

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION )**  
**OF IDAHO POWER COMPANY FOR ) CASE NO. IPC-E-19-38**  
**APPROVAL OR REJECTION OF AN )**  
**ENERGY SALES AGREEMENT WITH BIG )**  
**WOOD CANAL COMPANY FOR THE SALE ) ORDER NO. 34677**  
**AND PURCHASE OF ELECTRIC ENERGY )**  
**FROM THE SAGEBRUSH HYDRO )**  
**PROJECT )**  
**)**

---

On December 9, 2019, Idaho Power Company (“Company”) applied for Commission approval or rejection of its Energy Sales Agreement (“ESA”) with Big Wood Canal Company (“Seller”) for the Sagebrush hydro project (“Sagebrush Facility”). The Sagebrush Facility is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

On January 10, 2020, the Commission issued its Notice of Application and Notice of Modified Procedure. Order No. 34528. The Commission Staff (“Staff”) filed written comments on January 31, 2020. Wood Hydro, LLC (“Wood Hydro”) filed reply comments on February 5, 2020.<sup>1</sup> The Company filed reply comments on February 21, 2020. March 17, 2020, Wood Hydro filed supplemental reply comments.

Having reviewed the record, the Commission enters this Order approving the Company’s Application as modified by the findings set forth below.

**BACKGROUND**

Under PURPA, electric utilities must purchase electric energy from QFs at purchase or "avoided cost" rates approved by the Commission. 16 U.S.C. § 824a-3; *Idaho Power Co. v. Idaho PUC*, 155 Idaho 780, 789, 316 P.3d 1278, 1287 (2013). The Commission has established two methods for calculating avoided costs, depending on the size of the QF project: (1) the surrogate avoided resource (“SAR”) methodology, used to establish "published" avoided cost rates; and (2) the integrated resource plan (“IRP”) methodology, to calculate avoided cost rates for projects exceeding published rate limits. *See* Order No. 32697 at 7-22.

---

<sup>1</sup> Ted Sorenson represents that he is filing the Reply Comments on behalf of Wood Hydro. Sorenson is listed as a governor of Wood Hydro according to records of the Idaho Secretary of State. He is also listed as an “Authorized Agent” of Big Wood as set forth in the ESA. *See* ESA at p. 1, paragraph 1.2, and p. 33, paragraph 25.2.

## THE APPLICATION

The Sagebrush Facility is a 575 kilowatt (“kW”) nameplate capacity hydroelectric facility near Gooding, Idaho. *Application* at 2. The Sagebrush Facility delivers energy to the Company under a PURPA energy sales agreement executed on April 1, 1985. *Id.* at 2. The existing energy sales agreement expires on May 31, 2020. *Id.* The Company and Seller intend the proposed ESA to replace the expiring energy sales agreement. The Company represents the proposed ESA complies with Commission orders regarding this type of agreement. *Id.* The Company asks the Commission to process the Application before the current energy sales agreement expires. *Id.* at 6.

In the proposed ESA, Seller has contracted for non-levelized, seasonal hydro published avoided cost rates as set by the Commission in Order No. 34350 for a 20-year term. *Id.* at 4. Because this is a replacement ESA, it contains capacity payments for the entire term of the Agreement. *Id.* at 3. The Company requests its Application be processed by Modified Procedure. *Id.* at 6.

## COMMENTS

### 1. Staff Comments.

Staff recommends approval of the proposed ESA between the Company and Seller conditioned on the parties modifying the avoided cost rates in the ESA. *Id.* at 2. Staff’s recommendation is based upon its review of the ESA, which was focused on: (1) the 90/110 rule with a five-day advanced notice for adjusting Estimated Net Energy Amounts; (2) eligibility for and the amount of capacity payments; and, (3) verification of seasonal hydro status. *Staff Comments* at 2.

