

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1725

In the Matter of)	
)	
IDAHO POWER COMPANY,)	RENEWABLE ENERGY COALITION
)	PREHEARING BRIEF
)	
Application to Lower Standard Contract)	
Eligibility Cap and to Reduce the Standard)	
Contract Term, for Approval of Solar)	
Integration Charge, and for Change in)	
Resource Sufficiency Determination.)	
_____)	

I. INTRODUCTION

Pursuant to the Administrative Law Judge’s October 5, 2015 Ruling, the Renewable Energy Coalition (the “Coalition”) submits this prehearing brief recommending that the Oregon Public Utility Commission (the “Commission” or “OPUC”) reject Idaho Power’s proposals to: 1) lower the size threshold for wind and solar qualifying facilities (“QF”) to 100 kilowatts (“kW”); and 2) reduce the contract term for wind and solar projects to two years. Instead, the Coalition recommends that the Commission increase the contract term to twenty years of fixed prices, and ensure that all existing QFs that renew their contracts are paid for capacity during the resource sufficiency period.

If the Commission is inclined to adopt any of part of Idaho Power’s recommendations, then it should adopt narrow, targeted, and proportionate relief that limits any potential harm to QFs and ratepayers. First, any order lowering the size threshold or contract term should apply only to wind and solar QFs, as Idaho Power has

recommended. In addition, the Commission should consider other, more narrowly tailored solutions, including lowering the wind and solar size threshold to the 3 to 7 megawatt (“MW”) range, adopting an annual cap on the amount of wind and solar projects that are eligible for standard contract terms and conditions, changing the requirements regarding how close different projects can be located to each other, and/or applying relief only to solar projects.

The Coalition agrees with Idaho Power that currently operating QFs selling power to the utility should be treated differently, and should be paid capacity payments when their contracts expire. The Idaho Public Utilities Commission (the “Idaho Commission”) understands that small existing QFs almost always renew their contracts, which means that they provide capacity benefits to the utilities during the sufficiency period and they should be compensated for these benefits. The Commission should not abandon its regulatory responsibilities to the Idaho Commission, but should strongly consider the policies they adopt when deciding whether to adopt Oregon policies for Idaho Power. In the case of capacity payments to renewing QFs, the Commission should adopt the Idaho Commission’s policy.

The Commission should also make clear that any order in this proceeding only applies to Idaho Power, and not to Oregon’s other utilities. Idaho Power has only requested that relief be granted to it. The Commission should adopt objective standards for whether to grant relief, which may result in different policies given the unique operational realities for each utility. Idaho Power’s operational and regulatory circumstances are uniquely different from PacifiCorp and Portland General Electric, given its small service territory in Oregon that only represents less than 5% of its overall

load. For example, the size and number of both existing and potential QFs in Idaho Power's Oregon service territory are markedly different than the number of existing and potential QFs in PacifiCorp's Oregon service territory.

Finally, the Coalition does not support, but is no longer opposing, Idaho Power's proposal to change the resource sufficiency period due to the acquisition of additional demand response resources. If the Commission allows Idaho Power to update its capacity deficit date, then it should waive one of the two planned avoided cost updates scheduled for early next year.

II. RENEWABLE ENERGY COALITION

Idaho Power has asserted that the Coalition has no legitimate interest in this proceeding and inaccurately characterized the Coalition's interests and membership.¹ The Coalition takes this opportunity to correct Idaho Power and reiterate its interests in this and other proceedings related to the Public Utility Regulatory Policies Act ("PURPA").

The Coalition's membership consists of only baseload renewable energy QFs, and represents the interests of all non-intermittent QFs. Idaho Power, however, incorrectly asserts that the Coalition's membership only includes hydroelectric projects.² While the vast majority of the Coalition's members are hydroelectric QFs, there are other baseload QFs.³ Idaho Power also asserts that the Coalition's membership is all below the

¹ Idaho Power/400, Allphin/12-13.

² Id. at Allphin/12.

³ See Coalition/100, Lowe/2. Idaho Power could have learned this by reading the Coalition's testimony or asking the Coalition.

Commission's ten MW size threshold for standard contracts and rates.⁴ The Coalition's membership includes Biomass One, which is a 32 MW QF.

