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IDAHO PUBLIC UTILITIES COMMISSION

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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	CASE NO. IPC-E-19-38
OF IDAHO POWER COMPANY FOR)	
APPROVAL OR REJECTION OF AN)	ANSWER TO IDAHO POWER
ENERGY SALES AGREEMENT WITH BIG)	COMPANY'S MOTION FOR
WOOD CANAL COMPANY FOR THE SALE)	APPROVAL OF FIRST
AND PURCHASE OF ELECTRIC ENERGY)	AMENDMENT TO ENERGY
FROM THE SAGEBRUSH HYDRO)	SALES AGREEMENT OR
PROJECT)	ALTERNATIVELY FOR
)	CLARIFICATION AND/OR
)	RECONSIDERATION

The Commission Staff ("Staff") of the Idaho Public Utilities Commission, by and through its attorney, Deputy Attorney General John R. Hammond Jr. files this Answer to Idaho Power Company's ("Company") Motion for Approval of First Amendment to Energy Sales Agreement in Compliance with Order No. 34677 or Alternatively for Clarification and/or Reconsideration ("Motion") pursuant to *Idaho Code* § 61-626(1) and Commission Rules of Procedure 53, 56, 325 and 331. IDAPA 31.01.01.53, .56, .325 and .331.

BACKGROUND

On December 9, 2019, the Company filed an Application seeking approval or rejection of an Energy Sales Agreement ("ESA") between the Company and Big Wood Canal Company ("Seller"), for the Sagebrush hydro project ("Facility"). *See Application* at 1. The Facility is a 575-kilowatt ("kW") nameplate capacity qualifying facility ("QF") near Gooding, Idaho under the

Public Utility Regulatory Policies Act of 1978 ("PURPA"). *Id.* at 2. The Facility previously delivered energy to the Company under a PURPA energy sales agreement executed on April 1, 1985. *Id.* at 2. In that agreement the nameplate capacity of the Facility was 430 kW.

On January 10, 2020, the Commission issued its Notice of Application and Notice of Modified Procedure. Staff filed written comments on January 31, 2020. Wood Hydro, LLC ("Wood Hydro") filed reply comments on February 5, 2020.¹ The Company filed reply comments on February 21, 2020. On March 17, 2020, Wood Hydro filed supplemental reply comments.

On May 28, 2020, the Commission issued Order No. 34677 approving the ESA contingent upon certain modifications to it being implemented. In Order 34677 the Commission found it reasonable for the Seller to continue to be paid for capacity up to only 430 kW for the full term of the renewal ESA. Order No. 34677 at 5; *see also* Order No. 32697 at 21-22. However, the Commission also found that the 145-kW increase in nameplate capacity for the Facility would not receive capacity payments until the Company becomes capacity deficient. Order No. 34677 at 6.

On June 18, 2020, Idaho Power filed the Motion, proposing a method using hourly meter data to implement the Commission's modifications made to the ESA in Order No. 34677.

STAFF'S ANSWER

Staff recommends that the Commission grant the Company's Motion for Clarification and/or Reconsideration pursuant to *Idaho Code* § 61-626 and Commission Rules of Procedure 325 and/or 332 and set a procedural schedule to allow for discovery and the filing of written comments to fully develop a record to evaluate the First Amendment to the ESA.

According to the Company, the First Amendment is designed to allow the Seller to receive immediate capacity payments for the generation of the 430 kW only and to allow capacity payments for the incremental generation from the increased 145 kW of the Facility when the Company's system becomes capacity deficient in July of 2026. The First Amendment contains provisions that have not been used in any previous QF contracts and Staff asserts that an in depth review of them is necessary to ensure that it complies with Order No. 34677, does not interfere with other required provisions included in the ESA, and complies with previous Commission orders. Staff also wishes to determine whether the rate structure proposed by the First Amendment will

¹ Ted Sorenson represents that he is filing the Reply Comments on behalf of Wood Hydro. Sorenson is listed as a governor of Wood Hydro according to records of the Idaho Secretary of State. He is also listed as an "Authorized Agent" of Big Wood as set forth in the ESA. *See* ESA at p. 1, paragraph 1.2, and p. 33, paragraph 25.2.

make measuring compliance with 90/110 requirements difficult. Staff also desires to determine whether the provisions of the First Amendment will prevent the Seller from receiving immediate capacity payments for generation from the incremental 145 kW of capacity.

CONCLUSION

Staff recommends the Commission grant the Company's Motion for Clarification and/or Reconsideration. Staff also recommends that the Commission set a procedural schedule to consider the issues raised by Idaho Power's Motion and First Amendment. Staff recommends that this procedural schedule allow time for discovery and for the issues to be reviewed by the Commission through the filing of written comments of the parties.

Respectfully submitted this 25th day of June 2020.



John R. Hammond, Jr.
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 25th DAY OF JUNE 2020, SERVED THE FOREGOING ANSWER, IN CASE NO. IPC-E-19-38, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

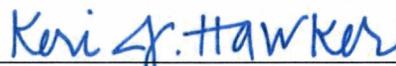
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