

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-20-37
APPROVAL OR REJECTION OF AN)
ENERGY SALES AGREEMENT WITH THE)
CITY OF POCA TELLO) ORDER NO. 34877
)

On November 12, 2020, Idaho Power Company (“Idaho Power” or “Company”) applied for approval or rejection of its proposed Energy Sales Agreement (“ESA”) with the City of Pocatello, Idaho (“Seller”) for the energy generated by the Pocatello Waste Project (the “Facility”). *Application* at 1. The Facility is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”) and has a 500 kW nameplate capacity. *Id.* The Company requested that its Application be processed by Modified Procedure. *Id.* at 5.

On November 25, 2020, the Commission issued a Notice of Application, Notice of Modified Procedure and Order setting comment and reply deadlines. *See* Order No. 34848. On December 8, 2020, the Company filed two replacement pages for the proposed ESA. The Commission Staff (“Staff”) filed comments on December 16, 2020. The Company did not file reply comments.

Having reviewed the record, the Commission issues this Order approving the ESA.

BACKGROUND

PURPA was enacted in 1978 “to lessen the country’s dependence on foreign oil and to encourage the promotion and development of renewable energy technologies as alternatives to fossil fuels.” *FERC v. Mississippi*, 456 U.S. 742, 745-46 (1982). Under PURPA and its implementing regulations, utilities must purchase the power produced by QFs. 16 U.S.C. § 824a-3(b); 18 C.F.R. § 292.303(a). The utility must purchase the power at the avoided cost rate. 18 C.F.R. § 292.304(a). The avoided cost represents “the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source.” 18 C.F.R. § 292.101(b)(6). State utilities commissions have broad discretion to set the avoided cost rates within their respective jurisdictions. *Rosebud Enterprises, Inc. v. Idaho PUC*, 128 Idaho 624, 627, 917 P.2d 781, 784 (1996).

QFs may opt to sell energy either (1) as it becomes available, or (2) pursuant to a legally enforceable obligation. 18 C.F.R. 292.304(d). If a QF opts to sell energy as it becomes available, the QF sells the energy pursuant to a standard tariff for non-firm energy. *See* Order No. 33053. In the case of Idaho Power, that tariff is Schedule 86. If a QF opts to sell energy pursuant to a legally enforceable obligation, the QF sells the energy under terms established by the Commission. *See e.g.*, Order No. 33357. The Commission must establish published avoided cost rates for all QFs 100 kW and smaller. 18 C.F.R. 292.304(c)(1). The Commission, in its discretion, may also establish published avoided cost rates for QFs above 100 kW. 18 C.F.R. 292.304(c)(2).

Published avoided cost rates are determined by the Surrogate Avoided Resource methodology (“SAR”). The Commission uses a combined-cycle combustion turbine as the proxy resource in calculating published avoided cost rates under the SAR methodology. *Id.* at 17. These published avoided cost rates are updated annually to reflect updated natural gas forecasts. Order No. 32802.

The Commission uses the Integrated Resource Plan (“IRP”) methodology to determine avoided cost rates for QFs that are not eligible for published avoided cost rates. The IRP methodology “assesses the value of each QF project in terms of its capability to deliver resources in relation to the timing and magnitude of the utility’s need of such resources.” Order No. 32697 at 17. The Commission annually updates certain inputs to the IRP methodology such as natural gas forecasts, utility load forecasts, and long-term contract commitments. Order No. 32697 at 22 (timing of filing changed from June 1 to October 15 of each year by Order No. 32802 at 3).

For both SAR-based and IRP-based rates, the Commission has determined that it is in the public interest to compensate QFs separately for the energy they produce and the capacity they contribute to the purchasing utility. *Id.* at 16. QFs selling energy under a SAR-based or an IRP-based contract are not entitled to compensation for capacity until the utility’s first capacity deficit date. Order No. 32697 at 21. The first capacity deficit date is determined through the IRP planning process. Order No. 33357 at 25-26. If a QF renews its contract with the utility, the capacity deficit date is still determined as of the date the original contract was executed. Order No. 33419 at 26. *See also* Order No. 32737 at 5 (clarifying that Staff will tailor SAR-based rates to include capacity for renewal contracts from the outset). Schedule 86 contracts—for QFs that sell energy to Idaho Power as it becomes available—do not have a separate energy and capacity component.

