

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF ROCKY MOUNTAIN ) CASE NO. PAC-E-22-01**  
**POWER’S APPLICATION FOR APPROVAL )**  
**OR REJECTION OF THE AMENDED )**  
**POWER PURCHASE AGREEMENT ) ORDER NO. 35383**  
**BETWEEN PACIFICORP AND LARRY AND )**  
**CHRISTIE OJA )**

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On January 19, 2022, Rocky Mountain Power (“Company”), a division of PacifiCorp, applied to the Commission for an order approving or rejecting an amendment to a power purchase agreement (“Second Amendment”) between the Company and Larry Oja and Christie Oja (collectively “Sellers”) for energy produced by a 260-kilowatt hydroelectric facility (“Facility”)— a qualifying facility (“QF”) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

On February 10, 2022, the Commission issued Notice of Application and Notice of Modified Procedure setting comment deadlines for the public and the Company. *See* Order No. 35316. On March 9, 2022, Staff submitted the only comments filed in this case.

Now, the Commission issues this final Order granting the Company’s Application.

**BACKGROUND**

The Facility is in Oneida County, Idaho and has been delivering energy to the Company under a purchase power agreement (“PPA”) executed in 1985, amended on January 24, 1992, and expired on January 31, 2022 (“PURPA Contract”).

**THE APPLICATION**

The Company represented that it and the Seller were undertaking processes that would result in the replacement of the interconnection provisions of their PURPA Contract. The Company further represented that the Second Amendment would operate as a one-year extension of the PURPA Contract and would be effective for the earlier of either the effective date of a new PPA or January 31, 2023.

The Company requested the Commission declare that the avoided cost prices set forth in the Second Amendment were just and reasonable, in the public interest, and that the Company’s incurrence of such costs were legitimate expenses for recovery in rates from Idaho customers.

## STAFF COMMENTS

Staff recommended approval of the Second Amendment. Staff further recommended the Commission approve the retroactive application of the avoided cost rates in the Second Amendment for the duration of the lapsed contract period, even though the Second Amendment did not cover that period. Staff's review focused on the 90/110 rule, capacity payment eligibility, the lapsed contract period, and the avoided cost rates.

For the one-year extension, Staff believed it acceptable to exclude the 90/110 rule in the Second Amendment because of its limited duration. However, Staff specified that the long-term replacement PPA would need to include the 90/110 rule and be promptly filed to allow sufficient time for Commission review before the Second Amendment expires.

Staff did not believe the circumstances in this case warranted withholding capacity payments for the lapsed contract period. Staff believed it acceptable to apply the proposed avoided cost rates with capacity payments retroactively for the lapsed contract period.

Staff noted that while there were opportunities for the Sellers to have completed the interconnection process prior to the PURPA Contract expiring, it believed it acceptable for the project to receive capacity payments during the lapsed contract period. Staff based this recommendation on the Sellers' demonstrated commitment to resolving the interconnection issues, and on previous instances where the Commission has allowed capacity payments to QFs with lapsed contract periods.

Staff noted the Company's plan to pay the avoided cost rates proposed in the Second Amendment for the lapsed contract period if the Commission approved retroactive rates starting February 1, 2022. Staff verified that the proposed rates were correct.

Even though the Company's signature page was undated on the Second Amendment, Staff noted the Company's evidence that it executed the Second Amendment on December 15, 2021.

## COMMISSION FINDINGS AND DECISION

The Commission has jurisdiction over this matter pursuant to *Idaho Code* §§ 61-501, -502 and -503. The Company is an electrical corporation and a public utility as defined in *Idaho Code* §§ 61-119 and -129. 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. *Id.* 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 FERC rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.

Having reviewed the record, we find it fair, just, and reasonable to approve the Second Amendment to the PPA. Approving PPAs between QFs and utilities with retroactive rates is not our preference or practice historically. We encourage QFs and utilities to take reasonable measures and timely submit proposed PPAs to allow adequate time for Staff and interested parties to conduct their due diligence and for us to deliberate and issue an order before the proposed effective date.

We direct the Company to file its finalized replacement PPA with sufficient time to allow the Commission to process the PPA in the normal course before the proposed effective date. We also acknowledge that the Second Amendment to the PPA is for a limited duration and that the need to execute a limited duration contract stems from the legitimate need for the Company to establish updated PURPA contracts that reflect interconnection requirements to maintain safety and reliability of the system. We further direct the Company to include in its replacement PPA terms substantially similar as other previously approved PPAs—including the 90/110 Provision.

### **ORDER**

IT IS HEREBY ORDERED that the Second Amendment to the Parties’ PPA is approved.

IT IS FURTHER ORDERED that all payments made by the Company for purchases of energy under the Amended 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 with regard to 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 26<sup>th</sup> day of April 2022.



ERIC ANDERSON, PRESIDENT

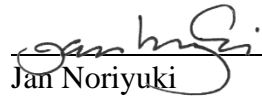


JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki  
Commission Secretary

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