

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<b>IN THE MATTER OF THE COMMISSION’S</b>	)	
<b>REVIEW OF PURPA QF CONTRACT</b>	)	<b>CASE NO. GNR-E-11-03</b>
<b>PROVISIONS INCLUDING THE</b>	)	
<b>SURROGATE AVOIDED RESOURCE (SAR)</b>	)	<b>NOTICE OF REVIEW</b>
<b>AND INTEGRATED RESOURCE PLANNING</b>	)	
<b>(IRP) METHODOLOGIES FOR</b>	)	<b>NOTICE OF</b>
<b>CALCULATING PUBLISHED AVOIDED</b>	)	<b>INTERVENTION DEADLINE</b>
<b>COST RATES.</b>	)	
	)	<b>ORDER NO. 32352</b>

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The Commission has authority under the Public Utility Regulatory Policies Act of 1978 (PURPA) and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to establish standard published avoided cost rates, and to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualifying facilities (QFs). Under FERC rules, utilities are required to purchase QF generation at a rate equal to the utility’s avoided cost. 18 C.F.R. § 292.304(b)(2). “Avoided costs” are the incremental costs to the electric utility of power which, but for the purchase from the QF, such utility would generate itself or purchase from another source. 18 C.F.R. § 292.101(b)(6). FERC further requires that the avoided cost rates for all QF purchases be just and reasonable to utility customers and in the public interest; and not discriminate against qualifying cogeneration and small power production facilities. 18 C.F.R. § 292.304(a)(1).

Pursuant to FERC regulations, this Commission must publish avoided cost rates for qualifying facilities (QFs) with a design capacity of 100 kW or less. The Commission has the discretion to set the published avoided cost rate at a higher capacity amount – commonly referred to as the “eligibility cap.” 18 C.F.R. § 292.304(c)(1) and (2). In establishing eligibility criteria for a published rate, the Commission may differentiate among QFs. 18 C.F.R. § 292.304(c)(3). The purpose of distinguishing between QFs is to more precisely value the energy being delivered – not encourage or discourage particular QF resources.

The Commission initiates this proceeding to review the terms of PURPA power purchase agreements including, but not limited to, the surrogate avoided resource (SAR) and

Integrated Resource Planning (IRP) methodologies for calculating published avoided cost rates. *See* Order Nos. 32131, 32176, 32195, 32262.

## **BACKGROUND**

### ***A. Case No. GNR-E-10-04***

On November 5, 2010, Idaho Power Company, Avista Corporation, and PacifiCorp dba Rocky Mountain Power filed a Joint Petition requesting that the Commission initiate an investigation to address various avoided cost issues related to the Commission's implementation of PURPA. While the Commission pursued its investigation, the utilities also moved the Commission to "lower the published avoided cost rate eligibility cap from 10 aMW to 100 kW [to] be effective immediately. . . ." *Id. citing* Joint Petition at 7. When a QF project is larger than the eligibility cap set for access to *published* avoided cost rates, the avoided cost rates for the project must be individually negotiated by the QF and the utility using the IRP methodology. Order No. 32176.

The purpose of utilizing the IRP methodology for large QF projects is to more precisely value the energy being delivered. *Id.* at 10. The IRP methodology recognizes the individual generation characteristics of each project by assessing when the QF is capable of delivering its resources against when the utility is most in need of such resources. The resultant pricing is reflective of the value of QF energy to the utility. Utilization of the IRP methodology does not negate the requirement under PURPA that the utility purchase the QF energy.

On December 3, 2010, the Commission issued Order No. 32131 declining the utilities' motion to immediately reduce the published avoided cost rate eligibility cap from 10 aMW to 100 kW. Order No. 32131 at 5. However, the Order did notify parties that the Commission's decision regarding the motion to reduce the published avoided cost eligibility cap would become effective on December 14, 2010. *Id.* at 5-6, 9.

Based upon the record in the GNR-E-10-04 case, the Commission subsequently found that a "convincing case has been made to temporarily reduce the eligibility cap for published avoided cost rates from 10 aMW to 100 kW for wind and solar only while the Commission further investigates" other avoided cost issues. Order No. 32176 at 9 (emphasis original). The Commission also announced its intent to initiate additional proceedings to investigate and address the disaggregation of large projects. *Id.* at 11.

On reconsideration, the Commission affirmed its decision to temporarily reduce the eligibility cap for published avoided cost rates from 10 aMW to 100 kW for wind and solar projects. Order No. 32212. Thus, the eligibility cap for published avoided cost rates for wind and solar QF projects was set at 100 kW effective December 14, 2010.

***B. Case No. GNR-E-11-01***

On February 25, 2011, consistent with its stated intent to investigate disaggregation, the Commission issued a Notice of Inquiry, Notice of Intervention Deadline, Notice of Scheduling and Notice of Technical Hearing. Order No. 32195. We were concerned that large QF projects were disaggregating into smaller QF projects in order to be eligible for published avoided cost rates that may not be just and reasonable to the utility customers or in the public interest. Order No. 32195 at 3. It was on that basis that the Commission asked the parties to provide information regarding how small wind and solar QFs could obtain a published avoided cost rate without allowing large QFs to obtain a rate that does not accurately reflect a utility's avoided cost for such projects. Specifically, the Commission solicited information and investigation of a published avoided cost rate eligibility cap structure that: (1) allows small wind and solar QFs to avail themselves of published rates for projects producing 10 aMW or less; and (2) prevents large wind and solar QFs from disaggregating into small projects in order to obtain published avoided cost rates that exceed a utility's actual avoided cost.

