

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF PACIFICORP’S)	CASE NO. PAC-E-22-18
APPLICATION FOR APPROVAL OR)	
REJECTION OF THE POWER PURCHASE)	
AGREEMENT WITH LARRY AND)	ORDER NO. 35693
CHRISTIE OJA)	
)	

On November 14, 2022, Rocky Mountain Power, a division of PacifiCorp (“Company”) applied to the Commission (“Application”) for approval or rejection of a Power Purchase Agreement (“PPA”) between the Company and Larry and Christie Oja¹ (“Sellers”) for energy produced by Sellers’ small-hydro facility (“Facility”) located in Oneida County, Idaho. The Facility is a qualifying facility under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

On December 13, 2022, the Commission issued Notice of Application and Notice of Modified Procedure setting public comment and Company reply deadlines. Staff submitted comments to which the Company replied. No other comments were received.

On January 17, 2023, the Company also filed an Amendment to the PPA (“Amendment”) to incorporate corrections that were suggested in Staff’s comments.

Having reviewed the record in this case, the Commission now issues this final Order approving the Company’s Application and PPA as amended by the Company’s January 17, 2023, filing.

BACKGROUND

Under PURPA, electric utilities must purchase electric energy from QFs at purchase or "avoided cost" rates approved by the Commission. 16 U.S.C. § 824a-3; *Idaho Power Co. v. Idaho PUC*, 155 Idaho 780, 789, 316 P.3d 1278, 1287 (2013). The Commission has established two methods for calculating avoided costs, depending on the size of the QF project: (1) the surrogate avoided resource method, used to establish "published" avoided cost rates; and (2) the integrated

¹ The parties to the PPA are PacifiCorp and the Sellers. The heading of the Company’s Application appears to incorrectly identify that “OJA, LLC” as the Seller. Application at 1. The Idaho Secretary of State’s website only shows a different, inactive limited liability company: “OJA’s LLC”. In this Order the heading has been modified to correctly reflect the parties to the PPA.

resource plan method, to calculate avoided cost rates for projects exceeding published rate limits. *See* Order No. 32697 at 7-22.

The Facility has been delivering energy to the Company under a 1986 power purchase agreement (“1986 PPA”).² In 2022, the Commission authorized a one-year extension for the 1986 PPA which was effective through January 31, 2023.³ Order No. 35383.

APPLICATION

The Company represented that the Facility has a nameplate capacity of 188 kilowatts (“kW”).⁴ Application at 1; *see also* PPA at 1.

The Company stated that the PPA is a 20-year contract containing non-seasonal hydro rates based upon surrogate avoided resource avoided cost method. Application at 3. The PPA also contains capacity and energy payments for the duration of the contract. *Id.*

The Company also requested the Commission declare all payments for purchase of energy and capacity under the PPA be allowed as prudently incurred expenses for ratemaking purposes. *Id.* at 6.

STAFF COMMENTS

Staff’s Comments described “the nameplate capacity rating, capacity payments, avoided cost rates, signature date of the 1986 [PPA], and the 90/110 Rule.” Staff Comments at 1. Staff verified the PPA contains the 90/110 Rule and agreed with the Company’s estimation that there will be zero energy delivered in the month of May.

Staff discussed that the Company’s 1986 PPA had a listed nameplate capacity of 260 kW while the proposed PPA lists the nameplate capacity at 188 kW. Staff noted that the Company had previously clarified that the Facility’s actual nameplate capacity was 188 kW. Staff Comments at 2 citing Company Response to Staff Production Request No. 2. Despite the adjustment correcting the Facility’s actual nameplate capacity in the PPA, Staff noted capacity payments would not be affected in the proposed PPA given that the correct nameplate capacity

² The 1986 PPA was originally set to expire on January 31, 2022. While the expiration date remained the same, several parts of the 1986 PPA were amended on January 24, 1992. In Case No. PAC-E-22-01, the original January 31, 2022, expiration date established in 1986 was extended by one-year and expired on January 31, 2023. Order No. 35316.

³ The Seller and Company were working to secure a standalone interconnection agreement that would “replace the interconnection provisions in the current PPA contract.” Application at 4. Until the new, standalone agreement was secured, the parties agreed to a one-year extension to allow for the interconnection agreement to be completed.

⁴ Paragraph 2 of the Company’s Application stated that the Facility has a nameplate capacity of 188 kW. However, paragraphs 7 and 14 inadvertently state that the nameplate capacity is 260 kW—which was the listed nameplate capacity in the 1986 contract. The Company informally confirmed that 188 kW is the correct nameplate capacity.

rating is a reduction from that listed in the 1986 PPA. Staff believed the Company's assertions regarding nameplate capacity and the avoided cost rates contained in the PPA were correct.

Staff noted that the PPA incorrectly stated the 1986 PPA was signed on January 3, 1985, instead of the actual signature date of March 4, 1986.⁵ Accordingly, Staff recommended the proposed PPA be corrected to reflect the actual 1986 signature date.

On the condition that the Company corrected the listed signature date of the 1986 PPA, Staff recommended that the Commission approve the Company's PPA and allow its associated payments as prudently incurred expenses for ratemaking purposes.

COMPANY REPLY

The Company agreed that Staff was correct that the 1986 PPA was signed on March 4, 1986. Accordingly, the Company stated it would submit the Amendment to correct the error.⁶ The Company agreed with the remainder of Staff's comments.

COMMISSION FINDINGS AND DISCUSSION

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

Having reviewed the record, including the Company's Application, the proposed PPA, the comments, and the Amendment, the Commission finds it reasonable to approve the proposed PPA, as modified by the Amendment correcting the execution date of the original, 1986 PPA contains Commission-approved terms for which the Facility is eligible based on characteristics like fuel source, project size, generation output profile, and renewal contract status. Accordingly, the

⁵ The Application also mistakenly states that the 1986 PPA was entered into by the parties in 1992. *See* Application at 3.

⁶ The Amendment clarifying the signature date error was filed on January 17, 2023; it confirmed that the signature date for the 1986 PPA was indeed March 4, 1986.

Commission finds that the Company's payments for purchases of energy and capacity under the PPA are prudently incurred expenses for ratemaking purposes.

The Commission appreciates Staff's comments noting initial errors in the proposed PPA's listed nameplate capacity as well as errors with several dates related to the original 1986 contract. The Commission also appreciates the Company quickly filing the Amendment to correct the mistaken date in the PPA.

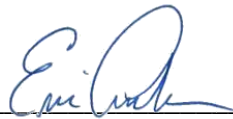
ORDER

IT IS HEREBY ORDERED that the PPA as modified by the Amendment is approved effective as of February 1, 2023.

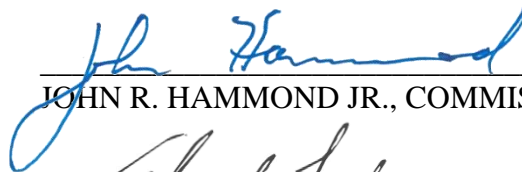
IT IS FURTHER ORDERED that all payments made by the Company for energy and capacity under the modified PPA shall be deemed prudently incurred for ratemaking purposes.

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. *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 7th day of March 2023.



ERIC ANDERSON, PRESIDENT

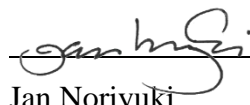


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary