

145 FERC ¶ 61,122  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony Clark.

Idaho Power Company

Docket Nos. ER13-1857-000  
EL14-3-000

ORDER ON UPDATED MARKET POWER ANALYSIS AND NOTICE OF CHANGE  
IN STATUS, INSTITUTING SECTION 206 PROCEEDING AND ESTABLISHING  
REFUND EFFECTIVE DATE

(Issued November 13, 2013)

1. On June 28, 2013, as supplemented on August 2, 2013, October 3, 2013, and November 7, 2013, Idaho Power Company (Idaho Power) filed an updated market power analysis for the Northwest region<sup>1</sup> in accordance with the regional reporting schedule adopted in Order No. 697<sup>2</sup> and pursuant to the Commission's order granting Idaho Power authority to sell electric energy, capacity, and ancillary services at market-based rates.<sup>3</sup>

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<sup>1</sup> Idaho Power Company June 28, 2013 Filing at 1 (June 28 Filing); Idaho Power Company August 2, 2013 Filing; Idaho Power Company October 3, 2013 Filing; Idaho Power Company November 7, 2013 Filing (November 7 Filing).

<sup>2</sup> *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 882-893, *clarified*, 121 FERC ¶ 61,260 (2007), *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008), *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009), *order on reh'g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010), *aff'd sub nom. Montana Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011), *cert. denied sub nom. Publ. Citizen, Inc. v. FERC*, 133 S. Ct. 26 (2012).

<sup>3</sup> *Idaho Power Co.*, 78 FERC ¶ 61,343 (1997).

Idaho Power's June 28 Filing included a late-filed notice of change in status to inform the Commission that Idaho Power's Langley Gulch power plant began commercial operations on June 29, 2012. As discussed below, the Commission's analysis indicates that Idaho Power fails the wholesale market share screen in the Idaho Power balancing authority area. Such failure establishes a rebuttable presumption of horizontal market power. Although Idaho Power has submitted a delivered price test (DPT) analysis to rebut the presumption of market power,<sup>4</sup> its failure of the wholesale market share screen provides the basis for instituting a proceeding pursuant to section 206 of the Federal Power Act (FPA)<sup>5</sup> to determine whether Idaho Power's market-based rate authority in the Idaho Power balancing authority area remains just and reasonable and for establishing a refund effective date. Further, as discussed below, we find that Idaho Power has violated its filed tariff by submitting a notice of change in status out of time.<sup>6</sup>

2. Additionally, we find that Idaho Power meets the criteria for Category 1 seller status in the Central, Northeast, Southwest, Southwest Power Pool, and Southeast regions and is so designated.<sup>7</sup>

### **I. Background**

3. Idaho Power represents that it owns 1,709 megawatts (MW) of hydroelectric generation capacity and 731 MW of thermal generation capacity within the Idaho Power balancing authority area.

4. Additionally, Idaho Power states that it owns interests in remote-coal fired generators located in the balancing authority areas operated by the Bonneville Power Administration (BPA), PacifiCorp, and Sierra Pacific Power Company (Sierra Pacific). Idaho Power further represents that its affiliate, Ida-West Energy (Ida-West), owns approximately 33 MW of Qualifying Facility (QF) projects in the Idaho Power balancing authority area and 12 MW of QF projects in the California Independent System Operator Corp. (CAISO) market, the entire output of which is sold on a long-term basis to Idaho Power and Pacific Gas and Electric Company, respectively. In addition, Idaho Power

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<sup>4</sup> Idaho Power's November 7 Filing includes a DPT analysis.

<sup>5</sup> 16 U.S.C. § 824e (2012).

<sup>6</sup> As explained below, while we establish a refund effective date, when faced with a tariff violation resulting from a failure to timely file a notice of change in status, the Commission may impose remedies from the date on which the tariff violation occurred.

