

C. Tom Arkoosh, ISB No. 2253
ARKOOSH LAW OFFICES
913 W. River Street, Suite 450
P.O. Box 2900
Boise, ID 83701
Telephone: (208) 343-5105
Facsimile: (208) 343-5456
Email: tom.arkoosh@arkoosh.com
Admin copy: erin.cecil@arkoosh.com

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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for IdaHydro

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER
COMPANY'S APPLICATION FOR
APPROVAL OF THE CAPACITY
DEFICIENCY TO BE UTILIZED FOR
AVOIDED COST CALCULATIONS

) Case No. IPC-E-21-09

) **IDAHYDRO'S REPLY COMMENTS**

COMES NOW the Idaho Hydroelectric Power Producers Trust, an Idaho Trust, d/b/a IdaHydro ("IdaHydro"), by and through its counsel of record, C. Tom Arkoosh of Arkoosh Law Offices, and hereby submits the following reply comments pursuant to *Order No. 35346*:

Introduction

Idaho Power Company ("Idaho Power") has asked the Idaho Public Utilities Commission ("Commission") to adopt 2023 as its first capacity deficiency year. No participant in the pending docket has asserted that Idaho Power will be capacity deficient no later than July 2023. No participant seeks a hearing. The docket has been pending since June 3, 2021. Under the Commission's procedural rules, now is time to determine the matter.

Comments

PURPA directs utilities to purchase power from cogenerators and small power producers at avoided cost. Payment for two components, energy and capacity, comprise the avoided cost. 18 CFR 292.304. In December 2012, the Commission separated payments for energy and for

capacity, delaying capacity payments until Idaho Power was capacity deficient. *Order No. 32697*. According to the *Order*, determination of the capacity deficiency date occurs from the initiation of a docket following the completion of the Integrated Resource Plan. The capacity deficiency date determined by the Integrated Resource Plan is presumed correct.

Idaho Power filed its initial *Application* in this docket on June 3, 2021, seeking a capacity deficiency date in 2028. Subsequently, Idaho Power found itself in need of more immediate new capacity, which caused it to file the IPC-E-21-41 docket seeking permission to acquire capacity without employment of the Commission's competitive procurement rules. Consequently, on February 4, 2022, Idaho Power filed an *Amended Application* seeking to set the capacity deficiency date no later than July 2023. The Commission accepted the *Amended Application* and ordered it be processed on modified procedure.

Discovery in this matter places the capacity deficiency date in July 2023:

REQUEST NO. 1: When is or will Idaho Power Company be capacity deficient?

RESPONSE TO IDAHYDRO'S REQUEST NO. 1: Idaho Power's 2021 Integrated Resource Plan filed December 30, 2021, indicates a first capacity deficit in July 2023. Additionally, on February 4, 2022, Idaho Power filed a Motion and Amended Application in docket IPC-E-21-09 "Application for Capacity Deficiency To Be Utilized For Avoided Cost Calculations" which seeks to establish a first capacity deficiency of July 2023 for purposes of PURPA avoided cost pricing.

The response to this Request is sponsored by Mark Annis, Regulatory Consultant, Idaho Power Company.

See *Second Declaration of C. Tom Arkoosh*.

This is the most recent Integrated Resource Plan, and thus presumed correct.

The Commission's Procedural Rule 204 provides on modified procedure the Commission "may set the matter for hearing or may decide the matter and issue its order on the basis of the written positions before it." No participant has requested a hearing. And no party has contested

the 2023 deficiency date.

This matter is ripe for decision upon the uncontested position of the *Amended Application* to set the capacity deficiency date no later than July 2023.

The Staff has filed *Amended Comments* suggesting that Idaho Power include further calculations in its supply and demand calculations and file the updated information “and a new first capacity deficiency date as a compliance filing that incorporates [suggested] changes.” Further, the Staff suggests that the Commission initiate a generic docket to investigate if the capacity deficiency docket be initiated at a different time than currently required.

