

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

---

<p>IN RE:</p> <p>MIDWEST RENEWABLE ENERGY PROJECTS LLC,</p> <p style="text-align:center">Complainant,</p> <p style="text-align:center">v.</p> <p>INTERSTATE POWER AND LIGHT COMPANY,</p> <p style="text-align:center">Respondent.</p>	<p>DOCKET NO. 199 IAC 15.3 (PURPA Section 210)</p>
---	--

---

**ORDER REQUIRING AMENDMENTS TO PURPA REPORT AND TARIFFS**

(Issued December 21, 2007)

On June 30, 2006, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) its biennial report of Public Utility Regulatory Policies Act of 1978 (PURPA) avoided cost information pursuant to 199 IAC 15.3 (2006 PURPA Report). Rule 199 IAC 15.3 requires rate-regulated utilities, such as IPL, to file "the information required to be supplied to the Board under 18 CFR 292.302." Rule

18 CFR 292.302 and other federal rules cited later in this order were promulgated by the Federal Energy Regulatory Commission (FERC).<sup>1</sup>

On July 27, 2006, Midwest Renewable Energy Projects LLC (Midwest Renewable) filed a complaint with the Board about the information provided in IPL's 2006 PURPA Report. On August 10, 2006, IPL filed an answer and motion to dismiss Midwest Renewable's complaint. On August 24, 2006, Midwest Renewable filed a resistance to IPL's motion. No other entities filed comments or pleadings in this docket.

On November 13, 2006, the Board issued an order holding the complaint in abeyance until the conclusion of rehearing in Docket No. AEP-05-1, because Midwest Renewable raised issues about IPL's avoided cost data and methodology in its complaint that were similar to issues being litigated by Midwest Renewable and IPL in Docket No. AEP-05-1. The Board noted that the outcome of

---

<sup>1</sup>Specifically, FERC subrule 18 CFR 292.302(b) requires rate-regulated electric utilities to supply the following:

(b) General rule. To make available data from which avoided costs may be derived, not later than November 1, 1980, June 30, 1982, and not less often than every two years thereafter, each regulated electric utility described in paragraph (a) of this section [utilities with annual retail sales greater than 500 million kWh] shall provide to its State regulatory authority, and shall maintain for public inspection . . . the following data:

(1) The estimated avoided cost on the electric utility's system, solely with respect to the energy component, for various levels of purchases from qualifying facilities. Such levels of purchases shall be stated in blocks of not more than 100 megawatts for systems with peak demand of 1000 megawatts or more, and in blocks equivalent to not more than 10 percent of the system peak demand for systems of less than 1000 megawatts. The avoided costs shall be stated on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year, for the current calendar year and each of the next 5 years;

(2) The electric utility's plan for the addition of capacity by amount and type, for purchases of firm energy and capacity, and for capacity retirements for each year during the succeeding 10 years; and  
(3) The estimated capacity costs at completion of the planned capacity additions and planned capacity firm purchases, on the basis of dollars per kilowatt, and the associated energy costs of each unit, expressed in cents per kilowatt-hour. These costs shall be expressed in terms of individual generating units and of individual planned firm purchases.

Docket No. AEP-05-1 might require IPL to make revisions to its standard avoided cost tariff rates for small qualifying facilities (QFs). On March 31, 2007, the Board issued its final order on rehearing in Docket No. AEP-05-1.

**I. Midwest Renewable position**

Midwest Renewable complains that IPL's 2006 PURPA Report does not comply with the requirements of 18 CFR 292.302. Specifically, Midwest Renewable argues that IPL's 2006 PURPA Report does not provide estimated avoided energy cost information for various levels of purchases from qualifying facilities (QFs). 18 CFR 292.302(b)(1). Instead, Midwest Renewable points out that IPL's report reflects avoided energy costs for only one block size (1 MW). Midwest Renewable contrasts IPL's 2006 PURPA Report with the one filed by MidAmerican Energy Company, which estimates avoided costs for blocks of 0+, 50, 100, 150, and 200 MW. Midwest Renewable states that IPL's 2006 PURPA Report might provide a basis for determining avoided costs for 1 MW, but not 80 MW facilities.

