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IDAHO PUBLIC
UTILITIES COMMISSION

June 29, 2012

Ms. Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702

RE: GNR-E-11-03 – Rebuttal Testimony of Dr. Don Reading

Dear Ms. Jewell:

Enclosed please find the Prepared Rebuttal Testimony of Dr. Don Reading, submitted for filing in the above-referenced docket on behalf of Clearwater Paper Corporation, J.R. Simplot Company, and Exergy Development Group of Idaho, LLC. Per the Commission's Rules of Procedure, we have enclosed an original and nine (9) copies, as well as a compact disc containing a copy of the testimony in word format.

Sincerely,

Peter Richardson
Richardson & O'Leary PLLC

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UTILITIES COMMISSION

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Attorneys for Clearwater Paper Corporation,
J.R. Simplot Company, and
Exergy Development Group of Idaho, LLC

BEFORE THE IDAHO

PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMMISSION'S)
REVIEW OF PURPA QF CONTRACT)
PROVISIONS INCLUDING THE)
SURROGATE AVOIDED RESOURCE (SAR))
AND INTEGRATED RESOURCE PLANNING)
METHODOLOGIES FOR CALCULATING)
PUBLISHED AVOIDED COST RATES.)

CASE NO. GNR-E-11-03

CLEARWATER PAPER CORPORATION
J.R. SIMPLOT COMPANY
EXERGY DEVELOPMENT GROUP OF IDAHO, LLC

REBUTTAL TESTIMONY OF DR. DON READING

June 29, 2012

1 **INTRODUCTION**

2

3 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

4 **A. My name is Don Reading and my business address is 6070 Hill Road, Boise, Idaho.**

5 **Q. ARE YOU THE SAME DON READING THAT FILED DIRECT TESTIMONY IN**
6 **THIS CASE ON MAY 4, 2012?**

7 **A. Yes I am.**

8 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

9 **A. I will be rebutting certain aspects of the direct testimony of Commission Staff witnesses**
10 **Mr. Rick Sterling and Dr. Cathleen McHugh. Specifically, I will discuss Mr. Sterling's positions**
11 **on REC ownership, the use of a SCCT for determining capacity costs, Idaho Power's Schedule**
12 **74, fuel cost risk, and contract length; and Dr. McHugh's position on the first deficit year**
13 **approach in the calculation of avoided cost rates offered to PURPA projects. There are numerous**
14 **other positions they take in their testimony that I have already countered in my direct testimony.**
15 **Therefore, although I continue to oppose those positions, I will not again challenge them here.**

16 **Q. WHAT COMMENTS DO YOU HAVE ABOUT MR. STERLING'S**
17 **RECOMMENDATIONS ON THE OWNERSHIP OF RENEWABLE ENERGY CREDITS**
18 **("RECS") CREATED BY QF GENERATION?**

19 **A. Mr. Sterling states that he believes the issue of REC ownership should be resolved in this**
20 **case, agreeing with Rocky Mountain Power and opposing Avista's recommendation that the**
21 **ownership of RECs should be decided in a separate case (Idaho Power was silent on the issue).**

Reading Rebuttal
Clearwater, Simplot, Exergy

1 Mr. Sterling presents a review of the arguments over who should own the RECs¹ and
2 acknowledges,

3 "All of the arguments . . . have merit and may be persuasive in justifying REC
4 ownership be (sic) either the utility or the QF."²

5
6 However, he decides that REC ownership should be granted to the purchasing utilities.³ He
7 supports this decision with several assertions.

8 **Q. COULD YOU PLEASE OUTLINE MR. STERLING'S ARGUMENTS AND**
9 **COMMENT ON THE LOGIC OF THOSE ARGUMENTS?**

10 **A.** Yes. In concluding that purchasing utilities should be granted REC ownership, he argues:

11 "[i]f Idaho was in a position where additional incentive was needed in order to
12 stimulate further development of renewables or achieve an RPS standard, then it
13 might be reasonable to assign ownership of RECs to QF project owners so that
14 they would have an additional revenue stream that could enhance project
15 economics. However, as recent history demonstrates, Idaho is not in a situation
16 where renewables development is stalled or needs to be accelerated."⁴

17
18 Mr. Sterling's argument is thus, most simply, that *recent history demonstrates* renewable
19 development is neither *stalled* nor *in need of acceleration*, and therefore PURPA projects do not
20 need the benefit of REC ownership. However, this is a rearview mirror look at the QF industry in
21 Idaho, and it belies the thrust of his testimony and the proposals of the utilities going forward.

22 The positions taken by Mr. Sterling and the utilities in this case will certainly produce
23 unfavorable rates for REC-producing wind and solar projects. Mr. Sterling recommends

¹ Direct Testimony of Rick Sterling, Idaho Commission Staff, pp. 39-42, GNR-E-11-03.

² *Ibid.*, p. 42.

