

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF IDAHO POWER ) CASE NO. IPC-E-20-25**  
**COMPANY’S APPLICATION FOR AN )**  
**ORDER APPROVING THE TRANSFER OF )**  
**CERTAIN ASSETS ASSOCIATED WITH ) ORDER NO. 34793**  
**THE HEMINGWAY SUBSTATION )**

On June 3, 2020, Idaho Power Company (“Company”) applied to the Commission for an order approving the Company’s transfer of a 1.91-acre parcel of land in Owyhee County, Idaho (the “Parcel”) to Owyhee County (the “County”). The Company submitted its Application pursuant to *Idaho Code* § 61-328 and requested its Application be processed by Modified Procedure.

On July 10, 2020, the Commission issued a Notice of Application, Notice of Modified Procedure, and Notice of Hearing. Order No. 34721 established public comment and Company reply deadlines and set an August 4, 2020 telephonic hearing. No members of the public testified at the telephonic hearing. Staff filed comments to which the Company did not reply. No other comments were filed.

Having reviewed the record, the Commission now approves the Company’s Application as filed.

**BACKGROUND**

In 2008, the Company purchased 150 acres of land near Melba, Idaho that would later become the site of the Hemingway Substation (“Substation”). The Company constructed a new, unpaved access road on a portion of the 150 acres to provide access from Highway 78 to the Substation. The Company’s access road travels parallel to and partly crosses the Wilson Cemetery Road. Ever since the Company’s access road was constructed, visitors of the Wilson Cemetery and adjacent property owners have been using the Company’s road rather than the existing Wilson Cemetery Road. The Wilson Cemetery Road is now overgrown and impassable.

In July 2019, the County denied a building permit for one resident along the south of Wilson Cemetery Road because the resident could not prove public access to their property. The County would not grant a waiver or variance upon request. On February 14, 2020, to re-establish legal access for the landowners south of Wilson Cemetery Road, the Company executed and

recorded a deed conveying the Parcel to the County subject to an easement reserving access for the Company.

### **THE APPLICATION**

The Company must obtain the Commission's approval to sell or transfer ownership of property in Idaho used in the generation, transmission, or distribution of electricity in Idaho. *Idaho Code* § 61-328(1). The Company's Application stated the transfer of the Parcel satisfies *Idaho Code* § 61-328(3). That Section requires an applicant to prove (a) the transaction is consistent with the public interest; (b) the cost of and rates for supplying service will not be increased by reason of such transaction; and c) the applicant for such acquisition or transfer has the bona fide intent and financial ability to operate and maintain said property in the public service. *Idaho Code* § 61-328(3). The Application stated the Parcel originally cost \$26,488, but its book value with improvements is \$41,394.<sup>1</sup> The Company conveyed the Parcel to the County for ten dollars. The Company will maintain access to the Substation via an easement described in the deed. *See* Attachment 2.

### **THE COMMENTS**

Staff reviewed the Company's Application, Attachments, and Production Responses. Staff recommended the Commission approve the Company's Application. Staff noted the transfer was a "reasonable way to solve the resident's, County's, and Company's issues" regarding the Parcel and avoided potential costly litigation, ultimately benefiting all parties.

While Staff recommended approval, it did so with reservation and an additional recommendation. Due to the timing of the Company's Application—after the transfer had been completed—Staff recommend the Company develop and implement internal control measures to improve the timing of similar applications in the future. Staff recommended that supporting documentation be provided to the Commission when the Company has developed its new control measures. In response to Staff's Production Requests, the Company acknowledged that it is developing internal control measures to improve timeliness and regulatory compliance for future property transactions.

Staff also discussed the transaction's accounting details and believed, although the conveyance was for much less than net book value, that aggregated tangible and intangible benefits

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<sup>1</sup> On page 4 of the Application, the Company stated that the improvements had a net book value of \$41,394, but later reported to Staff that its original installed value, before accumulated depreciation, was \$41, 394. The net book value of the improvements is estimated at \$33,936.

allowed the transfer to meet the requirements of *Idaho Code* § 61-328(3). Staff stated that the Company will save about \$1,350 in grading expenses<sup>2</sup> and \$292 in property taxes annually following the transfer. Besides the transaction's tangible benefits, Staff acknowledged the transaction has intangible and hard to quantify benefits of reduced legal liability and positive relations with neighboring property owners. Regarding reductions in liability, Staff suggested that allowing the public to use the road to access the cemetery could expose the Company to future liability. Staff also hypothesized that if the Company did not transfer the Parcel, the Company could become involved in a legal dispute involving the County and neighboring landowners who were denied building permits. Ultimately, without transferring the Parcel, litigation regarding liability or access could be costly to the Company.

Staff reviewed the accounting treatment of the transfer and expressed concerns about the revenue requirement. Staff cautioned that while the Company had effectively removed the Parcel's book value from its books, customers would still pay the associated revenue requirement until the Company's next general rate case. Staff estimated customers would pay \$9,750 per year in revenue requirement without receiving significant consideration for the transfer. Staff offered that an offsetting adjustment may be necessary in the Company's next general rate case.

### **DISCUSSION AND FINDINGS**

The Commission has jurisdiction over the Company and the transaction under *Idaho Code* §§ 61-119, 61-129, 61-328, and 61-501. The Commission has reviewed the record including the comments submitted by Commission Staff.

We find it is reasonable under the circumstances for the Company to transfer the Parcel to the County. We are encouraged that the Company is working to establish internal control measures to ensure it promptly brings future transactions of this nature to the Commission in a timely manner and consistent with *Idaho Code* § 61-328(3).

Finally, we expect to see the appropriate offsetting adjustments regarding this transaction's impact on the Company's revenue requirement when the Company files its next general rate case.

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<sup>2</sup> The Company said its budgeted annual maintenance expense for the entire access road before the transfer was \$2,700. Because the transfer halved the length of road the Company must maintain, this maintenance expense likely will also decrease.

**ORDER**

IT IS HEREBY ORDERED that the Company's Application is approved.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within 21 days of the service date of this Order regarding any matter decided in this Order. Within seven days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

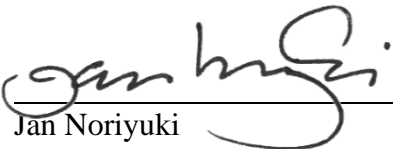
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 29<sup>th</sup> day of September 2020.

  
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PAUL KJELLANDER, PRESIDENT

  
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KRISTINE RAPER, COMMISSIONER

  
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ERIC ANDERSON, COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
Jan Noriyuki  
Commission Secretary

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