Midwest Renewable also argues that the 2006 PURPA Report does not provide estimated avoided energy costs for "the current calendar year" as required by 18 CFR 292.302(b)(1). Instead, Midwest Renewable argues, the 2006 PURPA Report is based on outdated 2004 assumptions and input data, especially for fuel costs. As a result of these alleged deficiencies, Midwest Renewable maintains that the 2006 PURPA Report does not comply with 18 CFR 292.302(b), which requires that such reports "make available data from which avoided costs may be derived."

Midwest Renewable maintains that 18 CFR 292.302(e) authorizes the Board to review the avoided cost data in IPL's 2006 PURPA Report and places the burden of proof on IPL to justify its data. Midwest Renewable states that IPL has not met its burden of proof and, accordingly, asks that the Board require IPL to file an updated 2006 PURPA Report that estimates avoided costs at various purchase levels (not just 1 MW), based on current (not 2004) input data and assumptions.

## **II. IPL position**

IPL argues that Midwest Renewable offers no valid basis for its complaint and, therefore, the complaint should be dismissed. IPL acknowledges that it would have the burden of proof in any Board review of its 2006 PURPA Report under 18 CFR 292.302(e), but argues that the Board has not initiated such a review, which IPL states is not mandatory. IPL points out that the Board has never conducted such a review.

IPL claims that it has met the filing requirements of 18 CFR 292.302. With regard to providing avoided cost information for "various levels of purchases" (i.e., beyond 1 MW), IPL argues that information for larger blocks would not correspond closely enough to any actual proposed project to be meaningful and that estimating between block sizes through linear interpolation would be inaccurate. IPL contends that the information contained in its 2006 PURPA Report provides a starting point for case-by-case analysis of avoided costs for specific actual projects.

Regarding the age of IPL's input data and assumptions, IPL argues that it used the most up-to-date, comprehensive information available at the time. Although some of the information is based on 2004 costs, that information has been escalated

to current year dollars based on information from the Energy Information Administration's *Annual Energy Outlook 2005*. IPL contends that Midwest Renewable overstates the escalation in fuel costs and does not take into account projections beyond 2007. Also, IPL doubts the accuracy of making selective updates to the data without taking into account the effects of these changes on other factors and notes that a comprehensive updating of its data and assumptions will not be available until late 2007, at which time, IPL believes, Midwest Renewable would probably regard the new data as outdated.

IPL contends that Midwest Renewable overstates FERC's intentions for the avoided cost information filed under 18 CFR 292.302. Specifically, IPL points to FERC's 1980 order adopting 18 CFR 292.302, in which FERC explains:

Section 292.302 of these rules is intended by the Commission to assist those needing data from which avoided costs can be derived. It requires electric utilities to make available to cogenerators and small power producers data concerning the present and anticipated future costs of energy and capacity on the utility's system . . .

The Commission has clarified [18 CFR 292.302(b)] to emphasize that these data are not intended to represent a rate for purchases from qualifying facilities. Rather, these data are to be considered the first step in the determination of such a rate. FERC ¶ 30,128 at p. 30,868 (45 FR 12218, February 25, 1980).

IPL maintains that its 2006 PURPA Report provides sufficient data for this "first step," i.e., as an informational filing, not intended by itself to define avoided cost rates. Otherwise, IPL notes that there would be no need for avoided cost proceedings such as those currently involving Midwest Renewable in Docket No. AEP-05-1 and consolidated Docket Nos. AEP-05-2, 3, and 4. IPL contends the

relevant substantive issue is not the information provided in IPL's 2006 PURPA Report, but rather how that information will be used in setting avoided cost rates in separate proceedings.

IPL argues that the substantive issue at the heart of Midwest Renewable's complaint is the appropriate avoided cost rate for Midwest Renewable's proposed project, which is already being addressed in one of Midwest Renewable's avoided cost proceedings currently before the Board, Docket No. AEP-05-1. IPL points out that the changes that Midwest Renewable seeks in IPL's 2006 PURPA Report are already being sought in that docket. IPL contends that its 2006 PURPA Report complies with the filing requirements of 18 CFR 292.302 and 199 IAC 15.3, and provides a "starting point" for determining avoided cost rates.

### **III. Board discussion**

Midwest Renewable's complaint raises two separate issues relating to IPL's 2006 PURPA Report. The first is whether IPL is in compliance with the filing requirements of 18 CFR 292.302(b) and 199 IAC 15.3. The second is the validity of the avoided cost information provided in IPL's 2006 PURPA Report.

