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**Comments of the Snake River Alliance
On the Joint Petition of Idaho Power, Avista Corporation, and Rocky Mountain Power
to Address Avoided Cost Issues and to Reduce the Published Avoided Cost Rate
Eligibility Cap**

Case No. GNR-E-10-04

**Submitted by
Ken Miler, Clean Energy Program Director, Snake River Alliance**

December 22, 2010

The Snake River Alliance ("Alliance") appreciates the opportunity to provide comments relating to the current issues addressed in Case No. GNR-E-10-04, in particular the pending request by Idaho Power, Avista, and Rocky Mountain Power ("utilities") to reduce the eligibility cap for qualifying facilities ("QFs") from 10 average megawatts to 100 kilowatts; whether to restrict this case to wind QFs only; and the consequences of disaggregation, or dividing larger wind projects into 10 average megawatt QFs that are eligible for published avoided cost rates.

The Alliance has long been interested in promoting sustainable energy opportunities as an alternative to conventional fossil fuel-based energy resources in Idaho. As such, the Alliance is interested in encouraging local, state, and federal policies that promote renewable energy resources to serve Idahoans, as well as in promoting energy conservation and efficiency measures to slow the growth of base load and peak energy demands among Idaho's utilities. The Alliance has participated regularly before the Idaho Public Utilities Commission in furtherance of these goals. The Alliance submits these comments on behalf of its members, most of whom are customers of one of the above-mentioned three electric utilities.

Issues Leading to the Present Case

The Alliance participated in the Nov. 3 workshop that was held at the direction of the PUC to explore possible solutions stemming from the current surrogate avoided resourced (SAR) methodology to establish rates available for QFs, particularly wind projects eligible for those rates under the Public Utility Regulatory Policies Act of 1978 (PURPA). That workshop, while constructive, did not lead to a resolution of the issues before the three utilities, energy developers, public interest advocates, and others. Two days after the workshop, the above-mentioned utilities filed a joint petition to the PUC and initiated GNR-E-10-04. We will address the issues in the sequence referred to above.

Alliance Energy Program Director Ken Miller, who is submitting these comments on behalf of the Alliance and who currently serves on Idaho Power's Integrated Resource Plan Advisory Committee, participated in the series of workshops that were held in PUC Case No. IPC-E-05-22 in which Idaho Power petitioned the PUC to impose a similar eligibility cap on wind QFs (ORDER NO. 29839) for many of the same reasons the Utilities have petitioned the PUC in GNR-E-10-04. That participation was as the Idaho Energy Advocate for the NW Energy Coalition. Having participated in what most would agree was a difficult and complex set of workshops and related activities in IPC-E-05-22, which occupied several months of participants' time and resources and was tantamount to a two-year PURPA wind moratorium, the Alliance is mindful of the need to avoid a similar process in this case. The future of renewable energy development, particularly projects undertaken by smaller energy developers, may well depend on parties in this case avoiding a replay of the drawn out case of five years ago. Nonetheless, given the Commission's long history of wrestling with PURPA-related issues in several dockets, the Alliance believes it is of utmost importance for the Commission and interested parties in this case to attempt to resolve the three major issues identified by the Commission in GNR-E-10-04 so parties do not find ourselves reliving the issues in this case in the near future.

Reducing the QF Eligibility Cap from 10MW to 100KW

The Alliance understands and appreciates the concerns expressed by Idaho Power over the amount of wind that is currently on its system but more importantly the amount of wind that may be on the system in the coming few years. While we cannot speak to the accuracy of Idaho Power's projection of 1,100MW (nameplate) of wind coming to its system by 2013 or so, we stipulate that the amount of wind coming to the system is considerable and should be addressed to ensure system reliability. Some of the wind identified as under contract with Idaho Power may never be built; some wind not yet identified by Idaho Power may come to the utility in the form of an obligatory PURPA contract. In any case, integration of large amounts of wind as contemplated by Idaho Power can have system reliability impacts as well as the need for firming the wind by ancillary services and other means. By comparison to today's environment, we note that at the time Idaho Power filed IPC-E-05-22 in June 2005, the utility had but 71.5MW nameplate in Commission-approved QF contracts.

The Alliance also believes that a Commission decision on whether to reduce the eligibility cap cannot be defended until such time a fortified argument – including Utility witness testimony and accompanying evidence – is made to justify the request.

At a minimum, the Alliance believes that, should the Commission grant the Utilities request to lower the eligibility cap, that such a decision be confined to a specific amount of time. Petitioners suggest the lowered eligibility cap be put in place on an "interim basis during the pendency of this investigation," and that is precisely what the Alliance is

concerned about. As we say elsewhere in these comments, we are very concerned about the impacts of a prolonged procedure in this docket. Setting a firm timeline for a reduced eligibility cap, or a de facto moratorium, may encourage interested parties to address the issues before us in a timely fashion.

