

DECISION MEMORANDUM

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

FROM: CAMILLE CHRISTEN
DEPUTY ATTORNEY GENERAL

DATE: JANUARY 6, 2017

SUBJECT: IDAHO POWER'S APPLICATION TO APPROVE FIRST AMENDMENT
TO ITS ENERGY SALES AGREEMENT WITH SIMCO SOLAR, LLC,
CASE NO. IPC-E-16-38

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 Simco Solar, LLC. The ESA is a contract under the Public Utility Regulatory Policies Act (PURPA). The Amendment corrects the project's name in the ESA, deletes an inapplicable provision, corrects a typographical error, and updates and corrects information in the ESA's Appendix B. Idaho Power asks that the Commission approve its Application upon Staff's review and without further process. Application at 4.

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 cost, 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 Simco Solar in 2014. Order No. 33199. Under the ESA, Idaho Power purchases and Simco Solar sells energy generated by

Simco Solar's facility (Facility) – a PURPA QF – near Mountain Home, Idaho. Application at 2. The ESA contains prices based on the IRP avoided cost methodology. Application at 2-3.

PROPOSED AMENDMENT

The Company explains that subsequent to full execution and Commission approval of the ESA, it discovered that the contracting entity and project name referenced in the ESA, Simco Solar, was not the correct name of the limited liability company on file with the state of Delaware. *Id.* at 2. The correct name is Simcoe Solar, LLC, and the parties have agreed to amend the ESA to identify the correct company and project name. *Id.* at 3.

The Company and Simcoe also agree to delete Article 3.3 of the ESA, which provides that Simcoe will “take such steps as may be required to maintain the [QF’s] status” as a solar published rate facility. *Id.* at 3; *see* Attachment 1 to Application in Case No. IPC-E-14-33 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 3.

The Company and Simcoe Solar 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 4 (emphasis added). Finally, 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. *Id.* Accordingly, the Company and Simcoe Solar agree to amendments to Appendix B to include “a more generalized Facility description.” *Id.* at 4. According to the Application, the changes included in the Amendment “have no material effect to the terms and provisions of the ESA and [would] not alter the performance requirements or pricing” in the ESA. *Id.* at 4.

STAFF RECOMMENDATION

Staff believes the proposed changes are limited in scope and have no substantive impact on the ESA. Accordingly, Staff recommends that the Company’s request be approved without further process.

COMMISSION DECISION

Does the Commission wish to approve the Application without further process?



Camille Christen
Deputy Attorney General

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