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IDAHO PUBLIC
UTILITIES COMMISSION

February 17, 2023

VIA ELECTRONIC FILING

Jan Noriyuki, Secretary
Idaho Public Utilities Commission
11331 W. Chinden Blvd., Bldg 8,
Suite 201-A (83714)
PO Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-23-05
In the Matter of Idaho Power Company's Application for a Certificate of
Public Convenience and Necessity to Acquire Resources to be Online by
2024 and Approval of a Power Purchase Agreement with Franklin Solar LLC

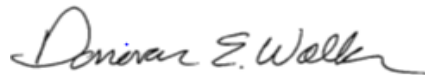
Dear Ms. Noriyuki:

Attached for electronic filing, please find Idaho Power Company's Application in the above matter. Also attached is the Direct Testimony of Jared L. Ellsworth and Direct Testimony of Eric Hackett.

Additionally, also attached is a protective agreement. The Direct Testimony of Eric Hackett and Exhibit Nos. 4-6 to Eric Hackett's Testimony contains confidential information and will be provided separately via an encrypted email to parties who sign the protective agreement.

Please feel free to contact me directly with any questions you might have about this filing.

Very truly yours,



Donovan E. Walker

DEW:sg
Enclosures

CERTIFICATE OF ATTORNEY

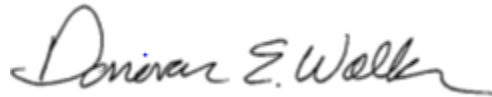
ASSERTION THAT INFORMATION CONTAINED IN AN IDAHO PUBLIC UTILITIES COMMISSION FILING IS PROTECTED FROM PUBLIC INSPECTION

Case No. IPC-E-23-05

Idaho Power Company's Application for a Certificate of Public Convenience and Necessity to Acquire Resources to be Online by 2024 and Approval of a Power Purchase Agreement with Franklin Solar LLC

The undersigned attorney, in accordance with RP 67, believes that the Direct Testimony of Eric Hackett and Exhibit Nos. 4, 5, and 6 to the Direct Testimony of Eric Hackett dated February 17, 2023, may contain information that Idaho Power Company or a third party claims is confidential as described in *Idaho Code* § 74-101, *et seq.*, and § 48-801, *et seq.*, and as such is exempt from public inspection, examination, or copying.

DATED this 17th day of January 2023.



Donavan Walker
Counsel for Idaho Power Company

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Attorney for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER)	
COMPANY’S APPLICATION FOR A)	CASE NO. IPC-E-23-05
CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY TO)	APPLICATION
ACQUIRE RESOURCES TO BE ONLINE)	
BY 2024 AND FOR APPROVAL OF A)	
POWER PURCHASE AGREEMENT WITH)	
FRANKLIN SOLAR LLC.)	

Idaho Power Company (“Idaho Power” or “Company”), in accordance with *Idaho Code* §§ 61-501, 61-502, 61-503, 61-508, 61-526; as well as RP 52, and 112, hereby respectfully makes application to the Idaho Public Utilities Commission (“Commission” or “IPUC”) for an order: (1) granting the Company a Certificate of Public Convenience and Necessity (“CPCN” or “Certificate”) to acquire 72 megawatts (“MW”) of dispatchable energy storage necessary to meet the identified capacity deficiency in 2024 and (2) approving the 25-year Power Purchase Agreement (“PPA”) between Idaho Power and Franklin Solar LLC (“Franklin Solar”).

Accompanying this Application are two sets of testimony. The Direct Testimony of Jared L. Ellsworth presents the load and resource balance that identifies Idaho Power's 2024 capacity deficit. Mr. Ellsworth describes the modifications to the inputs of the load and resource balance and resulting capacity deficit, providing support for the acquisition of new resources to address identified near-term peak capacity needs in 2024. The Direct Testimony of Eric Hackett provides an overview of the competitive procurement process used to evaluate the various resources that competed to provide a capacity resource to help meet Idaho Power's peak electric energy needs in 2024, and the resulting least-cost, least-risk capacity resources selected through the fair and competitive Request for Proposals ("RFP") process.

