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November 13, 2009

**VIA HAND DELIVERY**

Jean D. Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
P.O. Box 83720  
Boise, Idaho 83720-0074

Re: Case No. IPC-E-08-10 – Compliance Filing  
Hells Canyon AFUDC Status Report

Dear Ms. Jewell:

In Order No. 30722, the Commission ordered Idaho Power Company to file a status report for the relicensing of the Hells Canyon facilities along with the accumulation of AFUDC. Therefore, enclosed for filing are an original and four (4) copies of a status report which describes the relicensing process along with evidence to support collection of AFUDC in rates beyond December 31, 2009. The Company will continue collection of AFUDC in rates going forward as authorized in Order No. 30722 unless it receives a Commission order directing otherwise.

If you have any questions with regard to this report, please do not hesitate to contact me at the above number.

Very truly yours,

Lisa D. Nordstrom

LDN:csb  
Enclosure  
cc: Service List  
Ric Gale - w/encl. (via e-mail)

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13<sup>th</sup> day of November 2009 I served a true and correct copy of the within and foregoing HELLS CANYON AFUDC STATUS REPORT upon the following named parties by the method indicated below, and addressed to the following:

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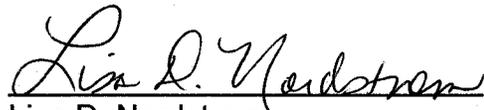
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Lisa D. Nordstrom

# HELLS CANYON AFUDC STATUS REPORT

## I. PURPOSE OF STATUS REPORT

In Case No. IPC-E-08-10, Idaho Power Company's ("Idaho Power" or "Company") last general rate case, the Company included construction work in progress ("CWIP") for the Hells Canyon relicensing as part of its revenue requirement. The Company did not request that the Hells Canyon CWIP be included in rate base; instead, the Company requested that the financing costs of accumulated funds used during construction ("AFUDC") be allowed in rates as they occurred in 2009. The Commission agreed with Idaho Power and the Commission Staff that the Hells Canyon project presented unique circumstances and that it was in the public interest to include the AFUDC in rates. Order No. 30722 at 14.

In Order No. 30722, the Commission ordered Idaho Power to file a status report with the Commission by November 15, 2009, regarding relicensing of the Hells Canyon facilities, including the accumulation of AFUDC. If the relicensing is not complete by that date, the report should explain the Company's efforts to obtain the license, with evidence supporting continued collection of AFUDC in rates beyond December 31, 2009.

## II. EFFORTS TO COMPLETE RELICENSING

### **A. FERC LICENSE APPLICATION**

Idaho Power filed a license application with the Federal Energy Regulatory Commission ("FERC") in July 2003, two years before the original license for the Hells Canyon Complex ("HCC") expired in 2005. Since 2005, IPC has been operating under

annual licenses issued by the FERC. The relicensing of the HCC is complicated by its location on a border river (Oregon/Idaho), immediately above (i) critical habitat for anadromous and native fish (salmon and bull trout) listed as “threatened” under the Endangered Species Act (“ESA”), (ii) the federally reserved Hells Canyon National Recreation Area, and (iii) a seventy-mile stretch of the Snake River designated as “wild and scenic” under the Wild and Scenic Rivers Act. The project also potentially affects two National Forests as well as federal lands managed by the Bureau of Land Management.

Idaho Power filed the HCC license application with FERC under the “traditional licensing process.” FERC has now implemented two other licensing processes, the “alternative licensing process” and the “integrated licensing process.” The latter process became the default process for obtaining a license in 2005, but was not available in 2003 when Idaho Power filed its license application. The alternative process was promulgated by FERC in 1997 and provides for pre-filing consultation with interested agencies combined with a pre-filing environmental review process. However, at the time the alternative process became available, Idaho Power had committed substantial resources to technical studies and analysis in support of the traditional process. The traditional licensing process generally consists of three stages. The first and second stages generally involve pre-filing consultation and completion of studies and preparation of a draft license application. Anticipating that there would be widespread interest in the relicensing of the HCC, in the 1990s Idaho Power began exploring opportunities to incorporate ongoing consultation throughout the first and second stages to provide for greater stakeholder involvement in the license application

process. Through this more collaborative process, Idaho Power hoped to engage interested stakeholders on the development of studies and technical analysis that would address stakeholder concerns and strike an appropriate balance between project operations and the protection, mitigation, and enhancement of resource values.

By the time the final license application was filed in 2003, Idaho Power had held in excess of 200 meetings with stakeholders and completed more than 100 relicensing studies at an approximate cost of \$45 million. The final license application, and the technical and environmental studies that support it, is in excess of 35,000 pages and provides a complete and comprehensive analysis of potential project impacts on the environment and natural resources affected by the project. The filing of the final application in July 2003 initiated the third stage under the traditional licensing process – FERC consideration of project effects and the development of proposed license terms and conditions.

