IDAHO POWER
An IDACORP Company

IDAHO POWER COMPANY
P.O. BOX 70
BOISE, IDAHO 83707

BARTON L. KLINE
Senior Attorney

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IDAHO PUBLIC
UTILITIES COMMISSION

September 22, 2006

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-06-06
Application of Idaho Power Company for an Accounting Order Addressing the Deferral of Costs Related to the Development of Grid West

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of Idaho Power Company's Reply Comments in the above-referenced matter.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,

Barton L. Kline

BLK:sh
Enclosures

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Boise, Idaho 83702

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2006 SEP 22 PM 4:58
IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR AN ACCOUNTING ORDER ADDRESSING THE DEFERRAL OF COSTS RELATED TO THE DEVELOPMENT OF GRID WEST	CASE NO. IPC-E-06-6 REPLY COMMENTS OF IDAHO POWER

BACKGROUND

In Order No. 2000[1], the Federal Energy Regulatory Commission ("FERC") required utilities to take steps to form and participate in regional transmission organizations ("RTOs"). Pursuant to this order, Idaho Power joined other utilities in forming a nonprofit regional transmission organization to "manage the use and expansion of the region's transmission grid." This RTO named RTO West and subsequently Grid West needed funding from its utility members in order to effectuate its mandate. Accordingly, Idaho Power and other western utilities entered into a series

[1] 89 FERC 61, 285 (1999), Order on reh, g Order No. 2000-A, 90 FERC 61, 201 (2000).

of agreements under which they loaned RTO West-Grid West money (the "Funding Agreements"). Starting in June 2000, Idaho Power loaned RTO West-Grid West a total of $1,274,158 including accrued interest. In addition, through year-end 2004Idaho Power incurred another $2,594,318 in incremental internal costs.

Both Staff and the Industrial Customers of Idaho Power ("ICIP") in their comments recommend that the Commission accept the Company deferral of the principal portion of the loan's made under the Funding Agreements.

In addition, both Staff and ICIP propose various downward adjustments to the currently accrued balance of the loan amounts and limitations on the carrying charges to be applied to the deferred balance of the loans during the deferral period. ICIP also urges the Commission to require rapid amortization of the deferred amounts.

Finally, both Staff and ICIP urge the Commission to reject the Company's decision to defer the incremental internal expenses the Company incurred to participate in RTO West-Grid West development activities.

While Idaho Power appreciates that both the Staff and ICIP support deferral of at least the principal portion of the loan balance under the Funding Agreements, Idaho Power believes that both Staff and the ICIP have incorrectly classified the loans to RTO West-Grid West as investments, have incorrectly analyzed the basis for deferral of the incremental internal costs and are unreasonably restricting Idaho Power's ability to recover costs it incurred in good faith to comply with FERC Order No. 2000.

1. <u>Funding Agreements</u>

As noted in the Company's Application, the Funding Agreements were used to enable the various transmission owners in the Northwest to pool resources and achieve economies of scale in financing the development of RTO West-Grid West and the preparation of regulatory filings.

Neither Staff nor ICIP oppose deferral of the principal portion of the loans made under the Funding Agreements. Staff recommends that the interest on the loans that has accrued and is included in the $1,274,158 balance be excluded in establishing the deferral amount. Staff bases its recommendation that accrued interest on the loan principal not be recovered on three arguments.

First, Staff argues that had RTO West-Grid West been successful, the interest on the loans would have been repaid by RTO West-Grid West as a return on Idaho Power's *investment* in the RTO. (Staff Comments p. 4). Staff's description is incorrect. The amounts provided under the Funding Agreements were *loans* and the principal and accrued interest would have been repaid to satisfy a loan, either as a single payment or through a series of periodic payments, but not as a return on investments. Attached as Exhibit 1 is the first page of the May 3, 2000 Funding Agreement which, in Section 1.1 describes the RTO West-Grid West loan arrangements.[2]

Staff is correct that had RTO West-Grid West been successful, the principal and interest on these loans would have been repaid to Idaho Power but it would not have been in the form of a return on an investment. As will be discussed in greater detail later in these comments, it was contemplated that when Idaho Power eventually contributed facilities to RTO West, including an amount for its internal expenses incurred in developing RTO West, these contributions would be treated as an investment and Idaho Power would have received a return on this investment from the

[2] Section 1.1 of Exhibit 1 is similar to the language used in the other Funding Agreements.

RTO. This distinction between the loan and the investment is important. As noted in Exhibit 1 the loan would have been repaid no later than commencement of RTO West-Grid West providing transmission services. In contracts, an investment carries an understanding that the investment amount will be returned as the enterprise achieves earnings that allow a return of and a return on the investment amount. The Funding Agreements were straight-forward loans and accrual of interest on a loan is consistent with ordinary business practice and regulatory convention. If the Commission finds that making the loans to RTO West-Grid West was consistent with the public interest, then allowing recovery of interest on the loan would also be consistent with accepted commercial and regulatory practice and in the public interest.

Staff's second argument in support of its recommendation to deny recovery of accrued interest on the loans is that Idaho Power never had any cash outlay for the interest and therefore return of principal is sufficient compensation. (Staff Comments p. 4). Lenders never have a cash outlay for interest accruing on the principal of a loan. But that does not diminish the fact that lenders are entitled to receive the time-value of the use of their money. Had Idaho Power not loaned the money to RTO West-Grid West, the funds could have been used for other purposes and therefore the funds have a time-value. For the Staff to argue that it is in the public interest to allow Idaho Power to defer the principal portion of the loan but it is not in the public interest to allow the Company to recover the interest on that principal amount is arbitrary and inconsistent with normal business and regulatory practice.

Staff's third argument for denying recovery of the interest on the loans Idaho Power made to RTO West-Grid West is that RTO West-Grid West was not successful and therefore customers should not be required to pay Idaho Power any return on a failed investment. (Staff Comments p. 4). Setting aside the fact that the Funding Agreements were *not* investments, Staff's argument ignores the fact that these loans were made to *reduce* Idaho Power's share of the cost of developing RTO West-Grid West. If Idaho Power had not agreed to work cooperatively with other regional utilities to pool resources to reduce the cost of responding to a federal mandate, the loans would not have been made. If the Commission finds that Idaho Power acted prudently in working cooperatively with other regional utilities to minimize the cost of developing RTO West-Grid West, then the Company should not be penalized by denying recovery of reasonable interest amounts accruing as a result of the cooperative efforts.