#### **A. Filing requirements**

The first issue is whether IPL has satisfied the filing requirements for its 2006 PURPA Report. While 18 CFR 292.402<sup>2</sup> indicates that FERC enforces its own filing requirements under 18 CFR 292.302(b), the Board also has the authority not only

---

<sup>2</sup>Rule 18 CFR 292.402 states:

292.402 Implementation of certain reporting requirements.

Any electric utility which fails to comply with the requirements of § 292.302(b) shall be subject to the same penalties to which it may be subjected for failure to comply with the requirements of the Commission's regulations issued under section 133 of PURPA.

pursuant to PURPA but also under Iowa Code chapter 476 to require that additional information be filed with the PURPA Report.

The FERC filing format issue raised by Midwest Renewable is whether IPL's 2006 PURPA Report format conforms with 18 CFR 292.302(b)(1), which requires a utility to file:

**The estimated avoided cost on the electric utility's system, solely with respect to the energy component, *for various levels of purchases from qualifying facilities. Such levels of purchases shall be stated in blocks of not more than 100 megawatts for systems with peak demand of 1000 megawatts or more* . . . .<sup>3</sup> (Emphasis added).**

Midwest Renewable contends that IPL does not meet this requirement because it lists avoided costs for only one block size (1 MW) rather than multiple blocks. However, in Docket No. AEP-05-1, IPL testified that its avoided costs relating to this 1 MW block size applied to purchases from QFs of all capacity sizes, up to 1 MW. (Docket No. AEP-05-1, Exhibit 18, Tr. 182-85). Therefore, one might argue that IPL could adhere to the strict letter of the FERC filing requirement by simply listing a series of identical sets of kWh avoided costs, corresponding to multiple block levels, up to a maximum of 1 MW. The FERC rule specifies an upper limit for block sizes (i.e., not more than 100 MW), but not a lower limit.

---

<sup>3</sup>The FERC rule also requires that:

The avoided costs shall be stated on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year, for the current calendar year and each of the next 5 years; The format of the data presented in IPL's 2006 PURPA Report data seems to meet these additional filing requirements.

The counterargument is that such a listing does not satisfy the spirit or intent of the FERC requirement, for QFs larger than 1 MW, that:

[I]n order to be able to evaluate the financial feasibility of a [qualifying] facility, an investor needs to be able to estimate, **with some reasonable certainty**, the expected return on a potential investment before construction of a facility.<sup>4</sup> (Emphasis added).

In other words, a prospective project developer might argue that avoided cost for a block of 1 MW or less does not provide meaningful information for larger QFs. IPL might agree with this contention, but would also argue that information for larger blocks would not correspond closely enough to any actual project to be meaningful, and that estimating between block sizes through linear interpolation would be similarly inaccurate.

It is not clear what accuracy standard FERC intended for the formatting of these reports for purposes of evaluating the financial feasibility of specific individual projects. FERC mentioned the need to provide "some reasonable certainty" to potential investors; but, as IPL points out, FERC also sought to:

[e]mphasize that these data are not intended to represent a rate for purchases from qualifying facilities. Rather, these data are to be considered the **first step** in the determination of such a rate.<sup>5</sup> (Emphasis added).

This "first step" information would not be the sole basis for any investment decisions because PURPA Report data is potentially subject to adjustment by state regulatory commissions in avoided cost ratemaking proceedings, such as the Board's

---

<sup>4</sup> 45 FR 12218, February 25, 1980.

<sup>5</sup> 45 FR 12218, February 25, 1980.

contested proceedings for avoided cost rates under 199 IAC 15.5(4). Still first step information for a variety of different-sized projects would provide developers with useful information.

Therefore, the Board concludes that IPL's PURPA Report should be revised to provide more information than it does currently. For example, as Midwest Renewable points out, MidAmerican Energy's PURPA Report provides estimated avoided cost information for capacity levels greater than 1 MW. Specifically, MidAmerican estimates avoided energy costs per MWh at additional purchase levels of 10, 20, 30, 40, 50, 100, 150, and 200 MW. IPL will be required to provide similar information. Although this information provides only a "first step" in determining actual avoided cost rates at these levels, it will nonetheless give developers and investors a better sense of what IPL's avoided cost is likely to be over a broader range of potential QF projects.

