

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER)	
COMPANY'S PETITION TO REVISE THE)	CASE NO. IPC-E-07-04
PUBLISHED AVOIDED COST RATES TO)	
INCLUDE A DAILY LOAD SHAPE; AND)	
)	
TO CLARIFY THE RULES GOVERNING)	ORDER NO. 30415
ENTITLEMENT TO PUBLISHED AVOIDED)	
COST RATES)	
)	
)	
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On February 6, 2007, Idaho Power Company (Idaho Power; Company) filed a Petition with the Idaho Public Utilities Commission (Commission) requesting authority to revise its published avoided cost rates for qualifying facilities (QFs) under Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) to reflect Idaho Power's daily load shape and recognize the difference in value between energy delivered by QFs during heavy load hours (HLH) and energy delivered during light load hours (LLH). As explained in the Company's Petition, this revision would not change the computation of avoided cost but it could change the total revenues received by QFs depending on when during the day they deliver energy.

The Company in its Petition also seeks to clarify the rules governing the entitlement to published rates so that QF projects capable of delivering more than 10 aMW per month may not artificially restructure into multiple smaller projects in order to qualify for the published avoided cost rates.

The Commission in this Order approves a modified daily load shape adjustment and denies the Company's requested rule change regarding published rate eligibility.

Daily Load Shape Adjustment

Idaho Power reports that since the early 1980s, when PURPA was first implemented in Idaho, the Commission shaped Idaho Power's QF purchase rates to address the difference in energy values between the various seasons of the year. Seasonal avoided cost rates recognize that energy delivered by QFs has different values based on when it is delivered.

Similarly, Idaho Power contends that energy provided by QFs has different values based on the hour of day it is delivered. This difference in value between heavy load hours and light load hours, the Company states, was the basis for the daily shape adjustment that was approved for Avista Corporation in Commission Order No. 30111 issued in Case No. AVU-E-06-04. The Company's proposed changes to its published rates reflect a daily shape adjustment.

Disaggregation of Large QFs Into Smaller Projects

Idaho Power is concerned that QF projects capable of generating more than 10 aMW per month will choose to create multiple legal entities to reconfigure themselves into multiple smaller projects. Smaller projects qualify for published avoided cost rates that historically have been higher than rates calculated under the Integrated Resource Plan (IRP) methodology used for projects greater than 10 aMW. Idaho Power proposes to clarify its rules for published rate eligibility to preclude this reconfiguration, also known as disaggregation.

Idaho Power states that the disaggregation issue was recently addressed in the PURPA avoided cost rate proceedings before the Public Utility Commission of Oregon (Docket No. UM-1129). The parties to that proceeding, the Company states, settled the disaggregation issue by negotiating a stipulation that was approved by the parties and presented to the Oregon PUC for approval. The stipulation was signed by all of the utilities, the Oregon Department of Energy, the Staff of the Oregon Public Utility Commission, Sherman County and the J.R. Simplot Company. No party to that case, the Company states, opposed the stipulation. In Order No. 06-538 and Order No. 06-586, the Oregon PUC approved the settlement stipulation that defined those small cogeneration facilities or small power production facilities eligible to receive Oregon "standard rates." Idaho Power proposes a rule with language similar to that approved in Oregon.

On February 16, 2007, the Commission issued a Notice of Petition and Modified Procedure to consider these proposals. The deadline for filing written comments was March 23, 2007. Comments were filed by PacifiCorp dba Rocky Mountain Power, U.S. Geothermal, Inc. and Commission Staff. On April 9, 2007, Idaho Power filed reply comments. The comments can be summarized as follows:

Rocky Mountain Power

Rocky Mountain Power (RMP) supports Idaho Power's Petition and notes its intention to seek approval of similar changes. RMP requests that the Commission acknowledge in its Order that the type of changes proposed by Idaho Power are applicable to all Commission-regulated electric utilities. RMP agrees with Idaho Power that energy has a different value based on seasonal and time of day deliveries. Failing to recognize this difference, it states, could result in either under- or over-payment for the value of the power.

