

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF ENERGY MARKET REGULATION

In Reply Refer To:
Indiana Municipal Power Agency
Indiana Utility Regulatory Commission
Docket No. EL18-4-000

November 16, 2017

Cynthia S. Bogorad
Spiegel & McDiarmid LLP
1875 Eye Street, NW, Suite 700
Washington, DC 20006

Dear Ms. Bogorad:

On October 3, 2017, Indiana Municipal Power Agency (IMPA), on behalf of itself and its authorizing member municipal cities (Authorizing Members), some of which are rate-regulated utilities, and the Indiana Utility Regulatory Commission (Indiana Commission) on behalf of those Authorizing Members subject to the Indiana Commission's rate-regulation jurisdiction,¹ filed pursuant to section 292.402 of the Commission's regulations,² a joint petition for partial waiver of certain Commission regulations implementing section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA)³ (Joint Petition).

The Joint Petition notes that IMPA is a political subdivision of the State of Indiana

¹ See the Appendix for the full list of Authorizing Members.

² 18 C.F.R. § 292.402 (2017). (“...[a] non-regulated electric utility may...apply for a waiver from the application of any of the requirements of subpart C (other than § 292.302 thereof), [with the Commission granting] such a waiver only if an applicant...demonstrates that compliance with any of the requirements of subpart C is not necessary to encourage cogeneration and small power production and is not otherwise required under section 210 of PURPA.”).

³ 16 U.S.C. § 824a-3 (2012).

and a body politic and corporate created by statute and authorized by statute to jointly, plan, finance, own, and operate electric power supply facilities. Further, the Joint Petition explains that IMPA is the full-requirements supplier to 60 municipalities in Indiana and one community in Ohio, of which 55 are Authorizing Members. The Joint Petition also notes that the Indiana Commission has jurisdiction over certain IMPA rate-regulated members. The Joint Petition states that therefore the waiver request is being submitted by the Indiana Commission on behalf of the rate-regulated Authorizing Members and by IMPA on behalf of itself and the Authorizing Members that are non-regulated electric utilities.⁴

IMPA seeks waiver of its obligation under section 292.303(b) of the Commission's regulations⁵ to make retail sales to qualifying facilities (QFs), and the Authorizing Members seek waiver of their obligation under section 292.303(a) of the Commission's regulations⁶ to make purchases from QFs. IMPA states that, in lieu of IMPA's retail sales to QFs, the Authorizing Members will make sales, and, similarly, in lieu of the Authorizing Members' purchases from QFs, IMPA will make such purchases, at IMPA's avoided costs.⁷ IMPA states that QFs interconnecting with itself or the Authorizing Members will continue to have a market for the capacity and energy they make available for sale, and also will continue to be assured of a source of retail power for their operations through IMPA's Joint PURPA Implementation Plan (Plan).⁸

IMPA explains that the Plan provides that: (1) any QF is permitted to interconnect with the electric systems of IMPA or any Authorizing Member; (2) any QF is permitted to sell energy and capacity to IMPA at rates equal to IMPA's full avoided costs or at a negotiated rate; (3) any QF is permitted to purchase supplemental, back-up, and maintenance power from an Authorizing Member on either a firm or interruptible basis, at rates that are nondiscriminatory, just and reasonable, and in the public interest; and (4) no QF will be subject to duplicative charges for interconnection or wheeling as a result of selling to IMPA and buying from an Authorizing Member.⁹

⁴ Joint Petition at 2, 4.

⁵ 18 C.F.R. § 292.303(b) (2017).

⁶ 18 C.F.R. § 292.303(a) (2017).

⁷ Joint Petition at 4.

⁸ *Id.* at 5.

⁹ *Id.* at 5-6.

