

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR APPROVAL OF A FIRM ENERGY SALES AGREEMENT WITH GRAND VIEW SOLAR PV 1, LLC FOR THE SALE AND PURCHASE OF ELECTRIC ENERGY))))))	CASE NO. IPC-E-10-19 ORDER NO. 32068
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On June 14, 2010, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 20-year Firm Energy Sales Agreement between Idaho Power and Grand View Solar PV One, LLC (Grand View) dated June 8, 2010 (Agreement).

Under the terms of the Agreement, Grand View will sell and Idaho Power will purchase electric energy generated by the Grand View photovoltaic solar power project (Facility) located on approximately 180 acres, 16 miles west of Mountain Home, Idaho. The location of the Facility is more particularly described as Sections 4 & 5, Township 5 S, Range 4 E, Elmore County, Idaho. Appendix B-2. Grand View warrants that the Facility is a qualifying facility (QF) under applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). ¶ 3.2.

The nameplate rating of the Facility is 24 DC and 20 MW AC. Appendix B-1. The Maximum Capacity Amount is 20 MW. Appendix B-4. Under normal and/or average conditions, the Facility will not exceed 10 aMW on a monthly basis. 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; however, the Company will not purchase or pay for the Inadvertent Energy. ¶ 7.5.

The Agreement contains the non-levelized published avoided cost rates approved in Order No. 30744 and comports with the terms and conditions of Order Nos. 30738 (SAR non-fueled cost variables) and 30415 (daily load shape adjustment). ¶ 7.1. Grand View has selected a default Scheduled Operation Date of January 1, 2011. Appendix B-3.

Idaho Power notes that the purchase rates set forth in the Agreement, Order No. 30744, had on the June 8, 2010, date of contract signing been replaced by the lower rates of Order No. 31025 approved by the Commission on March 16, 2010, in Case No. GNR-E-10-01.

Idaho Power recites that the Commission has previously determined grandfathering eligibility for (older and higher) published avoided cost rates by requiring (1) a signed power sales agreement be executed prior to the change in rates; or (2) a meritorious complaint filed with the Commission demonstrating project maturity and that but for the actions of the utility a sales agreement would have been signed prior to the change in rates. Although a complaint was not filed with the Commission, by signing the Agreement and voluntarily presenting it to the Commission, Idaho Power represents that Grand View meets the second test of the Commission and should be entitled to the rates established by Order No. 30744.

In determining that Grand View was entitled to grandfathering under the higher rates of Order No. 30744, the Company concluded that Grand View satisfied the following grandfathering criteria prior to March 16, 2010:

a. Interconnection and Transmission

- i. Filed an interconnection application; and
- ii. Received and accepted an interconnection feasibility study report for the project and paid any requested study deposits (or established credit) for the next phase of the interconnection process in accordance with Schedule 72; and
- iii. Received confirmation from Idaho Power that transmission capacity is available for the project and/or received accepted transmission capacity study results and cost estimates.

b. Purchase Power Agreement

- i. An agreement was materially complete prior to March 16, 2010, and except for routine Idaho Power final processing, an agreement would have been executed by both parties prior to March 16, 2010.

It is Idaho Power's opinion that the Grand View Facility meets all of the above-referenced criteria.

With respect to the Power Purchase Agreement criteria, the Company contends that Grand View and Idaho Power had resolved all material outstanding contract issues prior to March 16, 2010. However, the Company was also evaluating an alternative non-PURPA power purchase agreement with Grand View regarding this Facility. Idaho Power completed this evaluation and review on or about May 6, 2010, and elected not to proceed with a non-PURPA

contract for this project. The effect of pursuing the evaluation of a non-PURPA power purchase with the Facility, the Company states, was essentially to place the otherwise complete, but unexecuted, PURPA Agreement on hold, during which time the Commission's Order No. 31025 was issued changing the published avoided cost rate. In Idaho Power's opinion the Agreement would have been signed by both parties prior to March 16, 2010, except for the time required by Idaho Power to evaluate and pursue a possible non-PURPA power purchase agreement and, as a result, the Facility should qualify for a contract including the Order No. 30744 rates.

With respect to the Interconnection and Transmission criteria, Idaho Power represents that Grand View is current in all its interconnection study payments and so long as Grand View continues to provide requested information in a timely manner and pay invoices on time, it appears that the interconnection can be completed in time for Grand View to achieve its Scheduled Operation Date for the Facility.

In further support of its request for grandfathering, Idaho Power states that the Facility Agreement contains the most recent contract terms and conditions, including the liquidated damages and security provisions previously approved by the Commission in the contracts for the Arena Drop hydro project and the Dry Creek anaerobic digester project contracts, Order Nos. 31060 and 31034, respectively.

Agreement ¶ 20.1 provides that the Grand View 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 Grand View for purchases of energy from the Facility will be allowed as prudently incurred expenses for ratemaking purposes.

