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UTILITIES COMMISSION

Barton L. Kline
Senior Attorney

April 9, 2007

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-07-04
In the Matter of Idaho Power Company's Petition to Revise the Published Avoided Cost Rates to Include a daily Load Shape; and

To Clarify the Rules governing Entitlement to Published Avoided Cost Rates

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Reply Comments for the above-referenced matter.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,

Barton L. Kline

BLK:sh
Enclosures

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER COMPANY'S PETITION TO REVISE THE PUBLISHED AVOIDED COST RATES TO INCLUDE A DAILY LOAD SHAPE; AND	)	CASE NO. IPC-E-07-04
TO CLARIFY THE RULES GOVERNING ENTITLEMENT TO PUBLISHED AVOIDED COST RATES	)	REPLY COMMENTS

COMES NOW, Idaho Power Company ("Idaho Power" or the "Company"), and in response to the Comments filed by the Staff of the Idaho Public Utilities Commission ("Staff") and U.S. Geothermal, Inc. ("U.S. Geothermal") submits the following comments:

BACKGROUND

On February 6, 2007, Idaho Power filed a Petition with the Commission requesting authority to revise the published avoided cost rates for qualifying facilities ("QFs") under sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978

("PURPA") to recognize the difference in value of energy delivered by QFs during heavy load hours and energy delivered during light load hours. These revised rates would only be applicable to new QF contracts approved by the Commission following the issuance of a final order in this case.

In its Petition, the Company also proposed that the Commission adopt new rules to more particularly define QF projects that are entitled to the published avoided cost rates. Staff and U.S. Geothermal each filed comments concerning Idaho Power's Petition.

I.

RESPONSE

Heavy Load Hour/Light Load Hour Price Differential

In its Petition, Idaho Power requested that the Commission allow Idaho Power to revise its published avoided cost rates to reflect the difference in value between energy delivered by QFs during those periods when Idaho Power's loads are greatest, heavy load hours ("HLH"), and energy delivered during periods when loads are reduced, light load hours ("LLH"). The proposed HLH/LLH differential would only be applicable to new QF contracts and would not otherwise change the computation of avoided costs.

With the addition of a HLH/LLH differential to the published rates, a QF delivering energy on a uniform around-the-clock basis would see no change in the total revenue it received each month as a result of the implementation of the HLH/LLH rates proposed by the Company. However, the heavy load hours/light load hours pricing differential will reward those QFs that deliver a greater percentage of their total energy output during the times when the Company's loads are greatest - heavy load hours - as compared to

those QFs that deliver a greater percentage of their total energy output during light load hours. The Company's proposed HLH/LLH price differential more accurately reflects the costs the Company can avoid by purchasing energy from QFs.

U.S. Geothermal Comments

U.S. Geothermal's Comments demonstrate that it does not understand the rationale underlying the Company's heavy load hour/light load hour rate differential proposal. U.S. Geothermal's misunderstanding is evidenced by its recommendation that instead of implementing a rate differential that reflects the value of energy delivered, the Commission order Idaho Power to include a representation in QF contracts that, "the [QF] project is a base load facility and will be continuously operated as a base load facility throughout the term of the contract." U.S. Geothermal goes on to recommend that "If the Company feels that if a QF is operating in a manner that is inconsistent with the representation, it could declare a breach and seek appropriate contractual and legal remedies." (U.S. Geothermal Comments p. 6).

Idaho Power's intent in proposing a HLH/LLH rate differential is not to encourage or discourage base load operation by QFs. In fact, it is physically impossible for many QFs, such as wind or solar powered QFs, to operate as base load resources even if they expressed an intention to do so in their contracts with Idaho Power. The Company's primary purpose for proposing different prices for energy deliveries during heavy load hours versus energy deliveries during light load hours is to more accurately value the energy being delivered. Simply stated, energy delivered to Idaho Power during heavy load hours is more valuable because it is delivered at the times when Idaho Power usually needs additional energy to serve its customers' loads. If QFs

deliver more energy to Idaho Power during heavy load hours, Idaho Power may avoid higher alternative costs. Conversely, energy delivered by QFs during light load hours is less likely to be needed to serve customer loads. Furthermore, less expensive market purchase alternatives are usually available during light load hours. Reducing prices paid during light load hours reduces the likelihood that customers will overpay for QF energy.

