DECISION MEMORANDUM

TO: **COMMISSIONER KJELLANDER**
COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSION SECRETARY
COMMISSION STAFF

FROM: **KATHY STOCKTON, AUDITOR**
DON HOWELL, DEPUTY ATTORNEY GENERAL

DATE: **AUGUST 23, 2013**

SUBJECT: **IDAHO POWER'S REQUEST TO SELL A PARCEL OF LAND TO ACHD**

On June 11, 2013, Idaho Power Company notified the Commission via letter that it intends to convey a 200 square-foot parcel of bare land to the Ada County Highway District (ACHD) near the intersection of 30th Street and Fairview as part of ACHD's 30th Street widening project in Boise. The property is part of a larger parcel of land owned by Idaho Power that includes a warehouse building for storage of utility equipment and vehicles.

The letter sought a confirmation from the Commission that *Idaho Code* § 61-328 would not apply to this land transfer. Section 61-328 requires that electric utilities obtain the Commission's approval for the sale or transfer of property in Idaho "which is used in the generation, transmission, distribution or supply of electric power and energy to the public." The Company asserts that the transaction will not interfere with the delivery of electric service to customers. The Company requests that the Commission confirm that this transfer of real property does not require the Commission's formal approval per Section 61-328.

The letter included copies of the survey drawings and photographs showing the location of the property. The letter also included a compensation summary detailing the payments to Idaho Power from ACHD for the land transfer.

The compensation includes:

Right-of-way	$2,200.00
Temporary Easement	$1,433.30
Improvements	$2,838.00
Cost to Cure	$30,398.00
Total Compensation	$36,866.30

STAFF ANALYSIS

Staff has reviewed the proposed transaction and believes that the conveyance of this small particle of real property to ACHD will not disrupt the delivery of electric service to Idaho Power's customers. However, because the real property in question is currently in rate base, Staff believes that it is appropriate for the Commission to formally review this matter.

Staff believes the total amount of compensation is reasonable for the utility's property. Staff reviewed the information contained with the letter – the drawings, photos, and compensation study – as well as visiting the property. In addition, Staff reviewed the appraisal and the book value of the property.

In past cases involving the sale of buildings and real property, Staff has determined that such transactions would not be subject to *Idaho Code* § 61-328. However, because the subject property is currently in rate base, Staff believes it is appropriate for the Commission to formally review this matter at a decision meeting. Section 61-328 provides that "any property located in this state which is used in the generation, transmission, distribution or supply of electric power [may not be transferred] directly or indirectly, in any manner whatsoever, . . . except when authorized to do so by order of the public utilities commission."

STAFF RECOMMENDATION

Staff recommends approval of the transfer. Idaho Power should be required to file final accounting entries with the Commission when the transaction and new items are installed. Staff recommends that the Commission find this transaction: (1) is consistent with the public interest; (2) will not cause rates to increase by reason of the transaction; and (3) is not subject to *Idaho Code* § 62-328. Finally, Staff recommends that it instruct counsel to advise the utility in a letter that the proposed transaction does not require a Commission hearing under *Idaho Code* § 61-328.

COMMISSION DECISION

1. Does the Commission agree that the transfer of this property is in the public interest and will not cause rates to increase?

2. Does the Commission instruct counsel to send a letter to the Company confirming that *Idaho Code* § 61-328 does not require a hearing in the subject transaction?

3. Does the Commission also want to include in any letter that the Company is required to file final accounting entries with the Commission when the transaction and construction has been completed?

Don Howell
Deputy Attorney General

bls/M:Idaho Power Property_dh

IDAHO POWER
An IDACORP Company

PATRICK A. HARRINGTON
Corporate Secretary
pharrington@idahopower.com

June 10, 2013

RECEIVED
2013 JUN 11 AM 9:00
IDAHO PUBLIC
UTILITIES COMMISSION

Donald L. Howell
Lead Deputy Attorney General
Idaho Public Utilities Commission
P.O. Box 83720
Boise, Idaho 83720-0074

Re: Idaho Power Company Land Conveyance

Dear Mr. Howell:

Idaho Power Company ("Idaho Power" or "Company") plans to sell a 200 square-foot parcel of bare land (the "Property") to the Ada County Highway District ("ACHD") for ACHD's 30th Street road widening project in Boise. The Property is located at the northwest corner of 30th Street and Fairview Avenue, and is part of a larger parcel of Idaho Power land which includes a warehouse building for storage of Company equipment and vehicles. The attached survey drawings and photographs show the location of the Property as part of Idaho Power's warehouse property.

Attached is a copy of the Compensation Summary for ACHD's proposed acquisition of the Property. The valuation of the Property is $2,200, based on an appraised value of $11.00 per square foot, pursuant to an independent appraisal of the 30th Street project lands conducted for ACHD by Hugh T. Pomtier, Certified Appraiser CGA-420, working for Robert C. Williams, MAI, Real Estate Appraising & Consulting. Idaho Power has reviewed the appraisal and has determined that it provides a fair valuation for the Property.

The Compensation Summary also provides for additional elements of compensation to Idaho Power in connection with the 30th Street project. ACHD would pay Idaho Power $1,433.30 for a 1,303 square-foot temporary construction easement, which would be located along the east boundary of Idaho Power's warehouse property, bordering 30th Street (see attached drawings and photos). The temporary easement would expire upon ACHD's completion of the 30th Street project. ACHD would also pay Idaho Power a total of $2,835 for impacted improvements from the project, including ground cover, lavender plants, ornamental grass, and concrete sidewalk.

In addition, ACHD would pay Idaho Power a total of $30,398 as "cost to cure" compensation as indicated in the Compensation Summary. This compensation reflects the fact that Idaho Power would need to make certain access-related modifications and improvements at its warehouse property to retain its existing level of access to the warehouse after the 30th Street

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1221 W. Idaho St.
Boise, ID 83702

project is completed. The access impacts would result from the increased traffic flows on 30th Street and not from the conveyance of the Property or temporary construction easement to ACHD as described herein.

Idaho Code §61-328 requires that electric public utilities in Idaho obtain Idaho Public Utilities Commission approval for the sale or transfer of property in Idaho "which is used in the generation, transmission, distribution or supply of electric power and energy to the public." Idaho Power does not believe that §61-328 is applicable to the Company's proposed conveyance of the Property to ACHD. The Property is only 200 square-feet (0.005 acres) in size and the severance of the Property from Idaho Power's larger warehouse property will not impact the Company's operations.

Finally, it is important to note that ACHD has the right of eminent domain and could condemn the Property for the 30th Street project if needed. Such an action would likely result in significant legal costs to Idaho Power and could also result in lower compensation paid by ACHD than currently offered under the Compensation Summary.

If you agree with Idaho Power's assessment that the proposed conveyance of the Property to ACHD as described above would not require Commission approval under §61-328, please provide confirmation to my attention at the address above.

Sincerely,

Patrick A. Harrington

Enclosures

Cc: Terri Carlock, IPUC
Greg Said
RA File
Legal File

Photo No. 1 – HTP – 12/21/2011

Photo No. 2 – HTP – 12/21/2011