

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<b>IN THE MATTER OF AVISTA</b> <b>CORPORATION’S ANNUAL COMPLIANCE</b> <b>FILING TO UPDATE THE LOAD AND GAS</b> <b>FORECASTS IN THE INCREMENTAL COST</b> <b>INTEGRATED RESOURCE PLAN AVOIDED</b> <b>COST MODEL TO BE USED FOR AVOIDED</b> <b>COST CALCULATIONS</b>	) ) ) ) ) ) )	<b>CASE NO. AVU-E-21-14</b>  <b>ORDER NO. 35321</b>
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On October 13, 2021, Avista Corporation (“Company” or “Avista”) submitted a compliance filing (“Filing”) requesting the Commission issue an order accepting its updated load forecast, updated natural gas price forecast, and contracts used as inputs to calculate its incremental cost Integrated Resource Plan (“IRP”) avoided cost rates, as required by Order Nos. 32697 and 32802.

On November 5, 2021, the Commission issued a Notice of Application and established a November 26, 2021, public comment deadline and a December 3, 2021, Company reply deadline. Order No. 35220.

At the Commission’s November 23, 2021, Decision Meeting, Staff submitted a memo recommending the Commission vacate the comment and reply deadlines established in Order No. 35220 and establish new public comment and Company reply deadlines to allow the Company to update its Filing with the updated load forecast and updated natural gas forecast used as inputs in the Company’s incremental cost IRP avoided cost model. Staff offered that the updates would allow the matter to be processed using the most up-to-date information.

On November 26, 2021, the Commission issued Order No. 35236 vacating the comment and reply deadlines established in Order No. 35220 and set a December 14, 2021, public comment deadline and a December 21, 2021, Company reply deadline. Staff filed the only comments. The Company replied non-substantively.

On December 28, 2021, the Commission approved the Company’s updated load forecast, updated natural gas price forecast, and contracts used as inputs to calculate its incremental cost IRP avoided cost rates. *See* Order No. 35274. In Order No. 35274 the Commission also found that all subsequent filings by the Company, and the other Idaho electric utilities subject to the Public Utility Regulatory Policies Act of 1978 (“PURPA”), 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.

On January 18, 2022, Idaho Power filed a Petition for Reconsideration (“Petition”) asking the Commission to rescind “that portion of Final Order No. 35274 directing that the January 1<sup>st</sup> effective date be applicable to ‘all Idaho electric utilities subject to PURPA and make the same applicable to only Avista.’” Idaho Power Petition at 7. No cross-petitions or comments were received.

Having reviewed the record and Idaho Power’s Petition, we issue this Final Order on Reconsideration granting Idaho Power’s request that the January 1 effective date for updates to the load and gas incremental cost IRP avoided cost rates as directed in Order No. 35274 not apply to it.

### **BACKGROUND**

Under PURPA and the Federal Energy Regulatory Commission’s (“FERC”) implementing regulations, this Commission has approved the IRP method to calculate avoided cost rates for qualifying facilities (“QFs”) that are above the resource-specific project eligibility cap. QFs that are below the applicable project eligibility cap are eligible to receive published avoided cost rates calculated using the surrogate avoided resource. *See* Order No. 32697 at 7-8. The avoided cost rate is the purchase price paid to QFs for the energy and capacity that the QF provides to the utility. 18 C.F.R. § 292.101(b)(6)(defining “avoided cost”). To ensure that avoided costs most accurately reflect the utility’s marginal cost of energy or capacity, the Commission has directed utilities to “update fuel price forecasts and load forecasts annually – between IRP filings,” and to update the Commission about its “long-term contract commitments because of [their] potential effect . . . on a utility’s load and resource balance.” *See* Order No. 32697 at 22.

Order No. 32697 established June 1 as the date to file the annual update. Order No. 32802 later changed the date for filing the annual update to October 15 of each year.

On October 15, 2021, Idaho Power submitted its annual compliance filing to update the load and gas forecasts for the incremental cost IRP model. *See* Case No. IPC-E-21-35. Staff filed comments on December 21, 2021 recommending, among other things, that the Commission direct Idaho Power, in addition to Avista and Rocky Mountain Power, to continue filing their annual load and gas forecast updates by October 15, but change the effective date established in Order No. 32802 to January 1. Staff Comments in Case No. IPC-E-21-35 at 8. On December 28,

2021, Idaho Power replied, urging the Commission not to change the effective date for the updated gas and load forecast used to set incremental cost IRP avoided cost rates. Idaho Power Reply Comments in Case No. IPC-E-21-35 at 10.

On January 21, 2022, the Commission issued Order No. 35294 approving Idaho Power's updated load and gas forecasts used in the incremental cost IRP avoided cost model filed in Case No. IPC-E-21-35. Like Order No. 35274, Order No. 35294 also directed Avista, Idaho Power, and Rocky Mountain Power to continue filing their load and gas forecast updates on October 15 but changed the future effective dates for the updated IRP avoided cost rates to January 1 as recommended by Staff.

On February 10, 2022, the Commission issued Order No. 35317 in Case No. PAC-E-21-20, Rocky Mountain Power's case updating its load and gas forecast used to determine the incremental cost IRP avoided cost rates. Order No. 35317 directed Rocky Mountain Power's future load and gas forecast updates would have an effective date of the following January 1, but did not apply to Idaho Power or Avista.

