BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR APPROVAL OF AN INTERCONNECTION TARIFF FOR NON-UTILITY GENERATION–SCHEDULE 72	CASE NO. IPC-E-90-20 ORDER NO. 23631

On December 17, 1990, Idaho Power Company (IPCo, Company) filed an Application with the Idaho Public Utilities Commission (Commission) for approval of an Interconnection Tariff for non-utility generation (Tariff Schedule No. 72). The Company has submitted direct testimony and exhibits in support of its Application.

Previously, the terms and conditions for interconnection of non-utility generation to the Company's transmission/distribution system have been individually negotiated, although the terms and conditions have proved to be substantially similar. The Company contends that now that it has gained experience in this area, the development of a schedule directly addressing such interconnections will simplify the process and will ensure that all non-utility generators are treated similarly under uniform and standard terms and conditions.

As proposed, the Schedule No. 72 Tariff applies to the construction, upgrade, relocation, or removal of transmission and/or distribution lines and equipment necessary to safely interconnect a seller's generation plant (and seller furnished facilities) to the Company's system. The tariff addresses cost (valuation), construction and transfer of interconnection facilities, together with associated payment obligation for such facilities, and related operation and maintenance obligations and expenses. The tariff also addresses vested interest refunds.

The Commission by Notice of Modified Procedure issued December 27, 1990 indicated its intent to process the Company's Application by written submission rather than by hearing. The deadline for filing written comments or protests with respect to the Commission's proposed use of Modified Procedure in Case No. IPC-E-90-20 was January 18, 1991.

Timely protest and comments in Case No. IPC-E-90-20 were received from A. W. Brown and Independent Energy Producers of Idaho (IEPI). The Commission in Order No. 23548 dated January 31, 1991 directed Idaho Power to file a written response to the criticism and comments of A. W. Brown and the recommendations of IEPI regarding proposed Schedule 72. The Commission in its Order also reserved judgment on the appropriateness of processing the Company's Application under Modified Procedure, i.e., by written submission rather than by hearing. Reference IDAPA 31.A.23.4.

On March 1, 1991, Idaho Power Company filed its Reply Comments.

COMMISSION ANALYSIS AND FINDINGS

Idaho Power's proposed Schedule 72 accomplishes the following:

1. Establishes IPCo's control over the design of interconnection facilities and identifies the Seller as the party responsible for all interconnection costs in accordance with PURPA regulations.

2. Establishes IPCo as owner of the connect/disconnect equipment (circuit breaker and relays).

3. Establishes a procedure by which the Seller may transfer ownership of interconnection facilities to IPCo by the Seller agreeing to pay an O&M charge.

4. Provides for a partial refund of Sellers interconnection costs in the event a third party is to share interconnection facilities.

A.W. BROWN PROTEST

On January 17, 1991, A. W. Brown (Brown), the developer of Sunshine No. 2, a small power project located in Lemhi County, filed a timely protest in Case No. IPC-E-90-20. By way of criticism and comment Brown raises the following concerns:

1. Brown contends that the costs IPCo seeks to recover do not fit the FERC definition of "interconnection costs".

IPCo responds by citing IPUC Order No. 15746, Case No. P-300-12, p. 38, in which the Commission states, "Section 292.306 of the federal rules make it the duty of the qualifying facility to reimburse the utility for interconnection costs on a non-discriminatory basis with respect to other customers having similar load characteristics." IPCo points out that the avoided cost rates paid to qualifying facilities (QFs) allow for the recovery of interconnection costs by the QF. And IPCo calls attention to the fact that each of its 63 QF contracts, approved by the Commission, required the QF to pay interconnection costs.

The Commission, based on its analysis of PURPA, Sections 201 and 210, FERC Rules and Regulations and associated comments, finds that Brown has misinterpreted the FERC definition of "interconnection costs." FERC defines interconnection costs at 18 C.F.R. § 292.101(7). The Commission addressed interconnection costs and QF responsibility for such costs in Order No. 15746, Case No. P-300-12. A QF is obligated to pay such costs pursuant to Commission Order and FERC Rule 18 C.F.R. § 292.306(a). See also FERC comments 45 Fed. Reg. 12217, 12230.

2. Brown contends that IPCo realizes "significant profits" by overcharging QFs on interconnection construction and contends further that IPCo has reason to inflate interconnection costs because IPCo's operation and maintenance (O&M) charges are based on a percentage of interconnection costs.

IPCo responds by stating that QF's have the option of paying actual interconnection costs or estimated construction costs. O&M charges, the Company states, are based on the average cost of operation and maintenance of equipment and facilities provided to QFs and not project-specific equipment costs.

Competitive third party pricing and construction is not precluded under Schedule 72. The Commission, based on Staff analysis further finds no evidence to suggest that the Company is making a profit on QF interconnection construction, or is failing to comply with the Uniform System of Accounts, or that related O&M charges are anything other than reasonable.

