

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: SCOTT WOODBURY
DEPUTY ATTORNEY GENERAL

DATE: JUNE 22, 2010

SUBJECT: CASE NO. IPC-E-10-19 (Idaho Power)
FIRM ENERGY SALES AGREEMENT
IDAHO POWER/GRAND VIEW SOLAR PV ONE, LLC

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 photo voltaic 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that the purchase rates set forth in the Agreement, Order No. 30744, had on the June 8, 2010, date of contract signing been replaced by the lower rates of Order No. 30125 approved by the Commission on March 16, 2010, in Case No. GNR-E-10-01.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 not filing a complaint with the Commission, by signing the Agreement and voluntarily presenting it to the Commission, Idaho Power has nevertheless concluded 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 an 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 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 projects 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.

COMMISSION DECISION

Commission Staff and Idaho Power recommend that the Application in Case No. IPC-E-10-19 (Grand View) be processed pursuant to Modified Procedure, i.e., by written

submission rather than by hearing. Reference IDAPA 31.01.01.201-204. Does the Commission agree with the recommended procedure?



Scott Woodbury
Deputy Attorney General

bls/M:IPC-E-10-19_sw