<sup>7</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 848-850.

represents that it does not own generation outside the Northwest region. Finally, Idaho Power represents that it owns a transmission system, and that open access to its facilities is provided pursuant to the terms of Idaho Power's Open Access Transmission Tariff (OATT) on file with the Commission.<sup>8</sup>

5. Idaho Power states that for its triennial updated market power analysis, it performed the pivotal supplier and market share indicative screens for the Idaho Power balancing authority area and for each of its six first-tier balancing authority areas – Avista, BPA, NorthWestern Energy, PacifiCorp-East, PacifiCorp-West, and Sierra Pacific. In addition, Idaho Power states that it performed indicative screens for the CAISO market, where Idaho Power's affiliate, Ida-West, owns a small amount of generation capacity. Idaho Power represents that under its base case analysis it passes the pivotal supplier and market share screens for all eight markets studied.<sup>9</sup>

6. Idaho Power states that about two weeks prior to filing its triennial updated analysis, it “discovered that it inadvertently had neglected to file a change in status when its Langley Gulch power plant began commercial operations on June 29, 2012.”<sup>10</sup> Idaho Power states that it prepared a simple sensitivity analysis using the results of the triennial market power study referenced above, adding the capacity of Langley Gulch to both Idaho Power's total supply and the total supply for the market, but did not adjust or update other data. Idaho Power notes that under this simplified approach, Langley Gulch causes screen failures, with the sensitivity analysis showing that, while Idaho Power passes the pivotal supplier screen, it exceeds the 20 percent threshold under the market share screen in three out of four seasons in the Idaho Power balancing authority area. Idaho Power states that it continues to pass all the screens in the other markets.<sup>11</sup>

7. Idaho Power states that it did not have time to prepare a DPT analysis or provide a fully updated market power analysis prior to the June 30, 2013 due date for its updated market power analysis filing. Idaho Power also states that it will perform a further market power analysis and that, in recognition of the fact that screen failures may remain,

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<sup>8</sup> Idaho Power Company, Open Access Transmission Tariff (0.0.0).

<sup>9</sup> Idaho Power June 28 Filing at 6-7. Idaho Power notes that its hydroelectric capacity sensitivity analyses show that Idaho Power passes both screens in each of the balancing authorities studied except for the non-Summer seasons under the high hydro sensitivity market share screen for the Idaho Power balancing authority area.

<sup>10</sup> *Id.* at 1. Idaho Power was obligated to file a change in status by July 30, 2012.

<sup>11</sup> *Id.* at 7-8.

it simultaneously will direct efforts toward mitigation. Finally, Idaho Power states that it will supplement its filing either with evidence that the addition of Langley Gulch should not result in a loss of market-based rates in the Idaho Power balancing authority area or with a mitigation proposal that in all likelihood will be in the form of a cost-based rate tariff for sales under one year in length.<sup>12</sup>

8. On November 7, 2013, Idaho Power supplemented its filing with a DPT analysis reflecting inclusion of the Langley Gulch facility.

## **II. Notices and Responsive Pleadings**

9. Notice of Idaho Power's June 28 Filing was published in the *Federal Register*, 78 Fed. Reg. 40,737 (2013), with interventions or protests due on or before August 27, 2013.<sup>13</sup> None was filed. Notice of Idaho Power's August 2, 2013 supplemental filing was published in the *Federal Register*, 78 Fed. Reg. 49,504 (2013), with interventions or protests due on or before August 27, 2013.<sup>14</sup> None was filed.

## **III. Discussion**

### **A. Market-Based Rate Authorization**

10. The Commission allows power sales at market-based rates if the seller and its affiliates do not have, or have adequately mitigated, horizontal and vertical market power.<sup>15</sup> As discussed below, we find that Idaho Power's failure of the market share indicative screen in the Idaho Power balancing authority area provides the basis for the

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<sup>12</sup> *Id.* at 8. Idaho Power states that if it determines that the mitigation route is merited, it also will revise its market-based rate tariff and provide any necessary refund calculations for the Commission to review that cover sales that commenced after the commencement operation date of Langley Gulch in the Idaho Power balancing authority area. Idaho Power notes that it did not enter into any long-term sales sinking in its balancing authority area under its market-based rate tariff after June 29, 2012. *Id.*

<sup>13</sup> On July 16, 2013, the Commission issued an errata notice extending the comment period for the June 28 Filing to August 27, 2013.

