Jean Jewell

From: Ed Howell
Sent: Tuesday, November 02, 2004 6:50 PM
To: Jean Jewell; Ed Howell; Gene Fadness; Tonya Clark
Subject: Comment acknowledgement

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Case: IPC-E-04-19
Name: Gerry Fleischman
Street_Address: 5437 Hickory Run Place
City: Boise
State: ID
ZIP: 83713
Home_Telephone: 208-376-2148
E-Mail: gfleisch986@hotmail.com
Company: Idaho Power Company
mailing_list_yes_no: yes
Comment_description: Comment on Case IPC-E-04-19 by Gerald Fleischman, November 2, 2004

I am writing in support of your approval of Idaho Power's request that all payments for energy purchases made under the Agreement be allowed as prudently incurred expenses and to approve the agreement without material change or condition. I also ask that the commission state in no uncertain terms that this contract not be considered a precedent for future power sales agreements under Public Utilities Regulatory Policy Act laws in Idaho.

The reasons to approve this agreement are several. First, both parties have signed it. Second, it has some improved provisions as compared to previous contracts for wind power sales to Idaho Power. But both Idaho power and PURPA scale project developers are new at this process and it can be expected that there will be many revisions of provisions in these contracts as time goes on. For example, several provisions of this contract still look like a contract for another kind of energy resource besides wind. Idaho Power acts as if it has some "perfect" energy resource in its back pocket that allows it to continue to confine and bind wind in such a way as to make its development (at least on a PURPA-project scale) nearly impossible. What other resource does Idaho Power think it can just go and pick up on the ground somewhere in Idaho?

Here are some of the provisions that make it look like the wind developers have some control over the wind.

14.2.3 Under no circumstances will the Seller deliver Net Energy or Inadvertent Energy from the Facility in an amount that exceeds the Maximum Capacity Amount. Seller's failure to limit deliveries to the Maximum Capacity Amount will be a Material Breach of this Agreement.

The reason this project is 10.5 MW rated output, is that currently, 1.5 MW is on the big end, and therefore the most economically effective, of available wind turbines. Six turbines provide a rated output of 9 MW. Seven provide a rated output of 10.5 MW. It is very likely under good wind conditions that the wind park will put out 10.5 MWh during a given hour and extremely likely that many times during a month that the farm will put out 10.5 MW. There is a contradiction in terms in this agreement. It discusses "Inadvertent Energy" then says that any instantaneous output of more than the "Maximum Capacity Amount" is a material breach of the contract. You can't have it both ways. The Maximum Capacity Amount should be changed to 10.5 MW and have no inadvertent energy provisions.

The main implication of all this discussion of going over the Maximum Capacity Amount is there are large economies of scale in wind farms. If you changed the published rate to 20 MW there would be a developer wanting to put in a wind farm with 14 1.5 MW turbines for a

total of 21 MW.

14.3.2 If the Seller desires to declare a Suspension of Energy Deliveries as provided in paragraph 14. , the Seller will notify the Designated Dispatch Facility by telephone. The beginning hour of the Declared Suspension of Energy Deliveries will be at the earliest the next full hour after making telephone contact with Idaho Power. The Seller will, within 24 hours after the telephone contact, provide Idaho Power a written notice in accordance with Article xxv ill, that will contain the beginning hour and duration of the Declared Suspension of Energy Deliveries and a description of the conditions that caused the Seller to Declare a Suspension of Energy Deliveries.

With wind power it is very likely that the wind park will generate no power for periods of two or three hours. Why? Because there is no wind. Are the operators of the wind park to be responsible for the wind when Idaho Power could monitor wind conditions and know that the wind farm will not be putting out any power. This and other provisions provide another barrier to entry, something that is exactly counter to the purpose and intent of PURPA, for renewable energy to enter the grid. It would be far more efficient from and economy of scale perspective for Idaho Power to have the expertise to estimate wind power production as it does for snow pack as it does for hydropower rather than have each individual PURPA-scale wind farm do this itself. There is already plenty of incentive for a wind farm to produce energy when the wind is blowing. In fact when asked what the worst problem or crisis he could imagine would be during the tour from October 29 to October 1, 2004 by Idaho policy makers to southwest Minnesota sponsored by the U.S. Department of Energy, the Idaho Energy Division and the Idaho Farm Bureau, the manager of the enXco Chanarambie Wind Farm said, “the wind wouldn’t blow”.