U.S. Geothermal's recommended contract language seems to be at odds with its expressed concerns that the Company's proposed HLH/LLH differential is complicated and overly broad. It is difficult for Idaho Power to understand how U.S. Geothermal's alternative proposal, with its remedy for breach of the provision being litigation, presents a less complicated approach. Idaho Power's approach is self-executing and does not require litigation to provide the intended result.

U.S. Geothermal also expresses concern that the rate differential proposed by Idaho Power will give incentives to QFs to modify the way they operate their projects and skew their deliveries to heavy load periods. Idaho Power does not see that as a bad result. However, Idaho Power's experience over the past 20 years has been that QFs will generate all the energy they can all the time. With the exception of fueled generation plants, the QF's fuel is free and there is no economic advantage to not generate. As a result, it is unlikely that the Company's proposal will provide a material incentive for most QFs to generate at any particular time. The Company's proposal is more in the nature of a fine-tuning of the avoided cost rates to recognize the difference in value to the utility and its customers of energy delivered during heavy load hours as compared to light load hours.

U.S. Geothermal next raises a concern that heavy load hour and light load hour periods identified today may not reflect the value of heavy load and light load hour energy in future years. Idaho Power concurs that it would be prudent to periodically review the price differential between heavy load hour/light load hour market prices and, if necessary, adjust the rate differentials to reflect changes in "the spread" between heavy load hour market values and light load hour market values.

Finally, U.S. Geothermal argues that the Company's proposal will require additional metering, recording, payment processing and administrative management for implementation and, as a result, QF program costs will increase. U.S. Geothermal is incorrect. Idaho Power Company currently installs metering and telemetry equipment on all QF projects larger than 1 MW that is capable of recording the times when deliveries of generation occur. Meters with data storage capability can be installed on smaller QF projects that will track when energy is generated and delivered. These data storage meters cost approximately $500 more than regular meters. The computation of payments to QFs based on the different times of delivery will require a one-time change in the relatively simple spread sheet program the Company uses to compute payments to QFs. In reality, the incremental cost of implementing and administering the Company's HLH/LLH proposal is negligible.

Staff's Comments

Staff's Comments recommend adoption of the heavy load hour/light load hour price differential but recommend a different method for computing the differential. While Idaho Power believes that the method it proposed is reasonable, Idaho Power also believes that the Staff's recommendation represents a reasonable approach. In light of

the fact that the Company is currently proposing other rate changes to reflect integration costs for wind QFs, Staff's more conservative approach to the transition to time-differentiated QF rates is probably better.

II.

RULES TO PREVENT LARGE QFs FROM RECONFIGURING INTO SMALL PROJECTS TO QUALIFY FOR THE PUBLISHED RATES

This Commission began implementing PURPA in the state of Idaho in the early 1980's. From the beginning, in setting avoided cost rates, for PURPA projects, the Commission has drawn a clear distinction between large QF projects and small QF projects. Recognizing that developers of small QFs are less likely to be large, sophisticated organizations and to minimize contract negotiation expenses, avoided cost rates for small QFs have been set in a generic manner utilizing a Surrogate Avoided Resource or "SAR" to produce avoided cost rates. These generic avoided cost rates are commonly referred to as the "published rates".

For projects larger than 10 average megawatts (aMW), the Commission has established a different process for setting avoided costs. Contracts for QF projects larger than 10 aMW are individually negotiated and the avoided cost rates to be included in those contracts are computed utilizing each utility's system planning model. In Idaho Power's case, the system planning model used is the AURORA model and the methodology used to determine avoided costs for large QFs is commonly referred to as the "IRP methodology." Use of the IRP methodology recognizes that large QF projects can have a greater impact on the Company's resource planning and are generally developed by larger entities with a greater understanding of the contract negotiation

process. Historically, avoided costs determined by use of the more sophisticated IRP methodology have been lower than the published rates.

