DECISION MEMORANDUM

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

FROM: **KRISTINE SASSER**
DEPUTY ATTORNEY GENERAL

DATE: **OCTOBER 31, 2014**

SUBJECT: **IDAHO POWER'S APPLICATION FOR APPROVAL OR REJECTION OF AN ENERGY SALES AGREEMENT WITH CLARK SOLAR 1, CASE NO. IPC-E-14-28**

On October 17, 2014, Idaho Power Company filed an Application with the Commission requesting acceptance or rejection of a 20-year Energy Sales Agreement (Agreement) between Idaho Power and Clark Solar 1, LLC (Facility, Project). The Application states that Clark Solar 1 would sell and Idaho Power would purchase electric energy generated by the Project's solar photovoltaic facility located in Elmore County, Idaho.

THE AGREEMENT

The Application states that the proposed Project expects to use mono crystalline solar modules with Tier 1 inverters and utilize a single axis tracking system for its 70.98 megawatt (MW) solar project. Application at 3. The Facility will be a QF under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). The Agreement is for a term of 20 years and contains incremental, integrated resource planning (IRP) avoided cost rates applicable to solar projects that exceed 100 kilowatts (kW). Idaho Power states that prices were determined on an incremental basis with the inclusion of this Project in its queued position of proposed projects on Idaho Power's system. Over the 20-year term of the Agreement, the monthly rates vary from approximately $34/megawatt-hour (MWh) for light load hours in early months of the Agreement to as high as $113/MWh for heavy load hours in the latter years of the Agreement based on linear escalations of light load and heavy load monthly rates. The equivalent 20-year levelized avoided cost rate is approximately $61.71/MWh.

The Agreement also contains negotiated solar integration charges as directed by the Commission in Order No. 33043. The solar integration charge starts at a charge of $3.29/MWh for the first year of the Agreement (2017) and escalates to $5.77/MWh in 2036 in the same

manner as the monthly energy rates (linear escalation). The equivalent 20-year levelized solar integration charge is approximately $4.15/MWh. The 20-year estimated contractual obligation based upon the estimated generation levels applied to the avoided cost rates and solar integration charges is approximately $249,756,516.

The Project has selected December 31, 2016, as its Scheduled Operation Date. *Id.* at 4. Idaho Power asserts that various requirements have been placed upon the Facility in order for Idaho Power to accept the Project's energy deliveries. Idaho Power states that it will monitor the Facility's compliance with initial and ongoing requirements through the term of the Agreement.

Idaho Power explains that the Agreement contains several terms and conditions that vary from previously approved agreements in order to comply with the Commission's recent Orders and in order to properly implement the negotiated rates and integration charges. In addition, Idaho Power and Clark Solar 1 have agreed to changes in some provisions that the parties propose for Commission approval.

The Agreement contains provisions for a 90/110 firmness requirement, solar integration charge and pricing adjustment. Idaho Power states that the 90/110 requirement addresses the Commission's definition of firmness for entitlement to avoided cost rates determined at the time of contracting for the duration of the contract. The solar integration charge addresses the increased system operation costs (holding reserves, upward and downward regulation) because of the variable and intermittent nature of the generation. The parties further negotiated and agreed to provisions that provide for a new type of price adjustment that is uniquely applicable to contracts that utilize the incremental IRP pricing methodology. The purpose of this price adjustment mechanism is to require that the Project performs in conformance with the generation profile that the Project submits, which forms the basis for the avoided cost pricing that is contained in the Agreement and locked in for the 20-year term. If the Project does not perform in conformance with the generation profile as submitted, then a corresponding adjustment is made to the price paid for that month of generation. The Agreement allows for a 2% deviation in the monthly Adjusted Estimated Net Energy Amount from the generation profile estimates before a price adjustment is applied. Consistent and material deviations from the hourly energy estimates in the generation profile will be considered a material breach of the Agreement.

New provisions providing for actual delay damages as opposed to liquidated damages are included in the Agreement, consistent with Order No. 32697. The parties negotiated a 50/50 split of environment attributes (aka renewable energy credits). As with all PURPA QF

generation, the Project must be designated as a network resource (DNR) to serve Idaho Power's retail load on its system. Consequently, the Agreement contains provisions requiring completion of a Generator Interconnection Agreement (GIA), compliance with GIA requirements, and designation as an Idaho Power network resource as conditions of Idaho Power accepting delivery of energy and paying for the same under the Agreement. In order for the Project to maintain its DNR status, there must be a power purchase agreement associated with its transmission service request that maintains compliance with Idaho Power's non-discriminatory administration of its Open Access Transmission Tariff (OATT) and maintains compliance with FERC requirements.

All terms and conditions have been negotiated and agreed to by the parties, with the exception of the appropriate applicable capacity deficit period. The parties have agreed to submit two alternative pricing schedules to the Commission with the remainder of the Agreement, and have further agreed that each party will accept, abide by, and be bound by the Commission's determination as to the appropriate pricing schedule for this Agreement.

By its own terms, the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declares that all payments made by Idaho Power to Clark Solar 1 for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes. Agreement ¶ 21.1.

Idaho Power requests that its Application be processed by Modified Procedure pursuant to Commission Rules of Procedure 201-204. IDAPA 31.01.01.201-.204.

STAFF RECOMMENDATION

Staff recommends that the case be processed by Modified Procedure with a comment deadline of December 19, 2014.

COMMISSION DECISION

Does the Commission wish to process this case under Modified Procedure with a comment deadline of December 19, 2014?

Kristine A. Sasser
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Deputy Attorney General

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