

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

**FROM: KRISTINE SASSER
DEPUTY ATTORNEY GENERAL**

DATE: MAY 26, 2011

**SUBJECT: IDAHO POWER’S APPLICATION FOR A DETERMINATION
REGARDING THE FIRM ENERGY SALES AGREEMENT WITH
CLARK CANYON, CASE NO. IPC-E-11-09**

On May 24, 2011, Idaho Power Company filed an Application with the Commission requesting acceptance or rejection of a 20-year Firm Energy Sales Agreement (Agreement) between Idaho Power and Clark Canyon, LLC (Clark Canyon) dated May 20, 2011. The Application states that Clark Canyon would sell and Idaho Power would purchase electric energy generated by the Clark Canyon hydroelectric project (Facility) located near Dillon, Montana.

THE AGREEMENT

The Application states that Clark Canyon proposes to own, operate and maintain a 4.7 MW (maximum capacity, nameplate) hydroelectric generating facility. Application at 2. The Facility will be a QF under the applicable provisions of PURPA. 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”). Should the Facility exceed 10 aMW on a monthly basis, Idaho Power will accept the energy that does not exceed the maximum capacity amount, but will not purchase or pay for the inadvertent energy. Agreement ¶ 7.5.

Clark Canyon selected November 1, 2012, as its Scheduled First Energy Date and March 31, 2013, as its Scheduled Operation Date. Application at 3. Idaho Power asserts that various requirements have been placed upon the Clark Canyon 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 operation or maintenance charges under Schedule 72 will be assessed to Clark Canyon. Idaho Power states that the Facility is currently in the generator interconnection process. "Upon resolution of any and all upgrades required to acquire transmission capacity for this Facility's generation, and upon execution of the FESA and the GIA, this Facility may then be designated as a network resource." *Id.* at 4. Clark Canyon and Idaho Power have agreed to liquidated damage and security provisions of \$45 per kW of nameplate capacity or the sum of three month's estimated revenue. Agreement ¶¶ 5.3.2, 5.8.1. Ownership of environmental attributes (i.e., Green Tags, Renewable Energy Credits) associated with this Facility are addressed in a separate agreement. Application at 3.

Idaho Power states that the Facility has also been made aware of and accepted the provisions in the Agreement and Idaho Power's approved Schedule 72 regarding non-compensated curtailment or disconnection of its Facility should certain operating conditions develop on Idaho Power's system. The Application notes that the parties' intent and understanding is that "non-compensated curtailment would be exercised when the generation being provided by the Facility in certain operating conditions exceeds or approaches the minimum load levels of [Idaho Power's] system such that it may have a detrimental effect upon [Idaho Power's] ability to manage its thermal, hydro, and other resources in order to meet its obligation to reliably serve loads on its system." *Id.* at 5.

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 Clark Canyon for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes. Agreement ¶ 21.1.

Idaho Power requests that its Application be processed by Modified Procedure pursuant to Commission Rules of Procedure 201-204. IDAPA 31.01.01.201-.204.

STAFF RECOMMENDATION

Staff recommends that the case be processed by Modified Procedure.

COMMISSION DECISION

Does the Commission wish to process this case under Modified Procedure?



Kristine A. Sasser
Deputy Attorney General

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