EXHIBIT 12

Office of the Secretary
Service Date
August 29, 2017

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF IDAHO POWER COMPANY FOR A DECLARATORY ORDER REGARDING PROPER CONTRACT TERMS, CONDITIONS, AND AVOIDED COST PRICING FOR BATTERY STORAGE FACILITIES	)	**CASE NO. IPC-E-17-01**
	)	**ORDER NO. 33858**

On February 27, 2017, Idaho Power Company asked the Commission for a declaratory order regarding proper contract terms, conditions, and avoided cost pricing for five battery storage facilities requesting contracts under the Public Utility Regulatory Policies Act of 1978 (PURPA). *See* Order No. 33729. The Commission issued Final Order No. 33785 that granted Idaho Power's request. Franklin Energy Storage Projects (Franklin) timely petitioned the Commission to reconsider the Final Order, and Idaho Power timely answered Franklin's Petition. With this Order, we find that Franklin has failed to meet its burden of showing reconsideration is warranted, and deny Franklin's Petition.

PETITIONS FOR RECONSIDERATION

Reconsideration provides an opportunity for a party to bring to the Commission's attention any issue previously determined, and thereby affords the Commission an opportunity to correct any mistake or omission. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 591 P.2d 122 (1979). Under Commission Rule 331.01, "Petitions for reconsideration must set forth specifically the ground or grounds why the petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law…." IDAPA 31.01.01.331.01.

FRANKLIN'S PETITION FOR RECONSIDERATION

Franklin's Petition asked the Commission to reverse the Final Order and deny Idaho Power's request for declaratory relief because parts of the Final Order are "mistaken, unreasonable, unlawful, erroneous, and not in conformity with the law." Franklin Petition at 1, 10. Franklin argued that, while the Commission conceded that battery storage facilities' qualifying facility (QF) status is a matter within the Federal Energy Regulatory Commission's (FERC's) jurisdiction, the Commission nevertheless determined that "energy storage QF

facilities that use solar power as a primary energy input are, in fact, [s]olar QFs and not energy storage QFs," intruding on FERC's jurisdiction. *Id.* at 3, 6.

According to Franklin, the Commission erred, in part due to its misreading of FERC's *Luz* decision. *Id.* at 8 (referring to *Luz Development and Finance Corp.*, 51 FERC ¶ 61,078 (1990)). Franklin asserted that in *Luz*, FERC ruled that energy storage facilities *are* QFs, so long as they meet the fuel-use criteria and other requirements for QF status. *Id.* at 9. Franklin further asserted that in *Luz*, FERC looked to the primary energy source behind the storage system to confirm that the storage system is a QF but did not consider the primary energy source to be the QF. *Id.* Franklin claimed this Commission found that "an energy storage facility's primary source of energy is the QF and not the storage facility itself." *Id.* at 6.

Franklin therefore argued that the Commission exceeded its jurisdiction under PURPA by granting Idaho Power's request for relief and "illegally finding that energy storage facilities that use solar power to charge the underlying storage devices are not energy storage QFs, but are instead solar QFs." *Id.* at 10 (quoting *Indep. Energy Producers Ass'n v. California Pub. Util. Comm'n*, 36 F.3d 848, 856 (9th Cir. 1994)).

IDAHO POWER'S ANSWER

Idaho Power asserted that Franklin's "sole basis of error" was "that the Commission improperly made a determination as to the [QF] status of the Franklin" projects. Idaho Power Answer to Petition for Reconsideration (Idaho Power Answer) at 2. Idaho Power contended Franklin's argument is incorrect. According to Idaho Power, the Commission (in Final Order No. 33785) determined the proposed battery storage facilities' proper avoided cost rate and contract term, not their QF status, which the Commission expressly accepted as undisputed for purposes of the case. *Id.* at 2-4. The Company also noted that the Commission has the exclusive jurisdiction to determine proper avoided cost rates and contractual terms as applied to the battery storage facilities, which is what the Commission did in the Final Order. *Id.* at 3-4. Because the Final Order was based upon substantial and competent evidence in the record, and the Commission regularly pursued its authority and acted within its discretion, Idaho Power asked that the Commission deny Franklin's Petition. *Id.* at 5.

