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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL) CASE NO. IPC-E-06-27
OF AN EXECUTORY SALE AND TRANSFER)
OF UTILITY PROPERTY PURSUANT TO A)
TRANSFORMER SHARING AGREEMENT) COMMENTS OF THE
) COMMISSION STAFF
)
_____)**

The Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Donald L. Howell, II, Deputy Attorney General, submits the following comments in response to Order No. 30190, the Notice of Application and Notice of Modified Procedure issued on November 28, 2006.

BACKGROUND

On November 14, 2006, Idaho Power Company filed an Application requesting that the Commission approve a Spare Transformer Sharing Agreement (“Transformer Agreement”) with nearly 50 of the nation’s other electric utilities. The Transformer Agreement provides that in the event of a deliberate act of terrorism disabling one or more utility substations, the participating utilities may be called upon to provide/sell spare electric transformers to the affected utility. Application at 1-2. In essence, the Transformer Agreement creates an industry-wide pool of spare

electric transformers that can be transferred from one utility to another utility in the event of a coordinated terrorist attack upon the nation's electric infrastructure.

On July 18, 2006, the Edison Electric Institute (EEI) on behalf of more than 40 participating utilities filed an application with the Federal Energy Regulatory Commission (FERC) seeking authorization for jurisdictional public utilities to engage in the future transfers of transformers. *Order on Application for Blanket Authority for Transfers of Jurisdictional Facilities and Petition for Declaratory Order*, 116 F.E.R.C. R. 61,280 at ¶ 3 (September 22, 2006), *hereinafter* the “*Declaratory Order*.” In its FERC application, EEI indicated that 43 entities have executed the Transformer Agreement. EEI stated these participating utilities own more than 60% of the interstate bulk-power transmission system. *Id.* EEI asserted that the Transformer Agreement is “a prudent approach to making efficient use of the industry’s existing spare transformers and fairly allocating the responsibility to acquire a limited number of additional spares, while minimizing duplicative purchases of these costly assets.” *Id.* at ¶ 4 *citing* Application at 8-9.

EEI submitted its FERC application under Section 203 of the Federal Power Act. 16 U.S.C. § 824b. This section requires that FERC approve the disposition of jurisdictional transmission facilities when the value of such facilities exceeds \$10 million. Although the cost of many transformers is less than \$10 million, EEI expressed concern that the jurisdictional threshold may be met when a public utility disposes of a large transformer or when several smaller transformers collectively cost more than \$10 million. *Declaratory Order* at ¶ 18.

On September 22, 2006, FERC approved the request for blanket authorization of the Transformer Agreement. The FERC applauded the efforts of EEI and the participating utilities to pool and share spare transformers. FERC noted that:

Without the [Transformer] Agreement, utilities would have to purchase substantially more transformers to achieve the same recovery capability, incurring substantially higher costs, or experience the inherent time delay associated with finding, negotiating for, ordering, transporting, and testing a replacement transformer. Furthermore, the Agreement establishes the obligation to share spare transformers with Participating Utilities if there is a Triggering Event. Accordingly, we find that the sharing arrangement in the Agreement is prudent.

Declaratory Order at ¶ 39.¹

¹ A “triggering event” is defined as an act of terrorism that destroys or disables one or more substations and results in a declaration of a state of emergency by the President. Agreement at § 1.1.

Under the Transformer Agreement, each participating utility is required to maintain, and if necessary, acquire a specific number of transformers in each voltage class in which it participates. The Agreement requires participating utilities to sell their spare transformers to another participating utility in its voltage class if there is a triggering event. Idaho Power anticipates that it will commit 400 megavolt-amperes (MVA) of spare transformers to the sharing pool in its 230 kV-138 kV equipment class. Application at ¶ 7.

Idaho Power asserts that it will lower its overall future costs to maintain spare transformers in its inventory, thereby benefiting ratepayers. By participating in the Transformer Agreement, Idaho Power receives the benefit of access to transformers in a national emergency without the added costs and risks of buying and carrying large surpluses of spare transformers in its inventory. *Id.* at ¶ 6.

Idaho Power states that because the possible transfer and sale of transformers is executory, “appropriate bookkeeping entries will be made at the time of any future transfer and sale” of transformers. Application at ¶ 9. At this time the Company does not seek approval of any ratemaking treatment for the Transformer Agreement fees and any new inventory required by the terms of the Agreement. *Id.*

STAFF ANALYSIS

Staff has reviewed the Company’s Application and the Transformer Agreement and generally agrees that the sharing agreement is prudent and in the best interests of customers of Idaho Power and national security. Under the agreement, Idaho Power will commit transformers currently in inventory to be sold or transferred to another electric utility company upon a triggering event. A triggering event means an act or coordinated acts of deliberate, documented terrorism, as defined in the Homeland Security Act of 2002 (6 U.S.C. § 101(15)) resulting in: (1) the destruction or long-term disabling of one or more electric transmission substations; and (2) the declaration of a state of emergency by the President of the United States pursuant to the National Emergencies Act, 50 U.S.C. § 1601 *et seq.* Idaho Power would also be able to call upon participating utilities to receive transformers if its systems were disabled by a triggering event. Though the risk of terrorist attack is uncertain, the pooling agreement reduces the risk of long-term outages due to transformer shortage. This agreement would allow and provide for a more timely restoration of power in the event of a terrorist attack.

