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IDAHO PUBLIC UTILITIES COMMISSION

**DONOVAN E. WALKER**  
Lead Counsel  
[dwalker@idahopower.com](mailto:dwalker@idahopower.com)

August 26, 2021

**VIA ELECTRONIC MAIL**

Jan Noriyuki, Secretary  
Idaho Public Utilities Commission  
11331 West Chinden Blvd., Building 8  
Suite 201-A  
Boise, Idaho 83714

Re: Case No. IPC-E-21-30  
MC6 Hydro LLC – MC6 Hydro Project  
Idaho Power Company's Application re the Second Amendment to the  
Energy Sales Agreement

Dear Ms. Noriyuki:

Attached for electronic filing is Idaho Power Company's Application for Approval of the Second Amendment to Energy Sales Agreement in the above entitled matter. If you have any questions about the attached documents, please do not hesitate to contact me.

Very truly yours,

Donovan E. Walker

DEW:cld  
Enclosures

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Attorney for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

|                                  |   |                          |
|----------------------------------|---|--------------------------|
| IN THE MATTER OF THE APPLICATION | ) |                          |
| OF IDAHO POWER COMPANY FOR       | ) | CASE NO. IPC-E-21-30     |
| APPROVAL OR REJECTION OF THE     | ) |                          |
| SECOND AMENDMENT TO THE ENERGY   | ) | APPLICATION FOR APPROVAL |
| SALES AGREEMENT WITH MC6 HYDRO   | ) | OF THE SECOND AMENDMENT  |
| LLC FOR THE SALE AND PURCHASE OF | ) | TO ENERGY SALES          |
| ELECTRIC ENERGY FROM THE MC6     | ) | AGREEMENT                |
| <u>HYDRO PROJECT</u>             | ) |                          |

Idaho Power Company ("Idaho Power"), in accordance with RP 52 and the applicable provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), hereby respectfully applies to the Idaho Public Utilities Commission ("Commission") for an order accepting or rejecting the Second Amendment ("Amendment") to the Energy Sales Agreement ("ESA") between Idaho Power and MC6 Hydro LLC, ("Seller") under which Seller sells and Idaho Power purchases electric energy generated by the MC6 Hydro PURPA Qualifying Facility project ("Facility").

In support of this Application, Idaho Power represents as follows:

## **I. INTRODUCTION AND BACKGROUND**

1. Idaho Power and the Seller (jointly, "Parties") entered into an ESA on April 23, 2018, for the purchase and sale of energy produced by the Facility. This ESA was approved by the Commission in Case No. IPC-E-18-09, Order No. 34106, on July 12, 2018. The Parties entered into an Amendment to the ESA on June 21, 2019 to amend the Scheduled First Energy Date and Schedule Operation date in the ESA due to the unexpected passing away of one of the principle developers of the project. This First Amendment to the ESA was approved by the IPUC in Order No. 34425 issued on August 23, 2019. A replacement Appendix D was required to add an additional year (2040) due to the change in Scheduled Operation Date.

As a result to the COVID-19 pandemic, the Facility was unable to obtain its generator unit from Wuhan, China causing a Force Majeure event, which changed the Operation Date to April 5, 2021, and the project received and installed a generator with a Nameplate Capacity of 2.3 megawatts ("MW") that is 0.2 MW larger than the 2.1 MW generator listed in the ESA.

2. Section 6.2.3 of the ESA provides the Seller with the option to adjust the monthly estimated Net Energy Amounts ("NEA") within a specified time period. After the execution and approval of the ESA, the Seller requested a change to the time period for making the NEA adjustments. The Seller would like to change the NEA adjustment time period in Section 6.2.3 so that they can make adjustments by the 25<sup>th</sup> day of the preceding month in which a change is requested, similar to other such 25<sup>th</sup> day of the month provisions previously approved by the Commission.

## **II. THE AMENDMENT**

3. This Second Amendment provides for a change in Appendix B, Article B-1 to change the designated nameplate rating of the generator from 2.1 MW to 2.3 MW. The Amendment replaces Article B-1 from the ESA as follows:

B-1 DESCRIPTION OF FACILITY

2.3 MW synchronous generator, Francis turbine, .9 to 1.1 power factor

Nameplate Capacity: 2.3 MW

4. The Amendment also provides for the deletion of Section 6.2.3, Seller's Adjustment of Estimated Net Energy Amounts After the Operation Date, and replaces it with a new Section 6.2.3 set forth in the Amendment as follows:

