



"Protect Our Land, Preserve Our Heritage"

STOP B2H Coalition

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August 3, 2021

Via Electronic Filing

Oregon Public Utility Commission of Oregon
550 Capitol Street NE
PO Box 2148
Salem, Oregon 97308

Re: Application for Rehearing or Reconsideration of Order No. 21-184, Idaho Power Company's 2019 Second Amended Integrated Resource Plan (IRP) per the requirements of OAR 860-001-0720

Commissioners,

Enclosed, please find our Application for Rehearing or Reconsideration of Order No. 21-184, Idaho Power Company's 2019 Second Amended Integrated Resource Plan (IRP) per the requirements of OAR 860-001-0720, as provided by ORS 756.561. New information has been brought to our attention that we believe should have been considered in docket LC#74.

This document is being served upon the LC#74 service list. Thank you in advance for your consideration.

Sincerely,

Jim Kreider
Co-Chairperson

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
LC 74**

In the Matter of

Idaho Power Company
Second Amended 2019 Integrated
Resource Plan (LC 74)

Application for
Rehearing or Reconsideration
of Order No. 21-184

Introduction

The STOP B2H Coalition (hereafter STOP) participated as an intervener in Idaho Power Company’s 2019 Integrated Resource Plan (IRP)-LC 74. STOP files this application for Rehearing or Reconsideration per [OAR 860-001-0720](#) to [Order No. 21-184](#) Idaho Power Company 2019 2nd Amended Integrated Resource Plan (LC 74) DISPOSITION: 2019 IRP ACKNOWLEDGED. [OAR 860-001-0720](#) (1) states,

“Within 60 days from the date of service of an order entered by the Commission, a party may file an application for rehearing or reconsideration of the order as provided by ORS 756.561. The application must identify all grounds for rehearing or reconsideration.”

[Order No. 21-184](#) is dated June 4, 2021 and 60 days from this date is August 3, 2021. The date this application is being filed is August 3, 2021, therefore the application is timely.

History and Background

STOP, with 900 members and eight organizational members has been a registered nonprofit since 2017. STOP has participated as an intervener and provided extensive analysis and comments in Idaho Power’s 2017 (LC 68) and 2019 (LC 74) Integrated Resource Plans and individual STOP members participated and commented in Idaho Power’s 2015 Integrated Resource Plan (LC 63). STOP is in federal litigation requesting a Supplemental Environmental Impact Statement (SEIS) to the Bureau of Land Management (BLM) and the U.S. Forest Service’s (USFS) Record of Decision (ROD) to site the Boardman to Hemingway Transmission (B2H) line. STOP and 35 individual petitioners are also in a contested case with the Oregon Department of Energy-Energy Facility Siting Council (ODOE-EFSC) regarding the ODOE’s proposed order (PO) for a site certificate for the Boardman to Hemingway Transmission (B2H) line.

The 2019 IRP went through protracted delays and amendments. The OPUC staff, interveners, and Commission were critical of many of the errors within the IRP over the course of these delays and acknowledged that much needed to be disclosed and improved in the 2021 IRP. This in essence kicked the can down the road.

In staffs final comments they said,

This IRP cycle was highly unusual. When the Company requested its first amendment in July 2019, it was uncertain how long it would take, but the Company eventually filed an Amended IRP on January 31, 2020. At that time, Staff was aware of co-participant risks, but the Company continued to reassure Staff in the Amended IRP and its Reply Comments that all three parties were financially committed.⁹⁵ The Company submitted two additional updates—one that was shorter and only involved a few updated pages, and finally the Second

Amended IRP on October 2, 2020. It was not until July 1, 2020, that the Commission received a concrete update about a change in partnership, about four months before the Company filed its final iteration of the IRP.⁹⁶

Because of the unusual nature of this IRP cycle, introducing significant updates to data and assumptions late into the process, and across four different iterations did not seem practicable, and would have introduced further confusion into an already convoluted IRP cycle. The downside to this approach is that because Idaho Power has held certain assumptions constant, Staff is concerned that the Preferred Portfolio may not provide an accurate reflection of current costs and risks to Idaho Power customers. These are valid concerns, and Staff reiterates its previous recommendation that the Company's Final Comments should defend its preferred portfolio and provide any material updates to concerns Staff has raised in these comments.¹

Commissioner Thompson in the [April 15, 2021 SPM LC 74 Idaho Power IRP Deliberation and Discussion](#) shared his concerns and items that made him uncomfortable from 2h5m to 2h20m. Some of his discomfort included: partnership instability, impacts on cost, and damaging the beauty of eastern Oregon if the B2H is built and found to not be prudent. He explained his "nightmare scenario" this way,

So you know, my, my nightmare scenario is that we go through the IRP process, and we keep finding that this project looks reasonable, it looks reasonable, it looks reasonable. And then they build the project. And it turns out to cost a lot more than anybody thought, then our remedy in that circumstance, such as this hypothetical, would be to say, Idaho power, that's not a prudent process project, we won't let you recover the cost of that in rates. And nobody is going to feel like that's an adequate remedy.

