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March 7, 2011

VIA HAND DELIVERY

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P.O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. GNR-E-10-04
IN THE MATTER OF THE JOINT PETITION OF IDAHO POWER COMPANY, AVISTA CORPORATION, AND PACIFICORP DBA ROCKY MOUNTAIN POWER TO ADDRESS AVOIDED COST ISSUES AND TO ADJUST THE PUBLISHED AVOIDED COST RATE ELIGIBILITY CAP

Dear Ms. Jewell:

Enclosed for filing please find an original and seven (7) copies of the Idaho Power Company's Answer to the Northwest and Intermountain Power Producers Coalition's Petition for Reconsideration in the above matter.

Very truly yours,

Donovan E. Walker

DEW:csb
Enclosures

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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT PETITION OF IDAHO POWER COMPANY, AVISTA CORPORATION, AND PACIFICORP DBA ROCKY MOUNTAIN POWER TO ADDRESS AVOIDED COST ISSUES AND JOINT MOTION TO ADJUST THE PUBLISHED AVOIDED COST RATE ELIGIBILITY CAP.	CASE NO. GNR-E-10-04 IDAHO POWER COMPANY'S ANSWER TO THE NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION'S PETITION FOR RECONSIDERATION

Idaho Power Company ("Idaho Power" or "Company"), in accordance with Idaho Code § 61-626 and RP 331, hereby responds to the Petition filed by the Northwest and Intermountain Power Producers Coalition ("NIPPC") for Reconsideration of Commission Order No. 32176 issued on February 7, 2011.

NIPPC has failed to demonstrate that the Idaho Public Utilities Commission's ("Commission") Order No. 32176, or any issue decided in that Order, is unreasonable, unlawful, erroneous, or not in conformity with the law. The Commission's Order No.

32176 is based upon substantial and competent evidence in the record and reconsideration should be denied.

I. THE COMMISSION DID NOT ERR BY PROCESSING THIS MATTER PURSUANT TO MODIFIED PROCEDURE

Idaho Power, Avista Corporation and PacifiCorp, d/b/a Rocky Mountain Power, (the "Utilities") filed the initial Petition and Motion in this matter on November 5, 2010. On December 3, 2010, the Commission issued public notice of the Utilities' Petition and Motion in Order No. 32131, Notice of Joint Petition, Notice of Modified Procedure, Notice of Intervention Deadline, and Notice of Oral Argument. Numerous parties petitioned to intervene in this matter. Several parties filed Answers to the Petition, even though there was no specific provision set forth procedurally by the Commission for parties to do so. Numerous parties filed initial comments/direct evidentiary submissions by the comment deadline of December 22, 2010. Several parties filed reply comments addressing the arguments and positions raised by the initial comments by the reply comment deadline of January 19, 2011. Numerous parties participated and offered argument in support of their positions at the oral argument on January 27, 2011. Subsequent to these evidentiary submissions by the parties and the public, the Commission issued its final Order No. 32176 on February 7, 2011.

NIPPC makes the procedural claims that it did not have the opportunity to fully challenge the Utilities' assertions. NIPPC's Petition for Reconsideration, p. 10. NIPPC further claims that, "Because the Commission's decision was necessarily based on factual findings, the Commission must hold an evidentiary hearing." *Id.* at 7. Both allegations are without merit and wrong.

A. NIPPC Received Notice and Had the Opportunity to Be Heard.

In addition to the actual notice of the Petition served upon counsel for NIPPC by Idaho Power on November 5, 2010, NIPPC also was provided public notice of the Petition and procedure on December 3, 2010, by Commission Order No. 32131. NIPPC fully availed itself of the opportunities to be heard before the Commission. It filed a Petition to Intervene and an Answer in Opposition to the Utilities Motion and Petition on November 8, 2010, a mere three days (and the next business day) after the Petition and Motion had been filed and served. Additionally, NIPPC filed Comments on December 22, 2010, and Reply Comments on January 19, 2010. NIPPC directly participated in and offered oral argument supporting its position before the Commission on January 27, 2010. Additionally, NIPPC conducted extensive discovery during the course of this proceeding. NIPPC served its first set of requests for production upon the Utilities on November 8, 2010, the next business day after service and filing of the Utilities' Petition and Motion. NIPPC continued to serve and issue numerous, multi-part and technical discovery questions to the Utilities throughout the proceeding, the most recent being NIPPC's Sixth Production Request served on February 4, 2011. NIPPC, through its Sixth Production Request, has propounded a total of 68 questions, containing a total of 190 subparts to those 68 questions, which have been answered by the Utilities.

NIPPC's argument that it was not able to admit some documents that it wanted to admit into the record or that it was unable to lay a foundation for those documents because, "NIPPC intended to admit its documents through the witness it offered" is not credible. NIPPC's Petition for Reconsideration, p. 6. NIPPC had every opportunity, and was free to submit any document it sought to submit, and lay any foundation it thought

necessary through its no less than three written submissions to the Commission. To state after the fact that it intended to lay a foundation and admit documents through a witness at hearing, when it had the same notice as the rest of the world that the Commission's procedure for this matter was to take evidence through written submissions and Modified Procedure pursuant to the Commission's Rules of Procedure 201 through 210, IDAPA 31.01.01.201-.210, appears as an attempt to create appealable issues where none exist. NIPPC had every opportunity to seek the admission of any and all of the materials it felt relevant, to lay the proper foundation, reference, and citation, and otherwise seek the admission through its written submissions in both direct evidence and reply/rebuttal submissions. NIPPC had notice and opportunity to fully be heard. The Commission did not err by denying NIPPC's request for a live witness hearing.

B. A Technical Hearing Is Not Required for the Commission to Make Factual Findings.

There is no requirement that the Commission can only make factual findings based upon an evidentiary or technical hearing and, in fact, the reality is quite the opposite. The Commission's Rules of Procedure allow the Commission to process matters, including all necessary factual, legal, and/or policy findings and determinations, upon written submissions only. "The Commission may preliminarily find that the public interest may not require a hearing to consider the issues presented in a proceeding and that the proceeding may be processed under modified procedure, i.e., by written submission rather than hearing." RP 201. "If no protests, supports or comments are received within the deadline, the Commission may consider the matter and enter its order without a hearing. If protests, supports, comments or a reply are filed within the

deadlines, the Commission will consider them and may set the matter for hearing or may decide the matter and issue its order on the basis of the written positions before it." RP 204.

