

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER) CASE NO. IPC-E-23-03
COMPANY’S APPLICATION FOR)
APPROVAL OF A SECOND AMENDMENT)
OF THE ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF) ORDER NO. 35784
ELECTRIC ENERGY FROM THE)
TAMARACK CSPP PROJECT)
)

On February 16, 2023, Idaho Power Company (“Company”) applied for approval of the Second Amendment (“Second Amendment”) to its Energy Sales Agreement (“ESA”) with Evergreen Energy, Inc. The Company represented the Second Amendment updates the Seller’s name in the ESA from Evergreen Energy, Inc. (“Evergreen”)¹ to Tamarack Mill, LLC (“Tamarack” or “Seller”). Application at 3.

On March 23, 2023, the Commission issued a Notice of Application and Notice of Modified Procedure establishing public comment and Company reply deadlines. Order No. 35714. Staff filed comments to which the Company did not reply.

With this Order, we approve the Second Amendment.

BACKGROUND

The Commission approved the Parties’ ESA in Case No. IPC-E-18-04, Order No. 34075. A first amendment to the ESA was approved by the Commission in Case No. IPC-E-21-05, altering “the notification requirement for revising future monthly Estimated Net Energy Amounts from one-month advanced notice to a five-day advanced notice.” *Id.* at 2; Order No. 35065.

THE APPLICATION

The Company stated that Evergreen and Tamarack shared a common owner before the respective companies merged— effective January 1, 2023.

The Company stated that Evergreen ceased to exist due to the merger and that Tamarack assumed the duties and rights of Evergreen’s ESA with the consent of the Company. The Parties requested to amend the ESA so Tamarack is listed as the Seller.

¹ Numbered paragraph 1 of the Application inadvertently refers to this entity as “Evergreen Energy, LLC”. Application at 2. The entity relevant to this matter is Evergreen Energy, Inc., as set forth in the Second Amendment and shown as the entity that was merged with Tamarack Mill, LLC with the latter being the surviving entity. See <https://sosbiz.idaho.gov/search/business>.

STAFF COMMENTS

Staff reviewed the proposed Second Amendment and noted it only changes the Seller's name as described above without affecting the Parties' contractual obligations. Staff recommended the Commission approve the Company's proposed Second Amendment, as filed.

COMMISSION FINDINGS AND DECISION

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-502 and 61-503. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provision of law, and to fix the same by order. *Idaho Code* §§ 61-502 and 61-503. The Commission also has authority under Public Utility Regulatory Policies Act of 1978 ("PURPA") and Federal Energy Regulatory Commission ("FERC") regulations to set avoided cost rates, to order electric utilities to enter fixed-term obligations for the purchase of energy from QFs, and to implement FERC rules. The Commission may enter any final order consistent with its authority under Title 61 and PURPA.


The Commission has reviewed the record, including the Application, the Second Amendment to the ESA, and Staff's comments. The purpose of the Second Amendment is to clearly set forth the Seller's identity in the ESA as Tamarack, with the consent of the Company, who has assumed all rights and duties of the "seller" under this contract. The Commission finds it is clearly in the public interest to approve the Second Amendment so that the ESA correctly and legally sets forth the parties to it.

ORDER


IT IS HEREBY ORDERED that the Second Amendment is approved; the name of the Seller shall be updated in the ESA.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this order about any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *Idaho Code* § 61-626.

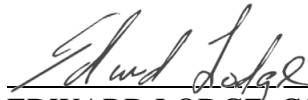
DONE by order of the Idaho Public Utilities Commission at Boise, Idaho this 18th day of May 2023.



ERIC ANDERSON, PRESIDENT

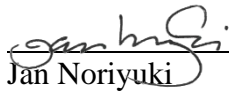


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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