

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE JOINT</b>	)	
<b>PETITION OF IDAHO POWER</b>	)	<b>CASE NO. GNR-E-10-04</b>
<b>COMPANY, AVISTA CORPORATION,</b>	)	
<b>AND PACIFICORP DBA ROCKY</b>	)	<b>NOTICE OF JOINT PETITION</b>
<b>MOUNTAIN POWER TO ADDRESS</b>	)	
<b>AVOIDED COST ISSUES AND TO ADJUST</b>	)	<b>NOTICE OF</b>
<b>THE PUBLISHED AVOIDED COST RATE</b>	)	<b>MODIFIED PROCEDURE</b>
<b>ELIGIBILITY CAP.</b>	)	
	)	<b>NOTICE OF</b>
	)	<b>INTERVENTION DEADLINE</b>
	)	
	)	<b>NOTICE OF</b>
	)	<b>ORAL ARGUMENT</b>
	)	
	)	<b>ORDER NO. 32131</b>

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On November 5, 2010, Idaho Power Company, Avista Corporation, and PacifiCorp dba Rocky Mountain Power filed a Joint Petition requesting that the Commission initiate an investigation to address various avoided cost issues<sup>1</sup> related to the Public Utility Regulatory Policies Act of 1978 (PURPA). While the investigation is underway, the Petitioners also requested that the Commission “lower the published avoided cost rate eligibility cap from 10 aMW to 100 kW [to] be effective immediately. . . .” Petition at 7.

**NOTICE OF JOINT PETITION**

YOU ARE HEREBY NOTIFIED that the Joint Petition was filed following a public workshop in Case No. GNR-E-09-03 convened for the purpose of discussing a surrogate avoided resource (SAR) methodology for wind-specific qualifying facilities (QFs). The Joint Petition asserts that both Idaho Power and Rocky Mountain Power are projected to add large quantities of wind generation to their systems. The Joint Petition asserts that there was a discussion at the

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<sup>1</sup> The Petition identified the following issues to examine: system reliability; operational control; ownership and valuation of RECs; the lack of capacity provided by intermittent wind generation; the need to build/acquire capacity on the system; the associated transmission infrastructure and upgrades needed to bring additional wind generation to load; the interconnection and transmission service request process; the mechanical availability guarantee (MAG) provision; the posting of security; liquidated damages; a standard contract template; the impact of QF generation on the integrated resource planning (IRP) process; and the increased size and scale of QF projects.

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November 3, 2010 workshop regarding the need to temporarily reduce the eligibility cap for the published avoided cost rates from 10 aMW to 100 kW. Petition at 2.

YOU ARE FURTHER NOTIFIED the Petition requests that the Commission reduce the eligibility cap “on an interim basis during the pendency of this investigation and docket.” *Id.* at 2. The Petitioners maintain that the Commission has made similar reductions in the past on an interim basis, citing to Commission Order Nos. 29872 in Case No. IPC-E-05-22.

YOU ARE FURTHER NOTIFIED that the Joint Petition asserts that many of the same reasons that justified the Commission’s action to lower the eligibility cap to 100 kW in the 05-22 case are present in this case. The Petitioners stress that the reasons and justifications are amplified in the present situation because “the number of projects, their combined MWs, the dollar impacts, and the potential consequences to the system and to customers are much larger and much more pronounced than even those that existed [in 2005].” *Id.* at 3.

YOU ARE FURTHER NOTIFIED that the Petition states that Idaho Power currently has more than 208 MW of wind generation and an additional 264 MW of Commission-approved QF wind contracts (many of which are scheduled to be online by December 31, 2010). The Petition asserts that Idaho Power could have 1100 MW of wind powered generation on its system in the near term that would exceed the minimum loads experienced on Idaho Power’s system this year. “Cumulatively, this amount of generation would exceed any other single source of generation – hydro, coal, natural gas, or renewables – that exists on Idaho Power’s system.” *Id.* at 4.

