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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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|--|---|-----------------------------|
| IN THE MATTER OF IDAHO POWER |) | |
| COMPANY’S APPLICATION FOR |) | CASE NO. IPC-E-22-28 |
| APPROVAL OR REJECTION OF AN |) | |
| ENERGY SALES AGREEMENT WITH |) | |
| LOWER LOWLINE LLC, FOR THE SALE |) | COMMENTS OF THE |
| AND PURCHASE OF ELECTIC ENERGY |) | COMMISSION STAFF |
| FROM THE LOWLINE #2 HYDRO PROJECT |) | |
| _____ |) | |

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

BACKGROUND

On November 9, 2022, Idaho Power Company (“Company”) applied for approval or rejection of an energy sales agreement (“ESA”) with Lower Lowline LLC (“Seller”) for the energy generated by the Lowline #2 Hydro Project (“Facility”). The Facility is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

The Facility is near Twin Falls, Idaho and has a 2,790 kilowatt (“kW”) nameplate capacity. The Seller has been delivering energy from the Facility to the Company under a contract entered into on September 12, 1986. The 1986 contract expires on April 30, 2023. The

new ESA has a 20-year term with non-levelized, seasonal hydro published avoided cost rates, which contains capacity payments for the entire term.

STAFF ANALYSIS

Staff's review focused on: (1) eligibility for and the amount of capacity payments; (2) the 90/110 Rule with at least five-day advanced notice for adjusting Estimated Net Energy Amounts; (3) avoided cost rates; and (4) the Article XXIII "Modification." Staff recommends the Commission approve the ESA conditioned on the parties updating Article XXIII "Modification."

Capacity Payments

The ESA allows immediate capacity payments and Staff believes this treatment is reasonable. 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 would include immediate payment of capacity." The current avoided cost rates in the 1986 contract were established in Order No. 20350¹ in Case No. U-1006-248 and those rates do not contain capacity payments.²

However, since 2000 the Company has added significant amounts of capacity to meet capacity needs including the Danskin (2001 and 2008), Bennett Mountain (2005), and Langley Gulch (2012) gas plants. Staff believes because the Facility has operated since the mid-1980s and throughout the Company's capacity deficiency periods, the Facility has contributed to meeting the Company's need for capacity and should be granted immediate capacity payments. *See* Order Nos. 34875, 34961, and 35067.

The 1986 contract and the ESA listed the nameplate capacity of the Facility as 2,790 kW, and the Maximum Capacity Amount for the ESA is also 2,790 kW. Staff believes the Facility should be granted immediate capacity payments for its entire generation capacity amount over the full term of the ESA.

¹ The Decision Memo dated October 24, 1986, stated the rates used in the 1986 contract were established in Order No. 20350 in Case No. U-1006-248.

² Order No. 20350 stated "[t]he current avoided cost payments for Idaho Power, as well as the payments set in the -200 case, are 100% energy based. In other words, payments are made solely for energy deliveries, and there is no separately calculated capacity payment." *See* Order No. 20350 at 19.

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 the total energy delivered for the lesser of 85 percent of the market price or the contract price. 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 plans to adjust its Estimated Net Energy Amounts for purposes of complying with the 90/110 Rule. Five-day advanced notice has been authorized by the Commission. *See* Order Nos. 34263, 34870, and 34937.

Avoided Cost Rates

Staff verified that the avoided cost rates contained in the ESA are correct.

Article XXIII “Modification”

Article XXIII “Modification” addresses a potential situation in which the Seller seeks to modify the Facility that may require a change in rates. However, the Article does not include any provisions that addresses if the actual modification deviates from the proposed and approved modification. Order No. 35506 required parties to “amend the contract again to reflect the actual modification and seek approval from the Commission if the actual modification deviates from the proposed modification.” *See* Order No. 35506 at 4. Staff recommends that the parties update Article XXIII to address this potential circumstance.

STAFF RECOMMENDATION

Staff recommends that the Commission approve the ESA and declare that all payments for purchases of energy under the ESA between Idaho Power and the Seller be allowed as prudently incurred expenses for ratemaking purposes, conditioned on the parties updating Article XXIII “Modification.”

Respectfully submitted this 4th day of January 2023.



Michael Duval
Deputy Attorney General

Technical Staff: Yao Yin

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 4th DAY OF JANUARY 2023, SERVED THE FOREGOING COMMENTS OF THE COMMISSION STAFF, IN CASE NO. IPC-E-22-28, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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