**B. Validity of avoided cost information**

The second issue raised by Midwest Renewable is the validity of the avoided cost information provided in IPL's 2006 PURPA Report. Iowa utilities have traditionally used the avoided cost information from their PURPA Reports as the basis for proposing standard avoided cost tariff rates for QFs with a capacity of 100 kW or less, pursuant to 199 IAC 15.5(3). However, this information is potentially subject to change by the Board in approving final tariff rates, based on evidence presented by the utility and other parties. For example, IPL used an updated version of its 2004 PURPA Report as the basis for proposing revisions to its standard tariff rates for QFs with a capacity of 100 kW or less, in TF-05-259.

For QFs larger than 100 kW, 199 IAC 15.5(4) states that avoided cost rates "shall be determined in contested case proceedings before the board, unless the rates are otherwise agreed upon by the qualifying facility and the utility involved." Midwest Renewable's petition in Docket No. AEP-05-1 was a proceeding of this type.

Midwest Renewable argues that 18 CFR 292.302(e) authorizes the Board to review the avoided cost data in IPL's 2006 PURPA Report and places the burden of proof on IPL to justify its data, which IPL has not done, according to Midwest Renewable. Accordingly, Midwest Renewable asks that the Board require IPL to file an updated 2006 PURPA Report based on current (not 2004) input data and assumptions. This is essentially the same issue Midwest Renewable litigated in the rehearing in Docket No. AEP-05-1, which addressed the Electric Generation Expansion Analysis System (EGEAS) modeling inputs and assumptions used by IPL to produce its 2006 PURPA Report and the avoided cost rate for Midwest Renewable's QF. The Board held the present complaint in abeyance pending the conclusion of Docket No. AEP-05-1 because it did not want to litigate the same issue in two pending dockets.

The Board issued its final rehearing order in Docket No. AEP-05-1 on March 31, 2007. In that order, the Board adjusted IPL's EGEAS analysis according to three adjustments recommended by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), two of them relating to the specific terms of Midwest Renewable's requested power purchase agreement (PPA) and the specific characteristics of Midwest Renewable's QF (and, therefore, not generically applicable to IPL's 2006 PURPA Report), and the third incorporating IPL's market

price forecast presented in Docket No. SPU-05-15. The Board also adopted a fourth adjustment removing the canceled 150 MW Endeavor PPA from IPL's EGEAS analysis. Consumer Advocate's market price forecast adjustment and the removal of the Endeavor PPA would likely affect the EGEAS results for IPL's 2006 PURPA Report. IPL will be directed to revise the avoided energy cost estimates in its 2006 PURPA Report based on these adjustments. Because the avoided cost data in IPL's PURPA Report serves as the basis for its standard avoided cost tariff rates for small QFs filed under 199 IAC 15.5(3), IPL will also be directed to revise its standard small QF tariff rates based on its revised 2006 PURPA Report.

**IT IS THEREFORE ORDERED:**

1. IPL shall file an amended 2006 PURPA Report pursuant to 199 IAC 15.3 within 30 days of the date of this order. The amended report shall contain the following:
  - a. Revised avoided energy cost estimates, based on the following adjustments to IPL's EGEAS analysis ordered by the Board in Docket No. AEP-05-1:
    - 1) Incorporating IPL's market price forecast presented in Docket No. SPU-05-15; and
    - 2) Removing the 150 MW Endeavor PPA.
  - b. Additional sets of estimated avoided energy costs, in the same format currently provided, for the following additional capacity levels: 10 MW, 20 MW, 30 MW, 50 MW, 100 MW, 150 MW, and 200 MW.
2. IPL shall file revised standard avoided cost tariff rates for small QFs, pursuant to 199 IAC 15.5(3), based on the revised PURPA avoided cost estimates outlined in ordering clause 1, subpart a.

3. IPL shall include the additional sets of estimated avoided energy costs described in ordering clause 1, subpart b, in all future PURPA Reports filed pursuant to 199 IAC 15.3.

**UTILITIES BOARD**

/s/ John R. Norris

/s/ Krista K. Tanner

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Darrell Hanson

Dated at Des Moines, Iowa, this 21<sup>st</sup> day of December, 2007.