

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION FILED)	
BY IDAHO POWER COMPANY FOR)	CASE NOS. IPC-E-03-16
APPROVAL OF MODIFICATIONS TO THE)	AVU-E-03-9
SECURITY PROVISIONS REQUIRED TO BE)	PAC-E-03-13
INCLUDED IN POWER PURCHASE)	
AGREEMENTS BETWEEN ELECTRIC)	NOTICE OF PETITION
UTILITIES (IDAHO POWER, AVISTA)	
CORPORATION DBA AVISTA UTILITIES,)	NOTICE OF
AND PACIFICORP DBA UTAH POWER &)	MODIFIED PROCEDURE
LIGHT COMPANY) AND PURPA)	
QUALIFYING FACILITIES (QFs))	NOTICE OF
)	COMMENT/PROTEST
)	DEADLINE

YOU ARE HEREBY NOTIFIED that on November 5, 2003, Idaho Power Company (Idaho Power; Company) filed a Petition with the Idaho Public Utilities Commission (Commission) for authority to accept modified insurance and lien rights as satisfactory risk mitigation measures in PURPA¹ Power Purchase Agreements that contain levelized avoided cost rates. Without risk mitigation, PURPA Qualifying Facilities (QFs) desiring levelized rates must post liquid funds as security for the overpayment that results from the front-end loading that occurs with a levelized rate structure. Two of the mitigation methods authorized by the Commission in Case No. U-1006-292 (-292 Case), Order No. 21690 are (1) the purchase of certain basic insurance policies and (2) the establishment of certain lien rights. Petition Exhibit 1 lists the type of insurance and levels of coverages and deductibles deemed acceptable in Order No. 21690, as amended by Order No. 25240, Case No. IPC-E-93-22. Petition Exhibit 2 describes the lien rights of Idaho Power on QF projects that receive levelized purchase rates.

Idaho Power reports that in its most recent audit of QF projects to assess whether those projects continue to conform with the risk mitigation requirements of their specific Power Purchase Agreements with the Company, the Company identified numerous projects that were in non-compliance. Some projects carried no insurance while numerous others had insurance that were products standard in the insurance industry but which, in many circumstances, did not

¹ Public Utility Regulatory Policies Act of 1978, Section 292.

conform with the insurance requirements of the projects' agreements. Idaho Power states that notices were sent to the various projects which were non-compliant with respect to the insurance requirements and three common responses were received by Idaho Power from those projects: (1) the specific insurance required within the Power Purchase Agreement is not currently available from the insurance industry; (2) because the insurance is not available, as a matter of law (the Doctrine of Impossibility), Idaho Power cannot enforce these requirements or require alternative security; and (3) the financing structures of existing projects do not allow Idaho Power to place a second lien on the project as required in the -292 case.

Regarding insurance, Idaho Power states it has contacted various insurance providers and verified the unavailability of the specified insurance. Idaho Power states that it has also reviewed the potential application of the – Doctrine of Impossibility – and recognizes that it may be a legitimate claim that may be upheld in legal proceedings.

Regarding liens, the Company reports that the financing arrangements of some projects preclude a subsequent lien position by Idaho Power or any other party without the consent of the primary lender. Where such restrictions do not exist, the Company either places a second lien on the project at the time a levelized rate agreement is executed or at the time a project is amended to conform to the risk mitigation requirements of Order No. 21690, as amended. Realistically, however, the Company contends that the value of security obtained by placement of a second lien on a project is tenuous. Either the value of equipment, particularly on less sophisticated projects, is negligible since used or rebuilt equipment is utilized (often non-standard utility equipment, pump motors running in reverse, etc.) or the value of that equipment is highly financed and the financial institution has the first lien on those assets making the value of the second lien marginal. As the project ages and the financing is either paid or at least reduced, the value of the assets depreciate over the same time frame. Thus, the Company contends, were a project to default, the value of the assets remaining for the second lien would be minor due to removal and other costs. Furthermore, the Company states that the value of a project is generally not the actual value of the physical equipment; instead, the marketable and bankable value of a project is the value of the projected revenues of the energy delivered to Idaho Power under the levelized rate agreement.

