

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: DAYN HARDIE
DEPUTY ATTORNEY GENERAL

DATE: MARCH 5, 2020

SUBJECT: IN THE MATTER OF IDAHO POWER'S APPLICATION FOR APPROVAL OF THE FIRST AMENDMENT TO THE ENERGY SALES AGREEMENT FOR THE HEAD OF U HYDRO PROJECT; CASE NO. IPC-E-20-08.

On February 20, 2020, Idaho Power Company ("Company") filed an Application seeking approval of the First Amendment to its Energy Sales Agreement ("ESA") with North Side Energy Company, Inc. ("Sellers"). The ESA falls under the requirements of Public Utility Regulatory Policies Act of 1978 ("PURPA") and is a contract for the sale and purchase of electric energy generated by the Head of U hydro project, a PURPA qualifying facility ("QF"). The Amendment addresses when the Sellers must notify the Company in order to revise future monthly Estimated Net Energy Amounts. The Company requests the Commission process its Application by Modified Procedure.

BACKGROUND

The Commission approved Idaho Power's ESA with the Sellers in 2014. Order No. 33102. Section 6.2.3 of that ESA addresses when the Sellers must notify the Company if the Sellers wish to revise future monthly Estimated Net Energy Amounts after the Operation Date. Pursuant to the approved ESA dated April 23, 2014, the Sellers must notify the Company in writing no later than 5 PM on the last business day of the month one full month before the month to be revised.¹ See Case No. IPC-E-14-07 Attachment 1 of Application at 15. Subsequently, the Sellers and the

¹ Example: under the current ESA, the Sellers must notify the Company by the last day of April 2020 if they want to revise the Estimated Monthly Net Energy Amounts for June 2020, or any future months.

Company agreed to adjust the notification requirements for revising future monthly Estimated Net Energy Amounts.^{2 3}

PROPOSED AMENDMENT

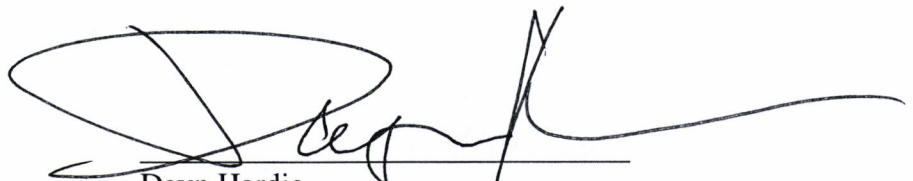
The proposed Amendment modifies when the Sellers must notify the Company in order to revise future monthly Estimated Net Energy Amounts. Whereas the current ESA requires the Sellers to notify the Company in writing by 5 PM on the last business day of the month one full month before the month to be revised, the proposed Amendment alters this notice requirement. The proposed Amendment states, “[a]fter the Operation Date, the Seller[s] must revise any future monthly Estimated Net Energy Amounts by providing written notice no later than 5 PM Mountain Standard time on the 25th day of the month [immediately preceding] the month to be revised.” If the 25th day falls on a weekend or holiday, the Company must receive written notice no later than the last business day prior to the 25th day of the month. The Amendment provides this example: “...if the Seller[s] would like to revise the Estimated Net Energy Amount for October, they would need to submit a revised schedule no later than September 25 or the last business day prior the September 25.”

STAFF RECOMMENDATION

Staff has reviewed the Application and attachment and recommends that the Application be processed under Modified Procedure with an April 2, 2020 public comment deadline and an April 9, 2020 Company reply deadline.

COMMISSION DECISION

Does the Commission wish to issue a Notice of Application and Notice of Modified Procedure with an April 2, 2020 public comment deadline and an April 9, 2020 Company reply deadline?



Dayn Hardie
Deputy Attorney General

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² In Order No. 34263, the Commission approved an ESA between the Company and J.R. Simplot Company that included a change to the notification of Net Energy Amount monthly adjustments and indicated that it would continue to evaluate the reasonableness of such provisions on a case-by-case basis.

³ In Order No. 34442, the Commission approved the First Amendment to the ESA for Box Canyon hydro project like the amendment in the Company's Application.