

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF IDAHO POWER)
 COMPANY'S PETITION TO MODIFY) CASE NO. IPC-E-15-01
 TERMS AND CONDITIONS OF PURPA)
 PURCHASE AGREEMENTS)**

**IN THE MATTER OF AVISTA)
 CORPORATION'S PETITION TO MODIFY) CASE NO. AVU-E-15-01
 TERMS AND CONDITIONS OF PURPA)
 PURCHASE AGREEMENTS)**

**IN THE MATTER OF ROCKY MOUNTAIN)
 POWER COMPANY'S PETITION TO) CASE NO. PAC-E-15-03
 MODIFY TERMS AND CONDITIONS OF)
 PURPA PURCHASE AGREEMENTS)
) ORDER NO. 33286**

On February 25, 2015, Clearwater Paper Corporation and J.R. Simplot Company filed a Joint Petition to clarify the scope of interim relief granted to Idaho Power in Order No. 33222, and to limit the scope of permanent relief in the docket. The Commission received timely answers from Renewable Energy Coalition (REC), Rocky Mountain Power Company, Idaho Power Company, and Commission Staff. On March 26, 2015, Clearwater and Simplot filed a joint reply. With this Order, the Commission denies the Petition.

BACKGROUND

On January 30, 2015, Idaho Power filed a Petition asking the Commission to reduce the length of its PURPA contracts from 20 years to two years (Case No. IPC-E-15-01). The Commission granted Idaho Power interim relief, reducing the term for the utility's new PURPA contracts to five years while the Commission investigates the matter. Order No. 33222 at 6. Shortly thereafter, Avista Corporation and Rocky Mountain each filed petitions seeking the same or similar permanent and interim relief (Case Nos. AVU-E-15-01, PAC-E-15-03). On March 13, 2015, the Commission consolidated the three cases and granted Avista and Rocky Mountain the same interim relief granted Idaho Power. Order No. 33250.

On February 1, 2015, Intermountain Energy Partners (IEP) petitioned the Commission to clarify the scope of the consolidated proceeding. In particular, IEP asked the Commission to clarify that the interim relief granted in Order No(s). 33222 (and now 33250)

“applies only to the Utilities’ new PURPA contracts that exceed the published rate eligibility cap.” *See* Order No. 33253 at 6-7.¹ The Commission granted IEP’s Petition and clarified that the interim relief granted to the Utilities “applies to new PURPA contracts in excess of the published rate eligibility cap.” Order No. 33253 at 4.

THE JOINT PETITION

Clearwater and Simplot also sought to clarify the scope of the five-year interim relief granted to the utilities. In their Joint Petition, they “recommend the Commission’s ordering paragraph . . . be amended” as follows:

IT IS HEREBY ORDERED that effective February 5, 2015 . . . the maximum contractual term for [the Utilities’] new intermittent (solar and wind powered) PURPA contracts shall be five years.

Joint Petition at 4 (proposed language underlined).

Clearwater and Simplot did not oppose the Petition to Clarify by REC, which the Commission granted. However, they argue that the scope of interim (as well as permanent) relief should be further narrowed to only “wind and solar intermittent resources that exceed the published rate eligibility cap of 100 kW.” Joint Petition at 2. The Joint Petition asserts this narrowed relief is warranted by way of clarification because proceedings “will likely continue for several months or a year,” during which Simplot’s ability to negotiate a new PURPA contract will be unduly limited. *Id.* at 4. In further support, the Joint Petition notes, “None of Idaho Power’s [underlying] arguments [supporting shorter contracts] apply to base-load facilities utilizing waste heat, biomass, or industrial cogeneration such as” the Clearwater and Simplot facilities. *Id.* at 3.

ANSWERS AND REPLY

1. REC. The Coalition supported the Joint Petition to Clarify. REC stated that “Idaho Power has not submitted sufficient evidence that any baseload [qualifying facilities or “QFs”] are contributing to its potential problems associated with the acquisition of large amounts of unneeded variable wind and solar generation.” REC Response at 3. REC thus agreed with the Joint Petition that the Commission should “limit any interim relief to only new intermittent wind and solar QFs above the rate eligibility cap.” *Id.* at 3.

¹ Renewable Energy Coalition (REC), AgPower DCD, and AgPower Jerome also supported IEP’s Petition to Clarify Order No. 33222.

2. Rocky Mountain. Rocky Mountain opposed the Joint Petition to Clarify. Rocky Mountain noted that the Joint Petition was filed before Rocky Mountain's Petition to Modify PURPA contracts was consolidated with Idaho Power's (and Avista's). Rocky Mountain Answer at 2. According to Rocky Mountain, "[t]here is nothing in [its] Petition that differentiates between an intermittent (solar or wind) QF resource and a non-intermittent resource." *Id.* at 3. "[T]he arguments and evidence [in Rocky Mountain's] Petition apply to all resource types and not only to intermittent resources." *Id.* Rocky Mountain thus asked the Commission to deny the Joint Petition.

3. Idaho Power. Idaho Power also opposed the Joint Petition to Clarify. Idaho Power stated that, contrary to the Joint Petition, the problems and risks to customers identified in Idaho Power's Petition are caused by "all PURPA QF projects no matter what resource type they utilize and no matter what size they happen to be." Idaho Power Answer at 2. However, the utility asserted that large QF projects that exceed the published rate eligibility cap have a more significant financial impact upon Idaho Power customers because of the 20-year contracts. *Id.* at 2-3. Also, "the harmful impacts identified in Idaho Power's Petition are amplified [as opposed to absent] for a large cogeneration QF because it will deliver unneeded energy to the utility on a more consistent and regular basis than an intermittent wind or solar QF would be expected to deliver." *Id.* at 3.