In response to the requirements of the insurance industry and either the negligible value of second liens on QF projects or the Company's inability to obtain a second lien on a QF

NOTICE OF PETITION

NOTICE OF MODIFIED PROCEDURE

NOTICE OF COMMENT DEADLINE 2

project, Idaho Power proposes to conform its QF contract requirements to contemporary insurance industry standards and realistic lien rights. Due to what the Company contends is the marginal value of the secondary lien position and the inability of the Company, in some circumstances, to obtain security in the form of a second lien, Idaho Power proposes to delete the secondary lien rights as a risk mitigation measure in levelized rate arrangements with QFs.

The Company in Petition Exhibit 3 shows, in legislative format, the proposed changes to the basic business insurance requirements that are now deemed by the insurance industry to be reasonably available to QFs:

INSURANCE

<u>TYPE</u>	<u>LIMITS</u>	<u>MAXIMUM DEDUCTIBLE</u>
Commercial General Liability	The greater of 15% of plant cost or \$1 Million/incident	0.5% of Plant Cost <u>Consistent with current Insurance Industry Utility practices for a similar property</u>
All Risk Property	Not less than 90%—80% of Plant Cost	0.5% of Plant Cost or \$25,000, whichever is greater <u>Consistent with current insurance Industry Utility practices for a similar property.</u>
Catastrophic Perils (Earthquake and Flood)	Not less than 60%—80% of equipment cost	5% of Plant Cost <u>Consistent with current Insurance Industry Utility practices for a similar property.</u>
Boiler/Machinery	Not less than 90%—80% of equipment cost	5.0% of equipment cost or \$25,000, whichever is greater <u>Consistent with current Insurance Utility practices for a similar property.</u>
Loss of Income (Business Interruption)	Not less than 75% of estimated daily income; not less than 20% of estimated annual income	30 days of income <u>Consistent with current Insurance Industry Utility practices for a similar property.</u>

All of the above insurance coverages shall be placed with insurance companies with an A.M Best rating of A- or better. Idaho Power contends that changes to the required basic business insurance coverages can be made by a QF without imposing substantial additional risk in the event of a default. In addition, the Company contends that by better aligning these requirements with current insurance industry standards and business practices, enforcement and compliance with these requirements will be reasonably attainable.

The Company proposes that the modified insurance requirements be accepted as basic business insurance coverages for purposes of risk mitigation as established in Order No. 21690, as amended, for future QF agreements and for pre-existing QF projects as their current insurance is renewed. The Company also proposes that the requirement for the establishment of secondary lien rights in favor of Idaho Power as established in Order No. 21690, as amended, for future QF agreements and for pre-existing QF projects as their agreements are amended be rescinded.

YOU ARE FURTHER NOTIFIED that the Commission has reviewed the filings of record in Case No. IPC-E-03-16. The Commission has determined that Idaho Power's Petition has generic consequence for both Avista Corporation dba Avista Utilities and PacifiCorp dba Utah Power & Light Company and so administratively assigns related case numbers for those utilities (AVU-E-03-9 and PAC-E-03-13).

YOU ARE FURTHER NOTIFIED that the Commission has preliminarily determined that the public interest regarding Idaho Power's Petition to modify PURPA contract security provisions may not require a hearing to consider the issues presented, and that issues raised by the Petition may be processed under **Modified Procedure**, i.e., by written submission rather by hearing. Reference Commission Rules of Procedure, IDAPA 31.01.01.201-.204.

YOU ARE FURTHER NOTIFIED that the Commission may not hold a hearing in this proceeding unless it receives written protests or comments opposing the use of Modified Procedure and stating why Modified Procedure should not be used. Reference IDAPA 31.01.01.203.

