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April 29, 2014

VIA HAND DELIVERY

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

Re: Case No. IPC-E-13-21
Capacity Deficiency Period Utilized in SAR Methodology – Idaho Power
Company's Petition for Reconsideration and Testimony

Dear Ms. Jewell:

Enclosed for filing in the above matter are an original and seven (7) copies of Idaho Power Company's Petition for Reconsideration of Commission Order No. 33016.

Also enclosed for filing are an original and eight (8) copies of the Direct Testimony of Tami White. One copy of the aforementioned testimony has been designated as the "Reporter's Copy." In addition, a disk containing a Word version of Ms. White's testimony is enclosed for the Reporter.

Very truly yours,



Donovan E. Walker

DEW:csb
Enclosures

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Attorney for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER)	
COMPANY'S APPLICATION FOR)	CASE NO. IPC-E-13-21
APPROVAL OF ITS CAPACITY)	
DEFICIENCY PERIOD TO BE UTILIZED IN)	IDAHO POWER COMPANY'S
THE COMPANY'S SAR METHODOLOGY.)	PETITION FOR
)	RECONSIDERATION OF
)	COMMISSION ORDER NO. 33016
)	

Idaho Power Company ("Idaho Power" or "Company"), pursuant to *Idaho Code* § 61-626, RP 33, and RP 331, *et seq.*, hereby respectfully petitions the Idaho Public Utilities Commission ("Commission") for reconsideration of the Commission's Order No. 33016 issued on April 8, 2014, in the above-entitled case. The Commission's Order directing the Company to utilize July 2013 as its first capacity deficit in the Company's surrogate avoided resource ("SAR") methodology is arbitrary, capricious, unreasonable, unlawful, erroneous, and not in conformity with the facts and/or applicable law, resulting in establishment of avoided cost projections, locked in for up to 20 years, that exceed the Company's avoided costs and are harmful to Idaho Power's customers. This Petition is based upon the following:

I.

LEGAL STANDARD

A party must seek reconsideration prior to initiating an appeal to the Idaho Supreme Court. *Idaho Code* § 61-627. An issue not presented to the Commission on reconsideration will not be considered on appeal. *Key Transp. Inc. v. Trans Magic Airlines Corp.*, 96 Idaho 110, 524 P.2d 1338 (1974). “The purpose of an application for rehearing is to afford an opportunity to the parties to bring to the attention of the Commission in an orderly manner any question theretofore determined in the matter and thereby afford the Commission an opportunity to rectify any mistake made by it before presenting the same to this Court.” *Washington Water Power Co., v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979)(citing *Idaho Underground Water Users Ass’n v. Idaho Power Co.*, 89 Idaho 147, 404 P.2d 859 (1965); *Consumers Co. v. Public Utilities Comm’n*, 40 Idaho 772, 236 P. 732 (1925)).

The Commission may grant reconsideration by conducting an evidentiary hearing; by reviewing the existing record; or by the submission of briefs, memoranda, written interrogatories, or written statements. RP 332; Order No. 32974, p. 11, Case No. IPC-E-11-15.

II.

PROCEDURAL HISTORY AND BACKGROUND

In December 2012, the Commission directed that this case be initiated outside of the Integrated Resource Plan (“IRP”) filing for the establishment of the capacity deficiency period to be utilized in the SAR avoided cost rate methodology:

[W]e find it reasonable and fair to subject each utility’s determination of capacity deficiency to further scrutiny.

Therefore, when a utility submits its Integrated Resource Plan to the Commission, a case shall be initiated to determine the capacity deficiency to be utilized in the SAR Methodology. The capacity deficiency determined through the IRP planning process will be the starting point, and will be presumed to be correct subject to the outcome of the proceeding.

Order No. 32697, p. 23. The Commission also directed in that Order that inputs into avoided cost rate calculations from the Company's IRP will remain fixed between IRP cycles, with the exception of the load forecast and the natural gas forecast—which is to be updated annually by October 15 of each year. Order No. 32697, p. 22; Order No. 32802. The Commission also directed that Public Utility Regulatory Policies Act of 1978 (“PURPA”) contracts that have terminated or expired, as well as any new long-term contracts that have been signed, be included in the utility's load and resource balance. Order No. 32697, p. 22.

