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**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION OF )**  
**IDAHO POWER FOR APPROVAL OF THE )** **CASE NO. IPC-E-19-20**  
**CAPACITY DEFICIENCY TO BE UTILIZED )**  
**FOR AVOIDED-COST CALCULATIONS )**  
**)**  
**)** **REPLY COMMENTS OF**  
**)** **THE COMMISSION STAFF**  
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**COMES NOW** the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Edward J. Jewell, Deputy Attorney General, and hereby submits the following responsive comments.

**BACKGROUND**

On June 28, 2019, Idaho Power Company (“Idaho Power” or “Company”) filed an Application requesting the Commission approve a first capacity deficit date of July 2029 to be used in avoided-cost calculations under the Public Utility Regulatory Policies Act of 1978 (“PURPA”). The Company subsequently filed a letter in IPC-E-19-19 stating that the Company would need to conduct supplemental analyses to verify the accuracy of the Company's 2019 Integrated Resource Plan (“IRP”). The IRP analysis forms the basis for determination of the Company's first capacity deficit date. Therefore, the Commission issued a Notice of Application but stated that no further action would be taken until the Company submitted its amended 2019 IRP. Order No. 34411.

On January 31, 2020, the Company submitted its amended 2019 IRP.

On March 10, 2020, Commission Staff presented a Decision Memo at the Commission's Decision Meeting recommending the Commission dismiss the Company's Application for reasons discussed herein. Counsel for the Company requested the opportunity to respond to Staff's recommendation. The Commission directed the Company to make those points in writing.

On March 17, 2020, the Commission issued a Notice of Modified Procedure and established a comment deadline on whether the Company is to make its capacity deficiency filing when it files its IRP, or whether the Company is to make its capacity deficiency filing when the Commission acknowledges the Company's IRP. Order No. 34598.

On March 31, 2020, the Company responded to Staff's recommendation to dismiss the case.

## **STAFF RESPONSE**

After reading the Company's response, Staff recommends that the Commission dismiss the Company's filing and that the Company file the case after acknowledgement of the Company's IRP. Staff makes this recommendation because: (1) it is consistent with Order No. 33917, the latest Commission order on this subject; (2) ensures accuracy from a more comprehensive Staff review; (3) waiting until after IRP acknowledgment rather than beginning the case with the filing of the IRP does not necessarily lead to higher avoided cost rates; and (4) the Commission has previously changed PURPA implementation for all Idaho utilities in a single-utility docket, and therefore the Company should be aware that changes to PURPA implementation can be made in dockets for other utilities, which will affect the Company. If the Commission orders the Company to file its capacity deficiency case upon IRP acknowledgment, Staff also recommends that the Company update its capacity deficiency analysis to reflect changes made through the Amended and acknowledged 2019 IRP.

### **1. Filing after acknowledgment is consistent with the explicit terms of the latest Commission order on this subject.**

In Order No. 32698, Case No. GNR-E-11-03, the Commission established the requirement that Idaho utilities submit a case to determine their respective first capacity deficiency dates for the Surrogate Avoided Resource method of determining avoided-cost rates

when the utilities file their IRPs. However, in Order No. 33917, in PAC-E-17-09, the Commission found it reasonable to postpone the utilities' capacity deficiency date filings until after the Commission had acknowledged the Company's IRP. "We therefore amend Order No. 32697 to direct utilities to file their first capacity deficiency cases after the Commission has acknowledged their IRP reports." Order No. 33917.

## **2. Filing after IRP acknowledgement ensures greater accuracy from a more comprehensive Staff review.**

Staff maintains that filing the capacity deficiency case after the IRP is acknowledged provides the opportunity for the capacity deficiency case to benefit from the comprehensive review conducted by Staff in the IRP acknowledgement process. Staff believes a more comprehensive review provides a more thorough analysis which the Commission can use to inform its determination of the date and magnitude of the Company's capacity deficiency.

