



# **TEN THINGS I HATE ABOUT YOU:**

## ***FERC and the Pacific Northwest Power Markets***

Presentation by Eric Lee Christensen

*July 8, 2013*

*Northwest Power & Conservation Council*

*Symposium on Pacific Northwest Power Markets*

*Seattle, Washington*





# FERC??

- Core Jurisdiction
  - Investor-Owned Utilities (“Public Utilities”)
  - Interstate *Wholesale* Transactions
  - Interstate *Transmission*
- *Excludes* COUs, Local Distribution & Federal PMAs



# FERC??

- Core Mission:
  - All rates, terms and conditions shall be just, reasonable, not unduly discriminatory, and non-preferential
- Traditionally, Enforced Through Tariffs
- Order No. 888 and Market-Based Rates

# 1. FERC “Mission Creep”

- Limited Jurisdiction in the Pacific Northwest
  - BPA
  - Consumer-Owned Utilities
  - WSPP, RTOs & “Organized Markets”
- Gradual Jurisdictional Expansion
  - “Reciprocity” (Order No. 888)
  - “FERC Lite” (Section 211A)
  - Mandatory Reliability Standards (Section 215)
  - Anti-Manipulation Rules



## 2. Order No. 1000



- Basic Requirements
  - Regional Transmission Planning Process
  - Consider Public Policy Requirements
  - Eliminate ROFR for IOUs
  - Regional Cost Allocation Methodologies
  - Inter-Regional Coordination
- ColumbiaGrid & NTTG Orders
- Wyden Response
- 7<sup>th</sup> Circuit Opinion

# 3. Transmission Siting

- FPA § 216 (EPA Act § 1241)
  - “National Interest Electric Transmission Corridors”
  - Federal Siting & Eminent Domain Authority In Certain Circumstances
  - Interstate Compacts for Transmission Siting Agencies



# Death By Litigation

- *Piedmont Environmental Council v. FERC*
  - Rejected FERC Final Rule Implementing 216
  - Holding: FERC Can Step In Only If State *Fails to Act* Within One Year
- *California Wilderness Coalition v. US DOE*
  - Rejected NEITC Designations
- No Interstate Compacts (HB 1030)
- But “Rapid Response Teams” May Help



# 4. VERS Integration Rule

- Order No. 764 (June 2012)
- Requires:
  - Intra-hour scheduling (15 minute intervals)
  - LGIA data requirements
  - Dropped requirements for mandatory frequency response

