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## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

CASSIA GULCH WIND PARK, LLC AND	)	
CASSIA WIND FARM, LLC,	)	CASE NO. IPC-E-06-21
	)	
COMPLAINANTS,	)	
	)	COMMENTS OF THE
v.	)	COMMISSION STAFF
	)	
IDAHO POWER COMPANY,	)	
	)	
RESPONDENT.	)	

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The Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Scott Woodbury, Deputy Attorney General, and in response to the Notice of Motion to Approve Settlement Stipulation and Dismiss Complaint, Notice of Modified Procedure, and Notice of Comment/Reply Deadlines issued on June 26, 2007, submits the following comments.

### COMPLAINT

On September 13, 2006, Cassia Gulch Wind Park, LLC and Cassia Wind Farm, LLC (collectively Cassia or the Projects) filed a complaint against Idaho Power Company (Idaho Power; Company) with the Idaho Public Utilities Commission (Commission) requesting a Commission declaration and determination that, as a matter of law and policy, the cost responsibility for

transmission system upgrades to meet N-1 contingency planning conditions should not be assigned to PURPA qualifying facilities (QFs) connecting to the system, but rather, should be rolled into the utility's plant-in-service rate base and recovered from rates and charges for utility service of native load and other transmission customers.

Cassia Gulch Wind Park, LLC and Cassia Wind Farm, LLC are QFs within the meaning of the Public Utility Regulatory Policies Act of 1978 (PURPA). Each of the Projects has signed Commission approved Firm Energy Sales Agreements with Idaho Power. Reference Case No. IPC-E-06-10, Order No. 30086; Case No. IPC-E-06-11, Order No. 30086. The Projects will sell their entire output to Idaho Power.

## **BACKGROUND**

As reflected in the underlying complaint, as part of its integrated backbone electric transmission system, Idaho Power owns and operates a 138 kV transmission system in the Twin Falls, Idaho area. Idaho Power has received requests for the integration of up to 200 MW of new generation to be connected to the 138 kV system. Most of the requests are from wind generating projects that are PURPA qualifying facilities. The Cassia projects are among those wind generation QFs requesting interconnection. The projects requesting interconnection are placed in a transmission "queue" which is managed by Idaho Power in accordance with rules established by FERC. Exhibit A to the Stipulation shows the requesting projects which have signed facility study agreements, paid the required deposits and remain in the queue in the order they made their interconnection request.

In June 2006 Idaho Power was of the opinion, based on engineering studies, that in order to interconnect with all of the projects in queue, it would be necessary to construct network upgrades to the transmission system with a total estimated cost of approximately \$60 million. With the exception of a relatively small portion of the system upgrade costs to be borne by Idaho Power, the Company claimed and asserted that the \$60 million cost of its transmission system upgrades should be borne, in the first instance, by the QFs proposing to connect to the Idaho Power transmission system.

On September 27, 2006, the Commission in Case No. IPC-E-06-21 issued a Notice of Complaint (Regarding QF Responsibility for Transmission Upgrade Costs) and established a schedule for written comments. Comments were filed by Idaho Power, Rocky Mountain Power,

Avista, Cassia, Exergy Development Group of Idaho, LLC, Commission Staff and other interested parties.

On November 28, 2006, the Commission held oral argument in Boise on the threshold issue presented for Commission determination by Cassia, i.e., whether a QF selling generation to a utility has a responsibility to pay the transmission upgrade costs that result from and that would not be incurred but for the QF's request for interconnection. Thereafter with the tacit consent of the parties the Commission took the matter under advisement and an informal stay of proceedings ensued.

On June 13, 2007, Idaho Power and Cassia filed a Joint Motion to Dismiss the underlying complaint in Case No. IPC-E-06-21 and to approve a related June 13, 2007 Settlement Stipulation. Reference IDAPA 31.01.01.272-276.

## **ANALYSIS**

Idaho Power and Cassia present for Commission consideration a Settlement Stipulation that they contend is in the public interest and that represents a fair, just and reasonable compromise of the issues raised in Cassia's complaint in Case No. IPC-E-06-21. The Stipulation sets forth the basic principles of the settlement agreement between Cassia and Idaho Power. Upon approval of the Stipulation, Cassia and Idaho Power will negotiate definitive interconnection agreements and amendments or addenda to the Firm Energy Sales Agreements and all other documents or instruments that may be required.