Idaho Power filed its 2013 IRP on June 28, 2013, which was accepted by the Commission on February 24, 2014. Order No. 32980. On October 15, 2013, the Company filed its updates to the IRP's avoided cost rate inputs, including an updated load forecast, updated natural gas forecast, and an updated list of new and terminated PURPA contracts and long-term power purchase agreements. Commission Case No. IPC-E-13-18. The Commission subsequently approved these updates in Order No. 32941 on December 5, 2013.

On October 2, 2013, Idaho Power filed a settlement agreement regarding the continuation of its three demand response (“demand response” or “DR”) programs with the Commission seeking its approval (“DR Settlement Agreement”). Case No. IPC-E-13-14. The Commission subsequently issued Order No. 32923 approving the DR

Settlement Agreement on November 12, 2013, requiring Idaho Power to accept all existing, and some new, demand response participants up to 2012 levels (which was 438 megawatts (“MW”)).

Idaho Power filed its Application in this case on November 4, 2013, seeking an update to the capacity deficiencies identified in the 2013 IRP for purposes of avoided cost rate determinations with a first deficit occurring in July 2021. On February 28, 2014, Staff filed Comments recommending inclusion of DR up to 170 MW with a first deficit year of 2016. The Idaho Irrigation Pumpers Association, Inc., filed comments supporting Idaho Power’s requested inclusion of up to 440 MW of DR with a first deficit occurring in July of 2021. Idaho Power filed Reply Comments addressing Staff’s criticisms and assumptions and reiterating its request for establishment of a first capacity deficit occurring in July 2021 for purposes of avoided cost rate determinations.

On April 8, 2014, the Commission issued Order No. 33016 determining to include 0 MW of DR and establishing July 2013 as the Company’s first capacity deficit to be used in the SAR avoided cost methodology stating:

[W]e decline to arbitrarily choose a number to attach to demand response for purposes of calculations within the SAR methodology absent evidence of the restructured programs’ success. It is simply too early in the implementation process to be able to reasonably predict participation. Therefore, at this time, we cannot find a reasonable basis upon which to approve inclusion of any demand response in a determination of when Idaho Power becomes capacity deficient.

Order No. 33016, p. 5.

Idaho Power now files this Petition for Reconsideration, along with the Direct Testimony of Tami White, proffering the additional evidence that, to date, 403 MW of DR has signed up to participate for the 2014 season.

III.

THE COMMISSION'S INCLUSION OF ZERO DEMAND RESPONSE IN THE COMPANY'S CAPACITY DEFICIENCY DETERMINATION IS UNREASONABLE, UNLAWFUL, ERRONEOUS, ARBITRARY, CAPRICIOUS, AND NOT IN CONFORMITY WITH THE FACTS AND/OR APPLICABLE LAW WHERE THE COMPANY IS REQUIRED TO ACCEPT UP TO 438 MW FROM EXISTING PROGRAMS AND 403 MW HAVE ENROLLED FOR THE 2014 SEASON

The Commission's determination to not include any demand response in a determination of when Idaho Power becomes capacity deficient is not supported by the facts of the case. The Commission's determination is not consistent with the requirements of the DR Settlement Agreement, is not consistent with the preferred and alternative resource portfolios and analysis in the 2013 IRP, and is not consistent with the actual participation levels that are now established for 2014. It is unreasonable to include zero demand response for a determination of Idaho Power's capacity deficiency based upon the record before the Commission, and the additional evidence proffered on reconsideration.

A. The DR Settlement Agreement

The record establishes that the DR Settlement Agreement requires the Company to take all demand response up to approximately 440 MW (up to 2012 levels of 438 MW) and to allow any additional A/C Cool Credit participants that wish to participate to do so. Within each program description in the DR Settlement Agreement, the parties described how existing, and in some cases new, participants would be included in the programs going forward. The parties to the DR Settlement Agreement agreed early on

that participation should not be unnecessarily limited and that the Company would utilize its “participating demand response customers.” DR Settlement Agreement, p. 3. For the A/C Cool Credit program, the parties agreed that existing participants will be allowed to remain in the program, new participants will be allowed to join, and, in certain limited circumstances, the Company will contact customers to inquire about participation. DR Settlement Agreement, p. 5. For the Irrigation Peak Rewards program, participants are limited to past program participants with an active, working load control device. DR Settlement Agreement, p. 6. For the FlexPeak Management program, Idaho Power will not actively seek to expand the capacity. DR Settlement Agreement, p. 7. In no case does the DR Settlement Agreement allow Idaho Power to turn away existing program participants. In no event does the DR Settlement Agreement intend or imply any limitation of DR capacity beyond that of existing participants at 2012 levels up to 440 MW.