In light of the number of recent PURPA wind contracts that have been presented to the Commission this fall, the Alliance cautions against making a reduction in the eligibility cap retroactive to Dec. 14 if such a retroactive ruling would impair the ability of those contracts to move forward. As with the 2005 PURPA wind case, we expect certain PURPA contracts, including those now before the Commission, will be grandfathered and allowed to proceed. We are particularly sensitive to claims made by multiple PURPA generation developers that one or more utilities may have negotiated in bad faith if in fact the utilities knew while the negotiations were taking place that they would be filing GNR-E-10-04 and that the docket could potentially freeze current contracts before the Commission has an opportunity to approve them. We also agree with comments from the Intermountain Power Producers Coalition and others that a freeze in new PURPA energy development could have long-lasting ramifications across Idaho, and that renewable energy developers may well look to other jurisdictions with more stable PURPA contract environments.

Restricting This Case to Wind Only

The Alliance agrees with J.R. Simplot Company, NIPPC, and other non-wind interested parties that GNR-E-10-04 should be confined to wind and issues of wind integration. We believe the failure of Utility Petitioners to confine this docket to wind only was likely an oversight. There is no doubt that this case is about wind and wind only. Petitioners have not provided evidence beyond the petition to explain why such PURPA-eligible resources as small hydro, solar, digesters and others should be included in this case. The arguments in the Utilities' petition are focused entirely on wind projects. As mentioned above, Idaho Power has made an argument that it faces significant and potentially disruptive additions of wind power, yet that argument was not buttressed by supporting testimony, as was the case in IPC-E-05-22. Rocky Mountain Power likewise lamented the addition of significant amounts of wind onto its system, but once again that argument was not supported by direct testimony and accompanying evidence. Avista has no such identified issues – at least not in Idaho - but is participating in this case out of concern it could become the PURPA utility of choice or a "PURPA magnet" if the other two utilities are granted a PURPA moratorium.

Until and unless the Utilities build a case, justified by supporting testimony, that non-wind renewable resources should be included in this docket, those resources should be excluded immediately. Failure to do so could well jeopardize the development of much-needed renewable energy projects that pose no threat to the stability of any of these utilities' systems or control areas.

Disaggregation of Large PURPA Projects into QF Projects

The Alliance is aware that Idaho Power and Rocky Mountain Power have been presented with requests for PURPA contracts for wind projects that might not qualify for the published avoided cost rate if not for the fact those projects were carved into smaller projects of 10 average megawatts or less. This argument, which has some merit, was made forcefully in IPC-E-05-22 as well as IPC-E-07-04, but evidently was not satisfactorily resolved and remains before the Commission for consideration.

Given the realities of contemporary wind project development – and conditions that exist today but did not exist when IPC-E-05-22 was before the Commission five years ago – we also believe that the argument against disaggregation or aggregation practices is less convincing today than it was in 2005 and 2006. We note that the issue of disaggregation was also before the Commission in IPC-E-07-04, again without resolution.

As we have seen in the past month, Idaho Power has brought to the Commission multiple contracts for wind projects that are seemingly exactly what Idaho Power is arguing against. In such cases as IPC-E-10-51 through IPC-E-10-55 (Firm Energy Sales Agreement with Alpha Wind et al) and cases IPC-E-10-56 through IPC-E-10-60 (Firm Energy Sales Agreement with Murphy Flat Wind et al), Idaho Power acknowledges that these multiple contracts are in fact larger projects that have been broken into smaller QF projects for purposes of qualifying for more favorable rates, albeit with certain unique characteristics of the respective contracts in attempts to help Idaho Power accommodate excess energy deliveries. Regardless, it appears that in many if not most recent cases brought to the Commission, disaggregation of wind projects is becoming routine.

There is a legitimate concern about a utility's obligation to accept PURPA wind projects. However, as Idaho Power and Rocky Mountain Power are currently demonstrating through recent-vintage PURPA contracts, those concerns can be addressed and minimized through contract negotiations.

Conclusion

For reasons stated above, the Snake River Alliance believes GNR-E-10-04 is a vitally important investigation that the Commission must address. We are unconvinced that non-wind resources should be considered here and we believe reducing the eligibility cap from 10MW to 100KW could have long-lasting and deleterious effects on Idaho's nascent renewable energy industry. We also believe that attempting to revisit the SAR issue in this docket, while important and ripe for consideration, may be unproductive in light of the complexities of exploring the SAR considerations that may be unique to wind

generation. Likewise, the Alliance cautions against opening this docket to such ancillary issues as the treatment of renewable energy credits (RECs) and other larger interconnection and transmission issues. While important, those issues should be considered separately.

The Alliance believes the issues identified above, while complex, can be addressed in a timely fashion providing all interested parties are dedicated to doing so. We urge the Commission to remain mindful of the painful wind moratorium that gripped Idaho in 2005 and 2006 and the disruption that experience brought to Idaho's renewable energy development efforts.