## **Redispatch**

The key component of the Stipulation is the concept of "redispatch." Idaho Power's initial estimated cost of approximately \$60 million to complete necessary transmission network upgrades was based on the assumption that the requesting projects in the transmission queue would not be dispatchable. Pursuant to Stipulation ¶ 9, Cassia has agreed to install, at its expense, equipment and communication facilities necessary to reduce its energy output to a predetermined set-point within ten minutes of when Idaho Power requires a reduction to protect the transmission grid. Idaho Power notes that it cannot utilize these same facilities to increase Cassia's generation, thus, the Cassia projects are not fully "dispatchable" in the normal utility sense. However, for convenience, in the Stipulation, Cassia's agreement to reduce generation is referred to as "Cassia Redispatch."

Idaho Power will call for a Cassia Redispatch only when necessary to respond to system emergencies or when identified transmission lines are out of service. Redispatch would be implemented pro rata with other requesting projects in the queue who have agreed to similar redispatch protocols.

Based on Cassia's commitment to Cassia Redispatch, and assuming the other requesting projects in the queue make similar commitments, Idaho Power performed additional analysis to determine network upgrades that would be necessary to preserve system integrity. This is referred to in the Stipulation as the "Redispatch Study" and costs for each requesting project are shown in Exhibit B, Table B6 to the Stipulation. As reflected in the Stipulation, the original estimate of \$60 million decreases to approximately \$11 million under the Redispatch Study.

Idaho Power and Cassia believe that the redispatch component of the Stipulation is in the public interest for two reasons. First, they state, the redispatch approach allows Idaho Power to significantly reduce the required investment to preserve system integrity and represents a least-cost, but prudent, solution to the identified problem. Second, the "Cassia Redispatch" commitment undertaken by Cassia allows the Cassia projects to be available to Idaho Power as a resource with some ability to respond to system emergencies.

Staff reviewed the Redispatch Study and also inquired of Idaho Power regarding the likely frequency and duration of expected redispatch. Staff's concern is whether Cassia's and the other Magic Valley wind projects' generation would be unavailable due to transmission constraints during the days and the times of the year when the generation is most needed. If redispatch was expected to occur frequently, for fairly lengthy periods, or during especially critical times, Staff would be concerned that Idaho Power was paying full avoided cost rates for a resource that cannot be delivered when it is most valuable. Unfortunately, Staff was unable to determine from the information provided by Idaho Power the timing, frequency and duration of when redispatch is expected to occur. Nevertheless, despite the inability to predict an amount of redispatch, all parties seem to agree that it is likely to be minimal based on historical data.

In response to Staff production requests, Idaho Power points out that QFs subject to redispatch are likely superior to those QFs that are not, because projects subject to redispatch can at least be operated at some less-than-capacity level, whereas projects not subject to redispatch must be shut down entirely in the event transmission is constrained. Idaho Power's reasoning is true as long as all QF projects are equally likely to experience transmission constraints. However, the

reality seems to be that those QFs in the Twin Falls queue are far more likely to experience transmission constraints. Projects outside the Twin Falls queue should rarely, if ever, need to be shut down due to transmission constraints.

Ideally, all QFs, and all generation projects for that matter, should never have their operation restricted due to transmission constraints. However, Staff believes that the cost of relieving those transmission constraints should always be balanced against the cost of not having the affected generating plants available for very brief periods of time. When all costs are considered, redispatch may prove to be a much more cost effective solution than making very expensive transmission system improvements. Staff believes that is the case here. The cost of having some QFs unavailable for a few very brief periods is far less than the incremental cost between the \$11 million and the \$60 million transmission alternatives.

### **Cost Sharing Responsibility**

The Stipulation addresses responsibility for network upgrade costs, sharing of network upgrade costs, refunds and interest on refunds, and security for payment. Network upgrade costs will be allocated to each requesting project, including the Cassia projects, based on: (a) their election of whether to be subject to redispatch, (b) their order in the Idaho Power queue, and (c) based on the megawatt interconnection capacity of each requesting project, their pro rata share of the costs for the network upgrade required to interconnect one or more requesting projects and the interconnection capacity that the particular network upgrade adds.

Pursuant to ¶ 13 of the Stipulation, Idaho Power and the requesting projects will share the costs of the five planned phases of network upgrade as follows:

- Idaho Power will assume 100% of cost responsibility for phase one and include this cost in its rate base. Phase one upgrades will likely have been required for native load in the near future.
- Remaining four phases:
  - 25% of the costs will be provided by the project as a non-refundable contribution in aid of construction (CIAC);
  - 25% of the costs will be funded by Idaho Power and included in Idaho Power's rate base

- 50% of the costs will be funded by projects as an advance in aid of construction (AIAC) subject to refund. These costs will be rate based using standard regulatory accounting principles.

