

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER	)	CASE NO. IPC-E-24-46
COMPANY’S APPLICATION FOR	)	
APPROVAL OF A POWER PURCHASE	)	ORDER NO. 36659
AGREEMENT WITH JACKALOPE WIND,	)	
LLC, AND A CERTIFICATE OF PUBLIC	)	
CONVENIENCE AND NECESSITY FOR THE	)	
JACKALOPE WIND PROJECT	)	

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On December 27, 2024, Idaho Power Company (“Company”) filed an application (“Application”) with the Idaho Public Utilities Commission (“Commission”) requesting an order: (1) approving a 35-year Power Purchase Agreement (“PPA”) between the Company and Jackalope Wind, LLC (“Jackalope”); and (2) granting the Company a Certificate of Public Convenience and Necessity (“CPCN”) to acquire 300 megawatts (“MW”) of generation to meet an identified capacity deficiency in 2027. Application at 1-2.

On January 30, 2025, the Commission issued a Notice of Application and Notice of Intervention Deadline. Order No. 36450. The Commission granted intervention to the Industrial Customers of Idaho Power, the Idaho Irrigation Pumpers Association, Inc. (“IIPA”), and Micron Technology, Inc. Order Nos. 36486 and 36493.

On April 25, 2025, the Commission issued a Notice of Modified Procedure setting a May 13, 2025, public comment deadline, and a June 3, 2025, Company reply comment deadline. Order No. 36563. On May 13, 2025, Commission Staff (“Staff”) and IIPA filed comments. On June 3, 2025, the Company filed reply comments.

On June 6, 2025, IIPA filed a reply to the Company’s reply comments. On June 9, 2025, the Company filed an Objection to IIPA’s reply comments. On June 16, 2025, IIPA filed an Answer to the Objection and an Application for Intervenor Funding.

### THE APPLICATION

The Company represented that the PPA is a 35-year PPA between the Company and Jackalope, who will construct, own, operate and maintain a 300 MW wind powered generation facility located in Sweetwater County, Wyoming, supplying approximately 300 MW to the

Company's system for the period of 35 years from a commercial operation date of June 1, 2027. Application at 7.

The Company requested that the Commission find the Company has met the requirements of *Idaho Code* § 61-526, and issue an order granting a CPCN to acquire ownership in the Jackalope Wind Project, a wind turbine generator power plant providing approximately 300 MW of generation necessary to meet the identified capacity deficiency in 2027. *Id.* at 8. The Company represented that it was not requesting binding ratemaking treatment in this case, and the Company would make a future filing to address the cost recovery associated with this project. *Id.* at 11.

The Company represented that it intended to finance the Jackalope Wind Project with a combination of available cash and operating cash flow, available credit facilities and borrowing and debt issuances, and future equity infusions by IDACORP. *Id.* at 11-12.

#### **PUBLIC COMMENTS**

The Commission did not receive any public comments.

#### **STAFF COMMENTS**

Staff had significant concerns with the Jackalope Wind Project. Staff comments at 2. Staff noted that the Jackalope Wind Project contributed relatively little toward the capacity deficit despite a large capital investment. *Id.* Staff believed that was because the project provided inexpensive, tax-subsidized energy, which provided the advantage it needed to be lower cost than other potential alternatives, even though the contribution to capacity was relatively small. *Id.*

However, Staff explained that the new presidential administration has taken actions that jeopardized the federal permits for the project and jeopardized the tax credits that make Jackalope Wind Project least-cost. *Id.* Staff believed that made the project riskier for both reliability and economic reasons. *Id.* Staff noted that under more normal circumstances, Staff would not recommend that the Commission approve the Jackalope Wind Project; however, Staff noted that the Company faces a rapidly increasing system load, delays with other new resources, and compressed timelines, so the Company has few, if any, other options besides this project. *Id.*

Ultimately, Staff recommended that the Commission:

1. Approve the PPA for 300 MW of wind generation;
2. Grant the Company a CPCN for 300 megawatts ("MW") of generation to meet an identified capacity deficiency in 2027;

3. Direct the Company to use a 30-year life expectancy for accounting purposes and for future Integrated Resource Plan (“IRP”) modeling for the build-transfer agreement (“BTA”);
4. Forbid the Company from recovering corresponding Production Tax Credit (“PTC”) revenue requirement for the Jackalope BTA if the federal PTCs are rescinded;
5. Direct the Company to consider different ways to delay or mitigate large-load growth; and
6. As a supplement to Case No. IPC-E-23-01, require the Company to provide a report comparing the current cost of B2H with and without schedule delays from a total cost perspective.