Finally, Idaho Power must disagree with Staff's assessment that RTO West-Grid West has been a complete failure. Idaho Power believes that its participation in the RTO West-Grid West formation process has created value for customers. A great deal of insight and experience as to how an independent regional transmission system operator would be chartered, would manage a regional transmission system and a better understanding of the problems, risks and benefits associated with an independent system operation regime has been gained by the RTO West-Grid West formation efforts. Not unlike a pilot program, the Company's participation in the formation of RTO West-Grid West will ultimately benefit customers.

2. Carrying Costs on the Deferred Balance. While both Staff and ICIP recommend that Idaho Power be allowed to defer and recover the principal portion of the loans under the Funding Agreements, Staff recommends that Idaho Power should

not be allowed to accrue and recover carrying costs on the deferral balance during the period when the deferral balance is being amortized. (Staff Comments p. 4).

ICIP recommends that if the Commission allows the Company to earn interest on the deferred amounts, the rate of interest on the deferred balance should not exceed the interest rate provided for customer deposits. (ICIP Comments p. 2).

Idaho Power believes that because the deferral balance is likely to be amortized over a period of years, the carrying costs during the amortization period of the deferral balance should be set at a level equal to Idaho Power's overall rate of return. Setting the carrying cost on the deferral balance at the Company overall rate of return would recognize that the deferral balance carries the same cost of money as other funds the Company expends to comply with it statutory and regulatory requirements. In this case, the regulatory requirement was the FERC mandate for the formation of RTO's outlined in Order No. 2000.

In essence, Staff and ICIP are arguing that Idaho Power ought to be satisfied with only recovering the principal portion of its loans to RTO West-Grid West. Idaho Power recognizes that RTO West-Grid West did not achieve all of its intended goals and objectives. But that does not mean that the efforts to pursue and form this regional entity were not made in good faith and will not provide benefits to customers. In the Company's opinion the efforts that went into developing RTO West-Grid West will provide benefits to customers if, in the future, it is determined that a cooperative, independent regional transmission organization should be developed and implemented in the Pacific Northwest.

For these same reasons the Oregon Public Utilities Commission found that Idaho Power and the other Oregon jurisdictional utilities should be permitted to defer the loans they made to RTO West-Grid West. The OPUC agreed that both principal and interest should be deferred and the carrying cost to be applied to the deferral balance should be the three Oregon utilities respective overall rates of return. In Order No. 06-483 the Oregon Commission found:

> We find that utility efforts to assist in the development of a northwest RTO are consistent with our regulatory policy and will benefit rate payers. The purpose of an RTO is to promote efficiency and wholesale electricity markets and insure that electricity consumers pay the lowest possible price for reliable service. (Order No. 06-483 p. 5).

If the Commission agrees with the Oregon Commission and determines that Idaho Power's efforts to assist in the development of RTO West-Grid West were in the public interest, then it logically follows that recovery of interest on Idaho Power's loan principal amount is appropriate. Furthermore, if it is appropriate to defer the loan amounts for future recovery, it logically follows that Idaho Power should be able to recover reasonable carrying charges on the amounts deferred. Allowing one without the other is illogical and arbitrary.

3. Incremental Internal Costs. Both Staff and ICIP urge the Commission to reject Idaho Power's request that it be permitted to defer the incremental internal costs the Company incurred in participating in the development of RTO West-id West.

A. No Double Recovery. At the outset it is important that one misconception be cleared up. On page 4 of its Comments the ICIP raises the specter that allowing Idaho Power to defer its incremental internal costs into a future cost recovery period could result in double recovery of expenses from customers. ICIP's concern that Idaho Power might recover some expenses twice is groundless. Idaho Power went to considerable lengths to limit the expenses it included in its quantification of incremental internal costs to only those expenses that would not have been incurred but for the efforts to develop RTO West-Grid West. As noted in the Application the bulk of these incremental expenses were for travel expense outside legal counsel fees.

B. Idaho Power Properly Applied Deferral Accounting. Deferral of expense and the creation of regulatory assets is a creature unique to regulatory accounting. The accounting profession and utility regulators have long recognized the unique risks prospective ratemaking imposes on regulated utilities. As a result, the concepts of deferral and creation of regulatory assets has become well recognized in regulatory accounting and rate-making.

The essence of deferral accounting under the Uniform System of Accounts as adopted by the Commission, is the transfer of expenses incurred in one period to a future period if certain criteria are met. Attachment 2 to Idaho Power's Application is a letter order issued by the FERC on February 3, 2004 that approves Idaho Power's deferral of its incremental internal expenses associated with RTO West start-up costs and explains the rationale for the ultimate conversion of those deferred expenses into a regulatory asset. For the convenience of the Commission, a copy of FERC's letter order is attached as Exhibit 2. FERC's February 3, 2004 letter order provides, in pertinent part, on page 3:

> The instructions to Account 182.3 provide in part that this account shall include specific expenses that would be included in net income determinations in one period under

> the general requirements of the USofA but for it being probable that such expenses will be included in a different period for purposes of developing rates. *The term "probable", as used in the definition of regulatory assets refers to that which can reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved.* (Emphasis added).

Both Staff and ICIP argue that Idaho Power should not have deferred amounts for incremental internal expenses associated with RTO West-Grid West start-up costs because at the time the expenses were incurred Idaho Power had no guarantee from RTO West-Grid West that they would reimburse Idaho Power for those expenses. As noted in the above-quoted language, from FERC's letter order, the Uniform System of Accounts does not require a guarantee but only a reasonable expectation or belief based on the available evidence or logic that it would be able to recover those costs from RTO West-Grid West in the future. There is no requirement in the Uniform System of Accounts that RTO West-Grid West have signed a contract or offered a guarantee. All that is required is that Idaho Power have a reasonable expectation that its incremental internal costs associated with RTO West-Grid West start-up would be recoverable from RTO West-Grid West. In fact Idaho Power had such a reasonable expectation.

