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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER)
COMPANY'S APPLICATION FOR APPROVAL) **CASE NO. IPC-E-21-33**
OR REJECTION OF AN ENERGY SALES)
AGREEMENT WITH IDAHO POWER)
COMPANY AND J.R. SIMPLOT COMPANY) **COMMENTS OF THE**
FOR THE SALE AND PURCHASE OF) **COMMISSION STAFF**
ELECTRIC ENERGY FROM THE SIMPLOT –)
POCATELLO CSPP PROJECT)

STAFF OF the Idaho Public Utilities Commission, by and through its Attorney of record, Riley Newton, Deputy Attorney General, submits the following comments.

BACKGROUND

On October 6, 2021, Idaho Power Company (“Company”) applied for approval or rejection of an energy sales agreement (“ESA”) with J.R. Simplot Company (“Seller”) for the energy generated by the Simplot – Pocatello CSPP project (“Facility”). The Company states the ESA “is a new contract with the same Qualifying Facility (“QF”)” under the Public Utility Regulatory Policies Act of 1978.

The Facility is near Pocatello, Idaho and has a 15.9 megawatt (“MW”) nameplate capacity. The Seller has been delivering energy from the Facility to the Company under an ESA executed on December 21, 2018. The 2018 ESA expires on February 28, 2022. The new ESA

has a 3-year term using the non-levelized, other published avoided cost rates established in Order No. 35052, for replacement contracts and for energy deliveries of less than 10 average MW.

STAFF REVIEW

Staff recommends the Commission approve the proposed ESA between the Company and the Seller, if the parties include a provision that addresses potential future modifications to the Facility. Staff's justification is based upon its review of the ESA, including: 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; 3) verification of avoided cost rates; and 4) the lack of any provision addressing potential future modifications to the Facility.

The 90/110 Rule and 5-Day Advanced Notice for Adjusting Estimated Net Energy Amounts

Staff confirmed the ESA contains the 90/110 Rule as required by Commission 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. 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. This mechanism has been authorized by the Commission in Order Nos. 34263, 34870 and 34937.

Capacity Payments

In Order No. 32697, the Commission stated that, “[i]f 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.” The Facility is currently operating under a contract approved in Case No. IPC-E-19-01 which contains capacity payments. In addition, no modifications have been made to the Facility during the term of the

current contract. Therefore, Staff believes the Facility should be granted immediate capacity payments for the full term of the ESA.

Verification of Avoided Cost Rates

Staff reviewed the avoided cost rates proposed in the ESA and verified that the proposed rates reflect the rate authorized in Order No. 35052 and in effect when the ESA was executed.

Lack of a Provision that Addresses Modifications to the Facility

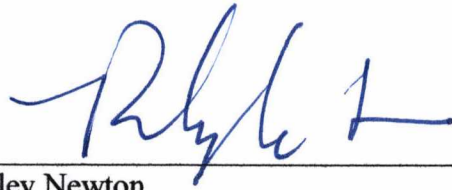
Staff notes that the new ESA does not contain any provision to address modifications to the Facility during the contract term. Therefore, Staff recommends including the following provision, which has been included in recent PURPA contracts filed by the Company:

Any modifications to the Facility, including but not limited to the generator or turbine, that (1) increases or decreases the Facility Nameplate Capacity, or (2) changes the Qualifying Facility Category, or (3) changes the Primary Energy Source or (4) changes to the generator fuel and subsequently the Fueled Rate or Non-Fueled Rate, will require a review of the Agreement terms, conditions and pricing and Idaho Power, at its sole determination, may adjust the pricing or terminate the Agreement. If the Agreement is terminated because of said modifications, the Seller will be responsible for any Termination Damages.

STAFF RECOMMENDATIONS

Staff recommends the Commission approve the new ESA on the condition that the parties update the ESA by including the additional provision above. Staff also recommends that, if the parties update the ESA, the Commission declare the Company's payments to the Seller under the ESA for energy be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 23rd day of November 2021.



Riley Newton
Deputy Attorney General

Technical Staff: Yao Yin

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CERTIFICATE OF SERVICE

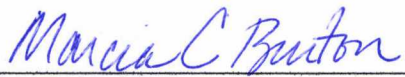
I HEREBY CERTIFY THAT I HAVE THIS 23rd DAY OF NOVEMBER 2021, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-21-33, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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