

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER) CASE NO. IPC-E-24-01
COMPANY’S APPLICATION FOR)
APPROVAL OF A POWER PURCHASE)
AGREEMENT WITH PVS 2, LLC) ORDER NO. 36197
)

On January 3, 2024, Idaho Power Company (“Company”), applied for approval of a 20-year Power Purchase Agreement (“PPA”) between the Company and PVS 2, LLC (“PVS 2”). The Company requested that the Commission issue an order approving the PPA prior to July 3, 2024.

On February 15, 2024, the Commission issued a Notice of Application and Notice of Modified Procedure, setting public comment and Company reply deadlines. Order No. 36088. Staff submitted the only comments.

Having reviewed the record, the Commission issues this Final Order approving the PPA between the Company and PVS 2.

BACKGROUND

The Company and Brisbie LLC (“Brisbie”) previously negotiated a Special Contract for the Company to provide electric service to Brisbie. The Special Contract, or Energy Services Agreement (“ESA”), was filed and received Commission approval in Case No. IPC-E-21-42. *See* Order Nos. 35777 and 35958. The PPA was formed with the expectation of assigning the associated energy and Green Tags/Environmental Attributes to Brisbie under the provisions contained in the ESA.

THE APPLICATION

The Company seeks approval of a PPA that requires PVS 2 to build, own, operate, and maintain a 125 megawatt alternating current solar photovoltaic generation facility (“Facility”). Under the PPA, the Facility will function as a resource dedicated to Brisbie’s annual renewable energy requirements, but the Facility’s output will be supplied via the Company’s system. The Scheduled Commercial Operation Date for the Facility is December 31, 2026, with a Guaranteed Commercial Operation Date 180 days later.

The PPA contains a performance requirement in the form of an Output Guarantee, which requires delivery of 90 percent of the Facility’s Expected Energy, and allows for adjustment

of the Estimated Monthly Net Output Amounts by the 25th day of the preceding month. The PPA also contains provisions for operation and control of the project including planned outages, forced outages, maintenance outages, as well as scheduling, forecasting, generator output limit control, and metering.

Brisbie is a third-party beneficiary of the PPA, receiving energy and Green Tags associated with the Facility's Net Output. Although the Company will receive all the Environmental Attributes associated with the Facility, Brisbie will claim them pursuant to the ESA.

STAFF COMMENTS

Based upon its review of the Application, the PPA, the Company's responses to production requests, and other supporting materials, Staff recommended that the Commission approve the PPA between the Company and PVS 2 and declare that all payments to the PVS 2 be allowed as prudently incurred expenses for ratemaking purposes. In reviewing the PPA, Staff focused on the resource selection process, the parent guaranty, and the Market Price Index.

Resource Selection Process

As the Company is currently identifying resources to meet system needs, Staff was concerned that the Facility was selected as a dedicated resource for Brisbie when it should have been selected as a low-cost resource available to all Company customers. However, after reviewing the process used to select the Facility as a resource dedicated to Brisbie, Staff believes Brisbie was not favored over the Company's other customers.

In responding to Staff's production requests, the Company indicated that Brisbie conducts its own requests for proposals ("RFP") to evaluate and identify projects. This process resulted in selection of the Facility and its development by the same developer as the 200-MW Pleasant Valley Solar project, which we approved in Order No. 35739. Staff verified that Brisbie's RFP process was conducted independently of the Company's selection process for resources to serve its system.

Staff further noted that the Facility was not included in any of the bids in the Company's RFPs. Accordingly, Staff did not believe there was a conflict of interest affecting the Company's access to low-cost resources for system needs.

Parent Guaranty

The ESA requires Brisbie to obtain a guaranty covering potential costs incurred, if Brisbie stops taking the Facility's Output. Staff indicated that Brisbie obtained a parent guaranty from Meta Platforms, Inc. ("Meta"), satisfying the guaranty requirement.

Market Price Index

Staff noted that the term "Market Price Index" appears multiple times in the PPA. For example, the term appears in Section 1.57 "Idaho Power's Cost to Cover" and Section 1.126 "Seller's Cost to Cover" 2. As defined in the PPA, "Market Price Index" means:

82.4% of the monthly arithmetic average of each day's Intercontinental Exchange ("ICE") daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg index prices with such prices being the index representing, or adjusted to assume, a price for energy that is not delivered to a final point of delivery in a balancing authority area located entirely in Washington, or a designated scheduling point associated with a Washington retail provider within a balancing authority area operated by a federal power marketing administration... (emphasis added).

PPA at 10. Staff believed that this definition is reasonable, prevents Washington's Climate Commitment Act ("CCA") from impacting Idaho customers, and aligns with the Commission's prior decision that Idaho customers should not bear CCA cost. *See* Order No. 36015.

COMMISSION FINDINGS AND DECISION

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 the law, and to fix the same by order. *Idaho Code* §§ 61-502 and -503.

Having reviewed the record, the Commission finds it fair, just, and reasonable to approve the Company's Application. As previously noted, the PPA was formed with the expectation of assigning the energy and associated Environmental Attributes to Brisbie under an ESA we previously approved in Order Nos. 35777 and 35958. The evidence in the record shows that the selection of the Facility as a dedicated resource for Brisbie did not result from preferential treatment by the Company. Additionally, the guaranty Brisbie obtained from Meta and the definition of the term "Market Price Index" will insulate the Company's other customers against potential negative effects that could arise from the PPA. Accordingly, we find it reasonable to

approve the PPA between the Company and PVS 2 and declare that all payments to PVS 2 be allowed as prudently incurred expenses for ratemaking purposes.

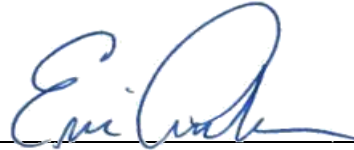
ORDER

IT IS HEREBY ORDERED that the Company's Application for approval of the PPA between the Company and PVS 2, LLC is approved.

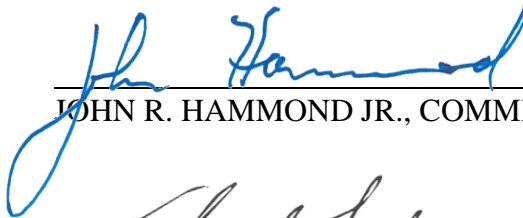
IT IS FURTHER ORDERED that all payments to PVS 2 under the PPA are allowed as prudently incurred expenses for ratemaking purposes.

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 about 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.*

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 28th day of May 2024.



ERIC ANDERSON, PRESIDENT



JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Monica Barrios-Sanchez
Commission Secretary

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