

## DECISION MEMORANDUM

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

**FROM:** DONOVAN E. WALKER

**DATE:** MAY 2, 2006

**SUBJECT:** INVESTIGATION OF THE APPROPRIATE RATEMAKING  
TREATMENT OF IDAHO POWER'S SO<sub>2</sub> ALLOWANCE SALE  
PROCEEDS – CASE NO. IPC-E-05-26

### BACKGROUND

On June 9, 2005, Idaho Power Company (Idaho Power, Company) filed an Application requesting: (1) blanket authority to sell surplus sulfur dioxide (SO<sub>2</sub>) 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 SO<sub>2</sub> 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 SO<sub>2</sub> allowances. *Id.* The Company was ordered to file a report with the Commission within 60 days of the receipt of any SO<sub>2</sub> 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 SO<sub>2</sub> 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

The comments of the Northwest Energy Coalition also supported the proposed allocation of the sale proceeds set forth in the Stipulation, but proposed that the Commission consider some alternative uses for some of the proceeds allocated to ratepayers, such as earmarking some of the proceeds for longer term conservation and efficiency programs. They suggest that the Commission entertain suggestions on how some of these proceeds might be used to help foster initiatives that further reduce carbon emissions, promote carbon-reducing technologies, implementing more programs to reduce peak demand, leveraging funds for investments in agricultural biodigesters, or enhancing energy-savings weatherization and other programs for low-income ratepayers.

The Idaho Energy Education Project likewise suggested that the proceeds from the sale of the SO<sub>2</sub> allowance be invested in programs aimed at cleaning up the Company's coal plants, energy efficiency and conservation programs, and renewables. They also suggest that some money be allocated to energy education programs in schools. They suggest an allocation of 10% to Idaho Power investors, 10% to the energy education project, and the remaining 80% to be split among the four Idaho Power ratepayer groups.

The remaining comments from Idaho Power customers all advocated returning the money back to the public and the customers. They suggested that some money be used for alternatives such as demand reduction and conservation, renewable energy and energy efficiency, grants to schools and universities for research and education, as well as returning it to ratepayers to reduce their power bills. One commenter stated that some portion should be given to the Company's shareholders, but most should go to the customers.

#### **COMMISSION DECISION**

Does the Commission wish to approve the Stipulation filed by the parties? Does the Commission wish to adopt the clarification suggested by DOE, Staff, and agreed to by Idaho Power? (That the net of tax credit to ratepayers be grossed-up to recognize the tax savings that will accrue when the credit is provided to customers through the PCA)? Anything else?

  
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PUBLIC UTILITIES COMMISSION

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE )  
INVESTIGATION OF APPROPRIATE ) CASE NO. IPC-E-05-26  
RATEMAKING TREATMENT OF )  
IDAHO POWER COMPANY'S SO2 ) STIPULATION  
ALLOWANCE SALE PROCEEDS. )  
\_\_\_\_\_ )

This Stipulation ("Stipulation") is entered into by and among Idaho Power Company ("Idaho Power" or the "Company"), the Staff of the Idaho Public Utilities Commission ("Staff"), the Industrial Customers of Idaho Power ("ICIP") and Micron Technology, Inc. ("Micron"). These entities are collectively referred to as the "Parties."

I.

**INTRODUCTION**

1. The terms and conditions of this Stipulation are set forth herein. The Parties agree that this Stipulation represents a fair, just and reasonable compromise of the issues raised in this proceeding and that this Stipulation is in the

public interest. The Parties maintain that the Stipulation and its acceptance by the Idaho Public Utilities Commission (“IPUC” or “Commission”) represents a reasonable resolution of legal and other issues identified in this matter. The Parties, therefore, recommend that the Commission, in accordance with RP 274, approve the Stipulation and all of its terms and conditions without material change or condition.

## II.

### BACKGROUND

2. On August 22, 2005, in Order No. 29852 issued in Case No. IPC-E-05-20, the Commission approved Idaho Power’s Application for (1) blanket authority to sell surplus sulfur dioxide (“SO<sub>2</sub>”) emission allowances and (2) an accounting order to provide for recording the sales of such surplus allowances pending a determination of appropriate ratemaking treatment for the proceeds of such sales. The Company was ordered to file a report with the Commission within sixty (60) days of the receipt of the proceeds of any surplus SO<sub>2</sub> allowance sales. The Commission also ordered that this docket be opened and directed the Staff to conduct workshops and make a recommendation to the Commission regarding the appropriate ratemaking treatment of any surplus SO<sub>2</sub> allowance proceeds.

3. Petitions to intervene in this proceeding were filed by ICIP and Micron. The Commission granted the intervention of the ICIP in IPUC Order No. 29978 and Micron’s petition in Order No. 30005.

4. Pursuant to Order No. 29852, the Company has filed three Status Reports concerning its sales of SO<sub>2</sub> allowances. The reports were filed on December 9, 2005, February 3, 2006 and March 23, 2006.

5. As of the date of this Stipulation, Idaho Power has sold 78,000 SO<sub>2</sub> emission allowances for a total emissions allowance sales amount of approximately \$81.6 million. After subtracting transaction fees and income taxes, the total amount of sales proceeds to be allocated to the state of Idaho is approximately \$46.8 million. This \$46.8 million amount assumes an income tax rate of approximately 39% and a jurisdictional allocation to Idaho of 94.1%. Attachment 1 provides a detailed computation of the approximately \$46.8 million proceeds amount.

