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August 10, 2017

VIA HAND DELIVERY

Diane Hanian, Secretary
Idaho Public Utilities Commission
472 West Washington Street
Boise, Idaho 83702

Re: Case No. IPC-E-17-01
Contract Terms, Conditions, and Avoided Cost Pricing for Battery Storage
Facilities – Idaho Power Company’s Answer to Petition for
Reconsideration

Dear Ms. Hanian:

Enclosed for filing in the above matter please find an original and seven (7)
copies of Idaho Power Company’s Answer to Petition for Reconsideration.

Very truly yours,

Donovan E. Walker

DEW:csb
Enclosures

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Attorney for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF)
IDAHO POWER COMPANY FOR A) CASE NO. IPC-E-17-01
DECLARATORY ORDER REGARDING)
PROPER CONTRACT TERMS,) IDAHO POWER COMPANY'S
CONDITIONS, AND AVOIDED COST) ANSWER TO PETITION FOR
PRICING FOR BATTERY STORAGE) RECONSIDERATION
FACILITIES)
_____)

I. INTRODUCTION

Idaho Power Company ("Idaho Power" or "Company"), in accordance with *Idaho Code* § 61-626 and RP 331.05, hereby submits this Answer to the Petition for Reconsideration of final Order No. 33785 ("Petition") issued July 13, 2017, filed by Franklin Energy Storage One, LLC (32 megawatts ("MW")); Franklin Energy Storage Two, LLC (32 MW); Franklin Energy Storage Three, LLC (32 MW); and Franklin Energy Storage Four, LLC (32 MW) (collectively referred to herein as "Franklin Energy Storage" or "Franklin.")

Franklin Energy Storage fails to demonstrate that the Idaho Public Utilities Commission's ("Commission") Order No. 33785 is unreasonable, unlawful, erroneous,

or not in conformity with the law. RP 331.01. The Commission's Order No. 33785 is based upon substantial and competent evidence in the record. The Commission regularly pursued its authority and acted within its discretion. Consequently, reconsideration should be denied.

II. ANSWER

Franklin Energy Storage's sole basis of error alleged in its Petition is based upon the allegation that the Commission improperly made a determination as to the Qualifying Facility ("QF") status of the Franklin Energy Storage projects. This is incorrect, as demonstrated by the issue presented for declaratory ruling by Idaho Power, as well as the express language to the contrary of Franklin's allegation from Order No. 33785.

The Commission's determination in Order No. 33785 was what the proper avoided cost rate and contract term is for the proposed battery storage facilities. Both the Commission and Idaho Power recognized that the issue as to the validity of the proposed battery storage facilities' QF status was an issue properly before the Federal Energy Regulatory Commission ("FERC"), and not the Commission. Idaho Power asked the Commission to determine the avoided cost rate eligibility and proper contract term for the proposed battery storage facilities assuming the validity of the proposed facilities' QF self-certifications, without waiving a challenge of the same before the proper authority, FERC. Idaho Power's Petition for Declaratory Order states:

Idaho Power does not agree with the Proposed Battery Storage Facilities' claims as to their QF status independent of a cognizable associated generation resource, and this Petition is without prejudice to Idaho Power's position before FERC on the validity of the self-certifications. However, QF status is within the exclusive jurisdiction and properly before FERC, not this Commission, for determination. Idaho Power does not seek from this Commission a determination as to

QF status with regard to the Proposed Battery Storage Facilities. Idaho Power seeks a determination from the Commission as to the proper avoided cost rates, as well as the proper contractual terms and conditions applicable to the Proposed Battery Storage Facilities Schedule 73 requests for PURPA pricing and contracts. Although not conceding any argument and advocacy to the contrary at FERC, **for purposes of the determination as to the rate eligibility and contract term length for the Proposed Battery Storage Facilities as requested in this Petition, Idaho Power does not dispute that the facilities are self-certified QFs without respect to the validity of those self-certifications.** The legal controversy or question for the Commission is, under the facts presented by the requests of the Proposed Battery Storage Facilities, whether they are entitled to published avoided cost rates and 20-year contract terms—or are instead entitled to the negotiated rate and contracting procedures and two-year contract terms. This is a determination that is within the exclusive jurisdiction of this Commission.