Finally, Idaho Power noted that the Joint Petition "attempt[s] to make new substantive arguments, which may be relevant to their substantive positions in the case as a whole but have little to do with a *clarification* of the Commission's initial interlocutory order." *Id.* at 5 (emphasis added). "The only relevant question should be: What did the Commission intend to do/say in its Order No. 33222 wherein it limited the maximum contract for all new PURPA QF contracts to five years." *Id.* Idaho Power therefore asked that the Joint Petition be denied.

4. Commission Staff. Staff filed an answer opposing the Joint Petition. Staff noted that Clearwater and Simplot did not have the benefit of knowing the agreed case schedule at the time they submitted their Joint Petition. Staff Answer at 4. The case schedule, to which the joint petitioners agreed, sets a technical hearing to commence on June 29, 2015. Order No. 33253 at 5. Staff believed that, under this expedited schedule, the case "will be completed in sufficient

time so that the five-year term for interim relief will not be an issue” if either Clearwater or Simplot seek a new PURPA contract. Staff Answer at 4.

Citing expert testimonies presented with the Utilities’ Petitions, Staff next asserted there is sufficient evidence to support the Orders granting interim relief. *Id.* at 4-6. Staff argued that both Idaho Power and Rocky Mountain provided prefiled testimony that supported granting interim relief. “[L]ong-term PURPA contracts transfer the risk of not accurately forecasting long-term avoided cost rates to ratepayers.” *Id.* at 5. Finally, Staff asserted that “the better place to address the joint petitioners’ argument regarding the scope of relief and whether to shorten contracts for cogen projects is in the technical phase of this case,” rather than in a Petition to Clarify which might prematurely limit the scope of the evidentiary hearing. *Id.* at 4, 6. Staff recommended that the Commission deny the Joint Petition. *Id.* at 6.

5. Clearwater and Simplot’s Joint Reply. In their reply, the joint petitioners renewed their initial request that existing cogen facilities should be exempt from the proposed five-year contracts. Reply at 3. They urged the Commission to limit the interim relief to “new PURPA projects and not existing projects” that seek a new (or renewed) contract. Reply at 2-3. They asserted that “Simplot and Clearwater are the only existing (on-line) projects in the State of Idaho that are affected by the Commission’s interim order.” *Id.* at 3 (emphasis original). They contend that, unless exempted from the application of the interim relief, they are effectively singled out for “unfair treatment.” *Id.*

They also requested that new baseload generation be exempt from the proposed shorter contracts (five, three, or two years). Reply at 3. The joint petitioners reiterated that, although conditions may warrant a reduction in contract term for wind and solar QF projects, the same “cannot be said of [new] base-load cogeneration QFs.” *Id.* at 5. “Reducing the possible contract term from twenty years to five years or three years or two years will certainly limit the financing potential for Simplot’s [proposed] cogeneration project (or any new projects coming on line for that matter). . . .” *Id.* at 3. Finally, Clearwater and Simplot argued that the proposed clarification – narrowing the interim and permanent relief to apply to only intermittent solar and wind QFs – is warranted because “[d]iscouraging cogeneration is simply not in the public interest.” *Id.* at 4.

DISCUSSION AND FINDINGS

The Commission has reviewed the Joint Petition, answers, and reply, and our Orders. This case presents the question of appropriate contract length for an IRP-based PURPA project. We recently clarified that we intend for interim relief – the five-year term limit – to apply only to new PURPA projects with resource-generation that exceeds the published rate eligibility cap. Order No. 33253 at 4. Given the evidence before us at this stage in proceedings, we find no basis to further restrict the Utilities’ interim relief to “only wind and solar intermittent” resource projects, as requested by Clearwater and Simplot. Joint Petition at 2.

The joint petitioners’ first concern – that the consolidated process “will likely continue for several months or a year” – is unfounded given our recent Notice setting the technical hearing for June 29 to July 1, 2015. Order No. 33253 at 7. We find that the established schedule is expeditious enough so that the interim relief granted is unlikely to affect Simplot’s new contracts. Whatever final conclusions are reached will control. Moreover, Clearwater and Simplot agreed to the expedited schedule. *Id.* at 5.

As to the joint petitioners’ second argument, that “[n]one of Idaho Power’s arguments [supporting shorter contracts] apply to base-load facilities utilizing waste heat, biomass, or industrial cogeneration,” we disagree. Without exception, all three utilities sought shorter contracts for all new IRP-based projects. We find that substantial evidence was presented to support interim relief for all new QF projects above the published rate eligibility cap while the Commission investigates the issue of contract length in greater detail.

Finally, we deny Clearwater and Simplot’s request to “exempt [new baseload projects] from the reach of this docket.” Reply at 3. This argument is a substantive matter best resolved by this Commission upon consideration of all the evidence presented by all parties at the hearing on the merits. We find that this request is not appropriate relief to grant by way of “clarification.” Accordingly, we deny the Joint Petition.

ORDER

IT IS HEREBY ORDERED that Simplot and Clearwater's Joint Petition for Clarification is DENIED.

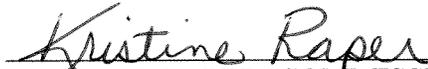
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 23rd day of April 2015.



PAUL KJELLANDER, PRESIDENT

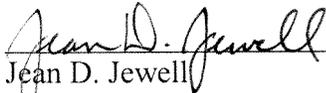


MACK A. REDFORD, COMMISSIONER



KRISTINE RAPER, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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