

1 Q. Please state your name and business address for
2 the record.

3 A. My name is Rick Sterling. My business address
4 is 472 West Washington Street, Boise, Idaho.

5 Q. By whom are you employed and in what capacity?

6 A. I am employed by the Idaho Public Utilities
7 Commission as the Engineering Supervisor.

8 Q. What is your educational and professional
9 background?

10 A. I received a Bachelor of Science degree in
11 Civil Engineering from the University of Idaho in 1981
12 and a Master of Science degree in Civil Engineering from
13 the University of Idaho in 1983. I worked as an energy
14 specialist and an energy section manager for the Idaho
15 Department of Water Resources from 1983 to 1994. In
16 1988, I received my Idaho license as a registered
17 professional Civil Engineer. I began working at the
18 Idaho Public Utilities Commission in 1994. My duties at
19 the Commission include analysis of a wide variety of
20 electric and water utility applications, in addition to
21 my duties as Engineering Supervisor. Since 1994, I have
22 been the lead Staff member on issues related to the
23 Public Utilities Regulatory Policies Act of 1978 (PURPA),
24 including determination of avoided cost rates, review of
25 PURPA contracts, and development of policies for

1 implementation of PURPA.

2 Q. What is the purpose of your testimony in this
3 proceeding?

4 A. The purpose of my testimony is to present
5 criteria to distinguish a single Qualifying Facility for
6 purposes of determining eligibility for published avoided
7 cost rates for projects up to 10 average Megawatts (aMW)
8 in size, specifically in response to Commission
9 directives in Order No. 32195.

10 Q. Please summarize the background of this case,
11 including Case No. GNR-E-10-04 in which relevant issues
12 leading up to the current case were first addressed.

13 A. On November 5, 2010, Idaho Power Company,
14 Avista Corporation, and PacifiCorp dba Rocky Mountain
15 Power (Utilities) filed a Joint Petition¹ requesting that
16 the Commission initiate an investigation to address
17 various avoided cost issues related to PURPA. While the
18 investigation is underway, the Petitioners also requested
19 that the Commission "lower the published avoided cost
20 rate eligibility cap from 10 aMW to 100 kW (to) be
21 effective immediately. . . ." Petition at 7. On
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23
24 ¹ *In the Matter of the Joint Petition of Idaho Power
25 Company, Avista Corporation, and Rocky Mountain Power to
Address Avoided Cost Issues and to Adjust the Published
Avoided Cost Rate Eligibility Cap, Case No. GNR-E-10-04,
November 5, 2010.*

1 December 3, 2010, the Commission issued Order No. 32131²
2 in which it declined to immediately reduce the published
3 avoided cost rate eligibility cap, but did establish a
4 schedule for processing the Utilities' request to reduce
5 the eligibility cap via Modified Procedure and to
6 schedule an oral argument. In particular, the Commission
7 stated its desire to receive comments regarding: (1) the
8 advisability of reducing the published avoided cost
9 eligibility cap; (2) if the eligibility cap is reduced,
10 the appropriateness of exempting non-wind QF projects
11 from the reduced eligibility cap; and (3) the
12 consequences of dividing larger wind projects into 10 aMW
13 projects to utilize the published rate. The Commission
14 also determined that its decision regarding the Joint
15 Petitioners' Motion to reduce the published avoided
16 cost eligibility cap would become effective on
17 December 14, 2010. The Commission noted that it would
18 consider the additional avoided cost issues identified by
19 the Petitioners and other interested parties in
20 subsequent proceedings. Reference Order No. 32131 at 5-6.