<sup>14</sup> On October 3, 2013, Idaho Power submitted a supplement to the triennial filing, which included the seasonal reference base case models for all study areas in RAW format, the four seasonal benchmark models, and the final models for all study areas in RAW format.

<sup>15</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at PP 62, 399, 408, 440.

Commission to institute the instant section 206 proceeding while the Commission considers Idaho Power's DPT analysis to determine whether Idaho Power satisfies the Commission's standards for market-based rate authority in that balancing authority area.

### **Horizontal Market Power**

11. The Commission has adopted two indicative screens for assessing horizontal market power: the pivotal supplier screen and the wholesale market share screen.<sup>16</sup> The Commission has stated that passage of both screens establishes a rebuttable presumption that the applicant does not possess generation market power, while failure of either screen creates a rebuttable presumption that the applicant has generation market power.<sup>17</sup> The Commission has stated that an applicant that fails one or more of the indicative screens is provided with several procedural options, including the right to challenge the presumption of market power by submitting a DPT analysis, or, alternatively, sellers can accept the presumption of market power and adopt some form of cost-based mitigation.<sup>18</sup>

12. In its June 28 Filing, Idaho Power prepared the pivotal supplier and wholesale market share screens for the Idaho Power, Avista, BPA, NorthWestern, PacifiCorp-West, PacifiCorp-East, and Sierra Pacific balancing authority areas as well as the CAISO market, consistent with the requirements of Order No. 697.<sup>19</sup> Idaho Power prepared two sets of screens, one that does not account for the Langley Gulch generation (Base Case Analysis) and one that does account for the Langley Gulch generation (Sensitivity Analysis). For the Base Case Analysis, Idaho Power represents that it passes both the pivotal supplier and market share screens in the relevant balancing authority areas and the CAISO market. For the Sensitivity Analysis, Idaho Power represents that it passes both the pivotal supplier and market share screens in all but the Idaho Power balancing authority area, in which it fails the wholesale market share screen with its market share exceeding 20 percent in three of four seasons.<sup>20</sup> Specifically, Idaho Power's sensitivity

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<sup>16</sup> *Id.* P 62.

<sup>17</sup> *Id.* PP 33, 62-63.

<sup>18</sup> *Id.* P 63. The results of the DPT analysis can be used for pivotal supplier, market share, and market concentration analyses.

<sup>19</sup> *Id.* PP 231-232.

<sup>20</sup> *See id.* P 44 (“A seller with a market share of 20 percent or more in the relevant market for any season will have a rebuttable presumption of market power but can present historical evidence to show that the seller satisfies our generation market power concerns.”).

analysis shows market shares of 29.9 percent (winter), 30.4 percent (spring), 0.1 percent (summer) and 26.9 percent (fall).

13. In its November 7 Filing, Idaho Power submitted a DPT analysis in an attempt to rebut the presumption of market power that attaches because of its screen failure.

### **Commission Determination**

14. We have reviewed Idaho Power's wholesale market share screen failures under its Sensitivity Analysis and conclude that Idaho Power's failure of the market share screen provides the basis for the Commission to institute the instant section 206 proceeding to determine whether Idaho Power may continue to charge market-based rates in the Idaho Power balancing authority area, and establishes a rebuttable presumption of market power. Although Idaho Power has submitted a DPT analysis, its failure of the wholesale market share screen provides the basis for the Commission to institute a proceeding in Docket No. EL14-3-000, pursuant to section 206 of the FPA, to investigate whether Idaho Power may continue to charge market-based rates in the Idaho Power balancing authority area and to establish a refund effective date for the protection of customers while the Commission evaluates the filed DPT analysis.<sup>21</sup> As the Commission has previously stated, sellers submitting evidence, such as a DPT analysis, in support of a contention that they do not possess market power should not expect that the Commission will postpone initiating a section 206 investigation to protect customers while it examines the supplemental information.<sup>22</sup>

