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Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF IDAHO POWER</b>	)	
<b>COMPANY’S APPLICATION FOR</b>	)	<b>CASE NO. IPC-E-24-01</b>
<b>APPROVAL OF A POWER PURCHASE</b>	)	
<b>AGREEMENT WITH PVS 2, LLC</b>	)	
	)	<b>COMMENTS OF THE</b>
	)	<b>COMMISSION STAFF</b>
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**COMMISSION STAFF (“STAFF”)** OF the Idaho Public Utilities Commission, by and through its Attorney of record, Adam Triplett, Deputy Attorney General, submits the following comments.

**BACKGROUND**

On January 3, 2024, Idaho Power Company (“Company”), applied for approval of a 20-year Power Purchase Agreement (“PPA”) between the Company and PVS 2, LLC (“PVS 2”). The PPA was entered into with the expectation of assigning the associated energy and Green Tags/Environmental Attributes to Brisbie LLC (“Brisbie”) under the provisions of the Special Contract, as amended, that was approved by the Commission in Order Nos. 35777 and 35958 issued in Case No. IPC-E-21-42.

The Company states that PVS 2 will build, own, operate, and maintain a 125-megawatt (“MW”) alternating current solar photovoltaic generation facility (“Facility”) and will supply the output to the Company’s system. Brisbie is identified in the PPA as a third-party beneficiary receiving energy and Green Tags associated with the Facility’s Net Output.

## **STAFF ANALYSIS**

The Company has requested approval of a PPA for the 125-MW PVS 2 Facility as a dedicated resource to serve Brisbie’s annual renewable energy requirements under the Company’s Special Contract approved by the Commission through Order Nos. 35777 and 35958. The developer of the Facility is the same developer as the 200-MW Pleasant Valley Solar project approved through Commission Order No. 35739 in Case No. IPC-E-22-29. *See* Response to Staff Production Request No. 1(a). Staff’s review of the PPA is focused on the resource selection process, the parent guaranty, and the Market Price Index. Staff recommends that the Commission approve the PPA between the Company and PVS 2 and declare that all payments to the Seller be allowed as prudently incurred expenses for ratemaking purposes.

### **Resource Selection Process**

Staff believes that the selection process of the proposed PVS 2 Facility did not cause the Company to favor Brisbie over the rest of its customers. Because the Company is in the process of selecting resources to meet system needs, Staff was concerned the Company could potentially select the PVS 2 Facility as a dedicated resource for Brisbie that should have been selected as a low-cost resource to serve all of its customers.

Brisbie has its own renewable energy team to conduct its own request for proposals (“RFP”) to evaluate and identify projects, which Staff verified was conducted independent of the selection process the Company used to select resources to serve the system. *See* Response to Staff Production Request No. 1(a). In addition, the PVS 2 project was not included in any of the bids in the Company’s RFPs. *See* Response to Staff Production Request No. 1(c). Because of these reasons, Staff does not believe a conflict of interest existed affecting the Company’s access to low-cost resources available to meet system needs.

## Parent Guaranty

The Special Contract between Brisbie and the Company required that Brisbie will, within ten business days after the execution of each PPA, deliver a Guaranty from Guarantor that guarantees future payments to cover potential costs incurred, should Brisbie no longer remain the ultimate off taker for the Facility's Output. Special Contract at 25.

This requirement has been met, and a parent guaranty has been received from Meta Platforms, Inc. *See* Response to Staff Production Request No. 3.

## Market Price Index

"Market Price Index" is used in multiple areas of the PPA, such as Section 1.57 "Idaho Power's Cost to Cover"<sup>1</sup> and Section 1.126 "Seller's Cost to Cover"<sup>2</sup>. "Market Price Index" means:

82.4% of the monthly arithmetic average of each day's Intercontinental Exchange ("ICE") daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg index prices with such prices being the index representing, or adjusted to assume, a price for energy that is not delivered to a final point of delivery in a balancing authority area located entirely in Washington, or a designated scheduling point associated with a Washington retail provider within a balancing authority area operated by a federal power marketing administration... (emphasis added). PPA at 10.

This definition avoids any potential impacts of Washington's Climate Commitment Act ("CCA"). *See* Response to Staff Production Request No 6. Staff believes the definition is reasonable and aligns with the Commission's decision that CCA costs should not be borne by Idaho ratepayers as directed by Order No. 36015.

## STAFF RECOMMENDATION

Staff recommends that the Commission approve the PPA between the Company and PVS 2 and declare that all payments to the Seller be allowed as prudently incurred expenses for ratemaking purposes.

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<sup>1</sup> "Idaho Power's Cost to Cover" is calculated to address Output Shortfall from the Seller; when market prices (including Green Tag values) are greater than contract prices. PPA at 8.

<sup>2</sup> "Seller's Cost to Cover" is calculated to address Net Output not purchased by the Company; when contract prices are greater than market prices. PPA at 14.

Respectfully submitted this 3<sup>rd</sup> day of April 2024.



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Adam Triplett  
Deputy Attorney General

Technical Staff: Yao Yin  
Kimberly Loskot

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 3<sup>rd</sup> DAY OF APRIL 2024, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-24-01, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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PATRICIA JORDAN, SECRETARY