The Coalition's membership consists of currently operating QFs. These are projects that are already selling power to the utilities, some of which have been doing so since the mid 1980s. Often the Commission, utilities, and interested parties overlook the impact that PURPA policies have on existing projects, many of which are barely operating in the current climate of low avoided cost rates and PURPA disputes. Existing projects also face unique challenges, including that they must often re-negotiate interconnection agreements, update their power purchase agreements, their new contracts always start during an initial period of utility resource sufficiency, and they have no ability to time their construction to when avoided cost rates may be higher. Existing QFs also have a need for major replacement and/or upgrading of their equipment, conveyance structures, interconnections, and other facilities, which can require significant capital investments and financing.

Contrary to Idaho Power's claims, the Coalition is also concerned with the impact of the Commission's policies on new QFs and future renewable energy development in Oregon.⁵ Some of the Coalition's members plan to expand their current projects, or develop new QF projects. Other members have recently completed new projects. More importantly, the Coalition's goal is to adopt fair PURPA policies that carefully balance the interests of new and existing QFs, the utilities, and ratepayers. PURPA policies should account for all these interests, and policies that limit the development of new QFs can also harm ratepayers and existing QFs, even if only indirectly.

⁴ Idaho Power/400, Allphin/12.

⁵ Id. at Allphin/13.

II. BACKGROUND

The Commission should resolve the issues in this proceeding cognizant of Idaho Power's history of crying wolf, and over estimating the size and potential harm of QFs. This is the second time Idaho Power has alleged a huge "deluge" of new QF projects, which quickly disappeared. The Commission should largely re-affirm its existing contract terms and size thresholds instead of radically modifying its PURPA policies based on unfounded fears. The only changes in policy should be to ensure that existing QFs are paid for capacity during the resource sufficiency period, and all QFs have the option to enter into 20 year fixed price contracts.

PURPA development in Idaho Power's service territory is not an achievement that Oregon should be proud of. PURPA has been existence for about thirty-five years, and there are only seven projects with a total of "21 MWs of QF nameplate capacity selling electricity to Idaho Power in Oregon."⁶ Two of the projects are not located in Oregon, so there are only five Oregon QFs with 17 MWs of capacity that have been able to develop and currently operate in Idaho Power's Oregon service territory.⁷ This does not include those projects that operated at one time, but had to close their operations due to unfavorable contract terms and rates.

In 2012, Idaho Power requested that the Commission lower the standard contract size threshold to 100 kW because of a "deluge of QF power on Idaho Power's system—the vast majority of which is purchased under standard contract."⁸ The Commission

⁶ Coalition/200, Lowe/4.

⁷ Id.

⁸ Re Idaho Power Company, Docket UE 244, Idaho Power Filing Letter at 1 (Jan. 27, 2012).

temporarily lowered Idaho Power’s size threshold to 100 kW.⁹ Despite the concerns raised by Idaho Power, this deluge of new wind QFs “quickly dried up with Idaho Power entering into far fewer contracts”, none of which are operating.¹⁰

On April 24, 2015, Idaho Power made its filing in this proceeding, requesting: 1) a temporary stay of its PURPA obligations; 2) to lower the standard contract eligibility cap to 100 kW for wind and solar; 3) to lower the standard contract term to two years for wind and solar; 4) approval of a solar integration charge; and 5) to change its resource sufficiency determination. The Commission rejected Idaho Power’s request to stay its PURPA obligations on the grounds that it does not have the legal authority to suspend the requirement that a utility enter into standard contracts 100 kW and lower.¹¹ The Commission, however, adopted more narrowly tailored temporary relief lowering the size threshold to 3 MWs for solar QFs.¹² The Coalition appreciated the Commission’s efforts to not be scared into adopting an extreme remedy, but to instead more carefully consider Idaho Power’s allegations and attempt to adopt “narrow, targeted, and proportionate” relief.¹³

The Commission relied upon Idaho Power’s claims of a huge amount of new solar generation, including 461 MWs of new solar projects in Oregon and Idaho.¹⁴ Out of the

⁹ Re Idaho Power Company, Docket UE 244, Order No. 12-042 (Feb. 14, 2012) (lowering the size threshold to 100 kW); Re Idaho Power Company, Docket No. UM 1725, Order No. 15-199 at 6 n.8 (June 23, 2015).

¹⁰ Coalition/100, Lowe/4.

¹¹ Re Idaho Power Company, Docket No. UM 1725, Order No. 15-199 at 6 (June 23, 2015).

¹² Id. at 6-7.

