

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

In the Matter of)	UM 2255
)	
IDAHO POWER COMPANY)	NORTHWEST & INTERMOUNTAIN
)	POWER PRODUCERS COALITION'S
Application for Approval of 2026 All-Source)	REPLY COMMENTS ON STAFF
Request for Proposals to Meet 2026 Capacity)	SUPPLEMENTAL REPORT
Resource Need.)	
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The Northwest & Intermountain Power Producers Coalition (“NIPPC”) respectfully submits to the Oregon Public Utility Commission (the “OPUC” or “Commission”) reply comments in response to the Staff’s Supplemental Report on Idaho Power Company’s (“Idaho Power”) Draft Request for Proposals (“Draft RFP”).

As stated previously, NIPPC appreciates Idaho Power’s willingness to incorporate some of NIPPC’s recommendations in revisions to the Draft RFP, and NIPPC appreciates Staff’s recommendation that the Commission adopt NIPPC’s recommendation on several additional issues. NIPPC stands by all of its prior recommendations, including those that have not been adopted by Idaho Power’s revisions and/or Staff’s Report and Staff’s Supplemental Report. To assist the Commission and to ensure that NIPPC’s current position is as clear as possible, NIPPC has provided an updated version of its previously filed table of issues that includes Staff’s final recommendation, the Independent Evaluator’s position, and the current status of each issue. The updated table of issue is based on Idaho Power’s most recent version of the Draft RFP, which is the version filed in this docket with Idaho Power’s reply comments on June 6, 2023. The updated table of issues is attached hereto.

Dated: June 6, 2023

/s/ Gregory M. Adams

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Table of NIPPC's Issues-Updated June 6, 2023

Draft RFP Issues

Issue	NIPPC Recommendation	NIPPC Recommendation Adopted by Idaho Power Reply Comments March 24, 2023?	NIPPC Recommendation Adopted by Staff Reports' Conditions and Accepted by Idaho Power?	IE Position	Issue Resolved or Unresolved/ Disputed?
1. Price/Non-Price Points Allocation	Change Allocation from 75%/25% to 80%/20% ¹	No ²	Not directly addressed by Staff, but RFP Condition 2, in effect, reduces the impact of five of 25 non-price points, making practical point allocation closer to 80/20	IE did not address issue	Resolved to NIPPC's satisfaction if Staff's condition is adopted.
2. Imputed Debt	NIPPC Recommends Deletion of the Proposed Imputed Debt Adder ³	No ⁴	Yes, adopted by Staff SMM Condition 3, but IPC objects to condition.	IE agrees w/ NIPPC	Resolved to NIPPC's satisfaction if Staff's condition is adopted.
3. Portfolio Modeling and Sensitivity Analysis	NIPPC Recommends Delaying Portfolio Modeling Until After Development of the Initial Shortlist and the RFP Should Confirm Idaho Power Will	Yes ⁶	Yes	IE did not address issue	Resolved

¹ NIPPC Comments, pp. 4-5 (March 17, 2023).
² Idaho Power Reply Comments, pp. 20-21 (March 24, 2023)
³ NIPPC Comments, pp. 6-8 (March 17, 2023).
⁴ Idaho Power Reply Comments, pp. 6-15 (March 24, 2023).
⁶ Idaho Power Reply Comments, p. 21 (March 24, 2023).

	Conduct Relevant Sensitivity Analyses ⁵				
4. Utility Ownership Price Scores	NIPPC Recommends Inclusion of Long-Term Service Agreement Requirements or Reasonable Contingency Price Adders for Utility Ownership Price Scores ⁷	No ⁸	Staff Supp. Report (p. 11) requests that IE Report will address LTSA provisions for utility-ownership bids and ensure fair scoring of prices accordingly	IE appears to agree w/ NIPPC that absent LTSA, contingency adders needed ⁹	Resolved to NIPPC's satisfaction if Staff's requirement in the Supplemental Report adopted.
5. Price Score Ranking	NIPPC Recommends Clarification of the Proposal to Rank Price Scores by Technology Type ¹⁰	Yes ¹¹	Yes	IE did not address issue	Resolved
6. Term Normalization	NIPPC Recommends that the RFP Clarify the Term Normalization Method ¹²	Yes ¹³	Yes. Staff Supp. SMM Condition 1 recommends RFP include a sample calculation, and IPC included sample calculation in Draft RFP's Ex. R in June 6, 2023 filing.	IE agrees with NIPPC	Resolved
7. Non-Price Scoring	NIPPC Recommends More Clarity Be Included in the Non-Price Scorecard ¹⁴	Not completely. Revised RFP improved clarity on	Yes. Staff SMM Condition 2 recommends removal	IE agreed with NIPPC and recommended	Resolved

⁵ NIPPC Comments, pp. 8-10 (March 17, 2023).