Petition for Declaratory Order, pp. 6-7 (emphasis added).

The Commission noted this above stipulation in its Order stating, “Idaho Power acknowledged that ‘QF status is within the exclusive jurisdiction [of] and properly before FERC’; thus for purposes of its Petition, the Company did not challenge the QF status of Franklin and Black Mesa.” Order No. 33785, p. 3 (citation omitted). Further, in the Commission Findings and Decision section of Order No. 33785 the Commission stated:

Consequently, our ruling on the narrow declaratory issue before us should not be read to presume that this Commission deems battery storage to be a legitimate qualifying facility eligible for the benefits of PURPA and subject to the Act’s implementing regulations under FERC. ***The battery storage facilities’ QF status is a matter within FERC’s jurisdiction and is not at issue in this case.***

Id., p. 10-11 (emphasis added).

Additionally, the Commission has the exclusive jurisdiction and authority to determine the proper avoided cost rates and contractual terms and conditions as

applied to the proposed battery storage facilities, and properly did so in Order No. 33785. The Commission stated, “Accordingly, we find it appropriate to base Franklin’s and Black Mesa’s eligibility under PURPA on its primary energy source — solar. . . . We find that, as storage facilities with design capacities that will exceed 100 kW each and with solar as their primary energy source, the projects are eligible for two-year, negotiated (IRP methodology) contracts.” *Id.*, pp. 12-13. The Commission made no determination as to Franklin Energy Storage’s QF status. The Commission made a determination as to what avoided cost rate and what contract term Franklin Energy Storage is entitled to under the Public Utility Regulatory Policies Act of 1978 (“PURPA”). This determination, rather than making a determination as to their QF status as Franklin now alleges on reconsideration, actually assumes they are validly self-certified QFs and goes on to determine, assuming they are PURPA QFs, what the proper avoided cost rate and contract term is for the proposed battery storage facilities.

III. CONCLUSION

Idaho Power requested that the Commission issue a declaratory order, without prejudice to Idaho Power’s position on the validity of the underlying self-certifications, finding that the proposed battery storage facilities are subject to the same 100 kilowatt (“kW”) published avoided cost rate eligibility cap applicable to wind and solar facilities. More specifically, that the proper authorized avoided cost rate for battery storage facilities, such as those proposed by Franklin Energy Storage One through Four and Black Mesa Energy, as projects that exceed 100 kW nameplate capacity, is the incremental cost Integrated Resource Plan methodology with a maximum contract term of two years.

The Commission expressly stated that it was not making a determination as to the QF status of the proposed battery storage facilities, as that determination was within

the jurisdiction of FERC and was not at issue in this matter. Order No. 33785, p. 11. The Commission has the exclusive jurisdiction and authority over the avoided cost rate and contract term eligibility as applied to the proposed battery storage facilities under PURPA for the state of Idaho. The Commission did not make any determination as to the QF status, or as to the self-certification of QF status, of the proposed battery storage facilities. The Commission's determination in Order No. 33785 was limited to the proper avoided cost rate and contract term for Franklin Energy Storage and Black Mesa Energy arising out of contract negotiations between Idaho Power and the proposed battery storage facilities. Order No. 33785, p. 12.

Franklin Energy Storage has failed to demonstrate that the Commission's Order No. 33785 is unreasonable, unlawful, erroneous, or not in conformity with the law. RP 331.01. The Commission's Order No. 33785 is based upon substantial and competent evidence in the record. The Commission regularly pursued its authority and acted within its discretion. Consequently, Idaho Power respectfully requests that the Commission deny Franklin Energy Storage's Petition for Reconsideration.

Respectfully submitted this 10th day of August 2017.



DONOVAN E. WALKER
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of August 2017 I served a true and correct copy of IDAHO POWER COMPANY'S ANSWER TO PETITION FOR RECONSIDERATION upon the following named parties by the method indicated below, and addressed to the following:

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