¹³ Id. at 7.

¹⁴ Re Idaho Power Company, Docket No. UM 1725, Application to lower standard contract eligibility cap and to reduce the standard contract term at 1-2 (April 24, 2015) (“Application”).

gate though, a third or 141 MWs had already had their contracts terminated.¹⁵ Idaho Power also alleged that it currently had an extraordinary level of requests for new PURPA contracts, including “additional 1,326 MW of solar capacity actively seeking PURPA contracts, 245 MW of which are in Oregon.”¹⁶

Once again, the feared deluge of PURPA contracts and projects is failing to materialize. Of the over 1,000 MWs of Idaho solar projects “actively seeking PURPA contracts,” only 40 MWs are still interested in obtaining a contract.¹⁷ Similarly, in Oregon, only 69 MWs of the alleged 265 MWs of solar QFs seeking contracts are now under contract.¹⁸ This demonstrates that the Commission should put zero weight on the number of QFs “actively seeking” contracts. Requesting information about entering into a contract has little, if any, relation to the number of facilities that actually are built.

The Commission should also not adopt policies based on the number of QFs that have entered into contracts with Idaho Power or any other utility.¹⁹ There are numerous forces that reduce the number of projects that are constructed, including project financing, ordinary risks of development, interconnection costs, the expiration of tax credits, and utility hostility.²⁰ For example, Idaho Power is extremely unlikely to “have sufficient available interconnection and transmission capacity to accommodate a large amount of any type of new generation, especially given the historically low avoided cost

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Id.

¹⁶ Application at 2. The 245 Oregon “actively seeking” contracts were updated to 265 after Idaho Power’s Application was filed. Idaho Power/500, Allphin/3.

¹⁷ Idaho Power/500, Allphin/2.

¹⁸ Id. at Allphin/3.

¹⁹ Coalition/100, Lowe/4.

²⁰ E.g., Coalition/100, Lowe/5-6.

rates.”²¹ It has already been shown that numerous QFs that sign contracts will not be built, and it is unlikely that most of the remaining potential QFs will ever sell power.

III. ARGUMENT

1. Contract Terms Should Be Increased

A. Oregon Policy Should Be Revised to Ensure 20 Years of Fixed Prices Calculated at the Time of Contract Formation

Oregon law requires utilities to offer twenty-year fixed price contracts.

Specifically, utilities are required “to prepare, publish and file with the Public Utility Commission” their forecast avoided cost rates “over at least the next 20 years.”²² These prices “shall be reviewed and approved by the commission.”²³ Oregon law similarly allows a QF to have their avoided cost rates “calculated at the time the legal obligation to purchase the energy or energy and capacity is incurred.”²⁴ This means that Oregon QFs have the right to 20-year contracts with published avoided cost rates set when they sign a contract or commit themselves to sell their power.

Oregon law requiring 20-year fixed price contract terms was intentionally broader than the federal PURPA. When passing Oregon’s PURPA, Representative William Bradbury explained that it included requirements that do not exist under the federal PURPA. Specifically:

the bill requires that the federal law does not require is that utilities must forecast their avoided cost over a 20 year period. They have to be willing to enter into contract with power producers based on those forecasted avoided costs.²⁵

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Id.

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ORS § 758.525(1).

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Id.

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ORS § 758.525(2)(a).

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Hearing on HB 2023, Oregon Senate Committee on the Environment, Statement of Representative William Bradbury (June 16, 1983).

Therefore, Oregon QFs have a statutory right to twenty-year prices based on a utility's avoided cost rates calculated at the time the QF enters into a contract or another legally enforceable obligation.

B. The Commission Should Increase the Oregon Contract Term to Twenty Years of Fixed Prices

Both the Commission's current contract term policy and Idaho Power's recommendations are in violation of Oregon law. Idaho Power's proposal in this case is at least the company's third attempt in a little over a decade to reduce contract terms.²⁶ The Commission allows QFs to enter into twenty-year contracts; however, only the first fifteen years are based on fixed forecasted avoided cost rates. The last five years are not based on prices calculated at the time of contract or legally enforceable obligation, but an indexed rate. The Commission should reject Idaho Power's proposal for two-year contracts, and revise its current policy to ensure that all QFs can enter into twenty-year fixed price contracts.

