

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER’S) CASE NO. IPC-E-19-20
APPLICATION FOR APPROVAL OF THE)
CAPACITY DEFICIENCY TO BE UTILIZED)
FOR AVOIDED-COST CALCULATIONS) ORDER NO. 34649
)

On June 28, 2019, Idaho Power Company (“Idaho Power” or “Company”) filed an application requesting the Commission determine the Company’s estimated first capacity deficit date (the “Application”). Concurrently, the Company filed IPC-E-19-19, the Company’s application for acknowledgment of its 2019 Integrated Resource Plan (“IRP”).

On July 19, 2019, the Company submitted a letter in IPC-E-19-19 stating it would need additional time to perform supplemental analysis to confirm the accuracy of the 2019 IRP’s findings. The Commission suspended this case until the Company submitted its amended 2019 IRP. Order No. 34411.

The Company submitted its amended 2019 IRP on January 31, 2020.

In a Decision Memo presented to the Commission, Commission Staff recommended the Commission dismiss the Company’s Application until the Company’s amended 2019 IRP is acknowledged. Counsel for the Company requested the opportunity to respond to Staff’s recommendation.

The Commission issued a Notice of Modified Procedure and established a comment and reply deadline on the specific issue of when the Company should file its biennial capacity deficiency cases; upon IRP filing or upon IRP acknowledgment. Order No. 34598. The Company filed comments and Staff and Idaho Conservation League (“ICL”) filed reply comments.

Now, based on the record, the Commission dismisses the Company’s Application and directs the Company to refile its Application upon Commission acknowledgment of the Company’s IRP.

BACKGROUND

Under the Commission’s implementation of the Public Utility Regulatory Policies Act of 1978 (“PURPA”), and consistent with Federal Energy Regulatory Commission (“FERC”) regulations, the Commission has determined that qualifying facilities (“QFs”) are not eligible to

receive payment for capacity until the purchasing utility's first capacity deficit date. In GNR-E-11-03, the Commission established the requirement that Idaho utilities file a capacity deficiency case at the same time they file their IRP.

[W]e acknowledge that some determinations made within the IRP process have an impact on calculations under the SAR and IRP methodologies. Specifically, the IRP process determines when the utility will experience a need for new capacity.

In an effort to address the concerns of QF developers who maintain that a utility could manipulate variables within the IRP planning process in a way that would negatively impact the pricing of capacity paid to a QF, we find it reasonable and fair to subject each utility's determination of capacity deficiency to further scrutiny. Therefore, when a utility submits its [IRP] to the Commission, a case shall be initiated to determine the capacity deficiency to be utilized in the SAR Methodology. The capacity deficiency determined through the IRP planning process will be the starting point, and will be presumed to be correct subject to the outcome of the proceeding.

Order No. 32697 at 23. In PAC-E-17-09, the Commission ordered "that each Idaho electric utility shall submit its updated capacity deficiency filing after the Commission has acknowledged its IRP report, rather than upon its IRP filing, thus amending Order No. 32697." Order No. 33917. In a Decision Memorandum presented to the Commission at the Commission's regularly scheduled Decision Meeting on March 10, 2020, Staff recommended the Commission dismiss the Company's Application because of the plain language of the ordering paragraph in Order No. 33917.

THE COMPANY'S COMMENTS

The Company acknowledges the Commission has explicitly stated when the Company should file its annual capacity deficiency cases but expresses concerns about how the Commission applied the amended requirement to the Company. The Company argues the Commission's practice is to decide issues affecting Idaho's three major electric utilities in a generic, or "GNR" case, and that the Commission does not change GNR orders through utility-specific dockets. *See* Idaho Power Comments at 2-3, 5. The Company claims it would be burdensome for the Company to monitor the other utilities' dockets for changes that might affect the Company and the Company would likely have to intervene in dockets specific to other utilities. *See Id.* at 3. The Company also notes its own capacity deficiency case was ongoing while the Commission was processing PAC-E-17-09, but the Commission did not amend the Company's capacity deficiency date in

