

RILEY NEWTON
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0318
IDAHO BAR NO. 11202

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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-22-06
APPROVAL OF A REPLACEMENT SPECIAL)	
CONTRACT WITH MICRON)	
TECHNOLOGY, INC. AND A POWER)	RECONSIDERATION
PURCHASE AGREEMENT WITH BLACK)	COMMENTS OF THE
MESA ENERGY, LLC)	COMMISSION STAFF
_____)	

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 March 10, 2022, Idaho Power Company (“Company” or “Idaho Power”) applied (“Application”) to the Commission for an order approving the Revised Special Contract (“Micron ESA” or “ESA”) with Micron Technology, Inc. (“Micron”) and a power purchase agreement (“Black Mesa PPA” or “PPA”) with Black Mesa Energy, LLC (“Black Mesa”).

On April 6, 2022, the Commission issued a Notice of Application and Notice of Modified Procedure setting public comment and Company reply comment deadlines. Order No. 35367. Industrial Customers of Idaho Power Company (“ICIP”) intervened, Order No. 35406, but did

not file comments. Staff filed comments to which the Company replied. No other comments were received.

On August 1, 2022, the Commission issued Order No. 35482, approving the Black Mesa PPA, as filed, but directing the Company to file an updated ESA and Schedule 26 addressing the Commission's modifications.

On August 22, 2022, the city of Boise City ("Boise City") filed a Petition for Reconsideration and a Petition to Intervene, and the Company filed a Petition for Clarification and Reconsideration ("Company's Petition").

Staff filed an Answer to Boise City's and the Company's petitions on August 29, 2022. On September 19, 2022, the Commission granted the Company's Petition and Boise City's Petition to Intervene, and granted in part and denied in part Boise City's Petition for Reconsideration ("Boise City's Petition"). Order No. 35532.

STAFF REVIEW

The Commission granted reconsideration of two issues in Order No. 35482:

1. Whether payments of the Excess Generation Credit(s) ("EGC(s)") and the renewable capacity credit(s) ("RCC(s)") included in net power supply expense ("NPSE") in the Power Cost Adjustment ("PCA") should be subject to 95% sharing; and
2. What is the proper method for determining the EGC.

Order No. 35532 at 6, 8.

Staff addresses both these issues below.

95% Sharing of EGC and RCC Payments in PCA

The Commission determined that payments to Micron for EGCs and RCCs should be subject to 95% customer sharing in the PCA in Order No. 35482. The Company and Boise City both petitioned the Commission to reconsider this decision, arguing that these payments should be passed through the PCA at 100% of actual cost. Staff maintains that payments for EGCs and RCCs should be subject to 95% sharing, consistent with all other non-Public Utility Regulatory Policies Act ("PURPA") PPAs. Staff believes that its position is justified for several reasons. The Commission has not determined a fixed, universal method, such as avoided cost, for setting

the EGC and RCC rates. Therefore, the Company has flexibility to negotiate the rates it pays Micron for excess generation. Without having a fixed method for determining the EGC and RCC rates in place, Staff believes that subjecting EGC and RCC expenses to 95% sharing incentivizes the Company to negotiate for the lowest cost. The policy decisions to set a fixed method for EGC and RCC rates and whether to apply sharing to the cost in the PCA need to also consider the following:

1. The potential for Micron and other Clean Energy Your Way – Construction (“CEYW-CO”) customer’s net export cost to become an increasingly large proportion of the Company’s NPSE.
2. Micron’s decision to enter a contract, as a customer of the Company, to provide excess generation to the Company’s system is functionally no different than any other non-PURPA supplier.

Method for Setting EGC and RCC not Commission Mandated

The purpose of the PCA is to true-up the amount of NPSE recovered through base rates to actual NPSE. Without 95% sharing in the PCA, the Company is guaranteed full recovery of its actual NPSE and has no monetary incentive to reduce its costs. However, with sharing, the Company has an incentive to reduce its NPSE because it is (1) allowed to keep 5% of the difference between actual NPSE and NPSE recovered through base rates if actual NPSE is lower, and (2) only allowed 95% recovery of actual NPSE if actual NPSE is higher.

For sharing to work as an incentive to reduce costs, Staff believes as many components of NPSE as possible should be subject to sharing in the PCA. Currently, the only NPSE components of the PCA not subject to sharing are those components mandated through regulatory policy, including PURPA payments, demand response (“DR”) incentive payments, and energy efficiency (“EE”) incentive payments. The components not subject to sharing have rates determined by a set method authorized as a matter of policy, which, in the case of PURPA payments and DR and EE incentive payments, are all based on avoided cost.

