

# McDowell Rackner & Gibson PC



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May 8, 2015

## VIA ELECTRONIC AND U.S. MAIL

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

**Re: UM 1725**

Attention Filing Center:

Attached for filing in the above-captioned docket s an electronic copy of Idaho Power Company's Supplement to Motion for Temporary Stay of its Obligation to Enter into New Power Purchase Agreements with Qualifying Facilities – Expedited Review Requested.

Please contact this office with any questions.

Very truly yours,

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

Wendy McIndoo  
Office Manager

Enclosures  
cc: Service List

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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1725**

In the Matter of  
IDAHO POWER COMPANY  
Motion for Temporary Stay of its  
Obligation to Enter into New Power  
Purchase Agreements with Qualifying  
Facilities.

**IDAHO POWER COMPANY'S  
SUPPLEMENT TO MOTION FOR  
TEMPORARY STAY OF ITS OBLIGATION  
TO ENTER INTO NEW POWER  
PURCHASE AGREEMENTS WITH  
QUALIFYING FACILITIES  
EXPEDITED REVIEW REQUESTED**

On April 24, 2015, Idaho Power Company ("Idaho Power" or "Company") requested that the Public Utility Commission of Oregon ("Commission") issue an order placing a temporary stay on Idaho Power's obligation under Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), ORS 758.505 *et seq.*, and various Commission orders, to enter into fixed-price, standard PURPA contracts with Qualifying Facilities ("QFs"), pending the outcome of its investigation into three separate applications filed that same day: (a) Application to Lower Standard Contract Eligibility Cap and Reduce the Standard Contract Term for wind and solar QFs; (b) Application for Approval of Solar Integration Charge; and (c) Application for Change in Resource Sufficiency Determination. These three applications are all designed to ensure that Idaho Power pay no more than its actual avoided costs for wind and solar QF generation. As explained in the Motion to Stay, unless the Commission relieves the Company of its obligation to contract for additional QF generation pending the outcome of these applications, Idaho Power will be required to enter into binding commitments to purchase significant amounts of QF generation at inflated prices to the detriment of Idaho Power customers.

1           There is now an additional basis for the Commission to grant the Motion for Stay.  
2   On May 1, pursuant to Order No. 14-058, Idaho Power filed its annual updates to its  
3   standard avoided cost rates, updating natural gas prices and on and off-peak forward  
4   looking electricity market prices. The Company also filed an alternative updated schedule,  
5   which also incorporates the change to the capacity sufficiency date from the current 2016,  
6   to 2021, as described in the Company's Application for Change in Resource Sufficiency  
7   Determination. The avoided cost prices contained in those filings are significantly lower  
8   than the current prices. On a levelized basis, these new prices range from approximately  
9   \$12/MWh to \$38/MWh less than current prices using a capacity deficiency date of 2016.  
10   Using the capacity deficiency date of 2021, the new prices are approximately \$19/MWh to  
11   \$38/MWh lower than current prices on a levelized basis.

12           As of April 24, 2015, when the Company initially filed its Motion for Temporary Stay,  
13   and accompanying three cases, Idaho Power had a total of 26 Oregon QF solar projects  
14   (245 MW) that had either inquired about an energy sales agreement or applied for  
15   interconnection as a QF to Idaho Power's Oregon system. Of those 26 proposed projects,  
16   7 projects (55 MW) had made initial, formal requests, pursuant to Schedule 85, for a draft  
17   contract. One of these projects had previously received a draft contract on December 2,  
18   2014. Five of these projects requested draft contracts on April 7, 2015, and one project  
19   requested a draft contract on April 16, 2015. Subsequent to the Company's April 24,  
20   2015, filings - 9 more projects (80 MW) requested draft contracts under Schedule 85.  
21   Idaho Power responded, to **all** of these initial requests under Schedule 85 within the  
22   required 15 business days by informing them that Idaho Power had filed an expedited  
23   motion for temporary stay of its obligation to provide and enter into standard contracts with  
24   their projects, pending a Commission determination on Idaho Power's filings. Those  
25   project developers responded by filing a formal complaint, UM 1731, and requesting draft  
26   contracts for an additional 9 proposed projects (80 MW).

1 The factual, as-applied determination of when a PURPA QF establishes the right to a  
2 particular avoided cost rate or particular contractual terms and conditions pursuant to a  
3 legally enforceable obligation is a determination that lies exclusively with the state  
4 authority.<sup>1</sup> The Idaho Supreme Court has recently examined and reaffirmed the Idaho  
5 PUC's authority and process for establishing a legally enforceable obligation as proper  
6 and consistent with both state and federal law.<sup>2</sup>

7 Idaho Power acted promptly and properly within its legal rights, duties, and  
8 obligations to bring significant matters regarding the proper avoided cost rates, as well as  
9 the proper terms and conditions contained in its Oregon standard PURPA energy sales  
10 agreements, to this Commission for resolution prior to entering into such agreements  
11 and/or incurring such obligations so as to assure the protection of Idaho Power's  
12 customers. Idaho Power responded to all Schedule 85 initial requests for draft contracts  
13 within the required 15 days from receiving complete information from the QF project.

14 The Company fully expects and anticipates that all 245 MW of proposed projects that  
15 have either inquired about energy sales agreements or applied for interconnection will  
16 rush in with formal applications and requests for draft contracts in an attempt to obligate  
17 Idaho Power and its customers to outdated and inflated avoided cost rates and PURPA  
18 contracting requirements. Furthermore, once developers become aware of the annual  
19 avoided cost update filed on May 1, 2015, the Company expects it will receive a flood of  
20 new requests seeking to obligate the Company and its customers to the previous, much  
21 higher avoided cost rates and lock them in for the next 20 years.

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24 <sup>1</sup> *Power Resource Group, Inc., v. Public Utility Commission of Texas*, 73 S.W.3d 354 (Tex.2002);  
25 *Power Resource Group, Inc., v. Klein*, No. A-03-CA-762-H, slip op. at 12 (W.D.Tex. Feb. 18, 2004);  
*Power Resource Group, Inc., v. Public Utility Commission of Texas*, 422 F.3d 231 (5th Cir. 2005) *cert.*  
*denied*, 547 U.S. 1020, 126 S.Ct. 1583, 164 L.Ed.2d 301 (Mar. 20, 2006).

26 <sup>2</sup> *Idaho Power Co., v. Idaho Public Utilities Comm'n.*, 155 Idaho 780, 316 P.3d 1278.

1 For this reason, the Commission should issue a stay, not only until the Company's  
2 three new applications are resolved, but also until the updated avoided costs are  
3 approved.

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5 Respectfully submitted this 8<sup>th</sup> day of May, 2015.

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**MCDOWELL RACKNER & GIBSON PC**

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**IDAHO POWER COMPANY**

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