DONOVAN E. WALKER
CECELIA A. GASSNER
DEPUTY ATTORNEYS GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0357 AND (208) 334-0314
IDAHO BAR NOS. 5921 AND 6977

Street Address for Express Mail:
472 W. WASHINGTON
BOISE, ID 83702-5983

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION OF APPROPRIATE RATEMAKING TREATMENT OF IDAHO POWER COMPANY'S S02 ALLOWANCE SALE PROCEEDS.	)	**CASE NO. IPC-E-05-26** **COMMENTS OF THE COMMISSION STAFF**

The Staff of the Idaho Public Utilities Commission, by and through its Attorneys of record, Donovan E. Walker and Cecelia A. Gassner, Deputy Attorneys General, respectfully submit the following comments in response to Order No. 30016, issued on April 11, 2006.

BACKGROUND

On June 9, 2005, Idaho Power Company (Idaho Power, Company) filed an Application requesting: (1) blanket authority to sell surplus sulfur dioxide (SO_2) allowances and (2) an accounting order to provide for recording any sale(s) of such allowances. Case No. IPC-E-05-20. The Company's Application also suggested that a determination of ratemaking treatment for the proceeds be made at a later date.

On August 22, 2005, the Idaho Public Utilities Commission (Commission) approved the Company's Application. Order No. 29852. The Commission, while reserving the review of the reasonableness of each sale, granted Idaho Power's request for blanket authority to sell SO2 emissions allowances and approved the accounting treatment proposed by the Company, on an interim basis, until such time as the Commission determines the appropriate ratemaking treatment of the proceeds from the sale of the SO2 allowances. *Id.* The Company was ordered to file a report with the Commission within 60 days of the receipt of any SO2 proceeds. *Id.* Additionally, the Commission ordered that a separate docket be opened for Staff to conduct workshops and make a recommendation to the Commission regarding the appropriate ratemaking treatment of SO2 proceeds. *Id.*

This docket, IPC-E-05-26, was opened and two workshops were held on November 7 and November 23, 2005, respectively. During the workshops the parties were unable to reach agreement upon the ratemaking treatment of the proceeds. On March 6, 2006, the Commission issued Order No. 29989, establishing a comment deadline of March 31, 2006, and a subsequent briefing schedule. On March 30, 2006, this comment deadline and briefing schedule was vacated based upon the parties' notification that an agreement had been reached. The Industrial Customers of Idaho Power and Micron were the only parties to petition for intervention, which was granted.

The parties met on March 23, 2006, and reached agreement upon an appropriate ratemaking treatment for the allowance proceeds. The parties have signed a Stipulation providing that SO2 allowance sales proceeds be included in the Company's annual Power Cost Adjustment (PCA) proceeding, with 90% of the net proceeds to be passed on to customers, and 10% of the net proceeds to be retained as a shareholder benefit. This Stipulation has been filed with the Commission. Idaho Power has filed a Motion for Approval of the Stipulation asking the Commission to accept the Stipulation in its entirety without material change or condition.

The Stipulation

On April 6, 2006 Idaho Power Company filed a motion with the Commission requesting approval of an agreement (Stipulation) among the parties (Company, Staff, Micron Technology and the Industrial Customers of Idaho Power) with respect to sharing and distribution of proceeds resulting from the sale of SO2 allowances. The Stipulation specifies that net proceeds resulting from the sales will be distributed through the Power Cost Adjustment (PCA) mechanism, as are other extraordinary power supply costs and benefits. The net proceeds currently estimated at approximately $49 million will be jurisdictionally allocated to Idaho at the approved rate of 94.1%

and shared 90%/10% between ratepayers and shareholders. Any proceeds from future sales will be jurisdictionally allocated to Idaho and shared at the then approved ratios.

The Stipulation further specifies that the Idaho customer benefit, currently amounting to $42.1 million, will accrue interest at the PCA rate and be reflected in the PCA as a credit to the PCA true-up balance for amortization in the PCA rates during the June 1, 2007 through May 31, 2008 PCA rate period. Idaho Power will record any proceeds from future sales of surplus SO2 allowances, net of taxes and fees, received after June 1, 2006 in the PCA for allocation and sharing through the true-up portion of the PCA.