The standard of review as to whether the Commission has made valid findings of fact is not whether a technical/evidentiary hearing was held. The standard of review is whether those findings of fact are supported by substantial and competent evidence in the record. With regard to findings of fact, if the Commission's findings are supported by substantial, competent evidence, the appellate court must affirm those findings, *Industrial Customers of Idaho Power v. Idaho PUC*, 134 Idaho 285, 288, 1 P.3d 786, 789 (2000), even if the court would have made a different choice had the matter been before it *de novo*. *Hulet v. Idaho PUC*, 138 Idaho 476, 478, 65 P.3d 498, 500 (2003). Substantial, competent evidence is defined as more than a mere scintilla, but something less than the weight of the evidence. *Industrial Customers*, 134 Idaho at 292-93, 1 P.3d at 793-94.

The Commission's findings in Order No. 32176 are supported by substantial, competent evidence in the record. The Utilities provided evidence of the explosive growth of qualified facility ("QF") wind generation and the impact that growth is having on the Utilities' systems from a reliability and integration perspective. Utilities' Petition and Motion, pp. 3-5; Comments of Idaho Power Company, pp. 3-6; 15-17; Reply Comments of Idaho Power Company, pp. 4-5. The Comments of Idaho Power described the dramatic rate impact integrating the current large amount of QF wind energy will have on its customers. Comments of Idaho Power, pp. 7-8; 17-19. Idaho Power also provided evidence demonstrating that different types of generators have

different load characteristics and that the Integrated Resource Plant ("IRP")-based methodology is more accurate in determining the avoided cost of those different generation resources than is the Surrogate Avoidable Resource ("SAR") methodology. Comments of Idaho Power, pp. 10-15; Reply Comments of Idaho Power, pp. 10-12. The record contains numerous other references to competent evidence provided to the Commission that the continued and unchecked requirement to continue to acquire additional intermittent and other QF generation regardless of a utility's need for additional energy or capacity on its system not only circumvents the integrated resource planning process and creates system reliability and operational issues, but it also dramatically increases the price utility customers must pay to meet their energy needs. "Based on the record, the Commission finds that a convincing case has been made to temporarily reduce the eligibility cap for published avoided cost rates from 10 aMW to 100 kw. . . ." Order No. 32176, p. 9. There is substantial, competent evidence in the record to support the Commission's findings, and reconsideration should be denied.

NIPPC also claims that "An evidentiary hearing is necessary due to Idaho Power's late admission that AURORA is incapable of accurately calculating avoided cost rates for QF projects smaller than two megawatts." NIPPC's Petition for Reconsideration, p. 15. Idaho Power has never said that AURORA is incapable of calculating avoided cost rates, and objected to this characterization by NIPPC at oral argument for this matter. Tr. at p. 20. This is a gross mischaracterization of Idaho Power's disclosure regarding what it was told by the software provider regarding AURORA runs for projects that are less than 2 megawatts ("MW"). As explained at oral argument, and as set forth in Idaho Power's Response to NIPPC's Sixth Production

Request No. 68, attached hereto as Attachment No. 1, and incorporated herein by this reference, Avista has routinely conducted AURORA analysis for projects as small as 100 kilowatts ("kW") with valid results. Additionally, Idaho Power, since the time of filing reply comments ran and reviewed test modeling and verified AURORA has valid results for projects smaller than 2 MW. Additionally, as previously stated, Tr. p. 18, Idaho Power has never received a request to run the IRP-based methodology for a project smaller than 10 average megawatts ("aMW"), and to this day still has not been presented with a QF project under 10 aMW to price with the IRP-based methodology. NIPPC has not brought forth any examples of such projects, nor has NIPPC brought forth any other evidence, other than unsubstantiated allegations, that the Commission-approved IRP-based methodology utilizing AURORA modeling is flawed. The IRP methodology is a previously existing, Commission-approved methodology for calculating a utility's avoided cost rate. The IRP methodology takes into account the actual generation profile of the proposed QF generation project, and assigns a value to the provided energy according to the need for such on the utility's system. In addition, it ties into the same process, procedures, and analysis that the Company must utilize in its IRP process to acquire its other generation resources, and plan to meet its obligation to reliably serve customer load in its service territory. A hearing is not necessary and reconsideration should be denied.

II. NIPPC'S ARGUMENT THAT THE IRP-METHODOLOGY DOES NOT ESTABLISH THE UTILITIES' "FULL" AVOIDED COST IS WITHOUT MERIT

First, the allegation that the IRP methodology provides an avoided cost price that only accounts for the energy, and not capacity, or fixed, costs is simply not the case,

and is based upon a complete lack of understanding regarding how the IRP-based methodology actually works. In fact, the IRP methodology **does** have both energy and capacity cost components that combine to reach the utility's avoided cost rate. Contrary to NIPPC's understanding expressed in its Petition for Reconsideration, the AURORA model by itself does not result in the avoided cost price. It is merely used to arrive at the avoided cost of energy component thereof. Idaho Power then adds a capital cost or capacity component to the energy price to then determine the complete IRP-based cost.

Second, the argument that there is a "full avoided cost" standard is not correct. None of the legal authorities cited by NIPPC establish "full avoided cost" as the legal standard by which the Commission must establish a utility's avoided cost rates that are made available to a QF selling energy to an electric utility pursuant to the Public Utility Regulatory Policies Act of 1978 ("PURPA").