21 On February 7, 2011, following the submission
22 of comments, reply comments, and oral argument, the
23 Commission issued Order No. 32176 temporarily reducing
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25 ² Notice of Joint Petition, Notice of Intervention
Deadline, Notice of Oral Argument

1 the eligibility cap for published avoided cost rates from
2 10 aMW to 100 kW for wind and solar only while the
3 Commission further investigates the implications of
4 disaggregated QF projects. The Commission explained that
5 wind and solar resources present unique characteristics
6 that differentiate them from other PURPA QFs. Wind and
7 solar generation, integration, capacity and ability to
8 disaggregate, the Commission stated, provide a basis for
9 distinguishing the eligibility cap for wind and solar
10 from other resources. Order No. 32176 also called for a
11 hearing the week of May 9, 2011, to investigate and
12 determine requirements by which wind and solar QFs can
13 obtain a published avoided cost rate without allowing
14 large QFs to obtain a rate that is not an accurate
15 reflection of a utility's avoided cost for such projects.
16 The Commission stated the following:

17 This Commission is supportive of all small power
18 producers contemplated by PURPA, including wind and
19 solar, and it is not the Commission's intent to push
20 small wind and solar QF projects out of the market.
21 With this goal in mind, the Commission is initiating
22 additional proceedings to investigate and determine
23 in a finite timeframe requirements by which wind and
24 solar QFs can obtain a published avoided cost rate
25 without allowing large QFs to obtain a rate that is
not an accurate reflection of a utility's avoided
cost for such projects.

Reference Order No. 32176 at 11.

On February 25, 2011, the Commission opened a
new docket, Case No. GNR-E-11-01, and issued Order

1 No. 32195³ further clarifying the purpose of the initial
2 phase of the case. In its notice, the Commission stated
3 that it is concerned that large projects are
4 disaggregating into smaller QF projects in order to be
5 eligible for published avoided cost rates that may not be
6 just and reasonable to the utility customers or in the
7 public interest. Consequently, the Order states that the
8 Commission seeks information regarding criteria within
9 which small wind and solar QFs can obtain a published
10 avoided cost rate without allowing large QFs to obtain a
11 rate that is not an accurate reflection of a utility's
12 avoided cost for such projects. Reference Order No.
13 32195 at 3.

14 Q. Please describe the scope of your testimony.

15 A. My testimony will be very narrowly focused.
16 Specifically, Order No. 32195 states, "[T]he Commission
17 solicits information and investigation of a published
18 avoided cost rate eligibility cap structure that:
19 (1) allows small wind and solar QFs to avail themselves
20 of published rates for projects producing 10 aMW or less;
21 and (2) prevents large QFs from disaggregating in order
22 to obtain a published avoided cost rate that exceeds a
23 utility's avoided cost." Reference Order No. 32195 at 3.

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25 ³ Notice of Inquiry, Notice of Intervention Deadline,
Notice of Scheduling, Notice of Technical Hearing

1 Therefore, my intent is to address only these two
2 identified issues. Issues related to the appropriateness
3 or accuracy of either the Surrogate Avoided Resource
4 methodology (SAR methodology) or the Integrated Resource
5 Plan methodology (IRP Methodology) will be addressed in
6 subsequent proceedings.

7 Q. Please explain, in general, your proposal for a
8 published avoided cost rate eligibility cap structure
9 that allows small wind and solar QFs to avail themselves
10 of published rates for projects producing 10 aMW or less
11 while preventing large QFs from disaggregating in order
12 to obtain a published avoided cost rate.

13 A. I propose that the Commission identify a set of
14 criteria to be considered in determining whether a
15 proposed project represents a "Single Project." Under my
16 proposal, a Single Project producing more than 10 aMW
17 would not be eligible for published rates, and instead
18 would only be eligible for avoided cost rates based on
19 the IRP methodology. Disaggregated projects meeting one
20 or more of the criteria may be deemed a Single Project.

21 Q. How did you develop your proposal?

22 A. I developed my proposal by starting with a
23 proposal made by the Idaho Conservation League (ICL) and
24 the Renewable Northwest Project (RNP) in their reply
25 comments in Case No. GNR-E-10-04. I modified the ICL/RNP

1 proposal, and added numerous additional criteria.

