

# McDowell Rackner & Gibson PC



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July 8, 2015

## VIA ELECTRONIC MAIL

PUC Filing Center  
Public Utility Commission of Oregon  
PO Box 1088  
Salem, OR 97308-1088

**Re: UM 1730 – In the Matter of IDAHO POWER COMPANY, Application to Update  
Schedule 85 Qualifying Facility Information.**

Attention Filing Center:

Attached for filing in the above-captioned docket is an electronic copy of Idaho Power Company's Application for Reconsideration.

Please contact this office with any questions.

Very truly yours,

A handwritten signature in cursive script that reads "Wendy McIndoo".

Wendy McIndoo  
Office Manager

Attachment

cc: Service List

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 **UM 1730**

4 In the Matter of

5 IDAHO POWER COMPANY

6 Application to Update Schedule 85  
7 Qualifying Facility Information

**IDAHO POWER COMPANY'S  
APPLICATION FOR RECONSIDERATION**

8  
9 **I. INTRODUCTION**

10 Pursuant to ORS 756.561, OAR 860-001-0720, and OAR 860-001-0420, Idaho  
11 Power Company ("Idaho Power" or "the Company") files this Motion for Reconsideration of  
12 Order No. 15-204.<sup>1</sup> Idaho Power appreciates the Commission's decision to approve its  
13 revised Schedule 85 avoided cost prices effective June 24, 2015; however, the Company  
14 requests that the Commission reconsider its decision to approve the revised Schedule 85  
15 sheets based on a 2016 capacity deficiency date instead of the more accurate pricing  
16 based on a capacity deficiency date of 2021. Under OAR 860-001-0720(3), the  
17 Commission may grant an application for reconsideration if there is "an error or law or fact  
18 in the order that is essential to the decision" or "[g]ood cause for further examination of an  
19 issue essential to the decision."<sup>2</sup> For the reasons explained in greater detail in Section III,  
20 Idaho Power believes both to be the case with regard to the Commission's direction on  
21 Idaho Power's capacity deficiency date in Order No. 15-204. On that basis, Idaho Power  
22 requests that the Commission reconsider its ruling.

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25 <sup>1</sup> *Application to Update Schedule 85 Qualifying Facility Information*, Docket UM 1730, Order No. 15-  
204 (June 23, 2015) (hereinafter "Order No. 15-204").

26 <sup>2</sup> OAR 860-001-0720(3).



1 solar.”<sup>3</sup> Accordingly, the Commission determined that it should grant relief to Idaho Power  
2 that is “narrow, targeted and proportionate.”<sup>4</sup> To that end, the Commission reduced the  
3 eligibility cap for Idaho Power’s standard contracts to 3 MW for solar QFs, effective April  
4 24, 2015—the date on which Idaho Power filed its Applications and Motion for Stay. Order  
5 No. 15-499 did not address or otherwise refer to Idaho Power’s pending application for a  
6 Change in Resource Sufficiency Determination (one of the three Applications filed on April  
7 24, 2015).

8 **UM 1730 – Order 15-204**

9 On May 1, 2015, Idaho Power filed an annual update to its standard avoided cost  
10 prices as required by Order No. 14-058, docketed as UM 1730. The Company’s filing  
11 included two separate sets of replacement pricing pages for Schedule 85—one set of  
12 prices calculated using a resource capacity deficiency date of 2016, and a second set  
13 using a resource capacity deficiency date of 2021. Idaho Power sought approval of the  
14 new Schedule 85 price sheets based on the 2021 capacity deficiency date, because those  
15 prices most accurately reflect the Company’s actual avoided costs as of May 1, 2015. The  
16 avoided cost prices in both filings were significantly lower than the then-current prices  
17 (between \$12/MWh and \$38/MWh lower on a levelized basis).

18 On June 23, 2015, the Commission memorialized its decision to approve Idaho  
19 Power’s updated avoided cost payments for QFs contained in the Company’s May 1, 2015  
20 filing.<sup>5</sup> With regard to the resource sufficiency period, the Commission followed Staff’s  
21 recommendation that Idaho Power’s “deficiency period start date remain at 2016.”<sup>6</sup> The

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23 <sup>3</sup> Order No. 15-199 at 6.

24 <sup>4</sup> *Id.* at 7.

25 <sup>5</sup> Order No. 15-204.

26 <sup>6</sup> *Id.* at Appendix A at 4.

1 Commission made its approval of Idaho Power's annual update to Schedule 85 effective  
2 June 24, 2015.<sup>7</sup>

### 3 III. DISCUSSION

#### 4 A. Standard of Review

5 Under OAR 860-001-0720(3), the Commission may grant an application for  
6 reconsideration if there is "an error or law or fact in the order that is essential to the  
7 decision" or "[g]ood cause for further examination of an issue essential to the decision."<sup>8</sup>

#### 8 B. The Commission's Order is Based, in Part, on an Error of Fact, because 9 Idaho Power's Acknowledged 2013 IRP Contemplates the Reintroduction of the Demand Response Programs.

