



Costs Issues and Joint Motion to Adjust the Published Avoided Cost Rate Eligibility Cap” filed on November 5, 2010, by Idaho Power Company, Avista Corporation and Rocky Mountain Power. Specifically in its Notice of Joint Petition, issued December 3, 2010, the Commission requested at this preliminary stage in the proceedings that the comments submitted address three basic areas of inquiry, “(1) the advisability of reducing the published avoided costs eligibility cap; (2) if the eligibility cap is reduced, the appropriateness of exempting non-wind QF projects from the reduced eligibility cap; and (3) the consequences of dividing the larger wind projects into 10 aMW projects to utilize the published rate.” These comments submitted by the Companies will address the first two areas of inquiry sought to be addressed, but decline to address the third as it is outside of their area of concern and expertise.

The Companies are irrigation companies with a substantial network of delivery canals and ditches. Over the past several decades these Companies have developed small hydropower facilities utilizing the irrigation flows within their irrigation delivery canals. The small hydro facilities are qualifying facilities with power sales agreements with Idaho Power Company for the sale of the power produced. In addition to the hydropower facilities already constructed, the North Side Canal Company has water rights and is in the process of exploring several more sites for the development of small hydropower facilities.

Within the past congressional session there were at least two significant pieces of legislation prepared that proposed to streamline the process of developing small hydropower facilities within existing irrigation systems. The proposals are based on the belief that “[d]eveloping projects in man-made water delivery systems would mean little by way of impacts

on environment or wildlife.”<sup>1</sup> Among other measures, both pieces of legislation, H.R. 5922, and S. 3570, sought changes to the Federal Power Act that would alleviate some of the burden of substantial and expensive consultation with a multitude of action agencies before a license or exemption could be issued for a project from the Federal Energy Regulatory Commission (hereinafter “FERC”) for a small hydropower project. Both bills also sought new ways of assisting small power producers through additional funding and grants from the federal government.

In addition to these two bills, the Army Corps of Engineers, the U.S. Department of Energy and the Department of the Interior signed a Memorandum of Understanding (hereinafter “MOU”) in March 2010 wherein each pledged to work collectively in support of “a new approach to hydropower development that will harmonize the production of clean, renewable power generation with avoidance or reduction of environmental impacts or maintenance or enhancements of the viability of the ecosystems.”<sup>2</sup> The MOU tasks the agencies with exploring federal Bureau of Reclamation dam facilities that do not yet have a hydropower component, to evaluate basin-scale additional opportunities for hydropower development and to generally “evaluate the goal of increasing hydropower generation as a priority of each Agency.” Additional MOUs have been implemented between the Federal Energy Regulatory Commission and the states of Colorado, California, Washington, Maine and Oregon, to develop pilot programs “to test options for simplifying and streamlining procedures for authorizing conduit

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<sup>1</sup> Comments of Congressman Adrian Smith, (R, Nebraska) in article titled “Bill Seeks to Cut Red Tape for small Hydropower Projects,” published at [www.brighterenergy.org](http://www.brighterenergy.org) on July 30, 2010.

<sup>2</sup> “Memorandum of Understanding for Hydropower Among the Department of Energy, the Department of the Interior, and the Department of the Army,” signed March 2010 by Ken Salazar, Steven Chu, and Jo-Ellen Darcy.

exemptions and small 5MW or less exemption projects while ensuring environmental safeguards.”<sup>3</sup>

It would not be an overstatement to claim that the past eight months have seen unprecedented federal interest in the development of new small scale and conduit hydropower projects. The reports generated, legislation contemplated, and memorandums of understanding executed in furtherance of these aims at least suggests that there is near-term potential for small scale hydropower to find beneficial rules and new sources of funding that have never before been available to them. The Idaho Public Utility Commission, overseeing a state with thousands of miles of irrigation canals and conduits, as well as a network of irrigation companies and districts with past experience in the development of in-canal hydropower projects, and who already have approved permits and pending applications for water rights for power purposes within these systems, simply should not foreclose those opportunities by decreasing the rate eligibility cap from 10 aMW to 100kW for hydropower qualifying facilities.<sup>4</sup>

If small hydropower project developers in irrigation systems are faced with the prospect of having to individually negotiate contracts for each small hydropower project, and, based on past Idaho case law, in each case be required to demonstrate the avoided cost rate for that specific project, it would have the opposite effect that the current federal authorities are promoting. Many small hydropower projects in Idaho fall in the 2 to 10 MW range. In the past, these projects that generate power during the irrigation season have provided a very reliable

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<sup>3</sup> Federal Energy Regulatory Commission New Release dated August 25, 2010, titled “FERC, Colorado Sign Agreement on Small Hydropower Development.”

<sup>4</sup> The Utilities in their joint petition implied that the project developers using the PURPA model are “sophisticated” and therefore capable of individually negotiating each project. While the Companies have developed some projects have developed more expertise in these areas, that does not mean that they have the financial ability to hire the necessary experts to negotiate each individual project.

additional source of power for Idaho Power Company during the peak summer season.

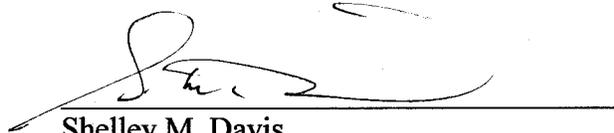
Reducing the eligibility cap for these hydropower projects runs directly counter to the newly articulated national goals to promote and encourage new small hydropower development.

### **CONCLUSION**

The Companies provide these comments in conformance with the Commission's "Notice of Joint Petition" dated December 3, 2010. These comments are preliminary and addressed only to the questions upon which the Commission has sought early comment. Given the foregoing explanation of the position of the Companies, and based on a review of the relevant and recent authorities concerning small hydropower production, it is inadvisable for the Commission to reduce the published avoided cost eligibility cap, unless hydropower is specifically exempted.

Dated this 22<sup>nd</sup> day December, 2010.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 22<sup>nd</sup> day of December, 2010, a true and correct copy of the foregoing **COMMENTS OF THE NORTH SIDE CANAL COMPANY AND TWIN FALLS CANAL COMPANY IN RESPONSE TO THE NOTICE OF JOINT PETITION DATED DECEMBER 3, 2010** was served upon the following by the method indication below.

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TWIN FALLS CANAL COMPANY IN RESPONSE TO THE NOTICE  
OF JOINT PETITION DATED DECEMBER 3, 2010**