Long-term contracts should also be retained because they are essential for both new and existing QFs. Most QFs request contract terms with fixed prices for at least a 15-year term because longer terms are needed to ensure that they can meet financing requirements, make longer term plans, and operate during the resource sufficiency period when avoided costs only include market-based prices.²⁷ Existing QFs can also need long-term contracts because of expensive and complex equipment upgrades. Long-term contracts are even more critical in the current environment with long resource sufficiency

²⁶ Re Investigation Into QF Contracting and Pricing, Docket No. UM 1129, Order No. 05-584 at 15-18 (May 13, 2005); Re Investigation Into QF Contracting and Pricing, Docket No. UM 1610, Order No. 14-058 at 7-8 (Feb. 24, 2014).

²⁷ Coalition/100, Lowe/8-9.

periods and low avoided cost rates. Long term contracts are also more consistent with the twenty year integrated resource planning (“IRP”) horizon, and would allow comparable treatment between QFs and utility resources, which are included in rates for their economic life.

The Commission should also be cognizant that lowering the contract term, without paying QFs for capacity during the sufficiency period, would illegally fail to pay QFs for the capacity they provide to utilities.²⁸ Resource sufficiency periods in Oregon are currently longer than any time in recent memory, and lowering the contract term to anything shorter than the resource sufficiency period will result in QFs not being paid for capacity. This would violate PURPA.²⁹ Idaho Power’s proposal in this case, as modified by the company in reply testimony, partially addresses this problem by paying existing QFs capacity in contract renewals, and paying new QFs capacity during most contract renewals.³⁰ When adopting a final order in this proceeding, the Commission should look at the policy as a whole and make sure that it does not unintentionally harm QFs or ratepayers.

2. Size Thresholds Should Not Be Lowered

The Commission should reject Idaho Power’s proposal to lower the 10 MW cap for standard contracts for wind and solar QFs. Allowing smaller QFs to enter into standard contracts with fixed rates mitigates some the difficulties related to transaction

²⁸ Coalition/100, Lowe/8-10; Hydrodynamics Inc., 146 FERC ¶ 61,193 at P. 35 (March 20, 2014).

²⁹ Hydrodynamics Inc., 146 FERC ¶ 61,193 at P. 35 (March 20, 2014).

³⁰ Idaho Power/400, Allphin/4-7, 14-15. The Idaho Power original proposal for short contract terms would have eliminated capacity payments, but Idaho Power modified its proposal in reply testimony to match the Idaho Commission’s August 20, 2015 order, which shortened contract terms, but allowed new QFs to receive capacity payments in contract renewals. See supra Section III.4.

costs, economies of scale, the lack of developer sophistication, and the inability to economically access alternative markets.³¹ The need to negotiate non-standard contracts can significantly increase costs, create uncertainty, and cause delays.³² Alternatively, since the issues raised in this proceeding only relate to solar projects, the Commission could adopt other forms of relief that may better address Idaho Power’s concerns. These could include only lowering the size threshold for solar projects, an annual cap on the amount of wind and solar projects eligible for standard contract terms and rates, or change in how close different projects can be located to each other.

If the Commission intends to lower the size threshold for wind and solar, then there has not been “adequate explanation regarding why 100 kW is the appropriate size.”³³ There is no specific evidence regarding why the size threshold should be 100 kW instead of 3 MW or 5 MW or another number.³⁴ No party has “clearly identified, explained or proven that a project developer’s ability or sophistication of a project developer magically changes at 100 kW.”³⁵

The only explanation to date is that 100 kW is the number adopted by the Idaho Commission, and there will be administrative efficiencies between the two states. The Coalition agrees that this is an important consideration in favor of adopting similar PURPA policies for Idaho Power. The Coalition has generally supported Idaho Power using the policies of the Idaho Commission in Oregon, assuming there is independent evidence that those policies are consistent with Oregon law and policy. The Coalition,

³¹ Coalition/100, Lowe/6-7.

³² Id.

³³ Coalition/200, Lowe/3.

³⁴ Id.

³⁵ Id.

however, is unaware of what other factors warrant the specific 100 kW number. Given this lack of supporting evidence, the Coalition recommends that the Commission not lower the size threshold to 100 kW, and either retain the 10 MW size threshold or adopt something in the range of 3 MWs to 7 MWs for solar QFs only.

