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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL) CASE NO. IPC-E-04-1
OF AN AGREEMENT FOR SALE AND)
PURCHASE OF ELECTRIC ENERGY)
BETWEEN IDAHO POWER COMPANY AND) COMMENTS OF THE
UNITED MATERIALS OF GREAT FALLS, INC.) COMMISSION STAFF
_____)**

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Scott Woodbury, Deputy Attorney General, and in response to the Notice of Application, Notice of Modified Procedure and Notice of Comment/Protest Deadline issued on February 20, 2004 submits the following comments.

BACKGROUND

On February 4, 2003, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of an Energy Sales Agreement (Agreement) between Idaho Power Company and United Materials of Great Falls, Inc. (United Materials) dated January 6, 2004. Under the Agreement, United Materials would sell and Idaho Power would purchase net electric energy and surplus energy generated by United Materials' generation facility. United Materials proposes to design, construct, install, own and maintain a 9 MW wind generating facility (the Horseshoe Bend Wind

Park or the Project) located at the United Materials industrial facility near Great Falls, Montana. The project will be a Qualifying Facility (QF) under the applicable provisions of the Public Utilities Regulatory Policy Act of 1978 (PURPA).

As represented by Idaho Power, the Agreement includes purchase prices consistent with the non-levelized “posted rates” approved by the Commission in Order No. 29391. United Materials has elected to contract with Idaho Power for a 20-year term and has agreed to arrange for delivery of energy to the Idaho Power electrical system across the system of another utility.

The Horseshoe Bend Wind Park Project is located outside of Idaho Power’s service territory. The entity transmitting the Project’s power to Idaho Power’s transmission system, NorthWestern Energy, has purportedly agreed to “firm” on an hourly basis all energy deliveries from the Project to Idaho Power. This will result in flat hourly energy scheduled into the Idaho Power system.

The submitted Agreement is the first wind energy generation sales agreement to be executed by Idaho Power. Idaho Power reports that it has developed a cogeneration and small power producer agreement concept that is consistent for all QF (Qualifying Facilities under PURPA) projects regardless of their energy resource (wind, hydro, geothermal, wood waste, etc.) that incorporates (1) current IPUC Orders, (2) current technologies, and (3) current utility industry standards. The submitted Agreement, the Company states, contains many of these concepts as well as several unique provisions because the project is not directly connected to the Idaho Power system.

ANALYSIS

Staff has reviewed the rates contained in the Agreement and finds that they comport with Order No. 29391, the most recent Commission order establishing avoided cost rates. However, because this Agreement is the first for a wind energy generation project and because it contains numerous terms and conditions significantly different than have been included in prior QF contracts, Staff believes it is important to address these new and/or revised terms and conditions because they directly affect the amounts Idaho Power will pay to United Materials.

Opportunity for QFs to Participate in the Firm Energy Sales Agreement

Traditionally contracts between Idaho Power and QFs have been denominated as “Firm Energy Sales Agreements.” However, the energy purchased under some of these contracts is not

“firm energy” as that term is commonly defined by the electric industry. Firm energy purchases that a utility makes from non-QF suppliers specify the amounts to be delivered during heavy-load or light-load hours for the term of the agreement. If the energy is not delivered in the specified amounts at the specified times, liquidated damage provisions in the non-QF purchase agreements allow the utility to acquire the energy from other sources and receive reimbursement from the defaulting supplier for all of the utility’s costs.

Moreover, the combined cycle combustion turbine (CCCT), which is the Surrogate Avoided Resource (SAR) the Commission has used to set the posted rates, is also a dispatchable producer of firm energy. If Idaho Power constructs a CCCT, the energy from that CCCT resource would be dispatched on a firm basis to meet customer loads or to allow for surplus sales.