RTO West was the first stage of the RTO development process. From the earliest stages of the development of RTO West, it was contemplated that Idaho Power would be reimbursed for its incremental internal development costs through the RTO as a condition of Idaho Power's transfer of its transmission facilities to the RTO. Idaho Power's legitimate belief that it would be permitted to recover its internal expenses is evidenced by Idaho Power's Request for confirmation of accounting treatment made to the FERC for the letter order. (Exhibit 2). A copy of the Company's Request to the FERC for the letter order is attached as Exhibit 3. On page 3 of Exhibit 3 Idaho Power describes how each of the participating utilities would execute a Transmission Operating Agreement ("TOA") with RTO West. On page 5 of Exhibit 3 Idaho Power explains how its internal RTO development costs (plus related carrying costs) will be recovered from the RTO as a condition of execution of the TOA. Further, on page 6 of the Request (Exhibit 3) Idaho Power reiterates its belief that Idaho Power 's internal expenses will be reimbursed through the RTO as a condition of transferring its facilities to the RTO.

The above-described cost-recovery mechanisms were considered in the context of the formation of RTO West and as a result, Idaho Power held a reasonable expectation that its start-up costs would be reimbursed as part of the investment that would be subject to recovery from RTO West in the form of a return paid to Idaho Power based on Idaho Power's contribution to RTO West. As a result, Idaho Power legitimately believed it was "probable" that the incremental internal expenses would be recovered in a different period via payments from RTO West. This expectation was reasonable based on available evidence and logic.

Subsequently, when RTO West transitioned into Grid West, the proponents of Grid West considered, and ultimately decided, to use a business model that did not include transfer of ownership of utility assets to an independent entity. When that business model was adopted, Idaho Power ceased deferring and began expensing incremental internal expenses associated with the new Grid West business model.

Obviously the Company's expectations for the ultimate success of RTO West-Grid West have not been met. If the Commission determines that it was not prudent for Idaho Power to have participated in the start-up of RTO West-Grid West, it can determine that Idaho Power's start-up costs should not be recovered. This disallowance will require Idaho Power, as stated on page 3 of FERC's letter order, to immediately write off those deferred expenses with the resulting impact on the Company earnings.

Staff argues that Idaho Power should have come to the Commission before it began accruing RTO West-Grid West costs to request deferral of incremental internal expenses. With 20/20 hindsight, the safest course of conduct for Idaho Power would have been to file as Staff suggests. But the Commission should carefully consider whether it really wants to encourage utilities to file deferral requests simply out of an abundance of caution. In this instance Idaho Power acted on a reasonable expectation it would recover its incremental internal costs in a future period. In February of 2004 Idaho Power obtained the letter order from the FERC confirming that start-up costs for RTOs are legitimate candidates for deferral accounting. Consistent with the Uniform System of Accounts, the Company utilized deferral accounting. Idaho Power had Funding Agreements with RTO West-Grid West. Idaho Power had a legitimate expectation that its incremental internal expenses for RTO West-Grid West start-up costs would be reimbursed in the future by RTO West-Grid West.

In the end the Commission must determine whether or not it was prudent for Idaho Power to actively pursue participation in the creation of RTO West-Grid West. Recognizing the federal mandate to create an RTO and the potential impact on Idaho

Power and its customers that could flow from the creation of an RTO in the Northwest, Idaho Power believed it was acting appropriately by contributing substantial time and resources to the development of Grid West.

4. Amortization. Staff recommends that the Company begin amortization of the deferred balance of RTO West-Grid West expenses at the conclusion of its next general rate case or on January 1, 2010, whichever occurs first. Staff bases that recommendation on the fact that the expenditures were incurred in response to FERC directives. Staff also recommends that the initial amortization period should be five (5) years unless the Commission approves a different time-period in a subsequent general rate case.

ICIP argues that the Company should immediately commence amortization of the costs and the amortization should be completed over a three (3) year period.

Idaho Power believes that Staff's recommendation is reasonable. All of the monies Idaho Power expended in support of the development of RTO West-Grid West arose out of the federal mandate contained in FERC Oder No. 2000. As a result, a reasonable period to commence and complete amortization is appropriate.

ICIP's recommendation that amortization begin immediately and be limited to a three (3) year time-period is an unabashed effort to ensure that Idaho Power's shareholders bear the costs of RTO West-Grid West startup activities. Again, if the Commission believes that Idaho Power's efforts in support of RTO West-Grid West were in the public interest, it should allow Idaho Power a reasonable period of time to commence and complete amortization of any deferral balance approved by the Commission. Staff's suggested time-periods are reasonable.

5. Additional Issues. ICIP also requests that the Commission add several other conditions to any order approving deferral and establishing an amortization schedule. ICIP requests that the Commission (1) expressly state in the order that future cost recovery is not automatic and depends on a demonstration of prudence and (2) require that Idaho Power net any proceeds received from Grid West against those amounts.

Idaho Power understands that it must ultimately demonstrate that the expenses it incurred associated with RTO West-Grid West start-up were prudent. Of course, prudency in this instance is not a demonstration that it was in the public interest for Idaho Power to participate in RTO West-Grid West start-up. If the Commission confirms that deferral is appropriate it will have made that initial policy determination. Subsequent prudency review in this case would be directed at the actual expenses Idaho Power incurred and a determination that they were reasonable. Taking an extreme hypothetical, if Idaho Power had traveled to Portland via Paris, France to attend RTO West-Grid West activities, such an expense would not be prudent and should be disallowed. Any prudency review that would be undertaken in a future rate proceeding would be limited to assessing the reasonableness of expenses incurred and would not be a referendum on the decision to incur expense in support of the development of RTO West-Grid West.

As to ICIP's second item, Idaho Power certainly agrees that any proceeds recovered from Grid West should be applied to reduce the deferral balance.

Respectfully submitted this 22nd day of September, 2006.

