

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION</b>	)	<b>CASE NO. IPC-E-18-11</b>
<b>OF IDAHO POWER COMPANY FOR</b>	)	
<b>APPROVAL OR REJECTION OF AN</b>	)	
<b>ENERGY SALES AGREEMENT WITH</b>	)	<b>ORDER NO. 34176</b>
<b>CLEAR SPRINGS FOODS, INC., FOR THE</b>	)	
<b>SALE AND PURCHASE OF ELECTRIC</b>	)	
<b>ENERGY FROM THE CLEAR SPRINGS</b>	)	
<b>TROUT HYDRO PROJECT</b>	)	

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On August 16, 2018, Idaho Power Company applied to the Commission for an Order approving or rejecting its Energy Sales Agreement (ESA) with Clear Springs Foods, Inc. (Clear Springs Hydro). Application at 1. Under the ESA Clear Springs Hydro would sell and Idaho Power would purchase electric energy generated by the Clear Springs Trout Hydro project (Facility), which is a 564 kilowatt qualifying facility (QF) under the Public Utility Regulatory Policies Act (PURPA). *Id.* at 4.

The Commission issued a Notice of Application and Notice of Modified Procedure on September 17, 2018. *See* Order No. 34145. Staff filed comments on October 4, 2018. Idaho Power did not file a reply. The Commission now approves the Application.

**BACKGROUND**

Under PURPA, electric utilities must purchase electric energy from QFs at 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 purchase or “avoided cost” rate shall not exceed the “‘incremental cost’ to the purchasing utility of power which, but for the purchase of power from the QF, such utility would either generate itself or purchase from another source.” Order No. 32697 at 7, *citing Rosebud Enterprises v. Idaho PUC*, 128 Idaho 624, 917 P.2d 781 (1996); 18 C.F.R. § 292.101(b)(6) (defining “avoided cost”).

The Commission established two methods of calculating avoided cost, depending on the size of the QF project: (1) the surrogate avoided resource (SAR) methodology, and (2) the integrated resource plan (IRP) methodology. *See* Order No. 32697 at 7-8. The Commission uses the SAR methodology – which applies to the QF in this case under the “non-seasonal hydro” category – to establish “published” avoided cost rates. *Id.* and Application at 2.

In calculating avoided cost, the Commission 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 IRP,” as well as “a QF’s ability to contribute to a utility’s need for capacity.” *Id.* at 16, 21.

### **THE NEW ESA**

Under the proposed ESA, Clear Springs Hydro would sell to Idaho Power electric energy generated by the Clear Springs Trout Hydro Project. Application at 1. The parties have an existing ESA for the facility that expires on October 31, 2018. Clear Springs Hydro elected for the ESA to have a 20 year term using the non-levelized rates for non-seasonal hydro projects smaller than 10 average megawatts. *Id.* at 3.

The proposed ESA uses the rates established by the Commission in Order No. 34062 dated May 16, 2018. *Id.* at 3-4. As a result of the ESA being a replacement contract, the rates contain capacity payments for the entire contractual term, with no sufficiency period. *Id.* at 3 and Order No. 32871.

The Application asks the Commission to accept or reject the replacement ESA and, if the ESA is accepted, to find that Idaho Power’s payments under it will be allowed as prudently incurred expenses for ratemaking purposes. Application at 5.

### **STAFF COMMENTS**

Staff reviewed the proposed rates and confirmed they are correct, and that the new ESA is otherwise consistent with prior Commission orders. Staff thus recommended that the Commission approve the new ESA, and find that Idaho Power’s payments to Clear Springs Foods, Inc., for energy from the Clear Springs Trout Hydro QF be allowed as prudently incurred expenses for ratemaking purposes.

### **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, including the Application, the new ESA, and Commission Staff's comments and recommendations. We find the Clear Springs Trout Hydro project is qualified to receive the non-levelized, non-seasonal-hydro published avoided cost rates in the ESA. We further find that the ESA 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 new ESA as prudently incurred expenses for ratemaking purposes.

### ORDER

IT IS HEREBY ORDERED that the new ESA between Idaho Power and Clear Springs Foods, Inc. for a 20-year term is approved without change or condition. Further, Idaho Power's payments to Clear Springs Foods, Inc., for energy from the Clear Springs Trout Hydro project 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 25<sup>th</sup> day of October 2018.

  
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PAUL KJELLANDER, PRESIDENT

  
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KRISTINE RAPER, COMMISSIONER

  
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ERIC ANDERSON, COMMISSIONER

ATTEST:

  
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Diane M. Hanian  
Commission Secretary