A. The IRP-Based Methodology Includes Both an Energy and a Capacity, or Fixed, Cost Component.

Beyond its alleged procedural infirmities, NIPPCs only alleged substantive error by the Commission appears to be that the IRP methodology for establishing avoided costs does not reflect the utility's "full avoided cost." NIPPC's Petition for Reconsideration, pp. 13-16. As support for this position, NIPPC submits, for the first time, a "White Paper" prepared by its consultant entitled *Implementation of the IRP Methodology for Calculating Avoided Cost Rates in Idaho*. NIPPC describes this "White Paper" as "demonstrating that the IRP methodology, as currently implemented, simply fails to account for capacity." *Id.* at p. 12. NIPPC alleges that there is no capacity cost component in the IRP-based avoided cost methodology, and thus provides an energy

only price, and that the methodology is not consistent with how the Utilities calculate the cost of new resources in the IRP process. *Id.* Both allegations are incorrect.

These allegations are based upon NIPPC's own failure to understand the IRP-based avoided cost methodology because, in fact, the IRP methodology does contain a capacity component to the avoided cost price. The IRP methodology, which has been an approved, vetted, and accepted avoided cost methodology for over 16 years, utilizes AURORA modeling to arrive at the avoided cost of energy price component for the resultant avoided cost rate that is calculated with this methodology. However, NIPPC assumes that the AURORA output is the end result avoided cost rate, which it is not. Once AURORA is utilized to establish an avoided cost of energy price based upon the specific generation profile of the proposed QF generation resource, a capacity, or fixed, cost credit using a combined-cycle combustion turbine ("CCCT") as a surrogate resource is added to the value of the energy calculated in the AURORA model. NIPPC's argument that the capacity component is lacking from the IRP-based methodology, and thus the IRP-based avoided cost calculation is something less than the "full" avoided cost, is simply wrong.

The Commission noted in Order No. 32176 that the IRP methodology has been an approved method for establishing a utility's avoided cost rate for PURPA QFs since 1995. In Order No. 26576, Case No. IPC-E-95-09, the Commission approved an IRP-based avoided cost methodology that was outlined in the testimony for that case by Commission Staff Engineer Rick Sterling. The IRP-based methodology outlined in Mr. Sterling's testimony, and approved and instituted by the Commission, consisted of the following:

1. An IRP is prepared by the utility. The IRP should consider a range of load forecasts for various sets of possible economic conditions. The IRP should also consider all possible resources for meeting load, both supply side and demand side. In addition, consideration should also be given to the risks and uncertainties associated with each scenario examined. The least cost combination of resources is selected to meet each scenario. The most likely scenario is identified as the base case plan.

2. An initial simulation analysis using a power supply and/or capacity expansion model chosen by the utility is used to calculate the present value of revenue requirements (PVRR) of the base case resource plan over the lifetime of the proposed QF contract.

3. The proposed QF resource is added to the base case resource plan during all years of the proposed contract. The required description of the QF project includes all data and information needed to model the intended dispatchable or non-dispatchable operation of the project on the power supply system.

4. A second simulation analysis, including the QF resource, is performed which results in an adjustment of the amount and/or timing of the new resources in the base case plan. The modified plan including the QF purchase is constructed to maintain resource adequacy and system reliability equivalent to that of the base case plan.

5. The PVRR of the modified resource plan including the QF is calculated over the full term of the QF contract, excluding the total purchase costs of the QF resource itself.

6. Finally, the present value of the QF project avoided cost is calculated by subtracting the PVRR of the modified plan, with the costs of the QF set to zero, from the PVRR of the base case resource plan.

7. Rates for capacity and energy from the QF project can then be developed for which, on a present value basis, the expected payments to the QF are equal to the project's avoided cost over the life of the contract.

Case No. IPC-E-95-09, Sterling, Direct pp. 6-8 (June 14, 1996).

Since Order No. 26576 was issued in 1995, Idaho Power has followed this IRP-based methodology to calculate avoided cost rates as directed by the Commission. First, the value of energy from a proposed QF project is determined by calculating an avoided cost based upon the project's forecast energy deliveries to Idaho Power throughout the term of the contract (the "Study Case"). In the Study Case, the AURORA model is used to simulate how the energy received from a proposed QF project would displace the cost of other resources in the preferred portfolio identified in Idaho Power's IRP. The total cost of the Study Case is then compared to the total cost of the preferred portfolio from the IRP (the "Base Case"), with the difference being the gross avoided cost of energy.

Second, a capacity (fixed) cost credit using a CCCT as a surrogate resource is added to the value of the energy calculated in the AURORA a model. Finally, the stream of annual avoided costs (for energy and capacity) is uniformly escalated and then discounted using Idaho Power's weighted average cost of capital to establish a levelized avoided cost rate for the proposed QF project. The fixed cost credit is based on the QF project's capacity factor during the hours from 3:00 p.m. to 7:00 p.m. in the month of July. A 90^{th} percentile criterion is used to determine the capacity factor for intermittent wind and solar PURPA projects, which is consistent with the peak-hour planning criteria Idaho Power uses in the IRP process.

NIPPC was provided with this information, and the above-stated explanation as to how the IRP methodology uses the avoided cost of energy established by use of AUROA modeling and a capacity/fixed cost component to arrive at an avoided cost rate

in response to a request for production on February 25, 2011. *See* Idaho Power's Response to NIPPC's Sixth Production Request No. 68, attached hereto as Attachment No. 1, and incorporated herein by this reference.

The IRP-based methodology **does** contain a capacity, or fixed, cost component and the methodology is consistent with and shares some of the calculations utilized in Idaho Power's IRP process. The Commission's Order No. 32176 did not create any new avoided cost rate methodology. The Order reduced the published, or standard, rate eligibility from 10 aMW to 100 kW for only wind and solar based QFs. The IRP-based methodology is an existing, vetted, valid, approved, and accepted method of establishing a utility's avoided cost.

B. Commission Precedent Exists for Using the IRP-Based Methodology for Establishing Avoided Costs.

As described above, the Commission has accepted the IRP-based methodology as an existing, valid, approved process for establishing a utility's avoided costs. In fact, the Commission currently requires the use of the IRP methodology to determine the starting point for avoided cost negotiations for QFs larger than 10aMW. If the IRP-based methodology for setting avoided cost rates somehow violates PURPA and Federal Energy Regulatory Commission ("FERC") rules, as alleged by NIPCC, then the Commission's existing, well-established rule for using the IRP-based methodology as the basis for pricing QF projects larger than 10 aMW would necessarily have to violate PURPA and FERC rules as well. It does not. As a matter of policy and at the discretion afforded to it by PURPA and FERC rules, the Commission had set, until Order No. 32176, the published avoided cost rate eligibility cap at 10 aMW. However, there have been at least two other occasions where this Commission has set the published avoided

cost rate at something less than 10 aMW, and required QFs and the electric utilities to use the IRP-based methodology to determine avoided costs for the purposes of electric utility purchases of QF-generated energy.

