

Peter J. Richardson
Mark R. Thompson
RICHARDSON & O' LEARY PLLC
515 N. 27th Street
Boise, Idaho 83702
Telephone: (208) 938-7901
Fax: (208) 938-7904
peter@richardsonandoleary.com

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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Exergy Development Group of Idaho LLC

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION**

CASSIA GULCH WIND PARK LLC AND
CASSIA WIND FARM LLC

Complainants
v.

IDAHO POWER COMPANY

Respondent

Case No. IPC-E-06-21

**REPLY COMMENTS OF EXERGY
DEVELOPMENT GROUP OF
IDAHO**

INTRODUCTION

COMES NOW, Exergy Development Group of Idaho LLC, hereinafter referred to as "Exergy," and pursuant to the Commission's Notice of Comment Deadlines issued on September 27, 2006 hereby submits these Reply Comments to the Comments of Idaho Power Company, Avista, and PacifiCorp.

1. Transmission System Upgrades are to be Born by the Utility's Transmission Customers

Both Avista and PacifiCorp argue in their comments to the Commission that QF generators should be the entities ultimately responsible for paying transmission system

upgrade costs when those costs are necessitated by a QF's interconnection to a utility's system.¹ In light of those comments, it is important to emphasize that under both Cassia Gulch Wind Park's (Cassia's) and Idaho Power's proposals for financing the relevant transmission system upgrades, Idaho Power's customers would ultimately be responsible for the costs of those upgrades. While Idaho Power believes that Cassia and other similarly situated developers should be responsible for paying the costs up-front, even Idaho Power's proposal would result in its customers being responsible for the upgrade costs through transmission credits to the developers over time. The comments filed by Avista and PacifiCorp introduce arguments additional to those raised by Idaho Power and Cassia. Exergy addresses PacifiCorp's and Avista's comments as well as Idaho Power's argument that QF developers should be responsible for paying transmission system upgrade costs up-front.

a. There is a Strong Policy Reason for Rolling Transmission Upgrade Costs into Transmission Rates

As explained in Exergy's Comments filed in this proceeding on October 27, there is good reason for FERC's longstanding precedent that the costs of upgrades to a utility's transmission system are to be born by the utility's transmission customers, not individual generators. Customers share in all costs of the transmission grid "because all grid additions benefit all customers using the grid."² FERC has clarified that this policy holds even where the facilities would not have been installed but for a particular customer's service.³ Exergy believes this policy should be followed in the Commission's QF interconnection procedures and that the Commission should not require QF developers to

¹ See *Avista Comments*, p. 1 (explaining Avista's position that such payments should be negotiated, and then determined subject to Commission review if negotiations fail); See also *PacifiCorp's Comments*, p. 4.

² *Alabama Power Co.*, 66 FERC ¶ 61,309, pp. 7-8 (1993).

³ *Appalachian Power Company*, 66 FERC ¶ 61,151, pp. 3-4 (1993).

shoulder the costs of upgrading utilities' transmission systems since the benefits of those upgrades accrue to all of a utility's customers.

b. It is Inequitable to Require QFs to Finance or Pay for Transmission System Upgrades

Idaho Power's comments in this proceeding acknowledge the real issue facing the Company. Cassia and Exergy suggested that as an alternative to the transmission system upgrades certain wind generators could be tripped off the system in the event of an actual N-1 contingency as part of a remedial action scheme. In response, Idaho Power states, "Idaho Power does not agree that deferring transmission system upgrades by the use of generation shedding schemes is a prudent, long-term approach to the problem of inadequate transmission capacity."⁴ Idaho Power does not argue that the proposal to shed generation would not work, rather, it argues that it does not believe it would be a long-term solution to the real problem on Idaho Power's system—inadequate transmission capacity. QF developers should not be required to pay for ensuring adequate transmission capacity on the grid when all customers benefit from it, and when Idaho Power acknowledges that it is seeking a solution to a long-term problem, one that will eventually need to be resolved whether or not the instant generation projects are constructed.

2. Idaho Power's Schedule 72 Does Not Support the Position that QFs are Required to Pay for or Finance Transmission System Upgrades

Idaho Power argues that its Schedule 72 (Interconnections to Non-Utility Generation) demonstrates that QFs are responsible for paying for transmission system upgrades that Idaho Power believes are necessary in order to get the QF power to their load since Schedule 72 contemplates QF funding of the costs of "Interconnection

⁴ *Comments of Idaho Power*, p. 31.

Facilities.”⁵ Even a cursory reading of Schedule 72, however, reveals that this assertion is unfounded.