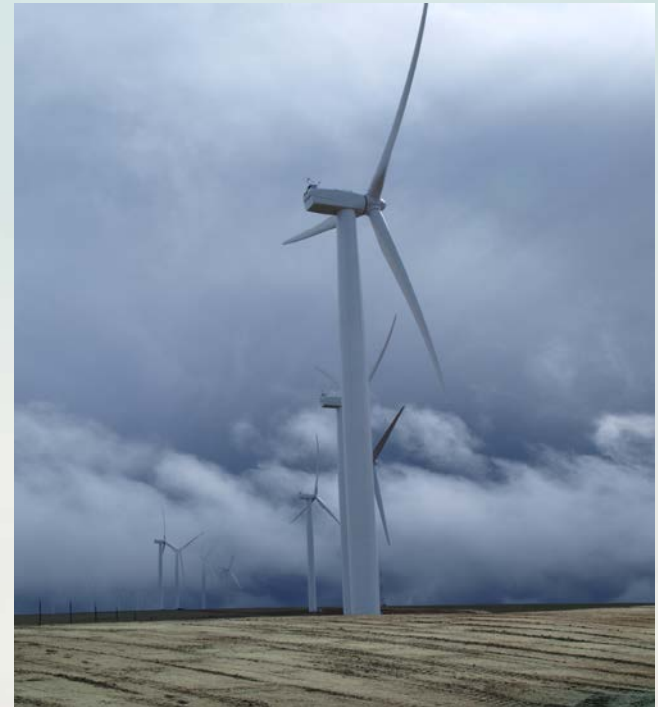


# 5. Wind Integration Litigation



“Too Much of a Good Thing Can Be Taxing”  
-- Mae West

# Too Much of a Good Thing

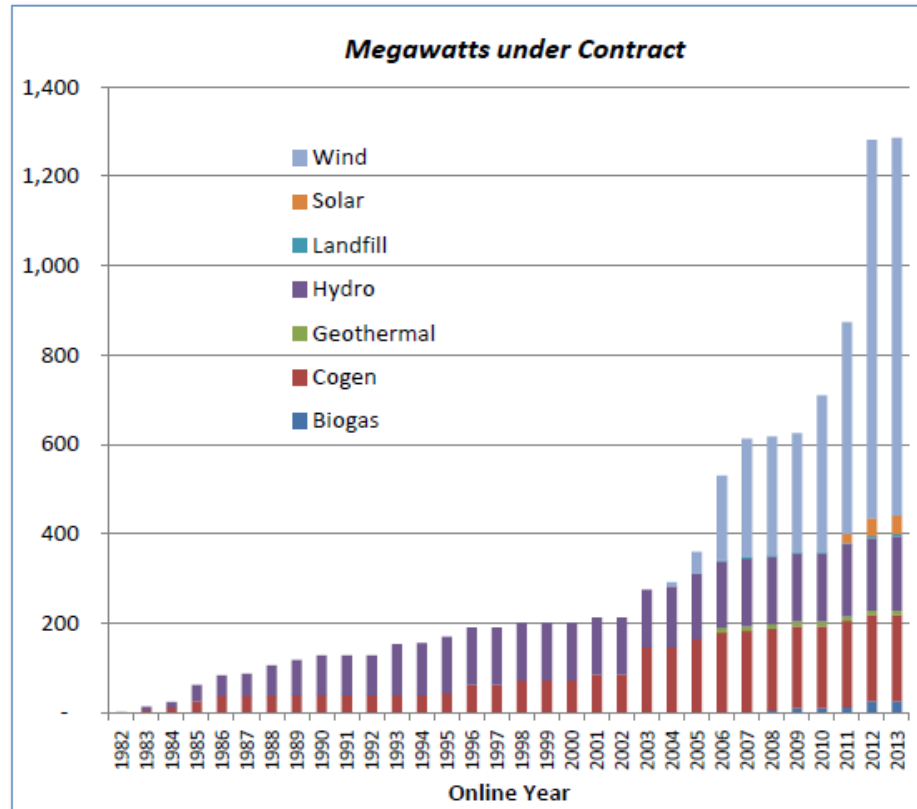


# . . . Produces Litigation

- “Environmental Redispatch”
- Wind Producers File Complaint at FERC
  - “Discrimination” Against Wind Generation
  - Curtailments Produce Significant Losses
- FERC Asserts Jurisdiction Under § 211A
- BPA Changes Approach: “Oversupply Management Protocol”
- Litigation Continues

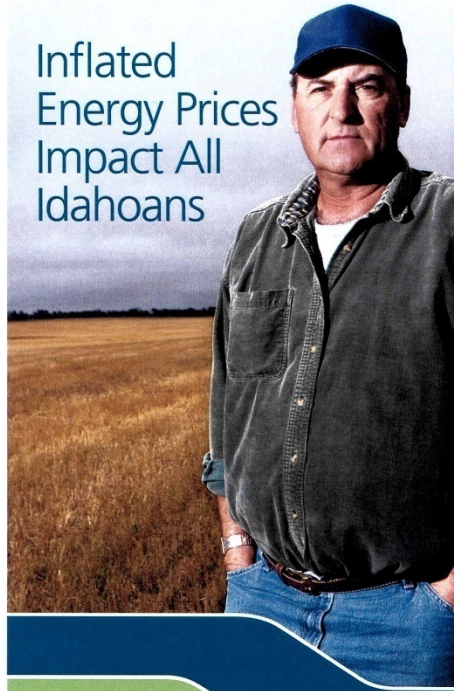
# 6. PURPA, FERC & Renewables

Figure 2.18. PURPA Generation in Idaho, 1981-2013



Source: Idaho Public Utilities Commission

## Inflated Energy Prices Impact All Idahoans



Idaho Power recently filed testimony with the Idaho Public Utilities Commission requesting changes to the way prices are set for electricity from wind, solar and other alternative energy projects in Idaho.



# PURPA Primer

- Mandatory Purchase Obligation for “Qualifying Facilities”
- At “Avoided Cost Rates”
- QFs are:
  - Cogeneration Facilities
  - “Small Power Production Facilities”
- Exempt from Utility-Style Regulation (30 MW or less)
- Mandatory Purchase Obligation Extends to Publics
- State-Federal “Cooperation”

# IPUC Response

- Standard Avoided Cost Rates for QFs < 10 aMW
- Suspended Rates on 12/3/2010 to Investigate:
  - “Disaggregation”
  - Falling Gas Prices & Avoided Cost
  - Suspension Effective 12/14/2010
- “Land Rush” to Establish LEO by 12/14/10
- Revised PURPA Rules
- Similar Action in OR, MT



# LEO Litigation

- FERC Holding: LEO Established When Contract Offered, Not When Signed by Idaho Power
- Repeated Complaints & Holdings
- FERC Withholds “Nuclear Option” Until Fourth Dispute
- FERC Files Lawsuit (March 22, 2013) (Dist. Id., No. 1:13-cv-141-EJL-REB)
- IPUC Answer Suggests Constitutional Challenge

# 7. Energy Storage



- Main Problem: What *IS* It?
- June 2012 NOPR
  - Third-party provision of ancillary services
  - Uniform System of Accounts
  - Changes in “Organized” Markets
- Order No. 755 (Oct. 2011)
  - Frequency Response in “Organized” Markets

# 8. Demand-Side Management

- Chairman Wellinghoff's Pet Issue
- Order 745 – DR in “Organized” Markets
- Pricing Issue: Full Wholesale Price v. Net



# 9. Reliability

- BES Definition
- Cybersecurity Rules
- Regulation of Small Entities
- Prioritization of Enforcement



# 10. Market Manipulation



- Enron & the Western Crisis
- New Legislation – EPLA 2005
- Barclays Bank (\$435 m fine, \$34.5 m disgorgement, \$18 m trader penalties)
- JP Morgan Energy Ventures (6-month trading suspension)
- Gila River Power LLC (\$2.5 million penalty)

# Thank you!

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