

retirements. *Application*, p. 3.

Responding to Qualifying Facility (“QF”) concerns that the Commission did not either oversee or “approve” the IRP process, and that a utility “could manipulate variables within the IRP planning process that would negatively impact the pricing of capacity paid to a QF,” the Commission found in *Order No. 36297*, Case No. GNR-E-11-03,

...it reasonable and fair to subject each utility’s determination of capacity deficiency to further scrutiny. Therefore, when a utility submits its Integrated Resource Plan 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.²

In the instant case, the *Application* seeks to advance the capacity deficiency date for Rocky Mountain as determined in the IRP from the summer of 2028 into the summer of 2029 by assuming that PacifiCorp is not planning to retire certain coal plants. Thus, and ironically, this separate application process is being used to “manipulate variables within the IRP planning process in a way that would negatively impact the pricing of capacity paid to a QF,” even though the Commission’s intention in establishing a separate capacity determination proceeding for QF avoided cost pricing was to avoid this very type of manipulation.

II. FACTUAL BACKGROUND

On October 18, 2019, Rocky Mountain filed its 2019 IRP with the Commission. That IRP shows the company will be capacity deficient in the summer of 2028.

In its *Application*, Rocky Mountain cites the following gratuitous language from Staff comments in the IRP process.

The load and existing resource balance identifies resource deficiencies in the

² *Order No. 32697*, p. 23.

Company's system acting as a starting point for developing and evaluating future resource portfolios. A decision to close a plant early must be evaluated against other alternatives that maintain system reliability and should be made as part of the portfolio development and evaluation phase of the IRP. Regardless of whether the closure decision is driven by economics or by environmental compliance, one should choose the least cost alternative that maintains system reliability, which likely requires additional replacement resource(s). The early retirement and the replacement resources should be considered as a combined resource decision and should only be included together so an accurate deficit date can be determined.³

Evidently, Rocky Mountain interpreted the ambiguous phrase "combined resource decision" to mean that the capacity deficiency date should be calculated as though the coal-fired resources would not be retired. Therefore, based upon this understanding, Rocky Mountain departed from its actual plans that it has included in its IRP and put the coal-fired resources back in its resource stack and concluded that the capacity deficiency date would be advanced to the summer of 2029.

On November 16, 2020, IdaHydro timely filed its *Petition to Intervene*. On November 19, 2020, Renewable Energy Coalition timely filed its *Petition to Intervene*. Both petitions were granted by *Order No. 34856* on December 3, 2020.

III. ISSUE

Whether a utility may advance its IRP capacity deficiency date for QF avoided cost pricing purposes into the future by assuming the placement into its resource stack of either assets that it knows will be deleted from its portfolio or other non-existent assets.

IV. ARGUMENT

In Case No. GNR-E-11-03, in 2012, Rocky Mountain Power, the Staff and the

³ *In the Matter of Rocky Mountain Power's 2019 Electric Integrated Resource Plan*, Case No. PAC-E-19-16, Order No. 34780.

Commission agreed that the IRP would be the source of a capacity deficiency date for QF avoided cost pricing purposes.

Rocky Mountain's position in that case was that the IRP method was an appropriate method to assess the value of a QF project's capacity:

Rocky Mountain Power maintains that the IRP Methodology, "as established in IPC- E-95-09, is an appropriate method to assess the value of a QF project in terms of its capability to deliver its resource when the Company is in need of such a resource, and is reflective of the value of the QF to the Company and its customers." Tr. at 188. Rocky Mountain Power argues that, with a 100 kW eligibility cap in place for wind and solar resources, the previously adopted SAR and IRP methodologies continue to provide an accurate means of calculating avoided cost prices for QFs.

Order No. 32697, p. 18.

Staff agreed:

Staff notes that, as it is presently applied, each utility's IRP model accounts for whether the utility is in need of capacity. "In the methods used by each utility, none assign capacity value to QFs in years when the utility is in a surplus condition." Id. at 1091.