³ *Ibid.*

⁴ *Ibid.*

1 abandoning the SAR method for the calculation of avoided cost rates for wind and solar projects
2 larger than 100 kW, “. . . admittedly mostly due to its ability to produce favorable rates” under
3 PURPA contracts.⁵ There is no rational basis for Mr. Sterling’s recommendation to award RECs
4 to the purchasing utility rather than the QF. As I stated in my direct testimony, if the
5 Commission were to accept the proposal advocated by the utilities and supported by Mr.
6 Sterling, the result would be “PURPA-killing.”⁶

7 **Q. DOES MR. STERLING PRESENT OTHER ARGUMENTS IN SUPPORT OF HIS**
8 **RECOMMENDATIONS REGARDING REC OWNERSHIP?**

9 **A.** Yes. He concludes that utility ownership of RECs is consistent with the IRP method of
10 calculating avoided cost rates. He states,

11 **Q.** Aside from the need for the Commission, the Legislature, or the courts to
12 determine REC ownership, are there pricing issues associated with RECs that
13 need to be considered in setting avoided cost rates?

14 **A.** Yes, there are. For example, under the IRP methodology, a utility’s 20-year
15 portfolio of new resources is modeled in computing avoided cost rates. Each
16 utility’s 20-year resource portfolio contains some renewable plants because they
17 either represent the lowest cost resources or because they help satisfy expected
18 RPS requirements or both. The utility would possess the RECs associated with
19 resources contained in its preferred portfolio, and presumably any price premium
20 associated with those RECs would be included in the cost of the projects.

21 Consequently, the cost of RECs would, already be accounted for in computing
22 avoided cost rates using the IRP methodology. Therefore, a utility paying the
23 computed avoided cost to a QF under the IRP methodology should be entitled to
24 ownership of the RECs.⁷

25
26 There are two significant problems with Mr. Sterling’s testimony.

⁵ *Ibid.*, p. 6.

⁶ Direct Testimony of Don Reading, Joint Parties, p. 69, GNR-E-11-03.

⁷ Direct Testimony of Rick Sterling, Idaho Commission Staff, p. 46, GNR-E-11-03 (underscoring added).

1 **Q. WHAT ARE THOSE PROBLEMS?**

2 A. I underscored the first problem in the quote above where Mr. Sterling mentions the need
3 for the Commission, the Legislature, or the courts to “determine REC ownership.” This “need”
4 cannot be dismissed as a mere aside. It is a fundamental determination that must be addressed
5 before the Commission can proceed into the REC morass. Ms. Grow, Idaho Power’s Vice
6 President of Power Supply, prefiled testimony on this issue stating:

7 “the Idaho Legislature, which is currently in session, may be considering
8 proposed legislation that would address the ownership of RECs from PURPA QF
9 projects, and thus the Company has no specific request of the Commission in this
10 regard at this time.”⁸

11
12 It appears from Ms. Grow’s prefiled direct testimony that Idaho Power believes the question
13 should be answered by the Legislature, as suggested by Mr. Sterling. Thus, it appears as though
14 both Mr. Sterling and Ms. Grow concur that the Legislature may be the proper place to answer
15 this most fundamental of questions.

16 **Q. DO YOU KNOW IF THE IDAHO LEGISLATURE HAS ADDRESSED THIS**
17 **QUESTION?**

18 A. I know that the Idaho Legislature had a bill before it in the last session that addressed this
19 issue and that Idaho Power, Avista and Rocky Mountain Power were listed as the primary
20 contacts for that legislation. Attached as Exhibit 507 is a copy of the Statement of Purpose and
21 Senate Bill 1364 entitled:

⁸ Direct Testimony of Lisa Grow, Idaho Power, p. 14, GNR-E-11-03.

1 RELATING TO THE PUBLIC UTILITIES COMMISSION; AMENDING CHAPTER 5,
2 TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-542,
3 IDAHO CODE, TO DEFINE THE AUTHORITY OF THE PUBLIC UTILITIES
4 COMMISSION AND ITS JURISDICTION OVER THE ENVIRONMENTAL
5 ATTRIBUTES OF PUBLIC UTILITY REGULATORY POLICIES ACT QUALIFYING
6 FACILITIES AND TO PROVIDE FOR USE AND IMPLEMENTATION OF
7 ENVIRONMENTAL ATTRIBUTES; AND DECLARING AN EMERGENCY.

8
9 So, apparently Ms. Grow was correct that the Idaho Legislature was going to address the
10 ownership of RECs. The bill was referred to a Senate Committee and no action was apparently
11 taken on it as shown on attached Exhibit 508, the "Final Bill Status" report of the 2012 Idaho
12 Legislature.

13 **Q. WHAT DO YOU MAKE OF THE FACT THAT IDAHO POWER DECLINED TO**
14 **ADDRESS REC OWNERSHIP BECAUSE IT THOUGHT THE LEGISLATURE WAS**
15 **GOING TO DO SO, COUPLED WITH THE FACT THAT THE STAFF BELIEVES**
16 **THAT THE LEGISLATURE MAY BE THE BEST PLACE TO ADDRESS REC**
17 **OWNERSHIP?**

18 A. Well, it is all quite confusing. I am sure Idaho Power would have liked the Legislature to
19 pass its REC bill – but it didn't. I can also see why it would have preferred the Legislature to
20 address the question given the PUC Staff's prior, very strong comments that RECs belong to the
21 developers.