In Case No. IPC-0E-93-28, this Commission set the published avoided cost rate eligibility cap at 1 MW, concluding that "[r]atepayers should not be asked to subsidize the QF industry through the establishment of avoided costs rates that exceed utility costs that would result from an effective least cost planning process. Reducing the threshold [to 1 MW] correspondingly reduces the risk associated with published rates being set either too high or too low." Order No. 25884, p 5. Just as importantly, this Commission has previously found that requiring an IRP-based methodology for determining avoided cost rates balances both consumer and QF interests, finding that "[r]atepayers will not be disadvantaged and QFs will be treated fairly and consistently with the requirements and goals of PURPA." Order No. 25884, p.6.

In Case No. IPC-E-05-22, the Commission, similar to what it has done in this case, adjusted the avoided cost rate cap from 10 aMW down to 100 kW for QF wind generators so as to examine wind integration issues on Idaho Power's system. Order No. 29872, *See* also Joint Petition to Address Avoided Cost Issues and Joint Motion to Adjust the Published Avoided Cost Rate Eligibility Cap, GNR-E-10-04, pp. 2-3. During the time when the published rate eligibility cap was reduced to 100 kW in IPC-E-05-22, the Commission required the use of an IRP-based methodology as the basis for avoided cost negotiations with QFs.

Thus, this Commission has used, and is currently using, an IRP-based methodology as the basis to determine a utilities' avoided cost rates for the purposes of

QF contracts. There is no basis in law, FERC rules, or the precedent set by this Commission to support NIPPC's argument that reducing the published avoided cost eligibility cap from 10 aMW to 100 kW is illegal.

C. <u>There Is No "Full Avoided Cost" Standard</u>.

FERC has defined "avoided cost" as "the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source." 18 C.F.R. § 292.101(b)(6). FERC has no rule defining a "*full* avoided cost" standard as suggested in NIPPC's Petition for Reconsideration.

NIPPC's Petition for Reconsideration repeatedly uses the phrase "*full* avoided costs," suggesting that this Commission has both a statutory as well as a FERC-imposed obligation to have electric utilities pay "full avoided cost" rates for energy that they purchase from QFs. *See generally* NIPPC's Petition for Reconsideration, pp. 10-14. Nowhere does NIPPC define what the phrase "*full* avoided costs" means. However, NIPPC's Petition for Reconsideration persists in alleging that the Surrogate Avoided Resource ("SAR") methodology is "the published rate methodology which more accurately reflects the Utilities' *full* avoided cost" and that:

> Federal law requires the utilities to contract with each QF at the *full* avoided cost rates. 16 U.S.C. § 824a-3(b), (d); 18 C.F.R. § 292.304(a), (b); *see also Small Power Production and Cogeneration Facilities; Regulations Implementing Section 210 of the Public Utility Regulatory Act of 1978,* 45 Fed. Reg. 12,214 ("PURPA Implementation Order"), 12,222-12, 223 (Feb. 25, 1980).

NIPPC's Petition for Reconsideration, p. 13. Although NIPPC's Petition for Reconsideration contains the citation above to PURPA (U.S.C), FERC rules (C.F.R.),

and FERC's order implementing PURPA as authority that "*full* avoided costs" is somehow the standard by which QF pricing must be based, none of these legal authorities support their argument.

The provisions of PURPA set forth in the United States Code, do not provide for a "full avoided cost" standard, nor do they obligate state commissions to ensure that QF revenues are being maximized by being paid an electric utilities "full avoided costs." Specifically, 16 U.S.C § 824a-3(b) states:

> The rules prescribed under subsection [16 U.S.C. § 824a-3(a)] shall insure that, in requiring any electric utility to offer to purchase electric energy from any qualifying cogeneration facility or small qualifying power production facility, the rates for such purchase—
>
> (1) Shall be just and reasonable to the electric utility and in the public interest; and
>
> (2) Shall not discriminate against qualifying cogenerators or qualifying small power producers.
>
> No such rule prescribed [by FERC] shall provide for a rate which exceeds the incremental costs to the electric utility of alternative energy.

Nowhere is the phrase "*full* avoided costs" defined in the statute cited by NIPPC's Petition. 16 U.S.C. § 824a-3(d), the portion of the statute that NIPPC cites for the authority that there is a federal requirement that utilities contract with each QF at the "full avoided cost rates" states:

> (d) "Incremental cost of alternative electric energy" defined
>
> For purposes of this section, the term "incremental cost of alternative electric energy" means, with respect to electric energy purchased from a qualifying cogenerator or qualifying small power producer, the cost of the

> electric utility of the electric energy which, but for the purchase from such cogenerator or small power producer, such utility would generate or purchase from another source.

Again, NIPPC cites to a statute which provides no support for its argument. There is no statutory standard in the United States Code's PURPA sections known as "*full* avoided costs" as stated by NIPPC.

The FERC regulations contained in the Code of Federal Regulations, do not contain a "full avoided cost" standard. The FERC regulation cited by the NIPPC Petition, 18 C.F.R. § 292.304(a), (b), also fails to provide any explanation as to what NIPPC means when it argues "Federal law requires the utilities to contract with each QF at *full* avoided cost rates." Section 292.304(a) of the FERC rules merely reiterates the statutory requirement that rates for purchases from QFs must "be just and reasonable to the electric consumer of the electric utility and in the public interest" and "not discriminate against qualifying cogeneration and small power production facilities." In addition, 18 C.F.R. 292.304(a)(2) cautions that "nothing in this subpart requires any electric utility to pay more than the avoided costs for purchases." Section 292.304(b) explains the relationship between the electric utilities avoided costs and the rates at which utilities must purchase QF energy, noting that rates for purchases of QF energy will be deemed just and reasonable and nondiscriminatory if the rate equals the electric utilities' avoided costs after consideration "to the extent practicable" the eleven factors in 18 C.F.R. § 292.304(e). Thus, there is nothing in the regulations describing what constitutes "full avoided costs" and, more importantly, nothing in the regulations to suggest that the IRP methodology does not comport with FERC rules.