YOU ARE FURTHER NOTIFIED that Rocky Mountain asserts that it is in a similar situation. The Petition declares that in 2005, Rocky Mountain had a single 20 MW wind QF contract and less than 50 MW of wind QF requests in Idaho. “As of today, [Rocky Mountain] has 64 MW of wind QF contracts executed; however, none have achieved commercial operation, and another 358 MW of standard wind QF contracts are proposed.” Rocky Mountain maintains that the majority of these proposed standard wind QF contracts are configured to use the Goshen Idaho electrical system “where integration of the QF resource as a Network Resource for serving load could be impacted by transmission constraints across Path C if the wind power is exported to RMP’s northern Utah load.” *Id.* at 4.

YOU ARE FURTHER NOTIFIED that the Petition states that many current QF projects are “large, utility-scale wind farms that are broken up into 10 aMW increments in order to qualify for the published [avoided cost] rates.” *Id.* at 5. The Petition maintains that the typical wind developer is no longer “unsophisticated” about the QF process and small projects (.5-1.5 MW) “are no longer the norm.” *Id.* The Petitioners assert that it is “commonplace” for wind developers seeking QF contracts with Idaho Power and Rocky Mountain to aggregate “six or more ‘projects’ totaling 100 to 150 MW of nameplate rating, and the multiple projects to all share interconnection facilities to one common utility delivery point.” *Id.*

YOU ARE FURTHER NOTIFIED that the Petitioners request that the Commission take immediate action on its request to lower the eligibility cap immediately “on fewer than fourteen days notice, if possible. *See*, RP 256.” The Petitioners’ request for an immediate reduction in the eligibility cap is meant to mitigate the typical “‘race’ to the door of the utilities with projects attempting to position themselves for a claim to ‘grandfathering’ and entitlement to the previously effective rates, terms, conditions, etc.” Petition at 7. The Petitioners further assert that it is important that the eligibility cap be reduced for all three utilities. This would prevent a situation where a utility not granted a reduction in its eligibility cap could disproportionately attract a greater number of project proposals. *Id.*

#### **PETITIONS TO INTERVENE AND ANSWERS**

YOU ARE FURTHER NOTIFIED that, after the filing of the Joint Petition, the Commission received several petitions to intervene. Petitions to intervene have been filed by: Cedar Creek Wind, LLC; Exergy Development Group of Idaho; Grandview Solar II; Idaho Windfarms, LLC; Interconnect Solar Development, LLC; the Northwest and Intermountain Power Producers Coalition (NIPPC); Renewable Energy Coalition (the “Coalition”)<sup>2</sup>; Intermountain Wind, LLC; and J.R. Simplot Company. All of the Petitioners allege a direct and substantial interest in the Joint Petition. No party timely opposed the petitions to intervene.

YOU ARE FURTHER NOTIFIED that, in addition to the petitions to intervene, the Commission also received four Answers to the Joint Petition. Answers were filed by NIPPC, the

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<sup>2</sup> The Coalition is an Oregon-based consortium of existing base load hydroelectric and biomass QFs located in the Northwest.

Coalition, Simplot, and the Milk Producers of Idaho.<sup>3</sup> The Answers raise both procedural and substantive objections to the Petitioners' request to lower the eligibility cap for the published avoided cost rate to 100 kW nameplate capacity. More specifically, NIPPC urges the Commission to take no action regarding the eligibility cap until interested parties have been allowed reasonable time to respond to the Petitioners' request regarding the 100 kW cap. NIPPC Answer at 9-10. NIPPC also argues that the Petitioners have not served "all adverse parties" and the Petitioners have not provided evidence to support the request for immediate relief. *Id.* at 5-9. Simplot also adopted NIPPC's Answer.

YOU ARE FURTHER NOTIFIED that the Milk Producers, Simplot and the Coalition also argue in their Answers that the lowering of the eligibility cap should not apply to non-wind QFs. Simplot asserts that the Joint Petition does not refer to any "problems associated with biomass, cogeneration, solar, small hydro, waste-to-energy projects or any other type of PURPA eligible QF resource. These other types of [QF] resources have very different generating characteristics from wind and should therefore not be caught in the overly broad sweep of the Joint Motion." Simplot Answer at 3.

