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Jean Jewell

From: ktinsv@cox.net
Sent: Saturday, September 15, 2007 2:27 AM
To: Tonya Clark; Jean Jewell; Gene Fadness; Ed Howell
Subject: PUC Comment/Inquiry Form

A Comment from Kiki Leslie A. Tidwell follows:

Case Number: IPC-E-07-03, AVU-07-02, PAC-E-07-07
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Please describe your question or comment briefly:

Public Comment on PUC request on wind issues IPC-E-07-03, AVU-E-07-02, PAC-E-07-07

For the past two years independent developer wind farms have been stymied in Idaho; Idaho has had zero wind projects built in 2006 and 2007 to date while Texas installed about 2,000 MW of wind energy in 2007 alone. I encourage the Idaho Public Utilities Commission to resolve now the issues that have prevented PURPA projects and to give independent developers a fair opportunity to build them. (PacifiCorp dba) Rocky Mountain Power announced this past July that it will be building its own 99 MW wind farm in Wyoming. I believe that the last thing the Idaho PUC would like to be accused of is that it participated in stalling independent projects and in making them uneconomically viable while competing utility power companies seized the opportunity to get their own projects built.

There are many PURPA issues that need to be resolved: 1. fair integration costs, 2. real, current avoided cost rates, 3. elimination of 90/110 clauses, and other penalties that artificially reduce a small power producer's ability to compete, 4. compliance with FERC in rates for purchases, and 5. reinstate PURPA to 10MW (20MW nameplate) production size.

Fair integration costs. The Idaho Power wind integration study initially estimated a \$10.72 cost per MWh. The study did not utilize the publicly available data sets gathered by state and Idaho National Lab sites near known wind locations, but instead used atmospheric estimates. These estimates were extremely low and resulted in modeling wind farms with capacity factors as low as 21%. In the real world, wind projects below a 31% capacity factor are uneconomical and will not be built today. Many sites in Idaho are near a 40% capacity factor. This study also assumed that multiple small projects at different geographic locations were lumped into one large project instead of distributed generation. The contrast between Idaho Power's integration cost estimate and those from almost every other study is stark; \$4.41 in a Minnesota Power Study, \$4.60 for PacifiCorp, \$4.97 for Xcel Public Service of Colorado, \$5 in a study by the Utility Wind Integration Group. Idaho needs an integration cost that is fair, real, in line with what every other state is adopting, and has not been created using embarrassingly skewed assumptions.

Real, Current avoided cost rates. The recently adopted Idaho Energy Plan recommends that you, as Commissioners, take the initiative to encourage the integration of wind energy and other renewable resources into our state's energy portfolio. "The Idaho PUC should establish and periodically update an avoided-cost benchmark for each utility to be used in evaluating the cost-effectiveness of conservation and renewable resource investments and in calculating payments to Qualifying Facilities under the Public Utility Regulatory Policy Act." The avoided cost rate has not been recalculated since 2004. Since that time, there have been several rate increases in electricity, reflecting higher fuel and operating cost, and in natural gas rates by the respective utilities. The capital cost of new power plant development in every fossil fuel-based project has gone up, while

availability of fossil fuels is increasingly being questioned from a long-term supply situation. The avoided cost rate needs to be updated as to true prices in the real world today.

Elimination of 90/110 bandwidth clause and other penalties. I was ready to invest \$4,000,000 in LeRoy Jarolimek's wind farm in Burley in 2004, but had to back out when confronted with the 90/110 contract clause in Idaho Power's power purchase agreement. This 90/110 clause created unreasonable uncertainty in already variable project revenues for me and most investors and his and other projects did not get built, while turbine costs have soared since then.

Based on his review of the 90/110 clause, Adam Wenner, attorney at Chadbourne & Parke LLP, emailed the following statement to me: "By way of background, I was one of the FERC staff team that drafted and implemented the FERC's regulations under PURPA in 1977-81, and you will see my name on the FERC's orders as the staff person to contact with questions. I have been working in the alternative energy/cogeneration area since that time, and have testified as an expert on PURPA on several occasions and have represented dozens of QFs. Based on my review of these orders, I found nothing to justify the 90/110 bandwidth. It illegally violates PURPA's requirement that utilities purchase all electric power produced by a QF, and pay rates based on their avoided costs. It does not appear that these QF's are being paid capacity payments, which might justify some sort of performance standard. In any case exceeding the standard would not cause a reduction in the value of their power output. The PUC has not shown, nor could it show, that by falling short or exceeding the 90/110 bandwidth, Idaho Power only avoids 85% of its marginal variable energy costs."