Although agreeing with Idaho Power's method of calculating the on-peak/off-peak differential, RMP notes that due to geographic differences among utilities it may be appropriate to use different market hubs or combination of market hubs for other utilities.

U.S. Geothermal

The comments of U.S. Geothermal (USG) address the complexities, costs and unintended adverse outcomes of the proposed changes. The remedies proposed by Idaho Power, for what the Company perceives to be inadequacies in the existing QF program, USG states, are contrary to existing law, clumsy, unnecessarily broad, mistargeted, likely to result in significant and unintended outcomes, and are wholly inappropriate. The risks inherent in the Company's proposal, it contends, are likely to produce outcomes exactly opposite of the intended results. Many of the potential outcomes would result in costs and inefficiencies, without corresponding benefits, contrary to the interest of the state and its electrical customers.

USG makes the following recommendations to address Idaho Power's stated concerns, without creating costs and outcomes that would not serve the public interest:

1. Standard form power sales agreements for QF projects meeting the Commission's requirements shall include a representation and covenant by the QF that "the project is a base load facility and will be continuously operated as a base load facility throughout the term of the contract." If the Company feels that a QF is operated in a manner inconsistent with the representation, it could declare a breach and seek appropriate contractual and legal remedies.
2. The Company should be directed to pursue remedies for what it believes are QF rate inequities through appropriate rate filings.

U.S. Geothermal notes that the Idaho Legislature with its recent adoption of the 2007 Idaho Energy Plan (Plan) specifically cites the importance of developing in-state renewable energy projects to provide a "secure, reliable energy system by reducing dependence on remote

resources,” and to “provide fuel diversity, reducing Idaho’s exposure to high and fluctuating natural gas, oil and coal prices.” In addition, the Plan recognizes that “in-state renewable resources contribute to economic growth by creating jobs and tax revenue in Idaho, frequently in rural areas that are most in need of economic stimulus.” USG contends that the changes proposed by Idaho Power will increase the complexity and cost of QF projects, and will apply an arbitrary, restrictive limit on the location of QF projects, contrary to the 2007 Idaho Energy Plan and the expressed will of the Legislature.

Finally, USG notes that the changes resulting from the Oregon case cited by Idaho Power were accomplished only through the acquiescence of all parties. U.S. Geothermal strongly disagrees with the Company’s proposed changes and recommends that the Commission dismiss them in their entirety.

Daily Load Shape Adjustment

USG contends that the costs required to meet Idaho Power’s daily load shape adjustment proposal, as well as the risks created, will not be offset by any resulting benefits, unless a facility under the current rules was intentionally operated in other than a base load manner, with its output weighted to light load hours. It is just as likely, perhaps more likely, USG contends, that an inaccurate valuation of period prices will result in higher costs to electrical customers than a QF program based on compliance with base load operations. Adverse behavior aimed at maximizing revenues, USG contends, is actually more likely to occur under Idaho Power’s proposal than it is under the current rate structure. In addition, USG contends that the proposal will most adversely impact the smaller qualifying facilities, QFs that are of the least concern to the Company and who could least afford the administrative burdens and direct costs.

USG contends that a more direct approach would appear to be a contractual representation by the QF “that it is a base load facility and will be continuously operated during the terms of the contract as a base load facility.”

(A) Setting Heavy Load and Light Load Values:

Idaho Power in its proposal has utilized the average Mid Columbia heavy load and light load transactions for the period January 1, 2003 through January 20, 2007. The appropriateness of that period in establishing values, USG contends, is unsubstantiated and many questions are left unanswered.

USG contends that the broad and diverse nature of the QFs within Idaho Power's QF program has in the past and will in the future average out any daily period production variances as long as facilities are not allowed to intentionally operate in a non-base load manner. The Company's proposal, USG contends, is a complex solution, subject to unintended outcomes, and targeted at a very narrow issue that can be more effectively addressed through contractual terms and conditions.

