

Following issuance of the Remittitur, the Commission directed New Energy to file its answer to the complaints by October 3, 2014. The Commission also encouraged the parties to “explore whether settlement [of this matter] is possible.” Order No. 33126 at 3.

On October 8, 2014, Idaho Power filed a “Motion and Stipulation” that was also signed by counsel for New Energy. In their Stipulation, the parties agreed to resolve their dispute and avoid further litigation. Based upon our review of the record, the Motion and Stipulation, we grant the Motion and approve the Stipulation as set out in greater detail below.

THE MOTION AND STIPULATION

On October 7, 2014, the parties executed a Settlement Stipulation. The Stipulation recites that given the passage of time and the current status of this case, the parties decided to resolve their dispute. In the Stipulation they agree to: (1) terminate the two PPAs; (2) request that the Commission dismiss the two cases; and (3) that delay liquidated damages under the PPAs shall be forfeited “and directed to customers pursuant to Order No. 32625.” Stipulation at ¶ 4 (citing PPA §§ 5.3-5.6 and 5.8).

The parties recommend that the Commission approve the Stipulation in its entirety pursuant to Commission Rule 274. The parties believe that approval of the Stipulation “is in the public interest and that all of the terms and conditions are fair, just and reasonable.” Stipulation at ¶ 5. The parties urge the Commission to approve the Stipulation and grant the Motion without material change or modification. Finally, they agree that neither party shall appeal a Commission Order approving the Stipulation or any issue resolved by the Stipulation. *Id.* at ¶ 6.

DISCUSSION AND FINDINGS

Rule 276 provides that the Commission “will independently review any settlement proposed to it to determine whether the settlement is just, fair and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy.” IDAPA 31.01.01.276. The proponents of a settlement carry the burden of showing that the proposed settlement is reasonable. *Id.* In cases where the disagreement is essentially a private dispute between two parties, the Commission may summarily accept the settlement stipulation. Rule 274, IDAPA 31.01.01.274. When reviewing a proposed settlement the Commission may accept, reject or modify settlement provisions. Rule 276.

After reviewing the record in this matter including the joint Motion and Stipulation, we find that the proposed settlement is reasonable and in the public interest. The Stipulation

represents a reasonable compromise of the positions held by the parties. Also, through the Stipulation, further litigation is avoided and ratepayers will receive the benefits of liquidated damages pursuant to the terms of the Stipulation and Order No. 32625.

ORDER

IT IS HEREBY ORDERED that the Motion submitted by the parties is granted. The Commission approves the Stipulation and accordingly dismisses Case Nos. IPC-E-12-25 and IPC-E-12-26.

IT IS FURTHER ORDERED that Idaho Power apply the delay liquidated damages provided for in the terminated PPAs and the Stipulation, in a manner consistent with Order No. 32625.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in these Case Nos. IPC-E-12-25 and IPC-E-12-26 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this case. 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 28th
day of October 2014.


PAUL KJELLANDER, PRESIDENT


MACK A. REDFORD, COMMISSIONER


MARSHA H. SMITH, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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