3. The Contract Terms and Size Thresholds for Small and Existing Baseload QFs Should Not Be Lowered

If the Commission is inclined to adopt Idaho Power's recommendations, then size thresholds and contract terms should not be lowered for existing baseload QFs. This alternative recommendation is consistent with Idaho Power's position that relief be limited to only new wind and solar QFs.³⁶

Any alleged problems faced by Idaho Power are not being caused by existing and small baseload QFs.³⁷ The Coalition appreciates that Idaho Power recognized this fact when it requested that its relief only apply to wind and solar QFs. The total MW size of the existing projects is small and they are not causing the alleged rate or reliability concerns identified by Idaho Power. Existing hydroelectric projects also provide Idaho Power with significant benefits, including seasonal capacity benefits and a reliable power supply. The Commission should not adopt any policy changes that cause unintended consequences and harm QFs that are benefiting ratepayers.³⁸

4. The Commission Should Adopt the Idaho Commission's Policy of Paying Existing QFs for Capacity During the Sufficiency Period

The Idaho Commission has shortened the contract term to two years and lowered the standard contract size threshold to 100 kW for wind and solar QFs, which is what

³⁶ REC understands that Idaho Power's position in this case is that it requested relief only apply to new projects, which is consistent with REC's recommendation that PURPA policy changes (if any) not apply to existing QFs.

³⁷ Coalition/100, Lowe/10-11.

³⁸ Id.

Idaho Power is requesting in this proceeding. The Idaho Commission also ensured that new QFs that subsequently renew their contracts are generally paid capacity during the resource sufficiency period. This is not a new policy, as the Idaho Commission already requires currently existing QFs to be paid for capacity during the full term of any contract renewals.

Similar to Oregon's avoided cost rate methodology, the Idaho Commission's avoided cost rates include resource sufficiency and deficiency periods.³⁹ For new QFs in Idaho, and both new and existing Oregon QFs, the initial years result in a resource sufficiency period in which the rates do not include capacity payments. This is because the QF is only paid for capacity "at such time that the utility becomes capacity deficient", which almost never includes the early contract years.⁴⁰

The Idaho and Oregon Commission's policies significantly diverge in terms of existing projects being paid for capacity when they renew their contracts. The Idaho Commission recognizes the fact that all, or nearly all, existing QFs renew their contracts, which reduces the utility's need to purchase new capacity resources. The Idaho Commission explained:

By including a capacity payment only when the utility becomes capacity deficient, the utilities are paying rates that are a more accurate reflection of a true avoided cost for the QF power. However, we find merit in the argument made by the Canal Companies that contract extensions and/or renewals present an exception to the capacity deficit rule that we adopt today. It is logical that, if a QF project is being paid for capacity at the end of

³⁹ Coalition/200, Lowe/6-8; Re Idaho Power Company's Petition to Modify Terms and Conditions of PURPA Purchase Agreements, IPUC Case Nos. IPC-E-15-01, AVU-E-15-01, PAC-E-15-03, Order No. 33357 at 3, 21 (Aug. 20, 2015).

⁴⁰ See Re the Commission's Review of PURPA QF Contract Provisions, IPUC Case No. GNR-E-11-03, Order No. 32697 at 21-22 (Dec. 18, 2012) clarified in Order No. 32871 (Aug. 9, 2013).

the contract term and the parties are seeking renewal/extension of the contract, the renewal/extension would include immediate payment of capacity. An existing QF's capacity would have already been included in the utility's load and resource balance and could not be considered surplus power. Therefore, we find it reasonable to allow QFs entering into contract extensions or renewals to be paid capacity for the full term of the extension or renewal.⁴¹

The Idaho Commission specifically reaffirmed that policy in its most recent order in lowering the contract term.⁴² The Idaho Commission continued its policy that existing QFs that renew their contracts would be paid capacity during the sufficiency period. In addition, the Idaho Commission clarified that new QFs that renew their contracts should be treated as existing QFs in most circumstances so that will be paid capacity in most of the years for renewal contracts. The Idaho Commission explained that:

We recognize that a new two-year contract would be unlikely to reach a capacity deficiency date. Therefore, we find it reasonable for utilities to establish capacity deficiency at the time the initial IRP-based contract is signed. As long as the QF renews its contract and continuously sells power to the utility, the QF is entitled to capacity based on the capacity deficiency date established at the time of its initial contract. For example, if the QF comes on-line in 2017 and the utility is capacity deficient in 2020, the QF would be eligible for capacity payments in the second year of its second contract and thereafter if in continuous operation. This adjustment recognizes that in ensuing contract periods, the QF is considered part of the utility's resource stack and will be contributing to reducing the utility's need for capacity. This mitigates the concern that short-term contracts will not contribute to the avoidance of utility capacity/generation.⁴³

⁴¹ Re the Commission's Review of PURPA QF Contract Provisions, Order No. 32697 at 21-22.