APPLICATION

The Seller and Company respectively signed the ESA on November 5, 2020 and November 9, 2020. *See* ESA at 34. The ESA replaces an April 24, 1985, energy sales agreement that expires on December 31, 2020. *Id.* at 2. Under the ESA, the Seller would sell the electric energy generated by the Facility to the Company at published non-levelized, “Other” avoided cost rates as set by Order No. 34683 for a 20-year term. *Id.* at 4. The Company states the replacement ESA contains capacity payments for its entire term, with no sufficiency period. *Id.* at 2. The Company also represents the ESA complies with past Commission orders. *Id.* The Company further requests that the Commission issue an order approving or rejecting the ESA and, if approved, declaring all payments for the purchases of energy under the proposed ESA to be allowed as prudently incurred expenses for ratemaking purposes. *Id.* at 8. Last, the Company requests that the Commission enter its final order before the existing energy sales agreement between the Company and Seller expires. *Id.* at 8.

On December 8, 2020, the Company filed replacement pages 16 and 50 of the proposed ESA to update the Monthly Estimated Net Energy Amounts, correct a clerical error and prevent any potential confusion. *See* Company Correspondence dated December 8, 2020.

COMMENTS

Staff was the only person or party to file comments. Staff recommended approval of the proposed ESA. Staff’s review focused on: 1) the 90/110 rule with at least five-day advanced notice for adjusting Estimated Net Energy Amounts; 2) eligibility for and the amount of capacity payments; and 3) verification of avoided cost rates.

Staff confirmed the ESA contains the 90/110 Rule as required by Order No. 29632. The 90/110 Rule requires a QF to provide utilities with a monthly estimate of the amount of energy the QF expects to produce.

Staff also confirmed the ESA requires the Seller to give the Company five-day advanced notice if the Seller wants to adjust its Estimated Net Energy Amounts for purposes of complying with the 90/110 Rule. Staff believes this timeframe is reasonable.

On the original page 16 of the ESA, the monthly generation estimate is 200 kWhs per month. Staff believed this to be an error, which the Company corrected through a replacement page that shows the new monthly generation estimate is 162,000 kWhs per month, which results

in 1,944,000 kWhs per year. This annual amount more realistically aligns with the potential capacity and the amount of generation that can be produced by the Facility.

Although the original ESA did not contain a capacity payment, Staff believes the Commission should grant the Facility capacity payment for the full term of the replacement contract, just as the Commission did for the Black Canyon #3 project in Case No. IPC-E-19-04. In addition, the amount of capacity remains unchanged in the proposed ESA. Therefore, Staff believes the Facility should be granted capacity payments for its entire capacity amount over the full term of the proposed ESA.

Because the Facility is operated by methane gas from the Pocatello Wastewater Treatment Plant, the parties use avoided cost rates for the “Other” category. Staff reviewed the avoided cost rates in the proposed ESA and verified that the proposed rates are correct except for a mistake for year 2041.¹ Although this is beyond the contract term, if a future contract extension occurs under circumstances that justify extending the current rate schedule, the Company submitted a replacement page that corrected the mistaken rate.

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 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 rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

The Commission has reviewed the record, including the Application, the ESA, and the comments of Commission Staff. Based on our review, we find it reasonable to approve the ESA because the ESA contains Commission-approved terms that the Facility is eligible for based on its characteristics such as fuel source, project size, generation output profile, and renewal contract status. We also find that the Company's payments for purchases of energy and capacity under the ESA are prudently incurred expenses for ratemaking purposes.

¹ The term of the proposed ESA is from 2021 through 2040.

ORDER

IT IS HEREBY ORDERED that the ESA is approved using the published avoided cost rates set in Order No. 34683. The ESA shall become effective on the date this Order is issued.

IT IS FURTHER ORDERED that all payments made by the Company 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 about 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 29th day of December 2020.



PAUL KJELLANDER, PRESIDENT

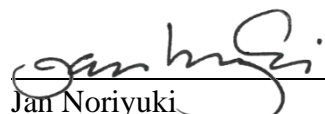


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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