On December 3, 2003, FERC issued a notice accepting Idaho Power's final application and soliciting motions to intervene and protests. Twenty-seven parties filed formal motions to intervene (some also filed protests) in the relicensing proceeding, including four Native American Indian tribes, as well as numerous federal and state resource agencies and non-governmental organizations such as American Rivers, Columbia River Inter-Tribal Fish Commission, American Whitewater, the Northwest Resource Information Center, and Idaho Rivers United.

## **B. FPA AND NEPA PROCEEDINGS**

Under the Federal Power Act ("FPA"), and other applicable laws, FERC must determine that a project, as licensed, will be best adapted to a comprehensive plan for

improving and developing a waterway. In addition to the power and developmental purposes for which licenses are issued, FERC must give equal consideration to the purposes of energy conservation; the protection of, mitigation of damage to, and enhancement of fish and wildlife; the protection of recreational opportunities; and the preservation of other aspects of environmental quality. The National Environmental Policy Act of 1969 ("NEPA") complements the FPA process and is intended to ensure that federal decision-makers, and the public, have a firm understanding of the environmental consequences of federal decisions so that actions implemented adequately protect, restore, and enhance the environment.

Pursuant to the FPA and NEPA, in the fall of 2003, FERC initiated a scoping process, holding meetings throughout the region on an initial environmental scoping document prepared by FERC staff. FERC received oral and written responses to this initial scoping document and in November 2004 issued a second scoping document. On the basis of the information received from this scoping process, in October 2005, FERC issued a notice that the project was ready for environmental review and set a 90-day period for the filing of comments, terms, prescriptions, and recommendations. Fifteen parties filed comments, terms, prescriptions, and recommendations in response to the FERC notice. Idaho Power filed responses to these filings in April 2006.

Some of the filings by federal agencies, particularly the U.S. Forest Service and Bureau of Land Management ("BLM"), contained mandatory conditions under Section 4(e) of the FPA. Section 4(e) generally provides that FERC must include in a license for a project within a federal reservation (such as a national forest or BLM lands) such conditions as the applicable agency considers "necessary for the adequate protection

and utilization of that reservation.” Section 4(e) is a conditioning as compared to a veto authority. In other words, the applicable resource agency (USFS or BLM) may not prevent FERC from issuing the license, but if FERC issues a license, the resource agency’s conditions must be included in the license. In Section 241 of the Energy Policy Act of 2005 (“EPAAct”), Congress provided license applicants with a right to an evidentiary hearing on contested mandatory conditions before an administrative law judge. Prior to the enactment of the EPAAct, there was limited opportunity to challenge the factual basis of mandatory conditions. Idaho Power contested several of the mandatory conditions and became the first hydroelectric license applicant to take advantage of the evidentiary hearing process created by EPAAct. Idaho Power resolved its contests to the mandatory conditions through favorable settlements with the USFS and BLM in May of 2006.

### **C. ENVIRONMENTAL IMPACT STATEMENT**

On July 28, 2006, consistent with the requirements of NEPA, FERC staff issued a draft environmental impact statement (“EIS”) for the licensing of the HCC, which reviewed and analyzed Idaho Power’s proposed operations and mitigation measures together with the comments, terms, prescriptions, and recommendations previously received. Various parties, including Idaho Power, filed comments to the draft EIS and on August 31, 2007, FERC staff issued a final EIS for the licensing of the HCC. This final EIS contains FERC staff’s recommended terms and conditions for the licensing of the project and will be used by the Commission in the development of final license conditions. Idaho Power has reviewed the final EIS and is developing comments for filing with the FERC. Certain portions of the final EIS, however, involve issues that may

be influenced by the water quality certifications for the project under Section 401 of the Clean Water Act ("CWA") and the formal consultations under the ESA, which remain unresolved (see below). Idaho Power anticipates filing comments to the final EIS when these processes progress to a point where their influence upon provisions of the final EIS can be determined.

#### **D. CLEAN WATER ACT PROCEEDINGS**

Because the HCC is located on the Snake River on the border between Idaho and Oregon, Idaho Power has filed Water Quality Certification Applications, required under Section 401 of the CWA, with the states of Idaho and Oregon requesting that each state certify that any discharges from the project comply with applicable state water quality standards. These applications were filed with the respective states in conjunction with the filing of the final license application with the FERC in 2003. Since 2003, Idaho Power has been working with the states in the development of necessary information and proposed measures to insure that any discharge from the project will comply with applicable standards relating to dissolved oxygen, total dissolved gas, temperature, and other water quality standards. This work has included the completion of technical studies and modeling to determine the effects of project operations on water quality as well as the efficacy of proposed measures to address those effects. When final proposals are developed and presented to the states for approval, notice will be given to interested parties with an opportunity to comment on the proposals. The states will then render a decision on the Section 401 applications, including any measures to be included in the project license to address water quality impacts. FERC cannot issue a license for the HCC until the states have issued water quality certifications under

Section 401 of the CWA. Under applicable provisions of the CWA, the states have one year to issue a decision on a Section 401 application. Due to the complexities involved and the need for additional technical analysis, Idaho Power, with the concurrence of the states, has withdrawn and re-filed its Section 401 applications annually since 2003. The states are processing the current applications with an expectation of issuing water quality certifications by the spring of 2010.

