BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER TO APPROVE OR REJECT ITS ENERGY SALES AGREEMENT WITH EVERGREEN ENERGY, INC., FOR THE SALE AND PURCHASE OF ELECTRIC ENERGY FROM THE TAMARACK CSPP PROJECT	**CASE NO. IPC-E-18-04** **ORDER NO. 34075**

On March 29, 2018, Idaho Power Company applied to the Commission for an order approving or rejecting its Energy Sales Agreement (ESA) with Evergreen Energy, Inc. (Evergreen), under which Evergreen would sell and Idaho Power would purchase electric energy generated by the Tamarack CSPP biomass project (Facility). Application at 1. The Tamarack CSPP project is a 6.25 megawatt (MW) "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 May 7, 2018. *See* Order No. 34051. Staff filed comments on May 21, 2018. Idaho Power did not file reply comments. 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 Facility in this case – to establish "published" avoided cost rates. *Id.* 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.* In this case, the Facility is a QF in the "other," non-wind and non-solar category. Application at 3-4.

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

The parties' current ESA for the Facility expires on May 31, 2018; the new ESA would replace it, and include a new term and updated published avoided cost rates. *Id.* at 2. Evergreen elected for the new ESA to have a 20-year term using the levelized, other, published avoided cost rates for replacement contracts and for energy deliveries less than 10 average megawatts. *Id.* at 4. The new ESA uses the rates established by the Commission in Order No. 33773 dated June 1, 2017.[1] *Id.* Because the new ESA is a replacement contract, its rates contain capacity payments for the entire term. *Id.* at 2.

The Facility's nameplate rating is 6.24 MW, and Evergreen agreed not to exceed 10 aMW per month. *Id.* at 5. The Facility "is already interconnected and selling energy to Idaho Power" under the existing contract. *Id.* The new ESA specifies a Scheduled First Energy Date and Scheduled Operation Date of June 1, 2018. *Id.* The new ESA states, "applicable interconnection charges and monthly operational or maintenance charges under Schedule 72 will be assessed to [Evergreen]." *Id.* Also, PURPA QF generation "must be designated as a network resource (DNR) to serve Idaho Power's retail load on its system." *Id.*

Under the new ESA, to maintain DNR status, "there must be a power purchase agreement associated with [the Facility's] transmission service request in order to maintain compliance with Idaho Power's nondiscriminatory administration of its Open Access Transmission Tariff and

[1] The new ESA contains the Commission's standard terms and conditions relating to surplus energy ("90/110") and operations and maintenance ("O&M") fees. However, Evergreen has objected to the new ESA including provisions relating to the 90%/110% performance band, provisions from the current ESA, Generator Interconnection Agreement ("GIA"), and Schedule 72 relating to paying O&M charges. Idaho Power and Evergreen agree to move forward with the new ESA as submitted and to be bound by the currently approved and existing 90/110 and O&M provisions of the current ESA, unless and until the Commission issues a final order in any subsequent proceeding modifying or changing the same, as referenced in the Stipulated Motion from Case No. IPC-E-17-14.

maintain compliance with [Federal Energy Regulatory Commission] requirements." *Id.* The new ESA provides that it will not become effective "until the Commission has approved all of [its] terms and conditions and declared that all payments Idaho Power makes to [Evergreen] for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes." *Id.* at 6.

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 declare that Idaho Power's payments to Evergreen for energy from the Tamarack CSPP project will 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, new ESA, and Commission Staff's comments and recommendations. We find the Tamarack CSPP project is qualified to receive the levelized, Other (non-solar and non-wind) published avoided cost rates in the new ESA. We further find that the new 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.

O R D E R

IT IS HEREBY ORDERED that the new ESA between Idaho Power and Evergreen for a 20-year term is approved without change or condition. Further, Idaho Power's payments to Evergreen for energy from the Tamarack CSPP 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 30th day of May 2018.

PAUL KJELLANDER, PRESIDENT

KRISTINE RAPER, COMMISSIONER

ERIC ANDERSON, COMMISSIONER

ATTEST:

Diane M. Hanian
Commission Secretary

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