2 Q. Why did you believe it was necessary to modify
3 the ICL/RNP proposal?

4 A. I believed that the ICL/RNP proposal was a good
5 start, but I thought that additional criteria needed to
6 be added in order to effectively accomplish the
7 Commission's stated goals in Order Nos. 32176 and 32195.
8 Without my additions and modifications, I believe that
9 large wind and solar project developers could soon devise
10 ways to configure projects that satisfy the ICL/RNP
11 criteria, yet are contrary to their intent. I believe my
12 additional criteria will more effectively prevent large
13 QFs from disaggregating in order to obtain a published
14 avoided cost rate that exceeds a utility's avoided cost.
15 With my additions and modifications, I believe that
16 projects that are truly 10 aMW or smaller can be clearly
17 identified and distinguished from large projects that
18 have been disaggregated solely for the purpose of trying
19 to qualify for published rates.

20 Q. Please describe your proposed criteria.

21 A. My proposed criteria are attached as Exhibit
22 301. There are four main parts to the proposal: Single
23 Project Criteria, Eligibility for Published Rates,
24 Definitions, and Project Responsibilities. The Single
25 Project Criteria section is a list of criteria that I

1 propose that the Utilities, and if necessary the
2 Commission, consider in determining whether a project is
3 a Single Project for purposes of determining eligibility
4 for published avoided cost rates. The Eligibility for
5 Published Rates section states that a project consisting
6 of multiple generation sources that satisfies at least
7 one of the listed criteria may be aggregated for purposes
8 of determining eligibility for published rates and for
9 purposes of calculating avoided cost rates. The
10 Definitions section defines "person" and "affiliated
11 person(s)." The Project Responsibilities section lists
12 conditions that Staff proposes be included in power sales
13 agreements containing published rates.

14 Q. Under your proposal, would a project have to
15 satisfy all of the criteria in order to be considered a
16 Single Project?

17 A. No. Under my proposal, a project consisting of
18 multiple generation sources that satisfies at least one
19 of the specified criteria and delivers more than 10 aMW
20 per month may be aggregated for purposes of determining
21 eligibility for published rates and for purposes of
22 calculating avoided cost rates. Therefore, a project
23 could conceivably be deemed a Single Project if it
24 satisfies just one of the criteria. More likely,
25 however, a project would meet multiple criteria and be

1 deemed a Single Project. Some projects could meet most
2 or all of the criteria for a Single Project.

3 Q. Do you believe it would be necessary for the
4 Commission to examine each proposed project and make a
5 determination of whether it qualifies as a Single
6 Project?

7 A. No, I do not. I propose that the utility make
8 an initial determination and that the Commission only be
9 asked to make a determination in instances where there is
10 uncertainty or disagreement between the project developer
11 and the utility. In the majority of cases, I think it
12 will be fairly obvious as to whether a project is a
13 Single Project.

14 Q. What is the reason for including the language
15 "... the Commission will consider all relevant factors,
16 including, but not limited to the factors listed below"
17 on lines 13-15 on page 1 of Exhibit 301?

18 A. I believe that it is important for the
19 Commission to be able to exercise judgment in individual
20 cases so that the intent of the criteria can be properly
21 maintained. If a rigid set of criteria were to be
22 adopted, I believe that some project developers might
23 devise ways to meet the criteria, yet violate their clear
24 intent. It is difficult, in advance, to envision every
25 possible project configuration that might be proposed.

1 However, to a large degree, I believe that distinguishing
2 whether a project constitutes a Single Project is a case
3 of "knowing it when you see it." By allowing the
4 Commission some discretion, I believe that the intent of
5 the criteria will be more fairly and consistently upheld
6 than if rigid enforcement of the criteria were required.

7 Q. Do you propose that the criteria be applied to
8 only wind and solar resources, or to all resource types?

9 A. I propose that the criteria be used for all
10 resource types, not just wind and solar. Although wind
11 and solar projects are most likely to be disaggregated
12 due to their characteristic of being composed of multiple
13 small generators, other resources might also have the
14 ability to disaggregate. Having a single set of criteria
15 for all resource types will help ensure consistency.

16 Q. If other parties in this case propose similar
17 but different criteria, would you be willing to attempt
18 to reach settlement on suitable eligibility criteria?

19 A. Yes, of course. I am confident that there are
20 criteria that can be proposed that may be different than
21 those I have proposed that can still successfully meet
22 the same intent.

23 Q. If criteria to prevent disaggregation are not
24 adopted by the Commission, can you suggest another option
25 that the Commission should consider?

