

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

EXERGY DEVELOPMENT GROUP OF)	
IDAHO LLC,)	CASE NO. IPC-E-07-13
)	
PETITIONER,)	
)	NOTICE OF COMPLAINT
vs.)	AND MOTION TO COMPEL
)	
IDAHO POWER COMPANY,)	NOTICE OF
)	ORAL ARGUMENT
RESPONDENT.)	

YOU ARE HEREBY NOTIFIED that on July 22, 2007, Exergy Development Group of Idaho LLC (Exergy) filed a "formal complaint" against Idaho Power Company (Idaho Power; Company). Exergy owns and brings its complaint on behalf of five wind power generating projects located within Idaho, each possessing an approved Firm Energy Sales Agreement with Idaho Power. The subject matter of the complaint is Idaho Power's requirements for generation interconnection for qualifying facilities (QFs) under the Public Utility Regulatory Policies Act of 1978 (PURPA). The five Exergy QF projects are part of the Twin Falls 138 kV interconnection queue. The Company has determined that capacity and operational constraints on the Company's transmission system in the Twin Falls area require upgrade to accept all the generation being offered. All totaled, nearly 200 MW of new generation is being offered. The sharing of transmission upgrade costs was addressed by the Commission in Idaho Power/Cassia Case No. IPC-E-06-21, Order No. 30414.

In multiple counts, Exergy contends that Idaho Power is failing to provide cost estimates for interconnection pursuant to Schedule 72 (Interconnections to Non-utility Generation), is charging unauthorized deposits as a precondition of providing cost estimates, is threatening to remove Exergy's projects from the Company's transmission queue for failure to pay the deposits, is failing to treat all interconnection customers in the same manner and is operating under interconnection practices and policies that have not been approved by the Commission.

Pursuant to Commission issued Summons, Idaho Power on August 21, 2007, filed its answer to Exergy's complaint recommending that the relief requested by Exergy be denied and that the complaint be dismissed with prejudice. On September 12, 2007, Exergy filed a Motion (and Brief) to Compel Retention in Idaho Power's Interconnection Queue and to Prohibit Idaho Power from Assessing Illegal Interconnection Study Deposits. By way of explicit clarification, Exergy states that it accepts full responsibility for paying Idaho Power all prudently incurred interconnection costs. This case is not about cost responsibility, it contends, but rather it is about the timing of those costs. Exergy maintains that Idaho Power's Schedule 72 governs the process for interconnecting non-utility generators to the Company's system.

Schedule 72 provides in part

Unless specifically agreed otherwise in a written agreement between the Seller and the Company, an initial cost estimate of Company-owned interconnection Facilities will be provided to the seller. Payment of the estimated cost will be required prior to the Company's ordering, installing, modifying, upgrading, or performing in any other way work associated with the Interconnection Facilities. . . .

Exergy contends that Idaho Power puts the cart before the horse. The phrase "payment of the estimated cost," Exergy states, necessarily assumes that there is an estimate of the costs. Exergy contends "there is no provision in Schedule 72 for the pre-payment of interconnection costs, nor is there any reference in Schedule 72 to the imposition of deposits in advance of the provision of the 'actual cost estimate'." If the Commission had contemplated use of deposits, Exergy contends it would surely have provided for a mechanism for collecting, refunding, and accounting for such deposits. No utility, Exergy contends, may charge anything other than what it is permitted to charge in its tariffs. Citing *Idaho Code* § 61-313. Citing QF Power Purchase Agreements, Appendix B Paragraph B-10, Exergy contends that the agreements approved by the Commission contemplate reimbursement of Idaho Power costs, not pre-payment.

Without first implementing a ratemaking procedure or opening a docket to amend Schedule 72, Exergy contends that Idaho Power and its QF customers are limited to the four corners of Schedule 72 and nothing more.