It should be noted that Idaho Power did not notify the Commission or LC 74 on their own volition when the Wyoming DEQ issued an air quality permit to modify operations at the Jim Bridger Plant in lieu of installation of selective catalytic reduction technology (SCR) on Units 1-2 on January 31, 2020. It took Commissioner Tawney who was working on UE 374, PacifiCorp's rate case, to ask IPC staff at the OPUC public hearing on April 8, 2021 if they knew this had occurred, which they did.² We still do not know, (or do we?), the federal EPA's response to the requested change to the Clean Air Act for the Bridger Units.

Since the final order, less than 60 days ago, STOP has learned of new information that we believe the company knew and should have disclosed in the LC74 docket. Because of this new information and long standing pattern of the company not disclosing information to the Commission and stakeholders, STOP believes the Commission should reconsider [Order No. 21-184](#).

Request for Reconsideration

STOP requests, per [OAR 860-001-0720](#) 2(a), that the Commission modify [Order No. 21-184](#) Item # 4 which states,

Conduct preliminary construction activities, acquire long-lead materials, and construct the B2H project. (2020-2026)
Recommendation: Acknowledge [[Order No. 21-184](#) pdf p 72]

STOP requests that the order be changed from Acknowledge to NOT ACKNOWLEDGE. [OAR 860-001-0720 2(c)]

¹ <https://edocs.puc.state.or.us/efdocs/HAC/lc74hac154634.pdf> p 36-37

² The [Permit Application Analysis](#) and [Operating Permit](#) are in the hyperlinks - the reader may have to click the link once to get to the site and a second time to follow the link.

Not acknowledging the construction aspect of B2H will communicate the Commission's concern about the lack of disclosing key information and using incomplete, incorrect or biased information to base significant impactful decisions upon. This should set the stage and give a clear message that the 2021 IRP must be a timely, consistent, comprehensive, honest, and factual process. [[OAR 860-001-0720](#) 2(d)]

Grounds for Reconsideration

Idacorp Inc (IDA) and Idaho Power Company recently filed their [Security and Exchange Commission FORM 10-Q](#) for the quarterly period ended June 30, 2021. In it they:

- I. Clarified several key facts about the B2H's *partnership agreements* [[FORM 10-Q](#) p 49] ;
- II. Disclosed two new *resource acquisitions* [[FORM 10-Q](#) p37 and p50]; and
- III. Clarified *cost risks* to the B2H of inflation to shareholders and investors [[FORM 10-Q](#) p 48]

I. Partnership Agreements

The full paragraph on the partnership agreement in the 10-Q states,

*Under the current joint funding agreement, Idaho Power has an approximate 21 percent interest, BPA has an approximate 24 percent interest, and PacifiCorp has an approximate 55 percent interest in the permitting phase. As the current joint funding agreement covers primarily permitting activities, which are nearing completion, Idaho Power and its co-participants are exploring several scenarios of ownership, asset, and service arrangements aimed at maximizing the value of the project to each of the co-participants' customers. **In July 2021, the co-participants entered into an agreement and acknowledged that BPA does not intend to participate in the construction of the project or to be a co-owner, in whole or in part, of the project, and that BPA intends to sell its interest in the project to either Idaho Power or a third party** [Emphasis added]. Any changes regarding the ownership structure would be addressed through amended or new funding agreements for the future phases of the project. [FORM 10-Q p 49]*

In [STOP's final comments](#) the partnership agreement commitment and the instabilities of the BPA relationship were discussed. [p 6-10]. Idaho Power, to our knowledge, has not notified the Commission or the service list of this change in the partnership agreement. The company knew of the dissolution of the partnership agreement as it was the focal of one or more of the "pauses" that occurred during the protracted IRP.