The size and timing of the Company's first deficiency are determined through the load and resource balance in the IRP. The factors that affect it include the load forecast as well as the capacity contribution of existing and committed resources. Prior to Order No. 33917 in the PAC-E-17-09 case, the three Idaho utilities were ordered to file their capacity deficiency case at the time of filing their IRP's for Commission review. Order No. 32698. While capacity deficiency cases are usually processed in less than a couple of months, the extensive IRP review requires considerably more time. Because of the filing date and processing time of the two cases, there was always a risk that issues could be discovered during Staff's deeper IRP review that could affect the utility's first capacity deficiency after the Commission authorizes it. This risk became real given the events that occurred in the Company's filings this year.

The Application for this year's first capacity deficiency was filed on June 20, 2019, basing its capacity deficiency analysis on the information contained in the initial 2019 IRP, filed on June 28, 2019. It was during Staff's comprehensive review of the Company's 2019 IRP information used as justification in the Jackpot Solar case (Case No. IPC-E-19-14) that it uncovered issues that led the Company to delay its IRP, and all the cases that depend up on it, including this one, for six months. Had the Commission processed the capacity deficiency case prior to Staff discovering these issues, the Company's first deficiency date would have been based on outdated and potentially incorrect load and resource balance results. Staff believes that

by filing capacity deficiency cases after IRP acknowledgment, these types of risks can be potentially eliminated.

In this case, Staff believes that the changes in the Amended IRP results, especially the amount of committed resources due to the addition of the Jackpot Solar Power Purchase Agreement in the load and resource balance, may affect the capacity deficiency analysis contained in the Company's original Application. If the Company is required to resubmit its Application, Staff recommends that the Company be ordered to resubmit its capacity deficiency analysis and proposed capacity deficiency date and amounts based on information contained in the Company's Amended and acknowledged 2019 IRP, rather than upon information contained in the Company's original 2019 IRP.

Staff believes that the comprehensive review it provides during the IRP review process can and does provide vetted information that can inform the Commission's determination of the capacity deficiency date. Staff review of previous Company IRPs has resulted in the Company changing several significant aspects of its IRP. Examples include changing to a capacity expansion model, using a more appropriate natural gas price forecast, adding demand response to meet future capacity deficits, aligning supply-side and demand-side resource valuation, selecting a least-cost portfolio as the preferred portfolio, and incorporating stakeholder feedback. These particular examples may not directly impact the capacity deficit analysis, however, inaccuracies or mistakes made in the Company's load forecast or determination of existing resource capacity could be found through a more in-depth IRP review, which would not only make the capacity deficit review more efficient for Staff, but also provide better information for the Commission to make a more informed decision.

### **3. Filing after IRP acknowledgement does not necessarily lead to higher avoided cost rates.**

Idaho Power claims in its comments that whenever there is a delay from the time that we know an input to avoided costs will be different to the time when that change is put in place, there is the potential for QF projects to lock-in higher rates for the duration of their PURPA contracts, to the direct detriment of customers. Staff believes avoided cost rates can go up or down, and accuracy in avoided costs matter more than the direction of change.

There are two major, regular updates to the inputs of the SAR model that determine the published rates of avoided costs: the natural gas price forecast update that occurs every June 1 and

the capacity deficiency update that occurs every other year. Because the natural gas forecast update does not depend on the IRP process, a delay in the IRP process does not affect the impacts of that update on avoided cost rates.

The impacts of the capacity deficiency update, however, will be affected by a delay in the IRP process, because the first deficit year and the magnitude of deficiency could vary from IRP to IRP. When the first deficit year comes earlier, capacity payment starts earlier. When the first deficit year comes later, capacity payment starts later. The magnitude of deficiency can also affect avoided cost rates. Order No. 32737 states,

The SAR model recognizes not only the timing of when the first deficit occurs, but also the magnitude of the deficit. The SAR model values capacity based only on the amount of capacity that is useful to the utility. In other words, if only a portion of a QF's capacity is needed in the initial years to fully satisfy the utility's deficit, then credit is only given to that portion. As the utility's deficit grows, increasing amounts of the QF's capacity are given credit until the year when the utility's deficit exceeds the QF's capacity, when full value for the QF's capacity is given.

Therefore, when an IRP is delayed, avoided cost rates can go up or down, depending on the net effect of these two factors in capacity deficiency. Regardless of the direction of the change, Staff believes accuracy in avoided cost rates is critical, which reinforces the importance of a comprehensive review of the IRP as discussed in the prior section of these comments.

