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August 13, 2014

VIA HAND DELIVERY

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

Re: Case No. IPC-E-14-22
Confirming Use of Capacity Deficiency Period in IRP Methodology – Idaho
Power Company's Application

Dear Ms. Jewell:

Enclosed for filing please find an original and seven (7) copies of Idaho Power
Company's Application in the above matter.

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 THE APPLICATION)
OF IDAHO POWER COMPANY)
CONFIRMING USE OF THE CAPACITY) CASE NO. IPC-E-14-22
DEFICIENCY PERIOD FOR THE)
INCREMENTAL COST, INTEGRATED) APPLICATION
RESOURCE PLAN, AVOIDED COST)
METHODOLOGY.)
_____)

Idaho Power Company ("Idaho Power" or "Company"), in accordance with RP 52, the applicable provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), and Idaho Public Utilities Commission ("Commission") Order Nos. 32697 and 33084, hereby respectfully applies to the Commission for an order confirming the use of a July 2021 capacity deficiency period in the approved incremental cost, integrated resource plan, avoided cost methodology ("IRP Methodology") applicable to the negotiated avoided cost rates for proposed PURPA qualifying facility ("QF") wind and solar projects that exceed 100 kilowatts ("kW"), and all other proposed QF projects that exceed 10 average megawatts ("aMW").

In support of this Application, Idaho Power represents as follows:

I. CAPACITY DEFICIENCY FROM ORDER NO. 32697

On December 18, 2012, the Commission issued Order No. 32697, Case No. GNR-E-11-03, which authorized the use of Idaho Power's incremental cost IRP Methodology. Order No. 32697, p. 21. The Surrogate Avoided Resource ("SAR") avoided cost methodology ("SAR Methodology") is applicable to published, or standard, rate avoided cost contracts. *Id.*, pp. 14-17. Solar and wind QF projects that do not exceed 100 kW, and all other QF projects that do not exceed 10 aMW, are eligible for published avoided cost rates. *Id.* All QF projects that exceed the aforementioned published rate eligibility caps of 100 kW and 10 aMW receive negotiated avoided cost rates based upon the approved incremental cost, IRP Methodology. *Id.*, pp. 20-21.

With regard to the capacity deficiency, the Commission directed, "We further find it appropriate to identify each utility's capacity deficiency based on load and resource balances found in each utility's IRP." *Id.*, p. 16.

In calculating a QF's ability to contribute to a utility's need for capacity, we find it reasonable for the utilities to only begin payments for capacity at such time that the utility becomes capacity deficient. If a utility is capacity surplus, then capacity is not being avoided by the purchase of QF power. By including a capacity payment only when the utility becomes capacity deficient, the utilities are paying rates that are a more accurate reflection of a true avoided cost for the QF power.

Order No. 32697, p. 21.

The Commission went on to discuss the Integrated Resource Plan ("IRP") planning process and the use of inputs from the IRP planning process in the calculation of avoided cost rates. *Id.*, pp. 22-23. The Commission directed:

In an effort to address the concerns of the QF developers who maintain that a utility could manipulate variables within the IRP planning process in a way that would negatively impact the pricing of capacity paid to a QF, we 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 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.

With regard to the IRP Methodology, the Commission stated, "in order to maintain the most accurate and up-to-date reflection of a utility's true avoided cost, utilities must update fuel price forecasts and load forecasts annually – between IRP filings. . . . all other variables and assumptions utilized within the IRP Methodology remain fixed between IRP filings (every two years)." *Id.*, p. 22.

Consequently, a literal reading of the relevant portions of Order No. 32697, cited above, concludes that for both the SAR and IRP Methodologies the utility's capacity deficiency is initially established to be the same as that identified by the utility's IRP planning process. For the SAR Methodology, a separate case proceeding is initiated at the time the IRP is filed to separately establish the capacity deficiency period for the SAR Methodology. This happens every two years. For the IRP Methodology, the utility updates the load and resource balance forecasts annually, in conjunction with the annual update to the natural gas and fuel price forecasts. This was initially set to occur on June 1 of each year. *Id.*, p. 22. However, upon clarification and reconsideration, this was later changed to October 15 of each year. Order No. 32802, p. 3.

II. CAPACITY DEFICIENCY FROM CASE NO. IPC-E-13-21

As directed by Order No. 32697, Idaho Power initiated a proceeding on November 4, 2013, seeking approval of the capacity deficiency to be utilized in the SAR Methodology. Case No. IPC-E-13-21. Idaho Power asked the Commission to approve a capacity deficit period with a first deficit occurring in July 2021. Case No. IPC-E-13-21, Application, p. 5. The capacity deficit from the 2013 IRP showed a first deficit of July 2016. *Id.*, p. 2. Updating the IRP's July 2016 first deficit with the October 2013 load, gas, and cogeneration and small power production ("CSPP") forecasts resulted in a first deficit of July 2013. *Id.*, p. 3. Finally, updating the July 2013 first deficit with the inclusion of up to 440 megawatts ("MW") of demand response ("DR") pursuant to the October 2, 2013, DR settlement agreement moves the first deficit to July 2021. *Id.*, p. 4.

