

McDowell Rackner & Gibson PC



WENDY MCINDOO
Direct (503) 595-3922
wendy@mcd-law.com

March 31, 2011

VIA ELECTRONIC AND U.S. MAIL

PUC Filing Center
Public Utility Commission of Oregon
PO Box 2148
Salem, OR 97308-2148

Re: UM 1182 – Opening Comments of Idaho Power

Enclosed for filing in docket UM 1182 is an original and one copy of Idaho Power's Opening Comments. A copy of this filing has been served on all parties to this proceeding as indicated on the attached certificate of service.

Very truly yours,

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

Wendy McIndoo

Enclosures
cc: Service List

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing document in
3 Docket UM 1182 on the following named person(s) on the date indicated below by email
4 and first-class mail addressed to said person(s) at his or her last-known address(es)
5 indicated below.

6 7 8	Department of Justice Janet L Prewitt Assistant AG Natural Resources Section janet.prewitt@doj.state.or.us	AF Legal & Consulting Ann L Fisher energlaw@aol.com
9 10 11	Oregon Dept of Energy Matt Hale Manager Energy Tech matt.hale@state.or.us	Oregon Dept of Energy Vijay A Satyal Senior Policy Analyst vijay.a.satyal@state.or.us
12 13	Avista Corporation David J Meyer VP & Chief Counsel david.meyer@avistacorp.com	Avista Utilities Patrick Ehrbar pat.ehrbar@avistacorp.com
14 15 16	Cascade Natural Gas Katherine Barnard Reg. Affairs & Gas Supply kathie.barnard@cngc.com	Cascade Natural Gas Dennis Haider Exec. VP --Regulatory & Gas dennis.haider@mdu.com
17 18	Citizens' Utility Board of Oregon Gordon Feighner Energy Analyst gordon@oregoncub.or	Citizens' Utility Board of Oregon Robert Jenks Executive Director bob@oregoncub.or
19 20 21	Citizens' Utility Board of Oregon G. Catriona McCracken Legal Counsel catriona@oregoncub.or	Esler Stephens & Buckley John W Stephens Stephens@Eslerstephens.com ; mec@eslerstephens.com
22 23	Davison Van Cleve Pc Bradley Van Cleve mail@dvclaw.com	Davison Van Cleve Pc Irion Sanger mail@dvclaw.com
24 25 26	Department of Justice Micahel T. Weirich Assistant AG michael.weirich@doj.state.or.us	Northwest Natural Alex Miller Regulatory Affairs alex.miller@nwnatural.com

1	NW Indpdnt Power Prod. Robert D Kahn rkahn@nippc.org; rkahn@rdkco.com	NW Energy Coalition Wendy Gerlitz Sr Policy Associate wendy@nwenergy.org
2		
3	Norris & Stevens David E Hamilton davidh@norrstev.com	Pacificorp Oregon Dockets oregondockets@pacificorp.com
4		
5	Pacific Power & Light Jordan A. White Sr. Counsel jordan.white@pacificorp.com	PacifiCorp Natalie Hocken VP and Gen. Counsel natalie.hocken@pacificorp.com
6		
7	Portland General Electric V. Denise Saunders denise.saunders@pgn.com	Portland General Electric Rates & Regulatory Affairs Patrick Hager pge.opuc.filings@pgn.com
8		
9	Renewable NW Project Megan Walseth Decker megan@mp.org	Public Utility Commission Maury Galbraith maury.galbraith@state.or.us
10		
11	Peter J. Richardson Richardson & O'Leary PLLC peter@richardsonandolearly.com	Gregory M. Adams Richardson & O'Leary PLLC greg@richardsonandolearly.com
12		
13		

14 DATED: March 31, 2011

15
16 
17 _____
18 Wendy McIndoo

1 At the January 26, 2011, prehearing conference, the parties agreed to divide the
2 proceedings into two phases. The first would address the first and third issues identified by
3 the Commission and the second phase would address the second issue.³ Therefore, these
4 comments address only the potential expanded role of the IE in the competitive bidding
5 process and the appropriate capacity threshold for purposes of determining the applicability
6 of the Commission's competitive bidding guidelines.

7 On March 11, 2011, the parties participated in a workshop and the schedule calls for
8 the parties to file closing comments on April 22, 2011. The Company appreciates this
9 opportunity to work with Staff and the various stakeholders and looks forward to the
10 opportunity to file reply comments in this phase of the docket and participate in the process
11 adopted for the second phase.

12 II. DISCUSSION

13 A. The Role of IE Should Not Be Expanded.

14 Idaho Power is generally supportive of including an IE in the competitive bidding
15 process because it provides transparency and ensures fairness. These, in turn, encourage
16 potential bidders to participate in the process. The result of this participation is a truly
17 competitive acquisition process that results in lower overall costs to customers. The
18 competitive bidding process requires balancing. On the one hand, it must be transparent
19 and fair; on the other, it must achieve these goals without being overly burdensome to
20 bidders or overly costly to customers. The existing role of the IE in the competitive bidding
21 process achieves this balance. Thus, while Idaho Power does not support expanding the
22 role of the IE, it is not because IEs have no place in the competitive bidding process.
23 Rather, it is because the Company believes that the additional costs outweigh the potential
24 benefits.

25 _____

26 ³ Prehearing Conference Memorandum at 1.

