

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL STAFF**

FROM: SCOTT WOODBURY

DATE: MARCH 17, 2004

**RE: CASE NO. IPC-E-04-7 (Idaho Power)
FIRM ENERGY SALES AGREEMENT
J.R. SIMPLOT COMPANY (Pocatello)**

On March 5, 2004, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a Firm Energy Sales Agreement (Agreement) between Idaho Power and JR Simplot Company (Simplot) dated February 19, 2004.

Simplot currently owns, operates and maintains a 15.9 MW cogeneration facility (Project) at its industrial site near Pocatello, Idaho. The Project is a qualified cogeneration facility under the applicable provisions of the Public Utilities Regulatory Policy Act of 1978 (PURPA).

As reflected in the Company's Application, the Simplot Project is currently interconnected to Idaho Power and is selling energy to Idaho Power as a Qualifying Facility (QF) in accordance with a Firm Energy Sales Agreement dated January 24, 1991 (Order No. 23552) and as subsequently amended on November 30, 1993 (Order No. 25353) and February 23, 2001 (Order No. 28730), and by two letter agreements signed by the Parties that extended the term of the 1991 Agreement to February 29, 2004. Although copies of the letter extensions were forwarded to the Commission, the Company admits that it did not make a separate filing requesting approval. The Company in this filing requests approval of purchases made under the two letter extensions. The rate paid for energy during the months of January and February 2004

was the same rate specified in the 1991 Agreement for December 2003 (0.04201¢ per KWh) and is less than the current published avoided cost rates for those same months.

Under the terms of the submitted Agreement, Simplot has elected to contract with Idaho Power for a 10-year term. The Agreement contains non-levelized published avoided cost rates as currently established by the Commission for energy deliveries less than 10 MW (Order No. 29391) and a negotiated price for energy over 10 MW.

The submitted Agreement, the Company states, is similar in many respects to recent QF contracts between Idaho Power and Tiber Montana LLC (IPC-E-03-1), United Materials of Great Falls, Inc. (IPC-E-04-1) and Renewable Energy of Idaho, Inc. (IPC-E-04-5).

As reflected in the Agreement, the Company has defined energy delivered to Idaho Power exceeding 10,000 KW in a single hour as "Optional Energy." Optional energy is identified through hourly metering. Because Simplot has made no firm commitments as to the delivery of this optional energy, the energy delivered to Idaho Power is considered to be non-firm energy. As non-firm energy, Idaho Power and Simplot have agreed the value of this energy to be the variable current market-based price as defined in Agreement ¶ 1.11.

As incentive for Simplot to deliver energy to the Company during times when it is of greater value to Idaho Power, the Company has refined the seasonalization of rates to coincide to the months in which Idaho Power has identified actual energy needs and periods of higher demands. Reference Agreement Section 6.2.

As reflected in Agreement Section 8, Idaho Power notes that it has filed a Petition with the Commission in Case No. IPC-E-04-2 seeking a Commission ruling determining whether the "environmental attributes" associated with QF, projects are owned by the project or the utility at the time a utility purchases electricity from a QF project. The Commission's final Order pursuant to contract term will be included and become an integral part of the Simplot Agreement.

Agreement Section 24 provides that the Agreement will not become effective until the Commission has approved without change all the Agreement terms and conditions and declared that all payments that Idaho Power makes for purchases of energy to Simplot will be allowed as prudently incurred expenses for ratemaking purposes. Should the Commission approve the Agreement, Idaho Power intends to consider the effective date of the Simplot Agreement to be March 1, 2004. As reflected in the Company's Application, the Agreement

contains non-levelized published avoided cost rates in conformity with applicable Commission Orders.

Commission Decision

Idaho Power requests that the Commission issue an Order approving the Firm Energy Sales Agreement between Idaho Power and Simplot without change or condition. The Company further requests a Commission finding that all payments for purchases of energy under the Agreement and the January and February 2004 extensions of the 1991 Agreement will be allowed as prudently incurred expenses for ratemaking purposes.

Staff recommends that the Company's Application in Case No. IPC-E-04-7 be processed pursuant to Modified Procedure, i.e., by written submission rather than by hearing. Reference Commission Rules of Procedure, IDAPA 31.01.01.201-204. Does the Commission agree with Staff's recommended procedure?

Scott Woodbury

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