22 **Q. THE PUC STAFF HAS PREVIOUSLY TAKEN THE POSITION THAT RECs**
23 **BELONG TO THE DEVELOPERS?**

1 A. Yes, and on more than one occasion. The Staff has filed unequivocal comments with the
2 Commission arguing that RECs belong to the developers of QF projects. In IPC-E-04-02 Idaho
3 Power had asked the Commission to grant it a right of first refusal to RECs in the PURPA QF
4 context. In response the PUC Staff filed comments that provided:

5 Staff recommends that the Commission issue a declaratory order stating that
6 mandatory purchases from QFs under PURPA do not convey ownership of any
7 marketable environmental attributes. Accordingly, any environmental attributes
8 associated remain with the QF. Staff further recommends that the Commission
9 deny the Company's proposal to require that QF developers from whom Idaho
10 Power purchases energy grant Idaho Power a 'right of first refusal' to purchase
11 the environmental attributes associated with the QF facility.⁹
12

13 The rationale was based on a legal argument that I am not prepared to address; suffice it to say
14 that the Staff was concerned about something in the U.S. Constitution regarding taking people's
15 property without compensation. In IPC-E-04-16 Staff filed comments in response to Idaho
16 Power's request for a Commission order exonerating them from any ratemaking penalty for its
17 waiver of environmental attributes in a PURPA contract. Once again, the Staff filed comments
18 that strongly and unequivocally asserted that environmental attributes belong to the developer:

19 Staff incorporates its related comments filed in Case No. IPC-E-04-02 as if
20 expressly set forth herein and includes same as attachment to these comments. In
21 those attached comments, Staff stated its belief that neither PURPA nor Title 61
22 of the Idaho Code gives the Commission jurisdiction over environmental
23 attributes. Staff recommended that if the Commission determined that it has
24 jurisdiction, that the Commission issue a declaratory order stating that mandatory
25 purchases from QFs under PURPA do not convey ownership of any marketable
26 environmental attributes. Accordingly, Staff recommended that any
27 environmental attributes remain with the QF.¹⁰

⁹ Comments of the Commission Staff, Case No. IPC-E-04-02, p. 8.

¹⁰ Staff Comments, Case No. IPC-E-04-16, August 13, 2004 at p. 4 (underscoring added).

1
2 I am not a lawyer, but I don't think it is a mere coincidence that the underscored portion of the
3 above quote is the exact same Idaho Code Title that Idaho Power's proposed legislation was
4 proposed to amend and to which Ms. Grow's testimony obviously referred.

5 **Q. IT SEEMS SOMETHING MUST HAVE CHANGED TO HAVE STAFF NOW**
6 **TAKING SUCH A DIFFERENT POSITION ON REC OWNERSHIP IN THE PURPA**
7 **CONTEXT?**

8 A. One would think so, but Staff's testimony suggests otherwise. Why else would they
9 preface their REC ownership testimony with the identification of the "need for the Commission,
10 the Legislature, or the courts to determine REC ownership?"

11 **Q. YOU STATED YOU HAD TWO PROBLEMS WITH STAFF'S TESTIMONY**
12 **NOTED ABOVE. YOU HAVE ADDRESSED THE FIRST, REC OWNERSHIP; WHAT**
13 **IS THE SECOND ISSUE?**

14 A. Staff's underlying reasoning, that IRP's value RECs, might have been valid if the value
15 of any environmental attributes were in fact included in the computation of avoided costs.
16 According Idaho Power's 2011 Integrated Resource Plan,

17 The value of RECs is not included in the levelized cost estimates but is accounted
18 for when analyzing the total cost of each resource portfolio.¹¹

19
20 Therefore, the value of RECs is not part of the calculation of the levelized cost of the Company's
21 generation plant. The value of RECs enters the portfolio analysis only after levelized costs are

¹¹ Idaho Power 2011 IRP, p. 72.

1 found. The IRP methodology that is proposed by Idaho Power, as well as the other utilities, to
2 find avoided costs is focused on the determination of levelized costs and hence avoided cost
3 calculations do not include compensation for the value of RECs. As I stated in my direct
4 testimony, the avoided costs in Idaho compensate the QFs only for energy and capacity, and I
5 continue to recommend the ownership of RECs remain with the QF.¹²

6 **Q. MR. STERLING RECOMMENDS THE USE OF A PEAKER (SCCT) FOR THE**
7 **CAPITAL COSTS RATHER THAN A BASE LOAD GAS-FIRED GENERATION UNIT.**
8 **WHAT WAS HIS RATIONALE FOR THIS CHANGE?**

9 **A.** Mr. Sterling concludes that an SCCT can be considered a capacity-only resource... He
10 argues that because the SCCT is the least cost capacity-only resource, it better matches a QF's
11 performance. According to Mr. Sterling, a QF cannot be counted on to provide power during the
12 utilities' system peaks:

13 SCCTs are generally added to utilities' resource portfolios to satisfy
14 capacity-only needs, and are usually the least cost capacity resource available.
15 Therefore, the cost of an SCCT can reasonably be considered a capacity-only
16 cost. Utilities that add CCCTs to their portfolio do so because they have a need
17 for both capacity and energy, thus the cost of a CCCT can be considered both a
18 capacity and energy cost. CCCTs, because they are more efficient, generate
19 energy at a lower variable cost than SCCTs, but the tradeoff is that they are more
20 costly to construct.