In addition, the NIPPC Petition cites to language in FERC's PURPA Implementation Order as a basis for its argument that the IRP methodology is inappropriate for determining a utility's avoided costs, stating that the FERC order "directly reject[ed] proposals to provide QFs with rates of less than the full avoided costs." NIPPC's Petition for Reconsideration, p. 13. The issue relating to "full avoided costs" as described in the Federal Register cited by NIPPC had to do with whether rates a utility pays for QFs should be based upon the electric utilities' avoided costs, the QF generators' costs, or some other metric; it had nothing to do with whether an IRP methodology appropriately encompasses an electric utilities' avoided costs. *See* PURPA Implementation Order, 45 Fed.Reg. 12,222. The notion of "full avoided costs" as used in the PURPA Implementation Order had to do with a debate occurring in the late 1970s among FERC commentators related to a "split-the-savings" approach of pricing QF energy, whereby an electric utility's customers and the QF generator would equally split any potential savings realized by the electric utility purchasing QF energy that may be cheaper than what the electric utility could produce. *Id.* In rejecting this suggestion, FERC determined setting the purchase rate at the electric utilities' avoided costs was more appropriate. *Id.*

NIPPC's Petition for Reconsideration also argues that this "Commission should re-instate the 10 aMW published avoided cost rate eligibility cap for wind and solar projects because failure to do so constitutes a failure to implement PURPA's mandatory purchase obligation at each utility's *full* avoided costs." NIPPC Petition, p. 14 (emphasis in original). In support of this argument, NIPPC asserts, as a matter of law, that "If a state utility commission does not require the utilities within its jurisdiction to pay the full

avoided costs for QF output, the state commission would be in violation of FERC's rules and subject to FERC enforcement action, or federal court challenge to its implementation of PURPA. *See* 16 U.S.C. § 824[*sic*]-3(f), (h)." This assertion grossly misrepresents the statute. There is nothing in either 16 U.S.C. §824a-3(f) or (h) which requires state utility commissions to "implement PURPA's mandatory purchase obligation at each utility's *full* avoided cost." Section 824a-3(f) and (h) speak generally to the PURPA enforcement process, not specifically to avoided cost calculations. It is clearly settled as to how PURPA is to be enforced.

> Section 210 sets out a self-contained scheme by which the purposes of the PURPA are to be realized. [citation omitted] The FERC is to promulgate rules that will encourage cogeneration. 16 U.S.C. § 824a-3(a). The public utility commission (PUC) of each state must implement those rules, § 824a-3(f), and the Commission may bring an enforcement action in federal district court against any state regulatory authority that fails to do so. §§ 824a-3(h)(2)(A), (B). A private party may petition the FERC to initiate such an enforcement action and, if the FERC declines, may itself sue the state PUC in district court. § 824a-3(h)(2)(B).

Niagara Mohawk Power Corp. v. F.E.R.C., 117 F.3d 1485, 1488 (D. D.C. 1997). NIPPC's Petition for Reconsideration, however, continues to suggest the "full avoided cost" standard, implying there is some unique standard and enforcement process for a state public utility commission's failure to ensure electric utilities are paying QFs "full avoided costs" for power purchased from them.

In its Petition for Reconsideration, NIPPC has attached itself to the phrase "full avoided costs" and inappropriately extrapolated it in an attempt to get this Commission to reconsider its decision in Order No. 32176. NIPPC suggests a false standard—i.e., "full avoided cost"—and argues the IRP methodology fails to meet that standard. As

described above, there is no such standard as a "full avoided cost" standard, nor does NIPPC's Petition for Reconsideration provide any compelling argument that an IRP methodology fails to comport with PURPA and FERC rules in setting the rate at which electric utilities must purchase energy from QFs.

III. THE COMMISSION'S DECISION WAS A PROPER EXERCISE OF ITS DISCRETION IN ITS IMPLEMENTATION OF PURPA

The Commission's Order No. 32176 reduced the published, or standard, avoided cost rate eligibility from 10 aMW to 100 kW for wind and solar based PURPA QFs. As the Commission correctly noted in its Order, it is required by federal regulations to make standard, or published, avoided cost rates available for QF projects with a design capacity of 100 kW or less. 18 C.F.R. § 292.304(c). The Commission **may** or **may not** extend the eligibility for standard rates to QF projects that are larger than 100 kW in its sole discretion. *Id.* Federal law requires the encouragement of small power production or cogeneration facilities less than 80 MW by requiring utilities to purchase power from QFs at the utilities' avoided cost. It does not require, nor allow, the stimulation or encouragement of QF development by setting an avoided cost price that in any way exceeds the utilities' avoided cost. Contrary to NIPPC's implications, there is no entitlement, beyond that granted at the discretion of the Commission, to standard rates for any QF larger than 100 kW.

In Order No. 32176, the Commission found, "In establishing a published rate, the Commission may differentiate among QFs using various technologies on the basis of supply characteristics of the different technologies; the availability of capacity and energy during daily and seasonal peaks; dispatchability; reliability; and other factors." Order No. 32176, pp. 9-10, *citing* 18 C.F.R. § 292.304(c)(3); *In re California PUC, Order*

Granting Clarification and Dismissing Rehearing, 133 FERC 61,059 (October 21, 2010), ¶ 23. FERC has recently reaffirmed its decision cited above in this regard, stating "the avoided cost rate may take into account the cost of electric energy from the generators being avoided, e.g. generators with certain characteristics." *In re California PUC,* Order Denying Rehearing 134 FERC 61,044 (January 20, 2011), ¶ 30. Unlike the SAR-based published rate which sets avoided capacity costs based upon a fictional CCCT which relies heavily upon the Northwest Power and Conservation Council's natural gas price forecast, the IRP-based methodology takes into account the unique factors acknowledged by this Commission in Order No. 32176 and by FERC.