15. In cases where, as here, the Commission institutes a section 206 procedure on its own motion, section 206(b) requires that the Commission establish a refund effective date that is statutorily-limited to "no earlier than the date of the publication by the Commission of notice of its intention to initiate such proceeding nor later than five months after the publication date."<sup>23</sup> In such cases, in order to give maximum protection to customers, and consistent with our precedent, we have historically tended to establish the section 206 refund effective date at the earliest date allowed by section 206, and we

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<sup>21</sup> *See id.* P 78.

<sup>22</sup> *Id.* P 75 & n.59 (citing *LG&E Energy Mktg. Inc.*, 111 FERC ¶ 61,153, at PP 21, 22 (2005); *Tampa Electric Co.*, 110 FERC ¶ 61,206, at PP 24, 25 (2005); *Entergy Services, Inc.*, 109 FERC ¶ 61,282, at P 36 (2004)).

<sup>23</sup> 16 U.S.C. § 824e(b) (2012).

will do so here as well.<sup>24</sup> That date is the date of publication of notice of initiation of this proceeding in the *Federal Register*.

16. This proceeding, while being pursued using section 206 procedures, involves Idaho Power's failure to timely file its change in status report, a violation of the Idaho Power tariff.<sup>25</sup> As the Commission explained in Order No. 697, "failure of a market-based rate seller to timely file a change in status report constitutes a tariff violation. If such a violation occurs, the Commission has the tools available to impose remedies, as necessary and appropriate, *from the date on which the tariff violation occurred*. Such remedies could include disgorgement of profits, civil penalties or other remedies the Commission finds appropriate based on the specific facts and circumstances."<sup>26</sup>

17. Thus, after review of Idaho Power's DPT analysis, the Commission may order relief as of July 31, 2012, the date on which Idaho Power first violated its tariff by failing to timely file on or before July 30, 2012 a change in status to report the addition of the generation capacity from the Langley Gulch plant, which began commercial operations on June 29, 2012. Pursuant to section 35.42 of the Commission's regulations, that

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<sup>24</sup> See, e.g., *Canal Electric Co.*, 46 FERC ¶ 61,153, *order on reh'g*, 47 FERC ¶ 61,275 (1989).

<sup>25</sup> Idaho Power's market-based rate tariff provides: "Failure to comply with the applicable provisions of 18 CFR Part 35, Subpart H, and with any orders of the Commission concerning seller's market-based rate authority, will constitute a violation of this tariff." Idaho Power Company, IPCo eTariff, [Power Sale Tariff, Power Sale Tariff, 0.1.0](#). The requirement to timely file change in status reports is codified at section 35.42 of the Commission's regulations, 18 C.F.R. § 35.42, which requires, as a condition of receiving and retaining market-based rate authority, timely reporting to the Commission of "any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority."

<sup>26</sup> See Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 856 (emphasis added); see also *Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority*, Order No. 652, FERC Stats. & Regs. ¶ 31,175 at P 113 (stating that "a notice of change in status is an integral part of the market-based tariff, compliance with which is a condition for the retention of market-based rate authority" and also noting that the Commission, where appropriate, may institute a section 206 investigation based on a change in status filing), *order on reh'g*, 111 FERC ¶ 61,413 (2005).

change in status report was due no later than 30 days from the date of the change in status, i.e. on or before July 30, 2012.<sup>27</sup>

18. In addition, section 206 requires that, if no final decision has been rendered by the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it failed to do so and shall state its best estimate as to when it reasonably expects to make such a decision. We expect that we should be able to render a decision by April 30, 2014, that is, within five months of Idaho Power's submission of its DPT analysis.

