

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION) CASE NO. IPC-E-14-15
OF IDAHO POWER COMPANY TO)
APPROVE OR REJECT ITS ENERGY SALES) ORDER NO. 33944
AGREEMENT WITH CLARK CANYON)
HYDRO, LLC.)
)

On October 13, 2017, the Commission issued a final order rejecting an Energy Sales Agreement (Agreement) between Idaho Power Company (Idaho Power) and Clark Canyon (Clark). Order No. 33904. The Agreement was for Idaho Power to purchase generation from Clark Canyon’s qualifying facility (QF) under the Public Utility Regulatory Policies Act. The Commission rejected the Agreement because, among other reasons, the Agreement’s operating date had passed, and the ratepayer impacts of approving the Agreement as proposed by Clark would be contrary to the public interest.

On November 2, 2017, Clark petitioned the Commission to clarify Order No. 33904 under Rule 325. The Commission now denies Clark’s petition.

BACKGROUND

In June 2014, Idaho Power asked the Commission to approve or reject its Agreement with Clark. The Commission issued a procedural schedule (Order No. 33064), which it later suspended (Order No. 33088) after Staff discovered discrepancies between the Agreement and Clark’s Federal Energy Regulatory Commission (FERC) license. FERC terminated Clark’s license on March 19, 2015, and issued a new license to Clark on March 31, 2017. On July 12, 2017, the Commission issued a new procedural schedule (Order No. 33810), and received comments from Clark, Commission Staff, and Idaho Power.

In its final order rejecting the Agreement, the Commission observed that the Agreement’s “Scheduled Operation Date has passed.” Order No. 33904 at 6. The Commission thus reasoned, “it would not be just or reasonable to approve the Agreement with a provision we know is incorrect.” *Id.* The Commission also found that Idaho Power did not agree to Clark’s proposal to amend the Scheduled Operation Date, “nor does the public interest support it.” *Id.* (citing *Afton Energy, Inc. v. Idaho Power Co.*, 111 Idaho 925, 928 (1986) (other citation omitted)).

Further, the Commission determined that approving the Agreement with 2014 (rather than current) avoided cost rates would be contrary to the public interest. *Id.*

CLARK'S PETITION FOR CLARIFICATION

Commission rules provide that “[a]ny person may petition to clarify any order, whether interlocutory or final.” IDAPA 31.01.01.325. Under *Idaho Code* § 61-624, “The Commission may at any time, upon notice to the public utility affected, and after opportunity to be heard as provided in the case of complaints, rescind, alter or amend any order or decision made by it.” *Id.* Clark filed its petition for clarification under Rule 325, and Idaho Power timely objected per Rule 57.02 (IDAPA 31.01.01.057.02).

In its petition, Clark requested an order clarifying that it “may elect to enter into a new contract with Idaho Power at the currently effective rates for [QFs] seeking a replacement contract, i.e. *with capacity payments in the rates* from the start of the replacement contract.” Petition at 1 (emphasis added). Clark asserted the Commission implied Clark might not be entitled to capacity payments when it found that approving the Agreement as proposed by Clark “*could have as much as a \$6.6 million impact on customers.*” Order No. 33904 at 6 (emphasis added). According to Clark, the \$6.6 million figure was Idaho Power’s calculation of the net present value customer impact (between rates under the 2014 Agreement and rates that would be available today), which assumes Clark would not be entitled to the capacity payments from the start of a new contract. Petition at 2.

COMMISSION DECISION

In Final Order No. 33904, the Commission rejected the Agreement between Clark and Idaho Power without addressing the issue for which Clark now seeks clarification. We therefore reject Clark’s petition. The parties are free to return to the negotiating table and, if they choose, bring a new agreement for our consideration. We will address any disputed issues from such negotiations if they arise and are brought before us.

ORDER

IT IS HEREBY ORDERED that Clark Canyon’s petition for clarification is denied.

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 *8th* day of December 2017.



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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