Idaho Power and Cassia admit that the proposed sharing formula is not based on any rigorous cost study. Instead, they contend that it reflects the considered judgment of the parties that it is a reasonable compromise of the competing points of view presented in the case.

In Staff's opinion, there are valid arguments as to why Idaho Power should fully fund the necessary transmission improvements, yet there are also valid arguments as to why Cassia (and other QFs) should fully fund them. However, Staff believes that the fairest and most reasonable solution is for the transmission costs to be shared. Unfortunately, Staff knows of no analysis that could be done to determine precisely, or even approximately, the proportions of costs that should be borne by Idaho Power and by the QFs. Determination of sharing percentages, Staff believes, must by necessity be based on policy, as the parties have done in this case. Staff believes that some portion of the costs should be borne by the QFs, some should be borne by Idaho Power, and some should be funded by the QFs but subject to refund. Any judgment about whether the exact sharing percentages agreed to by the parties is appropriate, Staff suggests, should be based on the collective merits of the entire terms of the Stipulation.

### **Refund Provisions**

As described in the Stipulation, Cassia will be entitled to a cash repayment, in monthly, equal installments, for the total AIAC amount Cassia advances to Idaho Power for Network Upgrades, including any tax gross-up or other tax related payments associated with the AIAC for Network Upgrades. Reimbursement will occur over a term not to exceed ten (10) years after the date the Cassia Projects achieve commercial operation. Payment of such repayments in any month will be contingent on the FESA's being in good standing (no uncured defaults) and Cassia achieving a mechanical availability in that month in excess of 50%.

Although the term of the refund period is limited to 10 years, it appears that the actual refund period will be closer to one or two years if projects perform as expected. If a project fails to meet its mechanical availability guarantee requirement in any month, it simply forgoes the refund for that month, and the amount foregone is available for refund in future months. With such a rapid possible rate of refund recovery and such a long refund period, the project will effectively have

many chances to meet the mechanical availability guarantee and fully recover the maximum possible amount. Because projects effectively have so many chances to perform well enough to trigger a refund, because unrefundable amounts accrue interest, and because the mechanical availability requirement is only 50 percent, Staff views refunds as being nearly assured unless a project fails to be built or defaults on its power sales agreement. Staff is not convinced that a mechanical availability guarantee offers any real assurance when it cannot even be measured under low- and no-wind conditions, and when it is based on self-certification by project owners.

Nevertheless, despite some reservations, Staff supports the refund provisions in the Stipulation as a reasonable compromise of the parties.

### **Effect of the Settlement Stipulation on Customers**

It seems clear that “but for” the construction of the requesting projects in the queue, the transmission upgrades originally identified by Idaho Power would not be needed to provide adequate service to Idaho Power native load customers. Because Idaho Power, on behalf of its customers, has agreed to pay a non-refundable share equal to 25 percent of network upgrade costs, Idaho Power will end up paying more than avoided costs for generation from Cassia and other QFs. In its Motion accompanying the Settlement Stipulation, Idaho Power discusses a number of cost savings that it believes will mitigate, if not totally eliminate, the adverse affects on customers.

First, Idaho Power states its belief that the transmission upgrades identified in Table B1 in Exhibit B of the Stipulation will provide the Company with a more robust transmission system serving the Magic Valley and the Wood River Valley. Although unable to quantify the precise amount of system benefit to native load customers that is provided by the network upgrades, Idaho Power nevertheless expects some future customer benefit to flow from the strengthened transmission system.

Staff agrees that in general, any improvements to the transmission system are beneficial to native load customers. Staff also concedes that it is difficult to quantify the benefits of transmission system improvements. Nevertheless, unless the cost of achieving these benefits can be measured and weighed against the benefits, it is impossible to conclude that the investment is cost effective on that basis alone.

Second, Idaho Power notes that power generation from QF projects, such as the Cassia projects, serves to some extent to displace or defer the need for other generation projects in the

Company's Integrated Resource Plan (IRP). The costs for network upgrades for IRP generation projects would normally be recovered from native load customers, either embedded in the energy rate in a power purchase agreement or as a Company transmission investment included in rate base.

