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January 8, 2013

**VIA HAND DELIVERY**

Jean D. Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
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Re: Case No. GNR-E-11-03  
PURPA SAR and IRP Methodologies – Idaho Power Company's Petition for  
Clarification and/or Reconsideration

Dear Ms. Jewell:

Enclosed for filing in the above matter are an original and seven (7) copies of Idaho Power Company's Petition for Clarification and/or Reconsideration.

Very truly yours,

Donovan E. Walker

DEW:csb  
Enclosures

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Attorney for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMMISSION'S )	
REVIEW OF PURPA QF CONTRACT )	CASE NO. GNR-E-11-03
PROVISIONS INCLUDING THE )	
SURROGATE AVOIDED RESOURCE )	IDAHO POWER COMPANY'S
(SAR) AND INTEGRATED RESOURCE )	PETITION FOR CLARIFICATION
PLANNING (IRP) METHODOLOGIES FOR )	AND/OR RECONSIDERATION
CALCULATING AVOIDED COST RATES. )	
_____ )	

Idaho Power Company ("Idaho Power" or "Company"), petitioner herein, pursuant to RP 33, 325, and 331, *et seq.*, and *Idaho Code* § 61-626, respectfully petitions the Idaho Public Utilities Commission ("Commission") for clarification and/or reconsideration of final Order No. 32697, dated December 18, 2012, as well as the errata to Order No. 32697, dated January 2, 2013, issued in Case No. GNR-E-11-03 ("the Order"). Idaho Power seeks clarification regarding: (1) the methodology and inputs utilized to establish the published avoided cost rates that appear as Attachments A, B, and C to the Order; (2) the Commission's finding that curtailment under 18 C.F.R. § 304(f) "was not reasonably contemplated when the parties entered into their agreements"; (3) the Commission's use of the terms "contract extensions or renewals"; and (4) whether the

June 1 date for the update of the surrogate avoided resource (“SAR”) published rates and the integrated resource plan (“IRP”) fuel price and load forecasts is the most appropriate date.

To the extent that the Commission feels the requested clarifications go beyond the scope of a clarification, Idaho Power then respectfully requests reconsideration of the issues identified herein. See RP 325.

### **I. BACKGROUND**

This matter originated with a November 5, 2010, filing by Idaho Power, Avista Corporation, and Rocky Mountain Power requesting that the Commission investigate various Public Utility Regulatory Policies Act of 1978 (“PURPA”) avoided cost rate and contracting issues. Phase I (GNR-E-10-04) considered a PURPA qualifying facility’s (“QF”) eligibility for published avoided cost rates. Phase II (GNR-E-11-01) investigated disaggregation and its effect on published avoided cost rates. This proceeding, Phase III, was initiated on September 1, 2011, to investigate the avoided cost methodologies, the contracting terms contained in PURPA power purchase agreements, and several other issues related to the implementation of PURPA in the state of Idaho.

Parties to this proceeding filed direct and rebuttal testimony, submitted legal briefs, and participated in a three-day technical hearing commenced on August 7, 2012. The Commission issued final Order No. 32697 on December 18, 2012, which modified published avoided cost rates established with the SAR methodology and negotiated avoided cost rates established with an IRP methodology. The Commission also addressed, established, and adopted several other terms for power purchase agreements entered into between regulated utilities and PURPA QFs.

## **II. SAR PUBLISHED RATES**

Since December 18, 2012, when the Order was issued, Idaho Power has been reviewing the published rate calculations that are expressed in Attachment A to the Order, and communicating with Commission Staff regarding the details to how those rates, expressed in the Attachment, are calculated. With this Petition for Clarification and/or Reconsideration, Idaho Power is not taking issue with how the Commission directed that published rates be established, but is seeking clarification as to the details of how those rates were calculated. Possibly because of the intervening Christmas and New Year's holidays, Idaho Power has not yet been able through its inquiries with Commission Staff to re-create the published rate calculations, nor to verify the details of the inputs to the SAR methodology.

Idaho Power assumes that the Order directs the continued use of the previously implemented SAR avoided cost pricing model utilized by Commission Staff to calculate and publish rate charts, similar to those that appear in the Attachments to the Order, each time that the published rates were previously updated upon the release of the Northwest Power Planning Council's natural gas forecast. That model contains certain non-fuel related SAR cost inputs for a combined cycle combustion turbine (e.g., heat rate, capital cost, operations and maintenance, etc.) that have been set by separate proceedings and order by the Commission. See Order No. 30738, Case No. GNR-E-08-02. Idaho Power requests clarification that the Commission's existing SAR model, along with its associated non-fuel cost inputs/variables, will continue to be utilized.