YOU ARE FURTHER NOTIFIED that in evaluating the Joint Petition, Staff recommended the Commission develop a record in this matter through the use of Modified Procedure, Rule 202. Specifically, Staff recommended that the Commission first take up the issue of the Petitioners' request to reduce the eligibility cap. Staff further recommended that the Commission set a deadline for intervention, approve the petitions to intervene already filed, and issue a Notice of Parties in this case. Finally, Staff recommended that the Commission note in its Notice of Petition/Notice of Modified Procedure that the Commission's ultimate decision regarding the Petitioners' request to reduce the published avoided cost eligibility cap become effective seven days after the Commission issues its Notice in this case.

### DISCUSSION

As set out above, the Joint Petition asks the Commission to initiate an investigation to examine a host of issues pertaining to the avoided costs for QF projects. The Petitioners also

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<sup>3</sup> The Milk Producers did not file a Petition to Intervene and its "Answer" was a "letter in opposition." The Milk Producers letter will be treated as a comment. If the Milk Producers desire to intervene in this matter as a party, it must file a Petition to Intervene.

request that while the investigation is pending, the Commission lower the published avoided cost rate eligibility cap immediately “on fewer than fourteen days notice, if possible.” Petition at 7. The Petitioners note that a reduction in the eligibility cap on an interim basis was previously authorized in Case No. IPC-E-05-22. However, there is a significant difference between the Joint Petition in this case and Idaho Power’s request to temporarily lower the eligibility cap in the 05-22 case. In the 05-22 case, Idaho Power’s petition was accompanied by supporting testimony. The Commission subsequently conducted an evidentiary hearing and oral argument to develop the record. Order No. 29872 at 1, 10. Consequently, we decline at this time to immediately reduce the published avoided cost rate eligibility cap.

After reviewing the Joint Petition and the Answers, the Commission will first take up the request to reduce the eligibility cap. As set out in the schedule below, the Commission will process the Petitioners’ request to reduce the eligibility cap via Modified Procedure and schedule an oral argument. In particular, the Commission is interested in receiving comments regarding: (1) the advisability of reducing the published avoided cost eligibility cap; (2) if the eligibility cap is reduced, the appropriateness of exempting non-wind QF projects from the reduced eligibility cap; and (3) the consequences of dividing larger wind projects into 10 aMW projects to utilize the published rate.<sup>4</sup>

We next turn to the Petitions to Intervene. The Commission finds based upon the Petitions and the lack of any objection, the Petitions to Intervene shall be granted. Intervention by these parties will serve the purpose of intervention as described by Rule 74 of the Commission’s Rules of Procedure. We also set a deadline for intervention for other persons interested in this proceeding. Once the intervention deadline has passed, the Commission Secretary shall prepare a Notice of Parties to include the e-mail addresses of parties. The parties shall subsequently utilize the e-mail addresses to serve their comments on all other parties.

After the Commission issues its Order in the first phase in this case, we will take up the other avoided cost issues raised by the Joint Petition and other interested parties. Finally, it is

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<sup>4</sup> The Joint Petition argued that many current QF projects are “large, utility-scale wind farms that are broken up into 10 aMW increments in order to qualify for the published [avoided] cost rates.” Petition at 5.

our intent that our decision regarding the “Joint Motion” to reduce the published avoided cost eligibility cap shall become effective on December 14, 2010.

**NOTICE OF MODIFIED PROCEDURE**

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission’s Rules of Procedure, IDAPA 31.01.01.201 through .204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation. The Commission further finds that it is appropriate to schedule an oral argument for parties to present their case.

YOU ARE FURTHER NOTIFIED that the Petition and the Answers have been filed with the Commission and are available for public inspection during regular business hours at the Commission offices. The Petition and Answers are also available on the Commission’s web site at [www.puc.idaho.gov](http://www.puc.idaho.gov) by clicking on “File Room” and then “Electric Cases.”