On July 1, 2010, the Commission issued a Notice of Application and Modified Procedure in Case No. IPC-E-10-19. The deadline for filing written comments was August 19, 2010. Comments were filed by Commission Staff (who recommend approval) and three of the Company's customers (two of whom support the Application and one who opposes it).

STAFF COMMENTS

Staff recommends approval of the Company's Application. Based on its analysis Staff concludes that the Company has demonstrated that Grandview is eligible for grandfathered rates. Idaho Power represents that Grandview and the Company had resolved all material outstanding contract issues prior to March 16, 2010 (the date of Order No. 31025). In Idaho

Power's opinion, the Agreement would have been signed by both parties prior to March 16, 2010, if the Company had not taken additional time to evaluate and pursue a possible non-PURPA Power Purchase Agreement. Application, p. 6. The following is a chronology of contract negotiation:

- December 24, 2009: Idaho Power receives a letter and signed agreement from Grand View Solar. Because the agreement is not in the most current form, Idaho Power treats this communication as an invitation to negotiate.
- February 18, 2010: Idaho Power presents a negotiated PURPA agreement to Grand View Solar.
- March 8, 2010: Grand View Solar suggests discussion of a non-PURPA agreement for this project. The initial offer (price, RECs, etc.) appears to have merit so Idaho Power begins evaluating the non-PURPA agreement suggested by Grand View Solar.
- March 9, 2010: Idaho Power's previously filed Transmission Service Request is accepted by the Idaho Power Transmission group, granting 20 MW of Transmission Capacity with no significant network upgrades required.
- March 16, 2010: The Commission issues Order No. 31025 changing the avoided cost rate.
- May 6, 2010: Idaho Power completes its evaluation of a non-PURPA agreement with Grand View Solar and elects not to proceed. The Company notifies Grand View Solar that it should advise the Company if it wishes to pursue a PURPA agreement.
- June 8, 2010: Grand View Solar and Idaho Power execute the PURPA agreement originally contemplated and negotiated in February 2010.
- June 14, 2010: Idaho Power filed an Application seeking Commission approval of the PURPA agreement entered into with Grand View Solar.

Although solar generation is an intermittent resource and an upward and downward ramping of generation can present operational challenges for the utility, the Agreement contains no integration adjustment to rates. Staff notes that the Company has no data or analysis to

support a solar integration charge. Staff recommends that the utility be encouraged to collect data and start performing the analysis necessary to quantify solar integration costs.

COMMISSION FINDINGS

The Commission has reviewed the filings of record in Case No. IPC-E-10-19 including the comments and recommendations of the Company's customers and Commission Staff.

While approval of the Agreement is opposed by one of the Company's customers, we note that solar is a qualifying renewable energy resource under PURPA that Idaho Power is required to purchase. As does Staff, the customer notes the intermittent nature of the resource and the necessity for the Company to provide backup. We acknowledge this aspect of solar generation contracts but agree with Staff that insufficient data exists to calculate an integration adjustment.

Staff recommended that the Commission approve the Agreement as submitted. In doing so, we are asked to acknowledge that Grand View is eligible and entitled to the higher grandfathered published rates of Order No. 30744, rates that were superseded by our Order No. 31025 on March 16, 2010. In deciding grandfather eligibility we note that we have been presented in this case with a negotiated contract. We accept the representations of Idaho Power as to the contract negotiations of the parties. The Company's role regarding appropriate rates is one of gatekeeper, assuring that its customers are not being asked to pay more than the Company's avoided cost. We find no reason to doubt the Company's representations. We find that the Company in its Application has fairly represented our past grandfathering criteria requirements. We further find the Company's approach in this case regarding contract rates to be consistent with the spirit of those prior grandfathering cases. *See A.W. Brown v. Idaho Power*, 121 Idaho 812, 828 P.2d 841 (1992); Order No. 29872, Case No. IPC-E-05-22.

In this case, Idaho Power and Staff believe that Grand View is entitled to grandfathering and the rates of Order No. 30744. Idaho Power represents that all outstanding contract issues had been resolved prior to March 16, 2010, and that but for consideration by the Company of a non-PURPA contract for the project, a contract would have been signed prior to March 16, 2010. As represented and pursuant to contract terms, under normal/average conditions we find that the generation from the Grand View facility will not exceed 10 aMW on a monthly basis. Based on the record established in this case, we find that Grand View is entitled

to the grandfathered rates of Order No. 30744. The Commission finds that the Agreement submitted in this case contains acceptable contract terms. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power, an electric utility, and the issues raised in this matter 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).

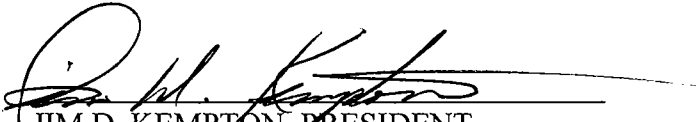
The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities (QFs) and to implement FERC rules.


ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby approve the June 8, 2010, Firm Energy Sales Agreement between Idaho Power and Grand View Solar PV One for the Grand View photovoltaic solar power project.

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 14th
day of September 2010.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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