In the past, Commission rules have not established specific performance criteria for QF resources to determine their firm or non-firm status. Because of the small size of many QFs, the similarity of many early projects, and the Commission’s past policies to encourage development of renewables, nearly all QFs were considered firm energy projects and eligible for the full, published avoided cost rates. Now, however, particularly with the introduction of new generation technologies in Idaho, there is wide disparity in the performance characteristics of new projects. In order to eliminate the need to predetermine the firm or non-firm status of a QF resource (i.e., wind, hydro, biomass) and instead, to provide an opportunity for QF resources to receive the Firm Published Avoided Cost Rate based upon the QF’s actual performance, Idaho Power has included provisions for “Base Energy,” “Shortfall Energy” and “Surplus Energy.” The provisions will encourage United Materials to provide energy with a greater degree of “firmness,” while at the same time allowing a reasonable amount of flexibility to United Materials in operating its facility. The provisions require QFs using various generating technologies to actually perform on a firm basis to receive the posted firm rates. For non-firm energy delivered under the Agreement, and for firm energy not delivered, the provisions help insure that Idaho Power pays no more than if it purchased equivalent energy from the market.

Included as Attachment 1 are graphical representations of six different scenarios intended to illustrate how this contract works. The first three scenarios are for situations where market energy costs are higher than the Base Energy Price in the Agreement. The second three scenarios are for situations where market energy prices are less than the Base Energy Price. It

may be helpful to view these graphs while reading the following descriptions of the contract terms.

Base Energy

United Materials is required at two-year intervals to estimate its monthly generation. Base Energy is all energy delivered by United Materials that is less than 110 percent of the amount which it has estimated. Payment for all Base Energy is made at the non-levelized published avoided cost rate. Scenario 1 of Attachment 1 depicts the concept of Base Energy. The non-levelized published avoided cost rate is paid for all Base Energy generation that falls within a band of 90-110 percent of the estimated monthly generation amount.

Shortfall Energy

The Agreement also includes a purchase price adjustment provision in the event United Materials' generation falls short of the estimated amount. Under this provision, United Materials' actual net monthly generation is compared to the estimated monthly generation. If the amount of actual generation is 90 percent or less of the month's estimated generation, the difference between the actual generation and the estimated generation is defined as "Shortfall Energy." If the market energy cost is greater than the Agreement's price for energy in the month that the shortfall occurs, then a "Shortfall Energy Payment" is offset against the Base Energy Payment. Scenario 2 of Attachment 1 depicts the concept of Shortfall Energy.

Staff notes that it is possible that the QF project owner could end up owing Idaho Power in a given month if the project experiences a severe energy shortfall and if market energy cost sufficiently exceeds the contract's Base Energy rates.

Surplus Energy

Under the concept of "Surplus Energy," each month United Materials' actual net generation will be compared to the monthly generation estimated by United Materials. If United Materials' actual generation exceeds 110 percent of a month's estimated generation, the energy in excess of 110 percent is valued at the Surplus Energy Price. The Surplus Energy Price is equal to 85 percent of the Mid-C non-firm index for the month. Scenario 3 of Attachment 1 depicts the concept of Surplus Energy.

According to Idaho Power, whether energy produced by United Materials is Surplus Energy or not is at the sole discretion of United Materials since United Materials sets the monthly estimated generation levels indicated in the Agreement. United Materials can reset the monthly estimated generation amounts every two years to reflect its increased operating experience and to allow United Materials to respond to changes in expected wind, equipment performance, etc. The only limitation placed on United Materials by the Company is that the Net Firm Energy estimated for each month cannot exceed the nameplate rating of the generation equipment.

Scenarios 4, 5, and 6 of Attachment 1 illustrate the same concepts, but in the instance where Market Energy Cost exceeds the Base Energy Prices contained in the contract.