COMMISSION DISCUSSION AND FINDINGS

Franklin argues that the Final Order is "unreasonable, unlawful, erroneous or not in conformity with the law" and should be reconsidered because it infringed on FERC's jurisdiction

to determine QF status. Franklin's only legal authority for its argument is *Indep. Energy Producers*, 36 F.3d at 856, in which the Ninth Circuit Court of Appeals opined that the authority to make QF status determinations belongs to FERC, not the states. Franklin asserts that, contrary to *Indep. Energy Producers*, we determined the QF status of battery storage facilities in the Final Order. We did not. Franklin's mischaracterization of our Final Order is a frivolous effort to contrive a legal basis for reconsideration.

Franklin contends we determined that the primary energy source behind a battery storage QF *is* the QF, based on a misreading of FERC's decision in *Luz Development and Finance Corporation*, 51 FERC ¶ 61,078. Franklin Petition at 9. This Commission did not find that the primary energy source behind a battery is the QF, nor did we assert that *Luz* stands for such a proposition. In the Final Order, we explicitly recognized that "battery storage facilities' QF status is a matter within FERC's jurisdiction" and we acknowledged the self-certifications of Franklin's QFs. Final Order No. 33785 at 3, 10-11. Consistent with FERC's analysis in *Luz*, we looked to the primary energy source of Franklin's battery storage QFs to determine the projects' eligibility to particular avoided cost rates and contract terms.

It is well-established that state commissions such as this Commission have broad discretion and authority to establish and approve the terms and conditions of PURPA contracts, in implementing FERC rules. 16 U.S.C. § 824a-3(f)(1) ("each State regulatory authority shall . . . implement such rule (or revised rule) for each electric utility for which it has ratemaking authority"); *Indep. Energy Producers*, 36 F.3d at 856 (noting state commissions' broad authority to implement PURPA); *see also Portland General Electric Co. v. FERC*, 854 F.3d 692, (D.C. Cir. 2017); *Idaho Power Company v. Idaho Pub. Util. Comm.*, 155 Idaho 780, 782, 316 P.3d 1278, 1280 (2013); *FERC v. Mississippi*, 456 U.S. 742, 751 (1982). Pursuant to such authority, and consistent with FERC's reasoning in *Luz*, we concluded that Franklin was eligible for two-year contracts at negotiated avoided cost rates. Final Order No. 33785 at 12. Franklin failed to show that Final Order No. 33785, or any issue in it, is unreasonable, unlawful, erroneous or not in conformity with the law. We thus deny Franklin's Petition.

ORDER

IT IS HEREBY ORDERED that Franklin's Petition for Reconsideration is denied.

THIS IS A FINAL ORDER DENYING RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No.

IPC-E-17-01 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. *See Idaho Code* § 61-627.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 29th day of August 2017.

PAUL KJELLANDER, PRESIDENT

KRISTINE RAPER, COMMISSIONER

ERIC ANDERSON, COMMISSIONER

ATTEST:

Diane M. Hanian
Commission Secretary

O:IPC-E-17-01_djh4_Reconsideration

EXHIBIT 13

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Franklin Energy Storage One, LLC	)	
Franklin Energy Storage Two, LLC	)	**Docket No. EL17-____**
Franklin Energy Storage Three, LLC	)	
Franklin Energy Storage Four, LLC	)	

PETITION FOR DECLARATORY ORDER
AND
PETITION FOR ENFORCEMENT
PURSUANT TO SECTION 210(h)
OF THE
PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978
OF
FRANKLIN ENERGY STORAGE ONE, LLC
FRANKLIN ENERGY STORAGE TWO, LLC
FRANKLIN ENERGY STORAGE THREE, LLC
FRANKLIN ENERGY STORAGE FOUR, LLC

Pursuant to Rule 207 of the Federal Energy Regulatory Commission's ("Commission" or "FERC") Rules of Procedure, 18 C.F.R. § 385.207, Franklin Energy Storage One, LLC; Franklin Energy Storage Two, LLC; Franklin Energy Storage Three, LLC, and Franklin Energy Storage Four, LLC (herein collectively, the "Franklin Energy Storage Facilities" or "Franklin") hereby collectively petition the Commission for a Declaratory Order finding that certain orders of the Idaho Public Utilities Commission ("IPUC" or "Idaho Commission") are inconsistent with the Public Utilities Regulatory Policies act of 1978 ("PURPA"). Pursuant to Section 210(h) of PURPA Franklin also petitions the Commission to initiate an enforcement action against the Idaho Public Utilities Commission ("IPUC") to remedy the State of Idaho's improper implementation of PURPA.

