

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>
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**ORDER ADDRESSING REQUEST FOR CLARIFICATION**

(Issued April 10, 2008)

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 Docket No.

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<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.

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.

The Board issued an order on December 21, 2007, that was intended to resolve the complaint in this docket. In that order, the Board required IPL to file certain amendments to its 2006 PURPA Report and avoided cost tariff rates for small QFs. The Board required IPL to file:

1. An amended 2006 PURPA Report pursuant to 199 IAC 15.3 that contains:
  - a. Revised avoided energy cost estimates, based on adjustments to IPL's EGEAS analysis ordered by the Board in Docket No. AEP-05-1; and
  - b. Additional sets of estimated avoided energy costs, in the same format currently provided, for the following capacity levels: 10 MW, 20 MW, 30 MW, 50 MW, 100 MW, 150 MW, and 200 MW.
2. Revised standard avoided cost tariff rates for small QFs based on the revisions in "1.a" above.
3. The additional sets of estimated avoided energy costs described in "1.b" above, in all future PURPA Reports filed pursuant to 199 IAC 15.3.

On January 10, 2008, IPL filed a request for clarification of requirement "1.b" above. IPL asked how it was to provide seasonal peak and off-peak avoided energy costs for capacity levels greater than 1 MW, since its Electric Generation Expansion Analysis System (EGEAS) model was only capable of providing either hourly incremental avoided energy costs for capacity levels no larger than 1 MW or annual and levelized avoided energy costs for QFs with capacities larger than 1 MW, based on the QF's energy output profile.

IPL appeared to be indicating in its clarification request that it was incapable of determining hourly incremental avoided energy costs for capacity (i.e., power output) levels greater than 1 MW, without reference to a specific QF's output profile. However, 199 IAC 15.5(5)"a" provides for the determination of avoided cost at the time of delivery to the utility, with delivery being at the discretion of the facility (i.e., without reference to a specific QF output profile).

In order to verify what IPL could and could not calculate with its current modeling tools, the Board issued a follow-up order on January 24, 2008, requiring IPL to provide additional information responding to the following hypothetical situation:

Assume that a 20 MW QF is seeking to sell energy to IPL at avoided cost rates. Also, assume that the QF produces energy at varying power output levels, ranging from 2 MW to 20 MW, and intends to sell some but not all of the energy to IPL as the QF determines the energy to be available for purchase.

Does IPL currently have the capability to determine avoided cost energy rates for such a QF, calculated at the time of delivery from the QF?

If the answer is yes, explain how the calculations would be made, using IPL's current analytical tools and available data.

If the answer is no, explain what would be required for IPL to develop this additional capability (i.e., in addition to its current [EGEAS] capabilities), including the cost of establishing the additional capability and the time needed to develop it.

On February 13, 2008, IPL filed the additional information requested by the Board. IPL stated that it has the capability to determine incremental avoided energy costs for QF power output levels ranging from 2 to 20 MW (i.e., at time of delivery by the QF, at the QF's discretion) based on the real-time Locational Marginal Prices

(LMPs) for energy at the QF's injection point, as determined by the Midwest Independent Transmission System Operator, Inc. (MISO). From these MISO LMPs, IPL said it would subtract any transaction costs charged by MISO, as well as any administrative and overhead costs incurred by IPL in making the transaction. In other words, rather than purchase from the QF, IPL would instead broker the sale of the QF's output to a third party (i.e., the MISO real-time energy market) and require the QF to pay the transaction costs.<sup>2</sup>

On February 27, 2008, Midwest Renewable filed a response to IPL's additional information. Midwest Renewable noted that the hypothetical situation in the Board's January 24, 2008, order (i.e., asking how IPL would calculate avoided cost energy rates at the time of delivery) is a disputed issue in another proceeding involving Midwest Renewable and IPL currently before the Board's administrative law judge, identified as consolidated Docket Nos. AEP-05-2, AEP-05-3, and AEP-05-4. Midwest Renewable stated it has not yet fully developed its position on this issue in the consolidated AEP docket but specifically objected to IPL's proposed deduction of transaction costs and MISO charges from what would otherwise be IPL's avoided costs, arguing that IPL would incur these costs in any event and they should not be considered part of IPL's avoided costs. No further pleadings or responses have been filed by IPL or Midwest Renewable.