The Transformer Agreement does not place restrictions upon the transformers that Idaho Power will commit to the industry-wide pool of spare transformers. Under the terms of the Transformer Agreement, Idaho Power will maintain ownership and possession of all of its spare transformers and will be able to use its spares for equipment failures as long as such spares are replaced within 18 months.

In the event of a terrorist attack, Idaho Power will sell or purchase spare transformers at either the replacement cost or the net book value of the subject spare transformer, plus any additional costs for cleaning, testing and transporting the transformer. The decision to charge the replacement cost or net book value is at the sole discretion of the selling utility. If a participating utility suffers the destruction or disabling of one or more electric transmission substations, the utility must first use any and all spare transformers that it currently owns or to which it has rights to remedy the destruction or disabled situation. To the extent that the utility is not able to remedy the destruction or disabling with its own inventory, the utility may then call upon other utilities through a "Call Notice" to provide the spare transformers needed to restore power. Utilities will reserve the right to object to the Call Notice if there are multiple Call Notices for the same spare transformer, or if the utility will require the use of the spare transformer to meet its own demands. Objections will be heard by the Executive Committee established by the Transformer Agreement to resolve such disputes.

Under *Idaho Code* § 61-328, an electric utility cannot transfer any property that is used in the generation, transmission, or distribution of energy to the public without authorization from the Commission. Although Idaho Power believes the risk of having to sell a spare transformer under the Agreement to be very low, the possibility of such a sale would require this Commission's approval. Before authorizing such a transaction, the Commission must find that: (1) the transaction is consistent with the public interest; (2) the costs of and rates for supply and service will not be increased by reason of such transaction; and (3) the transaction will not adversely effect the financial ability of Idaho Power to operate and maintain its facilities. *Idaho Code* § 61-328(3). The Commission may condition its authorization with such terms and conditions as in its judgment the public convenience and necessity may require. *Idaho Code* § 61-328(4).

The Agreement allows Idaho Power to participate in any or all of several equipment classes. The Company has chosen to participate in only one, the 230kV-138kV class. In discussions with the Company, Staff has determined that the Company has considered several classes of equipment

prior to deciding that, at this time, it will only participate in the one class in an amount of 400 MVA. The 400 MVA of participation covers the largest single transformer in this class.

There are two classes of equipment larger than the 230-138kV class that Idaho Power might have chosen to participate in. In the 345-230kV class, the Company has three transformers in the system. These are spread out across the system and the loss of one or more of these would have little adverse effect. In the 500-345kV class, the Company has three single phase transformers for which it has one single phase spare and an existing sharing agreement for another. The Company made a determination that the risks for these two classes are either low or already adequately mitigated.

There is also two smaller transformer classes that the Company could participate in the agreement. The Company is still evaluating these smaller classes and may add them to the Agreement at a later date if it determines that action to be appropriate. Staff believes that Idaho Power should participate in all classes where it can appropriately and cost effectively mitigate risks.

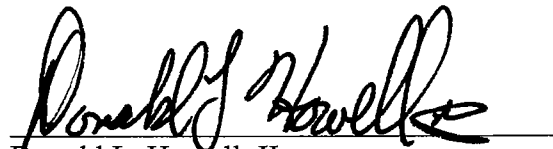
Staff believes that the Transformer Agreement is in the public interest because it provides for increased reliability and a higher level of preparedness in the event of an attack or disruption in the electric system. Staff also believes that the Transformer Agreement will not unduly increase customer rates because the receiving utility will pay for the transformer and all costs associated with the sale. Without the Transformer Agreement, it is likely that customers may pay a higher rate for service, as Idaho Power would be required to boost its transformer inventory to be prepared for a possible worst-case scenario. The Transformer Agreement will not adversely effect the financial ability of Idaho Power to operate and maintain its facilities because the Company will have an industry-wide pool of inventory to draw from if its systems were disrupted, which would help restore power more efficiently than purchasing direct from the manufacturer because of long manufacturing lead times.

Idaho Power is not seeking approval of any ratemaking treatment for the Transformer Agreement fees and the acquisition of any new inventory required by the terms of the Agreement. The Federal Energy Regulatory Commission has stated that the costs of participating in the pooling agreement may be recovered in a FERC proceeding as a single-issue rate proceeding. *Declaratory Order* at ¶ 43. The recovery of costs associated with any new inventory may be addressed in a future rate proceeding before this Commission.

STAFF RECOMMENDATION

Upon review of the submitted Application and Exhibits, Staff asserts that the Transformer Agreement meets the criteria of *Idaho Code* § 61-328, and thus recommends the Commission approve Idaho Power's Application authorizing the possible transfer of assets in the event of a terrorist attack. Staff further recommends that the Commission direct the Company to advise the Commission after any triggering event that affects Idaho Power's participation in the Transformer Agreement, or when a "Call Notice" is received or requested. Idaho Power's advice letter should apprise Staff and the Commission of the Company's plan to rectify any destruction or disablement caused by the triggering event.

Respectfully submitted this ^{19th} day of December 2006.


Donald L. Howell, II
Deputy Attorney General

Technical Staff: Donn English
Harry Hall

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 19TH DAY OF DECEMBER 2006, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-06-27, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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