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January 18, 2022

VIA ELECTRONIC FILING

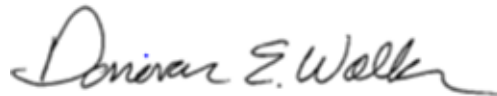
Jan Noriyuki, Secretary
Idaho Public Utilities Commission
11331 W. Chinden Blvd., Bldg 8,
Suite 201-A (83714)
PO Box 83720
Boise, Idaho 83720-0074

Re: Case No. AVU-E-21-14
In The Matter Of Avista Corporation's Annual Compliance Filing to Update
the Load and Gas Forecast in the Incremental Cost Integrated Resource
Plan Avoided Cost Model to be Used for Avoided Cost Calculations

Dear Ms. Noriyuki:

Enclosed for electronic filing, please find Idaho Power Company's Petition for Reconsideration in the above matter. Please feel free to contact me directly with any questions you might have about this filing.

Very truly yours,



Donovan E. Walker

DEW:cld
Enclosures

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF AVISTA)	
CORPORATION'S ANNUAL COMPLIANCE)	CASE NO. AVU-E-21-14
FILING TO UPDATE THE LOAD AND GAS)	
FORECASTS IN THE INCREMENTAL)	IDAHO POWER COMPANY'S
COST INTEGRATED RESOURCE PLAN)	PETITION FOR
AVOIDED COST MODEL TO BE USED)	RECONSIDERATION
FOR AVOIDED COST CALCULATIONS.)	
)	

Idaho Power Company ("Idaho Power" or "Company"), petitioner herein, pursuant to RP 33, 325, and 331, et seq., and *Idaho Code* § 61-626, hereby respectfully petitions the Idaho Public Utilities Commission ("Commission" or "IPUC") for reconsideration of Final Order No. 35274, dated December 28, 2021, issued in Case No. AVU-E-21-14 ("the Order"). Idaho Power seeks reconsideration regarding that portion of the Order that directs, "all Idaho electric utilities subject to PURPA shall continue to file their load forecast, natural gas price forecast, and contracts used as inputs to calculate their IRP each year in compliance with Order Nos. 32697 and 32802, with all future updates effective January 1 of the following year." Order No. 35274, p 4-5. This Petition is based upon the following:

I. LEGAL STANDARD

A party must seek reconsideration prior to initiating an appeal to the Idaho Supreme Court. *Idaho Code* § 61-627. An issue not presented to the Commission on reconsideration will not be considered on appeal. *Key Transp. Inc. v. Trans Magic Airlines Corp.*, 96 Idaho 110, 524 P.2d 1338 (1974). “The purpose of an application for rehearing is to afford an opportunity to the parties to bring to the attention of the Commission in an orderly manner any question theretofore determined in the matter and thereby afford the Commission an opportunity to rectify any mistake made by it before presenting the same to this Court.” *Washington Water Power Co., v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979)(citing *Idaho Underground Water Users Ass’n v. Idaho Power Co.*, 89 Idaho 147, 404 P.2d 859 (1965); *Consumers Co. v. Public Utilities Comm’n*, 40 Idaho 772, 236 P. 732 (1925)).

The Commission may grant reconsideration by reviewing the existing record, by submission of briefs, memoranda, written comments, interrogatories, and statements or by evidentiary hearing. RP 331, 332.

II. BACKGROUND

In its final Order No. 32697, in the multi-utility Case No. GNR-R-11-03, the Commission determined that the inputs to the ICIRP avoided cost methodology, utilized for all proposed Public Utility Regulatory Policies Act of 1978 (“PURPA”) Qualifying Facility (“QF”) projects that exceed the published rate eligibility cap, will be updated every two years upon acknowledgement of the utility’s Integrated Resource Plan (“IRP”) filing, with the exception of the load forecast, the natural gas forecast, and long term contracts — which are to be updated annually by October 15 of each year. The Commission stated:

We find that, in order to maintain the most accurate and up-

to-date reflection of a utility's true avoided cost, utilities must update fuel price forecasts and load forecasts annually – between IRP filings. For the sake of consistency, these annual updates should occur simultaneously with SAR updates – on June 1 of each year. In addition, it is appropriate to consider long-term contract commitments because of the potential effect that such commitments have on a utility's load and resource balance. We find it reasonable to include long-term contract considerations in an IRP Methodology calculation at such time as the QF and utility have entered into a signed contract for the sale and purchase of QF power. We further find it appropriate to consider PURPA contracts that have terminated or expired in each utility's load and resource balance. We find it reasonable that all other variables and assumptions utilized within the IRP Methodology remain fixed between IRP filings (every two years).

Order No. 32697, p. 22. The date for the annual update was later changed from June 1 to October 15 of each year. Order No. 32802.