21 Under the methodology as proposed by the utilities, capacity and energy
22 values are being calculated independently. Therefore, I maintain that the proper
23 resource to use as the basis for computing capacity value is the lowest cost
24 resource that could be added to provide capacity equivalent to what would

¹² Direct Testimony of Don Reading, Joint Parties, p. 59, GNR-E-11-03.

1 otherwise be provided by the QF. I believe that using a SCCT is probably most
2 appropriate because it represents the lowest cost, nearly capacity-only resource.¹³
3

4 The optimal generation expansion path for a utility is to add a resource that meets the system
5 needs at least cost. When the system requires smaller resource additions to meet growing
6 demand, the optimal path is generally a peaking unit that has low capacity costs but at a trade-off
7 of higher running costs. These peaking units would be added until they ceased to be the least cost
8 resource, i.e. when their lower capacity and higher energy costs began to exceed the base load
9 CCCT's higher capacity costs and lower running costs. Therefore, for a least cost growth path, a
10 SCCT contributes more to the system than just capacity. As I stated in my direct testimony, all
11 three of the utilities have either recently added or will soon add a CCCT to their resource stack.¹⁴
12 Therefore, a CCCT is a more logical choice to use for the calculation of long-run avoided costs.

13 **Q. DOES MR. STERLING SUPPORT IDAHO POWER'S PROPOSED SCHEDULE**
14 **74 THAT WOULD ALLOW THE UTILITY TO CURTAIL QFS FOR ECONOMIC**
15 **REASONS?**

16 **A.** Yes. His reasoning for support of Idaho Power's curtailment tariff is based on the same
17 flawed logic presented by Idaho Power witness Tessia Park in her direct testimony. He also
18 agrees with Idaho Power that the curtailment provisions apply not only to QF contracts going
19 forward but also existing contracts.

20 Q. Idaho Power proposes that Schedule 74 apply to all QF facilities, both existing
21 and new, that have Generator Output Limiting Controls (GOLCs) installed. Do

¹³ Direct Testimony of Rick Sterling, Idaho Commission Staff, p. 17, GNR-E-11-03.

¹⁴ Direct Testimony of Don Reading, Joint Parties, p. 9, GNR-E-11-03.

1 you believe that, if approved, the Company would have the authority to apply the
2 proposed tariff to existing facilities whose contracts were in place prior to the new
3 tariff being adopted?

4 A. Yes, I do. As explained by Idaho Power witness Tessia Park, FERC rules at 18
5 CFR 292.304(f) includes a provision that relieves utilities from an obligation to
6 purchase during any period which, due to operational circumstances, purchases
7 from QFs will result in costs greater than those which the utility would incur if it
8 13 did not make such purchases, but instead generated an equivalent amount of
9 energy itself. Because this is a part of FERC rules, I think Idaho Power has
10 always had that authority whether or not it is expressly spelled out in a contract or
11 a tariff.¹⁵
12

13 Since I discussed the problems with Ms. Park's analysis that Mr. Sterling relied on in my direct
14 testimony I will not repeat them here. However, Mr. Sterling does not factor into his reasoning
15 the chilling effect such a provision would have on a QF's ability to gain financing. He also does
16 not seem to see the potential legal problems that could arise through attempting to alter existing
17 signed and Commission-approved contracts.

18 **Q. COMMISSION STAFF PROPOSES THE MAXIMUM LENGTH OF A QF**
19 **CONTRACT BE REDUCED FROM THE CURRENT 20 YEARS TO FIVE YEARS**
20 **SUPPORTING IDAHO POWER'S PROPOSAL FOR PROJECTS USING THE IRP**
21 **METHODOLOGY, WHILE SMALLER PROJECTS USING THE SAR**
22 **METHODOLOGY WOULD REMAIN AT TWENTY-YEARS UNDER STAFF'S**
23 **APPROACH. WHAT COMMENTS DO YOU HAVE ABOUT THE LOGIC OF MR.**
24 **STERLING'S POSITION?**

25 **A.** Mr. Sterling outlines the history of the Commission's decisions that have adjusted the

¹⁵ Direct Testimony of Rick Sterling, Idaho Commission Staff, GNR-E-11-03, pp. 37 - 38.

1 contract length from its original 35 years down to 20 years, down again to five years, and then
2 back up to 20 years. He contends that reducing the contract length to five years would not
3 adversely impact QF development. As part of his justification he discusses QF development
4 during the 68 month period when contract length was limited to five years.

5 Q. During the approximately five and a half year period when contract length
6 was limited to five years (September 1996 through May 2002), how many
7 PURPA contracts were signed?

8 A. There was only one PURPA contract signed in Idaho during this time frame.
9 However, at the time, the eligibility cap for published rates was also limited to
10 facilities one megawatt or smaller. In addition, published rates were also quite
11 low, primarily due to low natural gas prices. Furthermore, most PURPA hydro
12 and cogeneration projects had already been developed, while wind, solar and
13 biogas technologies had yet to fully develop. The combination of all of these
14 factors, not shortened contract length alone, caused very few PURPA projects to
15 be developed in Idaho during this time period.¹⁶

16
17 He is correct that the 1 MW cap would impact the number and momentum of QF developments;
18 however, currently gas prices are lower than they were during that period, and a major fact that
19 wind, solar, and biogas were not being developed was due to the shorter contract length that
20 prevents QFs from obtaining financing.