Staff’s analysis of Idaho Power’s *Application* regarding the first deficit date is only relevant when there is a question as to when the power company may or may not be resource deficit. That is: fine tuning issues with great granularity such as what is the appropriate magnitude of the planning reserve margin or when (or if) the Boardman to Hemingway line will be operational are only relevant to an analysis that is trying to pinpoint exactly when the utility will be resource deficit at some unknown date in the future. However, that is not the issue in this docket. The answer to the question of when Idaho Power is currently capacity deficit is not murky and does not require resolution of any of the issues raised by Staff.

Idaho Power has admitted it is actively acquiring capacity resources that will be placed in service in 2023. Therefore, Idaho Power is, by definition, resource deficit in 2023. Whether or not the Commission agrees such acquisitions are prudent, wise, or even legitimate ratepayer obligations is irrelevant to answering the question at the heart of this case, which is: when is Idaho Power acquiring new capacity resources? The answer is 2023. No other date is supported by the evidence and no other date complies with this Commission’s obligation to implement PURPA in such a way that QFs are allowed the opportunity to offer capacity to the utility in lieu

of the utility's acquisition of a like amount of capacity from another source.

PURPA projects (QFs) have the right to make their capacity available to the utility in order to allow the utility to displace capacity acquisitions from other sources. If this Commission ignores the fact that Idaho Power is acquiring capacity in 2023 and therefore sets a first deficit date for PURPA purposes at any time beyond 2023, it will have deprived QFs of a fundamental right that is guaranteed to them under federal law. As this Commission is well aware, FERC requires that capacity payments be made whenever a QF offers capacity and energy such that it permits an electric utility to reduce firm power purchases. 45 Fed. Reg. 12214, 12216 (February 25, 1980). Any determination by this Commission of a deficit date beyond the date (2023) on which Idaho Power is actually acquiring new capacity resources violates this fundamental tenant of PURPA and FERC's implementation of that law.

DATED this 6th day of April 2022.

ARKOOSH LAW OFFICES



C. Tom Arkoosh
Attorney for IdaHydro

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 6th day of April 2022, I served a true and correct copy of the foregoing document(s) upon the following person(s), in the manner indicated:

Commission Secretary Idaho Public Utilities Commission 11331 W. Chinden Blvd., Building 8, Suite 201-A P.O. Box 83720 Boise, ID 83720-0074	_____ _____ _____ _____ <u> X </u>	U.S. Mail, Postage Prepaid Overnight Courier Hand Delivered Via Facsimile E-mail: secretary@puc.idaho.gov
Dayn Hardie Idaho Public Utilities Commission 11331 W. Chinden Blvd., Building 8, Suite 201-A P.O. Box 83720 Boise, ID 83720-0074	_____ _____ _____ _____ <u> X </u>	U.S. Mail, Postage Prepaid Overnight Courier Hand Delivered Via Facsimile E-mail: dayn.hardie@puc.idaho.gov
Donovan E. Walker Regulatory Dockets Idaho Power Company 1221 West Idaho Street (83702) P.O. Box 70 Boise, ID 83707	_____ _____ _____ _____ <u> X </u>	U.S. Mail, Postage Prepaid Overnight Courier Hand Delivered Via Facsimile E-mail: dwalker@idahopower.com dockets@idahopower.com
Camille Christen Energy Contracts Idaho Power Company 1221 West Idaho Street (83702) P.O. Box 70 Boise, ID 83707	_____ _____ _____ _____ <u> X </u>	U.S. Mail, Postage Prepaid Overnight Courier Hand Delivered Via Facsimile E-mail: cchristen@idahopower.com energycontracts@idahopower.com
Peter J. Richardson Richardson Adams, PLLC 515 N. 27 th St. P.O. Box 7218 Boise, ID 83702	_____ _____ _____ _____ <u> X </u>	U.S. Mail, Postage Prepaid Overnight Courier Hand Delivered Via Facsimile E-mail: peter@richardsonadams.com

Dr. Don Reading
6070 Hill Road
Boise, ID 83703

U.S. Mail, Postage Prepaid
 Overnight Courier
 Hand Delivered
 Via Facsimile
 E-mail:
dreading@mindspring.com



C. Tom Arkoosh