

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER	)	
COMPANY'S APPLICATION TO APPROVE	)	CASE NO. IPC-E-15-08
OR REJECT ITS ENERGY SALES	)	
AGREEMENT WITH THE IDAHO	)	ORDER NO. 33310
DEPARTMENT OF WATER RESOURCES	)	

On March 31, 2015, Idaho Power Company filed an Application asking the Commission to approve or reject its Energy Sales Agreement (Agreement or ESA) with the Idaho Department of Water Resources (IDWR). Under the proposed Agreement, IDWR would sell, and Idaho Power would purchase, electric power generated by the Pristine Springs #3 hydro project (Facility) near Jerome, Idaho. On April 14, 2015, the Commission issued a Notice of Application and Notice of Modified Procedure, setting a 21-day comment period. Commission Staff was the only party to file written comments and the Company did not file a reply. As outlined below, we approve the Agreement.

### BACKGROUND

The Facility is currently selling energy to Idaho Power pursuant to the terms and conditions of various Commission orders and the Public Utility Regulatory Policies Act (PURPA). That Act requires electric utilities to purchase electric power from “qualifying facilities” (QFs) at rates approved by the applicable state regulatory agency – in Idaho, this Commission. 16 U.S.C. § 824a-3; *Idaho Power v. Idaho PUC*, 155 Idaho 780, 789, 316 P.3d 1278, 1287 (2013). The purchase or “avoided cost” rate shall not exceed the “incremental cost” to the utility, defined as the cost of energy which, “but for the purchase from [the QF], such utility would generate or purchase from another source.” 16 U.S.C. § 824a-3(d); 18 C.F.R. § 292.101(6) (defining “avoided cost”).

The Facility is a QF under PURPA and has a nameplate rating of 200 kilowatts (kW). Application at 4. This Commission approved the Facility’s existing 10-year agreement with Idaho Power in April 2005. Order No. 29767. That agreement expired April 30, 2015. Application at 2.

### THE APPLICATION

Idaho Power asks the Commission to approve or reject its new Agreement with IDWR. The new ESA is for five years. Application at 2. Idaho Power states that the parties

entered into the Agreement “pursuant to the terms and conditions of various Commission orders applicable to this replacement PURPA QF ESA for non-seasonal hydro projects.” *Id.* at 3 (*see* Order Nos. 32697, 32737, 32802, and 32804, cited in Application). Specifically, the ESA provides for “non-levelized, non-seasonal hydro published avoided cost rates,” and energy deliveries of less than 10 average megawatts (aMW). *Id.* at 4. Idaho Power also asserts the ESA “contains revised terms and conditions” that were recently approved by the Commission in Case Nos. IPC-E-14-06, IPC-E-14-07, and IPC-E-14-12. *Id.* at 5. These terms include references to the Intercontinental Exchange (ICE) index and formula, delay liquidated damages and delay security, and IDWR’s ownership of the renewable energy credits (RECs), among other provisions. *Id.*

According to Idaho Power, the new Agreement satisfies FERC requirements regarding execution of a Generation Interconnection Agreement, designation as a network resource, and administration of Idaho Power’s Open Access Transmission Tariff (OATT). *Id.* at 6. The Facility’s Scheduled First Energy Date is May 1, 2015. *Id.* at 4. The ESA will become effective only upon the Commission’s approval and finding that all payments made by Idaho Power to IDWR for purchases of energy are “allowed as prudently incurred expenses for ratemaking purposes.” *Id.* at 6-7. Idaho Power requested that, if its Application is approved, such approval be effective May 1, 2015, to avoid a lapse between the existing and replacement ESAs. *Id.* at 7.

#### **STAFF COMMENTS**

Staff reviewed the ESA and determined the proposed rates are correct. Staff Comments at 3. Staff noted that, because the project received capacity payments in its prior agreement, the rates in the replacement contract include capacity payments for the full term of the proposed ESA, consistent with Order Nos. 32697, 32737, and 32871. *Id.* Staff further confirmed that all other terms and conditions in the ESA are consistent with prior Commission orders. *Id.* Accordingly, Staff recommended the Commission approve all of the ESA’s terms and conditions and declare that all payments made by Idaho Power to IDWR for purchase of energy be allowed as prudently incurred expenses for ratemaking purposes. *Id.*

#### **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.

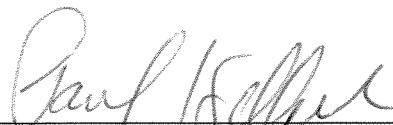
The Commission has reviewed the record in this case, including the Application, the replacement Agreement, and the comments and recommendations of Commission Staff. We find that IDWR's Facility is qualified to receive the non-levelized published avoided cost rates contained in the ESA. We further find 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. Finally, because the ESA utilizes published avoided cost rates, we find it reasonable to allow for a May 1, 2015 effective date. However, we admonish the parties to submit agreements for approval early enough to allow the Commission adequate time for review without the necessity of approving an effective date that has already passed.

### **ORDER**

IT IS HEREBY ORDERED that the March 26, 2015 Energy Sales Agreement between Idaho Power Company and the Idaho Department of Water Resources for a five-year term is approved without change or condition. We further declare that all payments made by Idaho Power to IDWR 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 2<sup>nd</sup>  
day of June 2015.

  
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PAUL KJELLANDER, PRESIDENT

  
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MACK A. REDFORD, COMMISSIONER

  
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KRISTINE RAPER, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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