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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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

STAFF OF the Idaho Public Utilities Commission, by and through its Attorney of record, Dayn Hardie, Deputy Attorney General, submits the following comments.

BACKGROUND

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.

In 2008, the Company purchased 150 acres of land near Melba, Idaho that would 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. 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 Company will no longer have to maintain the portion of the access road located upon the Parcel.

STAFF ANALYSIS

Staff believes the Company's transfer of 1.91 acres to Owhyee County is a reasonable way to solve the resident's, the Company's, and the County's issues and should be approved by the Commission. The transfer avoided potentially costly litigation which benefitted all parties, saving both time and money.

The Company must obtain approval from the Commission before it sells or transfers ownership of any property that is located in Idaho and used in the generation, transmission, or distribution of electricity in Idaho. *Idaho Code* § 61-328(1). The Company's Application states the transfer of the Parcel meets the requirements of *Idaho Code* § 61-328(3). Staff has reviewed the proposed transaction and believes that it supports the intent of the electric utility asset transfer statutes.

In Response to Staff's Production Request No. 1, the Company provided explanations detailing how this transaction would comply with *Idaho Code* §61-328 (3) stating:

- a. The conveyance of the land provided several benefits to Idaho Power and its customers, consistent with public interest: (1) the Company would continue to have the right to use the access road without having the obligation to maintain the road, (2) Idaho Power reduced the liability that accompanied ownership of the portion of the access road conveyed to the County, and (3) the 1.91 acres conveyed was encumbered by the Wilson Cemetery Road and therefore, limited for any other uses by the Company. In addition, the transaction resolved potential litigation and did not impact Idaho Power's ability to continue to provide safe, efficient, and reliable electric service to customers.

- b. The conveyance of the land was a reasonable solution to avoid incurring further costs to mitigate access issues, ultimately resulting in little to no financial impact to Idaho Power and its customers.

The Company submitted the Application on June 3, 2020, long after the Company and the County formalized the agreement on February 14, 2020. Staff asked the Company why it did not submit its Application prior to completion of the transfer. As part of the Company's Response to Production Request No. 10, it stated:

In this circumstance, there was confusion internally over whether or not the 1.91-acre parcel was considered property used in generation, transmission or distribution of electric power and energy to the public, requiring pre-approval from the Commission. Based on the Company's experience with this transaction, it is developing and implementing control measures to ensure future property transactions are reviewed for filing requirements in advance of any such transactions occurring to ensure that all regulatory requirements are met.

The Company must implement control measures to improve filings of this nature. Staff recommends that development of control measures be completed and implemented in a timely manner and supporting documentation be provided to the Commission.

Asset Valuation and Accounting Treatment

The Application states the original cost of the Parcel was \$26,488 and had improvements with an original installed value of \$41,394.¹ The Company conveyed the Parcel to the County for \$10. Staff reviewed the asset value listed in the Agreement. Staff believes that the Company's accounting treatment of the transfer properly removes the book value of the conveyed assets and the associated accumulated depreciation from the Company's books. However, customers will continue to pay the associated revenue requirement until the Company's next general rate case.

Since the Company was already maintaining the road because of its access requirements, Staff believes the incentive for the County to purchase it, and its potential market value, was likely negligible.

¹ 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.

While the \$10 conveyance payment is less than the book value, the transfer does offer the Company some measurable and unmeasurable benefits. The Company said its budgeted annual maintenance expense for the entire access road prior to the transfer was \$2,700. Because the transfer decreased the length of road the Company must maintain by half, it is likely this maintenance expense will also decrease. Additionally, the Company indicated its property tax expense will decrease by \$292 per year due to the transfer. Staff estimates the current annual revenue requirement associated with the parcel to be approximately \$9,750, as shown in Table No. 1 below.

Table No. 1 – Estimated Revenue Requirement Associated with Parcel

<u>Expenses</u>	
Depreciation Expense	\$ 778
Maintenance Expense	1,350
Property Taxes	<u>292</u>
Total Expenses	<u>\$ 2,420</u>
 <u>Rate Base</u>	
Land at Cost	\$ 26,488
Land Improvements at Book	<u>33,936</u>
Total Rate Base	<u>\$ 60,424</u>
Return on Rate Base @7.86%	\$ 4,749
Revenue Requirement before Gross Up	<u>\$ 7,169</u>
Tax Gross Up	1.36003
Estimated Revenue Requirement	<u>\$ 9,750</u>

At today's book values, customers will pay this estimated amount until new rates become effective after the Company's next general rate case. Because it is unknown when the Company will file its next general rate case, Staff is concerned that customers will continue to pay the associated revenue requirement for the conveyed parcel without receiving the benefit of any proceeds from the conveyance of this property. Because there is no gain on the sale of assets, and customers will continue to pay the a revenue requirement associated with the property for an unknown amount of time, Staff believes an offsetting adjustment may be necessary in the Company's next general rate case.

The transaction does offer specific unmeasurable benefits to the Company. These benefits include a reduction in legal liability and a positive relationship with neighboring landowners to the Hemingway site. The Company did not provide an estimate of its legal

liability, but members of the public using its formerly private land does present a possible liability. Additionally, the lack of legal access to neighboring properties and subsequent denial of a building permit also could have led to legal action and legal expense against the Company. If legal action against the Company was pursued, it is possible the Company would incur legal expenses far greater than the value of the improved parcel.

Given the additional unmeasurable benefits and the limitations to receiving adequate financial compensation from the County for the transferred assets, Staff believes the Company's Application should be approved. Because customers will continue to pay a revenue requirement associated with the conveyed property for an unknown time, and because customers did not receive the benefit of a gain on the sale of the property, Staff will reevaluate the transaction in the Company's next general rate case to determine if an offsetting adjustment to revenue requirement is necessary.

CUSTOMER NOTICE, PRESS RELEASE AND PUBLIC COMMENTS

No customers are affected by this transfer and therefore the Company did not publish a notice or press release. As of August 24, 2020, no written public comments had been submitted for this case.

STAFF RECOMMENDATIONS

Staff recommends that the Commission approve the transfer of the 1.91 Acre Parcel at the Hemingway Substation to Owhyee County. Staff reserves the right to reevaluate the benefits of the transaction during the Company's next general rate case to determine if an adjustment to revenue requirement is appropriate.

Respectfully submitted this 25th day of August 2020.



Dayn Hardie
Deputy Attorney General

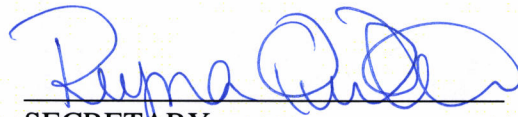
Technical Staff: Kevin Keyt
Michael Eldred
Brad Iverson-Long

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 25th DAY OF JUNE 2020, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-20-25, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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