Due to Idaho Power's practice of incomplete disclosure new scenarios of financial risk were not provided nor were new portfolios designed using new fiscal analysis that the company knew at the time. The budget of the 2019 IRP is completely invalid due to the shift in ownership, and therefore so are the portfolios. The percentage shift in ownership is significant, going from 21% to 45%. In [staff final comments](#) they extensively address these concerns on pages 34-37 but these paragraphs capture the flavor,

At the October 22 public meeting, the Commission expressed concern about the risk of a material change in ownership. The Company assured the Commission that these discussions were only "hypothetical" and that it was looking for an opportunity to align both entities (BPA and Idaho Power). Further, the Company assured the Commission that this would not have any impact on the 2019 IRP because, hypothetically, cost recovery of the line would occur through the NITS agreement, and the Company would strive to ensure that its retail customers are held harmless. In other words, under such an arrangement, Idaho Power native load customers would still only be paying for 21 percent of the line.

As of these comments, there have been no additional updates on this issue. Like the Commission, Staff is concerned about what a change in ownership could mean for ratepayers. Staff has many questions:

- What is the risk that costs would increase under such an arrangement?
- What sort of capital risk would Idaho Power be taking on by assuming additional ownership?
- How would these risks impact the Preferred Portfolio in an IRP?
- How is the Company going to model this risk in the 2021 IRP cycle?
- What would be the specific accounting authorizations needed for such an arrangement?
- What would be the specific types of contracts needed for such an arrangement?
- Would a change in partnership or service arrangement affect the in-service date of B2H?
- Is there still a possibility that another third party would step in for BPA? ³

The construction portion (item #4) of the acknowledgement order needs to be reconsidered and unacknowledged due to the financial uncertainties and risk that continues to exist. In the 2021 IRP, as ordered, Idaho Power should develop a revised and valid budget that can be discussed and vetted among stakeholders. Allowing the construction process to go forward could have significant and irreparable environmental and economic consequences.

The SEC FORM 10 – Q is all new evidence that is essential to the decision and that was unavailable and not reasonably discoverable before issuance of the order. [OAR 860-001-07203\(a\)\(d\)](#)

The cornerstone of the IRP Guidelines is the selection of the least cost/least risk plan for ratepayers and this 2nd Amended IRP with its flawed financial data has not done that. The least cost planning approach is derived from Order No 89-507 and IRP Guideline 1: Substantive Requirements - a, b, c; Guideline 4: Plan Components - g; Guideline 13: Resource Acquisition – a. [OAR 860-001-07202\(b\)](#)

II. Resource Acquisitions

The discussion on the acquisition of 80 MW of new resources in the 10-Q states,

That growth and peak demand may also result in the need for Idaho Power to procure other new sources of energy and capacity to serve growing demand and to maintain system reliability. Further, recent changes in the regional transmission markets have constrained the transmission system external to Idaho Power's service area and impacted Idaho Power's ability to import energy from energy markets in the western United States. Idaho Power expects to need approximately 80 MW of additional capacity as early as the summer of 2023. On June 30, 2021, Idaho Power issued a formal request for proposals for up to 80 MW of new resources to help meet peak electric energy needs in 2023. Idaho Power is analyzing options for potential energy and capacity resource procurement, while at the same time working on its 2021 Integrated Resources Plan. [FORM 10-Q p37]

The discussion on entering into two new long term transmission purchase agreement in the 10-Q states,

During the six months ended June 30, 2021, IDACORP's and Idaho Power's contractual obligations, outside the ordinary course of business, did not change materially from the amounts disclosed in the 2020 Annual Report, except that Idaho Power entered into two new long-term transmission purchase agreements, which increased Idaho Power's contractual purchase obligations by approximately \$16 million over the 5-year terms of the contracts, and five new replacement contracts for expiring power purchase agreements with PURPA-qualifying hydropower facilities, which increased Idaho Power's contractual purchase obligations by approximately \$29 million over the 20-year terms of the contracts. FORM 10-Q p50]

³ <https://edocs.puc.state.or.us/efdocs/HAC/lc74hac154634.pdf> p 35

These significant resource acquisitions into yet unknown energy markets must have been known to the company during the protracted 2019 IRP process. Yet once again, in the practice of non-disclosure, the company choose not to disclose these planned acquisitions. The cost of these acquisitions if modeled in the 2019 IRP could have changed the least cost plan, or the elusive transmission “congestion,” or lessened the forecasted MW “need.” The Idaho PUC in their 2019 IPC-IRP [Order No. 34959](#) included this comment, “Staff also noted that Idaho Power proposes using B2H, a project estimated to cost \$1 billion to \$1.2 billion, with a 21 percent ownership share at \$292 million, to fill a 5 MW capacity deficiency in August 2029.”

These new acquisitions eliminate the “need”.

During the 2019 process, STOP strongly urged the commission to require Idaho Power to do a Robust Energy Market Analysis. STOP’s final comments stated,

STOP would like to recommend that a more robust energy market analysis be done. The Mid-C is not the only market IPC has access to.