14.5 Generator Ramping - Idaho Power, in accordance with Prudent Electrical Practices, shall have the right to limit the rate that generation is changed at startup, during normal operation or following reconnection to Idaho Power’s system. Generation ramping may be required to permit Idaho Power’s voltage regulation equipment time to respond to changes in power flow.

A wind farm’s output will be going up and down all the time. 14.5 may be a killer for a wind project. Idaho Power surely does not know how a wind farm will ramp up and down during normal operation. There should be some consideration that this is wind, that it is energy, and if Idaho Power wants to rely totally on something it knows, i.e. coal, then it is not working in the best interests of the state of Idaho (and why we expect that it interests lie exactly in sync with those of the state). Idaho Power has considerable “expert” power when it comes to these issues, but I have to ask, is Idaho Power’s leadership of the same ilk as the men (these days it includes women) described in the song “Cool, Cool, Considerate Men”, from the Musical 1776.

Oh say do you see what I see?

Congress sitting here in sweet serenity

I could cheer; the reason's clear

For the first time in a year Adams isn't here

And look, the sun is in the sky

A breeze is blowing by, and there's not a single fly

I sing hosanna, hosanna

Hosanna, hosanna

And it's cool

Come ye cool cool conservative men

The likes of which may never be seen again

We have land, cash in hand

Self-command, future planned

Fortune flies, society survives

In neatly ordered lives with well-endowered wives

We sing hosanna, hosanna

To our breeding and our banner

We are cool

Come ye cool cool considerate set

We'll dance together to the same minuet

To the right, ever to the right

Never to the left, forever to the right

May our creed be never to exceed

Regulated speed, no matter what the need

We sing hosanna, hosanna

Enblazoned on our banner

Is keep cool

What we do we do rationally

We never ever go off half-cocked, not we

Why begin till we know that we can win

And if we cannot win why bother to begin?

Rutledge:

We say this game's not of our choosing

Why should we risk losing?

All:

We are cool

To the right, ever to the right

Never to the left, forever to the right

We have gold, a market that will hold

Tradition that is old, a reluctance to be bold.

Dickinson:

I sing hosanna, hosanna

In a sane and lucid manner

We are cool

All:

Come ye cool cool considerate men

The likes of which may never be seen again

With our land, cash in hand

Self-command, future planned

And we'll hold to our gold

Tradition that is old, reluctant to be bold.

We say this game's not of our choosing

Why should we risk losing?

We cool, cool, cool

Cool, cool, cool

Cool cool men.

In other words, should we always follow the advice, reasoning and council of these "cool, cool, considerate" men as if it always aligns exactly with the interests of the state and its citizens? We would not be a nation independent from England is this reasoning had prevailed in 1776. If we are not careful, we will end up with a large coal-fired plant in Idaho and be losing the power that blows over our state every day.

Another issue that comes to mind here is that there is a big difference between large wind and small wind. Large wind has its place, and it is what Idaho Power is going for with its planned request for proposal for 200 MW of wind power. These two scales of wind development are totally different in terms of their economic effect in rural areas. During the Idaho Policymaker Wind Tour of southwest Minnesota, Jim Nichols, a county commissioner from Lincoln County, Minnesota and the former Minnesota Secretary of Agriculture said, "You need local ownership. Corporate ownership does not do as much good as local ownership. Corporate ownership did not do us any good. You have to somehow get to the local ownership model."

