

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION) CASE NO. IPC-E-20-27
OF IDAHO POWER COMPANY FOR)
APPROVAL OR REJECTION OF AN)
ENERGY SALES AGREEMENT WITH) ORDER NO. 34909
COLEMAN HYDROELECTRIC, LLC FOR)
THE SALE AND PURCHASE OF ELECTRIC)
ENERGY FROM THE COLEMAN HYDRO)
PROJECT)

On June 25, 2020, Idaho Power Company (“Idaho Power” or “Company”) applied for approval or rejection of its proposed Energy Sales Agreement (“ESA”) with Coleman Hydroelectric, LLC (“Seller”) for energy generated by the Coleman Hydro Project (the “Facility”). *Application* at 1. The Facility, near Leadore, Idaho, is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”) and has an 800 kW nameplate capacity. *Id.*

On December 17, 2020, the Commission issued Order No. 34780 approving the ESA on the condition that the Company and Seller update the ESA’s published avoided cost rates consistent with Order No. 34683, instead of using rates from Order No. 34350 that expired on June 1, 2020.

On January 4, 2021, Seller filed a (1) Petition for Reconsideration, and (2) Petition to Intervene or Determine Original Party Status. No one responded to the Seller’s petitions. With this Order, The Commission grants the Seller’s Petition for Reconsideration and specifies how the matter will be reconsidered as discussed below. The Commission also by this Order denies in part, and grants in part, the Seller’s Petition to Intervene or Determine Original Party Status.

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 the Public Utilities Regulatory Policies Act (“PURPA”) and Federal Energy Regulatory Commission regulations to set avoided costs, to order electric utilities to enter fixed-term obligations for the purchase of

energy from QFs, and to implement rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

1. Petition for Reconsideration

The Commission has the authority to grant or deny reconsideration under *Idaho Code* § 61-626(2). Reconsideration allows any interested person to bring to the Commission's attention any question previously determined, and thereby affords the Commission an opportunity to rectify any mistake or omission. *See Washington Water Power Co., v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979). The Commission's Rules of Procedure require a petition for reconsideration to "set forth specifically the ground or grounds why the petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law." *See* IDAPA 31.01.01.331.01. Rule 331.01 further requires the petitioner provide a "statement of the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted." *Id.* A petition must state whether reconsideration should be conducted by "evidentiary hearing, written briefs, comments, or interrogatories." *See* Rule 331.03.

Coleman asserts the Commission can grant its Petition for Reconsideration without further proceedings. But Coleman states it is prepared to offer evidence at hearing or additional argument should the Commission allow it. *Petition for Reconsideration* at 1-2. Coleman argues the Commission should reconsider Order No. 34870 on four grounds it sets forth in its Petition for Reconsideration.

The Petition for Reconsideration satisfies the requirements of Rule 31.01 by describing why Seller believes Order No. 34780 is unreasonable, unlawful, erroneous, or not in conformity with the law and stating the nature and quantity of evidence or argument if reconsideration is granted. *See* Rule 31.01. The Petition for Reconsideration also states how Seller believes Order No. 34780 may be reconsidered. *See* Rule 331.03.

The Commission finds that additional consideration of the issues raised by the Seller's Petition for Reconsideration is appropriate. We find that the existing record is sufficient to consider the arguments. Accordingly, the Commission will grant the Petition for Reconsideration based on the current record.

2. Petition to Intervene or Determine Original Party Status

As Seller notes, the Commission has treated the Seller as a party to this proceeding from its inception. *See generally* Order Nos. 34756 and 34870. If a utility applies for consideration of an ESA, the Commission routinely treats the ESA's counter-party as a party to the case because, by signing the ESA, that party has at least impliedly asked the Commission to approve the ESA. *See e.g.*, ESA p. 31, § 21.1 (noting the ESA will not take effect until approved by the Commission). *See also* Rules 31 and 32 of the Commission's Rules of Procedure, IDAPA 31.01.01.031 and .032 (listing "parties" to proceedings, including "applicants," which are persons "who see any right, license, award or authority" from the Commission). Here, as a party to the ESA, the Seller has a direct interest in the ESA, Idaho Power's Application, and the Commission's ruling. It is, therefore, fair, just, and reasonable to deem the Seller to be an original party to this proceeding, with all rights of a party attaching.

Because we deem the Seller to already be a party to this proceeding, the Seller's alternative request for intervenor status is unnecessary and, therefore, denied.


ORDER

IT IS HEREBY ORDERED that the Seller's Petition for Reconsideration is granted. The Commission will utilize the existing record to consider the arguments raised in Seller's Petition.

IT IS FURTHER ORDERED that the Petition to Intervene is denied as unnecessary because the Seller is a party to the ESA with Idaho Power and has been treated as a party from the inception of this case.

///

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 2nd day of February 2021.



PAUL KJELLEANDER, PRESIDENT

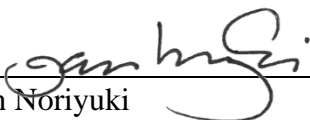


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

I:\Legal\ELECTRIC\IPC-E-20-27\orders\IPCE2027_Petition_jh.docx