Staff Analysis

Staff believes the Stipulation, signed by all parties to this case, aligns the interest of shareholders and ratepayers by reasonably sharing the net proceeds from the sale of SO2 allowances. Staff supports the terms laid out in the Stipulation and recommends Commission approval.

However, the Stipulation reflects the SO2 proceeds net of tax. In subsequent discussions, it has been determined that the taxes will be a timing difference only. Therefore it will be appropriate to gross-up the current $42.1 million benefit when it is returned to customers in the PCA. Idaho Power has informed Staff that it agrees with this concept. Staff recommends that the Commission include the provision for gross-up of the benefits when returned to customers in the PCA if it approves the Stipulation.

Staff's support for the settlement is based on its belief that SO2 allowances are an attribute of coal plants paid for by ratepayers and that the benefits derived from the sale of such excess allowances (credits) should be returned to the ratepayer. The credits accrue as a direct result of plant operation and ownership in much the same way that energy generated from the plant is used to meet ratepayer demand and generate surplus sales revenue to offset plant-operating costs.

The generation of SO2 credits results from the plant configuration with respect to installed environmental equipment, the geographic location of the plant, the total time the plant is operated and the nature of the coal used to fuel the plant. All of these factors dictate the cost of plant generation, the volume of generation available for surplus sales and the environmental costs/benefits expected from the plant. To the extent coal costs increase, they are passed through to customers, to the extent surplus revenues decline or environmental costs increase, they too are passed on to customers. The reverse is also true. When coal costs decline, when surplus sales revenue increases or when environmental costs/benefits of the project decline/increase, savings/benefits are returned to customers.

An analysis of the SO2 allowance program in 1998 showed that of the 18 states addressing the issue of cost and benefit distribution associated with the purchase and sale of SO2 credits, 15 required automatic pass through of costs and savings to ratepayers through power cost adjustment mechanisms. Several states employed an incentive based sharing to align the interest of ratepayers and shareholders.

Staff believes that the PCA, designed to track and true-up for abnormal power supply costs and revenues, is the logical mechanism to track and distribute proceeds from the sale of SO2 allowances in this case. While Staff believes that SO2 proceeds are similar to surplus generation sales revenue in that the magnitude of such proceeds in any year can be affected by market price variability and perhaps weather conditions, Staff also believes that normalization of annual proceeds in base rates would be difficult if not impossible to achieve. More importantly, sharing of the proceeds through the existing PCA mechanism provides a financial incentive to the Company to maximize SO2 allowance sales for the benefit of both shareholder and ratepayer. Therefore, Staff supports the use of the PCA as specified in the Stipulation for distribution of the SO2 proceeds with the understanding that proceeds will be grossed-up for taxes when returned to customers through the PCA.

Finally, the Stipulation provides that the current proceeds be returned as part of the PCA true-up in the 2007 through 2008 PCA period. Although Staff supports the stipulated period for proceed distribution, Staff would not be opposed to modification of the period over which proceeds were returned if conditions warranted and the other parties to the stipulation agreed.

Respectfully submitted this day of April 2006.

Donovan E. Walker
Cecelia A. Gassner
Deputy Attorneys General

Technical Staff: Randy Lobb
Terri Carlock

i:umisc/comments/ipce05.26dwtcrl

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 24TH DAY OF APRIL 2006, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF,** IN CASE NO. IPC-E-05-26, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

BARTON L KLINE
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070

PETER J RICHARDSON
RICHARDSON & O'LEARY
515 N 27TH ST
PO BOX 7218
BOISE ID 83702

CONLEY E WARD
GIVENS PURLSEY LLP
601 W BANNOCK ST
PO BOX 2720
BOISE ID 83701-2720

DON READING
BEN JOHNSON ASSOCIATES
6070 HILL ROAD
BOISE ID 83703

DENNIS E PESEAU, PH.D.
UTILITY RESOURCES INC
1500 LIBERTY ST SE
SUITE 250
SALEM OR 97320

Jean D. Jewell
SECRETARY