6. Pursuant to notice and in accordance with RP 272, the Parties held workshops and settlement discussions on November 7, 2005, November 23, 2005, February 7, 2006 and March 23, 2006. Based upon the settlement discussions among the Parties, as a compromise of the positions of the Parties in this case and for other consideration as set forth below, the Parties agree to the following terms:

### III.

#### TERMS OF THE STIPULATION

7. Inclusion of Sales Proceeds In the PCA. The Parties agree that if the Commission issues its Order approving this Stipulation, the Company will retain 10% of the approximately \$46.8 million in total emission allowance net proceeds, which is currently approximately \$4.7 million, as a shareholder benefit. The remaining 90% of the approximately \$46.8 million in total emission allowance net proceeds, which is currently approximately \$42.1 million, will be recorded as a customer benefit included as a line-item in the PCA true-up. At the date of the Order approving this Stipulation, the customer benefit of approximately \$42.1 million, with interest computed at the PCA interest rate, will be reflected in the Company's PCA as a credit to the PCA true-up

balance for amortization in PCA rates during the June 1, 2007 through May 31, 2008 PCA rate period. A more detailed description of the accounting to be used to defer and amortize the customer benefits to the appropriate PCA account is enclosed on Attachment 2.

8. Additional Sales of Surplus SO<sub>2</sub> Allowances. Idaho Power currently anticipates needing approximately 14,500 allowances for compliance with Clean Air Act requirements each year. Idaho Power receives allocations of SO<sub>2</sub> allowances from the EPA each year. Idaho Power's annual allowance allocations range from 15,524 to 28,622. As a result, it is possible that in the future Idaho Power may, in accordance with the authority granted in Order No. 29582, sell additional surplus SO<sub>2</sub> emission allowances in a manner similar to the sales that generated the above-described \$81.6 million proceeds. Idaho Power will record any proceeds of future sales of surplus SO<sub>2</sub> allowances, net of taxes and fees, received after June 1, 2006 in the PCA. Within future PCA true-ups the recorded amount will be jurisdictionalized and shared.

9. The Parties agree that this Stipulation represents a compromise of the positions of the Parties in this case. As provided in RP 272, other than any testimony or comments filed in support of the approval of this Stipulation, and except to the extent necessary for a Party to explain before the Commission its own statements and positions with respect to the Stipulation, all statements made and positions taken in negotiations relating to this Stipulation shall be confidential and will not be admissible in evidence in this or any other proceeding.

10. The Parties submit this Stipulation to the Commission and recommend approval in its entirety pursuant to RP 274. Parties shall support this Stipulation before the Commission, and no Party shall appeal a Commission Order approving the Stipulation or an issue resolved by the Stipulation. If this Stipulation is challenged by any person not a party to the Stipulation, the Parties to this Stipulation reserve the right to file briefs and comments and put on such case as they deem appropriate to respond fully to the issues presented, including the right to raise issues that are incorporated in the settlements embodied in this Stipulation. Notwithstanding this reservation of rights, the Parties to this Stipulation agree that they will continue to support the Commission's adoption of the terms of this Stipulation.

11. If the Commission rejects any part or all of this Stipulation, or imposes any additional material conditions on approval of this Stipulation, each Party reserves the right, upon written notice to the Commission and the other Parties to this proceeding, within 14 days of the date of such action by the Commission, to withdraw from this Stipulation. In such case, no Party shall be bound or prejudiced by the terms of this Stipulation, and each Party shall be entitled to seek reconsideration of the Commission's order, file briefs and comments, and do all other things necessary to put on such case as it deems appropriate. In such case, the Parties immediately will reconvene for purposes of establishing a procedural schedule for the completion of the case.

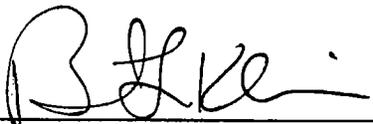
12. The Parties agree that this Stipulation is in the public interest and that all of its terms and conditions are fair, just and reasonable.

13. No Party shall be bound, benefited or prejudiced by any position asserted in the negotiation of this Stipulation, except to the extent expressly stated herein, nor shall this Stipulation be construed as a waiver of the rights of any Party unless such rights are expressly waived herein. Except for the agreements expressly set out in Sections 7 and 8 herein, (a) execution of this Stipulation shall not be deemed to constitute an acknowledgment by any Party of the validity or invalidity of any particular method, theory or principle of law, regulation or cost recovery and (b) no Party shall be deemed to have agreed that any method, theory or principle of law, regulation or cost recovery employed in arriving at this Stipulation is appropriate for resolving any issues in any other proceeding in the future. No findings of fact or conclusions of law other than those stated herein shall be deemed to be implicit in this Stipulation.

14. The obligations of the Parties under this Stipulation are subject to the Commission's approval of this Stipulation in accordance with its terms and conditions and upon such approval being upheld on appeal by a court of competent jurisdiction.

15. This Stipulation may be executed in counterparts and each signed counterpart shall constitute an original document.

Idaho Power Company

By   
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Attorney for Idaho Power Company

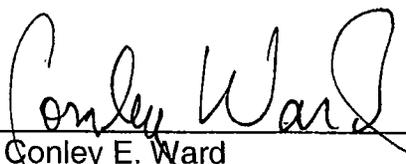
Dated: 4-05-06

Idaho Public Utilities Commission Staff

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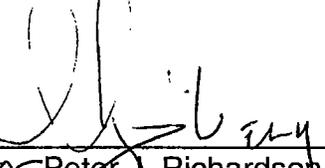
Dated: 4-6-06

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Dated: 4/6/06

Industrial Customers of Idaho Power

By   
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Attorney for Industrial Customers  
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Dated: 04.07.06