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<sup>2</sup> IPL added that the QF could bypass the transaction costs associated with IPL acting in its role of "middle man" by selling directly into the MISO market.

The Board notes that it appears that IPL has not applied to FERC for an exemption from its PURPA purchase obligation for small QFs with a design capacity of 20 MW or less.<sup>3</sup> The Board's understanding is that unless FERC grants IPL such an exemption, or unless small QFs otherwise agree, IPL probably cannot circumvent its QF purchase obligation by brokering small QF sales to a third party and requiring the small QF to pay the transaction costs.

Aside from the issue of brokering small QF sales and charging for the transaction costs (a potential contested issue in avoided cost proceedings under 199 IAC 15.5(4), such as Docket Nos. AEP-05-2, AEP-05-3, and AEP-05-4),<sup>4</sup> IPL appears to equate its hourly incremental avoided energy costs with hourly LMPs in the MISO real-time energy market, for QFs with discretionary sales at varying power output levels greater than 1 MW. Therefore, the Board will clarify that IPL should use this as the basis for responding to reporting requirement "1.b" in the Board's order issued December 21, 2007:

b. Additional sets of estimated avoided energy costs, in the same format currently provided, for the following capacity [i.e., power output] levels: 10 MW, 20 MW, 30 MW, 50 MW, 100 MW, 150 MW, and 200 MW.

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<sup>3</sup> IPL has applied for a PURPA exemption for QFs larger than 20 MW FERC (Docket No. QM08-3), but not for smaller QFs. Under FERC's rules (Docket No. RM06-10), the rebuttable presumption is that smaller QFs do not have non-discriminatory access to competitive power markets, unless the utility can show otherwise.

<sup>4</sup> In Iowa, 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."

If IPL deducts transaction costs and MISO administrative charges in determining its net avoided energy costs, these ancillary costs and charges should be separately identified. Later, if FERC exempts IPL from its PURPA QF purchase obligation for QFs larger than 20 MW (Docket No. QM08-3), then the PURPA Report need not reflect avoided energy costs for capacity (power output) levels greater than 20 MW.

The point is that whatever IPL currently uses as the basis for estimating its avoided energy costs for QF capacity (power output) levels greater than 1 MW, this is what IPL should use for responding to reporting requirement "1.b." FERC intended the data in the utility's PURPA Report to provide the first step for determining a utility's avoided cost rates in state regulatory proceedings.<sup>5</sup> That is, the PURPA Report is what the utility represents as its avoided costs, rather than an authoritative determination of avoided costs by a regulatory agency.<sup>6</sup> However, this information can be subject to change based on the outcome of state avoided cost proceedings; the Board's order issued on December 21, 2007, required changes to IPL's PURPA Report based on adjustments to IPL's EGEAS analysis ordered by the Board in Docket No. AEP-05-1.

As noted by Midwest Renewable, IPL's method for determining avoided costs at time of delivery is currently a disputed issue in consolidated Docket Nos. AEP-05-2, AEP-05-3, and AEP-05-4 and will be fully litigated in those dockets. The

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

<sup>6</sup> Again, in Iowa, 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."

information in IPL's PURPA Report, including its response to reporting requirement "1.b" in the Board's December 21, 2007 order, may be subject to revision depending on the final decision in consolidated Docket Nos. AEP-05-2, AEP-05-3, and AEP-05-4. The proper forum to initially litigate IPL's method for determining avoided costs at time of delivery is in the consolidated AEP dockets, not here; if the decision in those dockets necessitates a change in IPL's PURPA Report, the Board will issue such an order after the consolidated dockets are concluded.

**IT IS THEREFORE ORDERED:**

IPL shall file an amended 2006 PURPA Report pursuant to 199 IAC 15.3 within 30 days of the date of this order, consistent with the Board's December 21, 2007, order and as clarified in this order. IPL shall also file within 30 days revised standard avoided cost tariff rates for small QFs and include additional sets of avoided energy costs in all future PURPA Reports, as required by the Board's December 21, 2007, order.

**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 10<sup>th</sup> day of April, 2008.