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UTILITIES COMMISSION

DONOVAN E. WALKER
Lead Counsel
dwalker@idahopower.com

March 20, 2013

VIA HAND DELIVERY

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

Re: Case No. IPC-E-13-07
Clark Canyon Hydro, LLC – Idaho Power Company's Motion to Amend Firm
Energy Sales Agreement

Dear Ms. Jewell:

Enclosed for filing in the above matter are an original and seven (7) copies of Idaho Power Company's Motion to Amend Firm Energy Sales Agreement.

Very truly yours,

Donovan E. Walker

DEW:csb
Enclosures

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Attorney for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE AMENDMENT TO)
THE FIRM ENERGY SALES AGREEMENT) CASE NO. IPC-E-13-07
BETWEEN IDAHO POWER COMPANY)
AND CLARK CANYON HYDRO, LLC.) IDAHO POWER COMPANY'S
) MOTION TO AMEND FIRM
) ENERGY SALES AGREEMENT
_____)

I. MOTION

Idaho Power Company ("Idaho Power" or "Company") hereby moves the Idaho Public Utilities Commission ("Commission") pursuant to *Idaho Code* § 61-502, RP 56, and RP 274 for an Order approving the First Amendment to Firm Energy Sales Agreement ("Amendment" or "First Amendment") executed between Idaho Power and Clark Canyon Hydro, LLC ("Clark Canyon"). The Amendment provides for a revised First Energy and Scheduled Operation Date, a right of first refusal to purchase the project, the payment of Delay Liquidated Damages, and the continued maintenance of Delay Damage Security. This Motion is based on the following:

II. BACKGROUND

1. On May 20, 2011, Idaho Power and Clark Canyon entered into a Firm Energy Sales Agreement ("FESA") pursuant to the Public Utility Regulatory Policies Act of 1978, which provides that Clark Canyon own, operate, and maintain a 4.7 megawatt hydroelectric generating facility ("Facility") to be located near Dillon, Montana, and that Idaho Power will buy electric energy produced by the Facility. On July 19, 2011, the Commission approved the FESA. Order No. 32294, Case No. IPC-E-11-09.

2. The FESA contains a Scheduled First Energy Date of November 1, 2012, and a Scheduled Operation Date of March 31, 2013. The FESA also contains provisions for the posting of Delay Security within 30 days of Commission approval of the FESA and the payment of Delay Liquidated Damages if the project does not obtain its Operation Date within 90 days of its Scheduled Operation Date.

III. THE AMENDMENT

3. On or around December 11, 2012, Clark Canyon requested an extension of the First Energy and Scheduled Operation Dates contained in the FESA. On March 14, 2013, Idaho Power and Clark Canyon executed the First Amendment to the FESA, attached hereto, in which the parties agreed to amend the FESA with the following provisions:

a. Extending the Scheduled First Energy Date of November 1, 2012, to November 30, 2013, and extending the Scheduled Operation Date of March 31, 2013, to December 31, 2013;

b. Adding a provision granting Idaho Power a first right of purchase should the Facility be sold; and

c. Providing for the payment of Delay Liquidated Damages and the continued maintenance of Delay Damage Security.

4. The Amendment is a fair and equitable resolution to this matter, and is in the public interest. The avoided cost rates contained in Clark Canyon's FESA are substantially similar to the avoided cost rates the project would receive in a new contract today. In addition, Idaho Power and its customers receive half of the Renewable Energy Credits associated with the project with the current FESA. The Amendment provides that Clark Canyon will pay \$211,500 (the Delay Liquidated Damages amount from the FESA) to Idaho Power and its customers. Additionally, Clark Canyon will maintain the posting of liquid financial security in the amount of \$211,500 (\$45 times 4,700 kilowatts nameplate capacity) as specified in the FESA as Delay Damage Security with an expiration no sooner than April 30, 2014. Clark Canyon is current with the payment and process of its Generator Interconnection Agreement, and Idaho Power's construction of the interconnection facilities it is responsible for constructing is on schedule to be completed in November 2013.

5. The First Amendment contains a provision stating that all terms and conditions of the Amendment are subject to approval by this Commission and that only after such approval, without material change or modification, has been received shall the Amendment be valid and effective.

6. The First Amendment is a fair and equitable resolution to this matter, and is in the public interest. Idaho Power respectfully requests that the Commission grant this Motion and approve the First Amendment in its entirety, without material change or condition, pursuant to RP 274.

IV. PROCEDURE

7. Pursuant to RP 274, the Commission has discretion to determine the manner with which it considers a proposed settlement. In this matter, the two parties to the FESA have reached agreement on revisions to the FESA. The Amendment is reasonable and in the public interest. The parties request that the Commission approve the Amendment without further proceedings.

8. In the alternative, should the Commission determine that further proceedings are required to consider the Amendment, pursuant to RP 201, the parties believe the public interest does not require a hearing to consider the issues presented by this Motion and request it be processed as expeditiously as possible by Modified Procedure.

V. REQUESTED RELIEF

NOW, THEREFORE, Idaho Power respectfully requests that the Commission enter its Order approving the Amendment without material change or condition, and without further proceedings.

Respectfully submitted this 20th day of March 2013.