BARTON L. KLINE
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ___ day of September, 2006, I served a true and correct copy of the within and foregoing document upon the following named parties by the method indicated below, and addressed to the following:

Commission Staff Weldon B. Stutzman Deputy Attorney General Idaho Public Utilities Commission 472 W. Washington (83702) P.O. Box 83720 Boise, Idaho 83720-0074	X Hand Delivered ~~X~~ U.S. Mail ___ Overnight Mail ___ FAX X Email weldon.stutzman@puc.idaho.gov
Industrial Customers of Idaho Power Peter J. Richardson, Esq. Richardson & O'Leary 515 N. 27th Street P.O. Box 7218 Boise, Idaho 83702 Don Reading Ben Johnson Associates 6070 Hill Road Boise, Idaho 83702	___ Hand Delivered X U.S. Mail ___ Overnight Mail ___ FAX X Email peter@richardsonandoleary.com ___ Hand Delivered X U.S. Mail ___ Overnight Mail ___ FAX X Email dreading@mindspring.com

Barton L. Kline

Exhibit 1

FUNDING AGREEMENT

THIS AGREEMENT is entered into effective as of May 3, 2000 (the "Effective Date") by and among Avista Corporation, the Bonneville Power Administration ("BPA"), Idaho Power Company, Nevada Power Company, The Montana Power Company, PacifiCorp, Portland General Electric Company, Puget Sound Energy, Sierra Pacific Power Company (together referred to as the "Transmission Owners" or "TOs"), and RTO West.

RECITALS:

The TOs wish to work toward filing(s) on or before October 15, 2000 for the creation of a Regional Transmission Organization ("RTO") pursuant to FERC Order 2000 (as amended).

The parties recognize the need to include other interested stakeholders in a broad collaborative process for the creation of the RTO.

The TOs wish to finance the retention of experts and facilitators in order to further this work, and to assist in preparation of the regulatory filings required for the RTO.

RTO West is a nonprofit Washington corporation, with a purpose initially of retaining experts and facilitators to further the effort to create the RTO and to facilitate the related collaborative process, and a purpose later (after changes to the RTO West governing documents that among other matters conform RTO West's governance with the independence requirements of FERC's Order 2000) of operating as the RTO as filed with and approved by FERC.

The parties wish to set forth their agreement for the funding of the above work.

AGREEMENT:

1.0 Funding. Subject to the terms of this Agreement, the TOs agree to provide funding to RTO West for the purpose of enabling RTO West to retain the experts and facilitators referenced above and to pay certain other incidental expenses.

1.1 By Non-BPA TOs. Funds provided by TOs other than BPA shall be loaned amounts that shall be repaid with interest by RTO West to the TOs promptly when sufficient third party financing is available to RTO West, but in any event, not later than the commencement of transmission services by RTO West as an RTO over the transmission assets of one or more TOs. RTO West agrees to pay interest on all outstanding loan balances at the same interest rates from time to time as established by FERC for refunds, pursuant to 18 CFR §35.19a.

1.2 By BPA. Funds provided by BPA shall be credited with interest against rates payable by BPA transmission customers, in services to BPA

Exhibit 2

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

In Reply Refer To:
OED-DRAP
Docket No. AC03-78-000

FEB 3 2004

VanNess Feldman
Attention: Mr. Malcolm C. McLellan
Attorney for Idaho Power Company
821 Second Avenue, Suite 2000
Seattle, WA 98104-1519

Thank you for your letter dated September 29, 2003, filed on behalf of Idaho Power Company (Idaho Power), requesting confirmation that its accounting treatment of RTO West development costs is consistent with the Uniform System of Accounts (USofA). Specifically, it seeks confirmation that it is proper to defer for future recovery past and future RTO West development costs in Account 186, Miscellaneous Deferred Debits, and transfer to Account 182.3, Other Regulatory Assets, amounts not reimbursed by an RTO.

Idaho Power's accounting treatment is consistent with the USofA, provided that it records the loans to RTO West in Account 124, Other Investments. Recognition of the costs as a regulatory asset in the event that they are not reimbursed by the RTO would only be appropriate if the amounts would otherwise be chargeable to expense at that time and Idaho Power has concluded based upon all relevant information, that recovery in rates in a different period is probable. [1]

Background

Idaho Power is one of the transmission owners participating in the development of a regional transmission organization (RTO) known as RTO West, in response to Order No. 2000. [2] Considerable work remains to achieve a fully approved and operational RTO West. The work includes the development of a tariff, further refinement of the market design, and the securing of state and federal approvals as well as the approvals of the management and/or boards of directors of each of the filing utilities.

[1] 18 C.F.R. Part 101, Definition No. 30.

[2] The Commission granted, on a conditional basis, their request to create RTO West on April 26, 2001, 95 FERC ¶61,114 (2001).

Since its RTO development costs have been and continue to be incurred in response to Order No. 2000, Idaho Power interprets the USofA as permitting its RTO development costs to be characterized as a regulatory asset. However, since the benefit will occur largely in the future from these expenditures, it further interprets the USofA as permitting the deferral of these expenses over a reasonable period of time where the benefits are realized. Idaho Power believes that its internal RTO development costs (including carrying costs) will be recovered through RTO West's transmission tariff within Idaho Power's Company Rate for load service, and Idaho Power's loans [3] to RTO West will be re-paid by RTO West and recovered by RTO West in its transmission tariff within RTO West's Grid-Management Charge. Accordingly, Idaho Power is booking all RTO development costs in Account 186.

Although Idaho Power is booking its RTO development costs as a miscellaneous deferred debit in Account 186 on the belief that they will be reimbursed through an RTO as a condition of transferring its facilities to the RTO, it believes that it is not limited to recovering its deferred RTO development costs only in this manner. Idaho Power believes that it has the authority to seek Commission approval under Section 205 for alternative means of recovering these deferred costs. In addition, Idaho Power believes that it has the authority to seek recovery of these deferred costs through retail rates.