I believe we need both types of wind power development. There are many sites in Idaho that should be developed by large companies. But what does the most good for rural economies is local ownership. This is because local ownership has an intense interest in the well being of the local community and will invest in that community. The Corn-er Stone Farmers Cooperative in Luverne Minnesota is now investing in wind projects in the local area after making money on its ethanol plant. In regard to this Jim Nichols said, "You don't have to have incentives, but you need to create the market. If you have the market, it will come." PURPA is the market for local ownership of wind power in Idaho. It is the only thing that creates a market. If it is not right, there is no market for farmer-owned wind power no matter what incentives the Idaho legislature creates.

This is important in relation to wind power in Idaho because there are considerable wind resource areas that have perhaps 10 to 30 MW of wind power potential, but there are relatively few that that 100 to 300 MW potential in one place. Without a PURPA law that "creates the market", these resource will not be developed, and the resource will continue to sail by. This is different from the Midwest where most the land is privately owned and much of this land has wind. In Idaho, most of the truly world-class wind resources are on public land.

14.6 Scheduled Maintenance - On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule for that calendar year and Idaho Power and Seller shall mutually agree as to the acceptability of the proposed schedule. The Parties determination as to the acceptability of the Seller s timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller s preferred schedule. Neither Party shall unreasonably withhold acceptance

of the proposed maintenance schedule.

I don't really have any problem with this provision, except from my knowledge and experience, wind farms almost never shut down for scheduled maintenance. Perhaps one turbine at a time will be down, but almost never the entire farm. Also, since any wind that blows by a shut down turbine is lost fuel and represents an opportunity cost, it makes no sense for a wind farm to have any turbine out of service for any length of time. What I have seen, from the tour to Minnesota, is that individual turbines are maintained mostly on their own schedules in a fashion that will minimize its total maintenance cost. When a wind farm has seven turbines, as is the case with Fossil Gulch, it would be very seldom that all seven turbines be down at the same time. This provision makes sense for a large natural gas or coal facility, but not for a wind farm. It would, perhaps for a wind farm if one turbine was 100 MW, which may come some day, but that is a long way in the future. For now, this provision makes no sense for wind power production. This is another reason to declare, as you have for the other contracts mentioned by Idaho Power in its application, Tiber, United Materials, Renewable Energy, that they are in no way to be used as precedents.

7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month' s Market Energy Cost or the Base Energy Purchase Price specified in paragraph 7. whichever is lower.

Although all variability of prices is an issue to wind power development because it is extremely capital intensive in comparison to natural gas and coal-fired generation, contract article 7.2 limits the variability to the wind farm on the high side. As I will point out about the "Shortfall Energy Payment" later, variability is one thing, but to not allow a high side of the variability to be at least partially passed through to the wind farm owner is totally unfair. I would think that if the wind farm owner is to be faced with the risk of extremely high payments to Idaho Power for shortfall energy, it should at least have the possibility of making extra money on Surplus Energy if the market price of power is higher than the contract price. Having the possibility of making extra money for surplus energy could offset the possibility of making high shortfall energy payments, perhaps making PURPA the market to which Jim Nichols refers.

7.4 Shortfall Energy Payment - The Shortfall Energy Payment amount is the Shortfall Energy amount multiplied by the Shortfall Energy Price. The Shortfall Energy Payment will be withheld from the current month' s energy payment. If the current month' s energy payment is less than the Shortfall Energy Payment, the Seller will make payment to Idaho Power of the unpaid balance within 15 days of being notified of the outstanding balance. Shortfall Energy Payments are liquidated damages and not penalties.

The issue of provision 7.4 is the definition of Shortfall Energy Payments as liquidated damages and not as penalties. Perhaps Idaho Power looks at them as liquidated damages, and I argue that they are not and will certainly be viewed as penalties by wind farm operators who have every incentive to generate all the power they can. Most of this incentive comes from the cost of capital, which means that any shortfall energy amount will probably be due to a reduction in the wind available during the month. The question is, are shortfall energy payments liquidated damages or penalties? I say they are penalties in light of the nature of wind, and the lack of knowledge of Idaho Power of exactly what the effects of wind power will be. In fact, the effect on the system of wind power may be strongly positive. Where is this potential positive benefit reflected in this contract? Note the comments from Jim Nichols, in his testimony before the Manitoba Clean Environment Commission on the CEC's Wuskwatim Hearings, March 18, 2004.