Respectfully submitted,



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Idahoans for Responsible Wind Energy (IRWE) is an unincorporated, recently formed citizens' coalition of Idaho residents concerned about runaway wind development in eastern Idaho. It is with this background that we respectfully submit this letter to comment upon **CASE NO. GNR-E-10-04: THE JOINT PETITION OF IDAHO POWER COMPANY, AVISTA CORPORATION AND ROCKY MOUNTAIN POWER TO ADDRESS AVOIDED COST ISSUES AND JOINT MOTION TO ADJUST THE PUBLISHED AVOIDED COST RATE ELIGIBILITY CAP.**

ORDER 32131 specifies that the Commission is interested in receiving comments regarding: (1) the advisability of reducing the published avoided cost 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 larger wind projects into 10 aMW projects to utilize the published rate. IRWE provides its comments in this document.

1. Advisability of Reducing the Published Avoided Cost Eligibility Cap

Idahoans for Responsible Wind Energy supports the reduction of the published avoided cost eligibility cap from the current level of 10 aMW to 100 kW for wind project development. IRWE believes that the utility petitioners have accurately described the explosion in wind development that has occurred in Idaho as a result of policies that have everything to do with financial incentives for developers and nothing to do with markets, need for power, or utility ratepayers.

The utilities' Petition describes the rapid growth in wind projects that is so remarkable that Idaho Power could have more wind powered generation on its system than its minimum loads require, and that wind generation would exceed any other single source on its system. Rocky Mountain Power, while not quite as extreme, faces similar impacts. This situation is occurring in part because Idaho pays more under its avoided cost published rates than any other surrounding state, even though Idaho has recently reduced those rates. Developers are flocking to locations where they can get the highest returns whether that power is needed or not.

The Public Utility Regulatory Policies Act of 1978 ("PURPA") only requires the Idaho Public Utilities Commission (IPUC) to establish avoided cost rates for projects of 100 kW. The IPUC, however, has established a 10 aMW cap for which developers can qualify for the published rates. The last time the IPUC temporarily reduced the cap to the federally required 100 kW limit in 2005, wind power development temporarily declined because wind developers had to justify their projects based upon true avoided costs, not the artificially high published rates. The Northwest and Intermountain Power Producers Coalition ("NIPPC"), in its opposition to the utilities' Petition, admits as much when it states on page 7 of its Answer, "Obviously, any party currently seeking a PPA with the existing published rates would be adversely affected by a drop in the eligibility cap from 10 aMW to 100 kW." While the NIPPC attempts to ascribe the adverse affect to a host of issues, the obvious bottom line here is that under the current published rates they can receive payments that are far in excess of their real costs.

Wind developers already receive significant state and federal incentives to develop projects. An Idaho state sales tax rebate of 6% on equipment costs is allowed for all equipment up to the connection to the utility. Congress recently approved an extension of the 30% wind power tax credit and even sweetened the deal by allowing an increase in the bonus depreciation

from 50% to 100% of the project costs. This allows a developer to write off the entire cost of the project in one year, easily allowing approximately 5% more value to the developers' net benefit.

While these incentives are beneficial to developers, paying wind developers more than is necessary for project development ultimately has to cost utility ratepayers more than they otherwise would need to pay in their rates. This rush to development also is currently overwhelming residents of Bonneville County where view sheds are being rapidly transformed and land values are being negatively impacted by this unwanted development.

Consequently, we support the Petitioners in their request to reduce the published avoided cost eligibility cap from the current level of 10 aMW to 100 kW for wind project development. IRWE believes this change should be permanent but certainly endorses a temporary reduction while all of the related issues are addressed in Phase 2 of this case.

2. Appropriateness of Exempting Non-wind QF Projects From the Reduced Eligibility Cap

Idahoans for Responsible Wind Energy has reviewed the responses from the various parties but has no opinion on this issue.

3. Consequences of Dividing Larger Wind Projects into 10 aMW Projects to Utilize the Published Rate

Idahoans for Responsible Wind Energy believes that adopting our recommendation to reduce the published avoided cost eligibility cap from the current level of 10 aMW to 100 kW for wind project development will go a long way toward solving the problem created by developers "gaming" the system to receive maximum benefits.

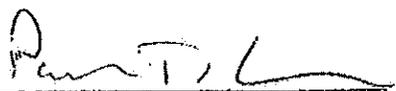
As noted in the utilities' Petition, PURPA was originally envisioned for small, relatively unsophisticated developers to unleash a creative expansion of renewable power development.

That has been replaced by huge companies, such GE, developing giant wind farms and then attempting to sub-divide them into 10 aMW qualifying facilities by spacing them a mile apart and receiving the published avoided cost rate. Like all regulatory schemes that are not driven by real markets, this particular requirement of PURPA has been successfully overcome by developers. While developers may argue that local micro-patterns of wind resources require a particular array of wind turbine towers, their real objective of maximizing revenue is obvious.

