Office of the Secretary
Service Date
January 31, 2020

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER'S PETITION FOR APPROVAL OR DENIAL OF AN ENERGY SALES AGREEMENT WITH LITTLE WOOD IRRIGATION DISTRICT FOR THE SALE AND PURCHASE OF ELECTRIC ENERGY FROM THE LITTLE WOOD RIVER RESERVOIR HYDRO PROJECT	)	**CASE NO. IPC-E-19-35**
	)	**ORDER NO. 34539**

On November 8, 2019, Idaho Power Company ("Idaho Power" or "Company") asked the Commission to approve or deny an Energy Sales Agreement ("ESA" or "Agreement") with Little Wood Irrigation District ("Little Wood") for energy generated by the Little Wood River Reservoir Hydro project ("Facility"). The Facility is a 2.85-megawatt ("MW") nameplate capacity hydro facility near Carey, Idaho, and a qualifying facility ("QF") under the Public Utility Regulatory Policies Act of 1978 ("PURPA"). The Facility has a scheduled First Energy Date under the ESA of March 1, 2020. The Company asked the Commission to review its Application through Modified Procedure and to issue a decision by February 29, 2020.

On December 23, 2019, the Commission issued a Notice of Application and Notice of Modified Procedure setting public comment and Company reply comment deadlines. Order No. 34511. Commission Staff filed the only comments and supported the Company's Application. The Company did not reply.

With this Order we approve the Company's Application.

BACKGROUND

PURPA was enacted in 1978 "to lessen the country's dependence on foreign oil and to encourage the promotion and development of renewable energy technologies as alternatives to fossil fuels." *FERC v. Mississippi*, 456 U.S. 742, 745-46 (1982). Under PURPA and its implementing regulations, utilities must purchase the power produced by QFs. 16 U.S.C. § 824a-3(b); 18 C.F.R. § 292.303(a). The utility must purchase the power at the avoided cost rate. 18 C.F.R. § 292.304(a). The avoided cost represents "the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source." 18 C.F.R. § 292.101(b)(6). State utilities commissions have broad discretion to set the avoided cost rates

within their respective jurisdictions. *Rosebud Enterprises, Inc. v. Idaho PUC*, 128 Idaho 624, 627, 917 P.2d 781, 784 (1996).

QFs may opt to sell energy either (1) as it becomes available, or (2) pursuant to a legally enforceable obligation. 18 C.F.R. 292.304(d). If a QF opts to sell energy as it becomes available, the QF sells the energy pursuant to a standard tariff for non-firm energy. *See* Order No. 33053. In the case of Idaho Power, that tariff is Schedule 86. If a QF opts to sell energy pursuant to a legally enforceable obligation, the QF sells the energy under terms established by the Commission. *See* e.g., Order No. 33357. The Commission must establish published avoided cost rates for all QFs 100 kW and smaller. 18 C.F.R. 292.304(c)(1). The Commission, in its discretion, may also establish published avoided cost rates for QFs above 100 kW. 18 C.F.R. 292.304(c)(2).

The Commission has established published avoided cost rates for non-wind and non-solar QFs up to 10 aMW. Order No. 32697 at 14. Wind and solar QFs up to 100 kW are entitled to published avoided cost rates. *Id.* at 13. Published avoided cost rates are determined by the Surrogate Avoided Resource methodology ("SAR"). The Commission uses a combined-cycle combustion turbine as the proxy resource in calculating published avoided cost rates under the SAR methodology. *Id.* at 17. These published avoided cost rates are updated annually to reflect updated natural gas forecasts. Order No. 32802.

The Commission uses the Integrated Resource Plan ("IRP") methodology to determine avoided cost rates for QFs that are not eligible for published avoided cost rates. The IRP methodology "assesses the value of each QF project in terms of its capability to deliver resources in relation to the timing and magnitude of the utility's need of such resources." Order No. 32697 at 17. The Commission annually updates certain inputs to the IRP methodology such as natural gas forecasts, utility load forecasts, and long-term contract commitments. Order No. 32697 at 22 (timing of filing changed from June 1 to October 15 of each year by Order No. 32802 at 3).

