

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF IDAHO POWER</b>	)	<b>CASE NO. IPC-E-23-05</b>
<b>COMPANY’S APPLICATION FOR A</b>	)	
<b>CERTIFICATE OF PUBLIC CONVENIENCE</b>	)	<b>ORDER NO. 35900</b>
<b>AND NECESSITY TO ACQUIRE</b>	)	
<b>RESOURCES TO BE ONLINE BY 2024 AND</b>	)	
<b>FOR APPROVAL OF A POWER</b>	)	
<b>PURCHASED AGREEMENT WITH</b>	)	
<b>FRANKLIN SOLAR LLC</b>	)	
	)	

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On February 17, 2023, Idaho Power Company (“Company”) filed an application (“Application”) with the Idaho Public Utilities Commission (“Commission”) requesting an order: (1) granting the Company a Certificate of Public Convenience and Necessity (“CPCN”) to acquire 72 megawatts (“MW”) of dispatchable energy storage to meet an identified capacity deficiency in 2024; and (2) approving the 25-year Power Purchase Agreement (“PPA”) between Idaho Power and Franklin Solar LLC (“Franklin Solar”).

The Company represented that to fill its 2024 capacity deficiency, the Company conducted solicitation through a Request for Proposals (“RFP”) process seeking to acquire energy and capacity to help meet the Company’s previously identified capacity needs of 85 MW to be online by June of 2024, and an incremental 115 MW in 2025. Application at 5.

The Company represented that the RFP process resulted in the selection of a 100 MW solar photovoltaic (“PV”) facility, an Idaho Power-owned 60 MW energy storage project, and an Idaho Power-owned 12 MW energy storage project. *Id.*

The Company represented that on January 20, 2023, the Company and Franklin Solar entered into a PPA to construct, own, operate and maintain a 100 MW solar PV facility located in Twin Falls County, Idaho, supplying the output to the Company’s system for the period of 25 years from a commercial operation date of June 1, 2024. *Id.*

The Company represented that concurrent with execution of the PPA, on January 20, 2023, the Company executed a Build Transfer Agreement (“BTA”) with Duke Energy Renewables Solar, LLC (“Duke Energy Solar”), a subsidiary of Duke Energy Renewables, LLC, for the purchase of a Battery Energy Storage System (“BESS”), co-located with the Franklin Solar 100 MW solar PV facility in Twin Falls County, Idaho, providing for a minimum capacity of 60 MW. *Id.* at 9.

The Company represented that it can economically and efficiently add 12 MW of battery storage at the Hemingway substation, the site for which 80 MW of battery storage is being installed to meet the 2023 capacity deficiency, without requiring infrastructure upgrades and ensuring maximum Investment Tax Credits (“ITC”) benefits. The Company stated that it intends on adding the 12 MW BESS to the contract executed with Powin Energy Corporation on February 28, 2022, the contract in place for the 2023 energy storage resources, through a change order; or, in the alternative, use a different supplier the Company has available. *Id.* at 10.

The Company did not request binding ratemaking treatment in this case. The Company requested that the Commission find it had met the requirements of *Idaho Code* § 61-526, and for the Commission to issue an order granting a CPCN to acquire 72 MW of energy storage necessary to meet the identified capacity deficiency in 2024. *Id.* at 11-12.

The Company represented that it intends to finance the 72 MW of energy storage with a combination of available cash and operating cash flow, available facilities and borrowing and debt issuances, and potential future equity issuances by its parent entity, IDACORP. *Id.* at 14.

#### **STAFF COMMENTS**

Staff reviewed the Application and the Company’s discovery responses. Staff’s review focused on the capacity deficiency in 2024, the RFP process, the turn-key costs of the 72 MW of BESS capacity, and the 25-year PPA. Based on its review, Staff recommended the Commission: (1) approve the CPCN to acquire 72 MW of BESS capacity; (2) cap the turn-key costs of the 12 MW BESS and the 60 MW BESS as specified in Paragraph 1 of Confidential Attachment A to Staff’s comments, unless the Company presents convincing evidence that the current least-cost price is higher, when the Company seeks cost recovery; and (3) approve the PPA conditioned on the parties updating the PPA to reflect the inclusion of transmission costs in the calculation of liquidated damages for Output Shortfall in Section 7.12.2.3, correcting the mistake in Section 12.2.2, and modifying Section 23.1 to reflect the significance of Commission approval.

Staff also recommended that the Company address the issues Staff identified in the RFP process in future RFPs, regardless of whether the Company files an exception with the Oregon Public Utilities Commission.

Staff reviewed the Company’s claims of capacity needs, and Staff believed the amount of the deficit were reasonable and that the Company has shown the required necessity for a CPCN.

Staff believed the Company generally conducted a fair and transparent RFP process. However, Staff questioned whether the Company's RFP process resulted in projects that are least-cost, least-risk resources for Idaho ratepayers. Specifically, Staff is concerned that the Company restricted ownership types and resource types that could be submitted for bid when the Company issued its RFP, thus limiting the size of the bid pool. Staff is also concerned that there were anomalies created by decisions the Company made to accommodate changing circumstances during the final selection process. Additionally, Staff recommended the Company include the weighting of factors used to develop its score for each of the bids when it issues future RFPs to improve transparency of its bid-scoring.