Id., p. 19.

The Commission tailored its findings accordingly:

Therefore, we find that the IRP models used by each individual utility produce reasonable avoided cost rates consistent with PURPA and FERC regulations.

* * *

In calculating a QF's ability to contribute to a utility's need for capacity, we find it reasonable for the utilities to only begin payments for capacity at such time that the utility becomes capacity deficient. If a utility is capacity surplus, then capacity is not being avoided by the purchase of QF power. 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 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.

Id., pp. 20-22.

Responding to QF concerns that it was possible to “manipulate variables within the IRP planning process in a way that would negatively impact the pricing of capacity paid to a QF,” the Commission separated the ultimate finding of a capacity deficiency date for QF avoided cost pricing purposes from the IRP into a separate proceeding.

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 Integrated Resource Plan 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.

Id., p. 23.

In the *Application* in this case, Rocky Mountain, responding to Staff comments in its previous IRP case that the determination of capacity value should be a “least cost alternative” and therefore the capacity determination should be a “combined resource decision” has reinserted its coal-fired assets it is planning to retire from its portfolio for purposes of determining the capacity deficiency date for QF avoided cost pricing purposes.

IdaHydro and REC understand that Rocky Mountain is proposing to use a baseline assumption for setting avoided costs that uses its IRP assumptions with only the exception of not recognizing its plans for early retirement of thermal resources. *Application* at p. 5-6. Rocky Mountain’s IRP has a capacity deficiency based on its load and resource balance that includes new contracts, updated loads, planned resources and retirements, and its planned planning

reserve margin. *Id.* This results in a 2028 capacity deficit. *Id.* at 4. However, for its avoided cost capacity deficiency, Rocky Mountain then uses *all* of its IRP planning assumptions, with the single exception that it removes the early retirement of thermal resources. *Id.* at 4-5.

There is no reason to single out only PacifiCorp's planned coal retirements out of all of PacifiCorp's planning assumptions. IdaHydro and REC recognize that any specific planning assumption may or may not occur; however, there is no reason to assume that PacifiCorp's actual plans for coal retirements is any less accurate than its assumptions regarding other loads and resources. PacifiCorp's avoided cost rates should be based on its plans assumed in the IRP, unless it can be demonstrated that those plans are unreasonable. PacifiCorp has not provided any information that its thermal plant retirement assumptions are unreasonable, and avoided costs should reflect its actual plans.

Pursuant to the dictates of PURPA's must-buy obligation and PURPA's command that QF capacity allows a utility to avoid having to construct new generation or purchase outside power to serve its customers during peak load hours, employment of fictional resources to advance the capacity deficiency date is not allowed. The law of PURPA and the policy of the Commission dictate that not only must utilities purchase QF energy, but if the capacity offered by a QF would displace capacity that a utility would otherwise necessarily buy or construct to meet peak-hour demand, the QF must also be paid for that capacity.

A QF that provides generation during peak hours when the utility is most in need of power to serve its customers should be compensated based on the QF's ability to deliver during peak hours. This structure comports with the purpose and intent of PURPA that a utility pay a QF the costs it avoids by not having to build or procure alternative energy. 18 C.F.R. 292.304(b)(2). Payments for both energy and capacity must be part of this consideration. Although the current SAR model merges energy and capacity payments into a single avoided cost rate, this

Commission has previously approved separate energy and capacity payments as consistent with the intent and objectives of PURPA. PURPA requires that the utility purchase the energy produced by a QF. Paying for a resource's ability to provide the utility with capacity that the utility needs to reliably serve its customers encourages development of resources that truly allow the utility to avoid the costs of building new generation.

