

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER)	
COMPANY'S APPLICATION FOR)	CASE NO. IPC-E-19-30
APPROVAL OF AN ENERGY SALES)	
AGREEMENT WITH DAVID SNEDIGAR)	
FOR THE SALE AND PURCHASE OF)	
ELECTRIC ENERGY FROM THE)	ORDER NO. 34512
<u>SNEDIGAR HYDRO PROJECT</u>)	

On October 4, 2019, Idaho Power Company ("Idaho Power" or "Company") filed an Application requesting consideration of an Energy Sales Agreement ("ESA" or "Agreement") with David Snedigar for energy generated by the Snedigar Hydro project ("Facility").

On October 31, 2019, the Commission issued a notice of Application and Modified Procedure, setting a December 5, 2019 comment deadline and a December 12, 2019 reply comment deadline. Commission Staff filed the only comments, and the Company did not file reply comments.

Now, based on our review of the record, the Commission approves the Application.

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 qualifying facilities ("QF"). 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 uses the Integrated Resource Plan (“IRP”) methodology to determine avoided cost rates for QFs that are not eligible for published avoided cost rates. The IRP methodology “assesses the value of each QF project in terms of its capability to deliver resources in relation to the timing and magnitude of the utility’s need of such resources.” Order No. 32697 at 17. The Commission annually updates certain inputs to the IRP methodology such as natural gas forecasts, utility load forecasts, and long-term contract commitments. Order No. 32697 at 22 (timing of filing changed from June 1 to October 15 of each year by Order No. 32802 at 3).

For both SAR-based and IRP-based rates, 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. *Id.* at 16. QFs selling energy under a SAR-based or an IRP-based contract are not entitled to compensation for capacity until the utility’s first capacity deficit date. Order No. 32697 at 21. The first capacity deficit date is determined through the IRP planning 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). Schedule 86 contracts—for QFs that sell energy to Idaho Power as it becomes available—do not have a separate energy and capacity component.

THE APPLICATION

The Facility is a QF under the Public Utility Regulatory Policies Act of 1978, and has been delivering energy to Idaho Power under a firm energy sales agreement dated February 24,

1984, which expires December 31, 2019. The Facility is a 495 kW nameplate capacity hydro facility near Bliss, Idaho. The Company stated that the Agreement contains published non-seasonal, non-levelized avoided cost rates for a 20-year term. The Facility has a scheduled First Energy Date under the ESA of January 1, 2020. The Company requested the Commission declare all payments for purchase of energy under the ESA be allowed as prudently incurred expenses for ratemaking purposes.

THE COMMENTS

Staff's Comments

Staff's review of the ESA focused on the implementation of the 90/110 performance band, the eligibility for and amount of capacity payments, the Facility's non-seasonal hydro status, and the Facility's eligibility for published rates as determined by the capacity-size threshold. Staff verified the Facility's non-seasonal hydro status and its compliance with the capacity-size threshold for published avoided cost rates. Staff verified the 5-Day Ahead monthly generation forecast provision complies with the provision approved by the Commission in IPC-E-19-01. Staff notes the Facility has been delivering energy to the Company since the 1980s, and therefore has extensive historical production data that the Company can use for both short-term and long-term planning.

Staff notes the Facility is not being paid for capacity at the end of its original contract, but asserts the Facility should receive immediate payment for capacity based on the recent approval of the Black Canyon #3 project energy sales agreement in Case No. IPC-E-19-04. *See* Order No. 34295 at 5. Staff believes the rationale used in Commission Order No. 34295 for the Black Canyon #3 project also applies to the Facility, and recommends approval of immediate capacity payments in the proposed ESA.

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 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 of Commission Staff. Based on our review, we find it reasonable to approve the ESA because the ESA contains Commission-approved terms that the Facility is eligible for based on its characteristics such as fuel source, project size, generation output profile, and renewal contract status. We also find that the Company's payments for purchases of energy and capacity under the ESA are prudently incurred expenses for ratemaking purposes.

Regarding capacity payments, we held in Order No. 32697 that it is reasonable "for the utilities to only begin payments for capacity at such time that the utility becomes capacity deficient." In the same order, however, we stated an exception: "if a QF project is being paid for capacity at the end of the contract term and the parties are seeking renewal/extension of the contract, the renewal/extension would include immediate payment of capacity." Our reason for this exception was that an existing QF's capacity cannot be considered surplus power because its capacity has already been included in the utility's load and resource balance. More recently, we found including immediate capacity payments in the replacement energy sales agreement for the Black Canyon #3 project reasonable—even though the previous agreement had not included capacity payments—because the QF had been included in Idaho Power's load and resource balance for decades. Order No. 34295; *see* 34200. Similar to the Black Canyon #3 project, Idaho Power has relied on the Facility's capacity for 35 years—through multiple capacity deficiency periods. Therefore, we find the immediate capacity payments in the ESA reasonable.

ORDER

IT IS HEREBY ORDERED that the ESA between Idaho Power and Mr. Snedigar is approved, effective on service date of this Order.

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.*

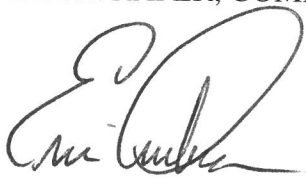
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this *24th*
day of December 2019.



PAUL KJELLANDER, PRESIDENT

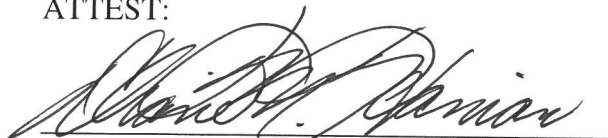


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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