On September 26, 2007, Idaho Power filed an answer to Exergy's Motion. Idaho Power in its Answer describes FERC's four-step interconnection application process (Application, Feasibility Study, System Impact Study, Facility Study). The Company states that

it applies the Federal Energy Regulatory Commission (FERC) rules for managing priority in the interconnection queue and processing all interconnection requests to assure compliance with FERC's regulations, and to ensure comparable treatment between QF and non-QF generation developers.¹ Idaho Power contends that Exergy was in fact provided initial cost estimates for its projects as part of project specific Generator Interconnection Feasibility Studies. Answer to Motion, Exhibits 1-5. Having provided Exergy with an initial estimate of cost responsibility, the Company contends it is authorized under Schedule 72 to request an additional deposit for further interconnection studies. If Exergy wants to stay in the interconnection queue and continue with the design and cost estimation process, it can pay the additional deposit. Idaho Power states that the Company's request to Exergy is consistent with the process the Company follows for all interconnection requests. Idaho Power notes that since year 2000, the Company has received more than 200 requests for interconnection. In each instance, the Company has requested and received deposits to offset engineering and design expense and to ensure that customers have some measure of protection if a developer decides to abandon its generation project in midstream.

Exergy has already paid Idaho Power the following deposits. The additional deposit requested is to proceed further in the interconnection study process.

QF Project	Deposit Paid	Additional Deposit Requested
Golden Valley	\$11,088	\$35,000
Milner Dam	\$11,088	\$100,000
Notch Butte	\$11,088	\$100,000
Lava Beds	\$500	\$10,000
Salmon Falls	\$8,324	\$10,000

Idaho Power in its Answer to Motion states that the Company is not relying on FERC's authority as justification for collecting deposits from Exergy. The Company states it does not need to rely on FERC's authority. The plain language in Schedule 72, it states, provides the Company with all the authority it needs to collect deposits to protect customers. The benefit

¹ In its Reply to Answer, Exergy contends that it is unreasonable to assume that FERC's interconnection rules are appropriate for wholesale adoption in Idaho for QF interconnections. Many states, it argues, have adopted their own comprehensive set of interconnection rules for QF interconnections that recognize the fact that most QFs interconnect at distribution or subtransmission voltages.

of applying FERC's interconnection study process, the Company maintains, is the uniformity and consistency that it provides. Using FERC's four-stage interconnection study process and the FERC's rules for managing the QF interconnection queue, the Company contends, is completely compatible and consistent with the terms of Schedule 72. Nothing in Schedule 72, Idaho Power states, precludes the Company from taking payments for interconnection facilities in installments. A pre-payment to be applied to a final bill, the Company contends, is a "deposit," regardless of what it is called.

Idaho Power recommends that Exergy's Motion be denied and that Exergy be required to post the required deposits and that the Company be authorized to remove Exergy projects from the interconnection queue for failure to do so. The costs of interconnection for all participants in the Twin Falls queue, Idaho Power states, are dependent on whether or not other projects ahead of them in the queue proceed for development. (Reference Idaho Power/Cassia Case No. IPC-E-06-21, Order No. 30414.) By remaining in the queue without providing deposits in the same manner that other queue participants have provided them, the Company contends that the Exergy projects have created uncertainty and have imposed a financial disadvantage on other participants in the queue.


YOU ARE FURTHER NOTIFIED that pursuant to agreement of the parties and the Commission, **Oral Argument** of the parties on the issues raised in the filings in Case No. IPC-E-07-13 is **SCHEDULED TO COMMENCE AT 10:00 A.M. ON FRIDAY, JANUARY 18, 2008 AT THE COMMISSION HEARING ROOM, 472 WEST WASHINGTON STREET, BOISE, IDAHO.**

YOU ARE FURTHER NOTIFIED that the oral argument in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0338 (Telephone)
(208) 334-3762 (FAX)
E-Mail: secretary@puc.idaho.gov

YOU ARE FURTHER NOTIFIED that the initial complaint and subsequent filings in Case No. IPC-E-07-13 have been filed with the Commission and are available for public inspection during regular business hours at the Commission offices. The complaint and subsequent filings are also available on the Commission's Website at www.puc.idaho.gov under "File Room" and then "Electric Cases."

DATED at Boise, Idaho this 4th day of January 2008.



Jean D. Jewell
Commission Secretary

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