Upon reconsideration, and the additional evidence that as of April 24, 2014, the Company had demand response program customers for the 2014 season with an enrolled capacity exceeding 400 MW, the Commission ordered the Company to "utilize July 2021 as its first capacity deficit to be used in the Company's SAR methodology, as more fully described herein." Order No. 33084.

III. DISCUSSION

Order No. 32697 directs an independent update for the Company's current capacity deficit for the SAR Methodology. Both the SAR and the IRP Methodologies start with a default capacity deficit which is the same as that established by the most recent IRP planning process. For the 2013 IRP planning process, a first deficit was identified as 2016 in the preferred resource portfolio. However, because of the suspension of the Company's DR programs in 2013 at the time the 2013 IRP was finalized and filed with the Commission, the first deficit of 2016 legitimately did not

consider the approximate 400 MW of DR. Subsequent to the filing of the 2013 IRP, the Company entered into a settlement stipulation regarding its DR programs, which was subsequently approved by the Commission. This stipulation obligated the Company to accept up to 440 MW of DR. For 2014, the Company received actual subscribed customers to its DR programs that exceeded 400 MW. Consequently, the Commission updated the Company's first deficit from the IRP planning process to now include consideration of the Company's DR programs, which were not considered in the preferred resource portfolio of the IRP. This resulted in the Commission-approved first deficit of July 2021 for avoided cost rates established by the SAR Methodology.

The inputs to the IRP Methodology are currently scheduled to be updated, pursuant to Order Nos. 32697 and 32802, in October 2014. However, because of the unique circumstances regarding the way that DR programs were excluded in the 2013 IRP, those MW were not initially included in the IRP Methodology and its resulting negotiated avoided cost rates. Consequently, Idaho Power, in the determination of negotiated avoided cost rates pursuant to the IRP Methodology, has previously entered into contracts (Grand View Solar and Boise City Solar) and previously sent initial indicative pricing runs to several other proposed projects that contain capacity payments for the entire term of the 20-year contract. However, once the Commission determined in Order No. 33084 that the Company was capacity sufficient through July of 2021, Idaho Power sent the revised SAR Methodology published rate pricing, as well as revised indicative pricing pursuant to the IRP Methodology, to all projects that had previously requested pricing. The updated indicative pricing runs removed the capacity portion of the avoided cost rates through June of 2021 to recognize the current first capacity deficit of July 2021.

Idaho Power believes the correct avoided cost pricing for all proposed PURPA projects takes into account the determined first capacity deficit of July 2021. The IRP Methodology is meant to be a more flexible, negotiated process whereby a more accurate representation of avoided costs can be determined and reduced to an obligation that is passed on to Idaho Power's customers for the next 20 years. The Commission clearly intended, in Order No. 32697, that the utility's capacity deficiency be updated, and that a capacity payment be reflected in avoided cost rates only for those times that the utility is capacity deficient.

In computing avoided cost rates under the IRP Methodology, each of the three utilities already employs a two-step approach in which energy and capacity values are computed separately. In calculating a QF's ability to contribute to a utility's need for capacity, we find it reasonable for the utilities to only begin payments for capacity at such time that the utility becomes capacity deficient. If a utility is capacity surplus, then capacity is not being avoided by the purchase of QF power. By including a capacity payment only when the utility becomes capacity deficient, the utilities are paying rates that are a more accurate reflection of a true avoided cost for the QF power.

Order No. 32697, p. 21.

The inputs to the IRP Methodology are updated every two years with each new IRP, and annually in October with updated gas, load, and CSPP forecasts. The capacity component of avoided cost rates in the IRP Methodology is established separately from the energy component of the rate. The energy component is based upon the proposed project's specific hourly generation profile, which is compared to an AURORA modeled run of the Company's system. In this comparison, for each hour that the QF provides generation, the highest cost Company resource serving load (generation or market purchase) for that hour is assigned as that hour's avoided cost.

These hourly incremental costs are accumulated into monthly heavy-load and light-load prices that represent the avoided cost of energy. The capacity component of the avoided cost rate is based upon the cost of a simple-cycle natural gas combustion turbine and the QF's peak-hour capacity factor. Consequently, it is not necessary to change or update any of the inputs in the AURORA modeling or the IRP Methodology that are determined by the IRP and the October updates. The capacity component of the avoided cost rate is simply removed for any years that the utility is capacity sufficient. In this case, with a Commission determination that the Company is capacity sufficient until July 2021, the indicative pricing for negotiated rate, proposed QF projects was revised to remove the capacity portion of the rate until the July 2021 first capacity deficit.

