

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION )  
OF IDAHO POWER COMPANY FOR ) CASE NO. IPC-E-18-01  
APPROVAL OR REJECTION OF AN )  
ENERGY SALES AGREEMENT WITH )  
DOUG AND NANCY HULL FOR THE SALE ) ORDER NO. 34002  
AND PURCHASE OF ELECTRIC ENERGY )  
FROM THE CURRY CATTLE COMPANY )  
HYDRO PROJECT )  
\_\_\_\_\_ )**

On January 10, 2018, Idaho Power Company applied to the Commission for an order approving or rejecting its Energy Sales Agreement (ESA) with Doug and Nancy Hull (Hull), under which Hull would sell and Idaho Power would purchase electric energy generated by the Curry Cattle Company hydro project. Application at 1. The Curry Cattle Company hydro project is a 250 kilowatt (kW) “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 setting comment and reply deadlines. Order No. 33977. Commission Staff timely filed comments; no other comments were received. The Commission now issues this Order approving the ESA.

**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 QFs. 16 U.S.C. § 824a-3(b); 18 C.F.R. § 292.303(a).

The rate that a QF receives for the sale of its power to a utility, called 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 this one generating less than 10 average megawatts (aMW) of energy, the Commission calculates and publishes rates with a Surrogate Avoidable Resource 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 parties have an existing ESA for the Curry Cattle Company hydro project that expires on June 16, 2018; the proposed ESA is a replacement contract with a new term and updated published avoided cost rates. *Id.* at 2. Hull elected for the ESA to have a 15-year term using the non-levelized rates for non-seasonal hydro projects smaller than 10 average megawatts. *Id.* at 4. The ESA uses the rates established by the Commission in Order No. 33773 dated June 1, 2017. *Id.* Because the ESA is a replacement contract, its rates contain capacity payments for the entire term. *Id.* at 3.

In sum, Idaho Power requests that the Commission issue an order accepting or rejecting the ESA and, if accepted, declaring that all payments for purchases of energy under the ESA be allowed as prudently incurred expenses for ratemaking purposes. *Id.* at 6.

### **STAFF’S COMMENTS**

Staff reviewed the proposed rates and confirmed they are correct and that all other terms contained in the proposed ESA are consistent with prior Commission orders. Staff Comments at 2. Staff thus recommends the Commission approve the ESA and declare that all payments made by Idaho Power for purchases of energy under the ESA be allowed as prudently incurred expenses for ratemaking purposes. *Id.*

### **COMMISSION FINDINGS AND DECISION**

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-502 and 61-503. The Commission has the express statutory authority to investigate rates, charges, rules,

regulations, practices, and contracts of public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provision of law, and may fix the same by order. *Idaho Code* §§ 61-502 and 61-503. In addition, the Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities and to implement FERC rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

The Commission has reviewed the record, including the Application, the ESA, and the comments and recommendations of Commission Staff. We find that the Curry Cattle Company hydroelectric project is qualified to receive the non-levelized, non-seasonal hydro published avoided cost rates contained 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 therefore approve the ESA without change or condition. Finally, we find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

**ORDER**

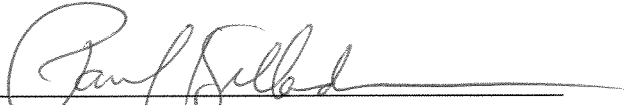
IT IS HEREBY ORDERED that the ESA between Idaho Power Company and Doug and Nancy Hull is approved.

IT IS FURTHER ORDERED that all payments made by Idaho Power Company for purchases of energy under the ESA are 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 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  
day of March 2018.

*7/10*

  
PAUL KJELLANDER, PRESIDENT

  
KRISTINE RAPER, COMMISSIONER

  
ERIC ANDERSON, COMMISSIONER

ATTEST:

  
Diane M. Hanian  
Commission Secretary

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