I. CORPORATE STATUS

1. Idaho Power is a corporation incorporated under the laws of the state of Idaho. Idaho Power is engaged in the business of generating, purchasing, transmitting, and distributing electric energy and providing retail electric service in the states of Idaho and Oregon. Idaho Power's principal offices are situated in Boise, Idaho, and its address is 1221 West Idaho Street, Boise, Idaho 83702. Copies of Idaho Power's Articles of Incorporation and Certificates of Convenience and Necessity are on file with the Commission. *Idaho Code* § 61-528.

II. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

2. Idaho Power has an obligation to provide adequate, efficient, just, and reasonable service on a nondiscriminatory basis to all those that request it within its certificated service territory. *Idaho Code* §§ 61-302, 61-315, 61-507. The Commission must assure that the rates Idaho Power charges its customers and that the rules and regulations by which it provides service are just, reasonable, nondiscriminatory, and non-preferential. *Idaho Code* §§ 61-501, 61-502, 61-503, 61-507, 61-508. The Company

must acquire additional dispatchable resources to meet the identified capacity deficits on its system in order to comply with its continuing obligation to serve customers, and thus is requesting an order from the Commission affirming that the public convenience and necessity requires the same. The proposed acquisition represents a cost-effective means of providing adequate and reliable service to the customers in Idaho Power's certificated service territory. The Commission has the express authority to order a utility to build new structures, or to upgrade and/or improve existing plant and structures, in order to secure adequate service or facilities.

Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to or changes in the existing plant, scales, equipment, apparatus, facilities or other physical property of any public utility . . . ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing such additions, extensions, repairs, improvements, or changes be made or such structure or structures be erected in the manner and within the time specified in said order.

Idaho Code § 61-508.

3. A CPCN or Certificate represents the exercise by the Commission of foundational authority and principles that are necessary in Idaho's system of permitting regulated, vertically integrated, public utilities to exist and to provide necessary services to the public. Certificates have been utilized in various ways from the time that Idaho's statutory system of public utility regulation was enacted by the Legislature in 1913, *Idaho Code* § 61-101, *et seq.*, to the present time. After nearly 100 years of legislative enactments, Commission orders, and Idaho Supreme Court reviews, the Certificate remains the embodiment of the Commission's fundamental power and authority to, at the most basic level, authorize and direct a public utility to serve in the public interest. See

Idaho Power & Light Co. v. Blomquist et al., 26 Idaho 222, 141 P.1083 (1914); *Idaho Op. Atty. Gen. No. 87-2*, 1987 WL 247587 (Idaho A.G.).

4. In the broadest sense, a Certificate allows a company that meets the definition of a “public utility” pursuant to *Idaho Code* § 61-129 to exclusively provide its service to the public in a specified geographic region, its service territory. It is a codified part of the “regulatory compact” whereby the utility takes on the exclusive obligation/right to serve all those requesting service within its service territory and, correspondingly, submits itself to the rate and service quality regulation of the Commission. In a more literal sense, a Certificate from the Commission is required for the construction or extension of a line, plant, or system by any street, railroad, gas, electrical, telephone, or water corporation. *Idaho Code* § 61-526. § 61-526 also provides that “if public convenience and necessity does not require or will require such construction or extension [of a line, plant, or system] the commission . . . may, after hearing, make such order and prescribe such terms and conditions for the locating or type of line, plant or system affected as to it may seem just and reasonable” A CPCN is required for the utility to construct a new generation resource or plant but is not required to increase the capacity of existing generating facilities. *Id.*

III. RESOURCE NEED

5. Idaho Power has been generally resource-sufficient since the addition of the Langley Gulch natural-gas fired power plant almost a decade ago until recently. The load and resource balance from the Second Amended 2019 IRP did not show a capacity deficiency occurring until the summer of 2028. However, as described more completely in the direct testimony of Mr. Ellsworth several converging factors, including limited third-party transmission capacity, load growth, and a decline in the peak serving effectiveness of certain supply-side and demand-side resources have caused Idaho Power to rapidly

move to a near-term capacity deficiency starting in 2023. These dynamic circumstances led the Company to immediately file a request for a CPCN to acquire resources to be online in 2023¹, and Idaho Power expects to acquire additional resources each year thereafter through (at least) 2027.

