

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF IDAHO POWER</b>	)	<b>CASE NO. IPC-E-24-06</b>
<b>COMPANY’S APPLICATION FOR</b>	)	
<b>APPROVAL OF A THIRD AMENDMENT TO</b>	)	<b>NOTICE OF APPLICATION</b>
<b>AN EXISTING ENERGY SALES</b>	)	
<b>AGREEMENT AND REPLACEMENT</b>	)	<b>NOTICE OF</b>
<b>ENERGY SALES AGREEMENT</b>	)	<b>MODIFIED PROCEDURE</b>
<b>REGARDING THE BARBER DAM HYDRO</b>	)	
<b>PROJECT</b>	)	<b>ORDER NO. 36100</b>
	)	

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On January 26, 2024, Idaho Power Company (“Company”) applied for approval of a Third Amendment to an existing energy sales agreement (“1987 ESA”) with Fulcrum, LLC (“Fulcrum”) for energy generated by the Barber Dam Hydroelectric Project (“Facility”) as well as the approval of a replacement ESA (“Replacement ESA”) with the Barber Pool Hydro, LLC (“BPH”) (“Application”). The Company asked to amend the 1987 ESA to correct the nameplate ratings<sup>1</sup> and to update BPH as the seller while concurrently seeking approval of a Replacement ESA. The Facility has a 3.7-megawatt nameplate capacity and is a qualifying facility under the Public Utility Regulatory Policies Act of 1978. The Company requested that the Commission approve the Third Amendment and the Replacement ESA be issued before the 1987 ESA expires on April 10, 2024.

The Commission now issues this Notice of Application and Notice of Modified Procedure establishing public comment and Company reply deadlines.

**BACKGROUND**

The Company and Interwest Hydro, Inc. entered into the 1987 ESA on July 13, 1987. After being transferred to several different entities, Interwest Hydro, Inc.’s interest was eventually transferred to Fulcrum on April 2, 2015.

The 1987 ESA was first amended in 1988 to add security provisions for the seller. It was further amended in 1999 to include additional security provisions related to overpayment liability.

The Company, Fulcrum, and BPH (collectively “the Parties”) entered a Consent, Assignment, and Assumption Agreement on December 23, 2023. Per this agreement, Fulcrum

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<sup>1</sup> The Third Amendment would correct Paragraph B-1 of the 1987 ESA which errantly lists the Facility as containing two-2,100 kilowatt generators opposed to the actual nameplate rating of the two generators being 1,850 kilowatts each.

intends to transfer its interest in the Facility to BPH which will continue to deliver energy to the Company until the 1987 ESA expires on April 10, 2024. When the 1987 ESA expires the Company and BPH intend to proceed under the Replacement ESA that the Parties seek to have issued subsequently.

While preparing the Replacement ESA, the Parties discovered an error necessitating the Third Amendment—the contents of which are discussed above.

### **NOTICE OF APPLICATION**

YOU ARE HEREBY NOTIFIED that the Company stated that the Third Amendment will update the description of the Facility as well as change the name of the seller to BPH. The Company stated that the Third Amendment should not impact the Facility’s eligibility to receive published rates. A copy of the Third Amendment is found in Attachment 2 of the Application.

YOU ARE FURTHER NOTIFIED that the proposed Replacement ESA has a 20-year term with non-levelized, non-seasonal hydro published avoided cost rates.

YOU ARE FURTHER NOTIFIED that the proposed ESA adopts a “five-day advanced notice for adjusting Estimated Net Energy Amounts for purposes of complying with 90/110 firmness requirements . . . .” Application at 10.

YOU ARE FURTHER NOTIFIED the Company stated that, in compliance with Order Nos. 35705 and 35767, the proposed ESA has updated Article XXIII relating to Modifications of the ESA.

YOU ARE FURTHER NOTIFIED that the Company requested the Commission approve the ESA and declare all payments for the purchase of energy and capacity under the ESA be allowed as prudently incurred expenses for ratemaking purposes.

YOU ARE FURTHER NOTIFIED that the Application and attachments have been filed with the Commission and are available for public inspection during regular business hours at the Commission’s office. The Application and attached materials are also available on the Commission’s website at [www.puc.idaho.gov](http://www.puc.idaho.gov). Click on the “ELECTRIC” icon, select “Open Cases,” and then click on the case number as shown on the front of this document.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission’s jurisdiction under Title 61 of the Idaho Code.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

### **NOTICE OF MODIFIED PROCEDURE**

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter, and that it will proceed under Modified Procedure pursuant to the Commission's Rules of Procedure 201-204, IDAPA 31.01.01.201-.204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that persons desiring to state a position on this Application may file a written comment explaining why the person supports or opposes the Application. Persons who would like a hearing must specifically request a hearing in their written comments and explain why written comments alone are insufficient. **Persons interested in filing written comments must do so within 21 days of the service date upon this Order.** Comments must be filed through the Commission's website or by e-mail unless computer access is unavailable. To comment electronically, please access the Commission's website at <http://www.puc.idaho.gov/>. Click the "Case Comment Form" and complete the form using the case number as it appears on the front of this document.

To file by e-mail, persons must e-mail the comments to the Commission Secretary and all parties at the e-mail addresses listed below. Persons submitting a comment by e-mail must provide their name, address, and the Case Number under which they are commenting. Persons submitting a comment by e-mail also acknowledge that submitting a comment in an open case constitutes a public record under *Idaho Code* § 74-101(13), and all information provided by such person is available for public and media inspection.

If computer access is unavailable, then comments may be mailed to the Commission and the Parties at the addresses below. Persons submitting a comment by mail must provide their name, address, and the Case Number under which they are commenting. Persons submitting a comment by mail also acknowledge that submitting a comment in an open case constitutes a public record under *Idaho Code* § 74-101(13), and all information provided by such person is available for public and media inspection.

**For the Commission:**

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Idaho Public Utilities Commission  
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YOU ARE FURTHER NOTIFIED that the Parties must file any reply comments **within 28 days of the service date of this Order.**

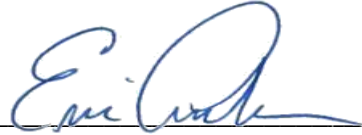
YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

**ORDER**

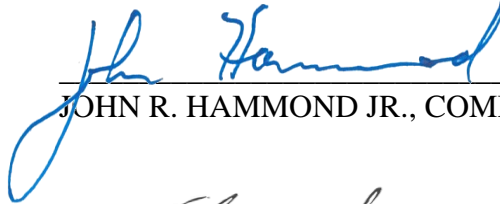
IT IS HEREBY ORDERED that this case be processed by Modified Procedure. Persons interested in submitting written comments, including the Company, must do so within 21 days of the service date of this Order. The Parties must file any reply comments within 28 days of the service date of this Order.

IT IS FURTHER ORDERED that parties comply with Order No. 35375, issued April 21, 2022. Generally, all pleadings should be filed with the Commission electronically and will be deemed timely filed when received by the Commission Secretary. *See* Rule 14.02. Service between parties should continue to be accomplished electronically when possible. However, voluminous discovery-related documents may be filed and served on CD-ROM or a USB flash drive.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 26<sup>th</sup> day of February 2024.



ERIC ANDERSON, PRESIDENT

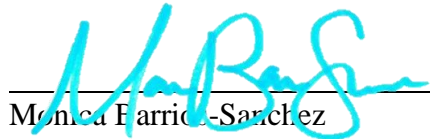


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Monica Farrillo-Sanchez  
Commission Secretary

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