#### **4. The Commission has previously changed all-utility requirements in a single-utility docket.**

In the Company's Comments for this case, it states: "Idaho Power is not aware of any case that directly says the Commission does not change requirements applicable to all utilities in a single-utility docket, I think everyone would agree that the Commission historically, or traditionally, has not made this its practice." In addition to Case No. PAC-E-17-09, the Commission established that the 90/110 performance band was generally applicable to all three Idaho electric utilities in two single-utility dockets: IPC-E-04-08 and IPC-E-04-10. Admittedly, the other utilities were intervenors in this pair of cases.

The Company has reason to know that the Commission has previously applied PURPA decisions in a utility-specific docket to other Idaho utilities. In Case No. PAC-E-05-09, PacifiCorp argued that the 90/110 rule, which was established in Order No. 29632 in IPC-E-04-08/IPC-E-04-10 did not apply to all three utilities. PacifiCorp argued that the Commission did not expressly mandate

Order No. 29632 to be generally applicable and that the 90/110 rule may be a reasonable provision for Idaho Power, but did not believe that it was the only reasonable provision for each Idaho utility. *See PacifiCorp Reply Comments PAC-E-05-09*. However, the Commission rejected the proposed Power Purchase Agreement at issue because it did not contain a 90/110 provision, or a similarly rigorous provision, and stated,

The Commission clarifies that the 90/110 performance band established in Order No. 29632 is applicable to all three utilities, PacifiCorp as well as Idaho Power and Avista. The Commission develops its PURPA contract standards and requirements in generic methodology, ratesetting and complaint cases. Reference *Rosebud Enterprises v. Idaho Public Util. Comm'n*, 128 Idaho 609 at 615 (1996).

Order No. 29880 at 10. Despite the Commission's implementation of the 90/110 band in Order No. 29632 not explicitly stating it applied to the other utilities, the Commission held in Order No. 29880 that the 90/110 provision did indeed apply to other utilities.

Additionally, in the Background section of Order No. 34510, in IPC-E-19-31, the Commission stated, "The Commission further directed that utilities initiate a case every two years, to determine the capacity deficiency period to be used in the SAR avoided cost methodology. [Order No. 32802 at 23] (timing of filing changed from the time of the IRP filing to upon acknowledgment of the IRP, in Order No. 33917)." IPC-E-19-31 was an Idaho Power-specific case and stated that the proper time to file a capacity deficiency case was after IRP acknowledgement.

Idaho Power could have petitioned for reconsideration or clarification of Order No. 33917 or Order No. 34510 but did not do so. Pursuant to Commission Rule 331, "any person interested in a final order or any issue decided in a final order of the Commission may petition for reconsideration." IDAPA 31.01.01.331.01. In other words, a person (or a company) does not need to be a party to the underlying case to petition for reconsideration.

Staff believes that the major regulated utilities in Idaho have the capability to monitor all PURPA-related orders issued by the Commission, and that Idaho utilities reasonably should know that the Commission has previously applied decisions from utility-specific dockets to other Idaho utilities. However, Staff also acknowledges that there are potential fairness and notice issues when the Commission makes changes to all utilities in a utility-specific docket and doing so could potentially impact whether such actions are implementations of PURPA or applications of PURPA to specific facts. But, given the issues with this year's review and the strong logic behind doing the capacity deficit review after the more thorough IRP review, Staff believes the Commission should

order the Company to file its capacity deficit review cases following IRP acknowledgement and use updated information based on comments and the acknowledging order.

### **STAFF RECOMMENDATIONS**

Staff recommends the Commission dismiss the Company's filing and order the Company to submit its capacity deficiency filings upon IRP acknowledgment and require the Company to provide updated capacity deficiency analysis, proposed capacity deficiency date and amounts based on information contained in the Company's Amended and acknowledged 2019 IRP.

Respectfully submitted this 7<sup>th</sup> day of April 2020.



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Deputy Attorney General

Technical Staff: Yao Yin  
Rachelle Farnsworth  
Travis Culbertson

i:umisc/comments/ipce19.20ejrfyytnc reply comments

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 7<sup>th</sup> DAY OF APRIL 2020, SERVED THE FOREGOING **REPLY COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-19-20, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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SECRETARY