This Petition asking the Commission to issue its Declaratory Order and to initiate an enforcement action against the IPUC is based on the IPUC's usurpation of the Commission's exclusive authority over the certification of Qualifying Facilities under PURPA. The IPUC denied Franklin's entitlement to IPUC established long-term (twenty-year) power purchase agreements pursuant to established IPUC precedent based solely on the Idaho Commission's denial of the QF status of the Franklin Energy Storage Facilities. In doing so, the IPUC has usurped the exclusive role of this Commission to establish criteria for, and to adjudicate, the legal status of Qualifying Facilities. Specifically, the IPUC ruled that energy storage QFs are not distinct QFs but rather are defined by the nature of the energy *input* into the energy storage facility. The IPUC's orders are inconsistent with established FERC rulings that energy storage systems using renewable resource inputs are distinct Qualifying Facilities. The IPUC's orders wrongfully allow it to avoid its obligation to implement PURPA and deny the Franklin Energy Storage Facilities their entitlement to the Idaho Commission's 'standard' twenty-year contract term and associated rates.

1. PETITIONER DESCRIPTION

The Franklin Energy Storage Facilities are four Idaho limited liability companies, each under distinct and separate ownership. The Franklin Energy Storage Facilities are each a 25 MW[1] "qualifying small power producer" within the meaning of section 210(h)(2)(B) of PURPA. The

[1] Alternating current.

Franklin Energy Storage Facilities are self-certified "QF"s.[2] All four projects are similarly described in their respective FERC Form 556's at Paragraph 7h as follows:

> The project consists of an energy storage system Qualifying Facility providing scheduled and dispatchable electricity in forward-looking time blocks. The energy storage system that comprises the energy storage Qualifying Facility is designed to, and will, receive 100% of its energy input from a combination of renewable energy sources such as wind, solar, biogas, biomas, etc. The current initial design utilizes solar photovoltaic (PV) modules mounted to single-axis trackers to provide the electric energy input to the Qualifying Facility's battery storage system. The PV modules are planned to be connected in series/parallel combinations to solar inverters, rated approximately 2.5 MWac each, (subject to change). The proposed electric energy storage Qualifying Facility will consist of an electro-chemical battery and will have a maximum power output capacity of 25 MWac for a sustained time period of 5 – 60 minutes. The Facility will consist of an alternate current (AC) to direct current (DC) control system. The Qualifying Facility will be utilized to provide the purchasing utility with pre-scheduled and dispatchable AC energy within pre-determined time blocks. The sole source of electric power and energy provided to the purchasing utility will be the electro-chemical reaction giving rise to the discharge of electric power and energy by the battery. In turn, the sole direct source of energy input to the battery Facility will be, as described above, renewable sources.[3]

The four distinct Franklin Energy Storage Facilities will be located in Idaho near the Nevada/Idaho border about twenty miles north of the town of Jackpot, Nevada. They will be adjacent to one another and will share an interconnection onto the commonly owned (Idaho Power and NV Energy) 345 kV Midpoint-Humboldt transmission line.

II. COMMUNICATIONS

All correspondence and communications regarding this Petition should be directed to:

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[2] *See* FERC Docket Nos. QF17-581, QF17-582, QF17-583 and QF17-584.
[3] FERC Form 556 at ¶7h, FERC Docket Nos. QF17-581 – 584.

Copies of this filing have been served on the Idaho Public Utilities Commission and Idaho Power Company by hand delivery of a hard copy and email.

III. THE IDAHO COMMISSION'S REFUSAL TO RECOGNIZE ENERGY STORAGE QUALIFYING FACILITY STATUS

PURPA is implemented in Idaho by the IPUC on an ad hoc, order-by-order basis. There are no Idaho statutes or rules implementing PURPA. Idaho's electric utilities operate in a traditional vertically integrated rate-regulated environment.[4] The IPUC has established standard-offer avoided cost rates, with a contract term of up to twenty-years, for all QFs (other than solar or wind QFs) that have a capacity of ten average monthly megawatts (10aMW) or less.[5] For wind and solar QFs only, the IPUC has restricted the availability of standard offer rates and twenty-year contract terms to only those solar and wind QFs that have a capacity of 100 kW or less.