10 The relevant capacity deficiency date for calculation of Idaho Power's avoided  
11 costs is 2021 even under the 2013 acknowledged IRP. This is so because Commission's  
12 order acknowledging the 2013 IRP<sup>9</sup> contemplated the reintroduction of the very demand  
13 response programs that cause the Company's capacity deficiency date to move out to  
14 2021, as illustrated by the following chronology of events:

15 **May 2013:** The Commission opened Docket UM 1653 to evaluate Idaho Power's  
16 proposed changes to its demand response programs, which included suspension of  
17 certain programs.<sup>10</sup>

18 **June 2013:** Idaho Power filed its 2013 IRP with the Commission; the resource mix  
19 in the least-cost plan projected the first capacity deficits in 2016, assuming

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22 <sup>7</sup> Order No. 15-204 at 1.

23 <sup>8</sup> OAR 860-001-0720(3).

24 <sup>9</sup> *Re Idaho Power Company 2013 Integrated Resource Plan*, Docket LC 58, Order No. 14-253 (July  
25 8, 2014).

26 <sup>10</sup> *In the Matter of Idaho Power Company, Staff Evaluation of the Demand Response Programs*,  
Application filed by Commission Staff (May 8, 2013).

1 suspension of the very demand response programs that were the subject of Docket  
2 UM 1653.<sup>11</sup>

3 **December 2013:** The Commission approved a stipulated settlement agreement in  
4 Docket UM 1653 that provided for continuation of the previously suspended demand  
5 response programs at levels up to approximately 400 MW.<sup>12</sup>

6 **July 2014:** The Commission issued Order No. 14-253 in Docket LC 58,  
7 acknowledging Idaho Power's 2013 IRP in part and "as revised." The Commission  
8 acknowledged the short-term action items related to demand response "as revised  
9 by Staff," meaning with Staff's recommended changes to achieve consistency with  
10 the "recently issued orders approving stipulations regarding the redesign of Idaho  
11 Power's demand response programs for 2014 and beyond."<sup>13</sup> Specifically, that  
12 meant that the Commission acknowledged the following action item in lieu of Idaho  
13 Power's originally-proposed action item: "Have demand response capacity available  
14 to satisfy deficiencies up to approximately 170 MW beginning in 2014 and increasing  
15 as needed through 2017."

16 **October 2014:** Idaho Power filed with the Commission a letter report regarding its  
17 demand response program enrollment and participation, submitted as a compliance  
18 filing in Docket UM 1653.<sup>14</sup>

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20 <sup>11</sup> *In the Matter of Idaho Power Company*, 2013 Integrated Resource Plan, filed June 28, 2013,  
docketed as LC 58.

21 <sup>12</sup> *In Re Staff Evaluation of Demand Response Programs*, Docket No. UM 1653, Order No. 13-482  
22 at Appendix A, page 3 (December 19, 2013) ("The Company must \* \* \* use existing demand  
23 response resources when possible. This includes using, to the extent possible, current demand  
24 response equipment owned or available to Idaho Power and participating demand response  
customers, which currently represents **approximately 400 MW** of potential demand response  
capacity") (emphasis added).

25 <sup>13</sup> Order No. 14-253 at 11.

26 <sup>14</sup> *In the Matter of Idaho Power Company*, Docket UM 1653, Idaho Power's Compliance Filing  
Demand Response Report (filed October 15, 2014).

1 As the facts above indicate, Idaho Power's acknowledged 2013 IRP incorporated  
2 the changes to Idaho Power's demand response programs that resulted from the  
3 stipulated settlement in docket UM 1653. When the 2013 IRP's load and resource  
4 balance is adjusted to account for the approximately 400 MW of demand response  
5 capacity required by Order No. 13-482 and incorporated into the acknowledged 2013 IRP,  
6 Idaho Power's first capacity deficit year changed to 2021. Therefore, the Company's most  
7 recently acknowledged IRP—the 2013 IRP as revised by the Commission—contemplates  
8 a capacity sufficiency period until 2021 and it is reasonable for the Company's avoided  
9 costs to reflect this fact.

10 In rejecting the 2021 sufficiency/deficiency demarcation in Order No. 15-204, the  
11 Commission adopted Staff's assessment that Idaho Power "had the option of filing an IRP  
12 update after its demand response programs were restarted in the summer of 2014," and  
13 that "had such an update been filed and acknowledged with the first year of deficiency of  
14 2021, this May 1 filing would have been based on the later deficiency period start date."<sup>15</sup>  
15 Staff reasoned that, absent an IRP update, the Company must use the 2016  
16 sufficiency/deficiency demarcation in its filed 2013 IRP. Idaho Power respectfully  
17 disagrees with the Commission and Staff in this regard.

18 First, there would have been no basis for the Company to file an IRP update. The  
19 Commission waived Idaho Power's obligation to file a routine update, but indicated that  
20 "we expect Idaho Power to file an IRP update if it anticipates a significant deviation from  
21 its acknowledged 2013 IRP in the manner required by IRP Guideline 3(f)."<sup>16</sup> The  
22 reinstatement of the Company's demand response programs was not a "significant  
23 deviation" from the acknowledged 2013 IRP because the acknowledged IRP specifically

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25 <sup>15</sup> Order No. 15-204 at Appendix A, page 4.