Because participation is not limited and because the Company must use existing DR resources when possible, the Company is required to accept up to 2012 participation levels, which is approximately 440 MW of DR. However, the Commission stated:

The terms and conditions of participation in these programs is now different and will result in differing levels of participation than what Idaho Power enjoyed prior to suspension. No one can determine participation level with any degree of certainty. As we stated in the settlement proceedings, we continue to believe that “it is important for the Company to continue its DR programs to ensure it has sufficient, reliable DR resources to meet expected deficits.” Order No. 32923 at 7. However, we decline to arbitrarily choose a number to attach to demand response for purposes of calculations within the SAR methodology absent evidence of the restructured programs’ success. It is simply

too early in the implementation process to be able to reasonably predict participation. Therefore, at this time, we cannot find a reasonable basis upon which to approve inclusion of any demand response in a determination of when Idaho Power becomes capacity deficient.

Order No. 33016, p. 5.

Commission Staff ("Staff") alleged that attrition would substantially reduce the program sizes and capacity that the Company may receive. However, under the terms of the DR Settlement Agreement, Idaho Power must accept up to 440 MW of DR capacity if program participants choose to participate or any new A/C Cool Credit participants wish to sign up at the programs' current incentive amounts. Based solely upon the existing record, even if one assumes some level of attrition to the participation in the DR programs from past levels, the capacity deficits in early years are small enough that they would be covered even with greatly decreased participation. The peak-hour surplus/deficit determination from the 2013 IRP, updated with the required load and gas forecasts, new and terminated PURPA contracts, and long-term power purchase agreements identifies the following deficiencies: 87 MW in 2013, 30 MW in 2014, 94 MW in 2015, 275 MW in 2017, 320 MW in 2018, 365 MW in 2019, 414 MW in 2020, and 476 MW in 2021. Idaho Power Application, p. 3. As the Company stated in its Reply Comments, even assuming some attrition to participation in the programs, it is reasonable to assume that near-term deficits will be met even with greatly reduced participation. Idaho Power Reply Comments, pp. 8-9.

The Commission need not speculate as to participation in demand response. Actual 2014 DR subscription has demonstrated the unreasonableness of assuming no demand response will be available. Idaho Power has received over 400 MW of DR

subscriptions for the 2014 season. White Direct, p. 7. As of April 24, 2014, Idaho Power has DR program participants enrolled to provide a maximum load reduction at generation level of approximately 403 MW. *Id.* This includes 34 MW from A/C Cool Credit, 40 MW from FlexPeak Management, and 329 MW from Irrigation Peak Rewards. *Id.* The enrollment period for the Irrigation Peak Rewards program began in March and the participants were asked to respond by April 4, 2014. *Id.* Idaho Power has received the majority of the enrollments from eligible irrigation participants and the Company does not expect the enrollments to change significantly from the 329 MW. *Id.* The current enrolled capacity of 403 MW is a result of current incentives; however, as Company load continues to grow and additional demand response is needed, the Company anticipates incentive payments may need to be adjusted to attain 440 MW or higher. Idaho Power Reply Comments, p. 9.

The enrollment in the A/C Cool Credit program could increase based on the complete replacement of the radio-controlled cycling switches, the number of customers that move into a house with an existing load control switch that enroll, the number of former participants that moved and wish to re-enroll, and the number of customers that contact Idaho Power wishing to enroll in the program. *Id.*, pp. 7-8. The load reduction from the FlexPeak Management program (which is contingent upon Commission approval of the extension of the contract with EnerNOC, Inc., Case No. IPC-E-14-02) is expected to be 40 MW at generation level, as provided in the contract with EnerNOC, Inc. *Id.*, p. 8. Based on past performance and the current proposed contract extension, Case No. IPC-E-14-02, with EnerNOC, Inc., Idaho Power expects the performance to be fairly stable throughout the program season. *Id.* EnerNOC, Inc., has a good

performance record for the past five years and has a financial incentive to continue providing the 40 MW of load reduction agreed upon. *Id.*

Consequently, not only is Idaho Power required to accept up to 440 MW of DR by the DR Settlement Agreement, but over 400 MW has all ready subscribed for the 2014 season. It is unreasonable, unlawful, erroneous, arbitrary, capricious, and not in conformity with the fact and/or applicable law to assume 0 MW of DR capacity for avoided cost pricing purposes.