(B) Costs of the Proposal:

USG contends that the Company's proposal will require additional metering, recording, payment processing and administrative management for implementation. USG notes that Idaho Power has provided no cost-benefit analysis information. USG recommends that Idaho Power be required to provide the Commission with an implementation plan, including costs for both the utility and the QF, prior to any approval and implementation of the proposal so that a rational analysis of costs and benefits can be obtained.

Disaggregation of Large QFs Into Smaller Projects

USG characterizes Idaho Power's disaggregation proposed rule as the imposition of arbitrary ownership restrictions on projects located within a "five-mile radius." U.S. Geothermal contends that such a rule would conflict with federal law and have significant impacts on the re-contracting of existing projects, the future development of new projects and on overall industry efficiencies. USG notes that federal regulations provide that adjacent facilities shall be considered a single facility only if they are located within one mile of each other. Reference 18 C.F.R. § 292.204(a)(2).

U.S. Geothermal cites three examples (all hydro projects) and contends that the Company's proposal will also preclude the re-contracting of existing QF projects located within five miles of each other and having common ownership. The rules proposed by Idaho Power, USG contends, may also significantly impact the development of new QF projects.

USG further notes that ownership interest over the life of QF facilities may change for a number of reasons: Consolidation, foreclosures, corporate market entry or exit, and residual contractual or leasehold rights to mention a few. None of these potential changes, USG notes, has anything to do with the Company's stated purpose in establishing the proposed rule. The ownership transfers may further be in direct response to the efficiencies that the market will require in order for the industry to be viable on an ongoing basis. The indirect impacts of the

Company's proposed rule on the efficiency of the industry could be substantial, and in any case wasteful, USG contends, without producing any material benefits for either the QF or the electrical customers.

Commission Staff

Daily Load Shape Adjustment

Staff supports a daily shape adjustment but believes that the amount of the proposed adjustment is too high. Idaho Power's proposed amount of \$11.63 per MWh as the daily shape adjustment is based on the weighted difference in value between on-peak and off-peak prices (the "spread"). To calculate this value, Idaho Power accumulated historical daily volumes and prices for all Mid-Columbia firm heavy load hour (HLH) and light load hour (LLH) transactions for January 1, 2003 through January 20, 2007 provided by Dow Jones. First, Staff does not believe that it is appropriate to compute a weighted spread based on daily trading volumes because daily prices are completely independent of daily volumes. If a non-weighted average spread were computed instead, the adjustment would be \$8.90 per MWh. Second, an examination of the daily price data shows that the daily spreads exceed the \$11.63 proposed by Idaho Power only 23% of the time. This is because the average of the daily spreads is affected by a few days during the year when the difference between heavy and light load hour prices is extreme.

Staff proposes that the daily shape adjustment amount be computed as the median of the historic values since January 1, 2003. The median of the historic values is \$7.28. Staff believes that the median value better represents the difference in value between heavy and light load hours because, by definition, exactly half the time the spread is greater and half the time the spread is less. Furthermore, because the spreads are not symmetric, Staff believes the median is a better representation of the expected spread than either the weighted or the non-weighted average spread.

Another reason for adopting an adjustment lower than the amount proposed by Idaho Power, Staff contends, is to avoid an extremely wide range of prices that would occur when combined with the seasonal adjustment already being applied. For example, for a 20-year levelized contract, the minimum price would be \$41.11 during light load hours in the spring and the maximum price would be \$81.08 in heavy load hours during the summer. This is nearly a

two-fold difference in price. Staff believes that the daily shape adjustment, at least initially, should be somewhat conservative.

Staff notes moreover, that the daily shape adjustment recently approved for Avista in Case No. AVU-E-06-04 was only \$5 per MWh. By Staff's and Avista's own admissions, this value was conservative; nevertheless, it is less than half of Idaho Power's proposed adjustment amount.

Although the Staff continues to have the concerns it expressed in the Avista case that a daily shape adjustment could introduce greater uncertainty in the monthly payments wind generators would receive, would require hourly metering capability at all future projects and introduces additional complexity into an already fairly complex system of avoided cost rates, it still believes the advantages of a daily shape adjustment outweigh the disadvantages.