It is my understanding that under section 210(h) of PURPA, FERC may bring an action against a state commission which is failing to enforce the FERC regulations. Since the 90/110 bandwidth clause clearly violates the intention of PURPA, the Idaho PUC would do well to avoid a FERC action by not continuing to support 90/110 bandwidth contract clauses in power purchase agreements. Another financial penalty to a small renewable power producer is to require them to reimburse utilities for state of the art wind forecasting services. The utilities are benefiting from 20 year fixed contracts for power. Ratepayers are benefiting. Any sort of additional penalties levied on an independent power producer reduces their ability to compete with the utility on projects and violates the spirit of PURPA.

Recently, the Idaho PUC ruled in Case No. IPC-E-07-04 that utilities can also discount the avoided cost rate paid to small power producers with a daily load shape adjustment so that prices match time of delivery pricing. In reviewing FERC rule 292.304 Rates for Purchases, it appears that the Qualifying facility has the option to accept the avoided cost rate or a time of delivery rate. "(d)...Each qualifying facility shall have the option either: ... (2) To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either: (i) The avoided costs calculated at the time of delivery; or (ii) The avoided costs calculated at the time the obligation is incurred". I believe that the Idaho PUC needs to clarify their ruling in this case so that Idaho is compliant with FERC.

Restate PURPA contracts to a 10MW (20MW nameplate) size. Again, keep the playing field level. Let small power producers have a fair chance to compete under PURPA as it was intended.

The crop that could make Idaho a wealthy state doesn't need water. This crop is clean energy. Geothermal, wind, solar, biodigesting, biomass. Idaho is ranked 13th in the nation- higher than California- in terms of natural resources to supply this crop. The world's investors are trying to give Idaho their investment dollars to harvest this crop. \$2.425 billion of venture capital dollars were invested in this crop in 2006 in the U.S. alone and \$100 billion of operating investment dollars globally. Along with direct investments, companies that build the machines to harvest are relocating and building plants in states that are committed to harvesting this crop. High paying jobs are being created, rural farm communities are reaping millions of dollars in new property taxes, and farmers are generating long term consistent income. Companies are pouring significant donation dollars into state universities to train new workers and research better technology to harvest this crop.

Unfortunately, Idaho has become the hole in the donut. The states surrounding Idaho have

realized the value of this crop and have committed state policy and incentives to attract these investments. Idaho has not. In fact, Idaho has allowed moratoriums and penalties that restrict development in this sector. When a developer is offered a menu of incentives in Oregon and is faced with an uphill battle to develop something in Idaho for less return, the choice is not hard and the investment dollars are invested in Oregon. In fact, when there was recently a choice for a Idaho Power to choose a supplier from two Idaho wind energy farms and one Oregon supplier, the Idaho Power went with Oregon. If one of the Idaho companies had been chosen, a small farm community like Albion would have benefited from \$2 million of new property tax dollars each year for the next 30 years. Imagine how Albion's school system could have used \$2 million in new money each year!

Shockingly, although Idaho has a tremendous natural abundance of this crop, we are currently a net importer of this resource, importing 80% of our supply. This is like Idaho importing 80% of the potatoes we eat. J.R. Simplot saw that Idaho could supply potatoes to the world and in doing so, create a good living for farmers and farm communities. We can do the same in the crop of the future and this crop doesn't need water. Idahoans are spending \$3 billion a year on energy and 80% of that money goes to bring in power sources from out-of-state. If Idaho could supply only 50% of its own power needs, it would provide a \$2 billion annual boost to the state's economy. Idaho spends more on out-of-state energy than on public K-12 education (\$1.7 B) and more than Idaho farmers make in annual returns (\$1B).

If Idaho has the will, Idaho farmers and Idaho's tech industry have the way to seize unprecedented prosperity through clean energy development. But what we have been missing up until now is the will. Other states, through their governors, state legislators, and PUCs, have adopted incentives and legislation to encourage and welcome clean energy development. Where state policy has encouraged development, investment money has followed. As Idaho Power goes to court to curtail farmers' water rights to keep its hydro power plants running and Idaho rural communities struggle, other states surrounding us are having a much different experience. They are seizing the opportunity to bring significant property tax base to rural communities, stabilize power supply cost, attract clean tech industry and good jobs, and attract large corporate donation dollars for their universities. Does Idaho want to continue to be the hole in the donut? You, the Idaho PUC, have a critical role to play at a critical moment.

The form submitted on <http://www.puc.idaho.gov/forms/ipuc1/ipuc.html>
IP address is 68.105.221.77
