

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER REDFORD
COMMISSIONER RAPER
COMMISSION SECRETARY
COMMISSION STAFF

FROM: DAPHNE HUANG
DEPUTY ATTORNEY GENERAL

DATE: APRIL 9, 2015

SUBJECT: IDAHO POWER'S APPLICATION TO APPROVE OR REJECT ESA
WITH THE DEPT. OF WATER RESOURCES, CASE NO. IPC-E-15-08

On March 31, 2015, Idaho Power filed an Application asking the Commission to approve or reject its Energy Sales Agreement (ESA) with the Idaho Department of Water Resources (IDWR). Under the ESA, IDWR would sell, and Idaho Power would purchase, electric energy generated by the Pristine Springs #3 hydro project (Facility) located near Jerome, Idaho.

BACKGROUND

The Facility is currently selling energy to Idaho Power under a 10-year agreement executed in 2005 under the Public Utility Regulatory Policies Act (PURPA). That Act requires electric utilities to purchase electric energy from “qualifying facilities” (QFs) at rates approved by the applicable state regulatory agency – in Idaho, this Commission. 16 U.S.C. § 824a-3; *Idaho Power v. Idaho PUC*, 155 Idaho 780, 789, 316 P.3d 1278, 1287 (2013). The purchase or “avoided cost” rate shall not exceed the “incremental cost” to the utility, defined as the cost of energy which, “but for the purchase from [the QF], such utility would generate or purchase from another source.” 16 U.S.C. § 824a-3(d); 18 C.F.R. § 292.101(6) (defining “avoided cost”).

The Facility is a QF under PURPA and has a nameplate rating of 200 kilowatts (kW). Application at 4. This Commission approved the Facility’s existing 10-year agreement with Idaho Power in April 2005. Order No. 29767. That agreement is set to expire April 30, 2015. Application at 2.

THE APPLICATION

Idaho Power asks the Commission to approve or reject its new ESA with IDWR. The new ESA is for five years. Application at 2. Idaho Power states that the parties entered into the ESA “pursuant to the terms and conditions of various Commission orders applicable to this replacement PURPA QF ESA for non-seasonal hydro projects.” *Id.* at 3 (*see* Order Nos. 32697, 32737, 32802, and 32804, cited in Application). Specifically, the ESA provides for “non-levelized, non-seasonal hydro published avoided cost rates,” and energy deliveries of less than 10 average megawatts (aMW). *Id.* at 4. Idaho Power also asserts the ESA “contains revised terms and conditions” that were recently approved by the Commission in Case Nos. IPC-E-14-06, IPC-E-14-07, and IPC-E-14-12. *Id.* at 5. These terms include references to the Intercontinental Exchange (ICE) index and formula, Delay Liquidated Damages and Delay Security, and seller ownership of Environmental Attributes, among other provisions. *Id.*

According to Idaho Power, the ESA satisfies requirements regarding execution of a Generation Interconnection Agreement, designation as a network resource, and administration of Idaho Power’s Open Access Transmission Tariff (OATT), in compliance with FERC. *Id.* at 6. The Facility’s Scheduled First Energy Date is May 1, 2015. *Id.* at 4. The ESA will become effective only upon the Commission’s approval and finding that all payments made by Idaho Power to IDWR for purchases of energy are “allowed as prudently incurred expenses for ratemaking purposes.” *Id.* at 6-7.

Idaho Power asked that this Application be processed under Modified Procedure. Idaho Power also requests that, if approved, such approval be effective May 1, 2015, to avoid a lapse between the existing and replacement ESAs. *Id.* at 7.

STAFF RECOMMENDATION

Commission Staff recommends that the matter be processed under Modified Procedure with a 21-day comment period.

COMMISSION DECISION

Should the Commission issue a Notice of Application and Notice of Modified Procedure setting a 21-day comment period?

Daphne Huang

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Deputy Attorney General

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