

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER'S)	CASE NO. IPC-E-20-03
APPLICATION FOR APPROVAL OR)	
REJECTION OF AN ENERGY SALES)	ORDER NO. 34629
AGREEMENT WITH LATERAL 10)	
VENTURES, LLC FOR THE SALE AND)	
PURCHASE OF ELECTRIC ENERGY FROM)	
THE LATERAL #10 HYDRO PROJECT)	

On February 14, 2020, Idaho Power Company applied for an order approving or rejecting its Energy Sales Agreement (“ESA”) with Lateral 10 Ventures, LLC (“Lateral 10”) for energy generated by the Lateral #10 Hydro project (“Facility”). The Facility is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978. The Facility’s scheduled First Energy Date under the ESA is May 5, 2020. Idaho Power asks the Commission to review its Application under Modified Procedure and issue a final order before May 4, 2020.

On March 11, 2020, the Commission issued a Notice of Application and Notice of Modified Procedure setting public comment and Idaho Power reply comment deadlines. Order No. 34582. Staff submitted the only comments and supported Idaho Power’s Application. Idaho Power did not respond.

Having reviewed the record, we now approve Idaho Power’s Application as discussed 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 method, used to establish "published" avoided cost rates; and (2) the integrated resource plan method, to calculate avoided cost rates for projects exceeding published rate limits. *See* Order No. 32697 at 7-22. Published rates are available for wind and solar QFs with a design capacity of up to 100 kilowatts (“kW”), and QFs of other resource types with a design capacity of up to 10 average megawatts (“aMW”). *Id.*; *see also* 18 C.F.R. § 292.304(c).

THE APPLICATION

The Facility has been delivering energy to Idaho Power under a firm energy sales agreement dated June 8, 1984 (“Initial Agreement”), which expires May 4, 2020. Idaho Power states that the ESA contains non-seasonal, non-levelized hydro published avoided cost rates for a 20-year term. Idaho Power requests the Commission declare all payments for purchase of energy under the ESA be allowed as prudently incurred expenses for ratemaking purposes.

STAFF COMMENTS

Staff recommends the Commission approve the Application. In making its recommendation, Staff focused on: (1) using the 90/110 rule with a five-day advanced notice for adjusting Monthly Net Energy Amounts; (2) the eligibility for and amount of immediate capacity payments; and (3) verification of non-seasonal hydro avoided cost rates.

Staff verified the ESA includes the 90/110 provision. Staff noted that the ESA adopts a five-day advance notice for adjusting the Estimated Monthly Net Energy Amounts for purposes of 90/110 rule compliance. Staff observed that the Commission has approved the same notice period in other cases, and adjustments made closer to the delivery period improve accuracy and short-term operational planning for Idaho Power.

Staff noted the Initial Agreement did not require Idaho Power to pay Lateral 10 for capacity. However, Idaho Power became capacity constrained while the Initial Agreement was in force, and Lateral 10’s Facility helped offset Idaho Power’s capacity needs.¹ Staff thus believes Lateral 10 should be eligible for immediate capacity payments under the renewed ESA. Staff noted the Facility nameplate capacity is the same under the Initial Agreement and the ESA and that it would be appropriate for Idaho Power to pay Lateral 10 for the entire nameplate capacity.

Staff recommended the Commission approve the ESA and declare Idaho Power’s payments to Lateral 10 for the purchase of energy and capacity under the ESA be allowed as prudently incurred expenses for ratemaking purposes.

¹ Idaho Power has added significant amounts of capacity since the year 2001, including: Danskin (2001 and 2008), Bennett Mountain (2005), and Langley Gulch (2012).

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 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.

Having reviewed the record, including Idaho Power’s Application, the ESA, and Staff’s comments, the Commission finds it reasonable to approve the ESA. The ESA contains Commission-approved terms for which the Facility is eligible based on characteristics like fuel source, project size, generation output profile, and renewal contract status. Additionally, the Facility has helped offset Idaho Power’s need for additional capacity investments. The Commission thus finds it just and reasonable to include capacity payments for the duration of the agreement. Last, the Commission finds that Idaho Power’s payments for purchases of energy and capacity under the ESA are prudently incurred expenses for ratemaking purposes.

ORDER

IT IS HEREBY ORDERED that Idaho Power’s ESA with Lateral 10 is approved.

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 regarding 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 17th
day of April 2020.



PAUL KJELLANDER, PRESIDENT

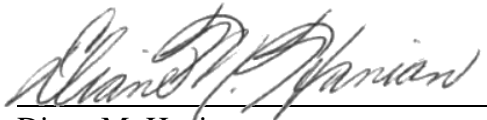


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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