## **IIPA COMMENTS**

### **Initial Comments**

IIPA believed that several clear risk factors existed with respect to the proposed Jackalope Wind Project, and that without a Commission ruling for cost containment, the impact of those risks might be carried by ratepayers. IIPA Comments at 4. IIPA argued that the Jackalope Wind Project was neither necessary nor prudent on the basis of externalities such as changes in federal policy and macroeconomic terrain, as well as how inconsistencies in the Company’s modeling both overestimate capacity need as well as underestimate costs associated with the project. *Id.*

Specifically, IIPA argued that: (1) the PTC may not be available; (2) permitting and execution risks remain outstanding for the project; (3) seasonal variability was improperly modeled and may have inflated actual resource need; (4) the Jackalope Wind Project paradoxically overbuilds but underdelivers effective peak capacity; (5) dispatch conflicts due to transmission constraints were not adequately considered, which resulted in hidden risks and costs; (6) the lifecycle risk was understated; and (7) the cost is substantially higher than the marginal cost of energy. *Id.* at 5-6. IIPA believed that those factors inflated the perceived economic value while understating its true cost, potentially resulting in significant ratepayer exposure. *Id.* at 6.

IIPA concluded that:

The Jackalope Wind Project fails to meet the standard for convenience, necessity, and prudence for several critical reasons: The project’s economic viability relies on PTC that provide approximately \$28/MWh for the first 10 years. However, this eligibility is contingent on timely permitting, and achieving commercial operation by 2027. If the project fails to qualify for the PTC credit, the present value of the lost tax benefits could exceed \$199 million, significantly raising the project’s levelized cost.

Furthermore, permitting and execution risks are of concern: The project remains dependent on being awarded federal permits, including a BLM Right-of-Way Grant, and the Record of Decision not expected until March 2026. In addition, there is a seasonal variability and capacity mismatch: with an ELCC potentially as low as 10- 20%, the project's effective capacity could be a small fraction of its nameplate 600 MW rating. Further, dispatch and transmission constraints exist for the project, and therefore the project risks curtailment and stranded energy, undermining its value and reliability. Taken together, these factors demonstrate that the Jackalope Wind Project introduces material financial and operational risks that undermine its characterization as a least- cost, least- risk resource, or in the public's best or convenient interest.

If the Company had used realistic cost and performance assumptions for the Jackalope Wind Project in its 2023 IRP, including a higher LCOE to reflect potential PTC loss, lower capacity factors, and a more conservative ELCC, it is unlikely the project would have ranked as a least-cost, least-risk resource. The Company's decision to evaluate the PPA life over 35 years without comparable adjustments for other bids, and its failure to account for imputed debt, further skew the economic analysis in favor of Jackalope. Given these compounding risks, the project may expose ratepayers to significantly higher costs than the Company has presented.

In light of these risks I have recommended that the Commission impose a suite of cost containment measures, including: a soft cap on total capital cost recovery; a seasonal cap on cost recovery; a true-up of annual payments to account for seasonal variation; penalties for transmission and deliverability curtailment; and shareholder absorbance of PTC risk of loss.

*Id.* at 24-25.

### **Reply Comments**

IIPA noted that while the Company's reply comments alleviated some of IIPA's minor concerns with the project, IIPA continued to have deep concerns about the cost effectiveness of the project and the prudence of the Company's decision to acquire the resource. IIPA Reply Comments at 1. However, IIPA argued that the Company failed to address: (1) the absence of any material capacity value; (2) the appropriate ELCC to expect; (3) the risk associated with the PTCs; and (4) whether an alternative resource, such as a natural gas combined cycle, would provide a more economical solution to capacity and energy needs. *Id.* at 1-2.

