

DECISION MEMORANDUM

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

FROM: LISA NORDSTROM

DATE: OCTOBER 1, 2004

RE: IN THE MATTER OF IDAHO POWER COMPANY'S APPLICATION FOR APPROVAL OF A FIRM ENERGY SALES AGREEMENT BETWEEN IDAHO POWER COMPANY AND FOSSIL GULCH WIND PARK, LLC. CASE NO. IPC-E-04-19.

On September 14, 2004, Idaho Power Company filed an Application requesting an Order approving a Firm Energy Sales Agreement ("Agreement") dated September 9, 2004, between Idaho Power and Fossil Gulch Wind Park, LLC ("Fossil Gulch"). Under the Agreement, Fossil Gulch would sell and Idaho Power would purchase electric energy generated by wind-powered generating equipment to be constructed by Fossil Gulch near the town of Hagerman, Idaho. The Company asked the Commission to declare that all payments for energy purchases made under the Agreement be allowed as prudently incurred expenses for ratemaking purposes and to approve the Agreement without material change or condition.

THE AGREEMENT

Fossil Gulch intends to construct, own, operate and maintain wind generating equipment in a wind park ("Project") at a site approximately 3½ miles west-northwest of Hagerman, Idaho. The Project will be a qualified small power production facility under the application provisions of the Public Utilities Regulatory Policy Act of 1978 ("PURPA"). The Project will consist of seven (7) 1.5 MW 77 SLE General Electric wind turbines. Fossil Gulch has selected January 1, 2005, as the scheduled operation date and December 15, 2004, as the first energy date.

The term of the Agreement is 20 years from the operation date, and the Agreement provides for Idaho Power to pay the published non-levelized energy prices in accordance with

Commission Order No. 29391 with seasonalization factors applied. Idaho Power's Application describes the Agreement as being similar to the Tiber Hydro and United Materials wind project agreements previously approved by the Commission.

Fossil Gulch desires to utilize seven (7) 1.5 MW wind turbine generators. To avoid pushing the Project above the 10 MW nameplate capacity, Fossil Gulch has agreed to adjust the controls on its turbine generators so that in aggregate, the electrical output of the seven (7) wind turbines will not exceed 10,000 kWh in any hour. If energy in excess of this amount ("Inadvertent Energy") is accidentally generated, Idaho Power will not purchase or pay for it.

Because Fossil Gulch has agreed to limit its generation below 10,000 kWh per hour, and in recognition of the benefits of encouraging the development of a wind energy project in its control area, Idaho Power requests the Commission approve the use of published Qualified Facility (QF) avoided cost rates for this Project, even though the Project's nameplate capacity exceeds 10 MW. Idaho Power notes that the Commission recently approved a Firm Energy Sales Agreement with J.R. Simplot Company that included the same Inadvertent Energy provisions. Order No. 29577. The Agreement includes the 90%/10% band provisions that were included in the Tiber, United Materials, Renewable Energy and J.R. Simplot Agreements (Case Nos. IPC-E-03-1, IPC-E-04-1, IPC-E-04-5, and IPC-E-04-16, respectively).

The Fossil Gulch Agreement includes the same Environmental Attributes provision (Section 8.1) approved by the Commission in Order No. 29577 for the J.R. Simplot Pocatello QF contract. The Agreement does not provide for any purchase of the Project's Environmental Attributes by Idaho Power, and the Company is not seeking to recover any value for Environmental Attributes in this Agreement.

The Agreement contains non-levelized non-fueled published avoided cost rates in conformity with applicable Commission Orders. All applicable interconnection charges and monthly operation and maintenance charges under Schedule 72 will be assessed to Fossil Gulch.

Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions, and declared that all payments Idaho Power makes to Fossil Gulch for energy purchases be allowed as prudently incurred expenses for ratemaking purposes.

Fossil Gulch desires to have this Project on line prior to the end of 2004 and has advised Idaho Power that meeting this timetable is extremely important to their financing plans.

As a result, Idaho Power is requesting that the Commission make every reasonable effort to expedite its review of the Agreement and this Application on modified procedure.

STAFF RECOMMENDATION

In Order No. 29124, the Commission adopted a fuel price forecast from the draft Fifth Northwest Conservation and Electric Power Plan, April 25, 2002 of the Northwest Power Planning Council (NWPPC) as a reasonable method for calculating a starting gas price in the avoided cost methodology. The Commission stated that “natural gas prices can be updated when a new NWPPC forecast become available.” Order No. 29124 at 10. The Commission has since approved updated gas prices based on an April 22, 2003 NWPPC forecast in December 2003. Order No. 29391.

The Northwest Power and Conservation Council (NPCC)¹ released a new natural gas price forecast on Friday, September 24, 2004. Staff believes that the timing of this newly released natural gas price forecast raises legitimate questions of which avoided cost rates should apply to the Fossil Gulch Firm Sales Agreement: the current avoided cost rates in effect at the time the Firm Sales Agreement was signed or updated avoided cost rates that could be available when the Commission issues an Order in this case?

Because Idaho Power and Fossil Gulch have requested an expedited review of this Application, Staff recommends that the Commission process this case by Modified Procedure and establish a 21-day comment period. The Commission may wish to solicit comments specifically addressing which avoided cost rates should apply to this Project.

COMMISSION DECISION

Does the Commission wish to process this case pursuant to Modified Procedure as recommended by Staff?



Lisa Nordstrom

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¹ The Northwest Power Planning Council (NWPPC) is now known as the Northwest Power and Conservation Council (NPCC).