viewed as being consistent with them):

- Fair and objective;
- Designed to encourage robust competitive responses from market participants with creative responses from the market;
- Based on evaluations that incorporate all appropriate and relevant price and non-price factors;
- Efficient, with a timely selection process; and
- Supported by regulatory actions that positively reinforce the commission’s commitment.

The Report, Petitioners contend, is a blueprint on how to implement guidelines that are both fair and effective.

The consequence of an under-subscribed RFP and/or one where the outcome is pre-ordained, Petitioners contend, deprives the ratepayers of access to the competitive marketplace. It also forecloses the opportunity of tapping into what may prove to be least cost – in economic and environmental terms – power generated by independent power producers (IPPs).

Petitioners contend that competitively procured power purchase agreements (PPAs) can shift tangible and considerable risk from ratepayers onto IPPs. The IPP business model, Petitioners state, is based on competition and the principle of pay for performance; it

leverages the profit motive to consumers' advantage. Regardless of the current "need for action," the implementation of competitive procurement guidelines in Idaho, Petitioners contend, is consistent with good regulatory practice.

Petitioners requested that the Commission open a generic docket for the purpose of exploring and establishing reasonable parameters and rules governing the supply-side acquisition process through competitive procurement.

#### **NIPPC MOTION**

On December 22, 2009, the Northwest & Intermountain Power Producers Coalition (NIPPC) filed a Motion in Case No. GNR-E-08-03 requesting that the Commission initiate a procedural schedule and narrow the scope of the docket to Idaho Power (removing PacifiCorp and Avista).

NIPPC notes that proceedings in GNR-E-08-03 were stayed pending completion of Case No. IPC-E-09-03, Idaho Power's Langley Gulch Certificate case. In Commission Order No. 30892 granting a Certificate for Langley Gulch, the Commission made the following findings:

The Company should, however, be concerned about perception that the third-party consultant was directed by the Company and there was a bias in the selection process. The actual and perceived flaws in the RFP process, we find, while not fatal to the Company's resource selection, clearly demonstrate a need for a separate proceeding to consider RFP competitive bidding rules and guidelines. We recognize that the Northwest & Intermountain Power Producers Coalition has filed a petition requesting such an investigation (Case No. GNR-E-08-03). The Commission will explore utility RFPs for supply-side resources in that case or another opened for that purpose.

Order No. 30892, pp. 30-31.

NIPPC requests that the Commission establish a procedural schedule under which interested parties can proceed to fully investigate the competitive procurement practices of Idaho Power Company. NIPPC recommends workshops facilitated by an expert with experience in implementing competitive bidding procedures for investor-owned utilities.

NIPPC further requests that this docket be amended to eliminate its generic status and limit the issues to be explored to only Idaho Power. NIPPC understands that the other two relevant electric utilities operating in Idaho already comply with competitive procurement rules

in the other states in which they operate. NIPPC contends that there is no need for Idaho to be duplicative for rules already in play in those states.

***Idaho Power Reply***

Idaho Power has no objection to either of the two parts of NIPPC's Motion. Idaho Power agrees that this proceeding should apply only to Idaho Power. Idaho Power is also amenable to the Commission establishing a procedural schedule to process this case.

Addressing NIPPC's proposal that an expert be retained to facilitate the workshops, Idaho Power suggests that it may be more cost-effective for the parties to conduct the first workshop without a facilitator to see if one is really needed. At the first workshop, Idaho Power states it will be prepared to discuss a draft set of competitive bidding guidelines that it would distribute beforehand. That same first workshop, the Company contends, could be used as a place for the parties to work out a procedural schedule for this docket.

***Avista Reply***

On January 8, 2010, Avista Corporation made a letter filing with the Commission concurring with NIPPC's proposal to narrow the scope of the docket to Idaho Power only. Avista states that it is subject to the State of Washington's competitive procurement rules, which are codified at WAC 480-107-001, et seq. Avista states it complies with the WUTC's competitive procurement rules with regard to all resource acquisitions that are subject to those rules. To the extent the Commission grants NIPPC's request to narrow the proceeding to only Idaho Power, Avista requests that the Commission expressly state in its order that any rules developed or promulgated in the proceeding will apply to only Idaho Power and will not apply to any other utility that is subject to and complies with the competitive procurement rules of another state.