However, the Company mistakenly assumes that the Commission mandated the EGC and RCC rates be based on avoided cost as a matter of policy. Company’s Petition at 5. Although Staff’s standard of analysis used avoided cost as a threshold to ensure other customers are not harmed, it does not advocate that these rates should be determined based on avoided cost in

CEYW – CO participant contracts. Staff does not believe that the Commission was making a policy decision on the method used to determine compensation for excess generation in future CEYW – CO contracts. For example, in response to Boise City’s Petition for Reconsideration, the Commission stated that, “[i]t is important to distinguish findings from the rationale and analysis used to support them.” Order No. 35532 at 7. The Commission continued, stating that it had “identified an analysis in this case that could be consistently applied to other similar cases . . . [and that] . . . applying a consistent analysis should not be construed to dictate the same outcome in every case.” *Id.*

Additional support for the argument that EGC and RCC rates are not being dictated via Commission policy, is the Commission’s own statement that “the resources under CEYW – CO projects and associated agreements, unlike resources under PURPA, which the Company is mandated to take by the Federal Energy and Regulatory Commission, are freely negotiated by the Company with its customers.” Order No. 35482 at 18 (emphasis added).

Increased Penetration of Micron and other CEYW-CO Cost in Company’s NPSE

Staff believes the potential for Micron and other CEYW – CO customers to become a relatively large proportion of the Company’s NPSE is an important factor to consider regarding sharing and whether the rates should be freely negotiated.¹ Micron has a renewable energy goal of using 100% renewable energy to support its U.S. operations by year 2025. Application at 3. One of the Company’s largest power customers, Micron has a load in excess of 20 MW and is planning to increase its total load in the next few years in conjunction with construction of its new \$15 billion facility. Assuming about a 30% capacity factor for solar, Micron will need to acquire an amount of solar nameplate capacity more than 3 times its average load to achieve its goal. With such a large amount of nameplate capacity compared to its average load, the Company will receive large amounts of excess generation exported to its system, approaching two times Micron’s average load when the sun is its most intense. The amount of excess generation cost that make up the Company’s NPSE could become even larger with additional CEYW – CO customers that have similar renewable energy goals. Because there is the potential for a high penetration of Micron and other CEYW – CO customer’s excess generation costs to be

¹ The Company proposed to acquire up to 110% of any CEYW-CO customer’s annual energy requirements. Case No. IPC-E-21-40 Application, Attachment 1, Sheet No. 62-3.

included in the Company's NPSE, Staff believes it is important that compensation for excess generation be subject to PCA sharing so the Company is motivated to negotiate these contracts at least cost.

Micron as a Supplier

Although Micron and other CEYW- CO participants are customers when consuming power supplied by the Company, their decision to export generation into the Company's system is functionally no different than any other non-PURPA supplier that exports power to the Company's system. From a purely technical standpoint, any entity that provides power into the Company's system and receives remuneration for that power is a supplier to the Company. The main difference between a non-PURPA supplier and Micron is that Micron's load is netted from its generation.²

Currently, the Company freely negotiates and enters contracts with other non-PURPA suppliers, just as the Company did with Micron. When negotiating non-PURPA PPAs with suppliers; however, there is a financial incentive for the Company to negotiate for the lowest rates and most favorable terms because these PPAs have NPSE that are subject to sharing in the PCA. Staff believes that by applying sharing to Micron's payments for EGC and RCC in the PCA, similar to the sharing applied to the cost of the Company's other non-PURPA PPAs, the Company will have the financial incentive to negotiate the best rates for its customers, resulting in a prudent least cost, least risk outcome.

Boise City argues against sharing, stating:

the application of the cost sharing mechanism here does nothing to encourage the Company to mitigate its power supply expenses and instead passes back the cost to Micron or the future CEYW-CO participating customer by further reducing the value of excess energy and capacity credit costs. The Commission has the opportunity to review and approve each future CEYW-CO agreement . . . so it is not necessary to impose additional discriminatory costs to further increase the renewable resource benefits to non-participating customers through a cost-sharing mechanism.

City of Boise City's Petition for Reconsideration at 8, 9.

Staff has several points to make in response to Boise City's argument.

² In the case of Micron, the amount of exports seen by the Company requires mathematically netting Micron's load from its generation on an hourly basis. This "behind-the-virtual-meter" framework establishing a boundary between Micron and the rest of the Company's system is more fully discussed in Staff's initial comments in this case.

First, even though All Non-PURPA PPAs are subject to sharing in the PCA, the Company and other Idaho electric utilities must obtain approval from the Commission to recover their NPSE by filing for pre-approval through a separate case, through the annual PCA filing, and/or by filing a general rate case.

Second, Staff believes the purpose of sharing specific to non-PURPA PPAs is primarily to motivate the Company to achieve the best deal for all customers during its negotiation prior to authorization for recovery. Although sharing provides an incentive that aligns the Company's organizational objectives with the Company negotiating the best deal for all customers, Staff does not believe sharing by itself is sufficient to achieve the best deal for customers, which is why additional review and approval is necessary.

