

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-10-05
APPROVAL OF A FIRM ENERGY SALES)
AGREEMENT FOR THE SALE AND)
PURCHASE OF ELECTRIC ENERGY) ORDER NO. 31060
BETWEEN IDAHO POWER COMPANY)
AND RIVERSIDE INVESTMENTS, LLC)**

On March 9, 2010, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a March 8, 2010, Firm Energy Sales Agreement (Agreement) between Idaho Power and Riverside Investments, LLC (Riverside).

AGREEMENT

Riverside is the owner/developer of a 450 kW hydro-generation facility (Arena Drop) located near Parma, Idaho in an area more particularly described as near Stephan Lane in Section 5, Township 4 N, Range 5 W, Canyon County, Boise Meridian. Riverside warrants that it is a qualified small power generation facility (QF) as defined in Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and the implementing regulations of the Federal Energy Regulatory Commission (FERC), 18 C.F.R. § 292. ¶ 3.2.

The purchase price for Riverside generation are the non-levelized published avoided cost rates in effect on the date of contract signing for monthly energy deliveries of less than 10 average megawatts (aMW). Order Nos. 30744, 30738 and 30415; Agreement Article VII. Should the facility exceed 10 aMW on a monthly basis, Idaho Power will accept the energy (Inadvertent Energy) that does not exceed the Maximum Capacity Amount (.52 MW), but will not purchase or pay for this Inadvertent Energy. ¶ 7.5.

The term of the Agreement is 20 years. ¶ 5.1. The scheduled Operation Date for Arena Drop is July 15, 2010. If the facility has not achieved its Operation Date prior to 90 days past that date, Delay Liquidated Damages of \$45 per nameplate kW rating will be assessed and collected from the facility. ¶ 5.3.2. In addition, within 30 days of the date of the Commission Order approving this Agreement, Riverside shall post security of \$45 per nameplate kW rating. ¶ 5.7.

Idaho Power represents that an interconnection feasibility study was not required for the Arena Drop facility. A final Facility Study was completed on March 4, 2010. All applicable interconnection charges and monthly operation and maintenance charges under Schedule 72 will be assessed and collected from Riverside.

The Idaho Power/Riverside Firm Energy Sales Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments the Company makes to Riverside for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes. ¶ 20.

On March 17, 2010, the Commission issued Notices of Application and Modified Procedure in Case No. IPC-E-10-05. The deadline for filing written comments was April 1, 2010. Comments were filed by Commission Staff and two members of the public. The public comments were split, one supporting the proposed project, the other contending that the purchase price is too high.

STAFF COMMENTS

Commission Staff recommends that the Agreement be approved. The rates contained in the Agreement, Staff states, are consistent with the non-levelized published avoided cost rates for projects smaller than 10 aMW that were approved and in effect at the time the Agreement was signed by both parties. The Agreement, Staff notes, was submitted for Commission approval on March 9, 2010, exactly one week before the Commission issued Order No. 31025 significantly lowering the published avoided cost rates.

Staff notes that the Delay Liquidated Damages provisions of the Agreement and the associated requirement for Delay Security of \$45 per kW were reached through mutual agreement of the parties. Staff believes that the amount should be high enough to cover possible damages and to motivate owners to complete projects on time, yet not so high as to make it too difficult for owners and developers to post the security and obtain project financing. In this case, Delay Security is equal to the greater of \$45 per kW or the sum of three months' estimated revenue, approximately \$20,250. Staff believes that the \$45 Delay Security amount is reasonable. Whether the Arena Drop project achieves its scheduled operation date, Staff contends, is mostly in control of the project owner. The Facility Study needed to determine interconnection requirements for the project has already been completed by Idaho Power.

Construction by Idaho Power of the necessary interconnection facilities commences once the project owner pays the expected interconnection cost.

COMMISSION FINDINGS

The Commission has reviewed and considered the filings of record in Case No. IPC-E-10-05, including the proposed Agreement and filed comments. Idaho Power has presented for Commission approval a Firm Energy Sales Agreement with Riverside Investments LLC. As represented and pursuant to Agreement, under normal and/or average conditions the project will not exceed 10 aMW on a monthly basis. We thus find the project is qualified to receive the published avoided cost rates in effect on the date of contract signing.

The Commission finds that the proposed Agreement submitted in this case contains acceptable contract provisions and includes non-levelized published avoided cost rates approved by the Commission in Order No. 30477. We find it reasonable that the submitted Agreement be approved without further notice or procedure. IDAPA 31.01.01.204. We further find it reasonable to allow payments made under the Agreement as prudently occurred expenses for ratemaking purposes.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities and to implement FERC rules.

ORDER

IT IS HEREBY ORDERED and the Commission does hereby approve the March 8, 2010 Firm Energy Sales Agreement between Idaho Power Company and Riverside Investments LLC.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

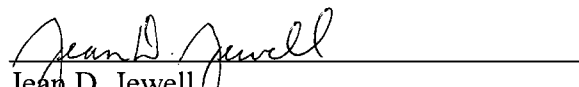
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 22nd
day of April 2010.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

b1s/O:IPC-E-10-05_sw2