

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-10-44
APPROVAL OF A FIRM ENERGY SALES)
AGREEMENT WITH HIDDEN HOLLOW)
ENERGY 2, LLC FOR THE SALE AND) ORDER NO. 32180
PURCHASE OF ELECTRIC ENERGY.)**

On December 10, 2010, Idaho Power Company filed an Application with the Commission requesting approval of a 20-year Firm Energy Sales Agreement (Agreement) between Idaho Power and Hidden Hollow Energy 2, LLC (Hidden Hollow) dated December 8, 2010. The Application states that Hidden Hollow would sell and Idaho Power would purchase electric energy generated by the Hidden Hollow Landfill Gas Project (Facility) located near Boise, Idaho.

On January 10, 2011, the Commission issued a Notice of Application and Notice of Modified Procedure setting a 21-day comment deadline. Staff was the only party to file comments. By this Order, the Commission approves the Agreement between Idaho Power and Hidden Hollow without change or condition and declares that all payments made by Idaho Power to Hidden Hollow be allowed as prudently incurred expenses for ratemaking purposes.

THE AGREEMENT

The Application states that Hidden Hollow proposes to design, construct, install, own, operate and maintain a 3.2 MW landfill gas generating facility to be located at Ada County's Hidden Hollow Landfill (Landfill). Application at 2. An existing 3.2 MW landfill gas-powered generating unit owned by G2 Energy Hidden Hollow, LLC (G2) is already operating at the Landfill. Order No. 29928. Hidden Hollow is proposed by a separate, affiliated company utilizing the same landfill gas reserves as its fuel source.

Because this Facility utilizes the same landfill gas fuel source as the previously approved G2 project, Idaho Power has negotiated provisions for the Hidden Hollow project intended to preserve the value of the G2 contract while still enabling additional generation to be developed at this location. The Hidden Hollow Agreement provides that the first 1,100 scfm of

fuel is dedicated to the generation units under the G2 contract.¹ The Hidden Hollow Agreement also allows Idaho Power to audit the fuel distribution to the various generation units. By these terms, the parties' intent is to preserve the value of the lower rates applicable to power provided under the G2 contract and prevent the Hidden Hollow Facility from providing power at a higher cost before G2's nameplate capacity is reached.

Idaho Power warrants that the Agreement comports with the terms and conditions of the various Commission Orders applicable to PURPA agreements (Order Nos. 30415 and 31025). The Agreement is for a term of 20 years and contains the current non-levelized published avoided cost rates established by the Commission in Order No. 31025 for energy deliveries of less than 10 average megawatts ("aMW"). The Application states that, should the Commission approve the Agreement, Idaho Power intends the effective date of the Agreement to be December 8, 2010 – the date the parties entered into the Agreement.

Hidden Hollow selected February 28, 2012, as its Scheduled First Energy Date and its Scheduled Operation Date. Agreement, Appendix B. Idaho Power asserts that various requirements have been placed upon the Hidden Hollow Facility in order for Idaho Power to accept the Facility's energy deliveries. Idaho Power states that it will monitor the Facility's compliance with initial and ongoing requirements through the term of the Agreement. The Application maintains that all applicable interconnection charges and monthly operational or maintenance charges under Schedule 72 will be assessed to Hidden Hollow. Idaho Power states that the Facility is currently in good standing with the generator interconnection process. Hidden Hollow and Idaho Power have agreed to liquidated damages and security provisions of \$45 per kW of nameplate capacity. Agreement, ¶¶ 5.3.2, 5.8.1.

By its own terms, the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declares that all payments made by Idaho Power to Hidden Hollow for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes. Agreement ¶ 21.1.

THE COMMENTS

Staff has reviewed the Agreement and confirms that it comports with all of the terms and conditions of the various Commission Orders applicable to PURPA agreements. The

¹ The 1,100 scfm is an engineering calculated value of the quantity of the average fuel quality required to operate the first generation units at their nameplate capacity.

Agreement contains the same rates, terms and conditions as other recently-approved contracts. The only unique feature of this Agreement is that it essentially represents an expansion of the previously-approved G2 project and that it will utilize the same landfill gas fuel source. Staff supports the contract provisions intended to protect the lower rates of the existing G2 contract and believes that they adequately preserve the value of the existing contract for Idaho Power and its ratepayers.

On November 5, 2010, a Joint Petition was filed with the Commission requesting an immediate reduction in the published avoided cost rate eligibility cap from 10 aMW to 100 kW. Reference Case No. GNR-E-10-04. The Commission's decision in that case is effective as of December 14, 2010. The Agreement submitted for approval was executed by Hidden Hollow on December 6, 2010, and by Idaho Power on December 8, 2010. The Agreement was filed for Commission approval on December 10, 2010. Because the Agreement was executed prior to December 14, 2010, Staff does not believe it should be impacted by the final decision in the GNR-E-10-04 case. Consequently, Staff recommended the Commission approve all of the Agreement's terms and conditions and declare that all payments made by Idaho Power to Hidden Hollow for purchases of energy be allowed as prudently incurred expenses for ratemaking purposes.

FINDINGS AND CONCLUSIONS

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.

The Commission has reviewed the record in this case, including the Application, the Agreement, and the comments and recommendations of Commission Staff. As represented and pursuant to contract, under normal and/or average conditions the Facility will not exceed 10 aMW on a monthly basis. As such, we find that the Hidden Hollow project is qualified to receive the non-levelized published avoided cost rates approved by the Commission in Order No.

31025. We commend Idaho Power for negotiating a contract intended to preserve the lower rates of the existing G2 contract while still allowing for additional generation to be developed.

Based on the record established in this case, we find that the proposed Agreement submitted in this case contains acceptable contract provisions including the non-levelized published avoided cost rates approved by the Commission in Order No. 31025. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.


ORDER

IT IS HEREBY ORDERED that the December 8, 2010, Firm Energy Sales Agreement between Idaho Power and Hidden Hollow is approved without change or condition.

IT IS HEREBY CERTIFIED that if the energy project identified in this Order is constructed as specified above, the completed facility will generate at least twenty-five (25) kilowatts of electricity and may be eligible for a tax rebate pursuant to *Idaho Code* § 63-3622QQ.

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.

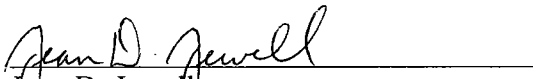
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 11th
day of February 2011.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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