26 <sup>16</sup> Order No. 14-253 at 18.

1 incorporated those demand response programs into the action plan. Thus, Idaho Power's  
2 operations have not deviated from its acknowledged 2013 IRP, but rather played out  
3 substantially as contemplated, even with regard to the demand response programs.

4 Second, it would not have been reasonable for Idaho Power to file an IRP update  
5 simply to update the sufficiency/deficiency demarcation. As stated above, the addition of  
6 up to 400 MW of demand response was acknowledged by the Commission in UM 1653,  
7 and recognized in the acknowledgment of the 2013 IRP. Additionally the change in  
8 capacity sufficiency/deficiency demarcation necessitated by the addition of 400 MW of  
9 demand response did not alter the Company's IRP action plan, and thus did not rise to the  
10 level of requiring a separate proceeding to update the IRP. In light of these  
11 circumstances, Idaho Power does not agree with the Commission that it would have been  
12 appropriate for the Company to file an IRP update for the sole purpose of securing a new  
13 resource deficiency date for PURPA avoided cost calculations (especially where the  
14 changed resource deficiency date resulted from demand response programs that the  
15 Commission approved in UM 1653).

16 Third, if the expectation was that the Company filed an IRP update to reflect the  
17 actual amount of demand response participation, as a practical matter, the earliest point at  
18 which Idaho Power could have taken the data from summer of 2014 and used it to project  
19 a new resource deficit date was in the fall of 2014. In fact, Idaho Power did provide the  
20 Commission with a report on its demand response programs, though it had not, at that  
21 time, calculated the impact of those programs on the resource deficiency date.<sup>17</sup> In the  
22 Company's view, even if an IRP update had been appropriate, asking the Commission  
23 and other parties to devote time to review of an IRP update just months prior to filing a  
24 new IRP would have been inefficient. This is especially so given that the Commission

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26 <sup>17</sup> In the Matter of Idaho Power Company, Docket UM 1653, Idaho Power's Compliance Filing  
Demand Response Report (filed October 15, 2014).



1 waived Idaho Power's annual IRP update when it acknowledged the 2013 IRP in July  
2 2014, and was aware that the Company had to file a new IRP by June 2015. Based on  
3 prior experience, Idaho Power would not expect to the Commission to welcome an IRP  
4 update under these circumstances.<sup>18</sup>

5 It is Idaho Power's position that, taking into account the sequence of procedural  
6 and substantive events outlined above, the Commission should reconsider its decision to  
7 require Idaho Power to adhere to the 2016 capacity deficiency date. Specifically, Idaho  
8 Power asserts that the Commission's direction on this point was informed by an error of  
9 fact—namely, that the demand response programs constituted a deviation from the 2013  
10 IRP when, in fact, those programs were expressly included in the acknowledged 2013  
11 IRP. Accordingly, Idaho Power requests that the Commission grant its motion for  
12 reconsideration and issue an order approving Idaho Power's new avoided cost prices  
13 using the 2021 resource deficiency date.

14 **C. In Any Event, There is Good Cause for the Commission to Further Examine**  
15 **Idaho Power's Request for the 2021 Resource Deficiency Date.**

16 Alternatively, in the event that the Commission does not grant Idaho Power's  
17 application for reconsideration for error of law or fact, Idaho Power requests that the  
18 Commission reconsider its decision to adopt Staff's recommendation that the Company's  
19 deficiency period start date remain at 2016 (instead of 2021, as requested by Idaho  
20 Power) on the basis that there is good cause for the Commission to further examine the  
21 issue. For the reasons set forth above and in Idaho Power's Applications, the  
22 Commission's failure to update the capacity sufficiency period will result in significant  
23 customer harm if the Company is required to enter into long-term, fixed price contracts at

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25 <sup>18</sup> In LC 53, the Commission suspended consideration of Idaho Power's IRP update on the basis  
26 that it was untimely to consider issues in the update that would also be at issue in another utility's  
new IRP filing in the near future. *In the Matter of Idaho Power Company's 2011 Integrated  
Resource Plan*, Ruling issued on April 4, 2013.

1 the avoided cost price reflected in the update Schedule 85 based on the 2016 resource  
2 deficiency date. Such contracts would lock in initial capacity payments that Idaho Power  
3 has determined would occur during the Company's actual resource sufficiency time  
4 period—to the direct detriment of Idaho Power customers, who would be forced to pay  
5 contract rates that exceed the Company's avoided cost. Accordingly, Idaho Power asks  
6 the Commission to further study the issue of its resource deficiency period start date as a  
7 part of Docket UM 1725.

8 **IV. CONCLUSION**

9 For the reasons stated above, Idaho Power requests that the Commission grant its  
10 application for reconsideration and issue an order either approving Idaho Power's new  
11 avoided cost prices using the 2021 resource deficiency period or, alternatively, directing  
12 further study of the issue in Docket UM 1725.

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14 Respectfully submitted this 8th day of July, 2015.

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**MCDOWELL RACKNER & GIBSON PC**

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