6. Under Idaho law, Idaho Power has an obligation to provide adequate, efficient, just, and reasonable service on a nondiscriminatory basis to all those that request it within its service area. Idaho Power has experienced and expects sustained load growth, thereby requiring the addition of new resources. To meet its obligation to reliably serve customer load and fill the 2024 capacity deficiency, the Company conducted a competitive solicitation through an RFP seeking to acquire energy and capacity to help meet Idaho Power's previously identified capacity needs of 85 MW to be online by June of 2024 and an incremental 115 MW in 2025. The procurement process resulted in the acquisition of least-cost, least-risk resources necessary to fill the 2024 capacity deficiency.

7. The Company performed a qualitative and quantitative evaluation of the project proposals submitted through the RFP process, resulting in the selection of a 100 MW solar photovoltaic ("PV") facility, an Idaho Power-owned 60 MW energy storage project and an Idaho Power-owned 12 MW energy storage project. Idaho Power requests, pursuant to *Idaho Code* §§ 61-508 and 61-526, that the Commission find it to be in the public convenience and necessity that Idaho Power acquire 72 MW of dispatchable energy storage to be operational to serve peak loads for the summer of 2024. The proposed acquisition, as described herein, is necessary and required in order

¹ Case No. IPC-E-22-13.

to continue to provide reliable and adequate electric service to Idaho Power's customers starting in the summer of 2024 and into the future.

IV. RESOURCE DESCRIPTION

8. As previously referenced, the Company conducted an RFP seeking to acquire energy and capacity to help meet Idaho Power's previously identified capacity needs of 85 MW in 2024 and an incremental 115 MW in 2025. The competitive RFP process resulted in a least-cost, least-risk selection of two projects to meet the 2024 capacity deficiency: a combination 100 MW solar PV PPA along with an Idaho Power-owned 60 MW energy storage project and an Idaho Power-owned 12 MW energy storage project.

Franklin Solar PPA

9. The 100 MW solar PV facility plus 60 MW energy storage project consists of a 25-year PPA for a 100 MW solar PV facility that supplies energy to the Company's system combined with an Idaho Power-owned 60 MW battery storage facility. On January 20, 2023, Idaho Power and Franklin Solar entered into a PPA to construct, own, operate and maintain a 100 MW solar PV facility located in Twin Falls County, Idaho, supplying the output to the Company's system for the period of 25 years from a commercial operation date of June 1, 2024. An executed copy of the PPA is attached as Confidential Exhibit No. 5 to Mr. Hackett's Direct Testimony. The PPA contains non-levelized, fixed pricing that escalates at 2.0 percent annually during the term. Exhibit 5 to the PPA sets forth the Contract Price for Contract Years 1 through 25 on a dollars per megawatt-hour ("MWh") basis. The PPA is similar in many ways to the numerous energy sales agreements approved by the Commission pursuant to the Company's obligations under Public Utility Regulatory Policies Act of 1978 ("PURPA"), but also contains additional

other terms and conditions consistent with industry standard, non-PURPA power purchase agreements including pricing, security, and other terms of service.

10. The PPA provides for a Scheduled Commercial Operation Date of June 1, 2024, just prior to Idaho Power's currently projected first capacity deficit in July 2024. The PPA provides for a Guaranteed Commercial Operation Date, which is 180 days after the Scheduled Commercial Operation Date under Section 1.59. Section 9 of the PPA contains provisions requiring the Seller to post and maintain security, both Project Development Security and Default Security. A Project Development Security in the amount of \$90 per kilowatt ("kW") of Nameplate Capacity Rating must be in place within 30 days of a final order of the Commission approving the PPA and will remain in place to ensure the project meets its Commercial Operation Date. For the first 10 contract years, a Default Security in the amount of \$45 per kW of Nameplate Capacity Rating must be in place at the Commercial Operation Date, after which the Default Security reduces to \$35 per kW of Nameplate Capacity Rating and will be maintained through the entire term of the PPA. Default Security may be used for any Deficit Damages if the project is brought online at less than the Expected Nameplate Capacity or for any other damages Idaho Power suffers if the PPA is terminated because of the Seller's default.