#### **E. ENDANGERED SPECIES ACT CONSULTATION**

In conjunction with the issuance of the final EIS, on September 13, 2007, the FERC requested formal consultation under the ESA with the National Marine Fisheries Service ("NMFS") and the U.S. Fish and Wildlife Service ("USFWS") regarding the effect of HCC relicensing on several aquatic and terrestrial species listed as threatened under the ESA. However, to date, neither NMFS nor USFWS have initiated formal consultation with FERC. Each agency continues to gather and consider information relative to the effect of relicensing on ESA listed species. Idaho Power continues to cooperate with NMFS and USFWS in the development of this information in an effort to address any ESA concerns. NMFS and USFWS are not expected to initiate formal consultation with FERC until the proposed water quality measures are final and the Section 401 water quality certification process complete. These water quality certifications together with the information in the final EIS, as supplemented by Idaho Power, should provide NMFS and USFWS with sufficient information to complete ESA consultation, develop biological opinions, and make appropriate recommendations to FERC for measures to be included in the project license to address ESA issues.

### **III. COMPLETION DATE**

The FERC is expected to issue a license order for the HCC upon completion of the Section 401 certification and the ESA consultation processes. As mentioned above, certain provisions of the final EIS involve issues that may be influenced by the water quality certifications for the project under Section 401 of the CWA and the formal consultations under the ESA. When final proposals are developed and presented to the states for approval, notice will be given to interested parties with an opportunity to comment on the proposals. The states will then render a decision on the Section 401 applications, including any measures to be included in the project license to address water quality impacts. FERC cannot issue a license for the HCC until the states have issued water quality certifications under Section 401 of the CWA.

Under the most optimistic scenario, Idaho Power expects that a license could be issued by spring 2011. However, due to the potential for contests to the Section 401 certification and biological opinions, it is probable that a FERC license may not be issued until 2012.

### **IV. CONTINUED AFUDC COLLECTION**

Based upon the current status of the HCC relicensing efforts detailed in Sections II and III of this report, Idaho Power believes that it is reasonable and appropriate to continue collecting AFUDC in rates for the HCC relicensing project in the amount of \$6,815,472 (\$6,477,352 for the Idaho jurisdiction) pre-tax as authorized by Order No. 30722. Continued collection in rates remains consistent with the Commission's stated rationale for authorizing such collection in Order No. 30722. Idaho Power is still more than a year away from acquiring a license and continues to spend money to relicense

the Hells Canyon Complex. As a result, the Company believes that it will continue to be appropriate to collect the AFUDC for the HCC relicensing project in rates until the project is completed and included in rate base. The AFUDC amount for the HCC relicensing project is expected to be approximately \$8.9 million in 2010; however, the Company is not requesting at this time to adjust the amount currently collected through rates.

As of September 30, 2009, Idaho Power has spent in excess of \$109 million (\$114 million less \$5 million in pre-tax AFUDC estimated collections) in support of Hells Canyon relicensing. As the Commission previously explained, “. . . the lengthy duration of the project, and an as yet unknown completion date, mean that AFUDC is already significant and will continue to accumulate to alarming levels . . . . The amount of AFUDC included in rates now will reduce the total project costs that ultimately will be included in rate base, thereby reducing future rate increases.” Order No. 30722 at 14. As it has since February 2009, Idaho Power is currently recording the accrual of monthly estimated revenue collections for both the tax portion and principal for the 2009 AFUDC associated with the Hells Canyon Complex relicensing. These monthly estimates are based on the Idaho monthly retail sales included in the 2008 Idaho general rate case. The amortization of these costs will commence once the Hells Canyon Complex relicensing costs are placed in-service.

The Company is also recording monthly interest on the accrued pre-tax balance for the AFUDC associated with the Hells Canyon relicensing. The interest is calculated using the monthly AFUDC rate. The entries will be recorded monthly until the Hells Canyon Complex relicensing costs are placed in-service and are as follows:

(1)

To record the monthly estimated revenue collection for both the tax and pre-tax portion of the Hells Canyon Complex relicensing AFUDC. This entry started in February 2009 and continues through January 2010.

449108 Provision for Rate Refunds	\$XXXX
229105 Accumulated Provisions for Rate Refunds – Pre-Tax	\$XXXX
229106 Accumulated Provisions for Rate Refunds – Tax	\$XXXX

(2)

To record monthly interest.

431090 Other Interest Expense	\$XXXX
229105 Accumulated Provision for Rate Refunds – Pre-Tax	\$XXXX

As of September 30, 2009, the balances in the accounts associated with the AFUDC costs are as follows:

229105 - Accumulated Provision Pre-Tax <sup>1</sup>	(4,543,820.42)
229106 - Accumulated Provision 2009 Tax	(2,863,998.09)

The accumulated provisions in both Accounts 229105 and 229106 will be transferred to a regulatory liability account once the provision has been fully provided for annually. Amortization of the total estimated AFUDC revenues accrued will be over the life of the permanent license once it is received.

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<sup>1</sup> The balance in Account 229105 also includes interest in the amount of \$82,764.19.