⁷ NIPPC Comments, pp. 11-13 (March 17, 2023).

⁸ Idaho Power Reply Comments, p. 22 (March 24, 2023).

⁹ IE's Final Report, p. 17 (May 10, 2023).

¹⁰ NIPPC Comments, pp. 13-14 (March 17, 2023).

¹¹ Idaho Power Reply Comments, p. 15; Draft RFP, pp. 25-27 (June 6, 2023).

¹² NIPPC Comments, pp. 14-15 (March 17, 2023).

¹³ Idaho Power Reply Comments, pp. 5, 23 (March 24, 2023).

¹⁴ NIPPC Comments, pp. 15-17 (March 17, 2023).

		many points but still had subjective evaluation for edits to RFP’s form contracts, technical specification edits, and credit form. ¹⁵	of non-price score penalty for edits to form contracts and RFP exhibits, and IPC agrees to SMM Condition 2.	additional clarification of specific points allocated to each question on scorecard, which IPC added in Draft RFP in June 6, 2023 filing	
8. Minimum Bid Criteria: Eligibility Checklist	<p>a. The Checklist in Exhibit C Should Be Clarified as to documentation required to demonstrate COD feasibility and requisite transmission request status¹⁶</p> <p>b. Permissible Technologies, Points of Delivery, and Interconnection Status Should Be Clarified¹⁷</p> <p>c. The RFP Should Provide More than Two Days to Cure Errors or Misunderstandings in a Bid Submission¹⁸</p>	<p>a. No.</p> <p>b. No.</p> <p>c. No.</p>	<p>a. Yes, Staff proposed clarification as RFP Conditions 4 & 5. NIPPC had concerns with Staff’s proposed language, but IPC agreed at the May 16, 2023 public meeting to use NIPPC’s proposed revision.</p> <p>b. No, not resolved by Staff conditions or fully resolved by IPC yet.¹⁹</p> <p>c. Yes, resolved by Staff RFP Condition 6,</p>	a.-c. IE did not address issue	<p>a. Resolved</p> <p>b. Unresolved</p> <p>c. Resolved to NIPPC’s satisfaction if Staff’s condition is adopted.</p>

¹⁵ Idaho Power Reply Comments, pp. 3-4, 17; Draft RFP, Ex. D (April 5, 2023).

¹⁶ NIPPC Comments, pp. 18-19 (March 17, 2023).

¹⁷ NIPPC Comments, pp. 19-20 (March 17, 2023).

¹⁸ NIPPC Comments, pp. 20-21 (March 17, 2023).

¹⁹ See NIPPC Comments on Staff Report, pp. 8-9 (May 9, 2023); Draft RFP, Ex. E p. 1 (June 6, 2023) (still stating: “this Exhibit E focuses exclusively on market purchases” and provides no list of permissible points of delivery for off-system resource-based bids); Draft RFP, pp. 9-10 & 13-14 (June 6, 2023) (still containing contradictory statements regarding interconnection requirements); *id.* at 9-10 (still containing the same suggested limitations on resource technologies).

			and IPC stated it agreed to Condition 6; but Draft RFP in June 6, 2023 filing still contains two-day cure period. ²⁰		
9. Benchmark Bids	NIPPC Recommends that Idaho Power Disclose the Details of the Its Benchmark Bids and Explain Whether Project Components Will Be Available for Use by Bidders ²¹	No ²²	Staff Supp. RFP Conditions 1 & 2 adopt NIPPC proposal, and IPC provided information on benchmark bids in Draft RFP Ex. S on June 6, 2023.	IE agrees w/ NIPPC	Partially resolved; NIPPC recommends the Commission reserve the right to revisit the issue at shortlist stage after stakeholders and IE have had opportunity to review and comment on Idaho Power's decision not to make utility-owned assets available.
10. Firmness of Bids	NIPPC Recommends that the RFP Clarify that Bids May be Updated at the Shortlist Stage ²³	No.	Yes. Staff Supp. RFP Condition 3 adopts NIPPC's proposal, and IPC agreed to condition and updated Draft RFP in June 6, 2023 filing.	IE did not address issue	Resolved
11. Exclusivity at Shortlist Stage	NIPPC Recommends Deletion of Idaho Power's Proposed Exclusivity Rights to Projects	No ²⁵	Yes. Staff Supp. RFP Condition 4 adopts a 60-day limit on	IE did not address issue	Resolved

²⁰ Idaho Power's Reply Comments on Staff Report, p. 8 (May 9, 2023); Draft RFP, p. 18 (June 6, 2023).

