

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF IDAHO POWER</b>	)	<b>CASE NO. IPC-E-21-24</b>
<b>COMPANY’S APPLICATION FOR</b>	)	
<b>APPROVAL OR REJECTION OF AN</b>	)	
<b>ENERGY SALES AGREEMENT</b>	)	<b>ORDER NO. 35211</b>
<b>BETWEEN IDAHO POWER COMPANY</b>	)	
<b>AND KOOSH INC.</b>	)	

---

On July 28, 2021, Idaho Power Company (“Company”) applied for approval or rejection of an Energy Sales Agreement (“ESA”) with Koosh Inc. (“Seller”) for the energy generated by Geo-Bon #2 Hydro Project (“Facility”). The Facility is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”). The Company asks for its Application to be processed under Modified Procedure.

On August 20, 2021, the Commission issued a Notice of Application and established deadlines for interested persons to comment on the Application and for the Company’s reply. Order No. 35138. Staff filed the only comments.

Having reviewed the record in this case, the Commission now issues this final Order approving the Company’s Application.

**BACKGROUND**

Under PURPA, electric utilities must purchase electric energy from QFs at purchase or "avoided cost" rates approved by the Commission. 16 U.S.C. § 824a-3; *Idaho Power Co. v. Idaho PUC*, 155 Idaho 780, 789, 316 P.3d 1278, 1287 (2013). The Commission has established two methods for calculating avoided costs, depending on the size of the QF project: (1) the surrogate avoided resource method, used to establish "published" avoided cost rates; and (2) the integrated resource plan method, to calculate avoided cost rates for projects exceeding published rate limits. *See* Order No. 32697 at 7-22.

**APPLICATION**

The Facility is near Shoshone, Idaho and has a 1,055-kW nameplate capacity. The Seller has been delivering energy from the Facility to the Company under a firm energy sales agreement executed on March 1, 1985. The 1985 agreement expires on October 31, 2021. The new ESA has a 20-year term with non-levelized, non-seasonal hydro published avoided cost rates as set in Order No. 35052.

The Company requests the Commission approve the ESA and declare all payments for the purchase of energy under the ESA be allowed as prudently incurred expenses for ratemaking purposes. The Company also requests that the Commission set a procedural schedule that would result in a final Commission determination on the ESA before October 31, 2021.

### **COMMENTS**

Staff recommended the Commission approve the ESA and declare all payments for energy under the ESA be allowed as prudently incurred expenses. Staff's review of the ESA focused on the 90/110 performance band with at least five days advanced notice for adjusting Net Energy Amounts ("NEA"), the eligibility for and amount of capacity payments, and verification of avoided cost rates.

Staff verified the ESA contains the 90/110 rule which requires a QF to provide the Company with a monthly estimate of the amount of energy the QF expects to produce. Staff also verified the ESA contains the five-day ahead advanced notice if the seller wants to adjust the Estimated NEA for complying with the 90/110 firmness requirements.

Staff noted the Facility receives no capacity payments under its existing contract but stated that it should receive immediate payment for capacity based on recent Commission orders. Staff believed the rationale from Order No. 34295 for the Black Canyon #3 hydro project should apply to the Facility. During the term of the Facility's existing contract, the Company has procured capacity giving Staff confidence that the Facility has contributed to meeting the Company's need for capacity during the term. Therefore, Staff recommended the Facility be granted capacity payments for the full term of the ESA.

Staff noted that the existing contract incorrectly listed the Facility's nameplate capacity as 1,150-kW but that the Facility was constructed as—and has operated as—1,055-kW during the term of the contract. Staff recommended that since the proposed nameplate capacity remains 1,055-kW—less than the original contract listed—that the Commission should grant immediate capacity payments for its entire generation capacity.

### **COMMISSION DECISION AND FINDINGS**

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 Federal Energy Regulatory Commission (“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 FERC rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

Having reviewed the record, including the Company’s Application, the ESA, and Staff’s comments, the Commission finds it reasonable to approve the ESA. The ESA contains Commission-approved terms for which the Facility is eligible based on characteristics like fuel source, project size, generation output profile, and renewal contract status. Additionally, the Facility has helped offset the Company’s need for additional capacity investments. The Commission thus finds it just and reasonable to include capacity payments for the nameplate capacity listed in the ESA for the duration of the agreement. The Commission finds that the Company’s payments for purchases of energy and capacity under the ESA are prudently incurred expenses for ratemaking purposes.

The Commission appreciates Staff’s comments noting the inconsistency in the existing contract regarding the stated versus installed nameplate capacity of the generator. The parties to the ESA have corrected this in the ESA and we find this error that existed during the term of the existing contract does not affect the Facility’s eligibility to receive immediate capacity payments in this case. Therefore, the Facility is eligible for immediate capacity payments.

### **ORDER**

IT IS HEREBY ORDERED that the Company’s ESA with Koosh Inc. is approved, effective November 1, 2021.

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 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.

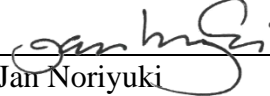
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 28<sup>th</sup>  
day of October 2021.

  
\_\_\_\_\_  
PAUL KJELLANDER, PRESIDENT

  
\_\_\_\_\_  
KRISTINE RAPER, COMMISSIONER

  
\_\_\_\_\_  
ERIC ANDERSON, COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
Jan Noriyuki  
Commission Secretary

I:\Legal\ELECTRIC\IPC-E-21-24 Koosh\orders\IPCE2124\_final\_dh.docx