Schedule 72 defines “Interconnection Facilities” as “facilities which are reasonably required . . . to interconnect and to allow the delivery of energy from the Sellers Generation Facility to the Company’s system.”⁶ This definition clearly speaks of the costs of getting the power *from* the generator *to* the utility’s transmission system, not the costs of getting the power to the utility’s load once it is on the utility’s system. Further, Idaho Power argues that the definition of “Special Facilities” in Schedule 72 (which are listed as an example of potential Interconnection Facilities) gives it authority to charge transmission upgrade costs to QFs as Interconnection Costs. However, the definition of Special Facilities also only speaks to upgrades to “interconnect the Seller’s Generation Facility to the Company’s system.” Again, the plain words of this definition limit Special Facilities to upgrades required to connect *to* the Company’s system. It does not speak to upgrades required in order to get power from the Company’s system to its load. Additionally, Schedule 72 requires disconnect equipment to allow the Company to disconnect a QF’s “Interconnection Facilities” under certain circumstances.⁷ This provision would make little sense if Interconnection Facilities included upgrades to Idaho Power’s backbone transmission system.

Idaho Power seeks to blur the distinction between interconnection facilities and transmission system upgrades and implies that the issue in this case has already been resolved, when that is plainly not the case. To the contrary, Schedule 72 demonstrates that transmission system upgrades were never contemplated as interconnection facilities.

⁵ *Idaho Power Comments*, p. 9-13.

⁶ Schedule 72 at Original Sheet No. 72-1.

⁷ Schedule 72 at Original Sheet No. 72-5.

Idaho Power's Small Generator Interconnection Procedures also provides support that transmission system upgrades are not appropriately characterized as Interconnection Facilities. Those procedures define Interconnection Facilities as "sole use facilities," and affirm that they do "not include Distribution Upgrades or Network Upgrades."⁸

3. FERC Regulations Do Not Support a Responsibility for QFs to Pay for Transmission System Upgrades

PacifiCorp and Idaho Power also rely on FERC regulations for their claim that transmission upgrade costs can be considered interconnection costs, chargeable to QFs. Again, the plain language of those regulations disproves thier assertions.

18 C.F.R. § 292.101(b)(7), to which PacifiCorp and Idaho Power point,⁹ defines interconnection costs as including transmission costs "incurred by the electric utility directly related to the installation and maintenance of the physical facilities *necessary to permit interconnected operations.*" (emphasis added). Idaho Power and PacifiCorp's twisted reading of the regulation argues that it contemplates transmission costs necessary to upgrade the grid when the regulation actually limits recovery of costs to those necessary to interconnect. Neither Exergy nor Cassia dispute that interconnection costs are assignable to the QF—the issue in this proceeding is responsibility for transmission system upgrades required under N-1 conditions to transport power to load. These costs are not contemplated in the FERC regulations as interconnection costs.

4. Requiring Utilities to Pay for Transmission System Upgrades Does Not Remove QFs' Incentives to Make Efficient Project Location Decisions

Idaho Power argues that under Cassia's proposal, QF developers could "ignore transmission interconnection costs when they select the least expensive location *for them*

⁸ See Small Generator Interconnection Procedures, Attachment 1, p. 1, available at http://www.idahopower.com/pdfs/aboutus/business/smallGen_InterconnectionProcedures.pdf

⁹ *PacifiCorp Comments*, p. 3; *Idaho Power Comments*, pp. 9-10.

to site a generation resource even in extremely remote locations.”¹⁰ This is untrue, however, since QF developers must consider the costs of interconnection to the utility’s system when determining the feasibility of a project. Locating a project in an extremely remote location would necessarily entail more costs to the QF of reaching a utility’s system to interconnect. Where a utility’s transmission system is nearby, interconnection costs would presumably be lower, and the QF would have an incentive to choose such a site relative to a more remote location with otherwise equal potential.

It is inappropriate for Idaho Power to argue that a site can be close to a utility’s transmission system, yet be “remote” because it ignores the integrated transmission grid, which as noted above, is an integrated “cohesive network moving electricity in bulk.”¹¹ QFs should be responsible for the costs of getting to the utility’s system, but not the costs of upgrading that system to allow the utility to fulfill its service obligation.

5. Other States’ Policies Do Not Support the Utilities’ Proposals

In its Comments, Idaho Power argues that “[o]ther states nearby have recently confirmed that they will require QFs to pay for the costs of the system upgrade facilities necessary to integrate generation.”¹² Idaho Power then cites a 1988 decision from the Colorado Public Utilities Commission. (In its comments, Idaho Power incorrectly states that the Colorado Commission’s decision was issued in 1998; Its formal citation is accurate, however). In that decision the Colorado Commission found that the Public Service Company of Colorado could require QFs to pay for internal transmission

¹⁰ *Idaho Power Comments*, p. 25.

