ORDER NO. 15 230

ENTERED AUG 06 2015

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1725

In the Matter of IDAHO POWER COMPANY, Application to Lower Standard Contract Eligibility Cap and to Reduce the Standard Contract Term, for Approval of Solar Integration Change, and for Change in Resource Sufficiency Determination.	ORDER

DISPOSITION: MOTION GRANTED IN PART; ORDER NO. 15-199 CLARIFIED

In this order we grant, in part, Idaho Power Company's motion to clarify (1) how applications for qualifying facilities (QFs) for power purchase agreements (PPAs) are to be treated under Order No. 15-199, and (2) how we intend to investigate the imposition of a solar facilities integration charge.

I. DISCUSSION

On June 23, 2015, we issued two orders related to QFs. First, in Order No. 15-199, we granted Idaho Power interim relief to help mitigate adverse impacts the company was experiencing from the unprecedented pace and volume of QF development. As relevant here, we lowered the threshold for standard contracts from 10 MW to 3 MW, effective April 24, 2015—the date Idaho Power filed its underlying applications to modify certain terms and conditions under which the company purchases energy and capacity from QFs. Given the increase in solar QF development, we also concluded that it was time to address solar integration charges in docket UM 1610.

Second, in Order No. 15-204, we approved new avoided cost prices Idaho Power will pay QFs for power under the company's standard QF contracts. These new prices, which became effective June 24, 2015, are substantially lower than the old prices.

On July 8, 2015, Idaho Power filed a motion requesting that we clarify Order No. 15-199 in two respects. First, it requests clarification as to how our decision to lower the standard contract threshold will apply to QF applications submitted between April 24, 2015—the date it submitted its underlying applications—and June 23, 2015—the date of

our order. Second, Idaho Power asks that we clarify how we will address the issue of solar integration charges.

A. QF Applications Filed April 24-June 23, 2015

1. Positions of the Parties

Idaho Power requests that we clarify Order No. 15-199 by affirming that QF project applications in excess of 3 MW filed April 24 to June 23 may not be amended downward in an attempt to receive standard contracts with the old avoided cost prices. Idaho Power explains that it received the following QF applications between the time it filed its applications and we issued our order: Pacific Northwest Solar LLC submitted applications for eight solar projects sized at 5 or 10 MW; Gardner Capital Solar Development, LLC, submitted an application for one 5 MW solar project. Idaho Power states that these applicants should not be allowed to circumvent our order by revising the nameplate capacity of their projects downward and thereby receive outdated avoided cost prices.

Idaho Power clarifies that it is not asking us to address the broader question of what changes would constitute a new project, only the very narrow clarification of these particular projects during the April 24 to June 23 time period and their possible attempts to become retroactively eligible. The company explains that these projects should not be allowed to downsize to 3 MW or below and receive the new standard avoided cost rates approved on June 23, 2015.

Furthermore, Idaho Power states that its request does not address the treatment of applications filed prior to April 24, 2015. The company states that the eligibility for the old standard avoided cost rates should be addressed in an individual complaint, the outcome of which would hinge on the facts and whether the complainant could demonstrate a legally enforceable obligation that would require Idaho Power to provide it with a contract containing the old standard avoided costs.

Gardner agrees with Idaho Power that the nine projects should not be entitled to the old, superseded, avoided cost rates, but believes that the clarification of Order No. 15-199 should address all three time periods as follows:

1. Pre-April 24 projects should be eligible for standard contracts at the prior pricing with the company being required to meet its Schedule 85 obligations.

2. April 24-June 23 projects should be allowed to be amended downward to the 3 MW limit at the applicant's option and be eligible for standard contracts, subject to post-June 23 pricing without submission of a new request. If they remain above the 3 MW limit, they should be eligible to enter into negotiated

contracts. In neither instance should they be required to refile or move to the back of the queue.

3. Post-June 23 Projects would be required to meet the Order No. 15-199 3 MW limit and post-June 23 pricing.

Renewable Energy Coalition (REC) opposes Idaho Power's request. At the outset, REC argues that the issue of whether a QF can revise its size and continue to be treated as the same project is too complex to be considered in a motion for clarification and the motion should therefore be denied. Instead, REC maintains that such questions should be addressed through individual complaint proceedings. In the alternative, REC argues, on fairness grounds, that these nine applicants should be allowed to reduce their capacity and remain eligible for the avoided cost rates in effect at the time of the application; had they known the impact of the decision in Order No. 15-199, they would have lowered the nameplate amount to 3 MW when they filed their applications, in order to receive the old avoided cost rates.

