

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-14-22
CONFIRMATION OF THE CAPACITY)
DEFICIENCY PERIOD FOR)
INCREMENTAL COST, INTEGRATED) ORDER NO. 33159
RESOURCE PLAN, AVOIDED COST)
METHODOLOGY.)**

Idaho Power Company filed an Application with the Commission on August 13, 2014, requesting that the Commission issue 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 negotiated avoided cost rates for proposed PURPA qualifying facilities (QFs).

On September 4, 2014, the Commission issued a Notice of Application and Notice of Modified Procedure setting a comment deadline of September 30, 2014, and a reply deadline of October 7, 2014. Idaho Conservation League (ICL) and Intermountain Energy Partners LLC petitioned for, and were granted, intervention. Order Nos. 33135 and 33146. On September 29, 2014, ICL filed a motion to extend the comment deadline an additional 60 days. Idaho Power opposed the motion but offered as an alternative to expedite production responses, extend the comment deadline to October 6 and allow until October 10 for the Company to file a reply. ICL accepted Idaho Power's proposal to modify the schedule. On September 30, 2014, the Commission approved the modified schedule. Order No. 33147.

By this Order, and as set out in greater detail below, we confirm July 2021 as Idaho Power's capacity deficiency period for purposes of incremental avoided cost calculations within the IRP methodology.

BACKGROUND

On December 18, 2012, the Commission issued Order No. 32697 authorizing the use of Idaho Power's incremental cost IRP methodology. Solar and wind QF projects that exceed 100 kilowatts (kW) and all other QF generation that exceeds 10 average megawatts (aMW) negotiate avoided cost rates based on the approved incremental cost, IRP methodology. In its Order, the Commission stated "We further find it appropriate to identify each utility's capacity

deficiency based on load and resource balances found in each utility’s IRP.” Order No. 32697 at 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.

Id. at 21. The Commission discussed the use of inputs from the Company’s integrated resource planning process in the calculation of avoided cost rates. The Commission directed that “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 [Surrogate Avoided Resource] Methodology.” *Id.* at 23. With regard to the IRP methodology, the Commission stated that “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.* at 22.

For purposes of the SAR methodology, the Commission recently determined that Idaho Power experiences its first capacity deficiency in July 2021. Order No. 33084. Although the Company’s 2013 integrated resource planning process showed a first deficit in July 2016, Idaho Power presented evidence that it had 400 MW of demand response program customers enrolled for the 2014 season. The addition of 400 MW of capacity pushed the Company’s deficit out to July 2021.

THE APPLICATION

Idaho Power states that both the SAR and the IRP methodologies start with a default capacity deficit which is the same as that established by the most recent integrated resource planning process. For the 2013 planning process, a first deficit was identified as 2016 in the Company’s preferred resource portfolio. However, Idaho Power states that because of the suspension of the Company’s demand response programs in 2013, the first deficit of 2016 legitimately did not consider the approximately 400 MW of demand response.

Because of the unique circumstances of demand response not being considered in the planning process and therefore also not being considered in the IRP methodology calculation of

avoided cost rates, Idaho Power has entered into contracts that contain capacity payments for the entire term of the 20-year agreements. Idaho Power believes the correct avoided cost pricing for all proposed PURPA projects should take into account the Commission's finding that Idaho Power experiences its first capacity deficit in July 2021. The Company maintains that the IRP methodology is meant to be a more flexible, negotiated process whereby a more accurate representation of avoided cost can be determined. Therefore, the IRP methodology should reflect the capacity deficiency that the Commission determined based on the consideration of an additional 400 MW of capacity – provided through the Company's demand response program. Idaho Power states that the Company has just over 529 MW of proposed new solar QF projects seeking pricing and contracts. The difference in price for all 529 MW of proposed solar when applying a capacity deficit of July 2021 (includes 400 MW of demand response) instead of July 2016 (Idaho Power's 2013 integrated resource planning process determination of capacity deficiency) is approximately \$170 million over the life of the projects.

