

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

|                                   |   |                      |
|-----------------------------------|---|----------------------|
| IN THE MATTER OF IDAHO POWER      | ) | CASE NO. IPC-E-25-19 |
| COMPANY’S APPLICATION FOR         | ) |                      |
| APPROVAL OF A FIRST AMENDMENT OF  | ) |                      |
| THE ENERGY SALES AGREEMENT FOR    | ) | ORDER NO. 36643      |
| THE SALE AND PURCHASE OF ELECTRIC | ) |                      |
| ENERGY FROM THE BIRCH CREEK       | ) |                      |
| HYDRO PROJECT                     | ) |                      |

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On April 8, 2025, Idaho Power Company (“Company”) applied to the Idaho Public Utilities Commission (“Commission”) requesting approval of the First Amendment to the Energy Sales Agreement, executed on March 14, 2025 (“Amended ESA”), for the sale and purchase of electric energy generated by the Birch Creek Hydro Project (“Project”).

On April 29, 2025, the Commission issued a Notice of Application and Notice of Modified Procedure. Order No. 36583. Commission Staff (“Staff”) filed comments. No other comments were received.

Based on our review of the record, the Commission now issues this Final Order approving the Company’s proposed Amended ESA as filed.

### BACKGROUND

The Company and Birch Creek Trout, Inc. (“Birch Creek Trout”) entered into an Energy Sales Agreement (“ESA”) on July 3, 2019, for the sale and purchase of electric energy generated by the Project located near Hagerman, Idaho. Case No. IPC-E-19-23. The ESA was approved by the Commission in Order No. 34456, issued on October 4, 2019. *Id.*

### THE APPLICATION

The Company stated that it entered into a Consent, Assignment, and Assumption Agreement, effective as of January 23, 2025 (“Agreement”), with Birch Creek Trout to transfer Birch Creek Trout’s interest in the Project to Birch Creek Land and Water, LLC (“Birch Creek Land and Water”). Application at 2. The Company represented that pursuant to the terms of the Agreement, Birch Creek Trout has assigned, and Birch Creek Land and Water has assumed the ESA and the rights and obligations of the Seller. *Id.*

The Company represented that the Amended ESA would correctly identify the Seller as Birch Creek Land and Water and would revise “Article XXIII Modification” to conform with language previously approved by the Commission. *Id.* at 2-3.

### **STAFF COMMENTS**

Staff reviewed the proposed Amended ESA, and Staff recommended the Commission approve the proposed Amended ESA. Staff Comments at 2.

Staff believed the proposed Amended ESA accurately reflected that Birch Creek Trout’s interest in the facility had transferred to Birch Creek Land and Water and had thus correctly identified the new Seller. *Id.*

Staff reviewed the proposed “Article XXIII Modification” in the Amended ESA, which addressed potential modifications to the facility. *Id.* Staff believed the language complied with Order No. 35705. *Id.* Staff also recommended that if the facility is modified, the Company only include the net power supply expense that reflects the proper authorized rate of the facility as actually modified for all energy delivered as of the first operation date of the modified facility in the Company’s Power Cost Adjustment, regardless of the compensation paid to the Seller. *Id.* Staff believed this would place the ownership for monitoring the contract and any modifications made to the facility on the Company to ensure the proper rate is paid to the Seller if and when modifications are made to the facility. *Id.* Staff believed that this treatment would be consistent with the Commission direction in Order No. 35705. *Id.*

### **COMMISSION FINDINGS AND DECISION**

The Commission has jurisdiction over the Company’s Application and the issues in this case under Title 61 of the Idaho Code including *Idaho Code* §§ 61-501, 502, and 503. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of all public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provisions of law, and to fix the same by order. *Idaho Code* §§ 61-501, 502, and 503.

Having reviewed the record, the Commission finds it fair, just, and reasonable to approve the Amended ESA between the Company and Birch Creek Land and Water for the sale and purchase of electric energy by the Project.

### **ORDER**

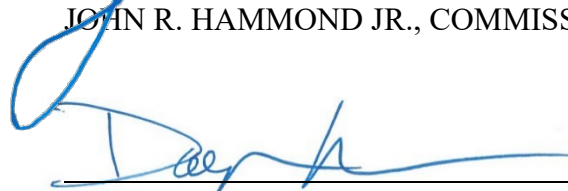
IT IS HEREBY ORDERED that the Company’s Amended ESA is approved, as filed.

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 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. *See Idaho Code* § 61-626.

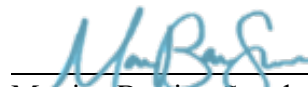
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 23<sup>rd</sup> day of June 2025.

  
EDWARD LODGE, PRESIDENT

  
JOHN R. HAMMOND JR., COMMISSIONER

  
DAYN HARDIE, COMMISSIONER

ATTEST:

  
Monica Barrios-Sanchez  
Commission Secretary  
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