

DECISION MEMORANDUM

TO: **COMMISSIONER KJELLANDER**
COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSION SECRETARY
COMMISSION STAFF

FROM: **KRISTINE SASSER**
DEPUTY ATTORNEY GENERAL

DATE: **SEPTEMBER 19, 2014**

SUBJECT: **IDAHO POWER'S APPLICATION FOR IMPLEMENTATION OF SCHEDULE 73 – COGENERATION AND SMALL POWER PRODUCTION, CASE NO. IPC-E-14-24**

In Case No. GNR-E-11-03, Order No. 32697, the Commission directed parties to participate in workshops to “begin to form a structure for fair and reasonable contracting procedures and rules.” Order No. 32697 at 48. Idaho Power and other interested parties met on several occasions and discussed procedures that would be beneficial to both utilities and qualifying facility (QF) developers in the negotiation and execution of Public Utility Regulatory Policies Act (PURPA) power purchase agreements (PPAs). Ultimately, in that docket, no procedures were agreed upon and/or finalized.

On March 27, 2014, Avista Corporation filed proposed tariff revisions with the Commission in order to incorporate PURPA contracting procedures and timelines into its existing Cogeneration and Small Power Production Schedule. On May 30, 2014, with some modifications, the Commission approved Avista’s proposed tariff (Schedule 62). The Commission also encouraged “the remaining utilities to consider progress made through the workshops and contemplate submission of a similar tariff that might eliminate or reduce the uncertainty that is somewhat inherent in negotiations between utilities and QFs.” Order No. 33048 at 5.

Idaho Power responded to the Commission’s suggestion on August 29, 2014, by filing an Application requesting that the Commission approve its proposed tariff Schedule 73, Cogeneration and Small Power Production Schedule – Idaho. Idaho Power requests that its Application be processed by Modified Procedure.

THE APPLICATION

Idaho Power’s proposed tariff will apply to all PURPA QFs that intend to connect to its system within the State of Idaho. Idaho Power’s proposed Schedule 73 was drafted to closely match Avista’s approved Schedule 62, and the majority of Schedule 73 is identical to Avista’s Schedule 62, including the identified contracting procedure “steps” and the time period set forth for response/action in each step. Idaho Power states that several changes were made to reflect differences between Idaho and Avista, but for all intents and purposes, the schedules are essentially the same.

Idaho Power’s proposed tariff sets forth general information to be provided to the Company by a QF in Section 1.a under “Contracting Procedures.” Within 20 days of the receipt of such information, Idaho Power will provide a QF with an indicative pricing proposal for the QF. Such pricing is not final or binding on either party and is intended to provide indicative pricing early in the process to enable the QF developer to make preliminary determinations regarding its proposed project.

Schedule 73, Section 1.d sets forth that the prices and other terms and conditions in the agreement are only final and binding upon full execution by the parties and approval by the Commission – or pursuant to a legally enforceable obligation determination by the Commission. This includes the Commission’s determination requiring the QF to deliver its electrical output within 365 days of a determination of a legally enforceable obligation. *Citing Order No. 33048.*

If a QF desires to proceed after receiving indicative pricing, the QF may request a draft energy sales agreement (ESA). Section 1.e sets forth the information the Company will need for the preparation of the draft ESA. Fifteen days after receipt of all information, the Company will provide the QF with a draft ESA. Within 90 days of receipt of the draft ESA, a QF will notify Idaho Power whether it accepts the terms and conditions and is ready to execute an ESA or that it has comments and proposed changes to the draft ESA. If a QF seeks to provide comments or changes, Section 1.j sets forth guidelines to be used during such negotiations.

When both parties are satisfied with the draft ESA and the QF provides Idaho Power with evidence that interconnection will occur prior to the requested first energy date, Idaho Power shall provide the QF with a final, executable version of the ESA within 10 business days. The QF shall then have 10 business days to execute and return the final ESA to the Company. If

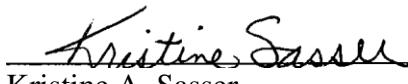
the QF fails to meet the timelines in the proposed tariff, the procedures shall begin anew. *Citing* Section 1.n.

STAFF RECOMMENDATION

Staff has reviewed Idaho Power's Application and recommends that the case proceed through the use of Modified Procedure with comments due no later than October 30, 2014.

COMMISSION DECISION

Does the Commission wish to issue a Notice of Application and Notice of Modified Procedure setting an October 30, 2014, comment deadline?



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Deputy Attorney General

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