11. Section 7.12 of the PPA contains a performance requirement in the form of an Output Guarantee. Under the Output Guarantee, the Seller is obligated to deliver 90 percent of the Estimated Monthly Output of the Facility on a monthly basis. The PPA allows the Seller an adjustment of Estimated Monthly Net Output Amounts by the 25th day of the preceding month. If the project delivers less than the Output Guarantee during any month, the Seller must pay the Output Shortfall for that month multiplied by Idaho Power's Cost to Cover as liquidated damages. If the delivered Net Output is equal to or greater than the Output Guarantee, then the Seller is deemed to have satisfied the Output

Guarantee. In addition, Section 7 of the PPA contains standard provisions for operation and control of the project. These include such things as planned outages, forced outages, and maintenance outages, as well as scheduling, forecasting, generator output limit control ("GOLC"), and metering. For forecasting, the PPA provides the same allocated portion of the total cost of Idaho Power's Solar Energy Production Forecast model that is used for all solar projects that are under contract to provide energy to Idaho Power. Under the PPA, Idaho Power will own 100 percent of the Green Tags or Environmental Attributes associated with the facility.

12. Section 3.1.1 provides that the PPA will not become effective unless the Commission has approved all of the PPA's terms and provisions and declared that all payments the Company makes to Seller for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes. The obligation of Idaho Power to purchase energy under the PPA will not become effective should it be disapproved by either the Commission or the Public Utility Commission of Oregon. This section provides that subsequent to execution of the PPA, Idaho Power will seek a final order regarding approval or rejection of the Agreement from the Commission prior to February 17, 2023, and that if Commission approval is not obtained by August 17, 2023, the Scheduled Commercial Operation Date of June 1, 2024, and Guaranteed Commercial Operation Date, which is 180 days after, may be extended on a day-for-day basis until approval is obtained. Should Commission approval not be obtained by February 17, 2024, then the Seller has the right to terminate the PPA. To allow Franklin Solar sufficient lead time for financing, procurement and construction once Commission approval of the PPA is obtained, in order to meet the Scheduled Commercial Operation date of June 1, 2024, the Company requests a Commission order by August 17, 2023.

Energy Storage

13. Concurrent with execution of the PPA, on January 20, 2023, the Company executed a Build Transfer Agreement with Duke Energy Renewables Solar, LLC (“Duke Energy Solar”), a subsidiary of Duke Energy Renewables, LLC, for the purchase of a Battery Energy Storage System (“BESS”), co-located with the Franklin Solar 100 MW solar PV facility in Twin Falls County, Idaho, providing for a minimum capacity of 60 MW. As described below, the Build Transfer Agreement (“BTA”) is structured as a sale by Duke Energy Solar to the Company at mechanical completion of the equity interests in Franklin Battery Storage, LLC (“Franklin Storage”). Franklin Storage is developing and will construct the BESS. The BTA is included as Confidential Exhibit No. 6 to the Direct Testimony of Mr. Hackett.

14. The BTA provides for the transfer to Idaho Power from Duke Energy Solar of 100 percent of the equity interests in Franklin Storage once mechanical completion is reached. It requires that the project must achieve mechanical completion, that is, the project has been installed in accordance with the contract documents, is mechanically, structurally and electrically sound, and is ready for initial start-up, adjustment and testing, by the Guaranteed Mechanical Completion Date of April 7, 2024 (subject to extension under certain circumstances). The Guaranteed Substantial Completion date is June 1, 2024 (subject to extension under certain circumstances), and requires the project to be commercially operational. Failure to meet the Guaranteed Mechanical Completion Date entitles Idaho Power to liquidated damages which are subject to reimbursement if the Guaranteed Substantial Completion Date is met.