1 A. Yes, another option would be to make permanent
2 the Commission's prior Order to temporarily lower the
3 eligibility cap for published rates to 100 kW for wind
4 and solar resources. Wind and solar QFs larger than 100
5 kW would still be entitled to contracts under PURPA, but
6 the avoided cost rates in those contracts would be based
7 on the IRP methodology.

8 Q. Do you believe that this option would be
9 feasible?

10 A. Yes, I do. The IRP methodology can be used for
11 projects of any size and is well suited for wind and
12 solar resources because it can take into account
13 generation characteristics that are unique to wind and
14 solar, in addition to the utility's need for new
15 resources. However, I am not opposed to further
16 discussions between the Staff, Utilities, and interested
17 parties to investigate, refine, and reach agreement on
18 specific analysis assumptions and techniques for applying
19 the IRP methodology to wind and solar projects if that
20 methodology is expected to be frequently used. In my
21 opinion, that investigation should take place in
22 subsequent phases of this case or in another docket
23 opened specifically for that purpose, not in the present
24 case.

25 Q. Does this conclude your direct testimony in

1 this proceeding?

2 A. Yes, it does.

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- 1 f. shares a common transmission interconnection
2 agreement;
- 3 g. has a power sales agreement executed within 12
4 months of a similar facility in the same general
5 vicinity;
- 6 h. is operated and maintained by the same entity;
- 7 i. is constructed by the same entity within 12
8 months;
- 9 j. uses common debt or equity financing;
- 10 k. is subject to a revenue sharing arrangement;
- 11 l. obtains local, state and federal land use permits
12 under a single application or as a single entity;
- 13 m. shares engineering and/or procurement contracts;
- 14 n. shares common land leases; or
- 15 o. is in close proximity to other similar facilities.

16 Eligibility for Published Rates

17 A project consisting of multiple generation sources
18 that satisfies at least one of (a)-(o) above and delivers
19 more than 10 aMW per month may be deemed by the Commission
20 to be aggregated for purposes of determining eligibility for
21 published rates and for purposes of calculating avoided cost
22 rates.

23 Definitions

24 As used above, the term "person(s)" means one or more
25 natural persons or legal entities. "Affiliated person(s)"

1 means a natural person or persons or legal entity or
2 entities sharing common ownership, management or acting
3 jointly or in concert with or exercising influence over the
4 policies or actions of another person or entity.

5 "Affiliated person(s)" does not include passive investors
6 whose sole ownership benefit is using production tax
7 credits, green tag values, or depreciation, or a combination
8 of these.

9 Project Responsibilities

10 Upon request, the Project will provide to the utility
11 any relevant information reasonably necessary and in
12 reasonably sufficient detail to allow the utility to make an
13 initial determination of compliance with the Single Project
14 criteria listed above. Any dispute concerning a Project's
15 entitlement to published rates shall be presented to the
16 Commission for resolution.

17 In each contract for payment of published rates, the
18 seller shall:

- 19 (i) warrant the project satisfies the Single
20 Project requirement;
- 21 (ii) warrant and represent that the seller will
22 not make any changes in its ownership,
23 control or management during the term of the
24 contract that would cause it not to be in
25 compliance with the Single Project requirement;

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(iii) agree to provide buyer with documentation of compliance with the separate ownership requirement upon buyer's request, made no more frequently than every 3 years, subject to the buyer maintaining the confidentiality of the documentation provided; and

(iv) acknowledge that, upon a Commission finding that the Single Project requirement is no longer met, the seller will be in default under the contract.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 25TH DAY OF MARCH 2011, SERVED THE FOREGOING **DIRECT TESTIMONY OF RICK STERLING**, IN CASE NO. GNR-E-11-01, BY E-MAILING A COPY THEREOF TO THE FOLLOWING:

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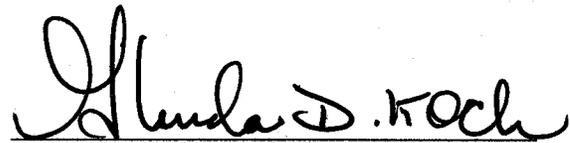
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