²¹ NIPPC Comments, pp. 21-23 (March 17, 2023).

²² Idaho Power Reply Comments, pp. 2-3, 22-23 (March 24, 2023).

²³ NIPPC Comments, pp. 23-24 (March 17, 2023).

²⁵ Idaho Power Reply Comments, p. 24 (March 24, 2023).

	During the Shortlist Stage, or Limit Exclusivity to 60 Days ²⁴		exclusivity, and IPC's agreed and updated Draft RFP in June 6, 2023 filing with 60-day limit on exclusivity.		
12. Final Shortlist Fee	NIPPC Recommends Deletion of the RFP's Proposed Fee to Participate on the Shortlist ²⁶	No ²⁷	Yes, included as Staff RFP Condition 3, and agreed to by IPC.	IE did not address issue	Resolved
13. Contract Forms/Term Sheets	The RFP's Set of Contract Forms Is Incomplete; NIPPC Recommends Idaho Power Provide Term Sheets for All Key Terms for All Resource Types and Bid Structures ²⁸	No. Revised Draft RFP states that bidders should submit alternative contract terms for different technologies and bid structures. ²⁹	No	IE agrees w/ NIPPC and recommends term sheets for all technology types	Unresolved

Issues Applicable to Both the Solar-Specific PPA Form and the Battery Storage Agreement Form

Issue	NIPPC Recommendation	NIPPC Recommendation Adopted by Idaho Power Reply Comments March 24, 2023?	NIPPC Recommendation Adopted by Staff Reports' Conditions and Accepted by Idaho Power?	IE Position	Issue Resolved or Unresolved/ Disputed?
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²⁴ NIPPC Comments, pp. 24-25 (March 17, 2023).

²⁶ NIPPC Comments, p. 25 (March 17, 2023).

²⁷ Idaho Power Reply Comments, p. 24 (March 24, 2023).

²⁸ NIPPC Comments, pp. 26-27 (March 17, 2023).

²⁹ Idaho Power Reply Comments, pp. 24-25; Draft RFP, pp. 22-23 (June 6, 2023).

Right of First Refusal	Delete the PPA and SCA's ROFO in § 8.4, triggered by change in ownership, and ROFO in § 8.5, triggered on the Effective Date on PPA or BSA ³⁰	No	Staff RFP Condition 7 requires removal of § 8.5 ROFO on Effective Date but not with respect to the ROFO for facility ownership changes in § 8.4. IPC states it agrees to Staff's condition, but its proposed contract edits do not implement removal of the ROFO even in § 8.5.	IE agrees with Staff's proposal	Resolved to NIPPC's satisfaction as to § 8.5 if Staff's Recommendation is adopted, but § 8.4 remains disputed.
Delay Damages	Reduce Delay Damages level for PPA and BSA, and provide reduction to daily delay damages after partial completion in PPA consistent with terms of BSA ³¹	No	Staff Supp. RFP Condition 5 adopts NIPPC's recommendation in part by requiring reduction of PPA's delay damages from \$400/MWac/day to \$200/MWac/day, but does not adopt any reduction to BSA's \$100/MWh, which is equivalent to the \$400/MWac/day for a PPA; nor does Staff adopt NIPPC's proposed reduction of damages in the case of partial completion. IPC states it would agree to Staff's condition but recommends the delay	IE agrees w/ NIPPC	Resolved only in part to NIPPC's satisfaction. NIPPC continues to recommend BSA delay damages amount be reduced, and PPA and BSA damages be reduced for partial completion.

³⁰ E.g., PPA §§ 8.1-8.8 & 9.4; NIPPC Comments, p. 28 (March 17, 2023).