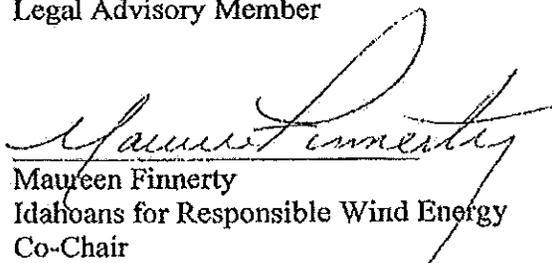
IRWE recognizes that it would be nearly impossible for the Idaho Public Utilities Commission to devise siting distances or other requirements that cannot be outmaneuvered by creative developers. PURPA's one-mile requirement, a federal "one-size-fits-all" attempt to prevent exactly what is happening in the instant case, is as outmoded as the buggy whip. No amount of tinkering can make it relevant.

As members of IRWE, we believe that when developers of 20 – 150 aMW facilities have to address their real avoided costs, only responsible wind development will occur.

Dated: 12-21-10



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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 TO ADJUST)
 THE PUBLISHED AVOIDED COST RATE)
 ELIGIBILITY CAP)

Case No. GNR-E-10-04

COMMENTS OF
 THE IDAHO CONSERVATION
 LEAGUE

COMES NOW the Idaho Conservation League (“ICL”) with the following comments in the above captioned matter. On December 3, 2010 the Commission, in Order No. 32131, identified three specific issues for the first phase of this case: “(1) the advisability of reducing the published avoided cost 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 larger wind projects into 10 aMW projects to utilize the published rate.” Order No. 32131 at 5. Following the Commission’s order on these issues the second phase of the case will attempt to tackle a host of issues identified in footnote one of the Order.

ICL’s comments below will address each of the three issues in this first phase. However, the real issue in this matter – whether the current avoided cost methodology is appropriate – will only be resolved during the second phase. With this in mind, the Commission’s statement made when the utilities previously opposed the current eligibility cap remains relevant – “if the rates are

Idaho currently goes beyond the baseline requirements of PURPA in a valuable and important respect. While PURPA only requires eligibility for QF's smaller than 100 kw this Commission has used its implementation authority to raise this cap to 10 aMW. This regulatory decision is the single most effective public policy driving the alternative energy industry in Idaho. By increasing the eligibility cap, the Commission struck the appropriate balance between capturing economies of scale and adequately protecting ratepayers. While many states have implemented Renewable Portfolio Standards, providing access to published avoided cost rates is a better policy for Idaho because it allows market forces to determine the number and type of projects, instead of mandates for megawatts.

II. THE ELIGIBILITY CAP SHOULD REMAIN AT 10 AVERAGE MEGAWATTS

The circumstances supporting the current 10 aMW eligibility cap have not changed. Based on the prospect of impending competitive electricity markets, in 1993 the Commission lowered the eligibility cap from 10 MW to 1 MW. Order No. 25884, IPC-E-93-28. In 2002, following the unraveling of utility deregulation in the western United States, this Commission returned to the current 10 MW eligibility cap. Order No. 29124, GNR-E-02-01 (September 26, 2002). In doing so, the Commission explained the previous reduction was done "at utility request to conform to the acquisition strategy of the utilities set forth in their Integrated Resource Plans and with little adverse commentary." Order No. 29029 at 5.¹ In the 90's, the utilities were not planning to build long-term new generation resources, rather "were looking to the market to supply future needs". *Id* at 5. In contrast, in 2002, as today the utilities "are now constructing or have recently constructed long-term new generation resources[.]" *Id*. Because all three utilities

¹ Order No. 29029 was the first of two interlocutory orders issued in Case No GNR-E-02-01. In Order 29029 the Commission raised the eligibility cap from 1 MW to 5 MW. In Order 29069 the Commission raised the cap from 5 MW to 10 MW. The first page of Final Order 29124 "reaffirms the changes to contract length for QFs smaller than 10 MW approved in Order No. 29069."

performed wind integration studies and the avoided cost methodology includes a wind integration charge.

In the present case, the utilities complain about the number of wind projects requesting PURPA contracts. *Joint Motion* at 3-4. They do not describe why their wind integration studies and charges that arose from the prior moratorium are insufficient. While it is certainly true that today Idaho Power has more wind on its system than in 2005, the Company makes no attempt to support its claim it “could have over 1100 MW of wind powered generation on its system in the near term.” *Id.* History establishes that many proposed projects do not come to fruition.

Rocky Mountain and Avista’s arguments for lowering the eligibility cap are even weaker. Rocky Mountain attempts to support their need for a moratorium by referring to 64 MW of PURPA contracts; even though not one of these MW is currently operating. *Id.* at 4. However, they fail to mention the over 266 MW of wind they voluntarily added in 2009, or the 311 MW added in 2010. *See PacifiCorp 2008 IRP Update* at 27 – 29 (March 31, 2010). Avista does not attempt to justify their need for a PURPA moratorium. *See Joint Petition*. Nor do they explain why wind QFs are a problem when their 2009 IRP identifies “the first generation resource acquisition is 150 MW of wind by the end of 2012 to take advantage of federal tax incentives.” *Avista 2009 Electric IRP* at 8-8 (August 31, 2009). As the Commission has explained “PURPA resources offered under the Commission approved avoided cost methodology cannot be declined . . . because the Company would prefer to acquire similar resources through a competitive non-PURPA IRP related RFP process.” Order No. 29872 at 9.