⁴² Re Idaho Power Company's Petition to Modify Terms and Conditions of PURPA Purchase Agreements, Order No. 33357 at 25-26.

⁴³ Id.

Regardless of the relief allowed to Idaho Power, the Commission should adopt the Idaho Commission's policy on this matter and ensure that existing QFs are paid for capacity when they renew their contracts. This is consistent with how utilities plan their operations and the benefits that existing QFs provide to the utilities. In addition, if the Commission only lowers the size threshold or reduces the contract term, but the Commission "does not also ensure that existing QFs are paid for capacity, then renewing QFs will be treated significantly worse in Oregon than they are treated in Idaho."⁴⁴ Existing QFs entering into follow-on contracts should be provided avoided costs prices that include capacity payments.

5. Idaho Power's Proposed Sufficiency Period Change

Idaho Power has requested a change in the demarcation between its resource sufficiency and deficiency period from 2016 to 2021 due to the acquisition of additional demand response. The Coalition's testimony opposed this change, and continues to believe that it is unnecessary. The Coalition, however, recognizes that there are arguments in favor of the change. The Coalition no longer opposes this out of cycle update, if the Commission waives one of the two expected updates that are planned for the spring of 2015. The Commission's recent adoption of annual avoided cost updates in UM 1610 was intended to provide more regular and predictable avoided cost rate changes, which would be completely undermined if there were three avoided cost rate updates in less than six months (and five over a year and a half).

This demarcation also identified the date of the next capacity deficit. This term is something of a misnomer because the utilities often acquire capacity resources during

⁴⁴ Coalition/200, Lowe/7-8.

their sufficiency period. In addition, the estimated sufficiency period is often overstated, in part because the specific date receives little analysis in the integrated resource plan proceeding. The demarcation has a huge impact on avoided cost rates, which means “there is a relatively arbitrary and inaccurate date for a capacity deficit that has a huge impact on avoided cost rates.”⁴⁵

The Commission’s current policy on avoided cost rates changes allows annual updates that are filed at a specific time (May 1) plus another potential update after IRP acknowledgement.⁴⁶ The Commission adopted this process because, while its previous policy was intended to allow updates every other year coincident with the IRP process, in practice parties requested more frequent ad hoc updates that resulted in frequent litigation.⁴⁷

Unpredictable rate changes harm QFs, frustrate the Commission’s obligation to increase the marketability of electric energy produced by Oregon QFs, and thwart the existence of a settled and uniform institutional climate for Oregon QFs.⁴⁸ Predictability regarding when avoided cost rates change occur is critical for project development and continued operation, and unexpected price changes “can prevent a QF from successfully completing a contract.”⁴⁹ Historically, utilities have asymmetrical levels of information regarding when updates will be filed, and they have used unplanned rate filings as an

⁴⁵ Coalition/100, Lowe/12.

⁴⁶ Staff Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, Order No. 14-058 at 25-26 (Fed. 24, 2014).

⁴⁷ Coalition/100, Lowe/13-14.

⁴⁸ ORS § 758.515(3)(a)&(b); Coalition/100, Lowe/13-14.

⁴⁹ Coalition/100, Lowe/13-14.

additional barrier to QF development and an opportunity to delay the negotiation process as an obstacle to finalizing a contract.⁵⁰

The Commission's current policy is designed to allow frequent avoided cost rate updates to protect ratepayers from outdated prices, but provide QFs with predictability and certainty regarding rate changes. In addition to the annual update and a potential integrated resource plan update, the Commission established guidelines regarding whether "out of cycle" updates should be allowed stating:

we will continue to allow requests for mid-cycle updates for significant changes to avoided cost prices. However, in light of our decision here to require annual updates in addition to updates following IRP acknowledgement, we caution stakeholders that the "significant change" required to warrant an out-of-cycle update will be very high. We expect the parties to use this option infrequently.⁵¹

Less than one year after this order, Idaho Power requested an "out of cycle update" to change its resource sufficiency period in this proceeding.