FERC has also held that:

> . . . states are allowed a wide degree of latitude in establishing an implementation plan for section 210 of PURPA, as long as such plans are consistent with our regulations. Similarly, with regard to review and enforcement of avoided cost determinations under such implementation plans, we have said that our role is generally limited to ensuring that the plans are consistent with section 210 of PURPA and the regulations. . .

American REF-FUEL Company of Hempstead, 47 FERC 61,161 at 61,533 (1989); see also *Signal Shasta,* 41 FERC 61,120 (1987). NIPPC has provided no evidence to suggest that FERC would retract from its current policy of giving state commissions, including this Commission "a wide degree of latitude" in establishing its PURPA policy and setting avoided cost rates.

NIPPC's Petition asserts that FERC rules require this Commission to adhere to "eight distinct provisions" in implementing avoided cost rules. NIPPC's Petition for Reconsideration, pp. 10-11 (*citing* 18 C.F.R. § 292.304(e)). The Petition then goes on to misstate those "eight distinct provisions" as follows:

> . . . (1) reliability, (2) contract terms, (3) ability to schedule outages, (4) ability to provide service in emergencies, (5) contribution to the system in aggregate with other QFs, (6) contribution to savings due to shorter construction times, (7) ability to allow the utility to avoid fossil fuel risk, and (8) ability to allow the utility to avoid line loses.

Id. Section 292.304(e) of FERC's rules lists **eleven** "factors affecting rates for purchases" to be considered, "to the extent practicable," in setting rates for purchases by which electric utilities must purchase energy from qualifying facilities. Section 292.304(e) lists those eleven factors as follow:

> In determining avoided costs, the following factors shall, to the extent practicable, be taken into account:
>
> (1) The data provided pursuant to [avoided cost data filings required to be submitted biennially by electric utilities], including State review of any such data;
>
> (2) The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:
>
> (i) The ability of the utility to dispatch the qualifying facility;
>
> (ii) The expected or demonstrated reliability of the qualifying facility;
>
> (iii) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for non-compliance;
>
> (iv) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;
>
> (v) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;

(vi) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and

(vii) The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities; and

(3) The relationship of the availability of energy or capacity from the qualifying facility as derived in [sub-paragraph 2 above], to the ability of the electric utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use; and

(4) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity.

NIPPC's Petition not only incorrectly cites the rule, it then goes on to make the assertion that the "IRP Methodology fails to even attempt to take each of these eight factors into account, and therefore violates FERC's guidelines." NIPPC's Petition for Reconsideration, p. 11.

Importantly, in calculating avoided cost rates, the IRP methodology considers the eleven factors identified above in a more comprehensive manner than does the SAR methodology. In any event, upon review of the correct wording of the eleven factors, it cannot be said that a fatal flaw exists with either avoided cost methodology for a failure to consider the factors suggested "to the extent practicable" by FERC.

Contrary to NIPPC's assertion, this Commission has no duty to ensure that QF generators are receiving the electric utilities "full avoided costs" in setting the rate at which electric utilities must purchase QF energy. Instead, the standard is that the rate must be just and reasonable to the electric utilities' customers, in the public interest, and

not discriminatory to the QF developer. 16 U.S.C. § 824a-3(b). Indeed, several courts have held that a state commission must ensure that an electric utility is not paying more than the electric utilities' avoided cost. "The failure of a state commission to ensure that a rate does not exceed a utility's avoided cost is a failure to comply with a [FERC] regulation implementing the PURPA." *Connecticut Valley Elec. Co. v. FERC*, 208 F.3d 1037, 1043 (D. D.C. 2000) *citing New York State Elec. & Gas Corp. v. F.E.R.C.*, 117 F.3d 1473, 1476 (D. D.C. 1997).

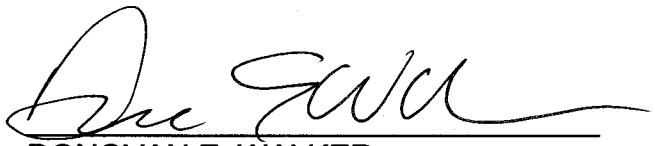
Put differently, NIPPC's argument is the exact opposite of what PURPA and FERC rules require. NIPPC argues this Commission should do everything to maximize the amount electric utilities pay to QF generators by requiring utilities to pay "full avoided costs," a phrase, which as described above, NIPPC has taken out of context and incorrectly uses to bolster its position. PURPA and FERC regulations set the threshold at the utility's actual avoided costs and state that it is a violation of PURPA and FERC rules for utilities to pay more than their actual avoided costs. 16 U.S.C. § 824a-3(a); 18 C.F.R. § 292.304(a)(2) and *supra*. NIPPC has failed to provide any compelling evidence that the IRP Methodology results in rates that are anything short of the utilities' avoided costs.

IV. CONCLUSION

NIPPC has failed to demonstrate that the Commission's Order No. 32176, or any issue decided in that Order, is unreasonable, unlawful, erroneous, or not in conformity with the law. NIPPC has failed to provide any persuasive legal authorities to support its Petition for Reconsideration. The Commission's Order No. 32176 is based upon

substantial and competent evidence in the record and reconsideration should be denied.

Respectfully submitted this 7th day of March 2011.