Idaho Power states that because the IRP methodology is meant to be flexible and because the Company is obligated to ensure that avoided cost rates are an accurate reflection of the utility's avoided cost, the Commission should confirm use of a first capacity deficit of July 2021 for purposes of avoided cost prices determined through use of the IRP methodology.

COMMENTS

Commission Staff

Avoided cost rates applied to PURPA contracts consist of two primary components – an energy component and a capacity component. The energy component usually comprises the majority of the avoided cost rate, but the capacity component can comprise about 20 to 50 percent of the rate depending on the season of the year and the life stage of the contract. The significance of a utility's capacity deficiency period is that it determines whether the avoided cost rates contain a capacity component. Conceptually, in those years when a utility is surplus, i.e., when its supply exceeds its demand, the utility would not be paying for capacity it does not need. Although the capacity component of avoided cost rates is computed somewhat differently in the SAR methodology than in the IRP methodology, in principle they are the same.

As summarized by Idaho Power in its Application, in Case No. IPC-E-13-21 relating to the SAR methodology, Idaho Power asked the Commission to approve a capacity deficit period with a first deficit occurring in July 2021, which resulted from the inclusion of 440 MW

of demand response. The Company's request was initially denied, primarily for lack of evidence. Upon reconsideration, and based on additional evidence submitted by Idaho Power, the Commission on July 30, 2014, ordered Idaho Power to utilize July 2021 as its first capacity deficit to be used in the Company's SAR methodology. Order No. 33084. Because the Commission agreed to recognize 400 MW of demand response as a resource for purposes of the SAR methodology, Idaho Power believes it would be reasonable to also recognize the same demand response for purposes of the IRP methodology.

Staff believes it would not be reasonable to ignore 400 MW of demand response resources in calculating avoided cost rates under the IRP methodology, while including those same resources in determining rates under the SAR methodology. Staff believes that the public interest requires that avoided cost rates be as accurate as possible, especially given that the difference to ratepayers could be as much as \$170 million over the next 20 years as suggested by Idaho Power.

It is important to note that this case is an anomaly. Normally demand response would be considered in Idaho Power's IRP process and naturally reflected in the IRP methodology. Unfortunately, because the Company's DR programs were suspended and the future use of DR in meeting customer's capacity needs was unclear, demand response was not considered as part of the Company's resource stack. However, because DR is now known and measurable, it is reasonable to include it as part of the Company's resources available to meet customers' capacity needs. Therefore, Staff recommended the Commission approve Idaho Power's request to use a first capacity deficit of July 2021 for purposes of avoided cost prices determined by the incremental cost IRP methodology.

Idaho Conservation League

The Idaho Conservation League (ICL) argues that "[t]he simplest resolution for the Commission is to follow Order No. 32697 and defer any update to resource assumptions to the IRP process." Comments at 2. ICL maintains that the IRP methodology does not require an extrinsic determination of a utility's resource deficiency date. "Logically, if a QF is delivering energy instead of a Company resource, then the QF is providing capacity in that hour and should be compensated for providing that service." Comments at 5. ICL goes on to assert that "[b]y ensuring capacity payments are tied to a QF's ability to deliver energy at or below avoided costs,

the IRP Methodology inherently balances the demands of PURPA with protecting Idaho ratepayers.” Comments at 5-6.

ICL states that future demand response participation is an assumption, not a long-term, contractual commitment. As such, changes to demand response should not be updated outside of the IRP cycle. Although ICL recognizes that Idaho Power’s 2015 IRP is currently being developed and will likely result in a revised capacity position, the organization asserts that “Idaho Power asks the Commission to confirm that current DR programs will continue at current sizes until at least 2021.” Comments at 3.

Alternatively, ICL recommended the Commission utilize the existing IRP methodology update scheduled for October 15, 2014. ICL encourages the Commission to consolidate the two dockets. However, ICL believes consolidation of the cases would likely lead to a complex, time-consuming review. Ultimately, the organization asserts that “[w]hatever the Commission decides here will have no direct impact on customers in terms of either increasing or decreasing [sic] utility rates.” Comments at 2.