The Coalition recognizes that Idaho Power and Staff believe that the company's demand response acquisition meets the "very high" standard that warrants a "significant change."⁵² Idaho Power's demand response acquisition could be construed as "a major block of resources" under Oregon rules that could warrant an out of cycle update.⁵³

The Coalition's main concerns with Idaho Power's update were that it had not been sufficiently vetted or reviewed, and that it would result in multiple, "pancaked" price changes. The Commission's process in this proceeding has provided the parties a

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Id.

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Staff Investigation Into Qualifying Facility Contracting and Pricing, Order No. 14-058 at 26.

⁵²

Staff/100, Andrus/4.

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OAR § 860-029-0080(7).

fair opportunity to review Idaho Power's demand response acquisition and related issues, and this concern of the Coalition has been addressed.

Allowing Idaho Power to change its avoided cost rates, however, will result in numerous rate changes over a short period of time. Idaho Power's avoided cost rates already changed in August 2014,⁵⁴ and June 2015.⁵⁵ Idaho Power's IRP is on the Commission's public meeting agenda for March 24, 2016, and expected to be acknowledged soon thereafter, which would result in a rate change in the spring of next year.⁵⁶ In addition, there is the upcoming May 1, 2015 update, which will result in another rate change within 60 days. The final order in this proceeding is planned for December 31, 2015, which could result in an avoided cost rates change in a couple months. Granting Idaho Power's request in this proceeding could result in five avoided cost rate changes in about a year and half, and three updates in less than six months. While each alone might be warranted, the Coalition believes that this is simply too many, and is inconsistent with the purpose of allowing annual filings.

The Commission faced a similar situation when it rejected an out of cycle update by QF advocates that Idaho Power opposed in 2007. Idaho Power opposed the change because the company intended to file new avoided cost rates soon, which is what will occur in this case. The Commission recognized that the facts of the situation would result in a major change in avoided cost rates and that "may warrant the updated avoided cost

⁵⁴ Staff Investigation Into Qualifying Facility Contracting and Pricing, Docket No. UM 1610, Order No. 14-278 (Aug. 5, 2014).

⁵⁵ Re Idaho Power's Application to Update Schedule 85 Qualifying Facility Information, Docket No. UM 1730, Order No. 15-204 (June 23, 2015).

⁵⁶ Re Idaho Power's 2015 IRP, Docket No. LC 63, Ruling (July 29, 2015).

filings as contemplated by” its previous orders.⁵⁷ The then current avoided cost rates would be updated soon and were inaccurate, but the Commission rejected the attempt to revise avoided cost rates early because Idaho Power would file new rates soon.

If the Commission decides to allow Idaho Power to change its avoided cost rates based on its demand response acquisition, then the Coalition recommends that the Commission waive the requirement for an IRP related or annual update later this year.

The Commission has already stated that:

In the event that an IRP is acknowledged within 60 days of May 1 in a particular year, the Commission will use its discretion at that time to direct a utility to waive its 30-day post IRP update.⁵⁸

While it is unclear at this time whether the IRP update will be within exactly 60 days of the May 1 update, the purpose of this requirement is to prevent too many changes over a short period of time. Given that there may be three rates changes over a short period of time, waiving at least one of these updates is warranted.

IV. CONCLUSION

The Coalition recommends that the Commission reject Idaho Power’s proposals to lower the size threshold and contract term for wind and solar QFs. If the Commission intends to lower the contract term or size threshold, then it should only apply to wind and solar QFs, and the Commission should consider other, more narrowly tailored solutions. The Coalition no longer opposes Idaho Power’s proposed revision to its resource sufficiency/deficiency demarcation, but recommends that the Commission waive one of its two avoided cost rates updates planned for the spring of 2016. Finally, the

⁵⁷ Re Staff’s Investigation Relating to Electric Utility Purchases from Qualifying Facilities, Docket No. UM 1129, Order No. 07-199 at 2 (May 27, 2007).

⁵⁸ Staff Investigation Into QF Contracting and Pricing, Order No. 14-058 at 25.

Commission should adopt the Idaho Commission's policy that ensures that existing QFs are paid capacity in contract renewals.

Dated this 12th day of November 2015.

Respectfully submitted,

A handwritten signature in black ink that reads "Irion Sanger". The signature is written in a cursive style with a large initial "I" and a long, sweeping underline.

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