YOU ARE FURTHER NOTIFIED that the **deadline for filing written comments or protests** with respect to the changes proposed by Idaho Power to PURPA contract security provisions and the Commission's use of Modified Procedure in Case Nos. IPC-E-03-16, AVU-E-03-9, and PAC-E-03-13 is **Thursday, January 15, 2004**. Persons desiring a hearing must specifically request a hearing in their written protests or comments.

NOTICE OF PETITION
NOTICE OF MODIFIED PROCEDURE
NOTICE OF COMMENT DEADLINE

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the deadline, the Commission will consider the matter on its merits and enter its Order without a formal hearing. If comments or protests are filed within the deadline, the Commission will consider them and at its discretion may set the matter for hearing or may decide the matter and issue its Order based on the written positions before it. Reference IDAPA 31.01.01.204.

YOU ARE FURTHER NOTIFIED that written comments concerning Case Nos. IPC-E-03-16, AVU-E-03-9, and PAC-E-03-13 shall be mailed to the Commission and to Idaho Power, Avista, and PacifiCorp at the addresses reflected below:

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074

Street Address for Express Mail:

472 W. Washington Street
Boise, ID 83702-5983

Barton L. Kline
Monica B. Moen
Idaho Power Company
1221 W. Idaho Street
PO Box 70
Boise, ID 83707-0070
E-Mail: bkline@idahopower.com
mmoen@idahopower.com

Randy C. Allphin
Contract Administrator
Idaho Power Company
PO Box 70
Boise, ID 83707-0070
E-mail: rallphin@idahopower.com

Mark Widmer
PacifiCorp
825 NE Multnomah
Portland, OR 97232
E-mail: mark.widmer@pacificorp.com

H. Douglas Young
Contracts and Resource Administrator
Avista Corporation
1411 E. Mission Ave.
PO Box 3727
Spokane, WA 99220-3727
E-mail: doug.young@avistacorp.com

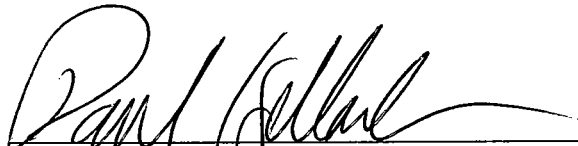
These comments should contain the case caption and case number shown on the first page of this document.

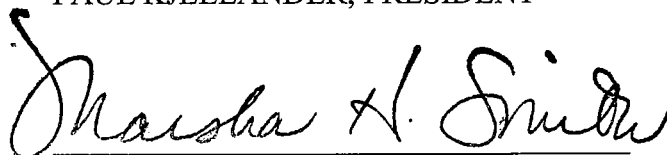
NOTICE OF PETITION
NOTICE OF MODIFIED PROCEDURE
NOTICE OF COMMENT DEADLINE

Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at www.puc.state.id.us. Click the "Comments and Questions" icon, and complete the comment form, using the case number as it appears on the front of this document. These comments must also be sent to the utilities at the e-mail addresses listed above.

YOU ARE FURTHER NOTIFIED that the Petition in Case Nos. IPC-E-03-16, AVU-E-03-9, and PAC-E-03-13 can be reviewed during regular business hours at the Idaho Public Utilities Commission, 472 W. Washington Street, Boise, Idaho and at the principal office of Idaho Power Company, 1221 W. Idaho Street, Boise, Idaho. In addition, the Petition may be viewed by accessing the Commission's website at www.puc.state.id.us under the "File Room" icon and selecting the appropriate topic heading.

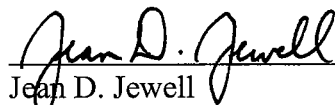
DATED at Boise, Idaho this 5th day of December 2003.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

bls/N:IPCE0316_AVUE0309_PACE0313_sw

NOTICE OF PETITION
NOTICE OF MODIFIED PROCEDURE
NOTICE OF COMMENT DEADLINE