

**DECISION MEMORANDUM**

**TO: COMMISSIONER KJELLANDER  
COMMISSIONER SMITH  
COMMISSIONER HANSEN  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL**

**FROM: LISA NORDSTROM**

**DATE: JULY 7, 2004**

**RE: IDAHO POWER MOTION TO DISMISS IDACORP ENERGY CODE OF CONDUCT CASE FOR MOOTNESS. CASE NO. IPC-E-01-2.**

On June 16, 2004, Idaho Power Company (Idaho Power, Company) filed a "Motion to Dismiss for Mootness" in Case No. IPC-E-01-2, a docket that sought to develop a code of conduct for Idaho Power's marketing affiliate, IDACORP Energy (IE).

**BACKGROUND**

In Commission Order No. 28596 issued in Case No. IPC-E-00-13, the Commission authorized Idaho Power to enter into an Agreement for Electricity Supply and Management Services ("Agreement") with its affiliate IDACORP Energy Solutions, LLP ("IES"). IES subsequently changed its name to "IDACORP Energy." Idaho Power is, and IES and IE were, wholly-owned subsidiaries of IDACORP, Inc. The activities of IES and IE were not regulated by the Commission except for transactions with Idaho Power.

In Order No. 28596, the Commission stated that the Statement of Policy and Code of Conduct submitted with the Company's Application required further development and the opportunity for public input. In Order No. 28596, the Commission directed Idaho Power to make a formal filing within 30 days of a proposed policy and code of conduct for affiliate relationships. In the interim, the Commission found it reasonable that the Company and IE conduct relationships between themselves in accordance with the Statement of Policy and Code of Conduct outlined in the Company's Application.

On January 18, 2001, Idaho Power made the compliance filing discussed in Order No. 28596 and requested that the Commission approve a proposed Statement of Policy and Code of Conduct covering transactions between Idaho Power and IE. On March 5, 2001, in Order No.

28649, the Commission bifurcated the Company's Application into two separate proceedings. In Case No. IPC-E-01-2, the Commission would consider the Statement of Policy and Code of Conduct between Idaho Power and IE. Under Case No. IPC-E-01-8, the Commission would consider the Code of Conduct that would be applicable to other IDACORP subsidiaries and Idaho Power affiliates. Subsequently, the Commission approved petitions to intervene in this case filed by Astaris, LLC, Power Development Associates, LLC and the Industrial Customers of Idaho Power.

In the summer of 2002, IDACORP decided to withdraw from the wholesale power marketing business and began winding up IE's power marketing business. As of the date of this Motion, IDACORP has sold IE's assets, discharged IE's employees and IE has ceased to operate as a going concern. IE's remaining activities consist primarily of defending several pending lawsuits.

#### **IDAHO POWER'S MOTION TO DISMISS**

As a result of the closing of IE and resolution of all issues arising out of or relating to Idaho Power's business transactions with IE in the -16 Case, Idaho Power asserts there is no need for the Commission to further consider a Statement of Policy or Code of Conduct to cover transactions between Idaho Power and IE. There will be no future transactions between Idaho Power and IE because the issues originally intended to be addressed in this proceeding are moot. "A case becomes moot when 'the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.'" *Idaho Sch. for Equal Educ. Opportunity v. Idaho State Bd. of Educ.*, 128 Idaho 276, 281, 912 P.2d 644, 649 (1996) (quoting *Bradshaw v. State*, 120 Idaho 429, 432, 816 P.2d 989 (1991)).

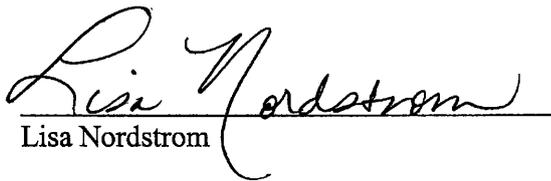
Based on the foregoing, Idaho Power requests the Commission dismiss this case with prejudice on the grounds that it has become moot. Idaho Power believes this Motion should be processed on Modified Procedure.

#### **RESPONSE (or Lack Thereof)**

No party timely objected to Idaho Power's Motion to Dismiss. Staff reviewed the Company's Motion prior to its filing and had no objection to closing this case. Case No. IPC-E-01-8 remains open and can appropriately address any affiliate transaction issues that remain.

**COMMISSION DECISION**

Does the Commission wish to grant Idaho Power's Motion to Dismiss Case No. IPC-E-01-2 for Mootness?

  
Lisa Nordstrom

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