While limiting the availability of published rate 'standard offer' contacts to two years for just solar and wind Qualifying Facilities, the Idaho Commission specifically established standard contract rates of up to twenty-years for all other Qualifying Facilities. The Idaho Commission's rulings in this regard are explicit:

> After careful consideration, the Commission [Idaho PUC] ultimately determined that it was appropriate to maintain the 100 kW eligibility cap for published avoided cost rate for wind and solar QFs.[6]

And:

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[4] Idaho Power is scheduled to begin participation in the recently established Western Energy Imbalance Market in 2018.
[5] *See* IPUC Order Nos. 33357 and 33419, attached hereto as Exhibit Nos. 1 and 2 respectively.
[6] IPUC Order No. 32697, at p. 3, emphasis provided. Attached hereto as Exhibit No. 3.

> This Commission [Idaho PUC] is confident that, with other changes to the avoided cost methodologies incorporated in the Order, changing eligibility from 10 aMW for resources other than wind and solar is unnecessary at this time. We find that at 10 aMW eligibility cap for access to published avoided cost rates for resources other than wind and solar is appropriate...[7]

Finally:

> We maintain the eligibility cap at 10 aMW for QF projects other than wind and solar (including but not limited to biomass, small hydro, cogeneration, geothermal and waste-to-energy.[8]

Thus, under the Idaho Commission's orders implementing PURPA, standard twenty-year avoided costs rates and contacts are available to non-solar and non-wind QFs with a monthly capacity of ten average megawatts or less. Wind and solar QFs are only entitled to standard twenty-year avoided cost rates and contracts if they have a nameplate capacity of 100 kW or less.

In early 2017, each of the Franklin Energy Storage Facilities proposed to enter into a twenty-year published avoided cost rate contract with Idaho Power Company pursuant to established Idaho Commission orders for their respective energy storage facilities. Each of the Franklin Storage Facilities sought contract terms and rates established by the Idaho Commission for non-wind and non-solar QFs.

Franklin, therefor, had to meet a simple two-prong test in order to claim eligibility to the Idaho PUC established twenty-year standard avoided cost rates and contracts. The first prong of the two-part test is a determination whether the projects are wind or solar QFs. If the QFs are not wind or solar QFs, then the second prong of the two-part test is whether the generation from the

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[7] *Id.* at p. 14.
[8] IPUC Order No. 32176, at p. 9. Attached hereto as Exhibit No. 4.

proposed non-wind and non-solar QFs is equal to or less than ten average monthly megawatts.[9] The second part of this two-part test was not at issue because the Franklin Energy Storage Facilitie' generation profiles in their respective FERC Form 556 filings clearly demonstrate that they will generate well below the ten-average monthly megawatt threshold. This fact was never questioned. Therefore, the sole question to be answered in order to determine whether each of the Franklin Energy Storage Facilities is eligibile for Idaho Commission established twenty-year contracts and rates was therefore whether or not they are solar or wind QFs.

Idaho Power refused to enter into the requested twenty-year standard rate contracts and instead filed a Petition for Declaratory Ruling asking the Idaho Commission to "extend the 100 kW published rate eligibility cap to battery storage projects." Idaho Power filed its Petition with the Idaho PUC on February 27, 2017.[10]

The Idaho Commission ignored Idaho Power's request to establish a 100 kW published rate eligibility cap for battery storage facilities and instead ruled that battery storage QFs are not distinct QFs apart from the source of the energy input into the battery system. In direct contravention of this Commission's clearly established rulings relative to the QF status of battery storage facilities, the Idaho Commission responded to Idaho Power's Petition by basing the battery storage facilities' eligibility on their energy source, rather than on their QF status:

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[9] That the Franklin Projects would generate less than 10 average monthly megawatts each was never questioned or challenged before the Idaho Commission. According to the Franklin FERC Form 556 filing the average monthly generation is expected to be significantly below 10 average monthly megawatts.

