

DECISION MEMORANDUM

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

FROM: SCOTT WOODBURY

DATE: NOVEMBER 30, 2004

**RE: CASE NO. IPC-E-04-28 (Idaho Power)
FIRM ENERGY SALES AGREEMENT--TERMINATION
IDAHO POWER/CITY OF BOISE**

On November 22, 2004, Idaho Power Company (Idaho Power; Company) filed an Application requesting a Commission Order approving termination of deliveries of energy from the City of Boise's 180 kW methane fueled generation facility located at the City's West Boise Wastewater Treatment Plant and termination of the associated 15-year non-levelized Firm Energy Sales Agreement (Agreement) dated November 8, 1991. The City's generation facility is a qualified small power production facility (QF) under the Public Utility Regulatory Policies Act of 1978 and the implementing regulations of the Federal Energy Regulation Commission (FERC). The Agreement was approved by the Commission in Order No. 23986, Case No. IPC-E-91-23. The estimated annual energy production is 1,104,000 kilowatt hours.

In correspondence dated October 25, 2004, the City of Boise requests termination of the Firm Energy Sales Agreement for an effective date of October 25, 2004. As noted by the City, the West Boise generation facility has been experiencing significant problems with the generation equipment due to the inherent corrosive nature of the digester methane gas that fuels the equipment. Over the past 12 years, the equipment has been routinely rebuilt and repaired in an effort to prolong the life of the project. At this time, however, the City contends that the equipment is beyond repair. While the City intends to install gas conditioning devices and new generation equipment in the future, the gas conditioning equipment will not be available and in place before expiration of the term of the existing Agreement in November 2006.

Idaho Power in its Application indicates that the Company has reviewed the underlying Agreement. Because the energy payments are non-levelized, Idaho Power states that there is no accumulated overpayment obligation. Furthermore, under the Agreement there are no provisions for liquidated damages or early termination penalties.

For the remaining term of the Agreement through October 2006, the non-levelized energy rates set out in the Agreement range from approximately 49 mills/kWh to 81 mills/kWh for an average of 68.20 mills/kWh. On October 28, 2004, Idaho Power reports that the forecasted Mid-C market values for the same time frame range between 30 mills/kWh and 68 mills/kWh for an average of 57.90 mills/kWh. The accumulative difference between the Agreement's actual energy payment and the equivalent forecasted Mid-C market energy purchases over the same time period results in the Agreement's energy payments being approximately \$35,000 greater than similar energy purchases based on the forecasted Mid-C market energy prices.

Should the Commission approve the Application, it is Idaho Power's intention to remove the interconnection equipment at the West Boise project site as requested by the City and in accordance with the terms of the Agreement.

COMMISSION DECISION

Idaho Power has requested a Commission Order approving termination of the 15-year Firm Energy Sales Agreement between Idaho Power and the City of Boise. The proposed termination is at the request of the City. Because the energy payments are non-levelized, no overpayments have accumulated. The Agreement provides for no liquidated damages or early termination penalties. Staff has reviewed the Company's filing and supporting workpapers and recommends that the Application be approved and that termination of the Agreement be authorized without further notice or procedure. Does the Commission find it reasonable to authorize the termination of the QF Agreement between Idaho Power and the City of Boise without further notice and procedure?

Scott Woodbury

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