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Petition may file a written **comment** in support or opposition with the Commission **no later than December 22, 2010**. The comment must contain a statement of reasons supporting the comment. Written **reply comments** addressing arguments and positions raised by the initial comments may be filed **no later than January 19, 2011**. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this Petition shall be mailed to the Commission and served on all other parties via e-mail. The Commission’s address is reflected below:

Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720  
Boise, ID 83720-0074

Street Address for Express Mail:

472 W. Washington Street  
Boise, ID 83702-5918

These comments should contain the case caption and case number shown on the first page of this document. Persons (not parties) desiring to submit comments via e-mail may do so by accessing the Commission's home page located at [www.puc.idaho.gov](http://www.puc.idaho.gov). Click the "Comments and Questions" icon and complete the comment form using the case number as it appears on the front of this document.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its Order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

### **DEADLINE FOR INTERVENTION**

YOU ARE FURTHER NOTIFIED that any additional persons desiring to intervene in this matter for the purpose of presenting comments or oral argument must file a Petition to Intervene with the Commission pursuant to the Commission's Rules of Procedure 72 and 73, IDAPA 31.01.01.072 and .073. Additional persons intending to participate as parties must file a Petition to Intervene **no later than 14 days from the service date of this Order**. Persons seeking intervenor status shall also provide the Commission Secretary with an electronic mail address to facilitate service in this matter.

YOU ARE FURTHER NOTIFIED that persons desiring to present their views without parties' rights of participation are not required to intervene and may present their comments without prior notification to the Commission or to other parties.

YOU ARE FURTHER NOTIFIED that once the deadline for intervention has passed, the Commission Secretary shall issue a Notice of Parties. The Notice of Parties shall assign exhibit numbers to each party in this proceeding.

### **NOTICE OF ORAL ARGUMENT**

YOU ARE HEREBY NOTIFIED that the Commission will convene a hearing for oral argument in this case on **THURSDAY, JANUARY 27, 2011, AT 9:30 A.M. (MOUNTAIN STANDARD TIME) IN THE COMMISSION HEARING ROOM, 472 WEST WASHINGTON STREET, BOISE, IDAHO.** The issues addressed through oral argument should be directed at the Joint Petition's request to temporarily reduce the eligibility

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cap for the published avoided cost rates from 10 aMW to 100 kW. Parties may also address the other questions set out in the “Discussion” section above. The broader avoided cost issues cited by the Petitioners will be taken up in subsequent proceedings.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission’s jurisdiction under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities and to implement FERC rules. The Commission may enter any final Order consistent with its authority under Title 61 and PURPA.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission’s Rules of Procedure, IDAPA 31.01.01.000, *et seq.*

YOU ARE FURTHER NOTIFIED that all hearings and oral arguments in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074  
(208) 334-0338 (Telephone)  
(208) 334-3762 (FAX)  
E-Mail: [secretary@puc.idaho.gov](mailto:secretary@puc.idaho.gov)

## **ORDER**

IT IS HEREBY ORDERED that this case be processed under Modified Procedure. Persons intending to participate as parties must file a Petition to Intervene no later than 14 days from the service date of this Order. The Petitions to Intervene filed by Cedar Creek Wind, LLC; Exergy Development Group of Idaho; Grandview Solar II; Idaho Windfarms, LLC; Interconnect

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Solar Development, LLC; the Northwest and Intermountain Power Producers Coalition; Renewable Energy Coalition; Intermountain Wind, LLC; and J.R. Simplot Company are granted.

IT IS FURTHER ORDERED that interested persons and the parties file written comments no later than December 22, 2010. Reply comments addressing arguments and positions raised by any initial comments must be filed no later than January 19, 2011.

IT IS FURTHER ORDERED that parties file their initial and reply comments on other parties via electronic mail.

IT IS FURTHER ORDERED that the Commission's decision regarding whether to reduce the published avoided cost eligibility cap become effective on December 14, 2010.

IT IS FURTHER ORDERED that the Commission convene a hearing for oral argument on Thursday, January 27, 2011, at 9:30 a.m. in the Commission Hearing Room.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 3<sup>rd</sup> day of December 2010.

  
JIM D. KEMPTON, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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