DECISION MEMORANDUM

(FIRST AMENDED)

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

MYRNA WALTERS

TONYA CLARK

DON HOWELL

STEPHANIE MILLER

DAVE SCHUNKE

RICK STERLING

DAVID SCOTT

WORKING FILE

FROM:SCOTT WOODBURY

DATE:OCTOBER 29, 1997

RE:CASE NO. UPL-E-97-4

REDUCING CONTRACT TERM FOR QFS LESS THAN 1 MW TO 5 YEARS

On August 28, 1997, the Commission issued Order No. 27111 in Idaho Power Case No. IPC-E-97-9 reducing the standard maximum contract length that Idaho Power is required to offer in power purchase contracts with PURPA qualifying facilities (QFs) smaller than 1 megawatt to five (5) years.  In so doing, the Commission extended the five year limitation on QF contract length existing for large QFs to small QFs.  Reference Order No. 26576, Case No. IPC-E-95-9.  As expressed by the Commission in its Order limiting the standard contract length for large QFs:

Significant changes have swept through the electric industry since we last examined the issue of contract length.  The FERC has mandated open access to the transmission system, thermal technologies have improved, gas prices are low, there is a considerable surplus of energy available in this region resulting in very low spot market prices for electricity and, finally, even the continued existence of PURPA is being called into question.  We find that as the industry as a whole continues to transform to a more free market model, we cannot justify obligating utilities to 20-year contracts for PURPA power.  As the utilities in this case note, such an obligation does not reflect the manner in which they are currently acquiring power to meet new load; through short-term (five years or less) purchases.  Consequently, it would be nothing more than an artificial shelter to the QF industry to provide those projects with contract terms not otherwise available in the free market.  We can find no justification for insisting that Idaho’s investor-owned utilities and their ratepayers assume such an obligation simply to foster one particular segment of an increasingly competitive industry.  We find, therefore, that Idaho’s investor-owned utilities shall not be required to offer contracts to QFs in excess of five years until further action is taken by this Commission.  This ruling, however, does not prevent utilities from offering for approval QF contracts with terms that exceed five years should the utilities believe that such contracts are in the best interests of their ratepayers.

Order No. 26576, pp. 6, 7.

In its Order regarding small QFs the Commission stated:

We find the logic supporting the contract length limitation for large QFs to be equally compelling when applied to smaller QF projects and find no reason in this regard to accord small QFs preferential treatment.  Reference Order No. 26576, Case No. IPC-E-95-9.  In this period of change within the electric industry, utilities are acquiring power to meet new load through short term (5 years or less) purchases.  To provide small QFs with more favorable contract lengths than otherwise available in the marketplace, we find, is not in the public interest and cannot be justified.

Order No. 27111, p. 4

On September 8, 1997, PacifiCorp dba Utah Power & Light Company  (Utah Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) in Case No. UPL-E-97-4 requesting an Order limiting the length of all PURPA contracts between Utah Power and qualifying cogeneration and small power production facilities (QFs) smaller than 1 MW (small QFs) to five years or less.

Utah Power in its filing requests a similar reduction in contract term for small QFs as permitted to Idaho Power Company to avoid the disparate treatment and competitive disadvantage that the Company alleges would result if Utah Power were required to continue offering 20 year contracts to small QFs.  Reference Order No. 27111, Case No. IPC-E-97-9.

On September 23, 1997, the Commission issued Notices of Application and Modified Procedure in Case No. UPL-E-97-4.  The deadline for filing comments was October 15, 1997.  Timely comments (attached) were filed by Sorenson Engineering, PA and Commission Staff.  The comments can be summarized as follows:

Sorenson Engineering

Sorenson Engineering recognizes the changes occuring in the electric industry but protests the Application of Utah Power contending that PURPA [which requires utility purchases from qualifying facilities] is still the law of the land, and that it is unreasonable to expect a PURPA small hydro producer (or a utility for that matter) to amortize its plant investment in five years.  By way of further comment, Sorenson Engineering assuming that distribution and transmission lines will continue to be owned by utilities, states that it can only support a free market transition that is coupled with free and open access to wheel power at a reasonable rate for transmission.

Commission Staff

Staff supports the Company’s Application for reasons expressed by the Commission in Order No. 27111, Case No. IPC-E-97-9, and believes that rules regarding contract length for PURPA contracts should be the same for all regulated electric utilities in Idaho to avoid disparate treatment.

Commission Decision

Does the Commission continue to find Modified Procedure to be appropriate in Case No. UPL-E-97-4?

Sorenson Engineering opposes the Company’s Application.  Does the Commission find it reasonable to grant the Company’s request and to limit the length of PURPA contracts between UP&L and QFs less than 1 MW (small QFs) to five years or less?

Scott Woodbury

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