21 He dismisses the significant impact on financing of QF projects by limiting them to only
22 a five year contract.

23
24 Q. Do you believe that the Commission has a responsibility to ensure contract
25 lengths are long enough to enable QFs to obtain financing?

26 A. No, not necessarily. Long-term contracts have been used by the Commission in
27 the past to boost development of PURPA projects. However, circumstances have
28 changed. It would be contrary to the public interest to encourage PURPA

¹⁶ Ibid., pgs 27, 28.

1 development at a time when it is not needed to serve customers and at a time
2 when poor economic conditions strain customers' ability to pay. I believe it would
3 be good public policy for the Commission to use effective tools, such as limiting
4 maximum contract length, to control the pace of PURPA development.¹⁷
5

6 Mr. Sterling apparently does not believe the Commission, under PURPA, has to provide
7 contracts long enough that QFs can find financial backing. However, according to Idaho Power
8 witness Mr. Hieronymus, one of the mandates of PURPA is to encourage cogeneration and small
9 power production.

10 Section 210 tasked FERC to devise rules that "it determines necessary to
11 encourage cogeneration and small power production and to encourage geothermal
12 facilities of not more than 80 megawatts capacity."¹⁸
13

14 As I stated in my direct testimony, "Limiting PURPA contract terms to five years would preclude
15 the vast majority of QF developers from being able to secure financing for their projects" and thus
16 would be discouraging rather than encouraging QF development.¹⁹ Mr. Sterling also believes that
17 shortening the contract length to five years would "control the pace" of PURPA activity in Idaho. As
18 pointed out above and in my direct testimony, adopting Mr. Sterling's positions and the utilities'
19 proposal in this case will essentially kill PURPA development. The loss of tax credits and renewable
20 power incentives at both the state and federal level, in combination with current low gas prices, will
21 already stop or at a minimum significantly slow QF development in Idaho. Imposing a set of policies
22 aimed at stifling QF development, thus merely represents 'insult to injury' to the QF industry

¹⁷ Ibid., pgs 28, 29.

¹⁸ Direct Testimony of William Hieronymus, Idaho Power Company, GNR-E-11-03, p. 18.

¹⁹ Direct Testimony of Don Reading, Joint Parties, GNR-E-11-03, p. 46.

1 **Q. ARE THERE ADDITIONAL REASONS COMMISSION STAFF GIVES IN**
2 **SUPPORT OF REDUCING QF CONTRACT LENGTH TO FIVE YEARS?**

3 **A. Mr. Sterling contends that ratepayers' fuel cost risks are lower for a utility-owned**
4 **resource than for PURPA projects.**

5 Fuel costs associated with utility-owned resources are also passed on to
6 customers, partly through base rates and partly through PCAS. However, fuel
7 costs are tracked annually and rates are adjusted accordingly. Consequently, while
8 customers are exposed to fuel price risk for both PURPA and utility-owned
9 resources, the annual adjustment of rates for Utility-owned resources exposes
10 customers to less risk for utility-owned resources than for PURPA resources.
11 Moreover, recovery of costs for utility-owned resources is not guaranteed.
12 However, as previously stated, once a PURPA contract is approved by the
13 Commission, customers are obligated to pay 100 percent of the costs.²⁰
14

15 I am assuming when he says, "the annual adjustment of rates for Utility-owned resources
16 exposes customers to less risk for utility-owned resources than for PURPA resources" he
17 believes that the power supply costs that are passed on to customers annually will be lower than
18 the those found in signed PURPA contracts. As I stated in my direct testimony, natural gas prices
19 have been historically very volatile. When a utility's natural gas plant is approved and put into its
20 rate base, its customers will annually be responsible for whatever the prices may be, whenever
21 they may occur, over the life of the plant. Only if one assumes that natural gas prices will remain
22 at their current low levels indefinitely into the future can you conclude that customers will pay
23 less for generation from a utility gas resource than a PURPA project.

24 Mr. Sterling also states that the cost recovery for utility-owned resources is not

²⁰ Direct Testimony of Rick Sterling, Idaho Commission Staff, GNR-E-11-03, p. 31.

1 "guaranteed." In a strict theoretical sense, I would agree that regulation does not 'guarantee'
2 recovery, but rather gives the utility the 'opportunity' to earn its approved rate of return.
3 However, as a practical matter, the utilities usually do fully recoup their investment in a
4 generation plant. For example, in the case of Idaho Power's Langley Gulch Plant, the
5 Commission did essentially 'guarantee' the Company it would be able to recover its investment
6 when it approved a certificate to build the plant. Even if, for example, the plant were to
7 experience a temporary outage, the utility would continue to earn its 'unguaranteed' rate of
8 return on the temporarily out-of-service investment. In contrast, , a PURPA project is afforded
9 no such benefit, and only earns revenue when it is able to deliver power; therefore, when
10 unforeseen problems knock the QF offline, QF owners are not able to recoup their investments
11 for lost generation.