Idaho Power's case. *Id.* at 2. The Company states that shifting the timing of capacity deficiency filings from IRP filing to IRP acknowledgment allows QFs to lock-in higher rates for their PURPA contracts. *Id.* at 3. The Company asserts the change made in PAC-E-17-09 was "based upon convenience to Staff with no mention or evaluation of the possible impact to customers from the delay in effectiveness of any potential change." *Id.* However, the Company acknowledges that the delay in its 2019 IRP made it reasonable to delay the capacity deficiency case this year. *Id.* at 5.

STAFF REPLY COMMENTS

Staff continues to recommend the Commission dismiss the Company's filing and direct the Company to refile its capacity deficiency case upon IRP acknowledgment. First, Staff reasserts that doing so would be consistent with Order No. 33917 issued in PAC-E-17-09, which is the most recent Commission order addressing the issue. Staff Reply Comments at 2-3. Second, Staff asserts that doing so would ensure a more comprehensive review of the capacity deficiency analysis. *Id.* at 3-4. Third, Staff asserts that waiting until IRP acknowledgment rather than filing the case concurrent with the filing of the IRP would not necessarily lead to higher avoided-cost rates. *Id.* at 4-5. Fourth, Staff asserts that the Commission has previously changed PURPA implementation for all Idaho utilities in a single-utility docket. *Id.* at 5-7. Additionally, because of the issues with the Company's 2019 IRP process, Staff recommends the Company update its capacity deficiency analysis to reflect changes made from the originally submitted 2019 IRP to the amended 2019 IRP. *Id.* at 4. Staff acknowledges concerns with making pronouncements to all utilities in a utility-specific docket but states strong logic supports waiting for IRP acknowledgment, with this year serving as an example of why to wait until acknowledgment. *Id.* at 6-7.

ICL REPLY COMMENTS

ICL states the Company is making a collateral attack on a prior Commission Order that would "disturb the certainty and finality of a Commission Order after the fact." ICL Reply Comments at 1. ICL expresses skepticism that the Company lacks resources to track the dockets of the other utilities in Idaho. *Id.* at 1-2. ICL notes the Company did not complain of a delay to the capacity deficiency case as it spent months amending its 2019 IRP. *Id.* at 2. ICL recommends the Commission either dismiss the application or hold this docket in abeyance. *Id.*

COMMISSION FINDINGS

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, 61-502, and 61-503. The Commission is vested with the power to “supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the [Public Utilities Law].” *Idaho Code* § 61-501. 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 and capacity from QFs, and to implement FERC rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

Having reviewed the record, the Commission determines that it is prudent for the Company to file its first capacity deficit date cases upon IRP acknowledgment. The narrower capacity deficiency review should follow the more in-depth IRP review, thereby providing assurances that the Company is using data and forecasts that have undergone rigorous review before establishing its first capacity deficit date. This is not done for the mere convenience of Commission Staff, as the Company suggests, but to ensure that a review of the Company’s data has indeed occurred before using the data to establish QFs rates. The Company’s claim that delaying the processing of its first capacity deficit date cases will be to the direct detriment of ratepayers is unpersuasive. This is an anticipated, biennial update that will provide an opportunity for a QF to establish a legally enforceable obligation before the update occurs, regardless of whether the update occurs after the IRP is filed or after the IRP is acknowledged.

ORDER

IT IS HEREBY ORDERED that the Company’s Application is dismissed.

IT IS FURTHER ORDERED that the Company will file its first capacity deficit date cases upon acknowledgment of its IRPs.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for

reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code § 61-626.*

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 29th day of April 2020.



PAUL KJELLANDER, PRESIDENT

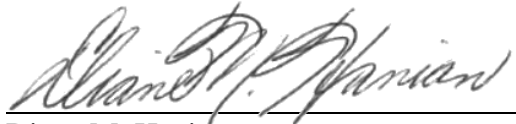


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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