Disaggregation of Large QFs Into Smaller Projects

Staff recommends denial of the Company's proposal to clarify its rules for published rate eligibility to preclude disaggregation. Staff believes that project developers will devise ways to circumvent the proposed rules, making them ineffective in accomplishing their intended objective. In a production request, Staff inquired of Idaho Power about the likely effect on existing projects if the definition had been in place, since many wind projects are clustered in the same area. The Company responded that it "... cannot not say for certain that some existing wind developments might have been precluded from obtaining contracts under the proposed definition." Idaho Power also went on to say, "Of course, if the definition had been in place before the 18 wind Firm Energy Sales Agreements were signed, Idaho Power expects that the wind QFs could have been restructured to avoid any problem with the definition." Staff believes it would be bad policy to adopt a new rule if there are serious doubts from the beginning about whether it will actually achieve its intended objective.

Idaho Power Reply Comments

Daily Load Shape Adjustment

In response to comments filed regarding the Company's proposed daily load shape adjustment Idaho Power accepted Staff's recommended method for computing the heavy load hour/light load hour price differential.

Idaho Power contends that U.S. Geothermal does not understand the rationale underlying the Company's daily load shape adjustment proposal. The Company's intent in

proposing a HLH/LLH rate differential is not to encourage or discourage base load operation by QFs. The Company's primary purpose instead is to more accurately value the energy being delivered. It is difficult for the Company 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 believes that its approach is self-executing and does not require litigation to provide the intended result.

Regarding U.S. Geothermal's express 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.

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

U.S. Geothermal argues that Idaho Power's proposal will require additional metering, recording, payment processing and administrative management for implementation and, as a result, QF program costs will increase. Idaho Power contends that U.S. Geothermal is incorrect. The metering and telemetry equipment installed on all QF projects larger than 1 MW is capable of recording the times when deliveries of generation occur. Meters with data storage capability that will track when energy is generated and delivered can be installed on smaller QF projects. 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 spreadsheet program the Company uses to compute payments to QFs. The Company contends that the incremental cost of implementing and administering the Company's HLH/LLH proposal is negligible.

Disaggregation of Large QFs Into Smaller Projects

Regarding the Company's proposal to limit QFs with common ownership from being located closer than five miles of each other, Idaho Power contends that U.S. Geothermal's assumption that the Company's proposal is impermissible under federal law is incorrect. Idaho Power states that it 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, it is the Idaho Commission, not FERC, Idaho Power contends, that determines which projects are entitled to the published rates. The five-mile-radius test Idaho Power proposes, the Company contends, deals solely with entitlement to published rates and is no way, it states, contrary to federal law.

Idaho Power believes that its proposed five-mile-radius rule is consistent with the Commission's policy of published rates for small QFs and IRPs for larger projects by requiring each small QF to demonstrate a separation of ownership and control. 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.

Idaho Power contends that the public good is served by having the avoided cost rates for large QF projects determined using the more sophisticated and precise IRP methodology. Idaho Power anticipates that when the hydroelectric project contracts mentioned by USG expire, regardless of what methodology is used to compute avoided costs, the owners of the projects will shop the generation from the projects to the highest bidder. Speculation as to what will happen with these contracts far in the future, Idaho Power contends, is not particularly productive.

Idaho Power maintains that its 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.

Commission Findings

The Commission has reviewed and considered the filings of record in Case No. IPC-E-07-04, including the comments and recommendations of PacifiCorp, U.S. Geothermal, Commission Staff and a supporter of renewable energy, and the reply comments of Idaho Power. We have also reviewed our Order No. 30111 in Case No. AVU-E-06-04 wherein we approved a daily shape adjustment for Avista Corporation. Based on our review, we continue to find it reasonable to process this case and the issues presented pursuant to Modified Procedure, i.e., by written submission rather than by hearing. IDAPA 31.01.01.204. We note that we administratively deferred our deliberation in this case to permit the filing and processing of similar cases by PacifiCorp (Case Nos. PAC-E-07-07 – Disaggregation and PAC-E-07-13 – Monthly Price Multipliers) and Avista Corporation (Case No. AVU-E-07-02 – Disaggregation).