Finally, the Commission has stated that there is no guarantee that rates are set to ensure a project's financial viability or its owner is able to earn a return on investment.³ Micron and the Company, just as in any other negotiation between the Company and a non-PURPA power contractor, freely entered a negotiated agreement based on each party's own conceptualization of its costs and benefits. Furthermore, Micron has a corporate goal to supply 100% of its energy needs by 2025 with renewable energy and it has negotiated to own and retire all the Renewable Energy Credits ("REC") earned from its generation. Only Micron can evaluate the non-monetary benefits of its CEYW- CO project relative to its costs. Micron is also able to select the renewable resource of its choice. Because every resource type has a different generation profile, the Company needs to evaluate the value of this resource type (net of consumption) to the Company's system among its other generation options and consider this evaluation in its overall negotiation.

Method used to Determine EGC

Boise City's issue with the EGC is that the backstop mechanism, whereby ECRs are "the lower of the Excess Generation Price (with the 85% adjustment) and the actual high or low load hour Mid-C market price (without any adjustment) for each hour of excess energy delivered," precludes Micron, and other future CEYW – CO customers, of the opportunity to receive a larger

³ Not requiring that rates must provide financial viability to project owners is a principle the Commission has applied to PURPA rates in Order Nos. 32262 at 8 and 34794 at 14, and customer generation in Order Nos. 34509 at 13 and 35284 at 10.

EGC payment if actual market prices are higher. Boise City’s Petition for Reconsideration at 6-7.

Staff believes that the backstop authorized by the Commission in Order No. 35482 mitigates the potential consequences of (1) a price forecast with a significant amount of error, and (2) a fundamental change in market prices between forecast updates. Staff also believes the backstop strikes a balance between Micron’s need for predictability so that it can predict its revenue through the use of a forecasted EGC rate and the need to protect other customers by backstopping market price risk.

Because the Aurora market price forecast will be updated every two years with acknowledgement of the Integrated Resource Plan, the risk and impact of an incorrect forecast is greatly reduced. Because of this reason, Staff believes the backstop should be designed conservatively being infrequently needed unless the two conditions it is intended to mitigate occur. Staff believes the right balance can be struck by determining the EGC price each hour taking the lower of the Excess Generation Price (the Aurora market forecast with the 82.4% firmness adjustment and the 85% transmission-related cost adjustment) and a backstop amount using the actual high or low load hour Mid-Columbia (“Mid-C”) market price without the two adjustments.

Staff analyzed the frequency that the actual Mid-C price backstop came into play by comparing the 2019 Aurora-forecasted hourly prices (with the adjustments) to the 2019 actual Mid-C high and low load hourly prices (without the adjustments). Staff determined that by not applying the 82.4% and 85% adjustment to the actual Mid-C price, the backstop would come into play less than 10% of the time (819 hours out of 8760 hours). Staff believes that this backstop design provides the right balance of providing predictable rates for Micron while protecting other customers.

STAFF RECOMMENDATIONS

1. Staff continues to recommend that 95% customer sharing be applied to all EGC and RCC payments in the PCA; and
2. Staff continues to recommend that the EGC rate be based on the lower of the Excess Generation Price (with the 82.4% and 85% adjustments) and the actual

high or low load hour Mid-Columbia (“Mid-C”) market price (without any adjustments) for each hour.

Respectfully submitted this 18th day of October 2022.



Riley Newton
Deputy Attorney General

Technical Staff: Michael Louis

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 18th DAY OF OCTOBER 2022, SERVED THE FOREGOING **RECONSIDERATION COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-22-06, 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

TIM TATUM
CONNIE ASCHENBRENNER
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070
E-MAIL: ttatum@idahopower.com
caschenbrenner@idahopower.com

PETER J RICHARDSON
RICHARDSON ADAMS PLLC
515 N 27TH ST
PO BOX 7218
BOISE ID 83702
E-MAIL: peter@richardsonadams.com

DON READING
6070 HILL ROAD
BOISE ID 83703
E-MAIL: dreading@mindspring.com

ED JEWELL
DEPUTY CITY ATTORNEY
BOISE CITY ATTORNEYS OFF
PO BOX 500
BOISE ID 83701-0500
E-MAIL: ejewell@cityofboise.org
BoiseCityAttorney@cityofboise.org

WIL GEHL
ENERGY PROGRAM MANAGER
BOISE CITY DEPT OF PUBLIC WORKS
PO BOX 500
BOISE ID 83701
E-MAIL: wgehl@cityofboise.org



SECRETARY

CERTIFICATE OF SERVICE