The utilities have not provided a compelling need to upset the Commission’s careful balance between fulfilling PURPA’s public policy goals and protecting ratepayers. The 10 aMW eligibility cap achieves this balance by providing certainty and transparency to developers while allowing for economies of scale. Meanwhile, the current avoided cost methodology and contract

demands of Idaho Power in particular. To require all developers to individually negotiate PURPA contracts would only stifle these important innovations, drive up the transactions costs ultimately passed on to ratepayers, and counteract the public policy goals established in PURPA.

As stated above, the Commission should not reduce the eligibility cap for any QFs. If the Commission does decide to reduce this cap, it should only do so for wind QFs. There simply is no support for reducing the eligibility cap for non wind QFs. And if the Commission did so they would only harm Idaho's alternative energy industry while providing no benefit to Idaho rate payers.

IV. THE COMMISSION SHOULD ADOPT SOME CRITERIA TO LIMIT DISAGGREGATING LARGER PROJECTS INTO 10 aMW PROJECTS.

The intent of PURPA and the published avoided costs regime is to incentivize small-scale alternative energy developments. Disaggregating larger projects into 10aMW chunks does not comport with the spirit of this regime. Large projects typically have economies of scale that can afford the higher transaction costs and offer operational flexibility that individual negotiations require. Accordingly, to uphold the public policy goals of PURPA the Commission should adopt some criteria to limit the disaggregation of larger projects.

To begin with, ICL is not entirely convinced the utilities do not have some appropriate tools in place currently. It appears the utilities concern lies in the impact of many smaller projects requiring a common point of interconnection. *Joint Petition* at 5. The transmission interconnection request, study, and approval process seems to allow for some control over this. For instance in Case No IPC-E-06-21 the Commission approved the "Cassia Formula" to allocate transmission upgrades between a suite of wind QFs. Order No. 30414, IPC-E-06-21 (August 29, 2007). While this formula is applicable on a case-by-case basis, the Commission recently

The current implementation of PURPA has proven to be an effective method to both incentivize small-scale renewable energy industry and protect ratepayers, both of which benefit Idaho. The Commission should not upset this balance, instead the utilities, developers, and others should focus on the real issue, creating the appropriate avoided cost methodology.

WHEREFORE, ICL respectfully requests the Commission consider the above comments.

Submitted, this 22 day of December 2010.

Respectfully,



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**BEFORE THE
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IN THE MATTER OF THE JOINT
PETITION OF IDAHO POWER
COMPANY, AVISTA CORPORATION,
AND 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

Opening Public Comments of
Renewable Northwest Project

Renewable Northwest Project (RNP) appreciates the opportunity to provide public comments in this docket. RNP is a non-profit, regional advocacy group whose members include public interest groups, environmental organizations, and companies active in the renewable energy industry.¹ Our mission is to promote implementation of environmentally responsible renewable resources, and we focus primarily on wind, solar, and geothermal technologies. RNP has appeared before the Idaho Public Utilities Commission (PUC) on several occasions.²

RNP supports a market for renewable energy in Idaho that is healthy for all segments of the renewable energy industry and can be sustained over the long term. Because of Idaho's strong implementation of the Public Utilities Regulatory Policy Act of 1978 (PURPA) and other

¹ A listing of RNP's member organizations is available at http://www.rnp.org/our_members (December 2010).

² Prior dockets in which RNP has participated as an intervenor or by public comment include IPC-E-05-22, IPC-E-07-03/AVU-E-07-02/PAC-E-07-07, PAC-E-09-07, IPC-E-08-24, and IPC-E-09-33.

supportive policies, Idaho enjoys a thriving renewable energy sector. Occasional maintenance of Idaho's policies for PURPA implementation may be necessary to keep the state's renewable energy market in balance over time. RNP supports a fair and objective review of how current PURPA policies and practices affect the utilities, ratepayers, and all segments of the renewable energy industry. But RNP opposes the utilities' request to immediately lower the published rate threshold to 100kW, primarily because the utilities have not presented compelling evidence or analysis in support of the broad remedy they request. Lowering the threshold to 100kW on this record could perpetuate a boom-and-bust cycle that hinders constructive dialogue and makes a durable resolution more difficult to achieve. If the utilities can demonstrate with detailed evidence and analysis that interim protection is needed, then a better solution than lowering the size threshold may be to impose interim policy criteria that prospectively limit PURPA to true community-scale projects—but without disrupting the reasonable, investment-backed expectations that the current rules have generated.