Additionally, with the Order, the Commission has directed that a separate resource-specific capacity factor be used to establish resource-specific published rates. Consequently, Idaho Power has the separate published rate charts for each utility for

wind, solar, hydro, canal drop hydro, and other QF resource types. Idaho Power requests clarification as to what source was utilized to determine the individual resource capacity factors, or how the individual resource capacity factors were determined.

To the extent that the SAR pricing methodology model, with verification of its inputs and variables, is clarified to the extent that the rate calculations in Attachment A can be reproduced by Idaho Power, the Company seeks no other clarification/reconsideration of the SAR pricing methodology here. However, Idaho Power hereby reserves its rights to seek further clarification, reconsideration, or hearing to the extent that the inputs, variables, and, ultimately, the published rates cannot be clarified to the point where the calculations are transparent and can be reproduced. The Company believes it to be to all parties benefit to have the Commission expressly verify upon this Petition for Clarification and/or Reconsideration the details of the SAR published avoided cost rate model utilized by the Order to arrive at the rate charts shown in Attachments A, B, and C.

### **III. § 304(f) FINDING**

Idaho Power seeks clarification as to the Commission's finding on page 36 of the Order related to its review of existing power purchase agreements:

We further find that, while each power purchase agreement (PPA) that we have reviewed contains a general reference to 18 C.F.R. § 292.304(f), curtailment under this section was not reasonably contemplated when the parties entered into their agreements. The apparent need for such authority to curtail under these circumstances has only presented itself within the last several years in Idaho – and, as evidenced by the testimony, seems to be a problem only on Idaho Power's system.

Order No. 32697, p. 36.

Certainly, the parties to any PURPA power purchase agreement (the QF and the regulated utility) contemplate that the agreement is entered into subject to the regulations of the Federal Energy Regulatory Commission ("FERC"). To say otherwise, is to say that the parties did not contemplate compliance with the law when they entered into their contract. Idaho Power put forth evidence, testimony, and argument in the proceeding that an express reference to FERC rules and regulations in any QF power purchase agreement was not necessary for the applicability of FERC rules and regulations to that agreement. The evidence further showed that each contract contained a specific reference to 18 C.F.R. § 304 and its applicability to that particular power purchase agreement. Whether or not there is a disagreement about the meaning of § 304(f) or not is irrelevant to whether the parties contemplate, when entering into a power purchase agreement pursuant to PURPA, that their agreement is entered into subject to the possible application of that particular FERC regulation to it. Idaho Power does not believe the Commission intended to state that the parties did not contemplate compliance with the law—with FERC rules and regulation—when entering into their respective power purchase agreements under PURPA. Perhaps the Commission intended to state that the factual circumstances, that operational circumstances, and conditions that exist, or may exist, today on Idaho Power's system that may invoke the application of 18 C.F.R. § 304(f) were not contemplated by the parties when they entered into their agreements, but certainly the parties contemplated compliance with the federal law and regulations—whatever that may be—to those agreements.

Idaho Power asks the Commission to clarify that its finding that curtailment under 18 C.F.R. § 304(f) "was not reasonably contemplated when the parties entered into their agreements" refers only to the factual, operation circumstances that exist today, that

may not have existed at the time of contracting, and specifically does not mean that the parties did not contemplate the application of FERC regulations or federal law to their PURPA contracts when entering into those agreements, including 18 C.F.R. § 304(f).

#### **IV. NEW CONTRACTS FOR EXISTING PROJECTS**

Idaho Power seeks clarification of the Commission's use in several instances, primarily on page 21 of the Order, of the terms "contract extensions" or "renewals." Idaho Power does not believe that the Commission actually intended to authorize any PURPA contract to be "extended" or "renewed." None of Idaho Power's PURPA contracts contain any provisions that allow for the extension or renewal of that particular contract, nor for the extension or renewal of any particular rate or term that is contained in an existing contract. Idaho Power believes that a renewal or extension of an expiring long-term contract is contrary to the public interest. Certainly, PURPA's must purchase obligation continues to exist for QF projects that have a contract whose term is expired, or about to expire. However, those QF projects must enter into a new PURPA contract, and be subject to the current avoided cost pricing and terms at the time of contracting, not simply be able to renew the old rate and terms contained in their old contract, which in many instances will contain extremely out-of-date prices and terms from up to 20 years ago.

