

JOHN R. HAMMOND, JR.
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0357
IDAHO BAR NO. 5470

RECEIVED
2021 MAY 20 PM 3:04
IDAHO PUBLIC
UTILITIES COMMISSION

Street Address for Express Mail:
11331 W CHINDEN BLVD, BLDG 8, SUITE 201-A
BOISE, ID 83714

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER)
COMPANY'S APPLICATION FOR) **CASE NO. IPC-E-21-08**
APPROVAL OR REJECTION OF AN)
ENERGY SALES AGREEMENT WITH)
HYDROLAND OMEGA LLC, FOR THE) **COMMENTS OF THE**
SALE AND PURCHASE OF ELECTRIC) **COMMISSION STAFF**
ENERGY FROM ELK CREEK HYDRO)
PROJECT)

STAFF OF the Idaho Public Utilities Commission, by and through its attorney of record, John R. Hammond, Jr., Deputy Attorney General, submits the following comments.

BACKGROUND

On April 5, 2021, Idaho Power Company (“Idaho Power” or “Company”), requested the Idaho Public Utilities Commission (“Commission”) approve or reject an energy sales agreement (the “ESA”) with Hydroland Omega LLC (“Hydroland”) for energy generated by a 2350-kilowatt hydroelectric facility (“Facility”) near New Meadows, Idaho. The Facility is a qualified facility under the Public Utility Regulatory Policies Act of 1978.

Hydroland has been delivering energy generated by the Facility to the Company under a firm energy sales agreement dated August 31, 1984 that expires on April 30, 2021. The new ESA has a 20-year term with non-levelized, non-seasonal hydro published avoided cost rates as set by Order No. 34683.

The Company requests 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 ANALYSIS

Staff recommends approval of the proposed ESA between Idaho Power and Hydroland. Staff's justification is based upon its review of the ESA, which was focused on: 1) the 90/110 rule; 2) eligibility for and the amount of capacity payments; 3) the lapsed contract period; and 4) the avoided cost rates.

90/110 Rule

Staff confirmed the ESA contains the 90/110 Rule as required by Commission Order No. 29632. The 90/110 Rule requires a qualifying facility ("QF") to provide utilities with a monthly estimate of the amount of energy the qualifying facility expects to produce. If the QF delivers more than 110 percent of the estimated amount, then the utility must buy the excess energy for the lesser of 85 percent of the market price or the contract price. If the QF delivers less than 90 percent of the estimated amount, then the utility must buy total energy delivered for the lesser of 85 percent of the market price or the contract price. *See* Order No. 29632 at 20.

Staff also confirmed the ESA requires the Seller to give the Company at least five-day advanced notice if the Seller wants to adjust its Estimated Net Energy Amounts for purposes of complying with 90/110 firmness requirements. Five-day advanced notice has been authorized in prior Commission orders such as Order Nos. 34263 and 34870.

Staff noted that the Monthly Estimated Net Energy Amounts for months of January, February, August, September, October, November, and December are zero. This is Hydroland's intention to not generate in those months. It is consistent with historical generation under the previous firm energy sales agreement. According to Article 6.2 of the ESA, after the Operation Date, Hydroland may adjust future Monthly Estimated Net Energy Amounts, if it intends to deliver different amounts of monthly generation than what are listed in the ESA. *See* Response to Staff's Production Request No. 4.

Capacity Payment

In Order No. 32697, the Commission stated that, “If a QF project is being paid for capacity at the end of the contract term, and the parties are seeking renewal/extension of the contract, the renewal/extension includes immediate payment of capacity.” Although the original contract did not contain a capacity payment, Staff believes the Facility should be granted capacity payment for the full term of the replacement contract, as was granted by the Commission to the Black Canyon #3 project in Case No. IPC-E-19-04.

Like the Black Canyon #3 project, the Facility’s original contract included avoided cost rates without a capacity payment as determined in Order No. 18190, because Idaho Power was energy not capacity constrained at the time. Since 2000, the Company has added significant capacity to meet its capacity needs, such as Danskin (2001 and 2008), Bennett Mountain (2005), and Langley Gulch (2012) gas plants. Because the Facility has operated since the mid-1980s and has gone through the Company’s capacity deficiency periods, Staff is confident that the Facility has contributed to meeting the Company’s need for capacity.

In addition, the nameplate capacity of the Facility, which has been 2350-kW since construction, remains unchanged in the proposed ESA. Therefore, Staff believes the Facility should be granted capacity payments for its entire generation capacity amount over the full term of the ESA.

Lapsed Contract Period

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 all of the ESA’s terms and conditions and has declared that all payments Idaho Power makes to the Seller for purchases of energy are allowed as prudently incurred expenses for ratemaking purposes. Therefore, there is a lapsed contract period between May 1, 2021, and the final effective date.

In Case No. AVU-E-19-16, the Commission approved both energy and capacity payments during a lapsed contract period for Stimson Lumber, which never stopped operating. In this case, the Seller desires to continue providing generation during the lapsed contract period. Idaho Power will accept the delivery and pay the Surplus Energy Price defined in Article 7.2 of the ESA, subject to any true-up, adjustment, or rejection of terms and provisions, or the contract itself, by the Commission. *See* Letter Agreement dated April 29, 2021, in Response to Staff’s

Production Request No. 3. Surplus 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. Essentially, the energy delivered during the lapsed contract period would be treated as non-firm energy and would be paid accordingly. Staff believes this is a reasonable approach taken between the parties.

Section B-7 of the ESA states that Idaho Power cannot accept or pay for generation from this Facility if the Facility has not achieved the status of being an Idaho Power Designated Network Resource (“DNR”). 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 is in compliance with all requirements of that GIA. Idaho Power also confirmed that the Facility will be a DNR during the lapsed contract period because there is an executed ESA for the Facility. *See* Response to Staff’s Production Request No. 3. If the ESA is rejected by the Commission, then Idaho Power would determine the DNR status at that time as the ESA would not be fully effective.¹

Avoided Cost Rates


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

STAFF RECOMMENDATIONS

Staff recommends the Commission approve the ESA and declare Idaho Power’s payments to Hydroland Omega LLC for the purchase of energy generated by the Facility under the ESA be allowed as prudently incurred expenses for ratemaking purposes. Staff also recommends using the Surplus Energy Price for the energy delivered during the lapsed contract period.

¹ This understanding was obtained through email communication with Idaho Power on May 5, 2021.

Respectfully submitted this 20th day of May 2021.



John R. Hammond, Jr.
Deputy Attorney General

Technical Staff: Yao Yin

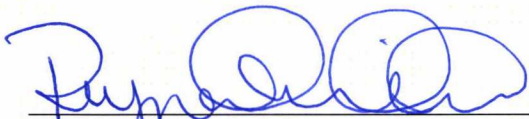
i:umisc:comments/ipce21.8jhy comments

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 20th DAY OF MAY 2021, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-21-08, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

DONOVAN E WALKER
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070
E-MAIL: dwalker@idahopower.com
dockets@idahopower.com

ENERGY CONTRACTS
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070
E-MAIL: energycontracts@idahopower.com



SECRETARY