

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER)
COMPANY'S APPLICATION FOR) CASE NO. IPC-E-15-02
APPROVAL OR REJECTION OF AN)
ENERGY SALES AGREEMENT WITH J.R.) ORDER NO. 33240
SIMPLOT COMPANY)

On January 30, 2015, Idaho Power Company filed an Application requesting that the Commission accept or reject an Energy Sales Agreement (Agreement) between Idaho Power and J.R. Simplot Company. The Agreement is for the sale and purchase of electric energy generated by the Simplot-Pocatello cogeneration project, a small power producing facility. The Agreement replaces a contract executed in February 2013 that expired on March 1, 2015. The Commission issued a Notice of Application and Modified Procedure on February 10, 2015. Order No. 33223. Commission Staff was the only party to file written comments.

BACKGROUND

The Public Utility Regulatory Policies Act (PURPA) was enacted in 1978 “to lessen the country’s dependence on foreign oil and to encourage the promotion and development of renewable energy technologies as alternatives to fossil fuels.” Order No. 32580 at 3, *citing FERC v. Mississippi*, 456 U.S. 742, 745-46 (1982). PURPA and its implementing regulations require electric utilities to purchase the power produced by qualifying facilities (QFs), such as Simplot’s cogeneration¹ facility in this case. Idaho Power’s Agreement with Simplot is a PURPA contract, and Simplot’s cogeneration facility is a QF.

The rate that a QF receives for the sale of its power to a utility, referred to as the “avoided cost” rate, is established by the Commission, and represents “the ‘incremental cost’ to the purchasing utility which, but for the purchase of power from the QF, such utility would either generate itself or purchase from another source.” Order No. 32580 at 3, *citing Rosebud Enterprises v. Idaho PUC*, 128 Idaho 624, 917 P.2d 781 (1996); 16 U.S.C. § 824a-3(b); 18 C.F.R. § 292.304a(1)(i-ii).

For QFs generating less than 10 average megawatts (aMW) of energy (100 kilowatts (kW) for wind and solar), the Commission calculates and publishes rates with a surrogate

¹ A cogeneration facility is one that “produce[s] electric energy and forms of useful thermal energy (such as heat or steam), used for industrial, commercial, heating, or cooling purposes, through the sequential use of energy.” 18 C.F.R. § 292.202(c).

avoidable resource (SAR) methodology, using long-term natural gas price forecasts. Order No. 31092 at 3; Order No. 32176 at 11-12 (reducing eligibility cap for wind and solar QFs to 100 kW); Order No. 32262 (affirming reduced eligibility cap for wind and solar QFs). These published avoided cost rates are periodically updated as new natural gas price forecasts are issued. Order No. 31092 at 9.

THE AGREEMENT

Idaho Power and Simplot entered into the Agreement in this case under the terms and conditions of various Commission Orders applicable to PURPA agreements for “other” projects delivering less than 10 aMW of energy, using published rates based on the SAR methodology. *See* Order Nos. 32697, 32737, 32802, 33084. Under the terms of the Agreement, Simplot elected to contract with Idaho Power for a one-year term using non-levelized rates.

Prior to the present Agreement, the project had been delivering energy to Idaho Power under a February 2013 Agreement that expires March 1, 2015. Simplot proposes to continue to operate and maintain its 15.9 MW energy facility, but the Agreement will generally limit delivery to 10 aMW per month. Simplot will be required to provide data on the facility that Idaho Power will use to confirm that under normal and/or average conditions, the facility will not exceed 10 aMW on a monthly basis. Should the facility exceed 10 aMW, Idaho Power will accept the energy that does not exceed the “maximum capacity amount” (i.e., inadvertent energy) of 15.9 MW, but will not purchase or pay for the inadvertent energy.

Because the facility is already interconnected and selling energy to Idaho Power, the Agreement specifies a Scheduled First Energy Date and Schedule Operation Date of March 1, 2015, but shall take effect no later than 120 days after this Commission’s final, non-appealable Order approving the Agreement. The parties recognize that information provided under the prior agreement may still be applicable to this replacement Agreement. Idaho Power shall accept the previously submitted information and request updates or require new information to comply with the requirements needed for Simplot to be granted a First Energy Date and Operation Date for this replacement Agreement. Also, Idaho Power will monitor the ongoing requirements through the full term of this Agreement.

Under the Agreement, all applicable interconnection charges and monthly operation and maintenance charges under Schedule 72 will be assessed to Simplot.

Several terms and conditions in this Agreement vary from the previously approved agreements, in order to comply with this Commission's recent Orders. These changes include: reference to the Intercontinental Exchange (ICE) index and formula; modified provisions regarding delay liquidated damages and delay security; Simplot's ownership of the environmental attributes; provisions providing for revision of initial year monthly net energy amounts on a monthly rather than quarterly basis; provisions allowing Simplot the option to claim maintenance will be scheduled at the same time each year with one notification; and several other minor provisions.

As with all PURPA QF generation, the project must be designated as a network resource (DNR) to serve Idaho Power's retail load on its system. To maintain its DNR status, there must be a power purchase agreement associated with the project's transmission service request that maintains compliance with Idaho Power's non-discriminatory administration of its Open Access Transmission Tariff (OATT) and maintains compliance with FERC requirements.

STAFF COMMENTS

Staff reviewed the proposed rates and confirmed they are correct. Staff determined that the terms and conditions in the proposed Agreement are consistent with prior Commission Orders, and recommended that the Commission approve it.

FINDINGS AND CONCLUSIONS

The Idaho Public Utilities Commission has jurisdiction over Idaho Power, an electric utility, and the issues raised in this matter under the authority and power granted it under Title 61 of the Idaho Code and PURPA. The Commission has authority under PURPA and Federal Energy Regulatory Commission (FERC) regulations to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from QFs, and to implement FERC rules.

The Commission has reviewed the record in this case, including the Application, the replacement Agreement, and the comments and recommendations of Commission Staff. We find that the J.R. Simplot project is qualified to receive the non-levelized published avoided cost rates contained in the Agreement. We further find that the proposed Agreement contains acceptable contract provisions consistent with PURPA, FERC regulations, and this Commission's prior Orders. We find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

ORDER

IT IS HEREBY ORDERED that the Firm Energy Sales Agreement dated January 30, 2015, between Idaho Power Company and J.R. Simplot for a one-year term is approved without change or condition. This Agreement shall expire on March 1, 2016. We further declare that all payments made by Idaho Power to Simplot for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

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 4th day of March 2015.




PAUL KJELLANDER, PRESIDENT



MACK A. REDFORD, COMMISSIONER

Commissioner Raper Did Not Participate
KRISTINE RAPER, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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