Staff recommended approval of the CPCN for the two BESS resources with a soft cap on each project's turn-key cost. Staff could not confirm the selected resources were the least-cost, least-risk resources to meet the Company's 2024 capacity needs due to the issues Staff identified with the RFP process. However, Staff believed that recovery above the cap could occur if the Company presents convincing evidence that the least-cost price is currently higher when the Company seeks cost recovery.

With respect to the PPA, Staff identified issues with Section 7.12.2.3, Section 12.2.2, and Section 23.1. Staff recommended approval of the PPA conditioned upon updating these three sections.

### **COMPANY REPLY COMMENTS**

The Company agreed with Staff's recommendation to approve the CPCN and Staff's recommended updates to the PPA. The Company represented that it completed a robust competitive resource procurement process for identifying the least-cost, least-risk 2024 resource acquisitions, but the Company explained that as it gains experience with the development and issuance of RFPs, future RFPs will be refined, becoming more robust and ensuring a continued competitive resource acquisition process.

The Company did not agree with Staff's recommendation for a soft cap. The Company did not believe a soft cap was necessary and the Company was not requesting binding ratemaking treatment in this case. The Company only requested that the Commission find that the Company had met the requirements of *Idaho Code* § 61-526 and issue an order granting a CPCN.

However, the Company represented that if the Commission were to consider setting a soft cap, it was more appropriate to holistically consider Project No. 8's value and base the soft cap of the 60 MW BESS on the unit price associated with Project No. 8.

### **COMMISSION FINDINGS AND DECISION**

The Commission has jurisdiction over the Company's Application and the issues in this case under Title 61 of the Idaho Code including *Idaho Code* §§ 61-301 through 303. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of all public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provisions of law, and to fix the same by order. *Idaho Code* §§ 61-501 through 503.

#### **1. Necessity of the CPCN**

Public utilities shall “furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the health, safety, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable.” *Idaho Code* § 61-302.

Before constructing “a line, plant, or system,” a public utility providing electrical service must obtain a CPCN from the Commission establishing that the “public convenience and necessity” requires it. *Idaho Code* § 61-526. Pursuant to Idaho Commission Rule of Procedure 112, existing utilities applying for the issuance a CPCN under *Idaho Code* § 61-526 must submit any relevant data including: (1) a Statement and Explanation; (2) a Description of Construction or Expansion; (3) a Map; (4) a Financial Statement and Construction Timelines; and (5) Cost Estimates and Revenue Requirements.

Having reviewed the Application, the record, the comments of the parties, and all submitted materials, the Commission finds that the Company has satisfied the requirements for a CPCN to acquire 72 MW of dispatchable energy storage to meet an identified capacity deficiency in 2024. *Idaho Code* § 61-526; Rule 112.

#### **2. 25-year Power Purchase Agreement (“PPA”)**

The Commission finds it fair, just, and reasonable to approve the 25-year PPA between the Company and Franklin Solar with Staff's identified updates to Section 7.12.2.3, Section 12.2.2, and Section 23.1.

### **3. Soft Cap and Future Recovery**

Having reviewed the Application, the record, the comments of the parties, and all submitted materials, the Commission finds that it is fair, just, and reasonable to establish a soft cap for each project's turn-key cost as specified in Paragraph 1 of Confidential Attachment A to Staff's comments. While the Company represents that it will fully support and justify all 2024 resource costs as part of a future proceeding, the Commission emphasizes the importance of selecting the least-cost, least-risk resources to meet the Company's 2024 capacity needs, and the importance of conducting and maintaining thorough and competitive RFPs regardless of the Company's shifting capacity needs. The Company may recover above the soft cap for each project if the Company presents sufficient justification for its 2024 resource costs when the Company seeks recovery. However, the soft cap amounts, or any amount under the soft caps, is not guaranteed for recovery as all resource costs are subject to review during recovery proceedings.

#### **ORDER**

IT IS HEREBY ORDERED that the Company's Application for a Certificate of Public Convenience and Necessity for the acquisition of 72 MW of dispatchable energy storage to meet an identified capacity deficiency in 2024 is granted.

IT IS FURTHER ORDERED that the Commission establishes a soft cap for each project's turn-key cost in the amounts specified in Paragraph 1 of Confidential Attachment A to Staff's comments.


IT IS FURTHER ORDERED that the 25-year PPA between the Company and Franklin Solar with the identified updates to Section 7.12.2.3, Section 12.2.2, and Section 23.1 is approved. The Company shall file an updated PPA with the Commission within thirty (30) days from the service date of this Order.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date upon 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. *Idaho Code* §§ 61-626 and 62-619.

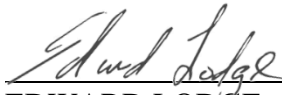
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 23<sup>rd</sup> day of August 2023.



ERIC ANDERSON, PRESIDENT

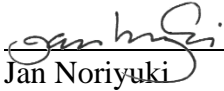


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki  
Commission Secretary

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