**6.2.2 Seller's Adjustment of Estimated Net Energy Amounts After the Operation Date** – After the Operation Date, the Seller may revise any future monthly Estimated Net Energy Amounts by providing written notice no later than 5 PM Mountain Standard time on the 25<sup>th</sup> day of the month that is prior to the month to be revised. If the 25<sup>th</sup> day of the month falls on a weekend or holiday, then written notice must be received on the last business day prior to the 25<sup>th</sup> day of the month. For example, if the Seller would like to revise the Estimated Net Energy Amount for October, they would need to submit a revised schedule no later than September 25<sup>th</sup> or the last business day prior to September 25<sup>th</sup>.

a.) This revision must be submitted using the electronic portal provided by Idaho Power if available. If the electronic portal is not available, then written notice must be provided to Idaho Power by electronic notice (electronic mail) as agreed by both parties.

b.) If the Seller does not update the electronic portal or provide written notice of changes to the Estimated Net Energy Amounts, then it will be deemed to be an election of no change from the most recently provided monthly Estimated Net Energy Amounts. Except as otherwise provided in this Agreement, Idaho Power is unable to accept any requested changes to the Estimated Net Energy

Amounts if the date and time that Idaho Power receives the requested change is after the deadline.

5. The Amendment does not otherwise change any of the obligations of the Parties set forth in the ESA. A copy of the Amendment is attached to this Application as Attachment 1 and is subject to the Commission's approval.

### **III. PROCEDURE**

6. Idaho Power believes that a hearing is not necessary to consider the issues presented herein and respectfully requests that this Application be processed under Modified Procedure; i.e., by written submissions rather than by hearing. RP 201, *et seq.*

### **IV. COMMUNICATIONS AND SERVICE OF PLEADINGS**

7. Communications and service of pleadings, exhibits, orders, and other documents relating to this proceeding should be sent to the following:

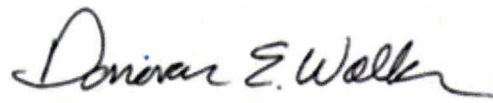
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Energy Contracts  
Idaho Power Company  
1221 West Idaho Street (83702)  
P.O. Box 70  
Boise, Idaho 83707  
[energycontracts@idahopower.com](mailto:energycontracts@idahopower.com)

### **V. REQUEST FOR RELIEF**

8. Idaho Power respectfully requests that the Commission issue an order: (1) authorizing that this matter may be processed by Modified Procedure and (2) accepting or rejecting the Amendment between Idaho Power and the Seller.

Respectfully submitted this 26<sup>th</sup> day of August 2021.

A handwritten signature in black ink that reads "Donovan E. Walker". The signature is written in a cursive style with a large initial 'D'.

---

DONOVAN E. WALKER  
Attorney for Idaho Power Company

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 26<sup>th</sup> day of August 2021, I served a true and correct copy of the within and foregoing APPLICATION FOR APPROVAL OF THE SECOND AMENDMENT TO ENERGY SALES AGREEMENT upon the following named parties by the method indicated below, and addressed to the following:

Ted Sorenson  
MC6 Hydro LLC  
711 East Turtle Point Drive  
Ivins, UT 84738

Hand Delivered  
 U.S. Mail  
 Overnight Mail  
 FAX  
 Email – [ted@tsorenson.net](mailto:ted@tsorenson.net)



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Christy Davenport, Legal Assistant

**BEFORE THE  
IDAHO PUBLIC UTILITIES COMMISSION**

**CASE NO. IPC-E-21-30**

**IDAHO POWER COMPANY**

**ATTACHMENT 1**



**SECOND AMENDMENT  
TO THE  
ENERGY SALES AGREEMENT  
BETWEEN  
IDAHO POWER COMPANY  
AND  
MC6 HYDRO LLC**

This Second Amendment of the Energy Sales Agreement (“Second Amendment”) is entered into on this 11th day of August 2021, by and between Idaho Power Company, an Idaho corporation (“Idaho Power”), and MC6 Hydro LLC, an Idaho limited liability company (“MC6 Hydro” or “Seller”) (individually a “Party” and collectively the “Parties”).

