

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) **CASE NO. IPC-E-08-24**
AUTHORITY TO RETIRE ITS GREEN)
TAGS.) **ORDER NO. 30818**
)

On January 26, 2009, the Commission issued its final Order No. 30720 approving the retirement of Idaho Power Company’s Green Tags. On February 17, 2009, the Industrial Customers of Idaho Power (ICIP) filed a timely Petition for Reconsideration. ICIP urged the Commission to reconsider its decision and order the sale of the Green Tags generated by the Elkhorn Valley Wind Project and the Raft River Geothermal Project. Thereafter, the Commission granted ICIP reconsideration by written briefs followed by oral argument. After reconsidering our prior Order and the positions of the parties, the Commission grants ICIP’s Petition and directs Idaho Power Company to sell its 2007 and 2008 Green Tags. The proceeds from the sale of the Green Tags shall be recorded in the Company’s 2010 Power Cost Adjustment (PCA) filing.

BACKGROUND

A Green Tag is a tradable environmental commodity attributable to renewable energy generation. The entity possessing a Green Tag¹ allegedly has a right to make claims about the environmental benefits associated with renewable energy. For example, a utility that possesses a Green Tag may claim that it is producing renewable energy and that it satisfies a state renewable portfolio standard (RPS). Each megawatt-hour (MWh) of electricity generated by an eligible renewable energy resource is equal to one Green Tag. Order No. 30701 at 1.

Idaho Power purchases energy and receives the accompanying Green Tags from two qualifying renewable energy facilities, the Elkhorn Wind Project and the Raft River Geothermal Project. Presently, the generator of a Green Tag may sell, retire, or hold (a.k.a. “bank”) the tag. While an active market exists for the sale and purchase of Green Tags, once the tag is sold the generator purportedly loses the right to claim any environmental attributes gained from these renewable energy resources. Retiring the Green Tag allows the generator to claim it is

¹ A Green Tag is often referred to as a “renewable energy credit” (REC).

generating electricity from renewable resources and to make representations to its customers and the general public about its renewable resources and further promote renewable energy. "Banking" a Green Tag allows the generator to decide at a later date whether to sell or retire the tag. The value of a Green Tag declines with time.

FINAL ORDER NO. 30720

Idaho Power's initial Application filed on November 14, 2008, requested permission to retire its Green Tags from the Elkhorn and Raft River facilities. The Company asserted that the acquisition and retention of Green Tags was necessary not only to accurately represent the renewable energy component of its resource portfolio but also to satisfy future federal and/or state laws imposing renewable energy standards.

In Order No. 30720, the Commission acknowledged the likelihood of federal legislation regarding renewable energy. More specifically, the Commission determined that any potential savings through rates for customers in the short-term might result in the need for exponentially greater increases in rates in the future in order to meet mandated renewable energy standards under consideration by Congress. Order No. 30720 at 3. Consequently, the Commission approved the Company's request to retire its Green Tags for purposes of promoting renewable energy and in anticipation of an impending federal renewable energy standard.

THE PETITION FOR RECONSIDERATION

In its Petition for Reconsideration, ICIP argued that the Commission did not fully consider the consequences that retirement has on Green Tags, its effect on ratepayer assets, and the implications of image advertising. Specifically, ICIP maintained that the value associated with Green Tags belongs to the ratepayers and the only appropriate action is to sell the Green Tags and credit ratepayers with the sales proceeds. In Order No. 30743, the Commission granted reconsideration and directed the parties to submit briefs. The Commission also scheduled oral argument for April 22, 2009.

In its Brief on Reconsideration, ICIP addressed the additional issues of shelf life, federal and state guidelines regarding renewable portfolio standards, Green Tag value, and impacts on ratepayers. ICIP asserted that the longer a Green Tag is "banked" and neither retired nor sold, its value decreases in the saleable market. Therefore, ICIP argued that the most prudent action by the Company would be to sell the Green Tags as soon as the tag is generated in order to maximize the sales price. ICIP claimed that the sale of approximately 320,000 MWh of Green

Tags generated in 2007 and 2008 would amount to a rate reduction for customers of about three tenths of one percent. ICIP Brief at 5.

IDAHO POWER'S RESPONSE

In its Brief on Reconsideration, the Company asked that it be allowed to both retire and bank its Green Tags. However, at oral argument the Company requested authorization to bank or "shelve" *all* of its Green Tags. Tr. at 24-25. Idaho Power maintained that banking Green Tags now will allow the Company to "stockpile" tags in anticipation of federal mandatory renewable energy requirements. "[B]anking the tags is the most prudent course of action until such time as Green Tags can be applied to State or Federal RPS standards and be permanently retired. . . ." *Id.* at 25.