¹¹ *Appalachian Power Company*, 66 FERC ¶ 61,151, pp. 3-4 (1993).

¹² *Idaho Power Comments*, p. 20.

upgrades required to move QF power to Denver load.¹³ Colorado's regulations, on which that Commission relied, however contain a significant difference from Idaho Power's Schedule 72 and also from FERC's QF interconnection regulations.

Colorado's definition of "Interconnection costs" generally parallels 18 C.F.R. § 292.101(b)(7), FERC's definition of interconnection costs. However, the Colorado regulation specifically inserts a phrase stating that interconnection costs "includ[e] the cost of installing equipment elsewhere on the utility's system necessitated by the interconnection."¹⁴ Arguably, this language allows a practice of charging certain transmission upgrades to QFs in Colorado. However, no such language exists in FERC's regulations. And, Schedule 72 contains no language paralleling the FERC definition, let alone adopting language similar to the Colorado provision. Idaho Power's attempt to offer the Colorado case as precedent, therefore, inappropriately tries to import provisions into Idaho's regulations which do not exist.

Idaho Power also observes that last year the Colorado Commission reaffirmed its findings that QFs will be required to pay for all Company transmission system upgrades.¹⁵ In support of that assertion Idaho Power cites to *Re: The Investigation and Suspension of Tariff Sheets Filed by Public Service Company with Advice Letter No. 1411 – Electric*, 240 P.U.R. 4th 323, 2005 WL 850285. That order does not address the issue Idaho Power asserts it addresses. In fact, that order is a final order in a general rate case filed by Public Service Company of Colorado. It does not address QF transmission issues. Interestingly, however the Commission was presented with the question of

¹³ *Idaho Power Comments*, p. 20.

¹⁴ *Re Public Service Company of Colorado Decision No. C88- 726*, 93 P.U.R. 4th 384, 395 (Colo. P.U.C. 1988).

¹⁵ *Idaho Power Comments*, p. 20.

whether transmission voltage lines that are directly assigned to a customer or a customer class should be rolled into the total transmission system or should be directly assigned to the customer using that radial transmission line.

The Colorado Commission observed:

Consistent with the position it took in the Phase I portion of this proceeding, Public Service [Public Service Company of Colorado] reclassified certain radial transmission lines as central transmission system which were previously directly assigned to the rate class served by the radial transmission line.

Public Service contends that FERC requires radial transmission lines to be “rolled-up” into central transmission system because it is always possible for these lines to be looped back into the grid, making them an integrated part of the transmission system.¹⁶

The Commission duly noted its Staff’s objections:

Staff witness Ms. Fischhaber disagreed with the Company’s proposed roll up of radial transmission lines into the central transmission system. She believes radial lines should be directly assigned to those customers being served by those lines as Public Service has historically done. She reasons that if radial lines are rolled-up into the total transmission system, the general body of ratepayers are paying for parts of the system that are of no benefit to them, while customers that solely benefit from the radial transmission line do not pay the appropriate cost for their exclusive use of that radial transmission line.¹⁷

The Commission, after considering arguments that are similar to the arguments before this Commission on allocation of costs of transmission system investment, ruled that “we adopt Public Service’s proposal to treat radial transmission lines as general transmission.”¹⁸ Of course, in this case the transmission facilities that Exergy and Cassia are asking to be rolled-in are being used by all customers, unlike the Colorado transmission systems which benefited only a select few customers. The Colorado

¹⁶ *Re: The Investigation and Suspension of Tariff Sheets Filed by Public Service Company with Advice Letter No. 1411 – Electric*, 240 P.U.R. 4th 323, 338-339 2005 WL 850285.

¹⁷ *Id.*

¹⁸ *Id.*

Commission's findings last year cited by Idaho Power actually support Exergy and Cassia's position regarding the proper treatment of transmission system investment. The Commission should therefore not rely on the Colorado Commission's 1988 order as precedent for determining how to do allocate transmission investment.

6. Requiring Utilities to Pay for Transmission System Upgrades Does Not Result in Ratepayers Paying More than Established Avoided Costs Rates for Power

Idaho Power, Avista, and PacifiCorp all argue that requiring a utility to pay for transmission system upgrades in order to bring QF power to load violates PURPA, or PURPA principles, because it would result in charges for the power that would exceed the established avoided cost rates.¹⁹ Indeed, the utility's rates for QF power is determined by the utility's established avoided cost rate, but that rate is not exceeded simply due to the fact that the utility must, or chooses to make upgrades to its system in order to make retail deliveries. The cost of the utility in upgrading its system such that it can transport that power to its ultimate retail load is not the cost of the power—it is simply the cost to the utility of maintaining a system that allows it to fulfill its service obligation. The costs at issue in this proceeding are the costs of the utility maintaining its ability to deliver the benefit of QF power to its customers, not the appropriate rates for QF power.