The Commission finds that there is a difference in value between energy delivered by QFs during heavy load hours (HLH) and energy delivered during light load hours (LLH). We recognized this difference in 2006 when we approved a daily shape adjustment for Avista Corporation in Order No. 30111.

While the Commission appreciates the comments of U.S. Geothermal regarding the Company's proposed daily load shape adjustment, it appears that U.S. Geothermal misunderstands the rationale underlying the Company's proposal. The purpose of the daily load shape adjustment is to more precisely value the energy being delivered and not to encourage or discourage base load operation.

We find Staff's median value methodology for calculating the daily shape adjustment to be superior to the Company's weighted spread method. As calculated by Staff the daily shape adjustment amount computed as the median of the historic value since January 1, 2003 is \$7.28 per MWh.

The proposed daily load shape adjustment is in addition to the seasonal adjustment that is already applied. While we recognize that this introduces additional complexity, we are persuaded that the end result is a rate that more closely matches the true value of power at the time of delivery. We find the greater accuracy in matching price to value outweighs the attendant uncertainty that wind generators will confront in estimating monthly revenue. We expect the HLH/LLH rate differential to be monitored and reviewed by the Company and would expect the Company to request a change should the resultant differential no longer reflect the value of energy delivered. We also accept the Company's contention in its reply comments that the incremental cost of implementing and administering the daily shape adjustment is negligible.

Idaho Power has failed to persuade the Commission that there is a need to modify its rules for published rate eligibility to preclude disaggregation. Petition Attachment 2. The stated purpose of the rule change is to deny published rate eligibility to large QFs (QFs capable of generating more than 10 aMW per month) who reconfigure or artificially restructure themselves into multiple smaller projects and multiple legal entities in order to qualify for published rates. Purchase rates for projects greater than 10 aMW are individually negotiated using an IRP based methodology. The Company states "avoided costs determined by use of the more sophisticated IRP methodology have been slightly lower than the published rates." Idaho Power Petition, p. 4. The Company offered no evidence that this relationship still exists. Indeed, the Company states,

“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.” Idaho Power Reply Comments, p. 10. The Company, we find, has not convincingly demonstrated that this calculated type of project reconfiguration is occurring in Idaho or that the present requirements for published rate eligibility are now being or will be abused by wind and geothermal or other PURPA qualifying technologies.

Idaho Power contends that the Commission has the authority to be more restrictive in fashioning rules for the availability of published avoided cost rates than FERC’s one-mile-radius standard for determining QF eligibility status. 18 C.F.R. § 292.204(a)(2). The Company asks the Commission to impose an ownership restriction on projects located within what we find to be an arbitrary “five-mile radius.” This would be in addition to the geographic separation required by FERC for QF status. While it may be that 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,” we cannot find that without change abuse will occur and the public interest will not be served. Petition, p. 5. It is a change that we find would encourage and might actually promote gamesmanship. On the basis of the established record we find no reason to change the eligibility criteria for published rates to require a standard different than FERC QF status requirements.

CONCLUSIONS OF LAW

The Commission has jurisdiction over Idaho Power Company, an electric utility, and the issues presented in Case No. IPC-E-07-04 pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities (QFs) and to implement FERC rules.

ORDER

In consideration of the foregoing, IT IS HEREBY ORDERED and the Commission does hereby approve a daily load shape adjustment to published avoided cost rates for Idaho Power Company calculated using a median value methodology with a resultant adjustment of \$7.28 per MWh.

IT IS FURTHER ORDERED and the Commission does hereby deny the Company's proposal to clarify rules regarding published rate eligibility and disaggregation.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 7th day of September 2007.



PAUL KJELLANDER, PRESIDENT

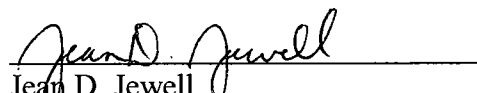


MARSHA H. SMITH, COMMISSIONER



MACK A. REDFORD, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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