The advent of large wind farms has focused a spotlight on the historic difference in the Commission's approach to setting avoided costs for large and small QF projects. As Staff noted in its Comments:

> Wind projects are unique from other generation technologies because they normally consist of multiple turbines, each with its own generator, often scattered over large areas. Because of this characteristic, wind projects capable of generating more than 10 aMW per month can choose to create multiple legal entities to reconfigure themselves into smaller projects in order to qualify for the historically higher published avoided cost rates. To address this concern, Idaho Power proposes to clarify its rules for published rate eligibility to preclude disaggregation.
>
> . . .
>
> The proposed rule effectively would limit QFs with common ownership from being located closer than five miles of each other. (Staff Comments pp. 4-5).

At this point it is important to address U.S. Geothermal's assumption that the proposed five mile spacing Idaho Power recommends is impermissible under Federal law, *i.e.*, PURPA. U.S. Geothermal's assertion that "The Company's proposal is contrary to federal law" (U.S. Geothermal Comments p. 3) is simply incorrect. Idaho Power is not proposing to change the test for QF status. PURPA's one mile radius standard would still apply for the determination of QF status. However, under PURPA, this Commission, not FERC, determines which QF projects are entitled to the published rates. The five mile radius test Idaho Power proposes deals with solely entitlement to published rates and is in no way contrary to Federal law.

In its Comments, Staff argues that the five mile radius approach proposed by Idaho Power is desirable in principal but should be rejected because QF project developers will always find ways to circumvent Commission-imposed rules, thereby making them ineffective in accomplishing their intended objective.

In support of that position Staff cites a response to a production request Staff directed to Idaho Power. (Staff Comments p. 5). Idaho Power believes that Staff has misinterpreted Idaho Power's response to the production request. In the production request, Staff inquired about the likely effect on existing projects if Idaho Power's proposed 5 mile radius definition had been in place earlier. The Company responded that because it is not privy to ownership information concerning QF projects, it "cannot say for certain that some existing wind developments might have been precluded from obtaining contracts under the proposed definition." Idaho Power went on to say "Of course, if the definition had been in place before the 18 wind FESA's [Firm Energy Sales Agreements] were signed, Idaho Power expects that the wind QFs could have been restructured to avoid any problem with the definition." In its Comments Staff interprets Idaho Power's response to the production request as supporting its argument that QF wind developers will likely find a way to circumvent the intent of the rule and therefore, no rule should be adopted. Obviously Idaho Power should have been more clear in its response. Idaho Power's response was only intended to indicate that if QF developers know what the rules are ahead of time, they can comply with them.

It is not Idaho Power's intent that its proposed five mile radius rule place undue burdens on the development of new QF generation projects. At the same time, Idaho Power believes that it is important for the Commission to honor its longstanding policy

that it is in the public interest for small QFs to receive the published rates and large QFs to have their avoided costs determined using the IRP methodology. This policy protects customers by helping to insure that avoided costs are set as accurately as possible. Idaho Power's proposed five mile radius rule is consistent with the Commission's policy by requiring each small QF to demonstrate a separation of ownership and control consistent with the Commission's longstanding policy.

U.S. Geothermal argues that rather than tightening the rules covering the entitlement to published rates, the Company should file to modify the published avoided cost rates applicable to wind generation projects. "If the Company believes there are inequities in the existing QF program rates, it should pursue changes in the SAR avoided costs, address the perceived intermittent value of certain resources, or address other factors it believes should be considered in QF rate setting." (U.S. Geothermal Comments p. 4).