DONOVAN E. WALKER
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of March 2013 I served a true and correct copy of IDAHO POWER COMPANY'S MOTION TO AMEND FIRM ENERGY SALES AGREEMENT upon the following named parties by the method indicated below, and addressed to the following:

Clark Canyon, LLC

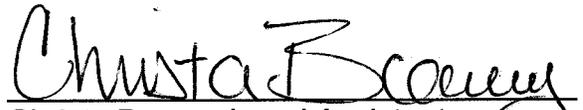
Kim L. Johnson
Executive Vice President, Business
Development

Clark Canyon Hydro, LLC
c/o Symbiotics, LLC
2000 South Ocean Boulevard #703
DelRay Beach, Florida 33438

Hand Delivered
 U.S. Mail
 Overnight Mail
 FAX
 Email kim.johnson@riverbankpower.com

Peter Clermont, Director
Aquila Infrastructure Management Inc.

Hand Delivered
 U.S. Mail
 Overnight Mail
 FAX
 Email pclermont@theaquilagroup.com


Christa Barry, Legal Assistant

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION**

CASE NO. IPC-E-13-07

IDAHO POWER COMPANY

ATTACHMENT 1

**FIRST AMENDMENT TO
FIRM ENERGY SALES AGREEMENT**

This First Amendment is to that certain Firm Energy Sales Agreement (“FESA”) entered into on May 20th, 2011, between CLARK CANYON HYDRO, LLC (“Seller”) and IDAHO POWER COMPANY (“Idaho Power”) for the Clark Canyon Hydroelectric generation project (“Facility”). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the FESA.

WITNESSETH:

WHEREAS, the FESA was approved by the Idaho Public Utilities Commission (“Commission”) on July 19th, 2011, in Order No. 32294; and

WHEREAS, the parties desire to amend the FESA to: (A) revise the Scheduled First Energy Date and the Scheduled Operation Date; and (B) add additional language to the Agreement providing Idaho Power certain rights to purchase this Facility; and (C) provide for collection of Delay Liquidated Damages and require the posting of additional, or maintenance of the presently posted, Delay Security.

NOW THEREFORE, Idaho Power and Seller agree to amend the FESA as follows:

A. The Parties agree to amend the following existing provisions of the FESA:

1. The Seller selected Scheduled First Energy Date of November 1, 2012, as contained in Appendix B, item B-3 is revised to be November 30, 2013.
2. The Seller selected Scheduled Operation Date of March 31, 2013, as contained in Appendix B, item B-3 is revised to be December 31, 2013.

B. The Parties agree to add the following additional provisions to Article 26 of the FESA:

- 26.2 At any time after the effective date of the First Amendment to this FESA, through the full term of this FESA, and for a period extending 120 days after expiration or termination of this FESA, if the Seller elects to sell any portion of its ownership interest in this Facility, Idaho Power shall be given first rights to purchase this Facility at a cost not to exceed the prevailing market value of the Facility and free of any debt or encumbrances. If the parties disagree as to what the prevailing market value of the Facility is, at Seller's expense an independent 3rd party agreed to by both parties will be contracted with to determine the prevailing market value. Within 60 days of Idaho Power and the Seller agreeing to the prevailing market value of this Facility, Idaho Power will notify the Seller of its intent to continue purchase discussions or notify the Seller of its intent to not pursue purchasing this Facility. Only after Idaho Power has notified the Seller of its intention not to proceed with this purchase may the Seller sell this Facility to another party. If during the period of time when Idaho Power has right of first offer, this Facility is offered for sale by the current Seller or any future owners of this Facility, this process of offering Idaho Power first right of purchase shall be repeated.
- 26.3 If the rights granted in paragraph 26.2 are exercised, prior to or concurrently with the closing of the sale of the Facility to Idaho Power, the Seller shall discharge any encumbrances or outstanding debt against the Facility.

C. The Parties agree to the following additional terms and conditions as part of this Amendment to their Firm Energy Sales Agreement:

1. Within 5 business days of both parties signing this Amendment and prior to Idaho Power filing this Amendment at the Idaho Public Utilities Commission (IPUC) seeking approval of this Amendment, the Seller will pay to Idaho Power \$211,500 in Delay Liquidated Damages (\$45 times 4,700 kW nameplate rating) and either provide additional liquid financial security in the amount of \$211,500 in a form acceptable to Idaho Power as specified within the FESA or maintain the presently posted liquid security. The expiration date of either of these liquid security instruments shall be no sooner than April 30, 2014. This amount will be held as Delay Damage Security pursuant to Article 5.8 of the FESA.
2. Within 10 business days of the execution of this Amendment by both parties, Idaho Power will file this Amendment with the IPUC seeking approval of this Amendment.
3. All terms and conditions of this Agreement are subject to approval by the IPUC. Only after such approval, without material change or modification, has been received from the IPUC shall this Amendment be considered to be valid and effective.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:

Idaho Power Company

Clark Canyon Hydro, LLC

By

Lisa A Grow
Lisa A Grow Sr. Vice President, Power Supply

By

Peter Clermont

PETER CLERMONT
AUTHORIZED SIGNATORY

Dated

3.14.13

"Idaho Power"

Dated

MARCH 11, 2013

"Seller"