Staff believes that this may be Idaho Power's and Cassia's strongest argument in favor of funding a portion of the transmission system improvement costs. If Idaho Power were not contracting with QF projects, it would likely be acquiring similar types of generation through RFP processes and making the necessary investment to accommodate that generation on its transmission system. The SAR methodology used to compute avoided costs assumes that gas-fired generation would be built close to a load center such that no new transmission would be required. It is questionable whether such a plant can be built without transmission as demonstrated by the Company's construction of the Danskin, Bennett Mountain, and Evander Andrews projects in the Mountain Home area. It seems probable that any new generation identified in its IRP, whether built by Idaho Power or acquired through an RFP, would require that Idaho Power make an investment in transmission on behalf of its customers.

Third, Idaho Power states that under the settlement arrangements set out in the Stipulation, the Company believes it would be able to successfully defend a comparability claim brought by a FERC jurisdictional customer claiming that Idaho Power and the Commission have given unlawful preferential treatment to QF resources. Staff agrees that this is probably true given that a FERC jurisdictional customer would be required to pay the full cost of the transmission upgrade and have all of it subject to refund, while a QF would pay 75 percent of the cost and have only 50 percent subject to refund.

The final reason Idaho Power believes the Stipulation is fair is that the non-refundable 25% portion funded by the QF project will never be placed in rate base. This combination and the fact that 50% of the network upgrade will be refundable over time, it contends, will provide an economic signal to QFs with the objective of balancing optimal siting of energy resource with interconnection costs.

A corollary to this argument, Staff notes, is that if Idaho Power had required 100 percent of the transmission upgrade cost to be contributed with none subject to refund, then none of the portion funded by the QF project would ever be placed in rate base. Obviously, the point is that more than 25 percent could have been required to be contributed without refund. With regard to the economic signal to encourage optimal siting, Staff does agree that a signal is sent by requiring



contributions by the QF project. The greater the amount of the unrefundable contribution, the stronger the signal.

In any case, while Staff does not necessarily agree completely with all of the arguments put forth by Idaho Power in support of the Stipulation, Staff does believe that, all things considered, the Stipulation represents a reasonable compromise that is fair to Cassia, other QFs, Idaho Power and to ratepayers. Without such an agreement, Staff believes that most, if not all, of the affected QFs would not be developed, and ratepayers would be denied the benefits of these resources.

### **Applicability of the Settlement Stipulation to Other QFs and Other Utilities**

While the tendered Stipulation and Settlement Agreement resolves the instant dispute between Idaho Power and Cassia, the parties note that a number of other QFs seeking to interconnect their projects to Idaho Power's energy delivery system are similarly situated with Cassia in the Twin Falls queue (other requesting QFs). These other requesting QFs are of sufficient size and in locations such that their interconnection to the Company's system will require network upgrades. To provide uniform treatment to these other requesting QFs, Idaho Power desires to utilize the terms and conditions contained in the Stipulation and Settlement Agreement as a template for negotiation of additional interconnection agreements.

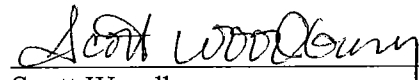
Staff believes that the proposed Stipulation presents a reasonable template to be used for other QFs in the Twin Falls queue. Furthermore, if there are other locations within Idaho Power's system in which transmission improvements are necessary in order to interconnect QFs, Staff believes the same template should be a starting point by which specific circumstances of the new location can be evaluated. Although Avista and PacifiCorp, should they encounter similar transmission constraints for QFs, are not bound to the same terms and conditions as in this Agreement, Staff nevertheless believes that the terms and conditions of this Agreement are reasonable and that a similar approach by the other utilities would also be reasonable.

### **RECOMMENDATIONS**

Staff recommends approval of the proposed Settlement Stipulation between Idaho Power and Cassia. Further, Staff recommends that the terms and conditions of the proposed Stipulation be used as a template for agreements with other QF projects in the Twin Falls interconnection queue. Finally, in the event Idaho Power, Avista and PacifiCorp experience similar transmission

constraints associated with QFs in other parts of the state in the future, Staff recommends that the Stipulation be used as a guide for evaluating upgrade alternatives and assigning cost responsibility.

Respectfully submitted this 25<sup>th</sup> day of July 2007.

  
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Scott Woodbury  
Deputy Attorney General

Technical Staff: Rick Sterling

i:umisc:comments/ipce06.21swrps comments

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 25<sup>TH</sup> DAY OF JULY 2007, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-06-21, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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