Idaho Power seeks confirmation that:

1. It is proper to defer for future recovery past and future incremental internal RTO West development costs (inclusive of carrying costs), separately captured on its individual company books, in Account 186;

2. It is proper to defer for future recovery RTO development costs loaned to RTO West under the terms of funding agreements among participating RTO utilities in Account 186;

3. As Idaho Power receives reimbursement of deferred RTO development costs (incremental internal costs and/or loans to RTO West) from an RTO upon the transfer of control of its transmission facilities to the RTO, Idaho Power may credit payment to Account 186 and debit Account 131, Cash, for an equivalent amount; and

[3] The loans to RTO West are pursuant to funding agreements established by the transmission owners forming RTO West. The funding agreements were entered into to finance the retention of experts and facilitators to further the development of RTO West, and to assist in the preparation of the regulatory filings required for the RTO.

4. The deferred RTO development costs (incremental costs and/or loans to RTO West) not reimbursed by an RTO may, upon a proper future filing with the Commission, become a regulatory asset and be transferred to Account 182.3 for recovery in rates (wholesale or retail), or alternatively, may be written off immediately to Account 426.5, Other Deductions.

Discussion

Account 186 provides for the inclusion of amounts that are not provided for elsewhere, such as miscellaneous work in progress and unusual or extraordinary expenses, and items where the proper final disposition is uncertain. The Commission has approved the deferral of RTO startup costs to Account 186 in other instances. [4] Therefore, Idaho Power's internal RTO West development costs (including carrying charges) are properly deferred in Account 186. Idaho Power's loans to RTO West are more appropriately classified as long-term notes receivable that should be recorded in Account 124. Interest income realized on the notes should be recorded in Account 419, Interest and Dividend Income. [5]

The instructions to Account 182.3 provide in part that this account shall include specific expenses that would be included in net income determinations in one period under the general requirements of the USofA but for it being probable that such expenses will be included in a different period for purposes of developing rates. The term "probable", as used in the definition of regulatory assets refers to that which can reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved. Therefore, Idaho Power may transfer the RTO West development costs not reimbursed by the RTO to Account 182.3, if these criteria are met. However, if rate recovery of all or part of the deferred costs is later disallowed, the disallowed costs should be charged to Account 426.5 in the year of the disallowance.

The foregoing determination is for accounting purposes only and does not constitute a finding that the costs are just and reasonable, prudently incurred, or otherwise approved for ratemaking treatment.

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[4] See the approval for Northeast Utilities Service Company in Docket No. AC02-6-000, on March 14, 2002, relating to NE ITC and Northeastern RTO and Florida Power Corporation in Docket No. AC01-10-000, on December14, 2000, relating to the GridFlorida RTO.

[5] This is consistent with the Commission's response to Sierra Pacific Power Company in Docket No. AC94-11-000, dated January 4, 1994.

This letter order constitutes final agency action. To request that the Commission rehear your case, you must file a request within 30 days of the date of this letter order (see 18 C.F.R. § 385.713).

Sincerely,

James K. Guest
Director, Division of Regulatory
Accounting Policy

Exhibit 3

VanNess
Feldman
ATTORNEYS AT LAW

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Malcolm C. McLellan
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September 29, 2003

Mr. John M. Delaware
Chief Accountant
Federal Energy Regulatory
Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: **<u>Idaho Power Company</u>**
Request for Confirmation of Accounting Treatment of Costs Incurred in the Development of RTO West
Docket No. AC03-

Dear Mr. Delaware:

Idaho Power Company ("Idaho Power") is one of the transmission owners participating in the development of a regional transmission organization ("RTO") known as RTO West,[1] in response to FERC Order No. 2000.[2] Idaho Power respectfully requests, pursuant to 18 C.F.R. § 375.303 (2003), confirmation that its accounting treatment of RTO West development costs is consistent with the Commission's *Uniform System of Accounts*[3] and, more specifically, Idaho Power seeks confirmation that:

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[1] *Avista Corps., et al.,* FERC Docket No. RT01-35. The transmission owners working in a collaborative process to develop RTO West are: Avista Corporation, the Bonneville Power Administration ("Bonneville"), Idaho Power, Nevada Power Company, NorthWestern Energy (a division of NorthWestern Corporation), PacifiCorp, Puget Sound Energy, Inc., Portland General Electric Company, Sierra Pacific Power Company, and British Columbia Hydro and Power Authority. These transmission owners are collectively referred to as the "Transmission Owners" or the "Filing Utilities".

[2] *Regional Transmission Organizations,* 65 Fed. Reg. 809 (Jan. 6, 2000), FERC Stats. & Regs. ¶31,089 (1999), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (Mar. 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish Cty., WA v. FERC*, Nos. 00-1174 et al. (D.C. Cir. 2001) (hereinafter "*Order No. 2000*").

[3] *Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to Provisions of the Federal Power Act,* 18 C.F.R. pt. 101 (2003) (hereinafter "*Uniform System of Accounts*").

1. It is proper for Idaho Power to defer for future recovery past and future incremental internal RTO West development costs (inclusive of carrying costs), separately captured on its individual company books, in FERC Account No. 186 (Miscellaneous Deferred Debits);

2. It is proper for Idaho Power to defer for future recovery RTO development costs loaned to RTO West under the terms of funding agreements among participating RTO utilities, in FERC Account No. 186;

3. As Idaho Power receives reimbursement of deferred RTO development costs (incremental internal costs and/or loans to RTO West) from an RTO upon Idaho Power's transfer of control of its transmission facilities to the RTO, Idaho Power may credit payment to FERC Account No. 186 and debit FERC Account No. 131 for an equivalent amount; and

4. The deferred RTO development costs (incremental costs and/or loans to RTO West) not reimbursed by an RTO may, upon a proper future filing with the Commission, become a regulatory asset and be transferred to FERC Account No. 182.3 (Regulatory Assets and Liabilities) for recovery in rates (wholesale or retail), or alternatively, may be written off immediately to Account No. 426.5 (Other Deductions).

