



*Case No. IPC-E-17-01, Order No. 33785*

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## State regulators deny petition to reconsider ruling on battery storage projects

**BOISE (Aug. 29, 2017)** – State regulators have denied a request to reverse their decision regarding the contract terms for several proposed PURPA battery storage projects in southern Idaho.

The Idaho Public Utilities Commission said Franklin Energy’s petition for reconsideration failed to show that its final order was “unreasonable, unlawful, erroneous or not in conformity with the law.”

The Public Utility Regulatory Policies Act, or PURPA, requires electric utilities to purchase energy from qualifying independent power producers but gives state regulators authority to determine the contract terms for PURPA-eligible facilities.

In Idaho, PURPA facilities larger than 100 kilowatts, or 0.1 megawatts, that are powered by intermittent sources such as solar and wind are eligible for two-year contracts at a rate negotiated between the utility and the developer (IRP methodology).

Franklin’s plans call for the construction of four battery storage facilities to be located in Twin Falls County. The batteries would be charged with energy from nearby solar projects capable of generating 2.5 average megawatts, and the electricity dispatched to Idaho Power under the provisions of PURPA.

Franklin contended that its projects should qualify for 20-year contracts at the published rate set by the Commission.

Idaho Power said the projects, and energy storage projects in general, were eligible for two-year, negotiated PURPA contracts, and asked the Commission to intervene.

In determining the projects were eligible for two-year contracts, the Commission relied on a 1990 order by the Federal Energy Regulatory Commission, which implements PURPA.

In *Luz Development and Finance Corporation*, FERC said energy storage facilities are not *per se* small power producers as contemplated by PURPA, and that a facility's primary energy source must be considered.

Since Franklin's facilities would utilize solar as their primary energy source, the Commission determined that they would be eligible for two year, negotiated contracts.

In its petition for reconsideration, Franklin claimed the Commission's decision was "fatally flawed."

Franklin contended the Commission made a determination about the battery storage projects' status as a qualifying facility (QF) under PURPA. Such a determination exceeds the Commission's authority and is therefore unlawful, Franklin said.

In rejecting the company's reconsideration petition, the Commission noted that its ruling explicitly states that Franklin's projects' QF status is "a matter within FERC's jurisdiction" and that the projects' QF status was never in question.

The Commission also emphasized that state commissions have broad discretion and authority in establishing the terms and conditions of PURPA contracts.

"Franklin's mischaracterization of our Final Order is a frivolous effort to contrive a legal basis for reconsideration," the Commission said.

A petition for reconsideration allows any party to contest a Commission order. Once an order on reconsideration is issued, the Commission's decision can be appealed directly to the Idaho Supreme Court.

The Commission's order and other documents related to the case can be found at [www.puc.idaho.gov](http://www.puc.idaho.gov). Under the "Electric" heading, click on "Open Cases," and scroll down to Case No. IPC-E-17-01.