## 2. Vertical Market Power

19. In cases where a public utility, or any of its affiliates, owns, operates, or controls transmission facilities, the Commission requires that there be a Commission-approved OATT on file or that the seller has received waiver of the OATT requirement before granting a seller market-based rate authorization.<sup>28</sup>

20. Idaho Power states that it owns transmission facilities subject to the Commission's jurisdiction. Idaho Power represents that it operates these facilities pursuant to the terms of its OATT on file with the Commission and thus does not have transmission market power.<sup>29</sup>

21. The Commission also considers a seller's ability to erect other barriers to entry as part of the vertical market power analysis.<sup>30</sup> The Commission requires a seller to provide a description of its ownership or control of, or affiliation with an entity that owns or controls, intrastate natural gas transportation, storage, or distribution facilities; sites for generation capacity development; and physical coal supply sources and ownership of or control over who may access transportation of coal supplies (collectively, inputs to electric power production).<sup>31</sup> The Commission adopted a rebuttable presumption that the

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<sup>27</sup> See 18 C.F.R. § 35.42(b) (2013) ("Any change in status . . . must be filed no later than 30 days after the change in status occurs.")

<sup>28</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 408.

<sup>29</sup> See Idaho Power June 28 Filing at 9 (citing *Idaho Power Co.*, 110 FERC ¶ 61,219, at P 11 (2005)).

<sup>30</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 440.

<sup>31</sup> *Id.* P 448; Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 176; Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 at P 38.

ownership or control of, or affiliation with any entity that owns or controls, inputs to electric power production does not allow a seller to raise entry barriers but will allow intervenors to demonstrate otherwise.<sup>32</sup>

22. Idaho Power states that it and its affiliates do not own intrastate natural gas transportation, storage, or distribution facilities. Idaho Power also states that it does not own or control any sites for new generation capacity development for which site control has been demonstrated in the interconnection process and for which the potential number of megawatts that are reasonably commercially feasible on the site or sites for new generation capacity development is equal to 100 MW or more.<sup>33</sup>

23. Idaho Power states that it indirectly owns one-third of the interests in the Bridger Coal Company, which produces coal, and the Bridger power plant, which uses the coal. Idaho Power states that during the last 10 years there has been no commercial sale of the coal that the Bridger Coal Company produces. Idaho Power also represents that it owns and controls rail cars used for the transportation of coal.

24. The Commission also requires sellers to make an affirmative statement that they have not erected barriers to entry into the relevant market and will not erect barriers to entry into the relevant market.<sup>34</sup> Idaho Power affirmatively represents that it and its affiliates have not and will not erect barriers to entry in any market.<sup>35</sup>

25. Based on Idaho Power's representations, we find that it satisfies the Commission's requirements for market-based rate authority regarding vertical market power.

## **B. Reporting Requirements**

26. Consistent with the procedures the Commission adopted in Order No. 2001, Idaho Power must electronically file an Electric Quarterly Report (EQR) with the Commission containing: (1) a summary of the contractual terms and conditions in every effective service agreement for market-based power sales; and (2) transaction information for effective short-term (less than one year) and long-term (one year or longer) market-based

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<sup>32</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 446.

<sup>33</sup> Idaho Power June 28 Filing at 9-10.

<sup>34</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 448.

<sup>35</sup> Idaho Power June 28 Filing, Affidavit at 17.

power sales during the most recent calendar quarter.<sup>36</sup> Idaho Power must file EQRs no later than 30 days after the end of the reporting quarter.<sup>37</sup>

27. Additionally, Idaho Power must timely report to the Commission any change in status that would reflect a departure from the characteristics the Commission relied upon in granting market-based rate authority.<sup>38</sup>

