



Idaho Public Utilities Commission

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Case No. IPC-E-17-01, Order No. 33785

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Proposed battery storage facilities eligible for two-year, negotiated contracts

BOISE (July 14, 2017) - The Idaho Public Utilities Commission has determined that five proposed battery storage facilities qualify for contracts under PURPA based on their primary energy source, making them eligible for two-year, negotiated contracts with Idaho Power.

Franklin Energy Storage LLC intends to construct four battery storage projects in Twin Falls County. A fifth, proposed by Black Mesa Energy LLC, would be located in Elmore County.

Plans call for the batteries to be charged with energy from nearby solar projects capable of generating 2.5 average megawatts. The electricity would be dispatched to Idaho Power under the provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA).

PURPA requires electric utilities to purchase energy from qualifying independent power producers but gives state regulators authority to determine the contract terms for PURPA-eligible facilities.

In Idaho, PURPA projects larger than 100 kilowatts and powered by intermittent sources such as solar and wind are eligible for two-year contracts at a rate negotiated between the utility and the developer (IRP methodology).

Franklin Energy contended that its storage projects should qualify for 20-year contracts at the published rate set by the Commission.

In refusing to enter into 20-year contracts for the proposed facilities at the published rate, Idaho Power is attempting to “change the rules in the middle of the game,” Franklin Energy said.

Idaho Power countered that the proposed facilities should be eligible for two-year contracts at a negotiated rate because their primary energy source is solar.

The company claimed the battery storage facilities proposed by Franklin and Black Mesa are a “blatant attempt to manipulate” the eligibility cap, to the detriment of its customers.

Idaho Power asked the Commission to issue a declaratory order confirming that the proposed facilities, and battery storage facilities in general, are eligible for two-year, negotiated PURPA contracts.

In their order, commissioners said they were unaware of any reference to battery storage in PURPA or in regulations set by the Federal Energy Regulatory Commission (FERC), which implements PURPA. Moreover, the Commission said, "the battery storage facilities' QF status is a matter within FERC's jurisdiction and is not at issue in this case."

The Commission was instead persuaded by a FERC order issued in 1990 that addressed the treatment of battery storage facilities. In the *Luz Development and Finance Corporation* case, FERC found that energy storage facilities are not *per se* small power producers as contemplated by PURPA, and that a facility's primary energy source must be considered.

Since the facilities proposed by Franklin and Black Mesa utilize solar as the primary energy source, the Commission determined that the projects would only be eligible for two-year, negotiated contracts.

"Accordingly, we find it appropriate to base Franklin's and Black Mesa's eligibility under PURPA on its primary energy source – solar," the Commission said.

The Commission's order, along with other documents related to this case, is available on the Commission's website, puc.idaho.gov. Click on "File Room," scroll down to "Electric Cases" and click on IPC-E-17-01.