

DECISION MEMORANDUM

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

FROM: DAPHNE HUANG
DEPUTY ATTORNEY GENERAL

DATE: AUGUST 5, 2015

SUBJECT: IDAHO POWER'S APPLICATION TO APPROVE THIRD AMENDMENT
TO ITS POWER PURCHASE AGREEMENT WITH AGPOWER DCD,
LLC, CASE NO. IPC-E-15-22

On July 29, 2015, Idaho Power Company filed an Application asking the Commission to approve the Third Amendment to its Power Purchase Agreement (PPA) with AgPower DCD, LLC. The PPA is a contract under the Public Utility Regulatory Policies Act (PURPA). This Amendment changes the Net Energy Amount notification process, similar to the process that the Commission recently approved for Idaho Power involving six other PPAs. Idaho Power asks that the Commission approve its Application upon Staff's review and without further process. Application at 4.

BACKGROUND

In 2010, the Commission approved the initial PPA between Idaho Power and Cargill Incorporated (the original seller). Order No. 31034. Under the PPA, Idaho Power purchases energy generated by the Bettencourt Dry Creek Biofactory near Hansen, Idaho. *Id.* at 1. Bettencourt is a qualifying facility (QF) under PURPA. *See* Application at 1. In June 2014, the Commission approved a first amendment to the PPA, transferring ownership of Bettencourt, and all rights, interests, and obligations, under the PPA to AgPower. *Id.* In August 2015, Idaho Power and AgPower entered into a second amendment to change the definition of "Mid-Columbia Market Energy Cost" in the PPA, consistent with Order No. 33053. Order No. 33184.

PROPOSED AMENDMENT

In this third amendment, Idaho Power and AgPower propose a change in the Net Energy Amount notification process, allowing monthly rather than quarterly updates. Application at 2. Specifically, the proposed third amendment changes paragraph 6.2 of the PPA "to allow

[AgPower] to adjust the ‘Initial Year Monthly Net Energy Amounts’ on a monthly, rather than quarterly, basis.” Application at 4. Under the third amendment, AgPower “can submit future revisions on a monthly basis, with a minimum of 30 days notice prior to the beginning of the next month, rather than once every three months.” *Id.* Idaho Power indicates that, with this change, AgPower “gains more clarity and flexibility in adjusting its estimated energy deliveries and Idaho Power maintains the stability in the estimates necessary for its planning and operation.” *Id.*

The Commission recently approved six PPAs between Idaho Power and other QFs that include the same notification provision. Order Nos. 33102, 33103, 33104, 33156, 33191, and 33240; Application at 3. In Order No. 33102, the Commission stated, “we find that monthly, as opposed to quarterly, reporting of energy generation estimates is a reasonably negotiated term between the parties and not inconsistent with the Commission’s [earlier] guidance and findings.” Order No. 33102 at 6; Application at 3.

STAFF RECOMMENDATION

Given the limited scope of the amendment, and consistent with the Commission’s prior Orders, as cited above, Staff recommends that the request be approved without further process.

COMMISSION DECISION

Does the Commission wish to approve the Application without further process?

Daphne Huang
Daphne Huang
Deputy Attorney General

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