12 **Q. WHAT IS YOUR RESPONSE TO DR. MCHUGH'S OPINION ON THE FIRST**
13 **YEAR DEFICIT APPROACH ADVOCATED BY THE UTILITIES?**

14 **A.** Dr. McHugh is advocating for the Staff to reverse itself and reinstate the first year deficit
15 approach in the calculation of avoided cost rates offered to PURPA projects. She reviews Staff's
16 nine areas of concern when they recommended it be abandoned several years ago. She explains
17 why some of the reasons are no longer valid and offers a new method of calculating the first year
18 deficit based on both capacity and energy. She goes on to state the rationale for reinstating the
19 first year deficit was 'sound':

20 Q. Why was the "first deficit year" concept abandoned?

1 A. At the time this was abandoned, Staff expressed concerns that determining the
2 first deficit year was problematic *even though the underlying rationale for it was*
3 *sound.*²¹
4

5 As I pointed out in my direct testimony, this means a utility acting prudently to meet its demand
6 should always be in surplus; however, reducing avoided cost payments to PURPA projects for
7 these surplus periods does not represent the proper calculation of the avoided cost for the utility
8 in the long-term. I certainly disagree with her conclusion that the underlying reasoning for the
9 first year deficit is sound. It is interesting that she agrees with and quotes Avista witness Mr.
10 Kalich when on page 21, lines 5 through 9 of his direct testimony he states,

11 *It is not fair to pay one resource with a low capacity factor and an equivalently*
12 *high on-peak contribution the same per-MWh payment as second base load plant*
13 *operating with a relatively high capacity factor all year round. Using the method,*
14 *the low capacity factor resource would receive much lower total compensation*
15 *even though the resource provided the same on-peak capacity benefit to the*
16 *utility.*²²
17

18 However as I pointed out in my direct testimony Mr. Kalich also says,

19 It is often true that utilities are surplus in early years; being so is an essential part
20 of providing reliable utility service. It also is true that QF developers would be
21 affected by these surpluses were they to receive lower early-year payments during
22 surplus years. But this effect is a reflection of true avoided costs.²³
23

24 I strongly disagree that paying QFs lower early-year payments accurately reflects of “true avoided
25 costs.” It is not true that by implementing the first deficit year, and thereby denying QFs capacity

²¹ Direct Testimony of Cathleen MChugh, Idaho Commission Staff, GNR-E-11-03, p. 7. Emphasis in original.

²² Ibid., pgs 10,11.

²³ Direct Testimony of Avista Witness Clint Kalich, GNR-E-11-03, pp.13-14.

1 payments in the early years, accurately reflects a utility's own generation plant. This is so because
2 the utility receives full recovery of its capacity costs for the entire life of the plant – including the
3 early years.

4 **Q. DR. READING, DO YOU HAVE ANY CONCLUDING COMMENTS?**

5 **A.** As I pointed out above there are numerous other positions taken by the Commission Staff
6 in their testimony that I have already dealt with in my direct testimony that I continue to oppose.
7 It is for the sake of brevity that they have not been addressed in the above rebuttal testimony.
8 The Commission Staff in their direct testimony consider a wide range of issues dealing with the
9 implementation of PURPA in Idaho and make recommendations on each aspect. It appears that if
10 one were to put Staff's recommendations into two categories, one labeled pro-QF development
11 and the other anti-QF development, virtually all would fall in the anti-QF development category.
12 A plainly stated purpose of PURPA law is to 'encourage' independent power production. Taken
13 together could lead one to conclude that Staff is strongly anti – if that is the case it is opposed to
14 federal law and in my mind not in the public interest. If Staff's recommendations were adopted,
15 as said in my direct testimony, it would be "PURPA-killing." It would be difficult for the
16 industry to rebuild itself and contribute to electric system needs in any cost effective manner.

17 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY ON JUNE 29, 2012?**

18 **A.** Yes it does.

STATEMENT OF PURPOSE

RS21243C1

This legislation will require any benefits derived from RECs associated with the sale of renewable energy to investor owned utilities to flow to the benefit of the utilities' customers.

FISCAL NOTE

There is no impact to the General Fund.

Contact:

Name: Rich Hahn

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Statement of Purpose / Fiscal Note

S1364

Exhibit 507

GNR-E-11-03

D. Reading: Simplot,
Exergy, Clearwater

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IN THE SENATE

SENATE BILL NO. 1364

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC UTILITIES COMMISSION; AMENDING CHAPTER 5, TITLE 61,
2 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-542, IDAHO CODE, TO
3 DEFINE THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION AND ITS JURIS-
4 DICTION OVER THE ENVIRONMENTAL ATTRIBUTES OF PUBLIC UTILITY REGULATORY
5 POLICIES ACT QUALIFYING FACILITIES AND TO PROVIDE FOR USE AND IMPLEMEN-
6 TATION OF ENVIRONMENTAL ATTRIBUTES; AND DECLARING AN EMERGENCY.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Chapter 5, Title 61, Idaho Code, be, and the same is
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
11 ignated as Section 61-542, Idaho Code, and to read as follows:

12 61-542. ENVIRONMENTAL ATTRIBUTES OF PURPA QUALIFYING FACILITIES. (1)
13 Definitions:

14 (a) "Environmental attributes" means any and all claims, credits,
15 benefits, emissions reductions, offsets and allowances, howsoever
16 entitled, resulting from the avoidance of the emission of any gas,
17 chemical or other substance into the air, soil or water. Environmen-
18 tal attributes shall include, but are not limited to: (i) green tags,
19 green and/or clean energy credits, renewable energy credits or renew-
20 able energy certificates; (ii) any avoided emissions of pollutants to
21 the air, soil or water such as sulfur oxides, nitrogen oxides, carbon
22 monoxide and other pollutants; (iii) any avoided emissions of carbon
23 dioxide, methane and other greenhouse gases. Environmental attributes
24 do not include: (i) tax credits or other tax incentives existing now
25 or in the future associated with construction, ownership or operation
26 of the qualifying facility; or (ii) adverse wildlife or environmental
27 impacts.