IMPA claims that the Commission should waive the Authorizing Members' purchase obligation because the Authorizing Members' purchases are not necessary to encourage cogeneration or small power production. IMPA contends that the Plan provides encouragement to QFs by ensuring that they receive a rate for their power that is equal to IMPA's full avoided costs, which it asserts is equal to the avoided costs of the Authorizing Members. IMPA states that the Plan also provides that QFs will: (1) be offered back-up, supplementary, and maintenance power, upon request, on either a firm or interruptible basis, at rates that are nondiscriminatory, just and reasonable, and in the public interest; and (2) be protected from duplicative interconnection charges or wheeling charges as a result of dealing with an individual Authorizing Member for retail service and IMPA for QF sales of capacity and energy.¹⁰

IMPA also claims that the Commission should waive IMPA's sales obligation because retail sales by IMPA are not necessary to encourage cogeneration and small power production, as IMPA is not authorized to make retail sales and the Authorizing Members are already obligated under Indiana law to provide retail electric service at nondiscriminatory, just, and reasonable rates. Furthermore, IMPA states that retail service by IMPA would result in operational and administrative problems as IMPA lacks the necessary organizational structure and personnel to provide reliable retail service; whereas, the Authorizing Members already possess the necessary experience, staff, distribution facilities, and other attributes.¹¹

IMPA states that, in accordance with section 292.402(a) of the Commission's regulations, it provided public notice of this waiver request in the area served by IMPA and its Authorizing Members. Specifically, IMPA states that a notice of this filing was published in the local and statewide newspapers between September 12, 2017 and September 25, 2017, covering the entire area served by IMPA and its Authorizing Members.

Notice of IMPA's petition was published in the *Federal Register*, 82 Fed. Reg. 46,979 (2017), with interventions and protests due on or before October 24, 2017. No protests were filed.

The Joint Petition's requested waiver is hereby granted. Granting waiver of the purchase obligation to the Authorizing Members will not frustrate the PURPA statutory mandate to encourage the development of QFs because no QF will be deprived of an avoided cost sale of its power, and each will receive a full avoided cost rate. Similarly granting waiver of the sales obligation to IMPA will not frustrate the PURPA statutory

¹⁰ *Id.* at 7, 9.

¹¹ *Id.* at 9.

mandate because each Authorizing Member will offer supplementary, back-up, maintenance, and interruptible power to QFs at rates that are nondiscriminatory, just and reasonable, and in the public interest.

This action is taken pursuant to authority delegated to the Director, Division of Electric Power Regulation – Central, under 18 C.F.R. § 375.307(a)(6)(iii) (2017). This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713 (2017).

Sincerely,

Penny S. Murrell, Director
Division of Electric Power
Regulation – Central

Appendix

Indiana Municipal Power Agency
Authorizing Members for which Waivers are Granted

Advance Municipal Light & Power
Anderson Municipal Light & Power
Argos Utilities
Bainbridge Municipal Utilities
Blanchester Utilities
Bremen Electric Light & Power
Brooklyn Electric Department
Centerville Municipal Utilities
Chalmers Municipal Utilities
Coatesville Power & Light
Columbia City Municipal Utilities
Covington Municipal Electric Utility
Crawfordsville Electric Light & Power
Darlington Light & Power
Dublin Municipal Electric Utilities
Dunreith Municipal Utilities
Edinburgh Municipal Power & Light
Etna Green Municipal Utilities
Flora Municipal Electric Utilities
Frankfort City Light & Power
Frankton Municipal Light & Water
Gas City Municipal Utilities
Greendale Utilities
Greenfield Power & Light
Huntingburg Municipal Electric Utility
Jamestown Municipal Light & Power
Jasper Municipal Electric Utility
Kingsford Heights Municipal Electric Utility
Ladoga Light & Power
Lawrenceburg Municipal Utilities
Lebanon Utilities
Lewisville Electric Utility
Linton Municipal Utilities
Montezuma Municipal Utilities
Pendleton Light & Power
Peru Utilities
Pittsboro Municipal Utilities
Rensselaer Electric Utility

Docket No. EL18-4-000

- 6 -

Richmond Power & Light
Rising Sun Municipal Utilities
Rockville Municipal Utilities
Scottsburg Municipal Electric Department
South Whitley Municipal Electric
Spiceland Municipal Utilities
Straughn Municipal Electric
Tell City Electric Department
Thorntown Utilities
Tipton Municipal Utilities
Troy Utilities
Veedersburg Utilities Department
Walkerton Municipal Utilities
Washington Electric Light & Power
Waynetown Electric Utility
Williamsport Light & Water
Winamac Municipal Utilities

Document Content(s)

EL18-4-000.DOCX.....1-6