

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF IDAHO POWER</b>	)	<b>CASE NO. IPC-E-21-07</b>
<b>COMPANY’S APPLICATION FOR</b>	)	
<b>APPROVAL OR REJECTION OF AN</b>	)	
<b>ENERGY SALES AGREEMENT WITH</b>	)	<b>ORDER NO. 35060</b>
<b>REYNOLDS IRRIGATION DISTRICT FOR</b>	)	
<b>THE PURCHASE OF ELECTRIC ENERGY</b>	)	
<b>FROM THE REYNOLDS IRRIGATION</b>	)	
<b>HYDRO PROJECT</b>	)	

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On April 2, 2021, Idaho Power Company (“Company”) applied to the Commission for approval or rejection of an energy sales agreement (“ESA”) with Reynolds Irrigation District (“Seller”) for the energy generated by the Reynolds Irrigation Hydro Project (“Facility”). The Facility has a nameplate capacity of 350 kilowatts and is near Melba, Idaho.

On May 4, 2021, the Commission set deadlines for interested persons to comment on the Application and for the Company to reply. *See* Order No. 35031. Commission Staff filed the only comments and recommended the Commission approve the ESA. The Company then filed a Notice stating that it would not file reply comments.

Having reviewed the record, the Commission approves the Company’s Application as discussed below.

**APPLICATION**

The Seller has been delivering energy generated by the Facility to the Company under an August 1, 1985, firm energy sales agreement that expired on April 30, 2021. The Company represented that the ESA has a 20-year term with non-levelized, non-seasonal hydro published avoided cost rates as set by Order No. 34683. The Company requested that the Commission approve the ESA and declare all payments for purchases of energy under the ESA be allowed as prudently incurred expenses for ratemaking purposes.

**STAFF COMMENTS**

Staff recommended the Commission approve the ESA. Staff’s recommendation is based upon its review of the ESA, which focused on (1) the 90/110 rule; (2) eligibility for and the

amount of capacity payments; (3) pricing for the lapsed contract period;<sup>1</sup> and (4) the avoided cost rates.

Staff verified the ESA contained the 90/110 Rule required by Order No. 29632, which requires the seller of energy from a QF to provide the purchasing utility with a monthly estimate of the energy the facility expects to generate. Staff also verified the five-day ahead monthly generation forecast provision is consistent with comparable provisions approved by the Commission in prior orders. *See* Order Nos. 34263 and 34870.

Staff stated the Facility should receive capacity payments for the replacement ESA's full term even though the original contract did not contain capacity payments. Staff asserted that, like the Black Canyon #3 project in Case No. IPC-E-19-04, the Facility's original contract included avoided cost rates without a capacity payment as determined in Order No. 18190, because the Company was energy—not capacity—constrained at the time. Staff stated the Facility has operated since the mid-1980s—through several capacity additions. Staff was confident the Facility has contributed to meeting the Company's need for capacity during that time and recommended the Facility should be granted capacity payments for its entire generation during the term of the ESA.

Staff stated the original contract expired on April 30, 2021. According to Article XXI of the ESA, the ESA will not be effective until the Commission has approved the ESA and declared all payments made by the Company to the Seller are allowed as prudently incurred expenses for ratemaking purposes. As a result, Staff noted if the Commission approves the ESA, there would be a lapsed contract period between May 1, 2021, and the day before the new ESA's effective date<sup>2</sup> ("Lapse Period").

Staff cited Case No. AVU-E-19-16, where the Commission approved both energy and capacity payments during a lapsed contract period for Stimson Lumber's QF, which never stopped generating. In the present case, Staff stated that the Seller desires to continue generating during the lapsed contract period. The Company noted it would accept the delivery and pay the Surplus Energy Price as defined in Article 7.2 of the ESA. The Company's payment during the Lapse Period, if approved, will be subject to any true-up, adjustment, or rejection of terms and provisions, or the contract itself, by the Commission. *See Response to Staff's Production Request No. 3*, Letter Agreement, dated April 29, 2021, between the Company and the Seller. Staff noted the Surplus

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<sup>1</sup> Defined below.

<sup>2</sup> The effective date of this Order and the ESA are the same date.

Energy Price is the price used for Surplus Energy, such as energy delivered outside of the 90/110 firmness band, and the value is the lesser of 85 percent of the market price or the contract price. *See* Article 7.1 and Article 7.2 of the ESA. The energy delivered during the Lapse Period would be treated as non-firm energy and would be paid accordingly. Staff believed this is a reasonable approach taken by the parties.

Section B-7 of the ESA states that the Company cannot accept or pay for generation from this Facility if the Facility has not achieved the status of being a Company Designated Network Resource (“DNR”). According to Staff, this Facility is a Company DNR pursuant to an existing energy sales agreement. Section B-7 also provides that the DNR status will continue if this Agreement is (1) executed and approved by the Commission; (2) a Generator Interconnection Agreement (“GIA”) has been executed by both parties; and (3) the Seller complies with the requirements of that GIA. The Company confirmed the Facility will be a DNR during the Lapse Period. *Response to Staff’s Production Request No. 3*. If the Commission rejects the ESA, then the Company would determine the DNR status at that time.

Staff also reviewed the avoided cost rates proposed in the ESA and verified that the proposed rates are correct.

### **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. The Commission also has authority under PURPA and FERC regulations to set avoided cost rates, 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.

The Commission has reviewed the record, including the Application, the ESA, and the Staff’s comments. Based on our review, we find it appropriate to approve the ESA because it contains Commission-approved terms that the Facility is eligible for based on its characteristics such as fuel source, project size, and renewal contract status. Additionally, the Facility has helped meet the Company’s need for additional capacity. The Commission thus finds it just and reasonable to include capacity payments for the duration of the ESA. The Commission also finds

the Company's payments for purchases of energy and capacity under the ESA are prudently incurred expenses for ratemaking purposes.

We find it appropriate for the Company to pay the Seller for any generation delivered by the Seller during the Lapse Period at the Surplus Energy Price as defined in Article 7.2 of the ESA and as agreed to by the Company and Seller in the April 29, 2021, Letter Agreement. We find this pricing for deliveries of generation from the Facility during the Lapse Period to be fair, just, and reasonable considering the circumstances. We remain concerned that, after an energy sales contract expires, the lack of contractual commitment could create uncertainty for the Company's resource planning and leave the Company with little recourse should the Seller experience a sudden change in operation or decide not to sell to the Company going forward. Ideally, the Company should file future renewal QF contracts with the Commission well before the existing QF contract expires.

### **ORDER**

IT IS HEREBY ORDERED that the Company's ESA with the Seller is approved, effective as of the service date of this Order.


IT IS FURTHER ORDERED that the Company shall pay the Seller for capacity and energy deliveries during the Lapse Period at the Surplus Energy Price as defined in Article 7.2 of the ESA pursuant to the April 29, 2021, Letter Agreement between the Company and the Seller.

IT IS FURTHER ORDERED that the Company's payments for energy and capacity under the renewal ESA and the Surplus Energy payments made during the Lapse Period shall be 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.

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DONE by order of the Idaho Public Utilities Commission at Boise, Idaho this 3<sup>rd</sup> day of June 2021.

  
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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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Jan Noriyuki  
Commission Secretary

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