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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Daphne Huang, Deputy Attorney General, and in response to the Notice of Application and Notice of Modified Procedure issued in Order No. 33278 on April 14, 2015, in Case No. IPC-E-15-08, submits the following comments.

BACKGROUND

On March 31, 2015, Idaho Power Company filed an Application asking the Commission to approve or reject its Energy Sales Agreement (ESA) with the Idaho Department of Water Resources (IDWR). Under that agreement, IDWR would sell, and Idaho Power would purchase, electric energy generated by the Pristine Springs #3 hydro project (Facility) located near Jerome, Idaho.

On March 26, 2015, Idaho Power entered into its ESA with IDWR pursuant to the terms and conditions of various Commission Orders, and under the Public Utility Regulatory Policies Act (PURPA). Application at 2. Under PURPA, electric utilities must purchase electric energy 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”).

Idaho Power states that the Facility is a QF under PURPA and has a nameplate rating of 200 kilowatts (kW). Application at 4. The Facility is currently selling energy to Idaho Power under a 10-year agreement that was executed in 2005. *Id.* at 2. This Commission approved the Facility’s existing 10-year agreement with Idaho Power in April 2005. Order No. 29767. That agreement is set to expire April 30, 2015. Application at 2.

“[U]nder the terms of the replacement ESA, IDWR elected to contract for a five-year term using non-levelized, non-seasonal hydro published avoided cost rates as currently established by the Commission . . . for replacement contracts and for energy deliveries of less than 10 [average megawatts (aMW)].” *Id.* at 4 (citing Order Nos. 33084, 32697, 32737).

Idaho Power states IDWR will be required to provide data with which Idaho Power can confirm that under normal conditions, the Facility will not exceed 10 aMW on a monthly basis. *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 seller ownership of environmental attributes, among other provisions. *Id.*

According to Idaho Power, the ESA satisfies requirements regarding execution of a Generation Interconnection Agreement, designation as a network resource, and administration of Idaho Power’s Open Access Transmission Tariff (OATT), in compliance with FERC. *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 requests that, if approved, such approval be effective May 1, 2015, to avoid a lapse between the existing and replacement ESAs. *Id.* at 7.

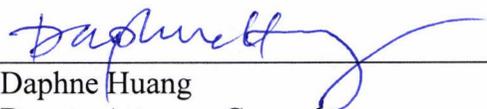
STAFF ANALYSIS

Staff has reviewed the proposed rates and confirms they are correct. Because this project received capacity payments in its prior agreement, the rates in the replacement contract include capacity payments for the full term of the proposed Agreement. This arrangement is consistent with Order Nos. 32697, 32737, and 32871. All other terms and conditions contained in the proposed Agreement are consistent with prior Commission orders.

RECOMMENDATIONS

Staff recommends that the Commission approve all of the Agreement’s terms and conditions and declare that all payments made by Idaho Power to the Idaho Department of Water Resources for purchase of energy from the Pristine Springs #3 Project will be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this ^{5th} day of May 2015.



Daphne Huang
Deputy Attorney General

Technical Staff: Yao Yin

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 5th DAY OF MAY 2015, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-15-08, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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