Idaho Power does not believe that the current policy of setting avoided cost rates based on the size of the QF project is inequitable or inappropriate. As the Commission is well aware, in Case No. IPC-E-07-03, the Company *is* currently pursuing changes to published avoided costs to address integration costs for intermittent wind projects. But the Company is not seeking changes to the published rates in that case because it believes that the SAR methodology is flawed. In the IPC-E-07-03 case, Idaho Power is only interested in maintaining accurate avoided costs for wind QFs receiving the published rates.

In its Comments U.S. Geothermal addresses the potential future application of the five mile radius rule proposed by the Company to several existing QF hydroelectric

projects. U.S. Geothermal cites three instances where pairs of relatively large QF hydroelectric projects are located in close proximity to each other. U.S. Geothermal apparently has knowledge of the ownership interests of each of these hydroelectric projects and expresses concern that, when the existing contracts for these hydro projects expire in the next ten to fifteen years, application of Idaho Power's proposed 5 mile radius rule might require the application of the IRP methodology to set their avoided costs for a contract renewal. U.S. Geothermal inquires as to the public good that will be served by requiring a single owner of these hydroelectric projects to have its avoided costs determined by the IRP methodology? In answering this question it is important to remember that in the future, the IRP methodology may produce avoided costs that are either higher or lower than the published rates. Regardless of whether the IRP methodology produces avoided costs that are higher or lower than the published rates, the public good is served by having the avoided cost rates for these large QF projects be determined using the more sophisticated and precise IRP methodology. The public interest will be served because customers will not be paying avoided cost rates that are either higher or lower than they otherwise would be. The public policy served is the longstanding policy of this Commission (and the legal requirement expressed by PURPA) to determine avoided cost rates in a way that leaves customers indifferent as to whether a utility purchases power from QFs or generates the energy itself. Electric customers should not subsidize QF development by simply ignoring the fact that large QF projects have been broken into multiple small projects in order to obtain higher rates to which they would not otherwise be entitled.

Finally, U.S. Geothermal raises the specter that when the contracts between Idaho Power and the QF hydro projects identified in U.S. Geothermal's Comments expire in ten to fifteen years, application of the IRP methodology to set avoided cost rates for those projects could cause those projects to seek to sell their energy to out-of-state purchasers. Idaho Power anticipates that when these contracts expire, regardless of what methodology is used to compute avoided costs, the owners of these projects will shop the generation from the projects to the highest bidder. Idaho Power is likely to have some price advantage based on transmission expense. Frankly, so much can change in ten or fifteen years, speculation as to what will happen with these contracts far in the future is not particularly productive. Idaho Power's proposal is aligned with the longstanding Commission policy position that to protect customers, small QF projects are entitled to receive the published rates and larger projects should have their avoided cost rates determined by individual negotiation using the IRP methodology. What may or may or may not happen ten to fifteen years from now should not dictate a change in that rational policy.

III.

CONCLUSION

Idaho Power's proposals in its Petition do not appear to be particularly controversial. Only one QF developer, U.S. Geothermal, filed comments. Idaho Power expects that some QFs, such as wind QFs, may very well benefit from the Company's HLH/LLH proposal. Regardless of whether a particular generation technology benefits or not, the HLH/LLH rate differential proposed by the Company will more closely align the prices paid to QFs with Idaho Power's avoided costs.

Idaho Power believes that its five mile radius proposal will not place an onerous burden on QF developers to comply with the rules. Idaho Power's purpose in making its five mile radius proposal was to maintain the Commission's longstanding policy of differentiating between large QFs and small QFs. The Company is concerned that without a change to the current policy it is likely that developers of some large QF projects, principally windfarm projects, will simply create a multitude of shell corporations or LLCs in order to transform their large QF projects into multiple small ones. Under current published rates, such disaggregation will likely result in customers paying higher prices for energy from QFs than they would if the requirements for entitlement to published rates are tightened.

Idaho Power's proposal is prospective and potential QF developers will have ample notice and opportunity to develop their projects in a way that complies with the rule.

Respectfully submitted this 9th day of April 2007.

BARTON L. KLINE
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of April 2007, I served a true and correct copy of the within and foregoing upon the following named parties by the method indicated below, and addressed to the following:

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