Idaho Power currently has two signed solar contracts filed with the Commission for its review: Grand View at 80 MW and Boise City Solar at 40 MW, which were entered into prior to the Commission determination of a first capacity deficit of July 2021. In addition, Idaho Power currently has just over 529 MW of proposed new solar QF projects seeking pricing and contracts. Of this 529 MW, eight proposed projects (just over 208 MW) had previously received initial indicative pricing that included capacity payments for the entire term of the contract sent prior to the Commission's July 2021 first capacity deficit determination. Each of these projects has received superseding and updated indicative pricing runs with the capacity portion of the rates removed through June of 2021. The difference in the rates varies for each project's unique generation profile but the approximate difference in rates over a 20-year contract term is about \$6.3 million for a 20 MW project. The difference in avoided cost rates for those eight projects that received revised indicative pricing is approximately \$65 million.

The difference in price for all 529 MW of proposed solar projects is just about \$170 million.

Several projects have raised objection to Idaho Power's inclusion of a first capacity deficit of July 2021 in their indicative avoided cost prices, claiming that Idaho Power "lacks authorization to unilaterally alter prices based on the IRP methodology to remove payments for capacity" and that they have a legally enforceable obligation to the previous indicative pricing containing capacity payments for the entire duration of the contract. Not only is this an incorrect assertion regarding the law of how a legally enforceable obligation is established in the state of Idaho, but it is also incorrect as to the process of establishing negotiated rates under the approved IRP Methodology.

The Idaho Supreme Court has recently issued an opinion in which it has examined and reaffirmed the Commission's authority and process for establishing a legally enforceable obligation as proper and consistent with both state and federal law. *Idaho Power Co., v. Idaho Public Utilities Comm'n.*, 155 Idaho 780, 316 P.3d 1278 ("*Grouse Creek*"). The Idaho Supreme Court affirmed that, "IPUC has authority under state and federal law, to require that before a developer can lock in a certain rate, there must be either a signed contract to sell at that rate or a meritorious complaint alleging that the project is mature and that the developer has attempted and failed to negotiate a contract with the utility; that is, there would be a contract but for the conduct of the utility." *Id.*, 316 P.3d at 1285 (quoting *Rosebud Enterprises, Inc. v. Idaho Public Utilities Comm'n.*, 131 Idaho 1, 6, 951 P.2d 521, 526 (1997)). "[W]e again affirm IPUC's requirement that a finding of a legally enforceable obligation requires a showing that there would have been a contract but for the actions of the utility." Here, Idaho Power has simply sent to the projects, at their requests, initial indicative modeled pricing

runs—and has updated such indicative prices with the removal of the capacity portion of the rate for those months prior to July 2021, subsequent to the Commission's determination that the utility was capacity sufficient through that date. These projects do not have a signed contract with the utility and have not established that Idaho Power will not negotiate with them, nor have they shown that Idaho Power has refused to purchase or contract.

If a QF project feels that the utility is refusing to contract for the purchase of its generation, then it may seek a legally enforceable obligation determination from the Commission to bind the utility and its customers to the purchase, even in the absence of a contract. Such a procedure, and such a concept as a legally enforceable obligation, exists to prevent a situation where the utility refuses to purchase from the QF. *Grouse Creek*, 316 P.3d at 1280, 1285. It does not exist so that the QF can pick and choose what contractual terms, conditions, and rates it unilaterally wishes to impose on the utility and its customers. Those items, most particularly the rates, are determined by the Commission, not by the QF, and not by the utility. PURPA requires that the utility purchase. The Commission determines the terms and conditions of the purchase and the appropriate price.

As previously mentioned, the approved IRP Methodology is meant to be a flexible and dynamic process that arrives at a more accurate estimate of the utility's avoided cost that ultimately is reduced to a 20-year obligation passed on to Idaho Power's customers. It is not the same as the certainty and availability of published avoided cost rates. It is specifically and expressly a negotiated rate process that utilizes the IRP Methodology to establish the presumptive avoided cost rate as a starting point for the negotiated rate. Absent any special circumstances or considerations that would

justify an upward or downward adjustment to that rate, the modeled rate would be the negotiated avoided cost rate. Not only is it within Idaho Power's "authorization" to remove the capacity portion of the modeled, indicative price for times that the utility is capacity sufficient, it is the Company's obligation to ensure that an avoided cost rate is not locked in for the next 20 years that passes on to its customers avoided cost rates that are overpriced by more than \$170 million.

IV. MODIFIED PROCEDURE

Idaho Power believes that a hearing is not necessary to consider the issues presented herein and respectfully requests that this Application be processed under Modified Procedure; i.e., by written submissions rather than by hearing. RP 201 *et seq.* If, however, the Commission determines that a technical hearing is required, the Company stands ready to prepare and present its testimony in such hearing.

V. COMMUNICATIONS AND SERVICE OF PLEADINGS

Communications and service of pleadings, exhibits, orders, and other documents relating to this proceeding should be sent to the following:

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VI. REQUEST FOR RELIEF

Idaho Power respectfully requests that the Commission issue an order: (1) authorizing that this matter may be processed by Modified Procedure and (2) confirming

use of a first capacity deficit of July 2021 for purposes of avoided cost prices determined by the incremental cost, IRP Methodology.

Respectfully submitted this 13th day of August 2014.



DONOVAN E. WALKER
Attorney for Idaho Power Company