2. Resolution

We grant the motion for clarification on this question. Following our decision in Order No. 15-199, solar QF projects with a capacity greater than 3 MW that filed an application with Idaho Power after April 24, 2015 are not eligible for standard contracts. These applicants have two choices: (1) maintain their requests for the 5 or 10 MW projects, which would entitle them to negotiate QF contracts for avoided cost rates using the IRP methodology; or (2) initiate new requests for projects sized at 3 MW or lower and receive the newly-approved standard rates.

The nine solar projects that submitted applications between April 24 and June 23 may not resize their applications to qualify for the old standard contract rates. The nameplate capacity is a fundamental element to a QF application. We agree with Idaho Power that any significant downward revision of nameplate capacity made in response to our order should be considered a new request subject to the new avoided cost prices.

This clarification is consistent with our intent to provide interim relief. We reduced the eligibility cap for standard contracts to protect Idaho Power's customers from excessive avoided cost prices. We will not allow applicants to circumvent that relief by permitting them to modify ineligible projects into smaller ones for the sole purpose of locking Idaho Power into long-term contracts at those same excessive prices.

The developers that submitted applications are not prejudiced by this result. Because any revision to an application would not have occurred until after we issued our order on June 23, 2015, there is little argument that the projects have a legally enforceable obligation to the earlier rates. Moreover, as Gardner concedes, once Idaho Power filed its requests to modify the conditions under which it enters into standard contracts, QF developers were put on notice that the terms, conditions, and avoided cost prices of standard contracts might change. Thus, the developers that submitted these nine

applications could therefore not rely on the *status quo ante* in the evaluation of their eligibility for the earlier rates and fixed term contracts for facilities of 10 MW and less.

Although we conclude that any downward revision of nameplate capacity should be considered a new request, we adopt Gardner's recommendation that any of the nine projects may, at their discretion, amend their applications downward to 3 MW or less and be eligible for standard contracts with post-June 23 pricing without refiling. If they remain above the 3 MW limit, they are eligible to enter into negotiated contracts. In neither instance shall they be required to refile or "move to the back of the queue."

We also clarify that the treatment of applications filed before April 24 and after June 23, 2015, are beyond the scope of the motion for clarification and are not considered here.

B. Solar Integration Charges

1. Positions of the Parties

Idaho Power also requests that we affirm that, by directing the parties to address solar integration charges in docket UM 1610, we did not intend to defer or delay consideration of the company's request to include a solar integration charge in its application in this docket—UM 1725.

The Oregon Department of Energy supports consideration of solar integration charges in this docket. Gardner states, without further elaboration, that the solar integration charge should be addressed in docket UM 1610.

2. Resolution

Idaho Power's request for clarification indicating that we will address solar integration charges in the context of docket UM 1725 is denied.

In Order No. 15-199, we stated "given the rapid growth in solar QF activity, we believe it is time to address solar integration charges. We directed parties to address in docket UM 1610 the level of solar integration charges to incorporate into avoided cost rates."[1] In doing so, we indicated that we did not want to consider this issue on a utility-specific, piecemeal basis.

The issues presented by Idaho Power's application for approval of a solar integration charge should be addressed in a general investigation docket, rather than treated as an Idaho Power-specific issue or a subset of issues. To accomplish this, we direct the Administrative Hearings Division to open a Phase IIA in docket UM 1610 to address, on an expedited basis, whether the impact of solar QF projects on electric utilities' avoided costs warrants the imposition of a solar integration charge and, if so, how such a charge should be calculated. To ensure this matter is addressed promptly, Phase IIA will begin prior to the resolution of issues currently being addressed in Phase II.

[1] Order No. 15-199 at 7 (June 23, 1015).

II. ORDER

IT IS ORDERED that:

1. Idaho Power Company's motion for clarification is granted in part, as specified in this order.

2. The Administrative Hearings Division open a Phase IIA in docket UM 1610, as specified in this order.

Made, entered, and effective AUG 06 2015.

Susan K. Ackerman
Chair

John Savage
Commissioner

Stephen M. Bloom
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.