

DECISION MEMORANDUM

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

FROM: SCOTT WOODBURY

DATE: APRIL 4, 2006

SUBJECT: CASE NO. IPC-E-06-3 (Idaho Power)
FIRM ENERGY SALES AGREEMENT – J. R. SIMPLOT COMPANY

On February 10, 2006, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a Firm Energy Sales Agreement between Idaho Power and J.R. Simplot Company (Simplot) dated February 8, 2006 (Agreement).

Simplot currently owns, operates and maintains an 18.75 MW cogeneration facility (Project) at its industrial site near Pocatello, Idaho. The facility is located in the South 1/2 of Section 7, Township 6 South, Range 34 East, Boise Meridian, Power County, Idaho. The Project is a qualified cogeneration facility under the applicable provisions of the Public Utility Regulatory Policies 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 June 18, 2004 and an approved effective date of March 1, 2004. Reference Case No. IPC-E-04-16, Order No. 29577.

The existing Firm Energy Sales Agreement is a one-year agreement which permits automatic renewals of one year on March 1 of each year. The Agreement also specifies that, with appropriate notice, either party may terminate the Agreement effective March 1. Simplot has timely requested to terminate the existing Firm Energy Sales Agreement for this Project and enter into a new Firm Energy Sales Agreement for its Pocatello facility. Idaho Power contends that the terms of the new Agreement conform to the terms and conditions of Commission Order

No. 29632 (*U.S. Geothermal et al. v. Idaho Power*) and Commission avoided cost Order No. 29646 (Case No. IPC-E-04-25) for energy deliveries of less than 10 aMW.

Under the terms of the submitted Agreement, Simplot has elected to contract with Idaho Power for a seven-year term. The Agreement contains non-levelized published avoided cost rates established by the Commission in Order No. 29646 (December 1, 2004) for energy deliveries less than 10 aMW for a contract year beginning February 8, 2006.

As reflected in Agreement ¶ 1.13 and specified in Item B-3 of the Agreement Appendix B, the maximum capacity of the cogeneration facility is 12 MW. As defined in Agreement ¶ 1.9 and as described further in ¶ 4.1.3, Simplot will be required to provide data on the facility that Idaho Power will use to determine whether, under normal and/or average conditions, the facility will not exceed 10 aMW on a monthly basis. Idaho Power has reviewed the historical generation data for the Simplot facility. As reflected in Agreement ¶ 7.3, should the Simplot facility exceed 10 aMW on a monthly basis, Idaho Power will accept any energy (Inadvertent Energy) that does not exceed the maximum capacity amounts; however, Idaho Power will not purchase or pay for this Inadvertent Energy.

Agreement ¶ 25 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 to Simplot that Idaho Power makes for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

On March 3, 2006, the Commission issued Notices of Application and Modified Procedure in Case No. IPC-E-06-3. The deadline for filing written comments was March 24, 2006. Comments were received from Commission Staff and a Caldwell customer of the Company. The customer sees no reason that Idaho Power can't buy Simplot's power as long as the utility doesn't come back next week and request a rate increase. Commission Staff recommends that the Agreement be approved.

Staff notes that there are two primary differences between the submitted Agreement and the one it replaces. First, under the terms of the submitted Agreement, Simplot has elected to contract with Idaho Power for a seven-year term. This eliminates the automatic annual renewals that occurred under the prior Agreement. Staff notes that because the prior Agreement was renewed automatically at the prevailing avoided cost rates during each renewal year, the

submitted Agreement contains the same rates as it would have contained under the prior Agreement. The second primary difference revises the definition of the 10 MW threshold for eligibility for published avoided cost rates. Under the prior Agreement, Simplot was limited to generating no more than 10,000 kWh per hour. Under the submitted Agreement, Simplot is limited to generating no more than 10 aMW per month. This revised generation limit is consistent with the definition of the 10 MW threshold established in the *U.S Geothermal* case (Order No. 29632).

COMMISSION DECISION

Idaho Power requests approval of a February 8, 2006 seven-year Firm Energy Sales Agreement between Idaho Power and J.R. Simplot Company for an effective date of February 8, 2006. Commission Staff contends that the Agreement comports with Commission approved rates and Orders and recommends that the Agreement be approved. Does the Commission find it reasonable to approve the Agreement with an effective date of February 8, 2006?

Scott Woodbury

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