Staff believes it is reasonable in this case to include contract provisions regarding project standards of firmness however, these are not provisions that have been required by the Commission in the past and should be further evaluated in future contracts. QF projects in the past have consisted mostly of small hydropower projects, many located on irrigation canals, whose generation was relatively steady and predictable. The handful of existing wood waste and cogeneration projects have provided generation in an even more predictable fashion. Still, there is wide variation in the predictability and “firmness” of existing projects. Now, with the strong interest in developing wind energy projects, the very different generating characteristics of various technologies make the potential problem of paying firm rates for non-firm generation all the more important. Wind projects generally are unable to deliver energy predictably on a short-term basis. On a long-term basis, however, their output may be more predictable than a small hydro project.

Staff believes that Idaho Power’s proposal in this contract to require the project to commit two years in advance to monthly generation amounts accomplishes the goal of attaining planning certainty, but stops short of penalizing the project for inability to predict generation hours, days or weeks in advance. As a result, this project can qualify for firm energy rates if the developer can reasonably predict monthly generation levels.

Whether similar contract provisions are the appropriate for projects other than United Materials or whether firmness standards should be required at all, Staff believes, should not be determined in the context of a negotiated and mutually accepted contract.

Seasonality

Previous Commission Orders and QF agreements recognized that the value of energy generated differs in accordance with the season in which it is actually delivered to Idaho Power. As an incentive for a QF to deliver energy to the Company during times when it is of greater value to the Company, the posted rates have historically been “seasonalized.” This means that generation in high demand months is paid at a rate of 120 percent of the avoided cost rate, generation in shoulder months at 100 percent and generation in low demand months at 73.5 percent of the avoided cost rate.

Idaho Power has seasonalized the rates in this Agreement. The weighting factors used for seasonalization remain the same as in previous contracts, but the months in which each factor applies have been re-arranged to better align the seasons with the months in which Idaho Power has identified actual energy needs. The months included in each season are the same as in the Company’s most recent contract (Tiber Montana contract, see IPC-E-03-01, Order No. 29232). The seasons and their associated weighting factors are as follows:

<u>Season</u>	<u>Weighting Factor</u>	<u>Months</u>
1	0.735	March – May
2	1.20	June, July, Nov., Dec.
3	1.00	Jan., Feb., Aug., Sep., Oct.

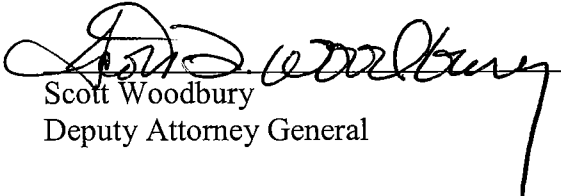
Staff believes that the seasons identified in the Agreement are reasonable, but recognizes that different months may be more appropriate for each season in future contracts.

As reflected in Agreement Section 21.3, United Materials may terminate the Agreement on 60 days prior written notice if (1) the Federal Production Tax Credit or other similar economic incentive is not renewed, modified or created in a manner that enables United Materials to participate in these incentives in the same manner as if the Project was commercially online as of the date of the Agreement, (2) and United Materials has not begun construction of the Project. Once construction of the Project has begun, United Materials may not terminate the Agreement as specified in Section 21.3. As of the date of the filing of these comments, Congress has not renewed the Federal Production Tax Credit.

RECOMMENDATIONS

Idaho Power and United Materials have presented a negotiated PURPA contract for Commission approval. The contract rates are non-levelized and conform to Commission posted rates for QFs smaller than 10 MW. Staff believes that because both parties find the terms of the Agreement acceptable and because the proposed rates and terms do not violate prior Commission Orders, that the Commission should not stand in the way of the Agreement. Staff recommends that the Agreement be approved and that those non-standard terms unique to this contract (i.e. encouraging increased firmness, and seasonality) not be viewed as precedential.

Respectively submitted this 12th day of March 2004.


Scott Woodbury
Deputy Attorney General

Technical Staff: Rick Sterling

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United Materials Contract Generation and Payment Scenarios

Base Energy Price = \$50/MWh

Market Energy Cost = \$60/MWh

100 MWh Current Month Estimated Net Energy Deliveries

