Office of the Secretary
Service Date
January 13, 2011

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR APPROVAL OF A FIRM ENERGY SALES AGREEMENT WITH J.M. MILLER ENTERPRISES, INC. FOR THE SALE AND PURCHASE OF ELECTRIC ENERGY.	)	**CASE NO. IPC-E-10-37** **ORDER NO. 32159**

On November 15, 2010, Idaho Power Company filed an Application with the Commission requesting approval of a 10-year Firm Energy Sales Agreement (the "Agreement") between Idaho Power and J.M. Miller Enterprises, Inc. (J.M. Miller) dated November 1, 2010. The Application states that J.M. Miller would sell and Idaho Power would purchase electric energy generated by the Sahko Hydro Project (the "Facility") located near Filer, Idaho. The Company requested that its Application be processed by Modified Procedure.

On December 8, 2010, the Commission issued a Notice of Application and Notice of Modified Procedure setting a 21-day comment deadline. Staff was the only party to file comments. By this Order, the Commission approves the Agreement between Idaho Power and J.M. Miller without change or condition and declares that all payments made by Idaho Power to J.M. Miller be allowed as prudently incurred expenses for ratemaking purposes.

THE AGREEMENT

The Application states that J.M. Miller is currently selling energy from this Facility to Idaho Power under a Schedule 86 non-firm agreement dated September 7, 2005, approved by the Commission in September 2005. Order No. 29874; Application at 2. The Agreement specifies that the existing agreement shall be terminated at the time the Facility achieves its Operation Date as specified within the presently submitted Agreement.

The Agreement is for a term of 10 years and contains the current non-levelized published avoided cost rates established by the Commission in Order No. 31025 for energy deliveries of less than 10 average megawatts ("aMW"). The nameplate rating of the Facility is 0.5 MW. Interconnection for this Facility was completed in association with the existing Schedule 86. *Id.* at 4. Therefore, all applicable interconnection charges and monthly operation and maintenance charges have already been assessed and collected from J.M. Miller regarding this Facility.

As this Facility is already providing energy to Idaho Power under an existing Schedule 86 agreement, J.M. Miller selected a Scheduled Operation Date of 30 days past the date this Agreement is approved by the Commission. By its own terms, the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declares that all payments made by Idaho Power to J.M. Miller for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes. Agreement ¶ 21.1.

THE COMMENTS

Staff reviewed the Agreement and confirmed that it comports with all of the terms and conditions of the various Commission Orders applicable to PURPA agreements. Staff noted that the Agreement is substantially identical to other recently-approved contracts and, therefore, presents no new issues that merit additional discussion.

Although Idaho Power filed a Joint Petition with the Commission on November 5, 2010, seeking a reduction in the published avoided cost rate eligibility cap from 10 aMW to 100 kW, Idaho Power does not believe that this Agreement should be impacted by that filing. Staff agrees. The Agreement was signed by the parties prior to the filing of the Joint Petition and the subsequent Notice of Filing issued by the Commission. Therefore, Staff recommended the Commission approve all of the Agreement's terms and conditions and declare that all payments made by Idaho Power to J.M. Miller for purchases of energy be allowed as prudently incurred expenses for ratemaking purposes.

FINDINGS AND CONCLUSIONS

The Idaho Public Utilities Commission has jurisdiction over Idaho Power, an electric utility, and the issues raised in this matter pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities (QFs) and to implement FERC rules.

The Commission has reviewed the record in this case, including the Application, the November 1, 2010 Agreement, and the comments and recommendations of Commission Staff. As represented and pursuant to contract, under normal and/or average conditions the Facility will not exceed 10 aMW on a monthly basis. As such, we find that the J.M. Miller project is qualified to receive the non-levelized published avoided cost rates in effect on the date of contract signing.

Based on the record established in this case, we find that the proposed Agreement contains acceptable contract provisions including the non-levelized published avoided cost rates approved by the Commission in Order No. 31025. We further find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes.

ORDER

IT IS HEREBY ORDERED that the November 1, 2010, Firm Energy Sales Agreement between Idaho Power and J.M. Miller Enterprises, Inc. is approved without change or condition.

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. 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 12th day of January 2011.

JIM D. KEMPTON, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

MACK A. REDFORD, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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