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 IDAHO PUBLIC
 UTILITIES COMMISSION

Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF A PETITION FILED BY) IDAHO POWER COMPANY FOR APPROVAL) OF MODIFICATIONS TO THE SECURITY) PROVISIONS REQUIRED TO BE INCLUDED) IN AGREEMENTS BETWEEN IDAHO) POWER AND CO-GENERATORS) AND SMALL POWER PRODUCERS) <hr style="width: 40%; margin-left: 0;"/>	CASE NO. IPC-E-03-16 IDAHO POWER COMPANY'S PETITION FOR RECONSIDERA- TION OR, IN THE ALTERNATIVE, PETITION FOR CLARIFICATION
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COMES NOW Idaho Power Company ("Idaho Power" or the "Company") and in accordance with RP 325 and 331 *et. seq.*, hereby requests that the Commission reconsider or clarify a portion of Order No. 29482 issued in this case on April 27, 2004. Idaho Power seeks reconsideration or, alternatively, clarification of that portion of Order No. 29482 under which QF's are given the option to prepare and file the security interest documentation, presumably on behalf of Idaho Power Company. This option is discussed on Page 12 of Order No. 29482.

While the Company understands the Commission's desire to minimize QF transaction costs, Idaho Power is concerned with the conflict of interest created by

allowing QF developers to prepare and file the documents needed to secure Idaho Power's security interest in the assets of their respective QF projects.¹ Idaho Code Title 28, Chapter 9, is the portion of the Idaho Code that governs secured transactions. It sets out very precise documentation and filing requirements to perfect a security interest. If the requirements are not filed precisely, the security interest is not perfected and is subject to attack in the event of competing creditors seeking to foreclose on the QF's assets. The QF's failure to correctly document, perfect and maintain a security interest in QF project assets would jeopardize the Company's ability to maintain a priority creditor position on the assets covered by the security interests. If the project experiences financial problems, the conflict of interest arises because the QF developer and its other creditors could be financially benefited by the failure of Idaho Power's security interest (created by the QF) and Idaho Power and its customers would be harmed by such failure. QF developers have a disincentive to do a thorough job of creating and perfecting Idaho Power's security interest. Giving the QF developer the option to create the security interest that Idaho Power would have to rely on in a foreclosure or bankruptcy proceeding, presents such a basic conflict of interest that Idaho Power believes the Commission should reconsider this portion of the Order. Idaho Power questions whether the minimal cost savings to the QF developer is worth the risk to customers.

If the Commission still desires to provide this option to QF developers, Idaho Power requests that the Commission clarify Order No. 29482 by requiring that QF developers that desire to prepare and file the documentation to perfect Idaho Power's

¹ The legal term for this documentation and filing process is "perfecting" a security interest. Idaho Code, Title 28, Chapter 9.

security interest in the QF's projects must permit the Company to review and approve all aspects of the creation of the security interest. The Commission should also clarify that if the QF exercises this option to self-file, Idaho Power will have no obligation to take remedial steps if the QF developer fails to adequately cover all project assets or fails to file any required continuation statements to maintain the viability of the security interest over the full term of the contract.

The above-described review and approval procedure will require the Company to incur additional legal expense. Considering both the QF's cost to have its counsel prepare the security interest documents and the cost Idaho Power will incur to review them, it is likely that the QF self-filing option will be more expensive than if the Company had prepared the lien documents in the first place. Nevertheless, Idaho Power believes the initial review and approval by Idaho Power is necessary to at least reduce the likelihood of potential problems if a QF project experiences financial problems.

On Page 12 of Order No. 29482 the Commission cautions the Company that if it fails to enforce QF compliance with the Commission's -292 case security requirements, it will be Idaho Power and not its customers that will be at risk for the foregone security. Idaho Power believes it is unreasonable for the Commission to require Idaho Power to accept security interests created by the QF developer and then put the Company at risk if those security interests are not enforceable or do not cover all of the assets associated with the QF project. If the Commission gives QF developers the option to prepare and file the documents needed to perfect Idaho Power's security interest in the QF's assets, the Company should be relieved of any liability if it's

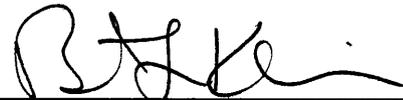
ultimately determined that the security interest provisions of the Commission's -292 security requirements do not cover all of the assets or cannot be enforced.

Based on the foregoing, Idaho Power respectfully requests that the Commission issue its order granting reconsideration of that portion of Order No. 29482 which gives QF developers seeking levelized rates the option to prepare and file the security interest documentation for their own projects. Alternatively, Idaho Power requests that the Commission clarify Order No. 29482, to require the QF to allow the Company to review and approve the security interest documentation and perfection process as a condition of contract compliance on the part of the QF.

Finally, the Company requests that the Commission clarify Order No. 29482 to provide that if the QF developer exercises the option to prepare and file the lien documents needed to secure Idaho Power's security interest in the assets of the QF projects, even if Idaho Power has review and approval authority, Idaho Power would be relieved of any liability for failure to comply with the security interest provisions of the Commission's -292 security requirements.

If the Commission grants reconsideration, Idaho Power believes that written comments would be sufficient to address the issues raised by this Petition.

Respectfully submitted this 17th day of May, 2004.



BARTON L. KLINE
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of May, 2004, I served a true and correct copy of the within and foregoing IDAHO POWER COMPANY'S PETITION FOR CLARIFICATION upon the following named parties by the method indicated below, and addressed to the following:

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Deputy Attorney General
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