

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION) CASE NO. IPC-E-18-14
OF IDAHO POWER COMPANY FOR)
APPROVAL OF AN ENERGY SALES)
AGREEMENT WITH SCOTT AND RICK) ORDER NO. 34215
KASTER FOR THE PURCHASE OF)
ELECTRIC ENERGY FROM THE BOX)
CANYON HYDRO PROJECT)

On October 15, 2018, Idaho Power Company (“Idaho Power” or “Company”) applied for an order approving or rejecting an Energy Sales Agreement (“ESA”) between the Company and Scott and Rick Kaster for the Box Canyon Hydro Project (“Box Canyon” or “Project”). The Project is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

The Commission subsequently set comment and reply deadlines. Order No. 34186. Commission Staff filed the only comments in the case, and recommended the Commission approve the Application. The Company did not reply.

Having reviewed the record, 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.” *FERC v. Mississippi*, 456 U.S. 742, 745-46 (1982). Under PURPA and its implementing regulations, utilities must purchase the power produced by QFs. 16 U.S.C. § 824a-3(b); 18 C.F.R. § 292.303(a). The utility must purchase the power at the avoided cost rate. 18 C.F.R. § 292.304(a). The avoided cost represents “the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.” 18 C.F.R. § 292.101(b)(6). State utilities commissions have broad discretion to set the avoided cost rates within their respective jurisdictions. *Rosebud Enterprises, Inc. v. Idaho PUC*, 128 Idaho 624, 627, 917 P.2d 781, 784 (1996).

QFs have the option to sell energy either (1) as it becomes available, or (2) pursuant to a legally enforceable obligation. 18 C.F.R. 292.304(d). If a QF opts to sell energy as it becomes

available, the QF sells the energy pursuant to a standard tariff for non-firm energy. *See* Order No. 33053. In the case of Idaho Power, that tariff is Schedule 86. If a QF opts to sell energy pursuant to a legally enforceable obligation, the QF sells the energy under terms established by the Commission. *See e.g.*, Order No. 33357. The Commission must establish published avoided cost rates for all QFs 100 kW and smaller. 18 C.F.R. 292.304(c)(1). The Commission, in its discretion, may also establish published avoided cost rates for QFs above 100 kW. 18 C.F.R. 292.304(c)(2).

The Commission has established published avoided cost rates for non-wind and non-solar QFs up to 10 aMW. Order No. 32697 at 14. Wind and solar QFs up to 100 kW are entitled to published avoided cost rates. *Id.* at 13. Published avoided cost rates are determined by the Surrogate Avoided Resource methodology (“SAR”). The Commission uses a combined-cycle combustion turbine as the proxy resource in calculating published avoided cost rates under the SAR methodology. *Id.* at 17. These published avoided cost rates are updated annually to reflect updated natural gas forecasts. Order No. 32802.

The Commission has determined that it is in the public interest to compensate QFs separately for the energy they produce and the capacity they contribute to the purchasing utility. Order No. 32697 at 15. QFs selling energy under a SAR-based contract or a contract with prices set using the Integrated Resource Plan (“IRP”) methodology are not entitled to compensation for capacity until the utility’s first capacity deficit date. The first capacity deficit date is determined through the IRP process. Order No. 33357 at 25-26. If a QF renews its contract with the utility, the capacity deficit date is still determined as of the date the original contract was executed. Order No. 33419 at 26. *See also* Order No. 32737 at 5 (clarifying that Staff will tailor SAR-based rates to include capacity for renewal contracts from the outset).

THE APPLICATION

In the Application, the Company states Box Canyon is a 300 kilowatt (“kW”) nameplate capacity hydroelectric facility near Buhl, Idaho. Application at 4. The Project currently delivers energy to the Company under an ESA dated October 7, 1983. *Id.* The current ESA expires on February 11, 2019. *Id.* The proposed First Energy Date and Scheduled Operation Date under the new ESA is set for February 12, 2019. *Id.*

In the proposed ESA, Box Canyon has elected non-levelized, non-seasonal hydroelectric published avoided cost rates for a 20-year term. *Id.* at 3-4. Because this is a replacement ESA and the QF will be receiving capacity payments at the end of its expiring ESA,

the proposed ESA contains capacity payments for the entire term of the Agreement. *Id.* at 2. Therefore, pursuant to Order No. 32737, Commission Staff calculated the QF's rates using the current SAR methodology avoided cost rates established in Order No. 34062, with compensation for capacity from the outset of the replacement ESA. *Id.*

The Company requests the Commission enter an order approving or rejecting the new ESA, and declaring that the Company's payments for energy under the ESA will be allowed as prudently incurred expenses for ratemaking purposes. *Id.* at 6.

STAFF'S COMMENTS

Staff reviewed the Application and recommended the Commission approve the ESA. In forming its recommendation, Staff focused on: 1) the ESA's compliance with the Commission's 90/110 performance band, 2) the QF's eligibility for a capacity payment and the amount of the payment, 3) verification of the non-seasonal non-levelized hydro rates, and 4) the QF's eligibility for published rates based on the capacity size threshold of 10 aMW. Staff determined that the ESA conforms to pertinent Commission Orders in all regards.

COMMISSION FINDINGS AND DECISION

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-502 and 61-503. The Commission is empowered 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 to fix the same by order. *Idaho Code* §§ 61-502 and 61-503. In addition, 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 and capacity from QFs, 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 Box Canyon Hydroelectric Project is qualified to receive the non-levelized, non-seasonal hydro published avoided cost rates contained in the ESA. Because this is a replacement contract and the QF will be receiving capacity payments at the expiration of its current contract, it is appropriate to include payment for capacity in the QF's rates from the outset of the replacement contract. We further find that the ESA contains acceptable contract provisions consistent with PURPA, FERC

regulations, and this Commission's prior orders. We therefore find it reasonable to 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 and Scott and Rick Kaster for electric energy and capacity produced by the Box Canyon Hydro Project is approved.

IT IS FURTHER ORDERED that all payments made by Idaho Power for purchases of energy and capacity under the ESA are allowed as prudently incurred expenses for ratemaking purposes.

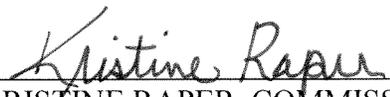
THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this
day of December 2018.

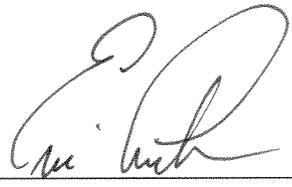
17th



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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