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IDAHO PUBLIC  
UTILITIES COMMISSION

Attorneys for Kootenai Electric Cooperative, Inc.

**BEFORE THE**  
**IDAHO PUBLIC UTILITIES COMMISSION**

**CASE NO. IPC-E-11-23**

IN THE MATTER OF IDAHO POWER )  
COMPANY’S PETITION FOR ) **KOOTENAI ELECTRIC**  
DECLARATORY ORDER REGARDING ) **COOPERATIVE, INC.’S THIRD**  
PURPA JURISDICTION. ) **MOTION TO SUPPLEMENT THE**  
 ) **RECORD**  
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Kootenai Electric Cooperative, Inc. (“Kootenai”) hereby respectfully moves the Idaho Public Utilities Commission (“IPUC” or “Commission”) to allow Kootenai to supplement the record with the Oregon Public Utility Commission’s (“OPUC”) recent decision regarding Kootenai’s qualifying facility (“QF”). Kootenai makes this filing pursuant to the Commission’s Rule of Procedure 66 and out of its ongoing obligation to apprise the Commission of recent developments in related matters.

In the attached order, the OPUC granted Kootenai’s complaint against Idaho Power Company (“Idaho Power”) at the OPUC. The OPUC ordered Idaho Power to enter into a standard power purchase agreement to purchase the electrical output of

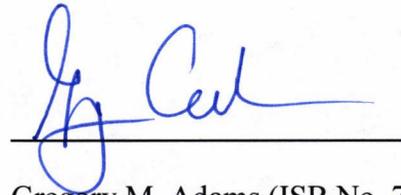
Kootenai's QF at Oregon's Public Utility Regulatory Policies Act of 1978 ("PURPA") rates, in compliance with the Federal Energy Regulatory Commission's ("FERC") June 14, 2013 and December 19, 2013 orders.

The attached OPUC order therefore moots the proceedings in this IPUC docket because the OPUC order conclusively resolves the question of whether the rules of the OPUC or the IPUC control Kootenai's QF sale to Idaho Power in eastern Oregon. Furthermore, the FERC orders and the OPUC's order implementing PURPA preempt the IPUC from granting Idaho Power's request that the IPUC interfere with Kootenai's interstate QF transaction. *See, e.g., Mississippi Power & Light Co. v. Moore*, 487 U.S. 354, 369-77 (1988).

Accordingly, for the reasons set forth herein and in Kootenai's prior filings, Kootenai respectfully requests that the IPUC accept the attached OPUC order into the record in this proceeding, and expeditiously dismiss Idaho Power's petition.

Respectfully submitted this 14<sup>th</sup> day of January 2014.

RICHARDSON ADAMS, PLLC



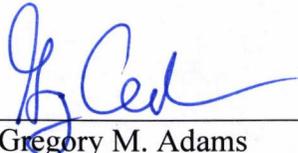
Gregory M. Adams (ISB No. 7454)  
Of Attorneys for Kootenai Electric  
Cooperative, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 14<sup>th</sup> day of January, 2014, a true and correct copy of the within and foregoing **THIRD MOTION TO SUPPLEMENT THE RECORD** BY KOOTENAI ELECTRIC COOPERATIVE, INC. was served by ELECTRONIC MAIL and HAND DELIVERY, to:

Donovan E. Walker  
Jason Williams  
Idaho Power Company  
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Jean Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
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Boise, Idaho 83702  
[Jean.jewell@puc.idaho.gov](mailto:Jean.jewell@puc.idaho.gov)



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Gregory M. Adams

**ATTACHMENT 1**

**OPUC ORDER NO. 14-013**

ORDER NO. 14 0 1 3

ENTERED JAN 09 2014

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1572

In the Matter of

KOOTENAI ELECTRIC COOPERATIVE,  
INC.,

Complainant,

vs.

IDAHO POWER COMPANY,

Defendant.

ORDER

**DISPOSITION: ORDER 13-062 WITHDRAWN; COMPLAINT GRANTED**

In Order No. 13-062, we concluded that Kootenai Electric Cooperative, Inc., was not eligible to sell the output of its qualifying facility (QF) to Idaho Power Company at rates established in Oregon under the Public Utility Regulatory Policies Act (PURPA). We found that the output of the QF, which is located in Idaho, would be transferred to Idaho Power at the Lolo Substation in Idaho, and therefore was subject to PURPA rates adopted by the Idaho Public Utilities Commission.

We subsequently granted Kootenai's application for reconsideration of that decision. In Order No. 13-238, we noted that Kootenai had requested that the Federal Energy Regulatory Commission (FERC) enforce Kootenai's right to an Oregon PURPA contract, and held that we would revisit our decision once the pending proceedings before FERC were resolved.

Since that time, FERC has issued two orders addressing Kootenai's complaint. First, in its June 14, 2013 Declaratory Order,<sup>1</sup> FERC found that the transaction proposed by Kootenai resulted in a delivery of power to Idaho Power in the State of Oregon, and that under the proposed transaction, Idaho Power was required to purchase Kootenai's output at Oregon PURPA rates. Second, in response to Idaho Power's request for reconsideration, FERC issued an December 18, 2013 Order Denying Request for

<sup>1</sup> See Notice of Intent Not to Act and Declaratory Order, FERC Docket Nos. EL13-59-000, QF11-178-002, 143 FERC ¶ 61,232 (Jun 14, 2013).

Reconsideration, in which it affirmed its finding that the point of delivery of Kootenai's output is in the State of Oregon.<sup>2</sup>

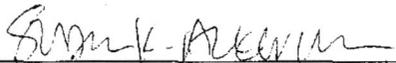
After reviewing FERC's Declaratory Order and Order Denying Request for Reconsideration, we conclude that our Order No. 13-062 contravenes FERC's finding regarding the point of delivery of Kootenai's proposed transaction. Accordingly, we withdraw Order 13-062 and grant Kootenai's complaint.

### ORDER

IT IS ORDERED that

1. The complaint of Kootenai Electric Cooperative, Inc., against Idaho Power Company dated January 2, 2012 is granted.
2. Idaho Power Company is ordered to enter into a standard power purchase agreement to purchase the electrical output of Kootenai Electric Cooperative, Inc.'s qualifying facility at Oregon PURPA rates, in compliance with the Federal Energy Regulatory Commission's June 14, 2013 and December 19, 2013 orders.

Made, entered, and effective JAN 09 2014



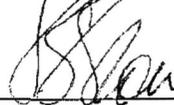
**Susan K. Ackerman**

Chair




**John Savage**

Commissioner



**Stephen M. Bloom**

Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

<sup>2</sup> See Order Denying Request for Reconsideration, FERC Docket Nos. EL13-59-001, QF11-178-003, 145 FERC ¶ 61,229 (Dec 19, 2013).