15. As described in detail in the Direct Testimony of Mr. Ellsworth, the Company’s load and resource balance remains very fluid during the near-term resource decision making phase, driven in part by continued high load growth. During contract

negotiations with Franklin Solar, the load and resource balance was refreshed again and it was determined that, even with the combined 100 MW solar PV facility and 60 MW energy storage facility, a 7 MW capacity shortfall still existed in 2024. The Company identified the next most cost-effective project able to meet the 2024 capacity deficit, the Idaho Power battery storage benchmark resource. Idaho Power can economically and efficiently add 12 MW of battery storage at the Hemingway substation, the site for which 80 MW of battery storage is being installed to meet the 2023 capacity deficiency without requiring infrastructure upgrades and ensuring maximum Investment Tax Credits (“ITC”) benefits. The Company intends on adding the 12 MW BESS to the contract executed with Powin Energy Corporation (“Powin”) on February 28, 2022, the contract in place for the 2023 energy storage resources, through a change order. Or, in the alternative, use a different supplier the Company has available.

V. RESOURCE PROCUREMENT PROCESS

16. Idaho Power conducted a fair and competitive resource acquisition procurement process that resulted in a least-cost, least-risk procurement of 72 MW of energy storage capable of being operational to meet the 2024 deficit. Upon recognizing the urgency of the capacity deficit, the Company assembled an interdisciplinary team to develop and process the RFP for 2024 peak capacity resources (“RFP evaluation team”). Black & Veatch, LLC (“Black & Veatch”) was engaged to assist the RFP evaluation team, providing guidance and support of the RFP process. The RFP evaluation team, in consultation with Black & Veatch, developed detailed criteria and a methodology for evaluating both price and qualitative attributes of a proposed resource including the 57 factors which were identified in Exhibits A and B to the RFP and the Proposal Entry Form during the qualitative evaluation process. Subject matter experts within the RFP evaluation team, as well as independent subject matter experts within Idaho Power, were

assigned those specific evaluation factors and criteria related to their knowledge of the factor subject matter.

17. The direct testimony of Mr. Hackett details the evaluation of the respondents' proposals to the RFP, which included a quantitative and qualitative evaluation with an objective scoring methodology to reasonably evaluate the price and non-price attributes of each bid, providing evidence of a fair and competitive procurement process. The RFP solicited renewables, such as solar PV, wind or geothermal, energy storage projects, and renewables plus energy storage projects. In addition, the Company identified gas-fired resources that are convertible to hydrogen and demand response resources as eligible products. Idaho Power's Power Supply department submitted two benchmark resources in the RFP.

18. Because the selected bidder in the RFP was a 100 MW solar PV plus 60 MW energy storage project, it alone is insufficient to meet the increased capacity deficit of 103 MW in 2024. The combined two projects, the 100 MW solar PV plus 60 MW energy storage and the 12 MW battery storage facility would provide the resources necessary to fill the 2024 capacity deficiency: the 72 MW of battery storage for which the Company seeks the current CPCN issuance and the PPA with Franklin Solar for which Idaho Power seeks approval. Idaho Power believes the procurement process has determined the least-cost, least-risk resources that are capable of being operational to meet the 2024 capacity deficiency. These projects are necessary and required to timely meet the Company's resource needs and continue to provide reliable and adequate service to Idaho Power's customers starting in the summer of 2024 and into the future.

VI. RATEMAKING TREATMENT FOR ENERGY STORAGE PROJECTS

19. Idaho Power is not requesting binding ratemaking treatment in this case as it did for the Langley Gulch Power Plant CPCN, Case No. IPC-E-09-03. The Company's

request in this case is that the Commission find Idaho Power has met the requirements of Idaho Code § 61-526 and issue an order granting a CPCN to acquire 72 MW of energy storage necessary to meet the identified capacity deficiency in 2024. The Company will make a future filing to address the cost recovery associated with these projects.