***PacifiCorp Reply***

On January 15, 2010, PacifiCorp dba Rocky Mountain Power made a letter filing with the Commission concurring with NIPPC's proposal to narrow the scope of the proceeding to Idaho Power only. PacifiCorp states that it has extensive experience with competitive procurement guidelines, rules or laws in the States of Oregon, Washington and Utah. Rocky Mountain Power's generation and transmission resources are system allocated; therefore it is subject to each of the procurement rules, laws, and guidelines of these three jurisdictions

(referenced copies attached to letter). If the Commission grants NIPPC's request, Rocky Mountain Power requests that the Commission expressly state in its order that any guidelines or rules developed or promulgated in this proceeding apply to Idaho Power only.

### **COMMISSION FINDINGS**

The Commission has reviewed the November 26, 2008 Petition of the Northwest & Intermountain Power Producers Coalition (NIPPC), the Industrial Customers of Idaho Power (ICIP), the J.R. Simplot Co., and the Idaho Irrigation Pumpers Association, Inc. (IIPA). Petitioners in 2008 requested the Commission to open a generic electric docket to establish competitive bidding guidelines for the procurement of supply-side resources by Idaho Power, PacifiCorp and Avista.

Following the filing of testimony by Petitioners on March 27, 2009, Petitioners agreed to a stay of proceedings pending conclusion of Idaho Power's Langley Gulch Certificate case (IPC-E-09-03).

On December 29, 2009, NIPPC filed a Motion requesting that the Commission reframe the case from generic to Idaho Power-specific and establish a procedural schedule.

We have reviewed the testimonies filed by Petitioners and find that their focus is on the competitive procurement practices of Idaho Power, not Avista or PacifiCorp. YOU ARE HEREBY NOTIFIED that the Commission has reviewed and considered the reply of Idaho Power and the letter filings of Avista and PacifiCorp and finds good reason to reframe the case from generic (GNR-E-08-03) to Idaho Power-specific (IPC-E-10-03). In so doing, we accept the representations of Avista and PacifiCorp that their RFP processes in Idaho for the procurement of supply-side resources are informed by the RFP requirements that they are subject to in their other jurisdictional states. The case being reframed for these reasons, we provide assurance to PacifiCorp and Avista that any guidelines developed or promulgated in this proceeding will apply only to Idaho Power and not to utilities that conform Idaho RFP processes to satisfy and comply with the procurement rules, laws and guidelines of other state regulatory jurisdictions.

### **NOTICE OF SCHEDULING**

YOU ARE FURTHER NOTIFIED that Idaho Power has agreed to provide and file with the Commission a draft set of RFP guidelines on Wednesday, February 17, 2010. The draft guidelines will form the framework for initial discussions. The draft guidelines will be available

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for review at the Commission's office and at the principal business office of Idaho Power. The draft guidelines will also be available electronically on the Commission's web site, [www.puc.idaho.gov](http://www.puc.idaho.gov) by clicking on "File Room" and then "Electric Cases."

**NOTICE OF PUBLIC WORKSHOP**

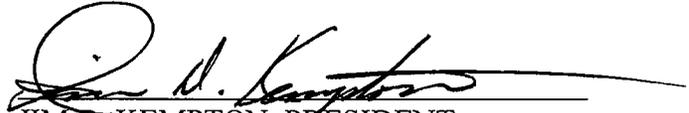
YOU ARE FURTHER NOTIFIED that the Commission Staff will host a public workshop in this case on **THURSDAY, FEBRUARY 25, 2010, COMMENCING AT 9:30 A.M. AT THE COMMISSION'S HEARING ROOM, 472 WEST WASHINGTON STREET, BOISE IDAHO.** Idaho Power's draft set of RFP guidelines will be discussed as well as the need for and scope of further proceedings.

**ORDER**

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby formally close Case No. GNR-E-08-03 and initiate Case No. IPC-E-10-03.

IT IS FURTHER ORDERED and the Commission does hereby adopt the foregoing scheduling for prefilings of draft RFP guidelines and workshop.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 9<sup>th</sup>  
day of February 2010.

  
JIM D. KEMPTON, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

bls/O:IPC-E-10-03\_sw

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