One of the things that I would urge you to consider is a mixture, a combination of wind energy and hydropower energy. The one problem with wind, as you well know, is that it doesn't blow all of the time and you need to firm up the power. There is no battery for wind generators. I'm always asked this question. Our turbines now, our big turbines, one turbine produces enough power for 500 homes. So I wouldn't even know what size battery that would take, but it's simply not an option. The best battery that we have seen for the best backup for wind, or vice versa (my emphasis), is water power because you can store the water behind the dams and release it when you need the power. So we believe here and we wish we had more water resources in Minnesota. We simply do not. The combination of wind and water would be an excellent mix. And it also allows you then to you don't have to build as many dams because you don't have to run the water as much. You use it when the

wind isn't blowing. So that's one of the things we've looked at here. And I've worked with a little bit with the State of South Dakota on that because they do have some big existing dams out on the Missouri River. So that's one of the things I guess I'd like to say is that better development, more development of your wind resource would certainly be a great thing for you I think as it has been for us in that then you would have less need for more of the huge dams.

Any power a wind project can deliver in a month when Idaho Power may have to go to the market is a benefit to Idaho Power. True, if the amount delivered is not what Idaho Power has planned, then hydropower resources or the market may have to be used. The problem with the shortfall energy payment is that it penalizes the wind farm owner for generation less power than it predicts when the power it generates is not within its control. This system and gives no incentive for Idaho Power to invest in the "battery". This "battery" would be an upgrading of existing hydropower operations or the construction of pumped storage facilities. In Idaho we have made a living on taking an intermittent, seasonal resource, water, and upgrading it to be useful. Wind is the same kind of resource. As suggested by Representative Butch Otter earlier this year, Idaho needs to upgrade the ability to store water, and by my inference, energy in the state. Putting the entire burden of variable supply on wind because it is wind is ridiculous in light of our dependence and glorification of the benefits of hydropower. Placing the burden on wind to make it look like a non-hydro conventional resource abdicates Idaho Power's and the state's duty to investigate and invest in energy storage. It also does not create a market for PURPA scale wind projects.

7.3 Shortfall Energy - If the month' s Net Energy is less than 90% of the monthly Net Energy Amount as specified in paragraph 6.2 of this Agreement for the corresponding month, Shortfall Energy will be the difference between 90% of the monthly Net Energy Amount and the same month' s actual Net Energy delivered to the Point of Deli very. Shortfall Energy Price - For all Shortfall Energy, if the Market Energy Cost for the month in which the Shortfall Energy occurs is less than the Base Energy Purchase Price for the same month, the Shortfall Energy Price will be O. If the Market Energy Cost for the month in which the Shortfall Energy occurs is greater than the Base Energy Purchase Price for the same month the Shortfall Energy Price will be the current month' s Market Energy Cost less the Base Energy Purchase Price. If the current month' s Market Energy Cost less the Base Energy Purchase Price is greater than 150 percent of the Base Energy Purchase Price, then the Shortfall Energy Price will be 150 percent of the Base Energy Purchase Price.

Provision 7.3 Shortfall Energy, defines how the shortfall energy payments will be calculated. This provision too, does not match wind or historical treatment of renewable energy resources in Idaho. Because wind farms have every incentive to produce, including a production tax incentive from the federal government and little incentive to not produce, a shortfall is most likely due to the wind availability.

Let's look at how hydropower is treated in Idaho. As it is now, if there is a shortage of water for power generation, Idaho Power gets to submit a request to increase what it charges customers through the Production Cost Adjustment process. The same applies to the price of natural gas. If the price of natural gas goes up, Idaho Power gets to pass the increased cost on to its customers. But in the case of wind, if there is a shortfall of wind compared to some almost arbitrary estimate of how much there should be, the wind energy source has to pay the market price to make up the difference. If Idaho Power owned this resource, it would simply pass the increased cost on to its customers. If the resource was the surrogate avoided resource (SAR) is there any doubt that it would get to pass changes in the price of natural gas on to Idaho Power's customers?