The utilities' customers currently pay the costs of bringing the utilities' diverse resources to load, and QF power should not be singled out as somehow not "deserving" similar treatment, especially when those costs benefit the transmission grid. The utilities'

¹⁹ See *Idaho Power Comments*, p. 17; *Avista Comments*, p.4 ; *PacifiCorp Comments*, p. 2-3.

attempt to pile transmission upgrade costs into power supply costs is artificial and should be disregarded.

The comments of Avista and Idaho Power further argue that QFs must bear the cost of transmission system upgrades since the current avoided cost rates do not include a component for transmission expense.²⁰ They reason that because the current surrogate avoided resource is a combined cycle combustion turbine, which is deemed to be able to be sited at an optimal location on the utility's transmission system, Idaho Power's ratepayers should not be responsible for any transmission upgrades associated with QFs. Idaho Power's position is undermined by its recent application to construct the Evander Andrews natural-gas fired combustion turbine, for which the Company seeks to charge its ratepayers nearly \$23 million in transmission upgrades because the Company determined that it was not reasonable to construct a combustion turbine near its load center.²¹ Again, QFs should not be singled out as ineligible for transmission costs when other resources likewise require grid expansions and upgrades.

7. Requiring Utilities to Pay for Transmission System Upgrades Does Not Violate FERC's Comparability Standards

Idaho Power warns that if Cassia Wind's proposal is adopted in this proceeding and the utility is required to finance transmission system upgrades necessary to transport QF power under N-1 conditions, FERC could find that Idaho Power was giving preferential treatment to QFs compared to Idaho Power's own new generation and new merchant generation developers. Idaho Power fails to recognize the significance of the fact, which it refers to in its comments, that FERC has expressly left interconnection

²⁰ *Avista Comments*, p. 3, *Idaho Power Comments*, p. 18.

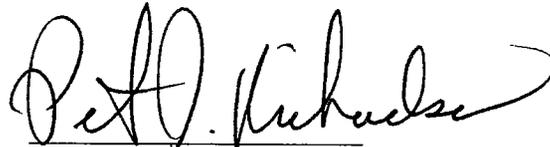
²¹ *See* Application of Idaho Power for a Certificate of Convenience and Necessity for the Evander Andrews Power Plant, p. 5, filed in Case No. IPC-E-06-09.

policies for QF generators up to the state utility commissions. FERC obviously does not require that interconnection procedures be the same for QFs as they are for FERC's interconnection procedures for large generators.

CONCLUSION

For all of the reasons stated herein, Exergy urges the Commission to find that QFs are not required to finance the utility's network upgrade costs in addition to paying for the costs of interconnecting their projects to the utility's system.

Respectfully submitted this 9th day of November, 2006.

A handwritten signature in black ink, appearing to read "Peter J. Richardson", written over a horizontal line.

Peter J. Richardson

Of Attorneys for Exergy Development
Group of Idaho

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of November, 2006 a true and correct copy of the within and foregoing REPLY COMMENTS OF EXERGY DEVELOPMENT GROUP OF IDAHO, was served by U.S. Mail, postage prepaid, to:

Dean J. Miller
McDevitt & Miller LLP
P.O. Box 2564
Boise, Idaho 83701

Barton L. Kline
Monica B. Moen
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707-0070

David J. Meyer
Senior Vice President
Avista Utilities
P.O. Box 3727
Spokane, WA 99220

Ronald K. Arrington
Assoc. Chief Counsel
John Deere Credit
6400 NW 86th Street
Johnston, IA 50131

David Sikes
Idaho Power company
P.O. Box 70
Boise Idaho 83707-0070

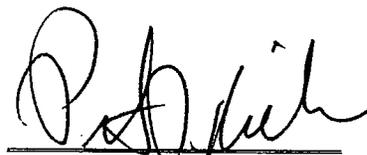
Brian Dickman
Dean S. Brockbank
Rocky Mountain Power
201 S. Main Street, Suite 2300
Salt Lake City, UT 84111

Lawrence R. Lieb
Exergy Development Group of Idaho LLC
910 W. Main St., Suite 310
Boise, ID 83702

Scott Woodbury
Deputy Attorney General
Idaho Public Utilities Commission
P.O. Box 83720
Boise, Idaho 83720-0074

And hand-delivered to:

Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
472 West Washington
Boise, Idaho 83702



Peter J. Richardson