

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF

FROM: DAPHNE HUANG
DEPUTY ATTORNEY GENERAL

DATE: JANUARY 5, 2017

SUBJECT: IDAHO POWER'S APPLICATION TO APPROVE FIRST AMENDMENT
TO ITS ENERGY SALES AGREEMENT WITH AMERICAN FALLS
SOLAR II, LLC, CASE NO. IPC-E-16-35

On December 22, 2016, Idaho Power Company filed an Application asking the Commission to approve the First Amendment to its Energy Sales Agreement (ESA) with American Falls Solar II, LLC (American Falls II). The ESA is a contract under the Public Utility Regulatory Policies Act (PURPA). The Amendment deletes an inapplicable provision, corrects a typographical error, updates and corrects information in the ESA's Appendix B, and adds an Appendix I regarding net energy allocation.

BACKGROUND

Under PURPA, electric utilities must purchase electric energy from "qualifying facilities" (QFs) at purchase or "avoided cost" rates approved by this Commission. 16 U.S.C. § 824a-3; *Idaho Power Co. v. Idaho PUC*, 155 Idaho 780, 789, 316 P.3d 1278, 1287 (2013). The Commission has established two methods for calculating avoided costs, depending on the size of the QF project: (1) the surrogate avoided resource (SAR) methodology, used to establish "published" avoided cost rates; and (2) the integrated resource plan (IRP) methodology, to calculate avoided cost rates for projects exceeding published rate limits. *See* Order No. 32697 at 7-8. Published rates are available for wind and solar QFs with a design capacity of up to 100 kilowatts (kW), and for QFs of all other resource types with a design capacity of up to 10 average megawatts (aMW). *Id.*; *see also* 18 C.F.R. § 292.304(c).

The Commission approved Idaho Power's ESA with American Falls II in 2014. Order No. 33201. Under the ESA, Idaho Power purchases and American Falls II sells energy generated by American Falls II's solar facility (Facility) – a PURPA QF – near American Falls,

Idaho. Application at 2. The ESA contains prices based on the IRP avoided cost methodology. *Id.* at 2-3.

PROPOSED AMENDMENT

In the Amendment, Idaho Power and American Falls II agree to delete Article 3.3 of the ESA, which provides that American Falls II will “take such steps as may be required to maintain the [QF’s] status” as a solar published rate facility. *Id.* at 2; *see* Attachment 1 to Application in Case No. IPC-E-14-35 at 10 (ESA Art. 3.3). As noted in the Application here, the Facility “exceeds the eligibility threshold for published avoided cost rates,” thus the language of Article 3.3 does not apply. Application at 2.

The Company and American Falls also agree to correct Article 7.4 of the ESA to include the word “Percentage,” inadvertently omitted from the second sentence which should read, “All pricing contained within Appendix E for the current applicable month(s) will be multiplied by the Pricing Adjustment *Percentage*. . . .” *Id.* at 3 (emphasis added). In addition, the Facility’s physical characteristics have changed since the Commission approved the ESA, which describes the Facility’s configuration, design, and construction in its Appendix B-1. *Id.* Accordingly, the Company and American Falls II agree Appendix B will include “a more generalized Facility description” that is consistent with the QF’s Generator Interconnection Agreement (GIA). *Id.* at 2, 4.

Finally, the Amendment adds Appendix I, Net Energy Allocation. Idaho Power states that the Facility “utilizes an interconnection that is shared with another project, American Falls Solar, LLC.” *Id.* at 4. Idaho Power has a single point of delivery (POD) and revenue meter for the two facilities that measures the total net energy of both projects. *Id.* “Appendix I establishes the method for determining each project’s Net Energy deliveries,” for administration of the ESA. *Id.* The Company states that the changes in the Amendment “have no material effect to the [ESA’s] terms and provisions . . . and [would] not alter the [ESA’s] performance requirements or pricing,” but are proposed for the ESA’s proper administration and enforcement. *Id.* at 5.

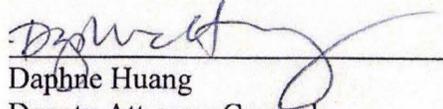
STAFF RECOMMENDATION

Staff believes most of the proposed changes are limited in scope. However, Staff believes it is appropriate to provide comments to the Commission regarding the Company’s Net Energy Allocation method. Accordingly, Staff recommends that the Company’s request be processed by Modified Procedure with a 21-day comment period. Although Idaho Power asked

that its Application be approved without further process, Application at 5, Counsel for the Company indicated no objection to Staff's recommendation to use Modified Procedure.

COMMISSION DECISION

Does the Commission wish to issue a Notice of Application and Notice of Modified Procedure with a 21-day comment period as suggested by Staff?


Daphne Huang
Deputy Attorney General

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