## **BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

)))

)))))

)))

GRAND VIEW PV SOLAR TWO, LLC,	
COMPLAINANT,	
<b>v.</b>	
IDAHO POWER COMPANY,	
<b>RESPONDENT</b> .	

CASE NO. IPC-E-11-15

**ORDER NO. 32950** 

On October 29, 2013, the Commission issued final Order No. 32913 regarding Grand View Solar Two's formal complaint against Idaho Power Company. In our final Order, the Commission determined in the absence of an agreement by the parties, it was reasonable and consistent with Idaho common property law interests to apportion the ownership of renewable energy credits (RECs) equally between Grand View and Idaho Power. Order No. 32913 at 16. The Commission also found Grand View had not perfected a "legally enforceable obligation" (LEO) under the federal Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission found that Grand View's purported offer to sell power to the utility was conditioned on two points: removal of the REC provision in the draft Power Purchase Agreement ("PPA" or "Agreement"); and requiring Idaho Power to disclaim all REC ownership. Order No. 32913 at 20-22.

## PETITION FOR RECONSIDERATION

On November 18, 2013, Grand View filed a Petition for Reconsideration raising three primary issues. First, Grand View alleges the Commission failed to recognize that a LEO and a PURPA contract are two distinct concepts. Grand View maintains that the Commission's Order makes a LEO conditioned upon the parties entering into a PPA. *Id.* Second, Grand View asserts the Commission has impermissibly tied the creation of a LEO to resolution of the REC ownership issue. *Id.* at 3. Grand View maintains the Commission's final Order apportioning REC ownership between the parties grants Idaho Power "a right of first refusal to purchase" the RECs and compels Grand View to "*outright gifting of half of its RECs to the power company*." *Id.* at 5 (emphasis original). Finally, Grand View insists the Commission's final Order regarding the adjudication of the REC dispute constitutes "retroactive ratemaking." *Id.* at 8. In particular,

Grand View argues that it filed its complaint in this proceeding and created a LEO before the Commission issued its REC Order in the generic PURPA docket (GNR-E-11-03) in December 2012.

On November 25, 2013, Idaho Power filed an answer to Grand View's Petition. The utility urges the Commission to deny the Petition in its entirety. Idaho Power asserts Grand View's Petition misstates the factual record and the utility maintains Grand View did not create a legally enforceable obligation. Answer at 2-3. Idaho Power argues it was Grand View – not the utility – that refused to obligate itself to provide power to the utility. Idaho Power maintains there is substantial and competent evidence to support the Commission's finding that Grand View did not make a binding and unconditional offer to sell power to the utility because Grand View's offer was conditioned upon receiving all the RECs and requiring Idaho Power to disclaim all ownership of RECs.

## DISCUSSION

Based upon our review of Grand View's Petition, Idaho Power's answer, and the extensive record in this case, we grant Grand View's Petition so we may reconsider its arguments in greater detail. Given the complexity of the issues and the press of our schedule, we find that additional time is necessary to carefully consider the issues raised in Grand View's Petition. We find that the record in this proceeding is sufficient and further proceedings are unnecessary for the Commission to review and resolve Grand View's Petition.

## ORDER

IT IS HEREBY ORDERED that Grand View's Petition for Reconsideration is granted. The Commission will review the record and issue its final Order on reconsideration as soon as possible. DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this  $/4^{\prime\prime}$  day of December 2013.

PAUL KJELLANDER, PRESIDENT

MACK A. REDFORD, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

an D. Jewell

Commission Secretary

bls/O:IPC-E-11-15\_dh4\_Reconsideration