The company has market purchase choices in major market hubs like California–Oregon Border (COB), Four Corners (Arizona–New Mexico border), Mead (Nevada), Mona (Utah), Palo Verde (Arizona), and SP15 (California). These markets have not been analyzed or compared to the Mid-C in a comprehensive way. The company should be requested to analyze these markets and compare them to the Mid-C in a comprehensive and understandable way.^{4 5}

This Energy Market Analysis would have informed the company, the commission, stakeholders, and ratepayers that market conditions have been changing and other utilities are going to be buying up transmission rights and energy. It still needs to be done and the 2019 IRP is incomplete until it is.

The acknowledgement of the construction of the B2H (Item 4) needs to be unacknowledged until the costs--and benefits--of these new resource acquisitions are calculated and applied to the budget and portfolio designs.

The SEC FORM 10 – Q is all new evidence that is essential to the decision and that was unavailable and not reasonably discoverable before issuance of the order. [OAR 860-001-07203\(a\)\(d\)](#)

Guideline 1: Substantive Requirements – a, b, c; Guideline 4: Plan Components – c, e, g, h, n; Guideline 5: Transmission; Guideline 13: Resource Acquisition – a. [OAR 860-001-07202\(b\)](#)

III. Cost Risks

The discussion on Cost Risks in the 10-Q states,

Boardman-to-Hemingway Transmission Line: The Boardman-to-Hemingway line, a proposed 300-mile, high-voltage transmission project between a substation near Boardman, Oregon, and the Hemingway substation near Boise, Idaho, would provide transmission service to meet future resource needs. In January 2012, Idaho Power entered into a joint funding agreement with PacifiCorp and the Bonneville Power Administration (BPA) to pursue permitting of the project. The joint funding agreement provides that Idaho Power's interest in the permitting

⁴ <https://edocs.puc.state.or.us/efdocs/HAC/lc74hac165916.pdf> p 4

⁵ <https://edocs.puc.state.or.us/efdocs/HAC/lc74hac18632.pdf> p 5

phase of the project would be approximately 21 percent. Total cost estimates for the project are between \$1.0 billion and \$1.2 billion, including Idaho Power's AFUDC. This cost estimate is preliminary and excludes the impacts of inflation and price changes of materials and labor resources that may occur following the date of the estimate. [FORM 10-Q p 48]

STOP's final comments [p 15] on Idacorp's and Idaho Power's 2019 10-K filing shared multiple uncertainties and risks greater than the one above that the company stated,

However, as noted in the 2019 IRP, there is considerable uncertainty surrounding the resource sufficiency estimates and project completion dates, including uncertainty around the timing and extent of third-party development of renewable resources, fuel commodity prices, the actual completion date of the Boardman-to-Hemingway transmission project, and the economics and logistics of plant retirements. These uncertainties, as well as others, will likely result in changes to the desirability of the preferred portfolio and adjustments to the timing and nature of anticipated and actual actions. As of the date of this report, proceedings relating to the amended 2019 IRP are pending at the IPUC and OPUC.⁶ [[2019 Idaho Power Company 10K Annual Report p16](#)]

These uncertainties were shared with investors and shareholders but not the Commission, interveners, or ratepayers. The company's practice of incomplete disclosure continues. How will we know what is valid or accurate?

Since the risks associated with the B2H in the 2019 portfolio analysis were not completely disclosed and evaluated the acknowledgement of item 4 to construct the B2H defies logic and is not prudent. These risks need to be clearly enumerated and evaluated by staff, intervenors and the Commission. No construction or material acquisitions should be acknowledged until the incomplete analyses have been completed with full-disclosures and scrutiny.

The SEC FORM 10 – Q is all new evidence that is essential to the decision and that was unavailable and not reasonably discoverable before issuance of the order. [OAR 860-001-07203\(a\)\(d\)](#)

Guideline 1: Substantive Requirements – a, b, c; Guideline 4: Plan Components – e, f, g, h, i, n; Guideline 11: Reliability

Conclusion

Given the cost-risk uncertainties due to incomplete or undisclosed information, key data points used to build the least-cost, least-risk portfolio cannot be verified and therefore the 2nd Amended 2019 IRP's conclusions are invalid.

STOP requests that the Commission reconsider Order No. 21-184 and withdraw acknowledgement of action Item 4, which would allow the company to begin materials acquisition and construction of the B2H without a transparent and complete evaluation.

Signed



Jim Kreider
Co-Chairperson, STOP B2H Coalition

⁶ <https://edocs.puc.state.or.us/efdocs/HAC/lc74hac18632.pdf> p 15