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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR AUTHORITY) CASE NO. IPC-E-08-24
TO RETIRE ITS GREEN TAGS.)
)
) COMMENTS OF THE
) COMMISSION STAFF
) RE: REC MANAGEMENT PLAN**

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Kristine A. Sasser, Deputy Attorney General, and in response to the Notice of REC Management Plan Filing and Notice of Modified Procedure issued in Order No. 31062 on April 23, 2010, in Case No. IPC-E-08-24, submits the following comments.

BACKGROUND

On May 20, 2009, in response to an Application filed by Idaho Power, the Commission issued a final Order directing Idaho Power to sell its eligible 2007 and 2008 Green Tags¹ generated by the Elkhorn Valley Wind Project and the Raft River Geothermal Project and to include the proceeds from the sale in the Company's 2010 Power Cost Adjustment (PCA) calculation. Order No. 30818. The Commission also directed the Company to formulate a

¹ Green Tags are also commonly referred to as renewable energy credits (RECs).

business plan regarding the disposition of Green Tags generated in 2009 and later. Idaho Power filed its REC Management Plan with the Commission on December 30, 2009. The Commission determined that the REC Management Plan should be considered through the use of Modified Procedure, allowing 21 days for comments. Order No. 31062.

STAFF ANALYSIS

A Green Tag is produced for each megawatt-hour (MWh) of electricity generated by an eligible renewable energy resource. An active market exists for the purchase and sale of Green Tags. Unlike states with Renewable Energy Standards (RES), Idaho currently has no requirement for utilities to acquire, retain or retire Green Tags. Because Idaho Power has no requirement to possess Green Tags, Staff believes that the appropriate question for the Commission to consider is whether customers will be better off if Idaho Power retires, sells, or continues to simply hold the tags.

Idaho Power's REC Management Plan

The basic philosophy of Idaho Power's REC Management Plan is to sell its RECs in the near-term and return the customers' share of the proceeds through the PCA mechanism while continuing to acquire and hold long-term contractual rights to own RECs for use in meeting a future federal RES. More specifically, for existing projects, such as Elkhorn Valley Wind Project and the Raft River Geothermal Project, in which Idaho Power receives RECs as part of a long-term power purchase agreement, Idaho Power plans to sell the near-term RECs and return the customers' share of the proceeds through the PCA while continuing to acquire and hold long-term contractual rights to own RECs for use in meeting a future federal RES.

For existing PURPA and other REC generating projects that provide output to Idaho Power under mid- to long-term contracts, if a mutually agreeable price can be reached with the project owner, Idaho Power may enter into contracts to purchase the project's RECs on a mid- to long-term basis with the expectation that the REC acquisition costs will be treated as a PCA expense. In this situation, Idaho Power's intent is the same — to sell the near-term RECs and return the customers' share of proceeds through the PCA while continuing to acquire and hold long-term contractual rights to own RECs for use in meeting a future federal RES.

For new long-term power purchase agreements, like the recently filed Neal Hot Springs Geothermal contract (Case No. IPC-E-09-34), Idaho Power intends to continue to acquire long-term rights to the RECs under these agreements. As noted above, Idaho Power intends to sell the near-term RECs and return the customers' share of the proceeds through the PCA while continuing to acquire and hold long-term contractual rights to RECs for use in meeting a future federal RES.

No Change in the Situation Supports No Change in Policy

As stated in the Commission's previous final Order in this case, there is no compelling evidence that banking Green Tags will lessen the Company's burden in meeting a future federal Renewable Energy Standard. "Likewise, retirement of [] tags may have no tangible benefit in the near term." Order No. 30818. Retiring Green Tags will not cause any additional renewable projects to be developed, nor will it change Idaho Power's resource portfolio in any way. Retiring Green Tags means that revenues foregone by not selling them cannot be productively used for any purpose. The foregone revenues simply become the price paid to permit Idaho Power to tell its customers that some of their power is renewable. The ability or inability to advertise that power is generated from a renewable source does not change the fact that the power is, indeed, generated from a renewable energy project.

Unless and until the federal government establishes renewable energy standards and corresponding guidelines, the most prudent disposition of Green Tags is their sale. *Id.* Allowing the sale of presently generated tags does not foreclose alternative treatment of future tags when the federal or state government creates an RES that would warrant such alternative treatment.

Staff believes that Idaho Power's REC Management Plan for disposition of Green Tags generated in 2009 and later generally reflects the same treatment that the Commission ordered for 2007 and 2008 Green Tags. In Idaho Power's 2010 Power Cost Adjustment (PCA) filing (Case No. IPC-E-10-12), the Company reported that the proceeds of 2007 and 2008 REC sales to date amounted to \$665,788. In accordance with Order No. 30818, these and future proceeds gained from the sale of 2007 and 2008 RECs will be returned to customers through the PCA.

The Commission's Order on treatment of 2007 and 2008 Green Tags was issued in May 2009. Since its issuance, Staff is unaware of any changes in either state or federal RES requirements. Staff is also unaware of any momentum at the state level presently to implement RES requirements. At the federal level, discussions regarding various versions of a

comprehensive energy bill continue, most of which include some provision for RES requirements. However, Congress and the Administration's recent focus on other issues has delayed further consideration of energy issues.

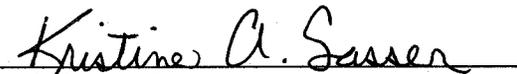
Staff anticipates that federal RES requirements will emerge in the future, but believes that until they do, Idaho Power should continue to sell the near-term RECs and return the customers' share of the proceeds through the PCA. Staff supports the Company's plan to continue to acquire and hold long-term contractual rights to RECs for use in meeting a future federal RES.

If RES requirements are eventually implemented, Staff believes it is unlikely that utilities will be expected to comply immediately. Instead, it is likely that utilities would be given some time to comply, making it unnecessary for Idaho Power to have a stockpile of retired and/or banked Green Tags. Unless or until something significant changes at either the state or federal level, Staff believes that the Commission's prior Order regarding disposition of 2007 and 2008 RECs sets an appropriate policy for treatment of 2009 RECs and beyond. Idaho Power's REC Management Plan is consistent with the Commission's previously established policy direction.

STAFF RECOMMENDATION

Staff recommends that the Commission accept for filing Idaho Power's REC Management Plan. As laid out in the Plan, Staff believes it is appropriate for the Company to sell its RECs in the near-term and return the customers' share of the proceeds through the PCA mechanism while continuing to acquire and hold long-term contractual rights to own RECs for use in meeting a future federal RES. Should there be any change in the political landscape concerning an RES, Staff recommends that Idaho Power be directed to submit a revised plan consistent with state and federal policy. Staff further recommends that acceptance for filing of Idaho Power's REC Management Plan not imply approval of any specific REC transaction, but that review of the prudence of specific transactions be reserved for annual PCA filings, general rate case filings, or filings made specifically to address RECs.

Respectfully submitted this 14TH day of May 2010.


Kristine A. Sasser
Deputy Attorney General

Technical Staff: Rick Sterling

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 14TH DAY OF MAY 2010, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-08-24, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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