

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF IDAHO POWER'S ) CASE NO. IPC-E-20-02**  
**PETITION TO ESTABLISH AVOIDED COST )**  
**RATES AND TERMS FOR ENERGY ) NOTICE OF APPLICATION**  
**STORAGE QUALIFYING FACILITIES )**  
**UNDER PURPA ) NOTICE OF INTERVENTION**  
**) DEADLINE**  
**)**  
**)**  
**) ORDER NO. 34552**

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On January 21, 2020, Idaho Power Company (“Company”) filed a petition requesting the Commission determine avoided cost rates, contract terms, and conditions applicable to energy storage qualifying facilities (“QF” or “QFs”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

**PURPA BACKGROUND**

PURPA, and Federal Energy Regulatory Commission (“FERC”) rules require state commissions to establish published avoided cost rates for QFs with a nameplate capacity of 100 kilowatts (“kW”) or less. 18 C.F.R. § 292.304(c)(1). The state commissions, in their discretion, may establish published avoided cost rates for QFs greater than 100 kW. 18 C.F.R. § 292.304(c)(2). State commissions may differentiate among QFs using various technologies based on the supply characteristics of the resource. 18 C.F.R. § 292.304(c)(3)(ii).

In Idaho, this Commission has established a 100 kW project eligibility cap for wind QFs and solar QFs to receive published avoided cost rates. Order Nos. 32262 at 8, 32697 at 13. All other QF types have a 10 average Megawatt (“aMW”) project eligibility cap for published avoided cost rates. Order No. 32697 at 14. Published avoided cost rates in Idaho are calculated by the Surrogate Avoided Resource (“SAR”) method, which is based on the assumed cost of a hypothetical combined cycle combustion turbine. *See* Order No. 32697 at 17. Negotiated rates, which are available for QFs above the project eligibility cap, are calculated by the incremental cost Integrate Resource Plan (“IRP”) method. The IRP method calculates the marginal value of energy on the Company’s system on an hourly basis given the Company’s actual resource stack. *See* Order No. 32697 at 20-21.

In addition to eligibility for published avoided cost rates, the project eligibility cap determines the length of contract for which a QF is eligible. Those above the project eligibility cap in Idaho are entitled to two-year contracts. Order No. 33357 at 25. Those below the project eligibility cap in Idaho are entitled to twenty-year contracts. *See* Order No. 33253 at 4.

### **PURPA ENERGY STORAGE IN IDAHO BACKGROUND**

In Order No. 33785, the Commission determined five energy storage QFs were entitled to the terms and conditions available to solar QFs because the generation profiles of those QFs aligned closely to the generation profiles of solar QFs, and based on the Commission's interpretation of *Luz Development and Finance Corporation*, 51 FERC ¶ 61,078 (1990). Order No. 33785 at 11-12. *See also* Order No. 33858 at 3.

On January 17, 2020, the United States District Court for the District of Idaho issued a Memorandum Decision and Order in *Franklin Energy Storage One et al. v. Kjellander et al.*, Case No. 1:18-cv-00236-REB, holding that the Commission's decision in Order No. 33785 "established an implementation plan that impermissibly classified the QF status of Plaintiffs' energy storage facilities that are certified under [PURPA] as energy storage facilities." Memorandum Decision at 37. "Classifying such facilities as 'solar QFs' is outside the Commissioners' authority as state regulators and therefore in violation of federal law." *Id.* While finding that the Commission could not treat these energy storage QFs as solar QFs, the Court specifically declined "to order [the Commission] to require utilities under their jurisdiction to afford energy storage QFs all rights and privileges afforded to 'other QFs' under the IPUC's PURPA implementation plan." *Id.*<sup>1</sup>

In response to the Memorandum Decision, and to two energy storage QF applications received by Idaho Power immediately following the Memorandum Decision, Idaho Power filed this petition requesting the Commission determine the proper avoided cost rates and contract terms applicable to energy storage QFs. Petition at 5. Idaho Power requests the Commission establish a 100 kW eligibility cap for energy storage QFs to receive published avoided cost rates and twenty-year contracts, the minimum project eligibility cap allowed by FERC rules. Idaho Power requests any energy storage QF above the eligibility cap receive avoided cost rates calculated by the IRP method and be eligible for two-year contracts. Petition at 2.

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<sup>1</sup> The Commission voted to appeal the District Court's Judgment at the February 4, 2020 Decision Meeting.

## NOTICE OF APPLICATION

YOU ARE HEREBY NOTIFIED that the Company requests the Commission establish a 100 kW project eligibility cap for energy storage QFs to receive published avoided cost rates and twenty-year contracts.

YOU ARE FURTHER NOTIFIED that the Company bases its request for a 100 kW project eligibility cap on its assertion that the IRP method is the only way to properly value an energy storage QF's output and because the Company asserts the 100 kW project eligibility cap is the only effective way to prevent disaggregation of energy storage QFs into smaller QFs designed only to comply with the project eligibility cap. *See* Petition at 8.

YOU ARE FURTHER NOTIFIED that the Company states the only way to capture the full range of benefits provided by energy storage facilities, such as to provide reserve capacity, surge capacity, load-balancing, voltage support, firming of variable generation, or time-shifting generation to match load, is for the utility to have operational control of the facility. *See* Petition at 9.

YOU ARE FURTHER NOTIFIED that the Application is available for public inspection during regular business hours at the Commission's office. These documents are also available on the Commission's web site at [www.puc.idaho.gov](http://www.puc.idaho.gov). Click on the "Electric Cases" tab then click on "Open Cases" and click on the case number as shown on the front of this document.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and specifically *Idaho Code* §§ 61-502 and 61-503. The Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

## NOTICE OF INTERVENTION DEADLINE

YOU ARE FURTHER NOTIFIED that persons who wish to intervene in this matter to obtain the rights of party (e.g., to file formal discovery, or present evidence or cross-examine witnesses at a hearing) must file a Petition to Intervene with the Commission under the Commission's Rules of Procedure 72 and 73, IDAPA 31.01.01.072 and .073. **Persons who wish**

**to intervene as a party must file a Petition to Intervene by February 28, 2020.** Such persons shall also provide the Commission Secretary with their electronic mail address to facilitate further communications.

YOU ARE FURTHER NOTIFIED that persons who would like to present their views without parties' rights of participation and cross-examination are not required to intervene but may present their views by submitting written comments to the Commission.

YOU ARE FURTHER NOTIFIED that the Commission Secretary shall issue a Notice of Parties after the deadline for intervention has passed. The Notice of Parties shall assign exhibit numbers to each party in this proceeding.

YOU ARE FURTHER NOTIFIED that once the Notice of Parties is issued, Commission Staff will informally confer with the parties to discuss a schedule to process this case and other issues as raised by the parties.

### **ORDER**

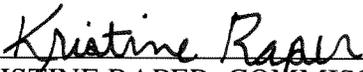
IT IS HEREBY ORDERED that persons desiring to intervene in this case for the purpose of obtaining parties' rights of participation must file a Petition to Intervene with the Commission, under Rules 72 and 73, IDAPA 31.01.72-.73, by February 28, 2020.

IT IS FURTHER ORDERED that, after the Secretary issues a Notice of Parties, Staff will informally confer with the parties to discuss the appropriate scheduling of this case.

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

10<sup>th</sup>

  
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PAUL KJELLANDER, PRESIDENT

  
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KRISTINE RAPER, COMMISSIONER

  
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ERIC ANDERSON, COMMISSIONER

ATTEST:

  
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Diane M. Hanian  
Commission Secretary

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