

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF IDAHO POWER ) CASE NO. IPC-E-23-02**  
**COMPANY’S APPLICATION FOR )**  
**APPROVAL OR REJECTION OF AN )**  
**ENERGY SALES AGREEMENT WITH )**  
**NORTH SIDE ENERGY COMPANY, INC. ) ORDER NO. 35750**  
**FOR THE SALE AND PURCHASE OF )**  
**ELECTIC ENERGY FROM THE BYPASS )**  
**HYDRO PROJECT )**  
**)**

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On January 19, 2023, Idaho Power Company (“Company” or “Idaho Power”) applied for approval or rejection of an energy sales agreement (“proposed ESA”) with North Side Energy Company, Inc. (“Seller”) for the energy generated by the Bypass Hydro Project (“Facility”). The Facility has a 9,960 kilowatt (“kW”) nameplate capacity and is a qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”). The Company requested its Application be processed by Modified Procedure with a Commission determination prior to expiration of the existing contract on May 31, 2023.

On February 6, 2023, the Commission issued a Notice of Application and Notice of Modified Procedure establishing a March 13, 2023, Commission Staff (“Staff”) and public comment deadline and a March 20, 2023, Company reply comment deadline. Order No. 35720.

Staff filed comments on March 13, 2023.

On March 17, 2023, the Company filed a “Motion for Extension of Time to File Reply Comments” by March 31, 2023, which the Commission granted. Order No. 35720.<sup>1</sup>

The Company filed Reply Comments on March 31, 2023 (“Reply Comments”) with an Attachment entitled “First Amendment to the Power Purchase Agreement Between Idaho Power Company and Northside Energy Company, Inc.” (“First Amendment”).

On April 7, 2023, the Company filed its Errata, with an Attachment entitled, “First Amendment to the Energy Sales Agreement Between Idaho Power Company and Northside Energy Company, Inc.” (“Errata”, collectively with the Company’s proposed ESA, “Amended

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<sup>1</sup>Staff’s recommendation in this case regarding Article XXIII was similar to its recommendation in Case No. IPC-E-22-28; the Company filed a compliance filing in that case on March 31, 2023, in response to Staff’s recommendation and the Commission’s order (Order No. 35705).

ESA”) for “the purpose of correcting typographical errors” and making clarifications to the First Amendment. Errata at 1.

With this Order, we approve the Company’s Amended ESA and declare all energy payments under the Amended ESA prudently incurred expenses for ratemaking purposes.

### **THE APPLICATION**

The Company stated that the Seller had been delivering energy from the Facility to the Company under a firm energy sales agreement entered November 12, 1986, and expiring on May 31, 2023. The Company further stated that the proposed ESA, executed by the Company and the Seller on January 3, 2023, contemplated a 20-year term with non-levelized, seasonal hydro published avoided cost rates as set forth in Order Nos. 35422 and 35475 with full capacity payments to the Seller for the entire term. Application at 2.

The proposed ESA required the Seller to estimate net energy and also adopted a “five-day advanced notice for adjusting Estimated Net Energy Amounts for purposes of complying with 90/110 firmness requirements . . . .” *Id.* at 8. The Company represented that the proposed ESA complied with all applicable federal and state laws and Commission orders and requested the Commission approve the proposed ESA and declare all payments for the purchase of energy under the proposed ESA be allowed as prudently incurred expenses for ratemaking purposes.

### **STAFF COMMENTS**

Staff’s comments and analysis focused on Section B-7 and Article XXIII of the proposed ESA as well as the Facility nameplate capacity, capacity payments, and avoided cost rates. Staff recommended the Company make the following changes and/or clarifications to the proposed ESA:

1. Update Section B-7 to correct an incomplete statement;
2. Correct the Facility nameplate capacity description and explain the difference between “Facility nameplate capacity” and “net name nameplate capacity” in Appendix B; and
3. Update Article XXIII “Modifications” so the Facility operated “under a correct and accurate contract” and received the “proper and authorized rate” on the first operation date after it is modified.