[10] Idaho Power Petition for Declaratory Ruling, at p. 13. IPUC Docket No. IPC-E-17-01. Attached hereto as Exhibit No. 5, due to size without its accompanying attachments. The entire filing may be accessed at:
http://www.puc.idaho.gov/fileroom/cases/elec/IPC/IPCE1701/20170227APPLICATION.PDF

> [W]e find it appropriate to base Franklin's …eligibility under PURPA on its primary energy source – solar. Solar resources larger than 100 kW are entitled to negotiate two-year PURPA contracts … Franklin's argument that this Commission's prior decisions clearly and unequivocally allow it entitlement to published rates ignores FERC's pronouncement that energy storage facilities are not *per se* renewable resources/small power projection facilities under PURPA.[11]

The Franklin Facilities are, of course, neither wind nor solar QFs. They have been self-certified as an "Other Renewable Resource"[12] and more specifically described as an "energy storage (battery) system."[13] This Commission (FERC) has previously answered the question of whether energy storage systems are QFs in their own right in the affirmative. The only requirement this Commission imposed on energy storage facilities, as distinct QFs, is that the energy input into the storage system must comply with the same energy source requirements applicable to any other qualifying faciality:

> In sum, energy storage facilities . . . are a renewable resource for purposes of QF certification. However, such facilities are subject to the requirement that the energy input to the facility is itself biomass, waste, a renewable resource, a geothermal resource or any combination thereof…

Luz Development and Finance Corp. 51 FERC ¶ 61,078 at p. 9, (1990).

As this Commission explained:

> [I]n order for a storage facility to be a QF the primary energy source for generation of the energy must be one of those contemplated by the statute for conventional small power production facilities e.g., boimass, waste, renewable resources, geothermal resources of any combination thereof.

Id. at p. 8.

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[11] IPUC Order No. 33785, p. 12. Attached hereto as Exhibit No. 6.
[12] FERC Form 556 at Paragraph 6, FERC Docket Nos. QF17-581 – 584.
[13] *Id.* at Paragraph 7h.

There is no question that the Franklin Energy Storage Facilities will utilize a renewable resource as their primary energy source.[14]

PURPA grants FERC exclusive authority over QF status determinations.[15] This follows from section 201 of PURPA, which includes "qualifying small power production facilities" as QFs under the requirements prescribed by, and as determined by FERC.[16] Thus, FERC's "regulations carry out the statutory regime reposing in [FERC] *exclusive authority to make QF status determinations,"* and "[n]owhere do these regulations contemplate a role for the state in setting QF standards or determining QF status."[17] The Idaho Commission, therefore, is preempted from making any determination as to the QF status of the Franklin Energy Storage Facilities.

The Idaho Commission purported to rely on this Commission's *Luz* decision. However, the IPUC actually ignored that decision by making the facially untenable assertion that battery storage facilities are not "presume[d]" to be "a legitimate … qualifying facility eligible for the benefits of PURPA:"[18]

> Consequently, our ruling on the narrow declaratory issue before us should not be read to presume that this Commission deems battery storage to be a legitimate qualifying facility eligible for the benefits of PURA and subject to the Act's implementing regulations under FERC.[19]

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[14] Form 556 at Paragraph 7h, FERC Docket Nos. QF17-581 – 584; "The energy storage system that comprises the energy storage Qualifying Facility is designed to, and will, receive 100% of its energy input from a combination of renewable energy sources such as wind, solar, biogas, biomas, etc."
[15] *Indep. Energy Producers Ass'n, Inc. v. Cal. Pub. Utilities Comm'n,* 36 F.3d 848, 853-54 (9th Cir. 1994), "The structure of PURPA and the Commission's regulations, reflect Congress's express intent that the Commission exercise exclusive authority over QF status determinations."
[16] 16 U.S.C. §796(17(c).
[17] *Indep. Energy Producers,* 36 F. 3d at 854 (emphasis provided).
[18] IPUC Order No. 33785, *Id.* at p. 10.
[19] *Id.* at pp. 10 – 11.