Idaho Power believes the Commission's reference to "QFs entering into contract extensions or renewals" on page 21 of the Order means a reference to QF's whose contract term has expired or is about to expire, and who desire to enter into a new PURPA QF contract for that same QF project, with the same regulated utility. Idaho Power seeks clarification that this was the Commission's intent, and further that the Commission did not intend to authorize any contract extensions or renewals, where

those contracts do not provide for any renewal or extension of the term of the agreement.

#### **V. THE JUNE 1 DATE**

The Order sets forth June 1 of each year as the date at which items will be updated on an annual basis. This includes an update of the SAR published avoided cost rates with EIA's updated natural gas forecast and update of the fuel price forecast and load forecast utilized in the IRP methodology. Idaho Power is not aware of any significance attached to the date of June 1 for this annual update, other than to have the certainty that these items will be updated on a date certain on an annual basis. Idaho Power agrees that it is important to have the certainty that these items will update on an annual basis but asks here for clarification/reconsideration to possibly choose a different date upon which the updates will be established and take effect.

For example, under Idaho Power's current IRP processes, the fuel price and load forecasts are final and completed in October of each year. If the Company used the information as of June 1, it would be out of date. If there is significance to updating on June 1 of each year, Idaho Power may have to modify the timing by which it currently compiles the fuel and load forecast. Additionally, Idaho Power is unaware of how the June 1 date fits in with the existing processes at Avista Corporation and Rocky Mountain Power for compiling those forecasts as part of their own IRP processes.

Additionally, and somewhat more significantly, is how the available data from EIA and the timing of its release of its annual natural gas price forecast that will be utilized by Commission Staff in its update of published rates relates to the June 1 date. Idaho Power's information is that historically the EIA natural gas forecast has been released in February, March, April, May, and June from year to year. Additionally, EIA typically

releases an “early bird” version of its final annual gas forecast several months in advance. Idaho Power believes that it is extremely important that the published avoided cost rates based upon this forecast be updated and effective immediately upon the release of the relevant EIA gas forecast. If there is any amount of time between release of the gas forecast and the update to published avoided cost rates, particularly when there will be a resulting reduction in avoided cost rates as a result, there is the potential for gamesmanship with the system whereby potential QF projects may seek to obligate the utility and its customers to a higher rate in a long-term contract. Consequently, Idaho Power contends that it would be more proper to update published avoided cost rates on an annual basis immediately upon release of the specifically designated EIA natural gas price forecast.

Therefore, Idaho Power asks for clarification/reconsideration that the published avoided cost rates will update on an annual basis immediately upon release of the specifically designated EIA natural gas price forecast—and that the fuel price and load forecast inputs into the IRP methodology be allowed to be set at a different date, other than June 1, that Commission Staff and the three regulated utilities agree will enable the provision of the most complete and up-to-date information on an annual basis, and that coincides with the utility’s preparation of those forecasts for their IRP processes.

**VI. NATURE AND EXTENT OF EVIDENCE AND ARGUMENT  
TO BE OFFERED ON RECONSIDERATION**

Commission Rule of Procedure 331 requires that Idaho Power state the nature and extent of evidence or argument it will present or offer if reconsideration is granted. Should the Commission determine that any of the requested issues for clarification are more appropriate for reconsideration, Idaho Power believes that the evidentiary record should be augmented by additional legal briefing, testimony, exhibits, and hearing at the

discretion of the Commission. The Company is prepared to present additional testimony and/or argument in support of each of the items it has identified as requiring clarification set forth in this Petition for Clarification and/or Reconsideration.

## **VII. CONCLUSION**

Idaho Power respectfully requests that the Commission issue an order: (1) clarifying the methodology and inputs utilized to establish the published avoided cost rates that appear as Attachments A, B, and C to the Order; (2) clarifying that the Commission's finding that curtailment under 18 C.F.R. § 304(f) "was not reasonably contemplated when the parties entered into their agreements" refers only to the factual, operation circumstances that exist today, that may not have existed at the time of contracting, and specifically does not mean that the parties did not contemplate the application of FERC regulations or federal law to their PURPA contracts when entering into those agreements, including 18 C.F.R. § 304(f); (3) the Commission did not intend by its use of the terms "contract extensions or renewals" to authorize any PURPA QF to renew or extend its contract; and (4) clarify/reconsider whether the June 1 date for the update of the SAR published rates and the IRP fuel price and load forecasts is the most appropriate date.

Respectfully submitted this 8<sup>th</sup> day of January 2013.



DONOVAN E. WALKER  
Attorney for Idaho Power Company

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8<sup>th</sup> day of January 2013 I served a true and correct copy of the IDAHO POWER COMPANY'S PETITION FOR CLARIFICATION AND/OR RECONSIDERATION upon the following named parties by the method indicated below, and addressed to the following:

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