Staff Comments at 2.

Staff also recommended that the Company “update the proposed ESA to reflect . . . [i]ncluding recovery of Net Power Supply Expenses (“NPSE”) in the Power Cost Adjustment

("PCA") based on proper and authorized rates starting from the first operation date of any facility after it has been modified."<sup>2</sup> *Id.*

### COMPANY REPLY

Prior to filing its Reply Comments in this case, the Company met with Staff, the Seller representative, and counsel for IdahoHydro "[in] an effort to reach alignment on the contract language and amendments pertaining to Facility modifications and related issues" and "implement the Commission's intent" in this case and Case No. IPC-E-22-28, "and in ESAs moving forward." Company Reply Comments at 3-4.

As a result of these meetings, the Company filed the First Amendment with its Reply Comments. *Id.* at 4; Attachment 1. The Company represented that the First Amendment addressed Staff's concerns regarding Facility Modifications, the inclusions of NPSE in the PCA, the incomplete statement in Section B-7, the error in the discrepancy in the Facility nameplate capacity description and the distinction between the "net name nameplate capacity" and "Facility nameplate facility" terms in Appendix B. The Company requested the Commission approve "the Agreement between Idaho Power and Northside Energy, the First Amendment thereto, and declare that all payments for purchases of energy thereunder be allowed as prudently incurred expenses for ratemaking purposes." Company Reply Comments at 5.

On April 7, 2023, the Company filed its Errata for "the purpose of correcting typographical errors" and making clarifications to the First Amendment. Errata at 1; *see* Attachment 1 to the Company's Errata.

### COMMISSION FINDINGS AND DECISION

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

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<sup>2</sup> This recommendation aligned with the Commission's directive to the Company in Case No. IPC-E-22-28, "to only include net power supply expense in the Company's Power Cost Adjustment that reflects the proper authorized rate for all energy delivered as of the first operation date as a modified Facility." Order No. 35705 at 4.

FERC rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

The Commission has reviewed the record, including the Company's Application, Staff's comments, and the Company's Reply Comments and Errata. Based on that review, we approve the Company's Amended ESA. We find that the language in the Attachment to the Company's Errata addresses Staff's recommendations regarding Section B-7, the Facility nameplate capacity description, the difference between "Facility nameplate capacity" and "net name nameplate capacity" in Appendix B, and the procedure for Modifications to the Facility under Article XXIII. Based on the updated language in Article XXIII, as set forth in the Company's Reply Comments and Errata, our previous concern regarding the proper recovery of NPSE in the PCA is addressed. We find the language outlining a process for Facility Modifications proposed by the Company to be reasonable; we anticipate the Company using this language in all future energy sales agreements for energy from QFs.

#### **ORDER**

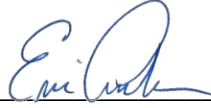
IT IS HEREBY ORDERED that the Company's Amended ESA is approved.

IT IS FURTHER ORDERED that all payments made by the Company for purchases of energy and capacity under the Amended ESA shall be allowed as prudently incurred expenses for ratemaking purposes.

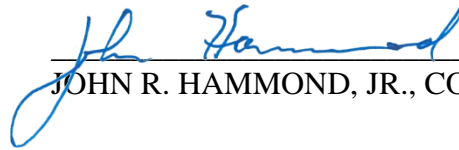
THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order regarding any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

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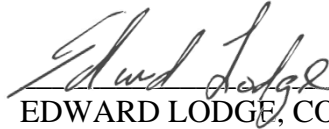
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 24<sup>th</sup> day of April 2023.



ERIC ANDERSON, PRESIDENT

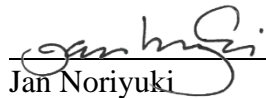


JOHN R. HAMMOND, JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki  
Commission Secretary

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