IIPA argued that, given those concerns, it was critical that the Commission clearly establish that, at a minimum, any CPCN issued for the Jackalope Wind Project offered no prejudice or implications for future prudence or cost recovery. *Id.* at 4. Additionally, IIPA recommended that the Commission prohibit the Company from recovering any PTC-related revenue shortfall through

rates, and that the Commission impose a soft cap on capital cost recovery to limit ratepayer exposure in the event of delays, curtailments, or policy shifts. *Id.*

### **Answer to Objection**

IIPA argued that it did not violate any rule of procedure or Order, and the Commission has the authority to allow parties to reply to another party's reply comment. IIPA Answer at 2. IIPA believed that the timeframe of the procedural schedule should additionally allow the other party with time to draft a response and file it with the Commission. *Id.* Alternatively, IIPA argued that if the Commission found that the procedural rules did not allow IIPA to reply to the Company's comment, the Commission may treat IIPA's reply comment as a public comment and give it the appropriate weight. *Id.*

## **COMPANY COMMENTS**

### **Reply Comments**

The Company argued that the selection of the Jackalope PPA and the Jackalope Wind Project (collectively "Jackalope Project") as a least-cost, least-risk 2027 resource was prudent based on the information known at the time and remains prudent based on information known today. Company Reply Comments at 4. The Company stated that it completed a robust competitive resource procurement process for identifying the least-cost, least-risk 2027 resource acquisitions, which included the Jackalope Project. *Id.* at 9.

The Company maintained that the selection of the Jackalope Project was least-cost even though the contribution to the capacity deficit is small. *Id.* at 10. Further, the Company argued that the selection of the Jackalope Project was not based on a stale cost effectiveness analysis; the evaluation of the Jackalope Project was performed alongside other viable 2026 projects; and the Jackalope Project provides the capacity and energy necessary to meet the identified 2027 capacity deficiency. *Id.* at 11-16. The Company argued that it appropriately modeled transmission rights the Jackalope Project will utilize. *Id.* at 18.

The Company agreed that improvements need to be made to the competitive bidding process. *Id.* at 20. The Company requested that the Commission: (1) accept Staff's recommendation to approve the Jackalope Wind PPA and grant a CPCN for the Jackalope Wind Project; (2) accept Staff and IIPA's proposed 30-year life expectancy for the Company-owned portion of the Jackalope Project for accounting purposes; and (3) reject Staff and IIPA's proposed cost containment measures, as the Jackalope Project remains a prudent and least-cost, least-risk

project required to help meet the identified capacity deficit in 2027. Company Reply Comments at 21-22.

### **Objection**

The Company argued that IIPA was not the moving party and had no authorization in the Commission's rules or orders to submit a reply to the Company's reply comments that were authorized by the Notice of Modified Procedure. Company Objection at 2. The Company requested that IIPA's reply comments be stricken and/or not accepted/considered by the Commission as part of this proceeding, and that the Commission consider the record closed and render its final order on the merits and upon that record. *Id.* at 3.

### **COMMISSION FINDINGS AND DECISION**

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, 61-502, and 61-503. The Commission is vested with the power to "supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the [Public Utilities Law]." *Idaho Code* § 61-501. 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.

### **PPA**

Having reviewed the Application and all submitted materials, the Commission finds it fair, just, and reasonable to approve the 35-year PPA between the Company and Jackalope Wind.

### **CPCN**

Public utilities shall "furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the health, safety, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable." *Idaho Code* § 61-302.

Before constructing "a line, plant, or system," a public utility providing electrical service must obtain a CPCN from the Commission establishing that the "public convenience and necessity" requires it. *Idaho Code* § 61-526. Pursuant to Idaho Commission Rule of Procedure 112, existing utilities applying for the issuance a CPCN under *Idaho Code* § 61-526 must submit any relevant data including: (1) a Statement and Explanation; (2) a Description of Construction or

Expansion; (3) a Map; (4) a Financial Statement and Construction Timelines; and (5) Cost Estimates and Revenue Requirements.

Having reviewed the Application, the record, the comments of the parties, and all submitted materials, the Commission finds that the Company has satisfied the requirements for a CPCN to acquire 300 MW of generation to meet an identified capacity deficiency in 2027. *See Idaho Code* § 61-526; Rule 112. The Commission believes the Company has adequately shown that a capacity deficiency will exist in 2027, and that the Company, and the public interest, has a need to meet that deficiency that warrants a CPCN.

### **Cost Recovery, PTCs, and Load Growth**

Both Staff and IIPA expressed significant concerns regarding various aspects of cost recovery and what, if any, of the PTCs the Company included in its cost calculations will actually be available for the Company given the new Presidential Administration. The Company has expressly not requested ratemaking treatment in this case (Application at 11), and in this Order the Commission makes no findings nor conclusions on the issues of recovery.