IEPI COMMENTS

On January 18, 1991 timely comments in Case No. IPC-E-90-20 were filed by the Independent Energy Producers of Idaho (IEPI). IEPI while expressing general agreement with the need for and the format of IPCo's proposed Schedule 72, raises specific concerns and recommends the following changes:

1. IEPI contends that the term for possible vested interest refund should be for the length of the power sales agreement instead of five years. IEPI further contends that Idaho Power and the QF will have a contractual relationship for at least as long as the power sales agreement, third party involvement will be infrequent, and making vested refunds will not be an administrative burden for IPCo.

IPCo responds that keeping track of the varied interests for an extended number of years, despite IEPI's contention, will be an administrative burden. IPCo states that QF projects are often sold and partial interests are routinely assigned. IPCo further states that in collecting from a third party to refund to the QF, the third party then has a vested interest, and so on for fourth and fifth parties.

The Commission finds IPCo's reasoning to be persuasive that the vested interest term should run no longer than five years.

2. IEPI contends that in regard to the determination of the maintenance charge or a vested interest refund, the actual construction costs should be used and not the estimated cost.

IPCo states that most QFs want to use estimated costs because they need a firm price commitment to obtain financing. The Company, however, advises QFs that they have a choice between actual costs and estimated costs.

The Commission finds it reasonable that QFs retain the contract option of actual or estimated costs for calculation of vested interest and O&M charges.

3. IEPI contends that at the expiration of the power sales agreement, the QF may have an interest in the disposition of interconnection equipment, and this should be recognized in Schedule 72. IEPI requests that the following different situations be covered:

a. The QF wants to continue selling power to IPCo. In this case, Schedule 72 should state that IPCo will maintain interconnection equipment at no additional capital cost so long as such equipment is electrically sound.

b. The QF wants to sell power to a third party with IPCo as the wheeling utility. In this case, Schedule 72 should state that IPCo will maintain interconnection equipment without additional cost to the QF for the length of the equipment's useful life.

c. The QF wants to cease power production but the QF has a need for the interconnection equipment and wants to take physical possession. Schedule 72 should accommodate such a possibility with the caveat that the utility is made whole for any tax or other monetary consequences.

IPCo responds by pointing out that if the QF wished to continue to be a Seller, whether to IPCo or to a third party, the interconnection and safety equipment would have to remain in place and IPCo would continue maintenance to assure safe delivery of power from QF into IPCo's system. In regard to giving interconnection equipment to the Seller at contract expiration, IPCo believes it may be more appropriate to consider paying salvage value or delivering the equipment to the QF but only for very short-term contracts (5 years or less). The Company prefers this sort of thing be a part of contract negotiations.

The Commission finds IPCo's response to be reasonable. The concerns raised by IEPI are more appropriately addressed by contract. As always, the Commission encourages the parties to be precise in contract language.

IDAHO POWER'S REQUEST REGARDING SALVAGE

IPCo states that the Commission requires IPCo to include a "Salvage Value" provision in QF contracts (Exhibit 2) as part of the implementation of Order No. 15746, Case No. P-300-12. The contracts call for payment of net salvage value to the QF at contract termination or expiration if interconnection equipment is to be removed. IPCo contends that this provision represents preferential treatment and further contends "Salvage Value" is a non-issue for 20 to 35 year contracts. IPCo, in its Reply Comments, asks the Commission to discontinue its requirement to have a "Salvage Value" provision in which case IPCo will still address the salvage issue on a case specific basis for QF contracts of 5 years or less.

The Commission will not grant IPCo relief on a utility-specific basis from the requirements of a generic order applicable to all its major electrics.

The Commission, after considering the filings of record in Case No. IPC-E-90-20, finds it reasonable to process the Company's Application under

Modified Procedure. Regarding interconnection procedure for non-utility generation, the Commission finds it in the best interest of all QFs that they be treated similarly under uniform and standard terms and conditions. The Commission finds that IPCo's proposed Schedule 72 serves this purpose.

CONCLUSIONS OF LAW

I

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, pursuant to the authority and power granted it under Title 61 of the *Idaho Code.*

II

The Idaho Public Utilities Commission has authority under the Public Utility Regulatory Policies Act (PURPA) of 1978 and implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations to purchase energy from small power producers and to implement FERC rules. PURPA Sections 210, 210A, 210F, 16 U.S.C.A. §§ 824-A-3, 824-A-3(a)(f); *Afton Energy Inc. v. Idaho Power Company*, 107 Idaho 781, 693 P.2d 427 (1984).

O R D E R

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED that the proposed Tariff Schedule No. 72 Interconnection Tariff for Non-utility Generation submitted in Case No. IPC-E-90-20 (attached) be approved for effective date April 15, 1991.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. IPC-E-90-20 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. IPC-E-90-20. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

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DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 11th day of April 1991.

DEAN J. MILLER, PRESIDENT

RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

MYRNA J. WALTERS, SECRETARY

SW:nh/O-1359