Intermountain Energy Partners

Intermountain Energy Partners (Intermountain, IEP) urges the Commission to reject Idaho Power’s proposal to utilize 2021 as its first capacity deficit year when calculating avoided cost rates under the IRP methodology. Intermountain states that, because Idaho Power’s demand response programs are single year commitments, they have no bearing on the Company’s long-term sufficiency needs. IEP maintains that “the sufficiency effect of the DR contracts should be limited to the period over which those contracts are in effect. Counting them toward sufficiency in years for which no contracts exist is overly speculative.” Comments at 3.

Finally, IEP supports the arguments made by ICL. Specifically, Intermountain asserts that demand response participation does not amount to a long-term contract commitment or any other variable that the Commission has deemed modifiable between IRP filings.

Idaho Power Reply

Idaho Power replies that use of a 2021 capacity deficit year in the calculation of IRP methodology avoided cost rates is reasonable and ensures that customers do not pay more than the Company’s avoided cost in 20-year power purchase obligations. Idaho Power emphasizes that the Commission’s intent was clear when it determined that a utility should not pay for capacity within the avoided cost rates for years when the utility is capacity sufficient. Moreover,

Idaho Power maintains that to fail to take into account the Company's capacity needs "would violate PURPA, as customers would be paying costs that are substantially above the Company's avoided cost." Reply at 4.

Idaho Power argues that the comments of ICL and IEP are unpersuasive and without merit. Specifically, the Company takes exception to IEP's representation that Idaho Power's estimated demand response dispatch is inaccurate. Idaho Power explains that "[t]he way that the various programs work does not translate to flipping a switch whereby all 403 MW comes on and off at will to meet the capacity needs of the Company. . . . However, all three programs were dispatched, or called upon, several times throughout 2014 and contributed MW reductions that exceeded any identified capacity deficits for 2014 and beyond." Reply at 4-5.

Idaho Power asserts that ICL's statements with regard to the impact that a capacity deficiency determination has on ratepayers is erroneous. The Company states that 100 percent of PURPA expenses are passed through to its customers on an annual basis through the Company's power cost adjustment (PCA). "The difference in avoided cost rates at issue here – whether capacity payments are made to a qualifying facility ("QF") when the utility is capacity sufficient through 2021 – is approximately \$6.3 million for every 20 MW project." Reply at 7.

The Company maintains that, contrary to ICL's assertions, this case is neither complex nor technical. It does not require calculations or additional modeling of the IRP methodology. "Payment of a separate capacity component of the rate is not a model input." Comments at 8. Idaho Power states that the capacity component is separately determined and is simply removed in the years the Company is capacity sufficient. Idaho Power asserts that both the SAR and the IRP methodologies start with a default capacity deficit that is established by the most recent IRP planning process. However, because the Company's demand response programs were suspended at the time its 2013 IRP was finalized and filed with the Commission, it did not take into account capacity provided by the Company's demand response programs. Based on the terms of a Commission-approved settlement, Idaho Power now has more than 400 MW of demand response customer subscriptions for 2014. The Company states that it would be unjust, unreasonable, and not in conformity with PURPA to require customers to pay for capacity when the Company is not experiencing a capacity deficit.

FINDINGS AND CONCLUSIONS

The Idaho Public Utilities Commission has jurisdiction over Idaho Power, an electric utility, and the issues raised in this matter 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.

PURPA requires that utilities purchase generation produced by QFs under a federal rate mechanism (i.e., avoided cost) that is established and implemented by state utility commissions. Order No. 32697 at 7. The rates at which Idaho electric utilities purchase QF power must be approved by this Commission. *Idaho Power Co. v. Idaho Public Utilities Commission*, 155 Idaho 780, 789, 316 P.3d 1278, 1287 (2013). The IRP methodology, at issue here, takes into account many different variables and produces a result based on the characteristics of the generation and each individual utility's need for the resources. Specifically with regard to capacity, we have previously stated that

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 at 21. Consequently, it would be unreasonable to ignore more than 400 MW of demand response resources when determining Idaho Power's capacity deficit as it pertains to the IRP methodology.