This does not make a level playing field for PURPA projects compared to existing resources or even to SAR resources. Wind has variability, but so does every other renewable energy resource. As I mentioned earlier, it is as if Idaho Power has some perfect resource in its back pocket and therefore feels free to downgrade and penalize any resource that does not match up with this perfect resource. Yet it is very familiar with resources similar to wind. When does our supply of water come for hydropower? In the winter. When is this water used to generate power? Throughout the year. Wind is no different from hydropower, yet hydropower is touted as the resource that gives a big competitive advantage to our state. But it would not be if investments were not made to make it usable.

Bonneville Power Administration is now offering a product it calls shaping, storage and

firming for wind power. It is charging, I think, $6 / MWh for this service. For this price, BPA takes in the wind power when it is generated then delivers the power when the ultimate customer wants it, shaped how that customer wants it, the next week. This is a great product, but what is the BPA selling? Is it selling a current service, in other words, one for which the price is paying for the current cost of delivering that service? No, what it is selling is infrastructure, the dams and reservoirs and generators that were built over the last 65 years. These investments, the fruits of which BPA is now selling to "firm and shape" wind power, were almost all made before 1974.

In other words, it is selling a product that our ancestors created, not one Bonneville is creating at the current time. If the ability to store energy were not already in place, Bonneville could do nothing to provide this product.

What I am saying is that Idaho needs a way to invest in the systems and equipment that can provide to wind power what the dams, reservoirs and hydropower plants currently provide for hydropower. This is not a current charge. This is a charge to build for the future. Penalties of the type imposed by the Shortfall Energy Payment in this contract do not build for the future, they do not encourage the development of what is probably our next great resource. It leads to the inevitable construction of a coal-fired power plant or some other conventional, non-renewable resource that has to be imported into the state, and therefore something over which we have very little control.

We cannot ignore the idea that coal is a finite resource, as huge as it is. For example, in reference to Idaho Power's Jim Bridger coal-fired power plant, the August 23 Idaho Power Update stated, "…the Bridger Coal Company, with coal reserves of more than 120 million tons, has served as the plant's primary source of fuel since the plant first opened. Since the early days, Bridger Coal has provided more than 170 million tons of low-sulfur fuel to the plant." This means this plant has less than 30 years of coal left. Does it seem prudent that we should rely heavily on a resource that we know, in the case of the low cost coal from the Bridger Coal Company Mine, has less than 30 years of supply left.

It seems a clear choice, do we begin now to make the investments needed to make use of wind like we did with water, or do we rely on the short-term easy answers. Punitive provisions like Shortfall Energy and Shortfall Energy Payments do nothing to help us go in this direction. A possible option for the Commission it to set a review point for PURPA projects for each Utility. It could be a number like 10% of each utilities peak load in Idaho. In Idaho Power service territory this would make it approximately 300 MW. Since the cost of making use of wind, and this means making use of wind for what it is, not trying to make it look like the perfect resource Idaho Power "has" in its back pocket, is very much unknown at this time, in could be very fair to take in this amount of wind power through PURPA projects and then review just what effect it has.

The effect may be positive or negative. With 300 MW of PURPA wind power it seems reasonable that some reservoirs in the state such as Palisades or Brownlee may have average higher water levels through the summer than they would without the 300 MW of wind power. The hydropower would be used for peaking and the wind would come on as it comes. There is little doubt that much of the water that flows out of Brownlee, for example, is to produce power. Having Brownlee and Palisades Reservoirs higher throughout the summer cannot be seen as anything but a great advantage for Idaho. The following excerpt from a September 6, 2004 Idaho Business Review article entitled, Idaho Power eyes wind generation options, backs up this point:

"If you have a megawatt of wind online, you can conserve water during that time," he (Dennis Lopez, Idaho Power spokesman) said, referring to hydroelectric plants. "So you can balance your portfolio with wind."