I. BACKGROUND: RTO WEST FILINGS AND FUTURE DEVELOPMENT REQUIREMENTS

On October 16, 2000 (supplemented on October 23, 2000), the Filing Utilities filed a proposal with FERC to create RTO West. The stage 1 filing requested approval of the proposed governance structure, scope of operations, and contractual obligations of the Filing Utilities and RTO West. On April 26, 2001, the Commission granted, on a conditional basis, the Filing Utilities' request providing preliminary guidance on a limited number of issues presented by the stage 1 filing, and further stated it would address unresolved issues in a future order.[4]

On March 29, 2002, the Filing Utilities submitted a stage 2 filing in accordance with Order No. 2000. The filing requested that the Commission reconfirm its prior determinations concerning the proposed governance structure, scope and configuration and basic operating premises of RTO West, and that with the additional details provided

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[4] *Avista Corps., et al.*, 95 FERC ¶ 61,114 (2001), *order on reh'g*, 96 FERC ¶ 61,058 (2001), *clarified*, 96 FERC ¶ 61,265 (2001) (hereinafter "*April 26 Order*").

in the filing find that RTO West would fulfill all essential characteristics and functions required for status as an RTO under Order No. 2000. The Filing Utilities submitted a further filing on June 28, 2002, which contained a detailed implementation plan and a general approach for public participation in RTO West development activities. On September 18, 2002, the Commission approved most aspects of the plan and requested further details in a number of areas.[5]

Considerable work remains to achieve a fully approved and operational RTO West.[6] The work includes the development of a tariff, further refinement of the market design,[7] and the securing of state and federal approvals as well as the approvals of the management and/or boards of directors of each of the Filing Utilities. Once the necessary approvals are received, the Filing Utilities will each execute a transmission operating agreement ("TOA") with RTO West. Upon execution of the TOA, those Filing Utilities required to file with the Commission under the Federal Power Act will proceed. As part of further developing RTO West, efforts also are continuing within the Seams Steering Group of the Western Interconnection ("SSG-WI") to eliminate seams between the three RTO efforts within the Western Interconnection.[8]

II. RTO WEST DEVELOPMENT COSTS INCURRED BY IDAHO POWER

Idaho Power's expenditures related to the development of RTO West have fallen into, and are expected to continue falling into, two general categories of costs. The first are costs incurred in the form of loans to RTO West under a series of funding agreements (collectively referred to as the "Funding Agreements") established by the Transmission Owners forming RTO West and RTO West.[9] Each of the Transmission Owners has agreed with RTO West to provide an allocated share of funding to RTO West.

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[5] *Avista Corps., et al.*, 100 FERC ¶ 61,274 (2002) (hereinafter "*September 18 Order*"), *order on reh'g*, 101 FERC ¶ 61,346 (2002).

[6] For current RTO West development activities please refer to the RTO West web site www.rtowest.com.

[7] This includes negotiations for Bonneville's participation in the market power or price mitigation programs of RTO West on the same terms and conditions as other participating Transmission Owners, but in a manner consistent with Bonneville's statutory mandates and environmental requirements.

[8] *Report of the California ISO, the RTO West Filing Utilities, and the WestConnect Applicants Concerning Activities of the Seams Steering Group – Western Interconnection*, FERC Docket No. ER02-1656, RT01-35, RT02-1 and EL02-9 Attachment B (Jan. 8, 2003).

[9] RTO West is organized as a Washington non-profit corporation. The corporation was created for the purpose of retaining experts to facilitate development of the RTO. The corporation is expected to become the entity operating "as an RTO . . . in accordance with the applicable requirements of FERC,

The Funding Agreements were entered into in order to finance the retention of experts and facilitators in order to further the development of RTO West, and to assist in the preparation of the regulatory filings required for the RTO. Funding Agreement expenditures broadly include contracting with consultants, experts, and others; purchasing of equipment, supplies, office space, and public meeting expenses; and filing fees, and incidental and administrative costs.

Under the Funding Agreements, funds provided by Transmission Owners (other than Bonneville)[10] are considered loaned amounts that will be repaid with interest by RTO West to the Transmission Owners when sufficient third party financing is available, but not later than the commencement of transmission services by RTO West acting as an RTO over the transmission assets of one or more of the Transmission Owners. Interest on all outstanding RTO West loan balances will be calculated at the same interest rates from time to time as established by FERC for refunds pursuant to 18 C.F.R §35.19a.

The second category of RTO development costs is the internal incremental costs incurred directly by Idaho Power in the development of RTO West. This category of costs consists of the disbursement of cash and the payment of costs in addition to amounts loaned to RTO West. These expenditures include, without limitation incremental costs incurred for: (1) meetings, facilitators, and other resources, consultant fees and costs, conference calls, and meeting support; (2) development and regulatory creation of the RTO West, including feasibility studies, development of the structure and tariff, support in regulatory proceedings, and incremental expenses of personnel and other resources working on development and regulatory matters (not the costs of Idaho Power personnel themselves); (3) training and travel expenditures and costs; (4) legal representation associated with all of the above; and (5) carrying costs of the funds associated with all of the above, although, these expenditures to date have not yet accrued carrying costs, but may in the future accrue appropriate carrying costs.

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including but not limited to the applicable requirements of FERC with respect to RTO characteristics and functions." *RTO West Bylaws, Article III*, FERC Docket No. RT01-35.

[10] Bonneville funds provided under the Funding Agreement shall be credited with interest against rates payable by Bonneville transmission customers, in services to Bonneville transmission customers of equivalent value, or in such other manner as Bonneville may direct, when sufficient third party financing is available, but not later than the commencement of transmission services by RTO West acting as an RTO over the transmission assets of one or more of the Transmission Owners. RTO West will provide an allowance for interest on all outstanding Bonneville loan amounts at the same interest rates and in the same manner as that provided to other Transmission Owners.

III. ACCOUNTING TREATMENT FOR RTO WEST DEVELOPMENT COSTS INCURRED BY IDAHO POWER

Idaho Power has put in place an accounting procedure to separately capture on its books and records all incremental costs directly associated with the development of RTO West. It has done so believing that its circumstances make deferral more appropriate than expensing such costs and in reliance upon the Commission's recognition that in certain circumstances deferral is appropriate. Due to the protracted nature of these activities and their rising costs, it is imperative that Idaho Power obtains confirmation by the Commission that its accounting practices related to the costs of developing RTO West are proper for its circumstances.