Subsequently, starting in 2013, each utility - Avista Corporation ("Avista"), Idaho Power, and Rocky Mountain Power - have filed their own separate annual IRP avoided cost methodology update cases on or shortly before October 15 of each year. The current updates were filed by Avista on October 13, 2021 (Case No. AVU-E-21-14) and by Idaho Power on October 15, 2021 (Case No. IPC-E-21-35). Both cases were processed simultaneously. In both cases the Commission Staff ("Staff") recommended that the Commission change its past precedent of having an October 15 effective date for the annual filing and recommended - for all three electric utilities - that the utilities continue to file their annual update cases by October 15 each year but that the Commission establish a "fixed effective date of January 1" of the following year for the present case and all future annual update cases. Staff Comments, IPC-E-31-35, p 8, 11; Staff Comments, AVU-E-21-14, p 6.

In Avista's case, the Staff filed its Comments on December 14, 2021, and Avista

filed Reply Comments on December 16, 2021. Avista's Reply Comments consisted of a one-paragraph letter in which Avista thanked the Staff for its Comments and agreed with Staff's recommendation to change the effective date to January 1st for the current and all future annual update filings. Avista Reply Comments, p 1.

In Idaho Power's case, the Staff filed its Comments on December 21, 2021 (one-week after its Comments in Avista's case) and Idaho Power filed Reply Comments on December 28, 2021. In Idaho Power's Reply Comments, the Company objected to Staff's recommendation to change the effective date to January 1st for the present and future filings. Idaho Power Reply Comments, Case No. IPC-E-21-35, p 9-10. However, on the same day that Idaho Power filed its Reply Comments, the Commission issued its Final Order No. 35274 in Avista's case and directed that all three utilities shall use a January 1st effective date for the annual October 15th update filings. Order No. 35274, p 4, 5. The Commission has not issued a Final Order in the Idaho Power case, IPC-E-21-35, nor the Rocky Mountain Power case, PAC-E-21-10, as of the date of this filing (January 18, 2022).

III. PETITION FOR RECONSIDERATION

Idaho Power respectfully asks the Commission to grant reconsideration in this matter regarding that portion of Order No. 35274 that directs, "all Idaho electric utilities subject to PURPA shall continue to file their load forecast, natural gas price forecast, and contracts used as inputs to calculate their IRP each year in compliance with Order Nos. 32697 and 32802, with all future updates effective January 1 of the following year." Order No. 35274, p 4-5.

Idaho Power believes it is error to issue a Final Order changing compliance requirements for Idaho Power in Avista's case when Idaho Power has a simultaneous

proceeding pending with the exact same issue before the Commission, and the Commission issued said Final Order, applicable to Idaho Power, in Avista's case prior to hearing or considering Idaho Power's Reply Comments on the same issue pending in Idaho Power's separate case. Avista agreed with Staff's recommendation. Avista Reply Comments, p 1. However, Idaho Power in its Reply Comments objected to Staff's recommendation. Idaho Power Reply Comments, Case No. IPC-E-21-35, p 9-10. The Commission issued Final Order No. 35274 on December 28, 2021, the same day that Idaho Power filed its Reply Comments in its own separate case considering the very same issue. Final Order No. 35274 issued in Avista's case changed the effective date requirement for Idaho Power, without considering Idaho Power's Reply Comments on that very same issue pending at the same time in Idaho Power's case.

Idaho Power stated in its Reply Comments:

Idaho Power disagrees with Staff's proposal that this update take effect on January 1, 2022, and that future load and gas price forecast updates for the ICIRP methodology take effect January 1 following the October 15 filing. The October 15 update to the load and natural gas price forecasts is intended to be a routine update to those limited assumptions, with the underlying source or methodology vetted in the IRP process, not in the update proceedings. Further, the Commission has historically approved these updates with an effective date of October 15. The October 15 effective date is critical to ensure that projects that may enter the energy sales agreement queue after October 15 are priced appropriately based on the most updated information. Indeed, the Commission has regularly approved past October updates effective as of October 15 of the applicable year, even though the order may be dated after that date. See, e.g., Order Nos. 32941, 33182, 33417, 33646, 33957, 34217, and 34510.

Creating a lag between the update filing date and the effective date creates the potential for projects to try to anticipate the impact the update will have on avoided cost pricing. If projects believe the update will result in lower avoided cost pricing, there may be the potential for claims that projects have established legally enforceable obligations as

they try to remain eligible for the old pricing. Moving the effective date to January 1 thus creates the potential for increased litigation, does not create any benefit, and is unnecessary. This is not simply conjecture. Idaho Power and the Commission has seen past “runs on the bank” when multiple and numerous projects will try to all come in during a specific period of time seeking to stake a claim to what they perceive as higher rates, or more beneficial contract terms when they foresee the prospect of a change. For example, in the past Idaho Power has seen several “run-on-the-bank” situations ranging from approximately 200-700 MW of wind over the course of several months and more than 1,000 MW of proposed solar projects over the course of approximately one-months’ time. Creating a lag from October 15 to January 1 every year with the natural gas and load forecast update unnecessarily opens up what should be a routine Compliance filing into a potential driver of controversy and additional litigation over pricing and avoided cost rate eligibility. Idaho Power recommends that the Commission maintain its current practice of utilizing an October 15 effective date for the October 15 annual update filings.