28 (b) "PURPA" means the public utility regulatory policies act of 1978,
29 16 U.S.C. section 824a-3.

30 (c) "Qualifying facility" means a qualifying small power or cogenera-
31 tion facility as defined in 18 CFR 292.101(b)(1) as that section may be
32 amended or superseded.

33 (d) "Public utility" means an electrical corporation as defined in sec-
34 tions 61-119 and 61-129, Idaho Code.

35 (2) Ownership. The legislature hereby finds that, to the extent that
36 environmental attributes are generated by or associated with qualifying
37 facilities, such environmental attributes are attributes of the power pur-
38 chased by the public utility from such qualifying facilities at avoided cost
39 rates. All environmental attributes generated by or associated with such
40 qualifying facilities shall be owned by the public utility purchaser of the
41 power from the qualifying facilities, unless, with regard to any specific
42 qualifying facility, such ownership is expressly assigned to the qualify-

1 ing facility by specific agreement with the public utility purchaser of the
2 power, and such agreement is approved by the commission.

3 (3) Use. Environmental attributes owned by a public utility pursuant
4 to this section may be used for any, or all, of the following purposes:

5 (a) Environmental attributes may be used by a public utility to satisfy
6 the requirements of any state or federal renewable portfolio standards
7 or requirements applicable to such public utility;

8 (b) Environmental attributes may be sold, and the proceeds of such sale
9 utilized to offset, or partially offset, the power supply expense paid
10 by customers of the public utility as determined by the commission;

11 (c) Environmental attributes may be assigned to a qualifying facility,
12 as referenced in subsection (2) of this section, by specific agreement
13 approved by the commission. Should the owner of a qualifying facility
14 desire to enter into such specific agreement assigning ownership of the
15 environmental attributes to the qualifying facility, the public util-
16 ity owner of the environmental attributes shall negotiate in good faith
17 with the owner of such qualifying facility.

18 (4) Implementation. The legislature hereby directs the commission
19 to implement this requirement for all qualifying facility power purchase
20 agreements entered into by public utilities subsequent to the date of enact-
21 ment of this section.

22 ; SECTION 2. An emergency existing therefor, which emergency is hereby
23 declared to exist, this act shall be in full force and effect on and after its
24 passage and approval.

FINAL BILL STATUS *2012*

**SECOND REGULAR SESSION
SIXTY-FIRST IDAHO LEGISLATURE**

January 9, 2012 through March 29, 2012

**CONTAINING COMPLETE COMPILATION
OF ALL LEGISLATION INTRODUCED**

**Compiled by
Legislative Services
Research and Legislation
with the cooperation of
Office of the Secretary of the Senate
Office of the Chief Clerk of the House of Representatives**

Rpt delivered to Governor on 03/29
04/05 Governor signed
Session Law Chapter 308
Effective: 07/01/12

S1364by STATE AFFAIRS
PUBLIC UTILITIES COMMISSION - Adds to existing law to define the authority of the Public Utilities Commission and its jurisdiction over the Environmental Attributes of Public Utility Regulatory Policies Act qualifying facilities.

03/01 Senate intro - 1st rdg - to printing
03/02 Rpt prt - to St Aff

S1365by STATE AFFAIRS
UNCLAIMED PROPERTY - Amends existing law to provide that personal information related to unclaimed property is exempt from disclosure; and to provide that the audit methodology of the unclaimed property program is exempt from disclosure under the Public Records Act.

03/01 Senate intro - 1st rdg - to printing
03/02 Rpt prt - to St Aff

03/05 Rpt out - rec d/p - to 2nd rdg
03/06 2nd rdg - to 3rd rdg

03/07 3rd rdg - PASSED - 33-0-2
AYES -- Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, McKague, Mortimer, Nuxoll, Pearce, Rice, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder
NAYS -- None

Absent and excused -- Malepeai, McKenzie
Floor Sponsor - Hill

Title apvd - to House

03/08 House intro - 1st rdg - to St Aff
03/21 Rpt out - rec d/p - to 2nd rdg

03/22 2nd rdg - to 3rd rdg

03/26 3rd rdg - PASSED - 67-0-3
AYES -- Anderson, Andrus, Barbieri, Barrett, Bateman, Batt, Bayer, Bedke, Bell, Bilbao, Black, Bolz, Boyle, Buckner-Webb, Burgoyne, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hart, Hartgen, Harwood, Henderson, Higgins, Jaquet, Killen, King, Lacey, Lake, Loertscher, Luker, Marriott, McMillan, Moyle, Nessel, Nielsen, Nonini, Palmer, Patrick, Pence, Perry, Raybould, Ringo, Roberts, Rusche, Schaefer, Shepherd, Shirley, Simpson, Smith(30), Smith(24), Stevenson, Thayne, Thompson, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker
NAYS -- None

Absent and excused -- Block(Block), McGeachin, Sims

Floor Sponsor - Buckner-Webb

Title apvd - to Senate

03/27 To enrol
03/28 Rpt enrol - Pres signed
Sp signed

03/29 To Governor

Rpt delivered to Governor on 03/29

04/05 Governor signed
Session Law Chapter 309
Effective: 07/01/12

S1366by STATE AFFAIRS
RULEMAKING - Amends existing law to provide statutory procedures for negotiated rulemaking and to provide for notices of rulemaking to be placed on an agency's website.

