

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. 34727
AND PURCHASE OF ELECTRIC ENERGY)
FROM THE SAGEBRUSH HYDRO)
PROJECT)
_____)**

On May 28, 2020, the Commission approved, as modified by its findings, Idaho Power Company’s (“Company”) Energy Sales Agreement (“ESA”) with Big Wood Canal Company (“Seller”) for the Sagebrush hydro project (“Facility”). The Facility is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

On June 18, 2020, the Company filed a Motion for Approval of First Amendment to Energy Sales Agreement in Compliance with Order No. 34677 or Alternatively for Clarification and/or Reconsideration (“Motion”). On June 25, 2020, the Commission Staff (“Staff”) filed an Answer to the Company’s Motion. On June 30, 2020, Wood Hydro, LLC (“Wood Hydro”) filed an Answer to Staff’s Answer.

Having reviewed the record, the Commission grants the Company’s request for clarification as discussed in more detail in the Commission’s Findings.

FINAL ORDER NO. 34677

In Order No. 34677, the Commission approved the ESA because the ESA contained Commission-approved terms for which the Facility is eligible. Order No. 34677 at 5. However, the Commission only authorized the Seller to receive capacity payments for 430 kilowatts (“kW”), the nameplate capacity under the expired agreement between Seller and the Company. *Id.*¹ The Commission found 430 kW already was in the Company’s load and resource balance and would not be surplus power due to the expired agreement. *Id.*; *see also* Order No. 32697 at 21-22. Under the new ESA, the Facility’s nameplate capacity increased to 575 kW. *Id.* Because the ESA was a renewal contract the Commission found the Company should pay the Seller for capacity up to 430 kW for the full term of the renewal ESA. *Id.* at 5-6. *See* Order No. 32697 at 21-22. But the

¹ The previous agreement was executed on April 1, 1985 and expired on May 31, 2020.

Commission found the Company should not pay the Seller for the 145 kW in increased capacity. *Id.* at 6. The Commission noted the Facility had increased its capacity by 145-kW at a time when the Company is not capacity deficient. *Id.* The Commission analogized this “new” capacity to a new QF whose output and pricing must be evaluated when an electric utility files an executed energy sales agreement for review. *Id.* The Commission thus determined the Seller shall not receive capacity payments for the Facility’s 145 kW increase in nameplate capacity until the Company becomes capacity deficient in 2026. *Id.*

The Commission also found that the Company’s payments for purchases of energy and capacity under the ESA, as modified by the Order, would be allowed as prudently incurred expenses for ratemaking purposes. *Id.*

THE COMPANY’S MOTION

The Company represented the First Amendment would change the ESA approved in Order No. 34667 to let the Company pay the Seller a different rate (that would exclude capacity) for any hourly delivery of generation above 430 kW. *Motion* at 2. Commission Order No. 34667 did not direct the Company to make a compliance filing. The Company nevertheless claimed the proposed Amendment was needed to comply with that Order. *Id.* Alternatively, if the Commission declines to approve the First Amendment, the Company would like the Commission to clarify or reconsider its findings in Order No. 34677. *Id.*

The Company represented it can obtain hourly meter data for the Facility that would enable it to administer the ESA so each hour it can pay the Seller one rate that includes capacity and energy for Facility-delivered generation up to 430 kW, and another rate (that excludes capacity) for Facility-delivered generation over 430 kW. *Id.* at 3. The Company claimed administering both rates required it to amend the Commission-approved ESA by providing an additional rate schedule (Appendix H to the Amendment) and changing some language to effectuate the two rates approved by the Commission in Order No. 34677. *Id.* at 3-4.

STAFF’S ANSWER

Staff asserted the Amendment contains new provisions not seen in previous QF contracts. Staff argued it would need to review the new provisions in-depth to ensure they comply with prior orders including Order No. 34677, and do not interfere with other required provisions in the ESA. *Staff Answer* at 2. Staff also wished to determine whether the Amendment’s proposed rate structure would make measuring compliance with 90/110 requirements difficult and whether

the Amendment would prevent the Seller from receiving immediate capacity payments for generation from the incremental 145 kW of capacity. *Id.* at 2-3.

Staff recommended that the Commission grant the alternative request in Company's Motion to clarify or reconsider the Order under *Idaho Code* § 61-626 and Commission Rules of Procedure 325 and/or 332. Staff recommended the Commission set a schedule that would allow for discovery and written comments to fully develop a record upon which to evaluate the Amendment. *Id.* at 2-3.

WOOD HYDRO'S ANSWER

Wood Hydro disagreed with Staff's recommendation that discovery be allowed. Wood Hydro argued Staff already knows or should know the information it seeks. *Id.* at 2. Wood Hydro alleged the four matters Staff wants to examine can be investigated without discovery and on the record either by reading the ESA, comparing other Commission orders, or calling the Company. *Id.* at 3.

COMMISSION DECISION

After reviewing the record, the Commission grants the Company's request for clarification pursuant to Commission Rule of Procedure 325 to consider whether the new provisions proposed in the First Amendment to the ESA are consistent with Order No. 34677. To engage in this review the Commission finds it prudent to allow the parties in the case to conduct discovery and to file additional written comments on the proposed Amendment and the issues raised by Staff in its Answer before the Commission issues a final order on clarification. The parties or interested persons may file written comments by August 7, 2020. If the Company wishes to reply, it must file its reply comments by August 14, 2020. After the deadline for filing reply comments has passed the Commission will issue its final order on clarification.

ORDER

IT IS HEREBY ORDERED that the Company's Motion for clarification is granted.

IT IS FURTHER ORDERED that the parties may conduct discovery on the proposed Amendment and Staff's issues as set forth above. The parties or interested persons must file any written comments about the Amendment, or the issues raised by Staff by August 7, 2020.

IT IS FURTHER ORDERED that the Company must file any reply comments by August 14, 2020.

IT IS FURTHER ORDERED that the Commission will review the record after any additional written comments are filed and issue its final order on clarification.

IT IS FURTHER ORDERED that parties should continue to comply with Order No. 34602, issued March 17, 2020. All pleadings should be filed with the Commission electronically and shall be deemed timely filed when received by the Commission Secretary. *See* Rule 14.02. Service between parties should also be accomplished electronically. Voluminous discovery-related documents may be filed and served on CD-ROM or a USB flash drive.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 23rd day of July 2020.



PAUL KJELLANDER, PRESIDENT

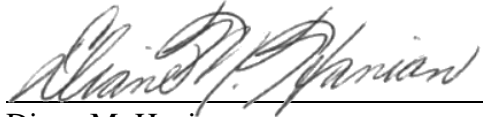


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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