

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF IDAHO POWER</b>	)	<b>CASE NO. IPC-E-21-42</b>
<b>COMPANY’S APPLICATION FOR</b>	)	
<b>APPROVAL OF SPECIAL CONTRACT AND</b>	)	
<b>TARIFF SCHEDULE 33 TO PROVIDE</b>	)	<b>ORDER NO. 35958</b>
<b>ELECTRIC SERVICE TO BRISBIE, LLC’S</b>	)	
<b>DATA CENTER FACILITY</b>	)	
	)	

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On December 22, 2021, Idaho Power Company (“Company”) applied for approval of a special contract for electric service between the Company and Brisbie, LLC (“Brisbie”) for Brisbie’s new enterprise data center, for rates proposed in Tariff Schedule 33, and approval of the regulatory framework for the on-going implementation and administration of the special contract.

On January 21, 2022, the Commission issued a Notice of Application and set a 14-day intervention deadline. Order No. 35293.

On May 11, 2023, the Commission issued Final Order No. 35777 approving the Company’s Energy Sales Agreement (“ESA”) for electric service between the Company and Brisbie subject to several modifications.

On June 20, 2023, the Commission issued Order No. 35820 clarifying its intent in Order No. 35777.

On August 9, 2023, the Company submitted its Compliance Filing (“Filing”) with Commission ordered modifications including an amended ESA (“First Amendment”), revised Schedule 33, and other updates.

On September 5, 2023, Staff presented a Decision Memorandum at the Commission’s Decision Meeting indicating it had reviewed the Company’s Filing and recommended Commission acceptance.

**STAFF REVIEW AND RECOMMENDATION**

Staff reviewed the First Amendment and revised Schedule 33 included in the Company’s Filing and determined that the modifications comply with Commission Order No. 35777. The Company also made two changes to the First Amendment and Schedule 33 exceeding the scope of the modifications required by Order No. 35777; however, Staff believed these were reasonable. Finally, the Company stated, “[i]n conformity with the Commission’s directive, the Company will

file future renewable resource [power purchase agreements] or similar resource construction agreements with the Commission for its review and approval.” Filing at 7.

#### Modifications to Pricing for Excess Generation Credits

The Commission ordered that the Excess Energy Generation (“EGC”) rate be valued at “the lower of the Excess Energy Price (with the 85 percent adjustment) or the actual high or low load hour Mid-C market price (without any adjustment) for each hour of excess energy delivered.” Order No. 35777 at 17.<sup>1</sup> This rate is referred as the Excess Generation Price in the ESA and is the rate used when multiplied by the amount of EGCs in a month to determine the EGC payment. The method in this case is the same method approved in Case No. IPC-E-22-06. Staff verified that the updated definition of the Excess Generation Price included in Revised Exhibit 3.1 complies with the Commission’s Order and that the updated definition is appropriately referenced in revised Schedule 33.

#### Modifications to Renewable Capacity Credits Pricing and Method of Payment

The Commission ordered that the method used to determine the pricing and payment of Renewable Capacity Credits (“RCC”) in this case should utilize the same methods determined in Order No. 35735. Staff determined that with appropriate differences in the data used between this case and Case No. IPC-E-22-06 (Order No. 35735), the method used to determine the pricing and method of RCC payments is similar, with one minor but legitimate exception. The main difference between the RCC methods in this case versus those employed in Case No. IPC-E-22-06 is the years used to determine the capacity critical hours that each of the two resources are expected to contribute capacity to the Company’s system. The resource in this case does not come online until 2025, so only the capacity critical hours for 2025 were used. The resource in Case No. IPC-E-22-06 comes online in 2023 and the payments are based on a combination of 2023 capacity critical hours with some weight given to critical hours in 2025. Therefore, Staff believed that the method used to determine the RCC pricing and method of payment complies with Commission Order No. 35777.

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<sup>1</sup> See also Order Nos. 35482 and 35607. The 85% adjustment compensates for the cost to wheel excess energy when sold as surplus sales.

### Additional Modifications Not Required by the Commission Order No. 35777

First, the Company updated the language in Revised Exhibit 3.1 that defines the Monthly Contract Payment to include how the Energy Efficiency Rider will be assessed. Staff determined that the language was incorrect in the original ESA and the updated language in the Revised Exhibit 3.1 is now consistent with Schedule 91.

Second, the Company included an Administration Charge negotiated between the Parties to compensate the Company for non-recovery of 95%/5% customer sharing of EGCs and RCCs included in net power supply expense, which is then trued-up in the Power Cost Adjustment (“PCA”). However, the Company proposed that the Administration Charge not be included in 95/5 sharing. The Commission directed that EGC and capacity included in net power supply expense were subject to sharing in the PCA.

Staff recommended that the Commission allow this charge because it was negotiated and agreed upon between the Parties for the purpose of protecting the Company from non-recovery of 95/5 sharing. Additionally, Staff believed: (1) the charge will not impact other customers, and (2) it is consistent with the Commission’s intent in Case No. IPC-E-22-06 where the Commission stated, “Micron and the Company are free to negotiate for whatever rates they wish, and the Commission will generally approve such rates provided they are fair, just, and reasonable to all customers.” Order No. 35607 at 13.

### **COMMISSION DISCUSSION AND FINDINGS**

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, -502 and -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 -503. The Commission may enter any final order consistent with its authority under Title 61.

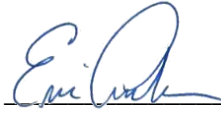
We have reviewed the record in this case and find the Company’s August 30, 2023, Filing including an amended ESA, revised Schedule 33, and additional modifications is consistent with the Commission’s directive in Order No. 35777.

### **ORDER**

IT IS HEREBY ORDERED that the Company’s Compliance Filing including a revised Schedule 33, amended ESA, and other adjustments is accepted, as filed.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within 21 days of the service date of this Order. Within seven days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

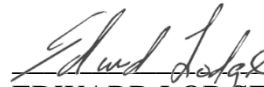
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 12<sup>th</sup> day of October 2023.



ERIC ANDERSON, PRESIDENT

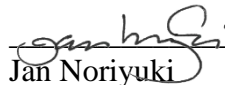


JOHN R. HAMMOND, JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki  
Commission Secretary

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