³¹ PPA §1.25; BSA §§ & 1.28 & 1.56; NIPPC Comments, pp. 28-29 (March 17, 2023).

			damages amount remain blank in the form PPA. ³²		
Development Security	Clarify that development security may be established with cash ³³	No	Yes. Staff Supp. RFP Condition 6 adopts NIPPC’s recommendation, and IPC agreed to Staff’s condition and amended form contracts with reply comments on June 6, 2023.	IE agrees w/ NIPPC	Resolved
IPUC Approval	Provide a day-for-day extension to Scheduled Commercial Operation Date in the instance that IPUC approval of the contract takes more than six months and a right to terminate without damages by Seller for longer delays and remove references to OPUC approvals and waivers ³⁴	No	Yes. Staff Supp. RFP Condition 7 amends PPA and BSA to extend Scheduled COD day for day for delays beyond six months in IPUC contract approval, and IPC agreed to Staff’s condition and amended PPA and BSA in June 6, 2023 filing.	IE agrees w/ NIPPC	Resolved
Network Resource Interconnection Service	Revise the contract forms to allow use of ERIS, consistent with changes already made to the RFP itself to allow ERIS ³⁵	No	No	IE did not address issue	Unresolved
PUC Jurisdiction and Jury Trial Waiver	Delete “Governmental Authorities” provision and the Jury Trial Waiver provisions ³⁶	No	No	IE did not address issue	Unresolved

³² Idaho Power’s Reply Comments to Supp. Staff Report, pp. 3-4 (June 6, 2023); Draft RFP, Ex. H, Form PPA, § 1.25 (June 6, 2023) (specifying a blank space for amount of delay damages); Draft RFP, Ex. H, Form BSA, § 1.28 (still specifying \$100/MWh for delay damages).

³³ E.g., PPA §§ 9.1, 9.2; NIPPC Comments, p. 29 (March 17, 2023).

³⁴ E.g., PPA § 3.1; NIPPC Comments, pp. 29-30 (March 17, 2023).

³⁵ E.g., PPA § 7.3; NIPPC Comments, p. 30 (March 17, 2023).

³⁶ E.g., PPA §§ 20 & 26.4; NIPPC Comments, p. 30 (March 17, 2023).

Limitation of Idaho Power Transmission Liability	Delete provisions attempting to absolve Idaho Power of responsibility for delays caused by Idaho Power's interconnection department ³⁷	No	Yes, in part. Staff Supp. RFP Condition 8 adopts NIPPC's recommendation, and IPC agrees but proposed edits to form PPA and BSA in June 6, 2023 filing that do not fully resolve NIPPC's concerns. ³⁸	IE agrees w/ NIPPC	Resolved to NIPPC's satisfaction with IPC's PPA/BSA edits for purposes of this case only and with the understanding bidders can propose further edits without scoring penalty.
Limits on Seller's Damages	Include Seller's lost tax credits as part of liquidated damages owing to Seller if Idaho Power breaches ³⁹	No	No	IE did not address issue	Unresolved
Qualified Operator	Relax the unreasonable requirements for five years operating 1,000 MW of solar facilities and five years' operating 500 MW of BESS ⁴⁰	No	Yes. Staff Supp. RFP Condition 9 adopts NIPPC's recommendation, and IPC accepted condition and amended form contracts with June 6, 2023 filing.	IE agrees w/ NIPPC	Resolved
Force Majeure	Revise 180-day limit on force majeure to at least a year ⁴¹	No	No	IE did not address issue	Unresolved

³⁷ E.g., PPA §§1.145, 7.2.1, 15.1; NIPPC Comments, pp. 30-31 (March 17, 2023).

³⁸ Idaho Power's Reply Comments to Supp. Staff Report, p. 6 (June 6, 2026).

³⁹ E.g., PPA §§ 1.18, 1.42, 1.43, 1.72, 1.126, 12.2.2 & 12.4; NIPPC Comments, p. 31 (March 17, 2023).

⁴⁰ PPA § 1.105; BSA § 1.108; NIPPC Comments, p. 31 (March 17, 2023).

⁴¹ E.g., PPA § 15.5; NIPPC Comments, p. 32 (March 17, 2023).