Idaho Power Reply Comments, Case No. IPC-E-21-35, p 9-10.

The Commission’s determinations in Final Order No. 35274 as to the requirement that all electric utilities, including Idaho Power, shall utilize an effective date of January 1st, with all future filings, was issued without consideration of nor reference to Idaho Power’s Reply Comments where it objected to this recommendation by Staff. The Commission’s determination as to the effective date applicable to all electric utilities in Order No. 35274 was presumably based upon a single utility’s - Avista’s - agreement to that recommendation by Staff. Order No. 35274, p 4. In the Commission Findings and Discussion section of Final Order No. 35274, the Commission stated,

We find it reasonable for this Filing [Avista’s] to have an effective date of January 1, 2022. We further find it reasonable that all subsequent filings by the Company [Avista] and the other Idaho electric utilities subject to PURPA, [Idaho Power and Rocky Mountain Power] update load forecast, natural gas price forecast, and contracts used as inputs to calculate their IRP have an effective date of January 1 of the year following their annual filings.

Final Order No. 35274, p 4.

Findings of fact in Commission orders must be supported by substantial, competent evidence to be affirmed on appeal. *Industrial Customers of Idaho Power v. Idaho PUC*, 134 Idaho 285, 288, 1 P.3d 786, 789 (2000); *Hulet v. Idaho PUC*, 138 Idaho 476, 478, 65 P.3d 498, 500 (2003). On questions of law, review is limited to the determination of whether the Commission has regularly pursued its authority. *A.W. Brown*, 121 Idaho at 815, 828 P.2d at 844; *Hulet*, 138 Idaho at 478, 65 P.3d at 500. However, the Commission's order must contain the reasoning behind its conclusions to sufficiently allow the reviewing court to determine that the Commission did not act arbitrarily. *Rosebud Enterprises v. Idaho PUC*, 128 Idaho 609, 618, 917 P.2d 766, 775 (1996). Here, Final Order No. 35274 does not consider Idaho Power's Reply Comments nor address the Parties' respective positions on the issues, particularly the items and objection raised by Idaho Power in its Reply Comments. It contains no stated reasoning behind the Commission's determination to depart from the precedent of at least seven previous annual compliance filing effective date implementations on October 15, other than a statement that "we find it reasonable". Order No. 35274, p 4.

IV. NATURE AND EXTENT OF EVIDENCE AND ARGUMENT TO BE OFFERED ON RECONSIDERATION

RP 331 requires that Idaho Power state the nature and extent of evidence or argument it will present or offer if reconsideration is granted. Idaho Power respectfully asks that the Commission grant reconsideration in this matter and rescind that portion of Final Order No. 35274 directing that the January 1st effective date be applicable to "all Idaho electric utilities subject to PURPA" and make the same applicable only to Avista, whose case the Order was issued in and who agreed to that recommendation. Idaho Power proposes that the January 1st effective date issue, as it pertains to Idaho Power,

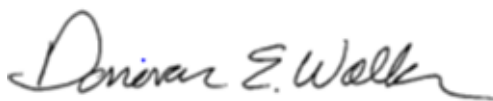
be considered and ruled upon in Idaho Power's separately pending case, Case No. IPC-E-21-35, which has the same issue pending.

Alternatively, should the Commission grant reconsideration in this matter Idaho Power recommends that the Commission set a procedural schedule whereby it may take and consider additional information provided the Parties regarding the items and issues identified herein related to those portions of Final Order No. 35274 pertaining to the effective date of the October 15 annual update filing. Should the Commission grant reconsideration, Idaho Power stands ready to augment the evidentiary record by additional comments, legal briefing, testimony, exhibits, and hearing, any or all of which as determined to be appropriate and at the discretion of the Commission.

V. CONCLUSION

Idaho Power respectfully requests that the Commission issue an order granting reconsideration of Final Order No. 35274 and rescind that portion of Final Order No. 35274 directing that the January 1st effective date be applicable to "all Idaho electric utilities subject to PURPA" and make the same applicable only to Avista. Further, Idaho Power recommends that the Commission consider the January 1st effective date issue - as it pertains to Idaho Power - in Idaho Power's Case No. IPC-E-21-35, which has the same issue currently, and simultaneously pending.

Respectfully submitted this 18th day of January 2022.



DONOVAN E. WALKER
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of January 2022 I served a true and correct copy of the within and foregoing IDAHO POWER COMPANY'S PETITION FOR RECONSIDERATION upon the following named parties by the method indicated below, and addressed to the following:

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Christy Davenport, Legal Assistant