Although the Idaho Commission cited to this Commission's *Luz* opinion, it ignored this Commission's unequivocal ruling that: "In sum, energy storage facilities such as the proposed Luz battery system are a renewable resource for purposes of QF certification."[20] Further ignoring this Commission's ruling in *Luz*, the IPUC inexplicably stated that:

> We [the Idaho Commission] are unaware of any reference in PURPA or FERC's implementing regulations that identifies battery storage as a renewable resource eligibile for QF status and the benefits provided by the act. Indeed, FERC acknowledged that "[n]either the statute nor the final rule refers specifically to energy storage systems" *Luz* at 61,171.[21]

It therefore concluded that:

> [W]e find it appropriate to base Franklin's eligibility under PURPA on its primary energy source – solar. [22]

In sum, the IPUC has completely disregarded this Commission's clear ruling as to the QF status of energy storage facilities. It did so by denying that energy storage facilities are QFs and instead ruled that their eligibility under PURPA is not based on their status as self-certified energy storage facilities but rather is based on their "primary energy source." [23]

IV. PRAYERS FOR RELIEF

A. DECLARATORY RULING

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[20] *Luz,* supra at p. 9.
[21] IPUC Order No. 33785, *Id.* at p. 10, citation in original.
[22] *Id.* at p. 12.
[23] *Id.* The Idaho Commission did not define what it meant by the phrase "primary energy source." The Franklin Energy Storage Facilities' FERC Form 556 provides that they may use a combination of renewable energy sources to energize their battery systems. Thus, there may be a combination of energy sources, the primary one of which may vary depending on the mix of renewable energy inputs into the battery system at any one time.

PURPA vests in FERC the exclusive jurisdiction to set QF standards and to determine QF status. Under FERC's rulings each of the Franklin Energy Storage Facilities is a legitimate Qualifying Facility and a renewable resource that is entitled to all the benefits accruing to it under PURPA. The Franklin Energy Storage Facilities therefore respectfully request this Commission issue its order declaring that; (1) the IPUC's decisions discussed herein are contrary to PURPA and this Commission's implementing rules and orders thereunder; and (2) the Franklin Energy Storage Facilities are energy storage QFs; and (3) the Franklin Energy Storage Facilities are entitlement to all of the benefits under the IPUC's orders as are all other non-solar and non-wind QFs.

B. ENFORCEMENT ACTION AGAINST THE IPUC

Section 210(h)(2)(A) of PURPA permits the Commission to initiate an enforcement action against a State for failure to properly implement that statute. The Franklin Energy Storage Facilities respectfully request the Commission initiate an action to enforce PURPA against the IPUC to invalidate and permanently enjoin all conditions imposed on energy storage QFs that prevent them from entitlement to the IPUC's standard long term avoided cost rates available to non-wind and non-solar QFs.

Respectfully submitted,

/s/ Peter Richardson
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Dated this 14th day of December 2017

EXHIBIT 14

162 FERC ¶ 61,110
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Franklin Energy Storage One, LLC	Docket Nos. EL18-50-000
Franklin Energy Storage Two, LLC	QF17-581-001
Franklin Energy Storage Three, LLC	QF17-582-001
Franklin Energy Storage Four, LLC	QF17-583-002
	QF17-584-001

NOTICE OF INTENT NOT TO ACT

(February 15, 2018)

1. On December 14, 2017, Franklin Energy Storage One, LLC, Franklin Energy Storage Two, LLC, Franklin Energy Storage Three, LLC, and Franklin Energy Storage Four, LLC (Petitioners) filed a petition for enforcement against the Idaho Public Utilities Commission (Idaho Commission) pursuant to section 210(h)(2)(B) of the Public Utility Regulatory Policies Act of 1978 (PURPA).[1] Petitioners claim that the Idaho Commission violated Commission regulations in classifying their energy storage qualifying facilities (QFs) as solar QFs, and that this classification prevents them from being eligible for the Idaho Commission's published rate, available to non-wind and non-solar QFs of 10 MWs average capacity or less.

2. Notice is hereby given that the Commission declines to initiate an enforcement action pursuant to section 210(h)(2)(A) of PURPA.[2] Our decision not to initiate an enforcement action means that Petitioners may themselves bring an enforcement action against the Idaho Commission in the appropriate court.[3]

By direction of the Commission.

Kimberly D. Bose,
Secretary.

[1] 16 U.S.C. § 824a-3(h)(2)(B) (2012).

[2] 16 U.S.C. § 824a-3(h)(2)(A) (2012).

[3] 16 U.S.C. § 824a-3(h)(2)(B) (2012).