Idaho Power reviewed the Commission's *Uniform System of Accounts*, 18 C.F.R. pt 101 (2003), particularly the definition of "regulatory assets and liabilities," which is restated in relevant part as follows:

> Regulatory Assets and Liabilities are assets and liabilities that result from rate actions of regulatory agencies. Regulatory assets and liabilities arise from specific revenues, expense, gains, or losses that would have been included in net income determination in one period under the general requirements of the Uniform System of Accounts but for it being probable: A. that such item will be included in a different period(s) for purposes of developing rates the utility is authorized to charge for its utility services. . .[11]

Since its RTO development costs have been and continue to be incurred in response to Order 2000, Idaho Power interprets the *Uniform System of Accounts* as permitting its RTO development costs to be characterized as a regulatory asset. However, since the benefit will occur largely in the future from these expenditures, it further interprets the *Uniform System of Accounts* as permitting the deferral of these expenses over a reasonable period of time where the benefits are realized. Idaho Power believes that its internal RTO development costs (plus related carrying costs) will be recovered through RTO West's transmission tariff within Idaho Power's Company Rate, and Idaho Power's loans to RTO West (plus related carrying costs) will be re-paid by RTO West and recovered by RTO West in its transmission tariff within RTO West's Grid-

[11] *Definitions, Uniform System of Accounts,* 18 C.F.R. pt. 101 (30).

Management Charge.[12] Accordingly, Idaho Power is booking all RTO development costs identified in Section II above in FERC Account No. 186 (miscellaneous deferred debits).

Although Idaho Power is booking its RTO development costs as a miscellaneous deferred debit in Account No. 186 on the belief that they will be reimbursed through an RTO as a condition of transferring its facilities to the RTO, Idaho Power believes that it is not limited to recovering its deferred RTO development costs only in this manner. Idaho Power believes that it has the authority to seek Commission approval under Section 205 for alternative means of recovering these deferred costs.[13] In addition, Idaho Power believes that it has the authority to seek recovery of these deferred costs through retail rates.

IV. IDAHO POWER BELIEVES ITS ACCOUNTING IS CONSISTENT WITH RECENT COMMISSION RULINGS AND STATED POLICY

Idaho Power believes that its interpretation of the *Uniform System of Accounts* is consistent with Commission precedent as well as stated policy that a transmission owner will not be financially or otherwise disadvantaged by its participation in an RTO. In its letter to your office dated November 3, 2000, Florida Power Corporation ("Florida Power") requested authorization to defer for future recovery the costs it incurred and expected to incur for its participation in the formation of an RTO.[14] Specifically, Florida Power proposed to defer its RTO development costs in Account 186 until the RTO became operational and reimbursed Florida Power for these costs.[15] At that time Florida Power proposed to:

> credit payment to Account 186 and debit Account 131 for an equivalent amount. Any amounts not reimbursed by the RTO when it becomes operational will be written off immediately to

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[12] It is a prerequisite that any RTO that Idaho Power would consider participating in must include a mechanism for the recovery of Idaho Power's RTO development costs. The stage 2 RTO West proposal contains such a mechanism. "The key features of the [RTO West] pricing proposal are (1) consistent with the "license-plate" approach proposed in Stage 1, "Company Rates" for load service; ... and (4) a "Grid Management Charge," which is the method by which RTO West will collect specified start-up and operating costs." *Stage 2 Filing and Request for Declaratory Order Pursuant to Order 2000*, FERC Docket No. RT01-35, at 28-29 (Mar. 1, 2002).

[13] *Atlantic City Elec. Co. v. FERC*, 329 F.3d 856 (D.C. Cir. 2003).

[14] Letter from Andrea J. Chambers, Attorney for Florida Power Corp., to John M. Delaware, Chief Accountant, Fed. Energy Reg. Comm'n (Nov., 3, 2000), FERC Docket No. AC01-10-000.

[15] *Id.* at 3.

> Account 426.5, Other Deductions. The RTO will then seek recovery of its start-up costs through a Commission-approved charge.[16]

In responding to Florida Power's request, your office believed that Florida Power's RTO participation costs were examples of the types of costs appropriate to defer citing *Uniform System of Account* requirements, as follows:

> Account 186, Miscellaneous Deferred Debits, provides for the inclusion of amounts not elsewhere provided for, such as miscellaneous work in progress, and unusual or extraordinary expenses, not included in other accounts, . . . and items the proper final disposition of which is uncertain.[17]

Accordingly, your office approved Florida Power's request as follows:

> We approve FPC's [Florida Power] request to defer in Account 186, Miscellaneous Deferred Debits, the costs it has incurred during 2000 and may incur through December 15, 2001, related to its participation in the formation of an RTO. To the extent that FPA continues to defer start-up costs in Account 186 subsequent to the Commission's RTO start-up date of December 15, 2001, it shall make a filing with the Chief Accountant providing full particulars concerning the nature of the costs being deferred, the amounts involved, and the accounting basis for deferral of costs.
>
> Additionally, we approve FPC's request to credit Account 186 with all reimbursements from GridFlordia. All amounts not reimbursed by the RTO must be expensed immediately to Account 426.5, Other Deductions.[18]

Idaho Power believes that its categories of costs and circumstances are similar to those of Florida Power and therefore believes that its deferral of its RTO development costs is appropriate. Furthermore, Idaho Power understands that it would be consistent with the *Uniform System of Accounts* if it accounted for reimbursements received from an

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[16] *Id.* at 3-4.

[17] Letter from James K. Guest, Director, Division of Regulatory Accounting Policy, Fed. Energy Reg. Comm'n, to Andrea Chambers, Florida Power Corp. (Dec. 14, 2000), 2 FERC Docket No. AC01-10-000.

[18] *Id.* at 2.

RTO for Idaho Power's development costs, and for amounts not reimbursed by an RTO in the manner proposed by Florida Power in its letter to your office, and your office's response to Florida Power, both quoted above.

