

RESOLUTION

RCCC-2022-005

AUTHORIZATION TO EXECUTE ACES AMENDMENTS

On motion of Paul Schultz, seconded by Eric Larsen, at a meeting of the Intermountain Power Project (“IPP”) Renewal Contract Coordinating Committee (the “Renewal Committee”) held May 16, 2022, the following Resolution was duly adopted:

WHEREAS, Intermountain Power Agency (“IPA”) is a party with the Purchasers (as defined in such Power Sales Contracts) to those certain Power Sales Contracts, dated as of September 28, 1978 for the Utah Purchasers (as defined in such Power Sales Contracts) and August 6, 1980 for the California Purchasers (as defined in such Power Sales Contracts) (such Power Sales Contracts, as amended, including, without limitation, by the Second Amendatory Power Sales Contracts dated December 8, 2015, being, collectively, the “Power Sales Contracts”); and

WHEREAS, IPA is also a party to those certain Renewal Power Sales Contracts, dated as of January 16, 2017 (as amended and updated, the “Renewal Power Sales Contracts”) with those Purchasers that (i) accepted the Renewal Offer (as defined in the Power Sales Contracts) and (ii) did not subsequently terminate their Renewal Power Sales Contract pursuant to Section 42.1 of the Renewal Power Sales Contracts; and

WHEREAS, pursuant to Resolution Nos. CC-2022-007, RCCC-2022-002, and IPA-2022-007 (collectively, the “ACES Resolutions”), the IPP Coordinating Committee, Renewal Committee, and IPA Board of Directors (“IPA Board”) approved the Hydrogen Capacity Project (as defined in the ACES Resolutions) and authorized the Operating Agent to execute on behalf of IPA an Energy Storage Services and Conversion Agreement (“ESSCA”) with Advanced Clean Energy Storage I, LLC (“ACES I”); and

WHEREAS, the Operating Agent executed the ESSCA on or about March 8, 2022; and

WHEREAS, the ESSCA provides for ACES I to finance the costs of the ACES Facility (as defined in the ACES Resolutions) through a low-interest loan from the United States Department of Energy (“DOE”); and

WHEREAS, ACES I and the DOE are expected to close on that loan in the near future; and

WHEREAS, to facilitate the DOE financing and the Hydrogen Capacity Project, IPA needs to execute the following agreements and amendments to existing agreements (collectively, the “ACES Amendments”): (1) First Amendment to Energy Storage Services and Conversion Agreement between IPA and ACES I, which amends the ESSCA to adopt a revised financial model, and makes other minor changes; (2) Consent and Agreement (“Consent and Agreement”) between IPA, ACES I, and the Financing Party (as defined in the ESSCA), which provides IPA’s consent to the assignment of the rights of ACES I under the ESSCA to the Financing Party (as

defined in the ESSCA), and makes certain revisions to the ESSCA at the request of the DOE; (3) the Fourth Amendment to the Agreement Providing for a Limited Notice to Proceed (“LNTP Amendment”) between IPA and ACES I, which increases the total expenditure authority under the Agreement Providing for a Limited Notice to Proceed (the “LNTP”) to \$50,000,000; (4) Termination Agreement of Agreement Providing for a Limited Notice to Proceed which provides for the termination of the LNTP in connection with the satisfaction of conditions precedent set forth in Section 2.2 of the ESSCA; (5) one or more agreements with Rocky Mountain Power (“RMP”), defining the terms and conditions under which IPA will wheel power supplied by RMP to the ACES Facility for station service (collectively, the “RMP Agreements”); and (6) one or more additional agreements, certificates or other documents determined by the Operating Agent Representative (as defined below) and the General Manager of IPA are necessary or desirable to give effect to the transactions contemplated by and/or consistent with the foregoing (including, without limitation, the ESSCA and the LNTP, each as so amended); and

WHEREAS, the ACES Amendments contemplate the termination (the “ACES Amendments Disposition”) or other disposition of contract rights by IPA (the “IPA Contract Rights”); and

WHEREAS, the Operating Agent has determined that the following conditions (being, collectively, the “Section 804(b) Conditions”) are satisfied with respect to the ACES Amendments Disposition as contemplated by the Agreement: the actions contemplated by the Agreement with respect to the IPA Contract Rights are desirable in the conduct of the business of IPA relating to the Project (as defined in the Amended and Restated Bond Resolution) and do not materially impair the ability of IPA to comply with Section 808 of the Amended and Restated Bond Resolution; and

WHEREAS, the Operating Agent has determined that the ACES Amendments are necessary and desirable in order to facilitate the completion of the Hydrogen Capacity Project, and are in accordance with Prudent Utility Practice; and

WHEREAS, the Renewal Committee has received a letter dated May 5, 2022 from Mr. Gregory S. Huynh (Mr. Huynh or his designee being the “Operating Agent Representative”) on behalf of the Operating Agent (the “Operating Agent Recommendation Letter”) recommending that the IPP Coordinating Committee and Renewal Committee authorize, and recommend that the IPA Board authorize, the Operating Agent to execute the ACES Amendments on behalf of IPA; and

WHEREAS, the Operating Agent provided a briefing on a conference call on May 9, 2022, and at a meeting of the Renewal Committee on May 16, 2022 (collectively, the “Operating Agent Briefing”), during which the Operating Agent described and explained the basis of the Operating Agent’s recommendations, advice and determinations as set forth herein and further recommended that the Renewal Committee approve and ratify, and recommend that the IPA Board approve and ratify, the ACES Amendments and that the Renewal Committee determine, and recommend that the IPA Board determine, that the 804(b) Conditions are satisfied with respect to the ACES Amendments Disposition; and

WHEREAS, the Renewal Committee has reviewed and considered the Operating Agent Recommendation Letter and the Operating Agent Briefing, including the recommendations, advice and determinations of the Operating Agent.

NOW, THEREFORE, BE IT RESOLVED, that the Renewal Committee hereby approves and ratifies, and recommends that the IPA Board approve and ratify, the ACES Amendments, on the terms and conditions described in the Operating Agent Recommendation Letter and the Operating Agent Briefing, in such form that may be recommended by the Operating Agent and approved by IPA's General Manager, which form must be consistent with the Operating Agent Recommendation Letter, the Operating Agent Briefing, the terms and conditions of the IPA Board's approval and authorization, the IPP project documents and applicable law, as determined by the Operating Agent Representative and the IPA General Manager; and

BE IT FURTHER RESOLVED, that the Renewal Committee hereby determines, and recommends that the IPA Board determine, that the Section 804(b) Conditions are satisfied with respect to the ACES Amendments Disposition; and

BE IT FURTHER RESOLVED, that the Renewal Committee hereby approves, and recommends that the IPA Board approve, the delegation of authority to the Operating Agent to execute and deliver the ACES Amendments on behalf of IPA, and all necessary documents in connection with the ACES Amendments, as such ACES Amendments and necessary documents are recommended by the Operating Agent and approved by the IPA General Manager, and the execution, delivery and recommendation of such ACES Amendments and necessary documents by the Operating Agent Representative constituting, for purposes of this Resolution, such execution, delivery and recommendation by the Operating Agent; and


BE IT FURTHER RESOLVED, that the Chairman is hereby authorized and directed by the Renewal Committee to execute this Resolution and to do all things necessary to render the same in full force and effect.

INTERMOUNTAIN POWER PROJECT



CHAIRMAN, RENEWAL CONTRACT
COORDINATING COMMITTEE

ATTEST:



SECRETARY