1 **1. Expanding the IE’s Role Creates Significant Costs.**

2 The costs associated with the retention of an IE for the bidding process are already
3 substantial and increasing that participation through final negotiations will be significant for
4 several reasons. First, the compensation costs for the IE to monitor final negotiations and
5 prepare a second report will be significant. Second, the IE’s participation is likely to draw
6 out the negotiation process itself because of the practical obstacles to coordinating
7 negotiations among the utility, the vendor, and the IE. The longer this process takes, the
8 greater the costs.

9 In addition to the cost impact of extended negotiations, creating a more burdensome
10 and lengthy process may also inhibit certain vendors from participating in the competitive
11 bidding process at all. Oregon’s current resource acquisition process is already a
12 procedurally intense process. Making the process longer and more complicated may act as
13 a deterrent to potential bidders, who may be hesitant to commit their resources and efforts
14 to such a process. This will weaken the competitive bidding process and negate some of
15 the process’s customer benefits.

16 The presence of an IE during final negotiations may also have a chilling effect on
17 those negotiations. Bidders may be hesitant to disclose compromise positions to an IE
18 when they know that they may be involved with that same IE in future competitive bidding
19 processes. If parties cannot negotiate the transaction freely and at arm’s length, then the
20 process will be compromised.

21 **2. Expanding the IE’s Role Produces Limited Benefits.**

22 While the Company believes that the costs associated with an expanded IE role are
23 concrete and significant, the potential benefits are more illusory. Before adopting additional
24 process for competitive bidding, there should be a demonstration that the additional process
25 provides real benefits to customers. At this time, it is unclear how the IE’s participation will
26 result in a meaningful report with information and analysis that parties could not otherwise

1 obtain when investigating the prudence of the acquisition. The Commission's process for
2 determining the prudence of a resource acquisition by a public utility is thorough and
3 comprehensive and addresses the same issues that are likely to be addressed by the IE.
4 Thus, the existing process is sufficient to determine the fairness of the final negotiations
5 without the need for an IE's participation. Indeed at the workshop in this docket, Staff
6 indicated that when it had received an IE report detailing the final negotiations, the report
7 provided little information that Staff would not have obtained or developed when conducting
8 its prudence analysis during a ratemaking proceeding.

9 It is also unclear whether IEs used in the current competitive bidding process
10 possess the necessary expertise with respect to final negotiations to make their participation
11 meaningful. Negotiating a final contract is a fundamentally different process than the
12 process of developing a short-list and an IE competent to participate in the development of
13 the short-list is not necessarily competent to participate in the final negotiations.

14 Further complicating this issue is the lack of criteria for analyzing the final
15 negotiations. At the workshop, parties advocating for an expanded IE role proposed that the
16 IE would submit a final report to the Commission discussing the fairness of the negotiation
17 process. Lacking from this proposal were criteria the IE would use to determine fairness.
18 Because the utility and customer interests are aligned during this phase of the process, what
19 is in their interests is not necessarily in the interests of the bidding party. Thus, it is unclear
20 whether "fairness" would be determined by reference to customers or bidders. And unlike
21 the IE's role in the bid scoring and evaluation process, there are no clear metrics that can be
22 applied to determine fairness in this process. Without a clearly defined method for
23 determining fairness, the final report may not be meaningful. Coupled with the belief that
24 the substance of the report is unlikely to provide anything that would not otherwise become
25 known during a prudency investigation, it is unclear what value is provided by expanding the
26 role of the IE into the negotiation process.

1 **B. The Major Resource Threshold Should Not Be Lowered.**

2 Based on the representations made at the workshop, it does not appear that any
3 party is advocating a reduction to the major resource threshold. The Company does not
4 support lowering this threshold because it will make more projects subject to the competitive
5 bidding guidelines, which will drive up costs to customers. And based upon the
6 representations made at the workshop, there does not appear to be a compelling reason to
7 lower the threshold.

8 While parties did not support lowering the threshold, Staff did suggest that parties
9 comment on how individual resources should be defined for purposes of determining if the
10 resource is above or below the threshold. The Company proposes the following standards
11 that may be applied to determine if a project is a single resource for purposes of the 100
12 MW threshold. Multiple projects will be considered single resources if the following three
13 criteria are satisfied:

- 14 1) The projects have common, or substantially the same, ultimate ownership.
- 15 2) The projects share a common location, *i.e.* the projects are on the same or
16 adjacent parcels of land.
- 17 3) The projects were recognized as a single project in a license or permit from a
18 federal, state, county, city, or local authority.

19 Moreover, if a project is to be developed or expanded in phases, if each phase is
20 expected to be completed more than one year apart, they will be considered distinct
21 resources. Any options for future expansion of the project included in resource acquisition
22 contracts will not be included when calculating the resource capacity.

23 ///

24 ///

25 ///

26 ///

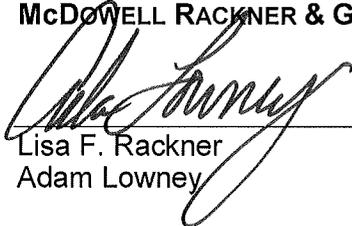
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

III. CONCLUSION

Idaho Power appreciates the opportunity to file these comments and looks forward to continuing to work with Staff and stakeholders to ensure the competitive bidding process provides the greatest net benefits to customers.

DATED: March 31, 2011.

McDOWELL RACKNER & GIBSON PC



Lisa F. Rackner
Adam Lowney

IDAHO POWER COMPANY

Jason Williams
Corporate Counsel
PO Box 70
Boise, ID 83707

Attorneys for Idaho Power Company