Staff verified that the 90/110 provision is included in the ESA. *Id.* Staff confirmed that the ESA adopted a five-day advance notice for adjusting Estimated Net Energy Amounts for purposes of complying with 90/110 firmness requirements. *Id.* Staff noted that the Seller is being paid for capacity at the end of the expiring contract and thus the proposed avoided cost rates include capacity payments for the full term of the proposed ESA for the nameplate capacity of 575 kW. *Id.* at 2-3. However, Staff noted the nameplate capacity of the Sagebrush Facility has increased by 145 kW from the previous 430 kW in the expiring contract. *Id.* at 3. Staff asserted the Company has only reflected the amount of capacity contained in the expiring contract in its resource planning, so it has only avoided the cost of the original 430 kW. *Id.* As a result, Staff

asserts the Seller should only receive capacity payments for 430 kW. *Id.* Staff asserts the 145 kW increase in nameplate capacity should be treated as a new project and receive capacity payments only after the Company becomes capacity deficient. *Id.*

Staff proposed applying a blended avoided cost rate to the Sagebrush Facility's 575 nameplate capacity. *Id.* at 4. The blended rates use the weighted-average of two sets of rates based on their respective nameplate capacities: 1) energy payments and immediate capacity payments based on the nameplate capacity of 430 kW in the expiring contract; and 2) energy and capacity payments starting when the Company's system becomes capacity deficient in 2026 based on the incremental increase in nameplate capacity of 145 kW in the proposed ESA. *Id.*

Staff calculated the blended avoided cost rates for both seasonal and non-seasonal hydro even though the Sagebrush Facility is classified as a seasonal project because if the Sagebrush Facility fails to meet associated criteria for three calendar years it could be reclassified as a non-seasonal hydro project for the remaining term of the ESA. *Id.*

## 2. Wood Hydro's Reply Comments.

Wood Hydro states the Sagebrush Facility and the Jim Knight hydro project ("Jim Knight Facility") for which the Seller has filed proposed energy sales agreements in this case and Case No. IPC-E-19-37, are near each other, on the same waterway, rely on the same water flows, and are run by the same operator. *Wood Hydro Reply Comments* at 2. Wood Hydro asserts the proposed energy sales agreements are materially identical, and the Facilities' effects on the Company's system and resource planning can be viewed and received as one plant. *Id.* As a result, Wood Hydro argues the 75 kW reduction in the Jim Knight Facility's nameplate capacity was contemplated by the Company's IRP and would be filled by the increase in nameplate capacity for the Sagebrush Facility, reducing the Sagebrush Facility's resource expansion to an absolute number of 70 kW. *Id.* Wood Hydro asserts that filling the void in the resource stack with QF power matches the Commission's reasoning in Order No. 32697 that initially separated energy and capacity payments in the surrogate avoided resource method. *Id.*

Wood Hydro disagrees with Staff's proposal for melding the new incremental capacity with historical capacity and developing blended rates. Wood Hydro asserts this isn't consistent with PURPA's avoided cost requirement or the means of handling new and existing capacity in Order No. 32697. Wood Hydro alleges if nothing has changed in the "old capacity" of the Sagebrush Facility, then this portion should be given the actual avoided cost rate as calculated by

Commission order. *Id.* at 3. If the Sagebrush Facility’s production exceeds 430 kW any additional amount could be treated differently. *Id.* Lastly, Wood Hydro asserts that if production does not reach the outer limits of a plant’s capacity, penalizing capacity incorporated in the Company’s IRP does not comport with PURPA or the Commission’s previous ratemaking. *Id.*

3. Company Reply Comments.

The Company agrees with Staff’s recommendation that only the nameplate capacity in the expiring contract is entitled to capacity payments during the Company’s current capacity deficiency period. *Idaho Power Reply Comments* at 2. The Company also doesn’t agree with Wood Hydro’s request for a netting/offset between the Sagebrush and Jim Knight Facilities. *Id.* The Company states it will move forward with whatever rate the Commission deems appropriate for the proposed ESA. *Id.*

4. Wood Hydro Supplemental Comments.

Wood Hydro asserts the increase in nameplate capacity for the Sagebrush Facility resulted from necessary upgrades to accommodate an increase in cubic feet per second flow through its sister Jim Knight Facility. *Wood Hydro Supplemental Comments* at 1.