B. The 2013 IRP

The Commission's determination is not consistent with the preferred and alternative resource portfolios and analysis in the 2013 IRP. The Commission stated, "Idaho Power made a business decision to suspend its demand response programs. As a consequence, demand response was not included as an existing resource in the Company's 2013 IRP." Order No. 33016, p. 5. Demand response was analyzed and included as a committed resource in all nine resource portfolios contained in the 2013 IRP, and was used "throughout the planning period to meet resource needs." 2013 IRP pp. 8, 37-38, 40-41, and 90-92.

Demand response was specifically not included in the load and resource balance as an existing resource because of the flexibility the programs provide in being able to be ramped up and down as needed, but DR was definitely included in the analysis of the 2013 IRP. While the DR programs were not treated as an "existing" resource under the typical IRP definition, they were certainly treated as a "committed" resource, as evidenced by the fact that all nine resource portfolios analyzed in the IRP contain

varying amounts of DR depending on other resources in each portfolio in each year of the 20-year planning horizon.

The “business decision” to suspend two of the three DR programs in 2013 was the subject of Case No. IPC-E-12-29 filed by Idaho Power seeking authority to do so, based upon the avoidable cost to customers for unneeded DR programs when adequate system capacity would exist to serve anticipated peak loads. White Direct, p. 4. Ultimately, it was the filing in Case No. IPC-E-12-29, and subsequently in Case No. IPC-E-13-14, that resulted in the DR Settlement Agreement that provided for the continuation of the DR programs and requirement for Idaho Power to accept up to 440 MW of DR participation in 2014 and beyond. The suspension of the two programs in 2013 came at an expense to customers of less than \$10,000, and saved customers more than \$10 million. Tatum Direct, pp. 17-18, Case No. IPC-E-14-05. However, the fact that the programs were suspended in 2013 does not mean that they were not considered as committed resources in the 2013 IRP.

The Company’s 2013 IRP identifies DR resources up to 400 MW to meet all identified capacity deficits up to July 2021. As stated above, the DR Settlement Agreement requires the Company to accept all DR up to 2012 levels. Historical DR peak reduction capacity levels reported in the 2013 IRP are 336 MW for 2010, 403 MW for 2011, and 438 MW for 2012. 2013 IRP, p. 40. The preferred resource portfolio from the 2013 IRP relies primarily upon the Boardman to Hemingway (“B2H”) transmission line with associated market purchases as the major resource acquisition to cost-effectively meet the Company’s service obligations. 2013 IRP, p. 8. The preferred resource portfolio assumes an expected operational date of B2H as 2018. *Id.*

Because of delays in the ongoing required state and federal permitting processes for the B2H line, the Company recently announced that the operational date for B2H will be no sooner than 2020. Attachment 1 to Idaho Power's Reply Comments filed in this case contains the updated load and resource balance that was the basis for Table 3 in Idaho Power's Application in this proceeding and shows the inclusion of 440 MW of DR, which eliminates summer deficits through July 2020. The amount of DR begins at 30 MW in the summer of 2014 and gradually increases to 440 MW in the summer of 2021, which is the first summer the DR programs are not able to eliminate the entire deficit; i.e., the first deficit year. Just as the preferred resource portfolio relied upon contributions from DR to meet peak capacity deficiencies prior to B2H becoming operational, the first resource portfolio that considers resource options without the addition of B2H meets all near-term, peak-hour capacity deficiencies with DR, up to 400 MW. 2013 IRP, p. 91, Resource Portfolio 3. Resource Portfolio 3 considers the Company's resource portfolio without the addition of the B2H line, and includes DR up to 400 MW. This resource portfolio meets all identified capacity deficits to July 2021. If DR were limited to the 170 MW suggested by Staff, resulting in a first deficit year of 2016, or if the Company's first deficit was in July of 2013, as directed by the Commission in Order No. 33016, the Company would have to presently be developing the next combined- or simple-cycle combustion turbine in order to have it operational to meet the purported capacity deficits. However, the Company's IRP considered the alternative that B2H would not be on-line when anticipated and, in those alternatives, the Company's IRP calls for meeting those deficiencies with DR. From the perspective of Idaho Power's IRP planning process, Idaho Power's customers have borne the costs

associated with developing the Company's DR programs and to ignore the past proven capabilities of these programs would be incorrect.