Based upon the record and after careful consideration of the positions presented, the Commission found it appropriate to maintain the 100 kW eligibility cap for published avoided cost rates for wind and solar QFs. We determined that any attempt to implement criteria in an effort to prevent disaggregation would be met by attempts to circumvent such criteria. We emphasized that PURPA and our published rate structure were never intended to promote large scale wind and solar development to the detriment of utility customers. Order No. 32262 at 8. We found that allowing the current trend to continue could cause customers to pay for resources at an inflated rate and, potentially, before the energy is actually needed by the utility to serve its customers. The Commission stated that such a result is clearly not in the public interest. *Id.* In order to ensure that we are approving just and reasonable avoided cost rates, the Commission announced its intent to initiate this proceeding to allow the parties to investigate and analyze both the SAR methodology and the IRP methodology.

## NOTICE OF REVIEW

YOU ARE HEREBY NOTIFIED that, at minimum, FERC regulations require that standard or published rates be set for purchases from QFs with a design capacity of 100 kW or less. These regulations also grant the Commission the discretion to set the published rate eligibility cap at a higher level. 18 C.F.R. § 292.304(c).

YOU ARE FURTHER NOTIFIED that, whether it is a published rate or a rate for a larger QF, FERC requires that the avoided cost rates for all QF purchases be just and reasonable to utility customers and in the public interest; and not discriminate against qualifying cogeneration and small power production facilities. 18 C.F.R. § 292.304(a)(1).

YOU ARE FURTHER NOTIFIED that the Commission remains concerned that large projects are disaggregating into smaller QF projects in order to be eligible for published avoided cost rates that are not just and reasonable to the utility customers or in the public interest.

YOU ARE FURTHER NOTIFIED that the Commission seeks information regarding the appropriateness of both the SAR and IRP-based avoided cost methodologies. Specifically, the calculation of avoided cost rates, for both published and negotiated contracts, is being re-examined. We expect that eligibility for different methodologies will continue to be part of the discussion.

YOU ARE FURTHER NOTIFIED that the Commission anticipates that the scope of this inquiry will also include (but is not limited to) considerations regarding the dispatchability of varying resources, curtailment options, integration costs, renewable energy credits, delay security and liquidated damages, timing and schedule of negotiations, and contract milestones.

## DEADLINE FOR INTERVENTION

YOU ARE FURTHER NOTIFIED that persons desiring to intervene in this matter for the purpose of presenting evidence or cross-examining witnesses at hearing must file a Petition to Intervene with the Commission pursuant to this Commission's Rules of Procedure 72 and 73, IDAPA 31.01.01.072 and .073. Persons intending to participate at hearing must file a Petition to Intervene **no later than seven (7) days from the service date of this Order**. Persons seeking intervenor status shall also provide the Commission Secretary with their electronic mail addresses to facilitate future communications in this matter.

YOU ARE FURTHER NOTIFIED that all parties to the GNR-E-11-01 case will be added as parties to this case automatically.

YOU ARE FURTHER NOTIFIED that persons desiring to present their views without parties' rights of participation and cross-examination are not required to intervene and may present their comments without prior notification to the Commission or the parties.

YOU ARE FURTHER NOTIFIED that the Commission Secretary shall issue a Notice of Parties after the deadline for intervention has passed. The Notice of Parties shall assign exhibit numbers to each party in this proceeding.

YOU ARE FURTHER NOTIFIED that, following the issuance of a Notice of Parties, the parties shall informally meet to establish a schedule and further define the issues to be addressed during the processing of this case.

YOU ARE FURTHER NOTIFIED that testimonies and exhibits will be filed with the Commission and available for public inspection during regular business hours at the Commission offices. The testimonies and exhibits will also be available on the Commission's web site at [www.puc.idaho.gov](http://www.puc.idaho.gov) by clicking on "File Room" and then "Electric Cases."

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities and to implement FERC rules.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

### **ORDER**

IT IS HEREBY ORDERED and the Commission does hereby initiate generic Case No. GNR-E-11-03.

IT IS FURTHER ORDERED that persons desiring to intervene in this case for the purpose of presenting evidence or cross-examination at hearing shall file a Petition to Intervene with the Commission no later than seven (7) days from the service date of this Order.

IT IS FURTHER ORDERED that all parties to the GNR-E-11-01 case be added as parties to this case without the need for further intervention proceedings.

IT IS FURTHER ORDERED that, following the issuance of the Notice of Parties, the parties meet informally to establish a proposed schedule and further define the issues to be addressed.

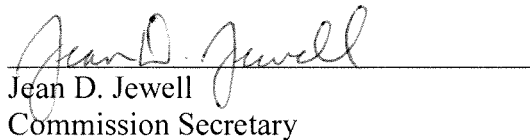
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 1<sup>st</sup> day of September 2011.

  
PAUL KJELLANDER, PRESIDENT

  
MACK A. REDFORD, COMMISSIONER

  
MARSHA H. SMITH, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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