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Perhaps the most interesting thing to note about the Shortfall Energy Payment in this contract is that it is different from the payment that was in the United Materials-Idaho Power PURPA contract signed earlier this year. In the United Materials contract there was no cap on the price the wind power generator could pay for "Shortfall Energy". This contract has a cap of 250% of the PURPA published rate. In most cases a change such as this from one contract to another would not be exceptional.. But when one of the parties involved in a contract has so much "expert" power that it is considered omnipotent, one

has to ask the question, “If this party is so knowledgeable and all-knowing, how is it possible that a change could occurred between this contract and the previous “perfect” United Materials document.
One other item to note is from page 2 of the Notice of Application, Notice of Modified Procedure, Notice of Commend Deadline, Order No. 29611. The application states:
The Agreement includes the 90%/110% band provisions that were included in the Tiber, United Materials, Renewable Energy and J.R. Simplot Agreements (Case Nos. IPC-E-03-1, IPC-E-04-1, IPC-E-04-5, and IPC-E-04-16, respectively).
This statement implies that the referred to agreements are precedents in applying the 90%/110% band provisions for the current contract. It is interesting that Idaho Power tries to use these as precedents when the Commission specifically stated that they were not precedents.” The Commission made the following statements in the following cases:
Case No. IPC-E-04-5:
Our decision in this case sets no precedent for our future regulation of such Agreements or the utility.

And from Case No. IPC-E-04-1, the United Materials contract order:

The Agreement terms we consider are presented in the context of a negotiated and mutually accepted contract. As in our approval of the Tiber Montana contract (Case No. IPC- 03- , Order No. 29232), we find it reasonable to approve its terms, both the tested standard terms and the newer non-standard terms. In doing so, however, we once again note that our decision sets no precedent for our future regulation of such agreements and should not be viewed as precluding negotiating parties from challenging the reasonableness of such terms for inclusion in any future QF contracts.

Also, in reference to following Commission approved avoided cost methodology for amounts of power generation above the published-rate maximum of 10 MW you stated in the Renewable Energy Case:

Idaho Power s failure to follow Commission-approved avoided cost methodology for calculating Renewable Energy rates or request changes in that methodology, we find, is both unacceptable and inexcusable. The Company and its employees are presumed to be aware of the requirements in the Commission s Orders and the consequences of failing to follow them. Idaho Code Title 61 , Chapter 7-Public Utilities Law-Enforcement and Penalties. If the Company believes that the IRP-based methodology approved in Order No. 26576 is no longer valid, then it is incumbent upon the Company to make a filing with the Commission and request changes. As the Company is well aware, utility purchases under PURPA are mandatory. Such purchases however, are to be priced at the Commission-determined avoided cost rate for QFs smaller than 10 MW or pursuant to approved IRP-based methodology for QFs larger than 10 MW. Should the Company choose not to follow avoided cost methodology in its contracting practice, it does so at risk of having the contract regarded by this Commission as a voluntary purchase.

There are benefits as well as disadvantages to wind power. Having provisions that make it unduly difficult for wind PURPA-scale wind projects does no good in developing a resource that will be of great benefit to Idaho in the long term.

I feel we have to create a reasonable, possible, market for PURPA-scale wind projects and not allow Idaho Power’s request for proposal process of obtaining wind power to substitute for PURPA. The PURPA route of obtaining wind resources is a very different and will bring in wind resources that will not be touched by the RFP process. As you have done on the previous recent PURPA contracts, I recommend that you specifically state that this contract does not set a precedent. Your order in the Lewandowski-Schroeder Complaint Case IPC-E-04-10 should serve as the standard.

Transaction ID: 1121850.11
Referred by: http://www.puc.state.id.us/scripts/polyform.dll/ipuc
User Address: 164.165.96.2
User Hostname: 164.165.96.2