Idaho Power agreed with ICIP's assertion that a Green Tag's value declines over time. Although each jurisdiction has its own definition of shelf life, the older the Green Tag the lower the value and the less likely that it may be used to satisfy any given jurisdiction's renewable portfolio standard. IPC Brief at 5. Idaho Power estimated that the present value of its Green Tags generated between November 2007 and March 2009 is \$1,313,797. However, the Company recognized that its communications with customers in 2007 and 2008 may have impaired its ability to sell all of the Green Tags. *Id.* at 14.

COMMENTS ON RECONSIDERATION

The Idaho Conservation League (ICL) and Renewable Northwest Project (RNP) submitted joint comments on reconsideration. The ICL and RNP asserted that the Commission correctly prioritized the financial and environmental values derived from the retirement of the Company's Green Tags. Accordingly, the ICL and RNP urged the Commission to affirm its decision to retire the Green Tags in Order No. 30720.

DISCUSSION AND FINDINGS

Reconsideration provides an opportunity for a party to bring to the Commission's attention any issue previously determined and provides the Commission with an opportunity to rectify any mistake or omission. *Washington Water Power Company v. Kootenai Environmental Alliance*, 99 Idaho 875, 591 P.2d 122 (1979). At the outset, we note that this case presents an issue not previously addressed and that Idaho Power's position on the Green Tags in this case changed over the course of the proceeding. The Company initially requested permission to retire the tags, but on reconsideration asked for authority to bank or shelve all of the tags. Thus, it

appears that the applicant no longer supports the Commission's decision in Order No. 30720 to retire the tags.

Having fully reviewed the Application, the briefs on reconsideration, the comments of the other parties and the arguments offered at oral argument, the Commission grants ICIP's Petition for Reconsideration.² The Commission finds that there is no compelling evidence that banking these tags generated in 2007 and 2008 will lessen the Company's burden in meeting a future federal standard. In the absence of federal standards, Idaho Power's request to shelve or bank the tags rests solely on its speculation that they *might* be able to be used in the future. Likewise, retirement of these older tags may have no tangible benefit in the near term. The only certainty in this matter is that these 2007 and 2008 tags will continue to lose value.

Unless and until the federal government establishes renewable energy standards and corresponding guidelines, we find the most prudent disposition of these Green Tags at this time is their sale. We also declare that selling the 2007 and 2008 Green Tags does not foreclose alternative treatment of future tags and we do not address in any way in this order the appropriate treatment of future tags. Consequently, ICL's and RNP's argument that the Commission should retire future tags is not foreclosed. We conclude only that the best use of the Green Tags at issue in this case is to sell them and use the proceeds to benefit Idaho Power ratepayers.

Based upon the particular facts of this case, we direct Idaho Power Company to sell its eligible 2007 and 2008 Green Tags generated by the Elkhorn Valley Wind Project and the Raft River Geothermal Project. The Company shall notify the Commission of the sales price and the proceeds shall be included in the Company's 2010 PCA calculation. The Company is also directed to formulate a prudent business plan outlining how it plans to manage Green Tags generated in 2009 and later. This plan should be submitted to the Commission no later than December 31, 2009.

ORDER

IT IS HEREBY ORDERED that Industrial Customers of Idaho Power's Petition for Reconsideration is granted.

IT IS FURTHER ORDERED that Idaho Power sell its eligible Green Tags generated in 2007 and 2008 by the Elkhorn Valley Wind Project and the Raft River Geothermal Project and

² Although ICIP was directed to provide details regarding its image advertising argument, it failed to do so. Therefore, the image advertising issue is deemed abandoned and we do not address it in this Order.

include the proceeds in the Company's 2010 PCA calculation. The Company shall report the sale price(s) to the Commission.

IT IS FURTHER ORDERED that Idaho Power formulate a business plan that describes how it will manage Green Tags generated in 2009 and after. This plan shall be submitted to the Commission no later than December 31, 2009.

THIS IS A FINAL ORDER ON RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. IPC-E-08-24 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

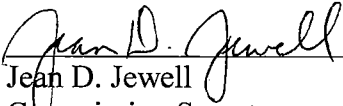
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 20th day of May 2009.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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