For both SAR-based and IRP-based rates, the Commission has determined that it is in the public interest to compensate QFs separately for the energy they produce and the capacity they contribute to the purchasing utility. *Id.* at 16. QFs selling energy under a SAR-based or an IRP-based contract are not entitled to compensation for capacity until the utility's first capacity deficit date. Order No. 32697 at 21. The first capacity deficit date is determined through the IRP planning process. Order No. 33357 at 25-26. If a QF renews its contract with the utility, the capacity deficit date is still determined as of the date the original contract was executed. Order No. 33419 at 26.

See also Order No. 32737 at 5 (clarifying that Staff will tailor SAR-based rates to include capacity for renewal contracts from the outset). Schedule 86 contracts—for QFs that sell energy to Idaho Power as it becomes available—do not have a separate energy and capacity component.

APPLICATION

The Facility has been delivering energy to the Company under a firm energy sales agreement dated August 17, 1984 ("Initial Agreement"), which expires February 29, 2020. The ESA contains published non-levelized avoided cost rates for non-seasonal projects of 10 average MW or less with capacity payments for the entire 20-year term of the Agreement. The ESA contains a five-day Ahead provision for the Facility to provide monthly generation forecasts for compliance with the 90/110 performance band.

STAFF COMMENTS

Commission Staff filed the only comments and recommended Commission approval of the ESA. Staff's review of the ESA focused on using the 90/110 rule with a five-day advanced notice for adjusting Net Energy Amounts, the eligibility for and duration of immediate capacity payments, non-seasonal hydro rates, and requirements for Designated Network Resource.

Staff verified that the 90/110 rule was included in the ESA. Staff noted that the ESA had adopted a five-day advance notice for adjusting the Estimated Net Energy Amounts for purposes of 90/110 rule compliance. Staff believed the five-day advanced notice was appropriate and recognized that the Commission had approved the same notice period in other cases while citing that adjustments made closer to the period of delivery improve accuracy and short-term operational planning.

Staff mentioned Little Wood was not being paid for capacity payments for the Facility during the Initial Agreement. Staff believed the Facility should be eligible for and paid capacity payments during term of the ESA. Staff noted that although the Initial Agreement did not include capacity payments, the Company became capacity constrained during the life of the Initial Agreement.[1] Staff noted its confidence that the Facility had contributed to offsetting the Company's need for additional capacity and should therefore be eligible for immediate capacity payments under the ESA. Staff also noted that the stated nameplate capacity for the Facility in the

[1] The Company has added significant capacity since the year 2001, including: Danskin (2001 and 2008), Bennett Mountain (2005), and Langley Gulch (2012).

ESA is listed as 2.85 MW, which is less than the 3.0 MW nameplate capacity listed in the Initial Agreement and therefore the stated nameplate capacity should qualify for capacity payments.[2]

Staff made note of Little Wood's election of non-seasonal hydro rates although it could have qualified for seasonal rates. In Staff's review, it learned that Little Wood could not comply with the requirements for ongoing seasonal rates without changing the operation of the Facility.

Besides recommending the Commission approve the ESA, Staff also recommended the Commission declare the Company's payments to Little Wood for energy generated by the Facility under the ESA be allowed as prudently incurred expenses for ratemaking purposes.

COMMISSION FINDINGS AND DECISION

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.

The Commission has reviewed the record, including the Application, ESA, and Staff's comments. Based on our review, we find it reasonable to approve the ESA because the ESA contains Commission-approved terms that the Facility is eligible for based on its characteristics such as fuel source, project size, generation output profile, and renewal contract status. Additionally, we agree with Staff that the Facility has contributed in offsetting the Company's need for additional capacity investments. We therefore find including capacity payments for the duration of the Agreement to be just and reasonable. We also find that the Company's payments for purchases of energy and capacity under the ESA are prudently incurred expenses for ratemaking purposes.

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[2] Staff noted that had the nameplate capacity increased from the amount of the Initial Agreement, i.e. exceeded 3.0 MW, Staff would not have recommended the amount in excess of the originally stated nameplate capacity for capacity payments.

ORDER

IT IS HEREBY ORDERED that the ESA between the Company and Little Wood is approved.

IT IS FURTHER ORDERED that all payments made by the Company for purchases of energy and capacity under the ESA 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 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. *See Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 31st day of January 2020.

PAUL KJELLANDER, PRESIDENT

KRISTINE RAPER, COMMISSIONER

ERIC ANDERSON, COMMISSIONER

ATTEST:

Diane M. Hanian
Commission Secretary

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