03/01 Senate intro - 1st rdg - to printing

03/02 Rpt prt - to St Aff

03/07 Rpt out - rec d/p - to 2nd rdg

03/08 2nd rdg - to 3rd rdg

03/13 3rd rdg - PASSED - 34-0-1
AYES -- Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McKague, McKenzie, Mortimer, Nuxoll, Pearce, Rice, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder
NAYS -- None

Absent and excused -- Andreason

Floor Sponsor - McKenzie

Title apvd - to House

03/14 House intro - 1st rdg - to St Aff

03/21 Rpt out - rec d/p - to 2nd rdg

03/22 2nd rdg - to 3rd rdg

03/26 3rd rdg - PASSED - 67-0-3

AYES -- Anderson, Andrus, Barbieri, Barrett, Bateman, Batt, Bayer, Bedke, Bell, Bilbao, Black, Bolz, Boyle, Buckner-Webb, Burgoyne, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hart, Hartgen, Harwood, Henderson, Higgins, Jaquet, Killen, King, Lacey, Lake, Loertscher, Luker, Marriott, McMillan, Moyle, Nessel, Nielsen, Nonini, Palmer, Patrick, Pence, Perry, Raybould, Ringo, Roberts, Rusche, Schaefer, Shepherd, Shirley, Simpson, Smith(30), Smith(24), Stevenson, Thayne, Thompson, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker
NAYS -- None

Absent and excused -- Block(Block), McGeachin, Sims

Floor Sponsor - Moyle

Title apvd - to Senate

To enrol

03/27 Rpt enrol - Pres signed

Sp signed

03/29 To Governor

Rpt delivered to Governor on 03/29

04/05 Governor signed
Session Law Chapter 310
Effective: 04/05/12

S1367by FINANCE
APPROPRIATION - GOVERNOR, EXECUTIVE OFFICE OF - Appropriates \$1,910,200 to the Executive Office of the Governor for fiscal year 2013; limits the number of full-time equivalent positions to 26; exempts appropriation object and program transfer limitations; and provides guidance for employee compensation and benefits.

03/01 Senate intro - 1st rdg - to printing

03/02 Rpt prt - to Fin

03/05 Rpt out - rec d/p - to 2nd rdg

03/06 2nd rdg - to 3rd rdg

03/07 3rd rdg - PASSED - 33-0-2

AYES -- Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, McKague, Mortimer, Nuxoll, Pearce, Rice, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder
NAYS -- None

Absent and excused -- Malepeai, McKenzie

Floor Sponsor - Toryanski

Title apvd - to House

03/08 House intro - 1st rdg - to 2nd rdg

03/09 2nd rdg - to 3rd rdg

03/16 3rd rdg - PASSED - 61-3-6

AYES -- Anderson, Andrus, Bateman, Batt, Bayer, Bedke, Bell, Bilbao(Reynoldson), Black, Bolz, Boyle, Buckner-Webb, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hart, Hartgen, Harwood, Higgins, Jaquet, Killen, King, Lacey, Lake, Loertscher, Luker, Marriott, McGeachin, Moyle, Nessel, Nielsen, Nonini, Palmer, Patrick, Pence, Perry, Raybould, Ringo, Rusche, Shepherd, Shirley, Simpson, Sims, Smith(30), Smith(24), Stevenson, Thayne, Thompson, Trail, Vander Woude, Wills, Wood(27), Wood(35)

NAYS -- Barrett, McMillan(McMillan), Schaefer

Absent and excused -- Barbieri, Block(Block), Burgoyne, Henderson, Roberts, Mr. Speaker

Floor Sponsor - Thompson

Title apvd - to Senate

To enrol

Rpt enrol - Pres signed

03/19 Sp signed

03/20 To Governor

03/22 Rpt delivered to Governor on 03/21

03/26 Governor signed
Session Law Chapter 133
Effective: 07/01/12

S1368by FINANCE
APPROPRIATION - LIEUTENANT GOVERNOR - Appropriates \$142,800 to the Office of the Lieutenant Governor for fiscal year 2013; limits the number of full-time employees to 3; and provides guidance for employee compensation and benefits.

Exhibit 508

GNR-E-11-03

D. Reading: Simplot,

Exergy, Clearwater

Page 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of June, 2012, a true and correct copy of the within and foregoing REBUTTAL TESTIMONY OF DR. DON READING ON BEHALF OF EXERGY DEVELOPMENT GROUP OF IDAHO, LLC, J. R. SIMPLOT COMPANY AND CLEARWATER PAPER CORPORATION was served as shown to:

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