VII. OREGON PROCUREMENT RULES

20. The Commission, in Case No. IPC-E-10-03, initiated a case seeking to establish competitive bidding guidelines for the RFP process. In 2013, the Commission closed Case No. IPC-E-10-03 without establishing Idaho-specific resource procurement guidelines, but rather directing Idaho Power to follow the RFP guidelines applicable to its Oregon service territory. The Oregon RFP guidelines to which the Commission referred were later codified into the administrative rules of the Public Utility Commission of Oregon (“OPUC Resource Procurement Rules”).² The OPUC Resource Procurement Rules impose competitive bidding requirements upon an electric utility for the “acquisition of a resource or a contract for more than an aggregate of 80 MWs and five years in length,” among other requirements. Several converging factors, including limited third-party transmission capacity, load growth, and a decline in the peak serving effectiveness of certain supply-side and demand-side resources caused Idaho Power to rapidly move to a near-term capacity deficiency. Given the timeframe between the identification of the increased capacity deficit and the need to have resources online to meet that deficit, it was apparent that there was insufficient time to reissue the RFP under the OPUC Resource Procurement Rules and ensure adequate resources were available to provide reliable service to customers.

² Oregon Administrative Rule (“OAR”) 860-089-0010 et seq.

21. There are certain exceptions to the applicability of the OPUC Resource Procurement Rules, including the exception used for executing the Jackpot Solar power purchase contract³ and the exception used for the 120 MW of energy storage resources necessary to meet the 2023 capacity deficiency, “There is a time-limited opportunity to acquire a resource of unique value to the electric company’s customers.”⁴ The rules also contain exceptions for emergencies, OPUC acknowledgement of an alternative acquisition method in the utility’s IRP, and exclusively acquiring transmission assets or rights.⁵ As such, coincident to filing of this Application, Idaho Power is filing an exception request with the OPUC, and is currently compliant with the OPUC resource acquisition process.

VIII. FINANCING THE ENERGY STORAGE

22. Idaho Power maintains investment grade credit ratings with Standard & Poor’s Ratings Services and Moody’s Investors Service, with a long-term issuer rating of BBB and Baa1, respectively. The Company maintains ready access to the capital markets and to instruments providing for its liquidity. Idaho Power has a \$300 million revolving credit facility with its banking syndicate, which may be increased to \$450 million under specified conditions, \$253,125,000 of which terminates on December 6, 2026, and \$46,875,000 of which terminates on December 6, 2025. The Company has an option to request up to two one-year extensions of the agreement, subject to certain conditions. Idaho Power also has authority from state regulatory commissions to issue up to \$1.2 billion in aggregate principal amount of debt securities, \$1.15 billion of which remained available as of December 31, 2022. The Company also has access to

³ Case No. IPC-E-19-14.

⁴ OAR 860-089-0100(3)(b).

⁵ OAR 860-089-0100(3)(a), (c), (d).

commercial paper markets, as well as a balance of cash and investments on its balance sheet. Additionally, Idaho Power has access to capital and credit outside of existing mechanisms and instruments, such as through term loans, letter of credit, and other instruments. IDACORP, the parent entity of Idaho Power, also maintains access to the public equity markets. The Company intends to finance the 72 MW of energy storage with a combination of available cash and operating cash flow, available facilities and borrowing and debt issuances, and potential future equity issuances by IDACORP.

IX. COMMUNICATIONS AND SERVICE OF PLEADINGS

23. Communications and service of pleadings with reference to this Application should be sent to the following:

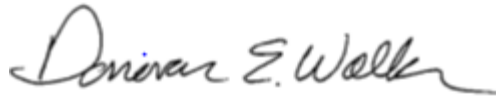
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X. REQUEST FOR RELIEF

Idaho Power respectfully requests that the Commission issue an order (1) granting the Company a Certificate of Public Convenience and Necessity to acquire 72 MW of dispatchable energy storage necessary to meet the identified capacity deficiency in 2024, and (2) approving the 25-year PPA between Idaho Power and Franklin Solar by August 17, 2023, to allow for sufficient lead time for financing, procurement, and construction of the 100 MW solar PV facility. Idaho Power requests that the Commission issue Notice of this Application, set an intervention deadline, and convene a prehearing conference in this matter at its earliest convenience to establish a proper procedure to expedite the orderly conduct and disposition of this proceeding. RP 211.

DATED at Boise, Idaho this 17th day of February 2023.

A handwritten signature in black ink that reads "Donovan E. Walker". The signature is written in a cursive style with a large initial 'D' and a long horizontal stroke at the end.

DONOVAN E. WALKER
Attorney for Idaho Power Company