I. Reducing the threshold to 100kW for all utilities would be out of proportion with the evidentiary and analytical justification presented in the Joint Petition.

Any immediate modification to the published rate threshold should be based on strong evidence and analysis of specific harms, and should be narrowly tailored to address those harms. The Joint Petition presents very little specific evidence or analysis, yet seeks a remedy that would effectively halt PURPA activity for an indeterminate period of time. The Joint Petition makes several arguments in support of lowering the published rate threshold to 100kW: (1) the PUC lowered the threshold to 100kW in 2005 for similar reasons; (2) there has been a significant increase in the number and scale of PURPA projects; (3) applying a change to only one utility would make the others “magnets” for PURPA development; and (4) the utilities will continue to

negotiate with PURPA projects while published rates are suspended. The utilities may have some legitimate concerns, but RNP does not believe that the analysis and evidence in the Joint Petition justify the broad remedy the utilities seek. In RNP's view, the bar should be set much higher to justify what is effectively a PURPA moratorium.

The 2005 case should not be viewed as a good precedent. When the PUC lowered the published rate threshold in 2005, it did so primarily because of the perceived need for the utilities to conduct initial wind integration studies.³ The utilities have not asserted that a similar need exists today, nor that the current wind integration rate is too low. (Indeed, Idaho Power's 2007 study evaluated wind penetration levels up to 1,200 MW,⁴ and the company has added significant integrating resources since then.) Moreover, a moratorium can create an unhealthy boom-and-bust cycle that, last time, resulted in a PURPA hiatus of more than two years. Any action in the current docket should be based on a demonstrated need to make a tailored response to a specific problem, not merely on the approach the PUC took in the past.

The Joint Petition does not present sufficient evidence and analysis to prove that a crisis is at hand, and does not detail specific problems that would result from retaining availability of published rates while addressing broader PURPA issues. For Idaho Power, the Joint Petition summarizes existing wind, contracted wind, and expected wind contract requests totaling some 1,100 MW (nameplate capacity). But it does not attempt to quantify, based on past project realization rates, what percentage of these contracts and requests are likely to materialize into operating projects. The Joint Petition asserts that the nameplate capacity of the possible additions exceeds Idaho Power's minimum loads, but does not account for the capacity factor of the potential wind projects or detail the specific operational problems or financial impacts that

³ See Case No. IPC-E-05-22, Order No. 29839, at page 8.

⁴ See Case No. IPC-07-03, Petition of Idaho Power Company, Attachment 1, page 55.

would result. Idaho Power's wind integration study evaluated wind penetration levels of 1,200 MW, and would provide a starting point for assigning integration costs up to that level (with appropriate consideration of new integrating resources).

For Rocky Mountain Power, which the Joint Petition does not describe as having any operating wind QFs, the only assertion of a problem is that transmission constraints could result if all currently proposed contracts materialized into projects. There is no information about Avista's situation. If there are real, specific problems for these utilities, they should be detailed with evidence and supported by proposals tailored to address them.

The fear that one utility will become a magnet for PURPA development if published rates for another utility are suspended is not a real, specific problem. The present set of PURPA regulations has been in place for some time, and no issues with PURPA development appear to have arisen for Rocky Mountain Power or Avista. It therefore is difficult to understand how retaining the availability of published rates during a workshop process will become a problem, even if developers begin to look for projects in new service territories. Utilities with no operating PURPA projects—or even executed contracts—have very little standing to argue that a crisis justifies the broad remedy they seek here.

One final assertion in the Joint Petition deserves more evidence and explanation from the utilities: the claim that lowering the published rate threshold will not halt PURPA development, but merely will shift activity to negotiated contracts over which the utilities have greater administrative control. To give this assertion any meaning, the utilities would have to give some concrete evidence that demonstrates a commitment to continuing PURPA activity (*i.e.*, historical evidence that negotiated PURPA contracts did result from the published rate threshold reduction in 2005; commitment of additional personnel and resources to negotiating PURPA contracts

while published rates are unavailable; commitment that every request for negotiation will be acted on and presented to the PUC within three months of the request). Mere claims that this is not a moratorium, with reference to a single PURPA contract successfully negotiated in the weeks leading up to the moratorium request, do not demonstrate a commitment to maintaining PURPA activity during a workshop process.

In short, RNP believes that acceding to the utilities' request to lower the published rate threshold to 100kW for all three utilities is a drastic remedy for which the Joint Petition does not make a strong enough case. Allowing the moratorium on this record would set an unhealthy precedent for dealing with PURPA issues. At minimum, RNP recommends that the PUC require the utilities to present a stronger evidentiary foundation for their request. And, if the PUC does decide to adopt the utilities' proposal, RNP suggests that the PUC set a relatively short timeline for workshops and a date certain upon which the threshold will increase again. This will motivate the parties to work out broader PURPA issues quickly and cooperatively.

II. If an interim solution were necessary, then prospectively limiting published rates to true community-scale projects could be a more effective and equitable solution.