In addition to *Florida Power Corp.*, in *Duke Energy Corp. et al.* ("*GridSouth*"),[19] the Commission issued a declaratory order affirming petitioner utilities' proposed accounting treatment for an estimated $100 million in development costs relating to the formation of the GridSouth RTO. As to the accounting treatment applicable to the individual transmission owners, the Commission held that:

> Start-up costs incurred by the transmission owners prior to the formation of GridSouth should be recorded in Account 186 (miscellaneous deferred debits).[20]

The development costs incurred by the parties in *GridSouth* are comparable in nature to the development costs incurred by Idaho Power for participation in RTO West, particularly the amounts loaned to RTO West. As a result, Idaho Power believes that *GridSouth* supports its deferral of RTO development costs.

In another recent order, the Commission approved the request of American Electric Power Services Corporation ("*AEP*") on behalf of its member utility operating companies, to defer development costs associated with the *failed* Alliance RTO in addition to subsequent PJM Interconnection LLC ("PJM") integration costs that would be incurred by the parties until these costs could be recovered in retail rates.[21] The Commission agreed that AEP's request to defer all PJM "integration costs" in Account 186 complied with applicable accounting standards and would be accepted.[22] More importantly, the Commission found the Alliance RTO development costs to be "something of an anomaly because little if any direct benefit will result from the incurrence of these costs," but it agreed that such costs "are appropriately charged to Account 186."[23] In effect, the Commission expanded previous orders to include

[19] *Duke Energy Corp. et al.,* 94 FERC ¶ 61,080 (2001) ("GridSouth").

[20] *Id. at* 61,369.

[21] *American Electric Power Service Corp.,* 104 FERC ¶ 61,013 (2003)("AEP") (granting AEP's request to defer development costs and related carrying charges until AEP fully integrates into PJM Interconnection LLC, but dismissed as premature AEP's request to record the costs as a "regulatory asset.").

[22] *Id.* at Paragraph 25.

[23] *Id.* at Paragraph 26.

recognition of costs expended on an unsuccessful RTO formation. In doing so, the Commission further underscored its policy that companies that participate in the formation of RTOs may recover reasonable costs and will not be penalized even if RTO organization efforts do not succeed.

The Commission made it clear in Order No. 2000 that the development of RTOs is a matter of important national interest, and of the highest priority to the Commission and continues to assure utilities that they will not be disadvantaged by joining an RTO. The Commission affirmed this view in *GridSouth*:

> GridSouth is expending funds to further its plans to comply with the Commission's Order No. 2000. As we noted in Order No. 2000, we want to assure utilities that they will not be disadvantaged by participating in an RTO.[24]

On sound business principles alone, a well-run utility participating in the formation of an RTO is compelled to determine a mechanism for recovery of its investment costs, and the Commission has recognized this business reality in the policies set forth in Order No. 2000. Moving RTO West forward from the planning stages to a fully functioning RTO will continue to burden Idaho Power resources, without certainty that its investment in RTO West development will be repaid. These concerns are not unfounded, as RTO West has met with significant resistance. Moreover, RTO formation efforts in other regions have failed.[25] An expeditious decision confirming the accounting treatment of Idaho Power's RTO West development costs, even though such costs cannot be estimated with certainty, is essential to preventing Idaho Power from being disadvantaged by participating in the formation of RTO West.

As the Commission has already acknowledged in other cases, the confirmation sought in this request is not intended to affect the burden of proof in any future rate proceeding filed by Idaho Power, other Transmission Owners or RTO West under

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[24] *Duke Energy Corp. et al.,* 94 FERC at 61,369 (quoting *Order 2000* at 31,172-73).

[25] *E.g., Alliance Companies, et al.,* 97 FERC ¶ 61,327 (2001). The Commission conditionally approved the development of the Alliance RTO, but subsequently concluded that the RTO lacked sufficient scope to exist as a stand-alone RTO and ordered the participating companies to seek alternative RTO membership. The Commission later ruled that these companies could employ deferral accounting treatment of their development costs for the failed RTO in the Commission's July 2, 2003 Order in the *American Electric Power Services Corporation* proceedings. *American Electric Power Service Corp.,* 104 FERC ¶ 61,013 (2003).

Section 205 of the Federal Power Act.[26] The confirmation sought is for accounting purposes only and is not intended to be a finding that the costs are just and reasonable, prudently incurred, or otherwise approved for ratemaking treatment at this time.

V. REQUEST FOR RELIEF

Idaho Power respectfully requests confirmation that its accounting treatment of RTO West development costs is consistent with the Commission's *Uniform System of Accounts* and, more specifically, Idaho Power seeks confirmation that:

1. It is proper for Idaho Power to defer for future recovery past and future incremental internal RTO West development costs (inclusive of carrying costs), separately captured on its individual company books, in FERC Account No. 186 (Miscellaneous Deferred Debits);

2. It is proper for Idaho Power to defer for future recovery RTO development costs loaned to RTO West under the terms of funding agreements among participating RTO utilities, in FERC Account No. 186;

3. As Idaho Power receives reimbursement of deferred RTO development costs (incremental internal costs and/or loans to RTO West) from an RTO upon Idaho Power's transfer of control of its transmission facilities to the RTO, Idaho Power may credit payment to FERC Account No. 186 and debit FERC Account No. 131 for an equivalent amount; and

4. The deferred RTO development costs (incremental costs and/or loans to RTO West) not reimbursed by an RTO may, upon a proper future filing with the Commission, become a regulatory asset and be transferred to FERC Account No. 182.3 (Regulatory Assets and Liabilities) for recovery in rates (wholesale or retail), or alternatively, may be written off immediately to Account No. 426.5 (Other Deductions).

Idaho Power appreciates your attention to this matter and requests that you confirm its accounting practices as soon as possible, as this is critical to it meeting its reporting obligations.

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[26] When RTO West or any of the Filing Utilities file to recover their development costs, the Commission and other intervenors will have the opportunity to determine the period over which such costs will be recovered and examine their reasonableness.

Respectfully submitted,

By ______________

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