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**DONOVAN E. WALKER**  
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October 28, 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-21-31  
Shorock Hydro Inc. – Rock Creek #1 Hydro Project  
Idaho Power Company's Application re the First Amendment to the Energy  
Sales Agreement

Dear Ms. Noriyuki:

Attached for electronic filing is Idaho Power Company's Reply Comments 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-21-31
APPROVAL OR REJECTION OF THE	)	
FIRST AMENDMENT TO THE ENERGY	)	REPLY COMMENTS OF
SALES AGREEMENT WITH SHOROCK	)	IDAHO POWER COMPANY
HYDRO, INC. FOR THE SALE AND	)	
PURCHASE OF ELECTRIC ENERGY	)	
FROM THE ROCK CREEK #1 HYDRO	)	
PROJECT	)	
_____	)	

Idaho Power Company (“Idaho Power” or “Company”), in response to the comments filed by Commission Staff (“Staff”), hereby respectfully submits the following Reply Comments.

**I. INTRODUCTION AND BACKGROUND**

On August 26, 2021, Idaho Power filed an application with the Commission for approval or rejection of the First Amendment (“Amendment”) to its Energy Sales Agreement (“ESA”) with Shorock Hydro, Inc. (“Shorock” or “Seller”). Shorock sells energy to the Company from the Rock Creek #1 Hydro Project (“Facility”). The Facility is a qualifying facility under the Public Utility Regulatory Policies Act of 1978. The

Amendment that was executed by the Company and Shorrock (“Parties”) is to allow the Facility to adjust the monthly Net Energy Amount (“NEA”) by the 25<sup>th</sup> of each month. Specifically, Section 6.2.3 of the ESA provides the Seller with the option to adjust the monthly estimated 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, such that they can make adjustments by the 25<sup>th</sup> day of the month preceding the month for which a change is requested. The Commission has previously approved similar amendments to other energy sales agreements to incorporate the same change.

On October 27, 2021, Commission Staff (“Staff”) recommended approval of the provision reflected in the Parties’ Amendment, but also recommended the Commission require *additional* changes to the ESA:

Staff notes the ESA does not contain any provision addressing modifications to the Facility during the contract term. Therefore, Staff recommends updating the Amendment by including the following provision, which has been included in recent PURPA contracts filed by the Company with the Commission:

Any modifications to the Facility, including but not limited to the generator or turbine, that (1) increases or decreases the Facility Nameplate Capacity, or (2) changes the Qualifying Facility Category, or (3) changes the Primary Energy Source or (4) changes to the generator fuel and subsequently the Fueled Rate or Non-Fueled Rate, will require a review of the Agreement terms, conditions and pricing and Idaho Power, at its sole determination, may adjust the pricing or terminate the Agreement. If the Agreement is terminated because of said modifications, the Seller will be responsible for any Termination Damages.

Staff Comments, p 3.

## **II. IDAHO POWER REPLY COMMENT**

The Company appreciates Staff’s analysis, review, and recommendation to approve the five-day notification provision as provided in the Amendment. However, the

Company disagrees with Staff's recommendation to update the Amendment by including an additional provision in the ESA to address modifications of the Facility during the term of the contract. ("Staff Provision").

Idaho Power contacted Shorock about Staff's Comments and recommendation, and inquired as to whether Shorock was in agreement to add the Staff Provision to the Amendment. Shorock indicated that it would prefer that the Staff Provision not be added to the Amendment, but stated it would accept the additional provision if its objection was going to cause a significant delay to the approval of the Amendment.

Shorock requested an amendment to the ESA so that they could adjust the monthly NEA at any point up to the 25<sup>th</sup> day of the preceding month. Idaho Power has received similar such requests from several other QFs, has executed the same change reflected in this Amendment in amendments to the ESAs with other QFs, and received approval from the Commission in each case without modifying other sections of the ESA or updating other sections of the ESA to current "standards". The Company believes that Staff's recommendation to update the ESA by adding the Staff Provision goes beyond the scope of the review and consideration of the Amendment and is inconsistent with Commission practice regarding changes to a previously approved PURPA ESA.

Further, absent a particular reason to do so, it is not appropriate to open up contracts for a *de novo* review and inclusion of new provisions simply because an amendment is requested. Idaho Power has over 100 Commission approved contracts that have been executed over the past 35 years. Many of these contracts will have numerous provisions that have changed over the years, and that may not have been contemplated when the ESA was originally entered agreed to by parties. The Company does not believe it is proper to open up PURPA contracts whenever an amendment is requested and require the parties to update other sections of the contract to the most

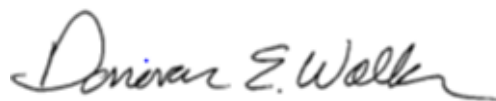
current language, especially when these other sections have nothing to do with the amendment requested by the Seller.

The Company is willing to include the Staff Provision in any new contracts, and has included such a provision in several, but Idaho Power objects to adding this Provision to a previously approved ESA in the context of the Commission's review of a contract amendment to an unrelated provision.

### **III. CONCLUSION**

The Company believes Staff's recommendation to add a facility modification provision is outside the scope of this Amendment. The Amendment as written, is consistent with past amendments to the monthly NEA which the Commission has approved for several QFs without changes to additional provisions. Idaho Power respectfully requests that the Commission issue an order approving the Amendment without modification, and without inclusion of the additional Staff Provision regarding Facility modifications.

Respectfully submitted this 28<sup>th</sup> day of October 2021.

A handwritten signature in black ink, reading "Donovan E. Walker". The signature is fluid and cursive, with the first name "Donovan" being more prominent.

---

DONOVAN E. WALKER  
Attorney for Idaho Power Company

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 28<sup>th</sup> day of October 2021, I served a true and correct copy of the within and foregoing REPLY COMMENTS OF IDAHO POWER COMPANY upon the following named parties by the method indicated below, and addressed to the following:

Brett Van Wagoner  
Shorock Hydro INC  
PO Box 1787  
Twin Falls ID 83303

☐ Hand Delivered  
☐ U.S. Mail  
☐ Overnight Mail  
☐ FAX  
☒ Email – [rbvanwag@gmail.com](mailto:rbvanwag@gmail.com)

Erick Shaner  
Deputy Attorney General  
Idaho Public Utilities Commission  
P.O. Box 83720  
Boise, ID 83720-0074

☐ Hand Delivered  
☐ U.S. Mail  
☐ Overnight Mail  
☐ FAX  
☒ Email – [erick.shaner@puc.idaho.gov](mailto:erick.shaner@puc.idaho.gov)



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Christy Davenport, Legal Assistant