The utilities, Commission Staff, and several intervenors support the use of a separate capacity payment to appropriately value the power being produced and delivered by a QF. We find that implementation of a separate resource-specific capacity factor is an appropriate way to value when a QF is able to generate and deliver energy to a utility. The value of all renewable resources is not equal. If a QF is primarily allowing a utility to avoid energy generation during non-peak hours, but not providing capacity during peak hours, then the utility is not avoiding the cost of building new plant. Generation will ultimately have to be built to provide the capacity necessary to reliably serve customers during peak load hours. Consequently, we find it reasonable to assign a value to a QF resource's ability to provide such capacity. A QF resource with a high capacity factor is not only providing the utility with energy, but also capacity that will allow the utility to avoid having to construct new generation to serve its customers during peak load hours.

* * *

Moreover, "equal footing" is not a legal standard required by PURPA nor applied by this Commission. The legal standard for an appropriate determination of avoided cost rates is clearly defined by PURPA. Rates for purchases from a QF shall "(i) be just and reasonable to the electric consumer of the electric utility and in the public interest; and (ii) not discriminate against qualifying cogeneration and small power production facilities." 18 C.F.R. § 292.304(a)(1). "Nothing in this subpart requires any electric utility to pay more than the avoided costs for purchases." *Id.* at § 292.304(a)(2). Avoided costs are those costs which a public utility would otherwise incur for electric power, whether that power was purchased from another source or generated by the utility itself. 18 C.F.R. § 292.101(b)(6). PURPA allows QFs to obtain a rate equivalent to the utility's avoided cost, a rate that holds utility customers harmless – not a rate that puts QFs on "equal footing" with the utility. PURPA requires public utilities to purchase generation from QFs without regard for whether the utility needs the energy. If a QF resource provides energy but not capacity, then the utility is not avoiding a portion of costs that will be required to build generation that provides capacity. For this reason, we find it reasonable, appropriate and in the public interest to compensate QFs separately based on a calculation of not only the energy they produce, but the capacity that they can provide to the purchasing utility.

We find that utilizing a QF's nameplate capacity in the SAR calculation is a reasonable approach that provides payment to QFs for capacity based on a project's ability to incrementally contribute to a utility's capacity deficiency. *We further find it appropriate to identify each utility's capacity deficiency based on load and resource balances found in each utility's IRP.*

Id., pp. 15-16 [Emphasis added].

As a theoretical and a practical matter, the notion proposed in Staff comments and adopted in this *Application* to make a "combined resource decision" as though theoretical but nonexistent resources will be added to the resource stack is wrong.

It is theoretically and legally wrong, as set forth above, because it is the QF capacity that must be purchased if it will provide capacity during peak demand hours, displacing construction or purchase of other capacity by the utility. While the Staff's idea of searching for a "least cost alternative that maintains system reliability" is admirable, *Order No. 32697* makes very clear that valuation of QF capacity as adopted by that order and in the manner set forth in the IRP is the exact and proper valuation of that capacity.

As a practical matter, for a QF entering a legally enforceable obligation ("LEO") with Rocky Mountain today that is prepared to deliver capacity subsequent to the summer of 2028, that QF will be denied compensation for providing capacity from the summer of 2028 until the summer of 2029, even though that QF does indeed provide that capacity and displaces any need for Rocky Mountain to otherwise build or buy capacity elsewhere in the market. Thus, although a QF signing a LEO today will be in the resource stack to provide capacity between the summer of 2028 and summer of 2029, that capacity can illegally be displaced in the queue by nonexistent resources anticipating that they may come online in the future.

V. REQUEST FOR HEARING

The proposal set forth in the *Application* proposes a sea change to the current practice of setting the capacity deficiency date for QF avoided cost pricing from the findings of the IRP without more than one paragraph of comments from Staff filed in the Rocky Mountain IRP case. It is respectfully submitted that if the Commission is disposed to entertain the request to displace PURPA avoided cost pricing with Staff's proposal of a "least cost alternative" derived from a "combined resource decision," that the Commission review the matter on a fully developed record after complete discovery.

DATED this 21st day of December 2020.

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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 21st day of December 2020, I served a true and correct copy of the foregoing document(s) upon the following person(s), in the manner indicated:

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