We acknowledge that demand response was not a variable that this Commission recognized would be updated in the IRP methodology *between* IRP filing cycles (every two years.) Order No. 32697. However, because we are a regulatory agency that performs both judicial and legislative functions, we are not so rigidly bound by the doctrine of stare decisis. *Idaho Power Co. v. Idaho PUC*, 155 Idaho 780, 788, 316 P.3d 1278, 1286 (2013). Under ordinary circumstances, Idaho Power's demand response resources would have been considered within the Company's integrated resource planning process and already taken into account.

Because the programs had been suspended, demand response resources were not included in the Company's 2013 portfolio. Following settlement negotiations and approval by this Commission, Idaho Power modified and resumed its demand response programs. The Company currently reports an enrolled capacity in excess of 400 MW.

Based on the Company's demonstrated demand response program participation, we recently determined that, for purposes of the Surrogate Avoided Resource (SAR) methodology, Idaho Power experiences its first capacity deficiency in July 2021. Order No. 33084 at 5. We find that ignoring the Company's demand response contribution in calculations under the IRP methodology would unjustly inflate avoided costs paid to QFs and harm ratepayers by requiring them to pay for capacity provided by a QF that the utility does not need. Contrary to ICL's assertions, energy and capacity are not inextricably linked. PURPA and FERC regulations clearly define avoided costs as 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). If a QF resource provides energy, but the utility already has sufficient capacity to meet its customers' needs, then capacity is not being avoided by the purchase of QF power. Inclusion of capacity payments when the Company is not capacity deficient results in overpayment to the QF for its generation – an expense that is passed directly on to Idaho Power's ratepayers. ICL's statement that "whatever the Commission decides here will have no direct impact on customers" is entirely without merit.

Intermountain Energy Partners urged the Commission to reject Idaho Power's proposal to include its demand response and, thereby, satisfy capacity needs through July 2021. IEP argued that, because demand response programs are single year commitments, they have no bearing on the Company's long-term capacity needs. We find that it is not necessary for the Company's demand response programs to run concurrently with a 20-year power purchase agreement in order for the program's current participation to be used as a reasonable estimation of participation into the future. Indeed, FERC regulations endorse just such an approach.

FERC regulations require that a QF be given the option to choose an avoided cost fixed at the time the QF's obligation is incurred. 18 C.F.R. § 292.304(d)(2).

FERC anticipated that if the avoided cost of power was less when delivered than the price in the PPA, the utility would be subsidizing the QF 'at the expense of the utility's other ratepayers.' However, FERC was also cognizant that in other cases, the required rate will turn out to be lower than the avoided

costs at the time of purchase. [FERC] does not believe that the reference in [PURPA] to incremental cost of alternative energy was intended to require a minute-by-minute evaluation of costs which would be checked against rates established in long term contracts between [QFs] and electric utilities.

New York State Electric & Gas Corp. v. Saranac Power Partners, 117 F.Supp.2d 211, 221 (2000). FERC adopted the theory that overestimations and underestimations would balance out. We find that symmetry in terms establishing the QF's avoided cost rate is fair, just and reasonable. When a QF chooses to receive a fixed avoided cost rate for the duration of its power purchase agreement, the snapshot of variables in a calculation under the IRP methodology necessarily includes the utility's current estimation of when it will become capacity deficient – even though it is understood that the utility's capacity needs will change over time based on customer growth, availability and cost of resources, and environmental considerations/requirements.

Inclusion of Idaho Power's demand response produces a more accurate avoided cost and, therefore, more closely aligns with the intent and requirements of PURPA and FERC regulations. Therefore, we find it just and reasonable to include the capacity provided by Idaho Power's demand response programs in calculations made under the IRP methodology. We further find that the capacity provided by demand response is sufficient to meet the Company's needs until July 2021.

ORDER

IT IS HEREBY ORDERED that Idaho Power's Application is approved. We confirm July 2021 as the Company's capacity deficiency period for use in the incremental cost IRP methodology.

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 29th
day of October 2014.



PAUL KJELLANDER, PRESIDENT

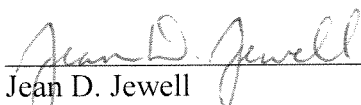


MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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