DONOVAN E. WALKER
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of March 2011 I served a true and correct copy of the IDAHO POWER COMPANY'S ANSWER TO THE NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION'S PETITION FOR RECONSIDERATION upon the following named parties by the method indicated below, and addressed to the following:

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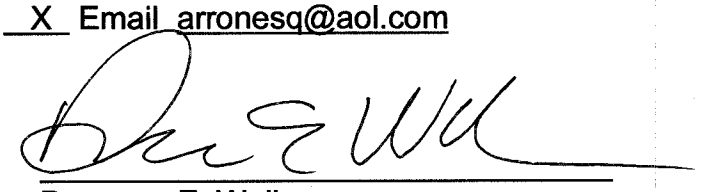

Donovan E. Walker

BEFORE THE

IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. GNR-E-10-04

IDAHO POWER COMPANY

ATTACHMENT NO. 1

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT PETITION OF IDAHO POWER COMPANY, AVISTA CORPORATION, AND PACIFICORP DBA ROCKY MOUNTAIN POWER TO ADDRESS AVOIDED COST ISSUES AND TO ADJUST THE PUBLISHED AVOIDED COST RATE ELIGIBILITY CAP.	CASE NO. GNR-E-10-04 IDAHO POWER COMPANY'S RESPONSE TO THE SIXTH PRODUCTION REQUEST OF THE NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION TO THE JOINT UTILITIES

COMES NOW, Idaho Power Company ("Idaho Power" or "Company"), and in response to the Sixth Production Request of the Northwest and Intermountain Power Producers Coalition to the Joint Utilities dated February 4, 2011, herewith submits the following information:

REQUEST NO. 67: Reference the transcript of oral argument before the Idaho Public Utilities Commissions on January 27, 2011 at pages 18 – 19, wherein Mr. Walker asserted:

> Idaho Power in its reply comments disclosed that the software provider for its modeling program, AURORA, had advised us that there may be some kind of modeling problems with that software for vey [sic] small projects under two megawatts in size and we disclosed that in our reply comments, and prior to that time Idaho Power has not been required to run AURORA on projects that small and in fact, we have not run projects smaller than two megawatts through the AURORA modeling, and for several of the reasons that we've outlined in our documents, we had received no requests from anyone to run AURORA pricing for avoided costs for projects that low either.
>
> However, since the time, since January 19th at the time when we filed our reply comments, obviously, we've been working on this issue, we consulted with Avista and found out that Avista routinely runs their AURORA modeling for 100 kilowatt projects as part of their IRP process. Also the Company's analysts also ran several test modelings at 100 kilowatt levels and the Company is confident that the modeling does result in accurate and usable results for projects smaller than two megawatts . . .

Also reference *id.* at page 20, wherein Mr. Walker asserted:

> Well, first of all, Madam Commissioner, the Company never did state anywhere that the AURORA modeling was flawed, so we object to that characterization . . .

(a) Please reconcile the assertion quoted above that the "Company never did state anywhere that the AURORA modeling was flawed" with Idaho Power's Reply Comments at p. 13 stating:

> If the project is small enough that it does not trigger changes in the base model operations, i.e., it is lost in the rounding to MWs or MWhs, then the base model results could be identical to the modeled results that include the project. This would result in an AURORA pricing of zero.

> While Idaho Power believes using the IRP-based methodology for any project above 100 kW is the right answer, there are some limitations to modeling projects below a certain size. To remedy this situation, Idaho Power proposes to work with Staff to reach an appropriate solution . . .

(b) Please identify the "Company's analysts" who "also ran several test modelings" and provide the models they ran along with all supporting work papers.

(c) For Avista, please identify the individuals at the company who were "consulted with" by Idaho Power, the dates of said consultations and provide a summary of the consultations. Please provide copies of all information, studies or models provide [sic] to Idaho Power regarding AURORA and its ability to estimate avoided costs for projects larger than 100 kW.

(d) For Idaho Power please identify the individuals at the company who "ran several test modelings" and provide a copy of the results of the test modelings along with supporting work papers.

(e) For Idaho Power, please identify the individuals at the company who "consulted with" Avista, the dates of said consultations and provide a summary of the consultations. Please provide copies of all information, studies or models provide [sic] to Idaho Power by Avista regarding AURORA and its ability to estimate avoided costs for projects larger than 100 kW.

(f) For Avista and Idaho Power, please provide copies of and supporting work papers for the three most recent iterations of Avista's "routin[e] . . . runs [of] their AURORA modeling for 100 kilowatt projects as part of their IRP process."

(g) Has Idaho Power had any communications "with Staff to reach an appropriate solution"? If so, please summarize those communications, identify and provide copies of any documents exchanged as part of those communications.

(h) For Idaho Power, please provide all additional evidence supporting the claim in Mr. Walter's [sic] oral argument that AURORA yields accurate results for QF projects smaller than 2 MW.

RESPONSE TO REQUEST NO. 67:

(a) The quoted language in Northwest and Intermountain Power Producers Coalition's ("NIPPC") Request No. 67(a) from Idaho Power's Reply Comments does not state that the AURORAxmp® ("AURORA") modeling was flawed; thus, NIPPC's request to "reconcile" the statements is unclear, as the two statements are consistent with each other.

(b) Richard Pagoaga, Senior Power Supply Planning Analyst; Tom Noll, Senior Power Supply Planning Analyst; and Philip DeVol, Power Supply Planning Leader, were involved with running AURORA test models. Attached is a table summary of the analysis showing the AURORA avoided cost of energy results run at 100 kilowatts ("kW"), 2 megawatts ("MW"), 10 MW, and 80 MW. This table shows only the avoided cost of energy modeled by AURORA, and does not contain the avoided cost of capacity component, which is added to the value of the energy in determining the total avoided cost rate. As can be seen in the table, the avoided cost of energy modeled at 100 kW did not give consistent annual results, just as disclosed by Idaho Power in its Comments. However, Idaho Power is confident that AURORA can be utilized to appropriately determine an avoided cost of energy for any potential PURPA generation

project. From Idaho Power's review of the "base case vs. study case" approach, on a per megawatt-hour ("MWh") basis, a project's avoided cost of energy can be assumed to be comparable independent of nameplate capacity. Modeling suggests that the avoided cost of energy for same type resources with identical operating characteristics is comparable on a per MWh basis for projects sized from 10 MW to 80 MW. The Company believes the avoided cost of energy on a per MWh basis determined for a 10 average megawatt ("aMW") project could be applied to all projects of the same type producing less than 10 aMW.

(c) As this question is directed to Avista only, please see Avista's response to NIPPC's Request No. 67(c).

(d) Please see the Company's Response to NIPPC's Request No. 67(b) above.