Based upon the additional evidence that over 400 MW of DR has subscribed for the 2014 season, the IRP's reliance upon meeting various capacity deficits through 2020 with up to 400 MW of DR continues to be reasonable and well founded.

C. Avoided Cost Rates

The purpose of this docket is to establish, outside of the IRP, the capacity deficiency utilized for avoided cost PURPA pricing. As recognized by the Commission when addressing separate capacity and energy payments to qualifying facilities ("QF") in the final Order for Case No. IPC-E-11-03:

The legal standard for an appropriate determination of avoided cost rates is clearly defined by PURPA. Rates for purchases from a QF shall "(i) be just and reasonable to the electric consumer of the electric utility and in the public interest; and (ii) not discriminate against qualifying cogeneration and small power production facilities." 18 C.F.R. § 292.304(a)(1). "Nothing in this subpart requires any electric utility to pay more than the avoided costs for purchases." *Id.* at § 292.304(a)(2). Avoided costs are those costs which a public utility would otherwise incur for electric power, whether that power was purchased from another source or generated by the utility itself. 18 C.F.R. § 292.101(b)(6). PURPA allows QFs to obtain a rate equivalent to the utility's avoided cost, a rate that holds the utility customers harmless

Order No. 32697, p. 16.

With the purpose of this docket to establish the capacity deficiency utilized for avoided cost PURPA pricing in mind, any PURPA contracts entered into will lock this capacity deficiency into the avoided cost rates for the next 20 years, and cannot subsequently be changed. The effect of arbitrarily ignoring DR potential is to increase

the avoided cost of capacity payments made in any PURPA contracts, and to lock that higher payment in for the next 20 years with no ability to change it, resulting in customers paying more than they should for these contracts—or, in other words, inflating the avoided cost price and harming customers by requiring Idaho Power to pay more than its avoided cost. Customers are harmed in that they must pay for capacity provided by the DR programs, and then pay again for a capacity contribution in the PURPA contracts, when those capacity deficits will have all ready been met by the DR programs. Even if the next IRP analysis, or the continued operation of the DR programs, shows that all capacity deficits are met through 2021 or beyond, the PURPA contracts entered into in the interim period will have locked in capacity payments for 20 years based upon the assumption of 0 MW of DR and a resulting capacity deficit that occurs at least eight years sooner than the reasonable analysis and requirements of the DR Settlement Agreement, the 2013 IRP, and the actual participation for 2014 would indicate.

IV.

CONCLUSION

Idaho Power respectfully requests that the Commission issue an order on reconsideration approving the capacity deficiency period shown in Table 3 of Idaho Power's Application, with a first deficit occurring in July 2021.

As discussed above, the Commission's assumption of DR capacity to 0 MW is not supported by the Commission-approved DR Settlement Agreement, the Commission-accepted 2013 IRP, the actual 2014 DR subscriptions, or any other analysis. Idaho Power's inclusion of up to 440 MW of DR is consistent with the DR

Settlement Agreement's requirement that Idaho Power accept all existing, and some new, demand response participants up to 2012 levels (which was 438 MW). It is also consistent with the preferred and alternative resource portfolios in the 2013 IRP, which utilizes DR to meet all identified capacity deficiencies until the B2H transmission line is completed. It is also validated by the additional evidence that over 400 MW of DR has signed up to participate for the current 2014 season, with the potential for additional participation.

Idaho Power respectfully requests that the Commission issue an order on reconsideration approving the capacity deficiency period shown in Table 3 of Idaho Power's Application, with a first deficit occurring in July 2021.

Respectfully submitted this 29th day of April 2014.



DONOVAN E. WALKER
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29th day of April 2014 I served a true and correct copy of IDAHO POWER COMPANY'S PETITION FOR RECONSIDERATION OF COMMISSION ORDER NO. 33016 upon the following named parties by the method indicated below, and addressed to the following:

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