Issue Unique to Solar-Specific PPA Form

Issue	NIPPC Recommendation	NIPPC Recommendation Adopted by Idaho Power Reply Comments March 24, 2023?	NIPPC Recommendation Adopted by Staff Reports' Conditions and Accepted by Idaho Power?	IE Position	Issue Resolved or Unresolved/ Disputed?
Forecasting Costs	Delete provision requiring Seller to pay a share of Idaho Power's portfolio wide solar forecasting service or allow Seller to elect to supply its own forecasting to Idaho Power ⁴²	No	No	IE agrees w/ NIPPC	Unresolved
Performance Guarantee	Delete ambiguous termination provision and include no termination for falling below the 90% monthly guarantee because liquidated damages apply in that case to keep Idaho Power whole ⁴³	No	No	IE agrees w/ NIPPC	Unresolved
Compensated Curtailment	Include lost tax credit value to the Seller as part of payment to Seller for compensated curtailment events ⁴⁴	No	No	IE did not address issue	Unresolved
"Special Contract" Provisions	Delete confusing provisions designed for a green tariff PPA ⁴⁵	No	No	IE agrees w/ NIPPC	Unresolved

⁴² PPA § 7.7; NIPPC Comments, p. 32 (March 17, 2023).

⁴³ PPA §§ 7.12 & 12.1.2.8; NIPPC Comments, pp. 32-33 (March 17, 2023).

⁴⁴ PPA § 6.1.3; NIPPC Comments, p. 33 (March 17, 2023).

⁴⁵ NIPPC Comments, p. 33 (March 17, 2023).

Issues Unique to Battery Storage Agreement Form

Issue	NIPPC Recommendation	NIPPC Recommendation Adopted by Idaho Power Reply Comments March 24, 2023?	NIPPC Recommendation Adopted by Staff Reports' Conditions and Accepted by Idaho Power?	IE Position	Issue Resolved or Unresolved/ Disputed?
Roundtrip Efficiency	Allow bidders to propose a lower RTE than the BSA Form's 87% without any scoring penalty, or ensure appropriate bid adders are applied to utility-owned BESS bids to maintain 87% RTE during entire life of BESS bid ⁴⁶	No	Yes. Staff Supp. RFP Condition 10 adopts NIPPC's recommendation, and IPC accepted condition and amended form BSA with June 6, 2023 filing.	IE agrees w/ NIPPC	Resolved
Charging Management	Revise charging management protocols to give Seller reasonable time to respond to Idaho Power's charge/discharge instructions ⁴⁷	No	Staff Supp. RFP Condition 11 adopts NIPPC's recommendation; but IPC objects to Staff's proposed 120-minute notice requirement and indicates it will agree to reasonable protocols submitted by bidders in BSA Ex. 4. ⁴⁸	IE agrees w/ NIPPC	Resolved to NIPPC's satisfaction if Staff's condition is adopted; alternatively, NIPPC would not oppose IPC's proposed reliance on bidder

⁴⁶ BSA §§ 1.52, 4.5.3, 12.1.2.8; NIPPC Comments, p. 34 (March 17, 2023).

⁴⁷ BSA § 7.7; NIPPC Comments, pp. 34-35 (March 17, 2023).

⁴⁸ Idaho Power's Reply Comments on Supp. Staff Report, pp. 6-7 (June 6, 2023).

					protocols in BSA Ex. 4.
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Issues Unique to Build Transfer Agreement Form

Issue	NIPPC Recommendation	NIPPC Recommendation Adopted by Idaho Power Reply Comments March 24, 2023?	NIPPC Recommendation Adopted by Staff Reports' Conditions and Accepted by Idaho Power?	IE Position	Issue Resolved or Unresolved/ Disputed?
O&M Agreement	No form O&M Agreement or term sheet is required; minimum terms equally protective of the PPA/BSA forms should be required, or appropriate contingency price adders included for such bids ⁴⁹	No	Staff Supp. Report (p. 11) proposes that IE Report will address LTSA provisions for utility-ownership bids and ensure fair scoring of prices accordingly.	IE agrees w/ NIPPC	Resolved to NIPPC's satisfaction if Staff's requirement in the Supplemental Report adopted.
Long Term Service Agreement	No form LTSA or term sheet is required; minimum terms equally protective of the PPA/BSA forms should be required, or appropriate contingency price adders included for such bids ⁵⁰	No	Staff Supp. Report (p. 11) requests that IE Report will address LTSA provisions for utility-ownership bids and ensure fair scoring of prices accordingly.	IE agrees w/ NIPPC	Resolved to NIPPC's satisfaction if Staff's requirement in the Supplemental Report adopted.

⁴⁹ NIPPC Comments, p. 35 (March 17, 2023).

⁵⁰ NIPPC Comments, p. 35 (March 17, 2023).