28. In Order No. 697, the Commission created two categories of sellers.<sup>39</sup> Category 1 sellers are not required to file regularly scheduled updated market power analyses. Category 1 sellers are wholesale power marketers and wholesale power producers that own or control 500 MW or less of generation in aggregate per region; that do not own, operate, or control transmission facilities other than limited equipment necessary to connect individual generation facilities to the transmission grid (or have been granted waiver of the requirements of Order No. 888); that are not affiliated with anyone that owns, operates, or controls transmission facilities in the same region as the seller's

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<sup>36</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reh'g denied*, Order No. 2001-B, 100 FERC ¶ 61,342, *order directing filing*, Order No. 2001-C, 101 FERC ¶ 61,314 (2002), *order directing filing*, Order No. 2001-D, 102 FERC ¶ 61,334, *order refining filing requirements*, Order No. 2001-E, 105 FERC ¶ 61,352 (2003), *order on clarification*, Order No. 2001-F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements*, Order No. 2001-G, 120 FERC ¶ 61,270, *order on reh'g and clarification*, Order No. 2001-H, 121 FERC ¶ 61,289 (2007), *order revising filing requirements*, Order No. 2001-I, FERC Stats. & Regs. ¶ 31,282 (2008). Attachments B and C of Order No. 2001 describe the required data sets for contractual and transaction information. Public utilities must submit EQRs to the Commission using the EQR Submission System Software, which may be downloaded from the Commission's website at <http://www.ferc.gov/docs-filing/eqr.asp>.

<sup>37</sup> The exact filing dates for these reports are prescribed in 18 C.F.R. § 35.10b (2013). Failure to file an EQR (without an appropriate request for extension), or failure to report an agreement in an EQR, may result in forfeiture of market-based rate authority requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.

<sup>38</sup> Reporting Requirement for Changes in Status for Public Utilities with Market-Based Rate Authority, Order No. 652, FERC Stats. & Regs. ¶ 31,175, *order on reh'g*, 111 FERC ¶ 61,413 (2005); 18 C.F.R. § 35.42 (2013).

<sup>39</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 848.

generation assets; that are not affiliated with a franchised public utility in the same region as the seller's generation assets; and that do not raise other vertical market power issues.<sup>40</sup> Sellers that do not fall into Category 1 are designated as Category 2 sellers and are required to file updated market power analyses.<sup>41</sup>

29. Idaho Power represents that it meets the criteria for Category 1 seller status in all regions except the Northwest region because: (1) it does not own or control more than 500 MW of generation in any region except the Northwest region; (2) neither it nor its affiliate owns, operates, or controls transmission facilities, except for limited and discrete generation interconnection facilities, outside of the Northwest region; (3) it is not affiliated with a franchised public utility outside of the Northwest region; and (4) it does not raise any other vertical market power issues

30. Based on Idaho Power's representations, we designate it as a Category 1 seller in the Central, Northeast, Southwest, Southwest Power Pool, and Southeast regions. Idaho Power remains a Category 2 seller in the Northwest region; thus, if Idaho Power retains its market-based rate authority in the Northwest region, it must file updated market power analyses for the Northwest region in compliance with the regional reporting schedule adopted in Order No. 697.<sup>42</sup> However, the Commission reserves the right to require an updated market power analysis at any time for any region.<sup>43</sup>

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by section 402(a) of the Department of Energy Organization Act and by the FPA, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R., Chapter I), the Commission hereby institutes a proceeding in Docket No. EL14-3-000 concerning the justness and reasonableness of Idaho Power's market-based rates, as discussed in the body of this order.

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<sup>40</sup> 18 C.F.R. § 35.36(a) (2013).

<sup>41</sup> Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 850.

<sup>42</sup> *See id.* PP 848-850.

<sup>43</sup> *Id.* P 853.

(B) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of the proceeding under section 206 of the FPA in Docket No. EL14-3-000.

(C) The refund effective date in Docket No. EL14-3-000, established pursuant to section 206 of the FPA, shall be the date of publication in the *Federal Register* of the notice discussed in Ordering Paragraph (B) above.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.