However, given the seriousness of the issues presented, the Commission must provide the Company with as much information as possible. The Commission's approval of this Application is based upon the representations of the Company in the record for this case. The Company represents that it will receive the necessary permitting, and that the Company will receive the PTCs as expected to support the costs of the Jackalope Project as represented to the Commission in the Application. If both of those factors were not present, the Commission would not find it fair, just, and reasonable to approve the Application.

The Company argues that: “[i]n the unlikely event, however, that PTCs associated with the Jackalope Project are eliminated, it is inappropriate to shift the financial risk to Idaho Power....” Company Reply Comments at 7. The Commission disagrees. The alternative to placing the financial risk on the Company is to impose that risk upon the Company's customers; individuals and business who, to a large extent, have no say in the Company's operations, no voice in the Company's decision-making process, and no input into the Company's specific resource acquisition decisions or the timing of those decisions other than right here in this case, wherein those voices are raised in opposition.

The Company presents the example of the Langley Gulch power plant case (IPC-E-12-14) and maintains that the Jackalope Project was identified as the least-cost, least-risk resource

addition based on the information known at the time, and that the Commission may not use “hindsight” to judge the reasonableness of issuing a CPCN. *Id.* at 5-6. The Company’s comparison is misplaced. The Langley Gulch case cited by the Company concerned the ratemaking treatment provided to the Company in the initial CPCN Order for the Langley Gulch plant and subsequent circumstances weighing on the initial binding rate base treatment for its capital investment. Order No. 32585 (citing Order No. 30892). In this case, at the request of the Company, the Commission is not providing any ratemaking treatment, and there is no “hindsight” involved as all parties are aware of the potential future cost recovery issues raised and the potential threats to the financial models that lead to the Jackalope Project being selected from the RFP. The circumstances present in the Langley Gulch case are not present here and will not be present during any future cost recovery proceeding for the items in this case.

As an additional issue, the Commission is aware of the Company’s load growth forecast and the ever-increasing capacity deficiencies it causes, and the Commission shares the concerns presented in this case, and others, regarding the effects that expected load growth has on the Company’s acquisition process and the resources selected. While the Commission recognizes that the Company has a duty to serve customers, including large loads, upon request, that duty may be subject to the physical and practicable limitations of resource acquisition and development that might necessitate more practical development times to insure that the Company’s system and customers do not suffer under expedited load growth that could otherwise be facilitated and more gradually implemented.

### **Company’s Objection**

With respect to the Company’s objection to IIPA’s additional pleadings, the Commission does not find it necessary to strike the pleading from the record as the information contained is merely duplicative of IIPA’s initial comments. However, all parties are directed to comply with the Commission’s procedural orders. Requests for additional briefing not contemplated by Commission order must be made by motion.

### **ORDER**

IT IS HEREBY ORDERED that the 35-year PPA between the Company and Jackalope Wind, LLC is approved.

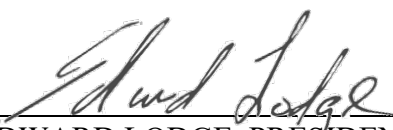
IT IS FURTHER ORDERED that the Company’s Application for a CPCN to acquire 300 MW of generation to meet an identified capacity deficiency in 2027 is granted.

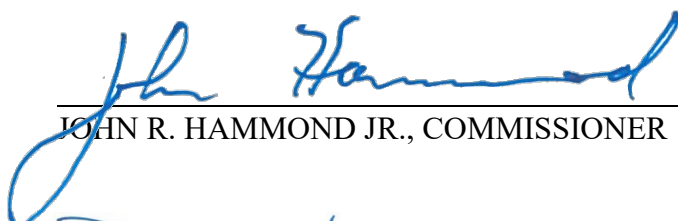


IT IS FURTHER ORDERED that the Company shall use a 30-year life expectancy for accounting purposes and for future IRP modeling for the BTA.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date upon this Order regarding 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 and 62-619.

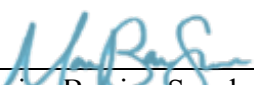
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 27<sup>th</sup> day of June 2025.

  
EDWARD LODGE, PRESIDENT

  
JOHN R. HAMMOND JR., COMMISSIONER

  
DAYN HARDIE, COMMISSIONER

ATTEST:

  
Monica Barrios-Sanchez  
Commission Secretary

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