### **IDAHO POWER PETITION**

Idaho Power stated its belief that “it is an error to issue a Final Order changing compliance requirements for Idaho Power in Avista’s case when Idaho Power has a simultaneous pending proceeding with the exact same issue before the Commission, and the Commission issued said Final Order [Order No. 35274] . . . in Avista’s case prior to hearing or considering Idaho Power’s separate case [Case No. IPC-E-21-35].” Idaho Power Petition at 5. Idaho Power describe the timeline of events in this case and its related—but separate case—Case No IPC-E-21-35. Idaho Power maintains that on the same day the Final Order in this case was issued, directing Avista, Idaho Power, and Rocky Mountain Power to file future load and gas forecast updates with an effective date of January 1—December 28, 2021—it filed reply comments in its own case—Case No. IPC-E-21-35—considering the same issue. *Id.* Idaho Power argues that Order No. 35274 was issued without considering Idaho Power’s reply comments on the same issue in its own case. *Id.* Idaho Power’s Petition cites its reply comments in Case No. IPC-E-21-35 where the Company stated:

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.

*Id.*; quoting Idaho Power Reply Comments in Case No. IPC-E-21-35 at 9-10.

The Company continues:

Creating a lag between the updated 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. *Id.* at 6; quoting Idaho Power Reply Comments in Case No. IPC-E-21-35 at 9-10. . . . 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.

*Id.*

Idaho Power maintains that Order No. 35274 was overreaching because the Commission did not consider its Reply Comments in Case No. IPC-E-21-35 and it was issued in Avista's case, which Idaho Power had its own case filed that the Commission was considering at the time it issued Order No. 35274. Additionally, Idaho Power argues that Order No. 35274 did not state sufficient reasoning behind the Commission's decision to alter the effective date of the load and gas forecast update for IRP avoided cost rates that had been established for several years since Order No. 32802 was issued. Idaho Power proposed that the January 1 effective date imposed in Order No. 35274 be considered and ruled upon separately in Case No. IPC-E-21-35 and petitions the Commission to remove it from the directive in Order No. 35274.

### **STANDARD OF REVIEW**

A person may petition the Commission to reconsider its orders. *See Idaho Code* § 61-626; Rules 331-333 (IDAPA 31.01.01.331-.333). Reconsideration allows the petitioner to bring to the Commission's attention any question previously determined and affords the Commission an opportunity to rectify any mistake or omission. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979); Rule 325. The petitioner has 21 days from the date of the final order in which to ask for reconsideration. *Idaho Code* § 61-626(1). The petition must specify why it "contends that the order or any issue decided in the [o]rder

is unreasonable, unlawful, erroneous or not in conformity with the law.” Rule 331.01. Further, the petition “must state whether the petitioner . . . requests reconsideration by evidentiary hearing, written briefs, comments, or interrogatories.” Rule 331.03. Any answers or cross-petitions must be filed within seven days after the petition was filed. Rule 331.02 and .05.

Once a petition is filed, the Commission must issue an order saying whether it will reconsider the parts of the order at issue and, “[i]f reconsideration be granted, said order shall specify how the matter will be reconsidered and whether any cross-petitions for reconsideration will be granted.” *Idaho Code* § 61-626(2). If reconsideration is granted, the Commission must complete its reconsideration within 13 weeks after the date for filing petitions for reconsideration. *Idaho Code* § 61-626(2). The Commission must issue its final Order on reconsideration within 28 days after the matter is finally submitted for reconsideration. *Id.* “If after reconsideration, including consideration of matters arising since the making of the order, the [C]ommission shall be of the opinion that the original order or any part thereof is in any respect unjust or unwarranted or should be changed, the commission may abrogate or change the same.” *Idaho Code* § 61-626(3). An order made after reconsideration abrogating or changing the original order has the same force and effect as an original order. *Id.*

### **COMMISSION FINDINGS AND DISCUSSION**

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, -502 and -503. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provision of law, and to fix the same by order. *Idaho Code* §§ 61-502 and 61-503. In addition, the Commission has authority under PURPA and FERC regulations to set avoided costs, to order electric utilities to enter fixed-term obligations for the purchase of energy from QFs, and to implement FERC rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

We issued Order No. 35274 directing Avista, Idaho Power, and Rocky Mountain Power to continue filing their load and gas forecast updates for the incremental cost IRP avoided cost rates annually on October 15 but changed the effective date from October 15 to the following January 1. The intent was to alter the effective date to allow Staff and interested parties time to review the load and gas forecast updates and to prevent having identical filing and effective dates.

Idaho Power was not a party in this case but Order No. 35274 affects it even though it had a similar case pending—Case No. IPC-E-21-35. Accordingly, we find it reasonable to grant Idaho Power’s Petition. The January 1 effective date for future load and gas incremental cost IRP avoided cost rates in Case No. 35274 no longer applies to Idaho Power. We find that Case No. IPC-E-21-35 is the appropriate case to determine the effective date for future load and gas incremental cost IRP avoided cost rates for Idaho Power.

**ORDER**

IT IS HEREBY ORDERED Idaho Power’s Petition for reconsideration is granted; Idaho Power is no longer subject to the directive that future load and gas incremental cost IRP avoided cost rates will be effective on January 1 as ordered by Order No. 35274.

THIS IS A FINAL ORDER ON RECONSIDERATION. Any party aggrieved by this Order may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 15<sup>th</sup> day of February 2022.



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ERIC ANDERSON, PRESIDENT



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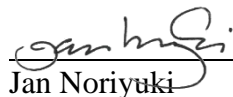
JOHN CHATBURN, COMMISSIONER

**//ABSTAIN TO AVOID CONFLICT//**

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JOHN R. HAMMOND, JR., COMMISSIONER

ATTEST:



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Jan Noriyuki  
Commission Secretary

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