**WITNESSETH:**

WHEREAS, Idaho Power and the Seller entered into an Energy Sales Agreement (“ESA”) on April 23, 2018, (the “Agreement”) for the purchase and sale of generation produced by the MC6 Hydro PURPA Qualifying Facility (“Project”) that was approved by the Idaho Public Utilities Commission’s (“IPUC”) in Order No. 34106 issued on July 12, 2018;

WHEREAS, the ESA was amended on June 21, 2019, to change the Scheduled First Energy Date and Scheduled Operation Date in the ESA due to the unexpected passing away of one of the principle developers of the Project. This First Amendment to the ESA was approved by the IPUC in Order No. 34425 issued on August 23, 2019. A replacement Appendix D was required to add an additional year (2040) due to the change in Scheduled Operation Date;

WHEREAS, due to the Covid-19 pandemic, the Project was unable to obtain its generator unit from Wuhan, China resulting in a Force Majeure event. Because of the Force Majeure event, the Project’s actual Operation Date did not occur until April 5, 2021;

WHEREAS, the Force Majeure event related to the Covid-19 pandemic resulted in the Project receiving and installing a generator with a Nameplate Capacity of 2.3 megawatts (“MW”), which is 0.2 MW larger than the 2.1 MW generator listed in the ESA;

WHEREAS, Seller and Idaho Power desire to amend Article 6.2.3 of the Agreement to include a change to the notification of Net Energy Amount monthly adjustments from one-month advanced notice to the 25<sup>th</sup> day of the month that is prior to the month to be revised. If the 25<sup>th</sup> day of the month falls on a weekend or holiday, then written notice must be received on the last business day prior to the 25<sup>th</sup> day of the month;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto agree as follows:

**1. Incorporation of Recitals.** The above-stated recitals are incorporated into and made a part of this Agreement, as amended, by this reference to the same extent as if these recitals were set forth in full at this point.

2. **Definitions.** Appendix B, Article B-1 Description of Facility shall be deleted, and the following Article B-1 shall be substituted in its stead:

B-1 DESCRIPTION OF FACILITY

2.3 MW synchronous generator, Francis turbine, .9 to 1.1 power factor

Nameplate Capacity: 2.3 MW

3. **Definitions.** Article 6.2.3 shall be deleted in its entirety and the following section shall be substituted in its stead:

6.2.3 Seller's Adjustment of Estimated Net Energy Amounts After the Operation Date - After the Operation Date, the Seller may revise any future monthly Estimated Net Energy Amounts by providing written notice no later than 5 PM Mountain Standard time on the 25<sup>th</sup> day of the month that is prior to the month to be revised. If the 25<sup>th</sup> day of the month falls on a weekend or holiday, then written notice must be received on the last business day prior to the 25<sup>th</sup> day of the month. For example, if the Seller would like to revise the Estimated Net Energy Amount for October, they would need to submit a revised schedule no later than September 25<sup>th</sup> or the last business day prior to September 25<sup>th</sup>.

- a.) This revision must be submitted using the electronic portal provided by Idaho Power if available. If the electronic portal is not available, then written notice must be provided to Idaho Power by electronic notice (electronic mail) as agreed by both Parties.
- b.) If the Seller does not update the electronic portal or provide written notice of changes to the Estimated Net Energy Amounts, then it will be deemed to be an election of no change from the most recently provided monthly Estimated Net Energy Amounts. Except as otherwise provided in the Agreement, Idaho Power is unable to accept any requested changes to the Estimated Net Energy Amounts if the date and time that Idaho Power receives the requested change is after the deadline.

4. **Commission Approval.** The obligations of the Parties under this Second Amendment are subject to the IPUC's approval of this Second Amendment and such approval being upheld on appeal, if any, by a court of competent jurisdiction. The Parties will submit this Second Amendment to the IPUC and request approval or rejection in its entirety pursuant to RP 274.

5. **Effect of Amendment.** Except as expressly amended by this Second Amendment, the Agreement shall remain in full force and effect.

6. **Capitalized Terms.** All capitalized terms used in this Second Amendment and not defined herein shall have the same meaning as used in the Agreement.

7. **Scope of Amendment.** This Second Amendment shall be binding upon and inure to the benefit of the Parties hereto, and their respective heirs, executors, administrators, successors, and assigns,

who are obligated to take any action which may be necessary or proper to carry out the purpose and intent thereof.

8. **Authority.** Each Party represents and warrants that (i) it is validly existing and in good standing in the state in which it is organized, (ii) it is the proper party to amend the Agreement, and (iii) it has the requisite authority to execute this Second Amendment.

9. **Counterparts.** This Second Amendment may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Second Amendment to be duly executed as of the date above written.

MC6 HYDRO LLC

By: 

Name: Ted S. Sorenson

Title: Manager

Date: 7/12/2021

IDAHO POWER COMPANY

By: 

Name: Ryan N. Adelman

Title: VP Power Supply

Date: 8/11/2021