

DECISION MEMORANDUM

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

**FROM: KRISTINE SASSER
DEPUTY ATTORNEY GENERAL**

DATE: DECEMBER 10, 2011

**SUBJECT: IDAHO POWER'S APPLICATION FOR A DETERMINATION
REGARDING THE FIRM ENERGY SALES AGREEMENT WITH HIGH
MESA ENERGY, CASE NO. IPC-E-11-26**

On November 22, 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 High Mesa Energy, LLC (High Mesa) dated November 16, 2011. The Application states that High Mesa would sell and Idaho Power would purchase electric energy generated by the High Mesa wind project (Facility) located near Bliss, Idaho.

THE AGREEMENT

The Application states that High Mesa proposes to own, operate and maintain a 40 MW (maximum capacity, nameplate) generating facility. Application at 2. The Facility will be a QF under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). The Agreement is for a term of 20 years and contains avoided cost rates calculated through the use of the Integrated Resource Plan (IRP) methodology. Idaho Power notes that the energy price identified by the IRP methodology for this Facility is equivalent to a 20-year levelized price of \$56.43 per MWh.¹ Application at 4. The Agreement includes “split ownership” of the Renewable Energy Certificates (RECs) generated over the 20-year term of the Agreement. *Id.* at 3.

High Mesa selected November 1, 2012, as its Scheduled First Energy Date and December 28, 2012, as its Scheduled Operation Date. *Id.* at 2. Idaho Power asserts that various requirements have been placed upon the Facility in order for Idaho Power to accept the Facility's

¹ The actual energy pricing stream varies throughout the term of the contract based upon the time of year and time of day during which the energy is delivered to Idaho Power.

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 High Mesa. 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 5. High Mesa and Idaho Power have agreed to liquidated damage and security provisions. Agreement ¶¶ 5.3, 5.8.1.

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." Application at 6.

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 High Mesa 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 with comments due no later than January 26, 2012.

COMMISSION DECISION

Does the Commission wish to process this case under Modified Procedure with comments due no later than January 26, 2012?



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Deputy Attorney General

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