

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION) CASE NO. IPC-E-10-22
OF IDAHO POWER COMPANY FOR)
APPROVAL OF A FIRM ENERGY SALES) NOTICE OF FILING
AGREEMENT WITH YELLOWSTONE)
POWER, INC. FOR THE SALE AND) NOTICE OF
PURCHASE OF ELECTRIC ENERGY.) MODIFIED PROCEDURE
)
) ORDER NO. 32573

On May 31, 2012, Idaho Power Company and Yellowstone Power, Inc. filed a Motion requesting that the Commission accept a Settlement Stipulation entered into between the parties. Idaho Power requests that the Motion be processed by Modified Procedure pursuant to Commission Rules of Procedure 201-204. IDAPA 31.01.01.201-.204.

NOTICE OF FILING

YOU ARE HEREBY NOTIFIED that on May 4, 2004, the Commission approved a Firm Energy Sales Agreement (FESA) between Idaho Power and Renewable Energy of Idaho, Inc. (“Renewable Energy”) for a 17.5 megawatt (MW) biomass generating facility to be located at the old Boise Cascade Plant site near Emmett, Idaho. Order No. 29487. The FESA subsequently went into default and was terminated by Idaho Power after Renewable Energy failed to meet its scheduled operation date. Idaho Power determined that the project had incurred damages in the amount of \$106,804 for Renewable Energy’s non-performance. Renewable Energy was unable to pay the assessed damages.

YOU ARE FURTHER NOTIFIED that on August 13, 2010, Idaho Power filed an application with the Commission requesting approval of a 15-year FESA between Idaho Power and Yellowstone Power for an 11.7 MW biomass fueled combined heat and power generator located at the same site as the Renewable Energy project. Richard Vinson, a principal of Yellowstone Power, was also a principal of Renewable Energy. Mr. Vinson agreed, as part of the Yellowstone FESA negotiations, to pay the non-performance damages of the Renewable Energy FESA as an offset to the energy payments Yellowstone was to receive in its FESA. On November 2, 2010, the Commission approved the FESA between Idaho Power and Yellowstone, including the payment by Yellowstone of Renewable Energy’s \$106,804 in non-performance

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damages. Order No. 32104. Yellowstone chose a scheduled operation date of December 31, 2011.

YOU ARE FURTHER NOTIFIED that Yellowstone has failed to achieve its December 31, 2011, scheduled operation date. On May 3, 2012, Idaho Power sent Yellowstone a Notice of Material Breach. Yellowstone responded by alleging that a force majeure event had occurred. Settlement discussions between the parties ensued.

YOU ARE FURTHER NOTIFIED that the Settlement Stipulation provides for termination of the FESA between Idaho Power and Yellowstone Power and mutual release of any future claims or causes of action between the parties. Yellowstone agrees to pay Idaho Power \$200,000 for its material breach of the FESA, which amount includes Renewable Energy's pre-existing debt of \$106,804. If Yellowstone fails to make the \$200,000 payment then Yellowstone agrees to allow Idaho Power to draw on the current \$450,000 Letter of Credit.

YOU ARE FURTHER NOTIFIED that Idaho Power and Yellowstone state that the Settlement Stipulation is in the public interest and that all of its terms and conditions are fair, just, and reasonable.

NOTICE OF MODIFIED PROCEDURE

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201 through .204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application may file a written comment in support or opposition with the Commission **no later than twenty-one (21) days from the service date of this Order**. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this filing shall be mailed to the Commission and the Applicants at the addresses reflected below:

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074

Street Address for Express Mail:
472 W. Washington Street
Boise, ID 83702-5918

Jason B. Williams
Idaho Power Company
1221 West Idaho Street
PO Box 70
Boise, ID 83707
E-Mail: jwilliams@idahopower.com

Dean J. Miller
McDevitt & Miller, LLP
420 West Bannock Street
PO Box 2564
Boise, ID 83701
E-Mail: joe@mcdevitt-miller.com

These comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at www.puc.idaho.gov. Click the "Comments and Questions" icon and complete the comment form using the case number as it appears on the front of this document. These comments must also be sent to the Applicants at the e-mail addresses listed above.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its Order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

YOU ARE FURTHER NOTIFIED that the Settlement Stipulation has been filed with the Commission and is available for public inspection during regular business hours at the Commission offices. The filing is also available on the Commission's web site at www.puc.idaho.gov by clicking on "File Room" and then "Electric Cases."

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction 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.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000, *et seq.*

ORDER

IT IS HEREBY ORDERED that this Motion be processed by Modified Procedure. Interested persons and the parties may file written comments no later than twenty-one (21) days from the service date of this Order.

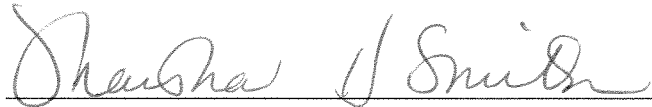
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 19th day of June 2012.



PAUL KJELLANDER, PRESIDENT

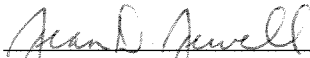


MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

O:IPC-E-10-22_ks5