(e) Richard Pagoaga, Senior Power Supply Planning Analyst; Tom Noll, Senior Power Supply Planning Analyst; and Randy Allphin, Senior Power Supply Energy Contracts Coordinator, from Idaho Power consulted with Clint Kalich and Mr. Gall from Avista regarding the use of AURORA modeling for projects smaller than 2 MW. The first such consultation was on January 21, 2010, with a second consultation on January 26, 2010. Idaho Power described how it used AURORA to calculate the avoided cost of energy for PURPA projects and Avista described how it used 100 kW resources in AURORA for its Integrated Resource Plan ("IRP") modeling. There were no materials provided or exchanged.

(f) Idaho Power was not provided with nor does it possess copies of, and/or supporting work papers for, the three most recent iterations of Avista's runs of their AURORA modeling for 100 kW projects as part of their IRP process.

(g) No.

(h) There are two methods in the AURORA electric market model to value the avoided cost of energy using the IRP methodology. First, there is the "mark-to-market" approach where the hourly market price calculated in AURORA is multiplied by the PURPA project's hourly generation to derive the avoided cost of energy. Second, there is the "base case vs. study case" approach (the method Idaho Power currently uses) where, in the study case, AURORA is used to simulate how the energy received from the proposed PURPA project would displace the cost of other resources in the preferred portfolio from Idaho Power's IRP. The total cost of the study case is then compared to the total cost of the preferred portfolio from the IRP (the base case), with the difference being the gross avoided cost of energy. On an annual basis, the gross avoided cost of energy is divided by the forecasted annual generation from the proposed PURPA project in order to derive an annual avoided cost for the energy. A capacity (fixed) cost credit using a combined cycle combustion turbine as a surrogate resource is then added and any applicable deductions are subtracted to calculate an adjusted avoided cost for each year of the contract. The fixed cost credit is based upon the PURPA project's capacity factor during the July hours from 3:00 p.m. to 7:00 p.m. For intermittent and variable wind and solar PURPA projects, the 90 percent exceedance capacity factor from these respective existing projects in Idaho Power's service territory is used. Finally, the stream of avoided costs is uniformly escalated and then discounted using

Idaho Power's weighted average cost of capital to establish a levelized avoided cost rate for the proposed PURPA project.

Idaho Power is confident that AURORA can be utilized to appropriately determine an avoided cost of energy for any potential PURPA generation project. From Idaho Power's review of the "base case vs. study case" approach, on a per MWh basis, a project's avoided cost of energy can be assumed to be comparable independent of nameplate capacity. Modeling suggests that the avoided cost of energy for same type resources with identical operating characteristics is comparable on a per MWh basis for projects sized from 10 MW to 80 MW. The Company believes the avoided cost of energy on a per MWh basis determined for a 10 aMW project could be applied to all projects of the same type producing less than 10 aMW.

The response to this Request was prepared by Richard Pagoaga, Senior Power Supply Planning Analyst, Idaho Power Company, in consultation with Donovan E. Walker, Lead Counsel, Idaho Power Company.

REQUEST NO. 68: Please reference the transcript of Counsel for Avista's oral argument before the Idaho Public Utilities Commission on January 27, 2011 at page 29 wherein Mr. Andrea stated:

> I do want to address just really quickly Idaho Power's concerns about the AURORA program working for two megawatts or less. As Mr. Walker noted, Idaho Power has worked with Avista over the past week or so to work on that issue and I think they've come to the conclusion that they're comfortable that it does in fact work.

(a) Please identify the personnel at Avista who "worked" with Idaho Power in the two weeks prior to oral argument. Please also identify the personnel from Idaho Power who they worked with.

(b) Please provide all documentation related to the work referenced in Mr. Andrea's statement, including AURORA model runs, work papers and correspondence.

RESPONSE TO REQUEST NO. 68:

(a) & (b) As this question is directed to Avista only, please see Avista's responses to NIPPC's Requests Nos. 68(a) and (b).

The response to this Request was prepared by Donovan E. Walker, Lead Counsel, Idaho Power Company.

DATED at Boise, Idaho, this 25th day of February 2011.

Lisa D. Nordstrom for
DONOVAN E. WALKER
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of February 2011 I served a true and correct copy of the IDAHO POWER COMPANY'S RESPONSE TO THE SIXTH PRODUCTION REQUEST OF THE NORTHWEST AND INTERMOUNTAIN POWER PRODUCERS COALITION TO JOINT UTILITIES upon the following named parties by the method indicated below, and addressed to the following:

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Lisa D. Nordstrom for
Donovan E. Walker

BEFORE THE

IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. GNR-E-10-04

IDAHO POWER COMPANY

RESPONSE TO NIPPC'S REQUEST NO. 67

Avoided Cost of Energy Modeled in AURORA (Biomass Project)

Annual average $/MWh, non-levelized, using Idaho Power's IRP methodology

	Nameplate Capacity			
Year	**100 kW**	**2 MW**	**10 MW**	**80 MW**
2012	$140.14	$42.54	$33.43	$36.90
2013	$281.06	$52.30	$49.34	$39.64
2014	$940.06	$11.06	$38.67	$40.33
2015	$724.27	$17.82	$48.20	$41.41
2016	($5.42)	$35.54	$39.88	$41.75
2017	$1,308.52	$128.33	$52.57	$44.30
2018	$765.88	$80.47	$51.98	$44.27
2019	$69.57	$33.47	$46.31	$45.32
2020	$84.01	$49.86	$47.14	$47.22
2021	$166.71	$67.83	$46.95	$48.18
2022	$201.75	$63.21	$42.16	$48.79
2023	$726.17	$102.83	$63.55	$54.23
2024	$320.91	$110.42	$63.37	$55.92
2025	($302.05)	$38.38	$55.79	$56.30
2026	($60.21)	$47.76	$55.28	$58.38
2027	$218.70	$27.12	$70.38	$58.60
2028	$1,275.93	$77.44	$57.81	$62.93
2029	($1,093.74)	$38.59	$61.88	$61.58
Average ($/MWh)	$320.12	$56.94	$51.37	$49.22

Note: This analysis does not include the avoided cost of capacity, which is added to the value of the energy in determining the total avoided cost rate.