

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF IDAHO POWER COMPANY FOR)	CASE NO. IPC-E-16-25
APPROVAL OR REJECTION OF AN)	
ENERGY SALES AGREEMENT WITH H K)	
HYDRO LLC FOR THE SALE AND)	
PURCHASE OF ELECTRIC ENERGY FROM)	ORDER NO. 33692
<u>THE MUD CREEK S&S HYDRO PROJECT</u>)	

On November 1, 2016, Idaho Power Company filed an Application asking the Commission to accept or reject its Energy Sales Agreement with H K Hydro, LLC. The Agreement falls under the Public Utility Regulatory Policies Act of 1978 (PURPA) and is a contract for the sale and purchase of electric energy generated by the Mud Creek S&S hydro project (the facility) located near Buhl, Idaho. The Commission issued a Notice of Application and Notice of Modified Procedure. Order No. 33651. Staff timely filed comments. Idaho Power did not file a reply. The Commission now approves Idaho Power's Application.

BACKGROUND

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 the Mud Creek S&S hydro project. 16 U.S.C. § 824a-3(b); 18 C.F.R. § 292.303(a). Idaho Power's Agreement with H K Hydro is a PURPA contract, and the Mud Creek S&S hydro project is a QF. Application at 2.

The rate that a QF receives for the sale of its power to a utility, referred to as the "avoided cost" rate, is approved 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. 33419 at 3, *citing Rosebud Enterprises v. Idaho PUC*, 128 Idaho 624, 627, 917 P.2d 781, 784 (1996); 18 C.F.R. § 292.101(b)(6) (defining "avoided cost").

For QFs such as the Mud Creek S&S hydro project, generating less than 10 average megawatts (aMW) of energy, the Commission calculates and publishes rates with a Surrogate Avoidable Resource (SAR) methodology, using long-term natural gas price forecasts. Order No.

31092 at 3. These published avoided cost rates are periodically updated as new natural gas price forecasts are issued. *Id.* at 9.

In calculating avoided costs, the Commission has found it “reasonable, appropriate and in the public interest to compensate QFs separately based on a calculation of not only the energy they produce, but the capacity that they can provide to the purchasing utility.” Order No. 32697 at 16. In calculating capacity, the Commission considers “each utility’s capacity deficiency based on load and resource balances found in each utility’s [Integrated Resource Plan] IRP,” as well as “a QF’s ability to contribute to a utility’s need for capacity.” *Id.* at 16, 21.

THE APPLICATION

The Application seeks a Commission Order approving or rejecting the ESA and if the ESA is accepted, declaring that all payments for purchases of energy under the ESA be allowed as prudently incurred expenses for ratemaking purposes. Application at 1, 6. The Company explains that the Mud Creek S&S hydro project has a nameplate rating of 520 kilowatts (kW) and is currently selling energy to Idaho Power under an agreement that was executed in 1981 and will expire February 19, 2017. *Id.* at 2, 4. The proposed ESA, which was executed on October 5, 2016, would replace that existing agreement. *Id.*

Under the terms of the replacement ESA, “H K Hydro elected to contract with Idaho Power for a 20-year term using the non-levelized, non-seasonal hydro published avoided cost rates as currently established by the Commission in Order No. 33538 for replacement contracts and for energy deliveries of less than 10 [average megawatts] aMW.” *Id.* at 3-4. Because the ESA is a replacement contract, its rates include capacity payments throughout the contract’s term.¹ *Id.* at 3. In addition, Idaho Power states “H K Hydro 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.” *Id.* at 4.

According to the replacement ESA, the facility’s Scheduled First Energy Date and Scheduled Operation Date is February 20, 2017, “but shall be no later than 120 days after a Commission final, non-appealable order has been issued approving [the] Agreement.” *Id.* at 4. Also, the terms and provisions of the ESA provide that “applicable interconnection charges and monthly operation and maintenance charges under Schedule 72 will be assessed to [H K

¹ The QF’s current ESA with Idaho Power was executed in 1981, and it has thus been contributing to Idaho Power’s system capacity for many years. See Application at 2-3 and Order No. 15746.

Hydro].” *Id.* at 5. *Id.* The ESA will become effective only upon the Commission’s approval and finding that all payments made by Idaho Power to H K Hydro for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes. *Id.* at 5.

STAFF COMMENTS

Staff reviewed the proposed rates and confirmed that they are correct. Staff Comments at 2. Staff also stated that “[a]ll other terms and conditions contained in the proposed Agreement are consistent with prior Commission orders.” *Id.* Staff “recommends that the Commission approve all of the Agreement’s terms and conditions and declare that all payments made by Idaho Power to H K Hydro for purchase of energy and capacity from the Mud Creek S&S hydro project will be allowed as prudently incurred expenses for ratemaking purposes.” *Id.*

COMMISSION 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 ESA, and the comments and recommendations of Commission Staff. We find that the Mud Creek S&S hydro project is qualified to receive the non-levelized, non-seasonal hydro 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 therefore approve the Agreement without change or condition. Finally, we find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

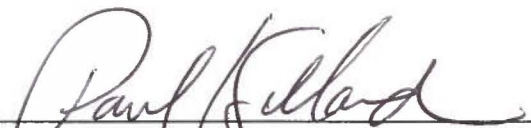
ORDER

IT IS HEREBY ORDERED that Idaho Power’s Energy Sales Agreement with H K Hydro, LLC for the sale and purchase of electric energy is approved as set forth above.

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 with regard to any matter decided in 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 *13th* day of January 2017.


PAUL KJELLANDER, PRESIDENT


KRISTINE RAPER, COMMISSIONER


ERIC ANDERSON, COMMISSIONER

ATTEST:


Diane M. Hanian
Commission Secretary

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