In general, RNP supports the acquisition of larger-scale renewable energy projects through competitive bidding and the development of community-scale projects under PURPA. In 2005, RNP and NW Energy Coalition advocated for the PUC to consider designing policy criteria regarding project ownership, layout, and interconnection to help distinguish between commercial-scale projects and community-scale projects.⁵ RNP continues to believe that a renewable energy market healthy for all sectors of the industry ideally should consist of large-scale projects planned for in utility IRPs and acquired through competitive bidding and

⁵ Case No. IPC-E-05-22, Direct Testimony of Troy Gagliano on behalf of Renewable Northwest Project and NW Energy Coalition, at pages 2, 4-5.

negotiation, and of community-scale projects making use of PURPA published rates. This, when combined with state or federal renewable portfolio standards and robust competitive procurement requirements, can be the most sustainable, lowest cost model for diversifying the region's energy mix.

At the same time, RNP recognizes that a variety of policy circumstances—most prominently, the absence of a state renewable portfolio standard and robust competitive procurement standards—have made development of large-scale wind projects using PURPA published rates an attractive and successful model in Idaho. This has generated, and will continue to generate, significant new diversification of Idaho Power's energy mix. This is a positive result, and has jump-started the utility's experience with renewable resources. RNP is also concerned, however, that a high ratio of PURPA contracts to negotiated contracts could make utilities' and ratepayers' experience with renewable resources less positive over the long term. It may also reduce the utilities' appetite for competitively bid renewable resources, which RNP believes should ideally have a place along with PURPA development in utility portfolios. But absent a federal or state renewable portfolio standard, PURPA development may continue to be the most successful way to actually achieve diversity in Idaho's energy mix.⁶ The PUC should weigh these issues carefully in developing permanent PURPA regulations.

Nonetheless, prospectively addressing project scale on an interim basis could be an effective way to deal with utility concerns about managing large PURPA resource additions while a workshop process is pending. RNP does not believe that limiting PURPA published rates to community-scale projects is a silver bullet solution that will resolve the myriad of issues that have arisen with PURPA implementation. Nor would RNP support disrupting the

⁶ To gain more control over the diversification of their resource portfolios, the utilities themselves may wish to consider proposing renewable energy targets and competitive procurement guidelines that hold them accountable for portfolio diversification at the lowest cost to ratepayers.

reasonable investment-backed expectations of developers already planning PURPA projects; the PUC must find an equitable way to honor developers' investments in reliance on the current rules. But, if the utilities can sufficiently justify that an interim measure is needed to slow PURPA development while interested parties discuss the broader set of PURPA issues, a better interim measure than lowering the published rate threshold may be to prospectively adopt common ownership and control criteria designed to limit PURPA published rates to true community-scale projects. This interim solution could apply equally across all technologies and utilities, and would prevent major new additions to the utilities' PURPA portfolios during a broader workshop process.

III. Conclusion

RNP opposes a dramatic reduction of the PURPA published rate threshold. If the PUC does approve some type of interim measure while broader PURPA issues are being considered, the PUC should look for solutions that are narrowly tailored to address specific problems that the utilities have demonstrated with compelling evidentiary and analytical presentations.

Respectfully submitted this 22nd day of December, 2010.

RENEWABLE NORTHWEST PROJECT



Megan Walseth Decker
Senior Staff Counsel



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IDAHO PUBLIC
UTILITIES COMMISSION

December 22, 2010

BY ELECTRONIC MAIL

Ms. Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720-0074

RE: 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 (the "Joint Petition"), Case No. GNR-E-10-04

Dear Ms. Jewell:

I am a lawyer for Cargill Environmental Finance ("CEF"). CEF is a small, entrepreneurial division of Cargill, Incorporated that has developed three biogas-fueled digester PURPA Qualifying Facilities in Idaho. CEF provides this comment to urge the Commission to exclude non-wind projects from the eligibility cap that was requested in the Joint Petition.

By way of background, two of CEF's three qualifying facilities already have power purchase agreements in place with Idaho Power. The third project has been in development for more than two years, and Cargill has relied on the availability of the published avoided cost rates throughout its planning and due diligence process. This is not a hypothetical project: The digester is complete, the gensets have been commissioned, the interconnection agreement is in place, and the plant is online and dispatching electricity to the grid. We will commence commercial operations as soon as CEF and PacifiCorp execute a power purchase agreement.

