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November 9, 2012

**VIA HAND DELIVERY**

Jean D. Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
Boise, Idaho 83702

Re: Case No. IPC-E-08-10 – Compliance Filing  
2012 Hells Canyon Accumulated Funds Used During Construction  
("AFUDC") Status Report

Dear Ms. Jewell:

In Order No. 30722, the Idaho Public Utilities Commission ("Commission") ordered Idaho Power Company ("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 seven (7) copies of a status report which describes the relicensing process along with evidence to support collection of AFUDC in rates beyond December 31, 2010. 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.

Very truly yours,

Lisa D. Nordstrom

LDN:csb  
Enclosures  
cc: Service List (w/encl.)

## **2012 HELLS CANYON ACCUMULATED FUNDS USED DURING CONSTRUCTION (“AFUDC”) STATUS REPORT**

### **I. PURPOSE OF STATUS REPORT**

The Hells Canyon Complex (“HCC”), comprised of the Brownlee, Oxbow, and Hells Canyon dams, represents approximately 1,167 megawatts of nameplate generation capacity. The HCC continues to be an important source of low cost, clean electric energy for Idaho Power Company’s (“Idaho Power” or “Company”) customers. With this in mind, Idaho Power considers the HCC relicensing project to be a viable, cost-effective effort that will ultimately serve the best interests of customers.

In Case No. IPC-E-08-10, Idaho Power’s 2008 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 AFUDC be allowed in rates as they occurred in 2009. The Idaho Public Utilities Commission (“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 the aforementioned 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.

While not required by Order No. 30722, the Company is filing its 2012 Hells Canyon AFUDC status report in recognition of the Commission's stated desire to be updated on the Company's ongoing relicensing efforts.

## **II. EFFORTS TO COMPLETE RELICENSING**

### **A. FEDERAL ENERGY REGULATORY COMMISSION ("FERC") LICENSE APPLICATION**

Idaho Power filed a license application with FERC in July 2003, two years before the original license for HCC expired in 2005. Since 2005, Idaho Power has been operating under annual licenses issued by 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 ("BLM").

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 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. FEDERAL POWER ACT (“FPA”) AND THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (“NEPA”) PROCEEDINGS**

Under the 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 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 the 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 (“USFS”) and 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 FERC in the development of final license conditions. Idaho Power has reviewed the final EIS and is developing comments for filing with FERC. However, certain portions of the final EIS 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 FERC in 2003. Since 2003, Idaho Power has been working with the states in the development of necessary information and proposed measures to ensure 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 new license for the HCC without 401 certification, or a waiver of that certification, from each state. Once the 401 certifications are issued and filed with FERC, FERC will review the measures required by the certifications in its licensing order and may comment on whether, in its view, there is a need for such measures based on its NEPA analysis. But, regardless of FERC's views, in accordance with judicial precedent, it will incorporate all 401 conditions in the license without modification. 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, which were filed on April 20, 2012. Idaho Power will continue to work interactively with the Departments of Environmental Quality to support their processing of the applications.

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

In conjunction with the issuance of the final EIS, on September 13, 2007, FERC requested formal consultation under § 7 of 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, because the "proposed action" that FERC will include in any final license is not adequately defined until the water quality measures to be implemented under the 401 certifications are identified, FERC has been unable to move forward with formal consultations as required by the ESA. As with Section 401 certification, FERC cannot issue a new license for the HCC until formal consultation under the ESA is 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. 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, as FERC's designated non-federal representative, in the development of this information in an effort to ensure that any ESA concerns are adequately addressed.

### **III. COMPLETION DATE**

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 in 2015. However, due to the potential for contests to the Section 401 certification and biological opinions, it is possible that a FERC license may not be issued until sometime after 2015.

#### **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 HCC. 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 amount of current year AFUDC anticipated to be accrued for the HCC relicensing project is approximately \$13.9 million. However, at this time, the Company is not requesting to adjust the amount currently collected through rates.

Through September 30, 2012, Idaho Power has spent in excess of \$129.5 million (\$157 million less \$27.5 million in pre-tax AFUDC estimated collections) in support of the 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. Beginning in February 2009, Idaho Power began recording the accrual of monthly estimated revenue collections as determined in the Order for both the tax portion and principal for AFUDC associated with the HCC relicensing. The monthly entries are shaped based on the Company’s forecasted Idaho monthly retail sales. The amortization of these costs will commence once the HCC 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 HCC 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 HCC relicensing AFUDC. This entry started in February 2009 and will continue until the new license is received.

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, 2012, the accrued balances in the accounts associated with the AFUDC costs are as follows:

229105 – Accumulated Provision Pre-Tax <sup>1</sup>	(\$27,452,836.63)
229106 – Accumulated Provision 2009 Tax	(\$15,360,376.40)

The accumulated provisions in both Accounts 229105 and 229106 will be transferred to a regulatory liability account for subsequent amortization concurrent with receiving a permanent license and the placing of the Hells Canyon relicensing project in-service. 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 \$3,527,016.79.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9<sup>th</sup> day of November 2012 I served a true and correct copy of the within and foregoing 2012 HELLS CANYON ACCUMULATED FUNDS USED DURING CONSTRUCTION ("AFUDC") STATUS REPORT upon the following named parties by the method indicated below, and addressed to the following:

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