Wood Hydro asserts that Staff’s proposed blended rates are less than the avoided cost rates that would be paid to the Seller for the old nameplate capacity of 430 kW. *Id.* at 2. Applying the standard avoided cost rates, Wood Hydro alleges that if the Sagebrush Facility delivers only 430 kW throughout the year, the Seller would receive the full capacity payment for all energy deliveries under the expiring contract. But if the blended rates are applied, the Seller would not receive the same capacity payment until 575 kW is delivered. *Id.* at 2-3. Wood Hydro asserts the better method is to pay old capacity (430 kW) at published rates for energy and capacity, and incremental capacity at published rates for energy until the Company’s system becomes capacity deficient in 2026. *Id.* at 3. Wood Hydro also suggests that the Commission could adopt a rule that adding incremental capacity would not be an issue unless the addition exceeds 1 MW. *Id.*

Last, Wood Hydro states that approving Staff’s blended rates in a case processed by Modified Procedure is inappropriate and that Commission Rule of Procedure 121 specifies procedures and content for cases proposing new rates. *Id.*<sup>2</sup>

---

<sup>2</sup> Rule 121, entitled Form and Content of Application to Change Rates, states in summary: “Applications by any public utility . . . to increase, decrease or change any rate, fare, toll, rental or charge or any classification, contract, practice, rule or regulation resulting in any such increase, decrease or change” must contain certain information.

## 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. The Commission also has authority under PURPA and Federal Energy Regulatory Commission (“FERC”) regulations to set avoided cost rates, to order electric utilities to enter 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, the comments of Staff, and the reply comments of the Company and Seller. Based on our review, the Commission finds it reasonable to approve the ESA based on the findings and conditions set forth herein.

The Commission approves the ESA because it contains Commission-approved terms that the Sagebrush Facility is eligible for based on its characteristics such as fuel source, project size, generation output profile, and renewal contract status. However, such approval only allows for the Seller to receive capacity payments for the previous nameplate capacity of the Sagebrush Facility.

The Sagebrush Facility’s nameplate capacity is now 575 kW, 145 kW more than existed with the expiring contract between the Company and Seller. Under the expiring contract, the Seller is being paid for capacity for 430 kW. As such, 430 kW from the Sagebrush Facility is already included in the Company’s load and resource balance and would not be surplus power.<sup>3</sup> See Order No. 32697 at 21-22. The Commission finds it reasonable for the Seller to be paid for

---

<sup>3</sup> In Case No. GNR-E-11-03 the Commission found:

It is logical that, 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. An existing QF’s capacity would have already been included in the utility’s load and resource balance and could not be considered surplus power. Therefore, we find it reasonable to allow QFs entering into contract extensions or renewals to be paid capacity for the full term of the extension or renewal.

Order No. 32697 at 21-22 (emphasis added).

capacity up to 430 kW for the full term of this renewal ESA. *See* Order No. 32697 at 21-22. The Commission also finds that the 145 kW increase in capacity for the Sagebrush Facility comes at a time when the Company is not capacity deficient. This “new” capacity is analogous to a new QF whose output and pricing must be evaluated when an executed energy sales agreement with an electric utility is filed with the Commission for review. Therefore, the Commission finds that the Seller shall not receive capacity payments for the 145 kW increase to the nameplate capacity of the Sagebrush Facility until the Company becomes capacity deficient.

The Commission also finds that all payments made by the Company for purchases of energy and capacity under the ESA, as modified by this Order, are allowed as prudently incurred expenses for ratemaking purposes.

While the Commission appreciates Staff’s creativity in developing a blended rate, it is not a currently approved avoided cost calculation. The Commission also finds that the record does not support Wood Hydro’s netting/offset argument. The Sagebrush Facility and Jim Knight Facility are separate QFs, in different locations and under two different energy sales agreements. Each QF is unique and must meet the eligibility requirements of both FERC and this Commission to achieve this status without consideration of characteristics of a separate QF. Therefore, netting between the projects would be inappropriate.

### **ORDER**

IT IS HEREBY ORDERED that the ESA, as modified by the Commission’s findings herein, is approved, effective on the service date of this Order.

IT IS FURTHER ORDERED that all payments made by the Company for purchases of energy and capacity under the ESA, as modified by this Order, 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 about 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 28<sup>th</sup>  
day of May 2020.

  
\_\_\_\_\_  
PAUL KJELLANDER, PRESIDENT

  
\_\_\_\_\_  
KRISTINE RAPER, COMMISSIONER

  
\_\_\_\_\_  
ERIC ANDERSON, COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
Diane M. Hanian  
Commission Secretary

I:\Legal\ELECTRIC\IPC-E-19-38\orders\IPCE1938\_Final\_jh.docx