While Cargill does not take any position as to the critique of wind projects in the Joint Petition or the relief requested as to such projects, we would urge the Commission to conclude that non-wind projects are not properly within the scope of the Joint Petition. The petitioning utilities go to great lengths to describe their issues with wind projects, but the Joint Petition make little reference to non-wind projects and certainly does not indicate Idaho is being inundated with large biogas-fueled digesters. Indeed, while the Joint Petition refers dismissively to "[t]he historical 'unsophisticated' QF project developers" of small projects that are purportedly "no longer the norm," *id.* at 5, the fact remains that there are still companies trying to develop technologies and markets for green power and renewable energy credits. If there is a problem with "large, utility-scale wind farms," *id.*, we urge the Commission to limit its order to such projects rather than smaller projects using distinct technologies. For that matter, as the possibility of a cap on non-wind projects may problematize execution of power purchase

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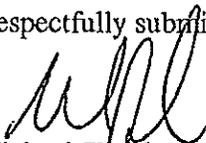
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Commission Secretary
Idaho Public Utilities Commission
December 22, 2010
Page 2

agreements during the pendency of this case, we would ask the Commission to quickly remove the ambiguity.

While Cargill has not moved to intervene in this action, we would be happy to provide any information the Commission may find useful in its deliberations.

Respectfully submitted,



Michael Skoglund

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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 TO ADJUST THE PUBLISHED
AVOIDED COST RATE ELIGIBILITY CAP.

Case No. GNR-E-10-04

NOTICE OF JOINT PETITION
NOTICE OF MODIFIED PROCEDURE
NOTICE OF INTERVENTION DEADLINE
NOTICE OF ORAL ARGUMENT
ORDER NO. 32131

Written Comments of the Eastern Idaho Regional Solid Waste District

The Eastern Idaho Regional Solid Waste District ("District") is a political subdivision of the State of Idaho formed by Clark, Bonneville, Fremont, and Madison Counties who have the responsibility for establishing, maintaining and operating a solid waste disposal system pursuant to Idaho Code 31-4401, et seq.

The legislature of the State of Idaho has found and declared, pursuant to Idaho Code 31-4901, et seq., that the disposal of solid waste within the State of Idaho is an important public purpose, and that the creation of independent regional districts to administer solid waste disposal is an efficient and cost-effective method of meeting the state's solid waste disposal needs.

The District has proposed to construct a waste-to-energy facility located in the service territory of Rocky Mountain Power to meet these objectives.

The District has submitted an application for a Qualified Facility (QF) contract to PacifiCorp (dba Rocky Mountain Power) on August 25, 2010, and has reviewed terms and conditions offered by PacifiCorp for a project whose generation is expected to exceed 10 aMW per month.

The District has submitted a revised application for a QF contract applicable to a non-fueled project smaller than 10 megawatts as described in IPUC Order 29632 on November 26, 2010. The District took these actions with the expectation of qualifying for posted avoided cost rates applicable to a project whose generation is expected to be less than 10 aMW per month as published by the Commission on March 15, 2010.

Statement of Position

The Eastern Idaho Regional Solid Waste District (“District”) opposes the Joint Utilities Petition to “lower the published avoided cost rate eligibility cap from 10 aMW to 100 kW (to) be effective immediately.”

The District supports the position of the Milk Producers, Simplot, and the Coalition parties to this proceeding that any lowering of the eligibility cap should not apply to non-wind QFs.

In its deliberations, the District asks the Commission to take note of the following action items contained in PacifiCorp’s 2008 Update to its Integrated Resource Plan published on March 31, 2010:

- Implement a bridging strategy to support acquisition deferral of long-term intermediate/base load resources *in the east control area* (emphasis added) until the beginning of summer 2015, (Item 2, Firm Market Purchases, 2010 – 2019, Table ES.2 – IRP Action Plan Update)

This action item specifically calls for the acquisition of 200 MW of long-term power purchases (presumably in the east control area comprising Idaho and Utah), and specifically references PURPA QF contracts in this regard.

The March 31, 2010 IRP update also calls for PacifiCorp (dba Rocky Mountain Power) to proceed with the following action item:

- Procure through acquisition and/or company construction long-term firm capacity and energy resources for commercial service in the 2012 – 2016 time frame (Item 3, Peaking/Intermediate/ Base-load Supply-side Resources, Table ES.2 – IRP Action Plan Update)

The IRP states that the proxy resource in PacifiCorp’s 2010 Business Plan consists of a Utah wet-cooled gas combined cycle plant with a capacity rating of 607 MW, acquired by the summer of 2015.

The District notes that Idaho Power Company has a gas resource under construction that is substantially similar to the proxy resource contained in PacifiCorp’s 2010 Business Plan. The District request that the Commission ask these utilities to clarify the amount of costs associated with these resources that each utility plans to recover through rates in the State of Idaho for these resources. The Commission and parties to this proceeding could then compare the projected costs on a Mwh basis with the posted avoided cost currently applicable to a QF expected to generate less than 10 aMW per month.

The District believes that lowering the threshold for eligibility for posted avoided cost pricing will result in few if any projects being developed over the next several years, with the result that the utilities serving Idaho will not defer their plans to procure through

acquisition and/or construction long-term firm capacity and energy resources, which will eventually cost Idaho consumers more than would the QF projects that could have been built instead.

The Commission's attention to these comments is appreciated.

Sincerely,



William Frederiksen
President
Eastern Idaho Regional Solid Waste District