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IDAHO PUBLIC UTILITIES COMMISSION

BARTON L. KLINE
Lead Counsel

July 2, 2009

VIA HAND DELIVERY

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-09-03
LANGLEY GULCH POWER PLANT

Dear Ms. Jewell:

Enclosed for filing in the above matter are nine (9) copies each of the rebuttal testimonies of John R. Gale, Karl Bokenkamp, Vernon Porter, Lori Smith, Peter Pengilly, and Michael Mace. One copy of each of the testimonies has been designated as the "Reporter's Copy." In addition, a redacted version of both Mr. Bokenkamp's and Mr. Porter's testimonies have been provided for posting on the Commission's website. Finally, a disk containing Word versions of each of the above testimonies is enclosed for the Reporter and has been marked accordingly.

Also enclosed for filing are nine (9) copies of Idaho Power's Certificate of Service indicating service of the testimonies on the Intervenors.

Very truly yours,

Barton L. Kline

BLK:csb
Enclosures

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of July 2009 I served a true and correct copy of **IDAHO POWER COMPANY'S REBUTTAL TESTIMONY OF JOHN R. GALE, KARL BOKENKAMP, VERNON PORTER, LORI SMITH, PETER PENGILLY, AND MICHAEL MACE** upon the following named parties by the method indicated below, and addressed to the following:

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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER)
COMPANY'S APPLICATION FOR A) CASE NO. IPC-E-09-03
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY FOR THE LANGLEY)
GULCH POWER PLANT.)

IDAHO POWER COMPANY

DIRECT REBUTTAL TESTIMONY

OF

JOHN R. GALE

1 Q. Please state your name and business address.

2 A. My name is John R. Gale and my business
3 address is 1221 West Idaho Street, Boise, Idaho.

4 Q. By whom are you employed and in what
5 capacity?

6 A. I am employed by Idaho Power Company ("Idaho
7 Power" or "the Company") as the Vice President of
8 Regulatory Affairs.

9 Q. Have you previously submitted direct
10 testimony in this docket?

11 A. Yes. I submitted direct testimony
12 addressing the ratemaking and regulatory matters associated
13 with Idaho Power's March 6, 2009, filing for a Certificate
14 of Public Convenience and Necessity for the Langley Gulch
15 power plant ("Langley Gulch" or "the Project"). I also
16 submitted supplemental direct testimony in this same docket
17 on April 28, 2009.

18 Q. What is the scope of your rebuttal
19 testimony?

20 A. My testimony rebuts statements made and/or
21 positions taken by Community Action Partnership Association
22 of Idaho ("CAPAI") witness Terri Ottens, Industrial
23 Customers of Idaho Power ("ICIP") witness Cynthia Mitchell,
24 Northwest & Independent Power Producers Coalition ("NIPPC")

1 witness Don Reading, and Idaho Public Utilities Commission
2 ("the Commission") Staff witness Rick Sterling.

3 CAPAI

4 Q. On page 4 of her testimony, Ms. Ottens
5 states that "a regulatory public utility should, among
6 other things, make every attempt to pursue least cost
7 alternatives, best suited to meet the needs in question,
8 when it does acquire new resources, thereby minimizing
9 increases to rates." From the Company's perspective, what
10 are the "other things"?

11 A. The Company's stated goals in resource
12 planning are (1) to identify sufficient resources to
13 reliably serve the growing demand for energy within the
14 Company's service area and (2) to balance costs, risks, and
15 environmental concerns. Selected resources need to provide
16 economic solutions reliably and in an environmentally
17 responsible way.

18 Q. On page 6 of her testimony, Ms. Ottens
19 states, "With an estimated cost of \$247 million, Langley
20 Gulch will constitute approximately one-fourth of Idaho
21 Power's entire rate base." Is this an accurate statement?

22 A. No, it contains two factual errors. First,
23 the cost, in terms of the Commitment Estimate proposed by
24 the Company, is \$427 million, including the transmission

1 portion. Second, even at this higher amount, the Project
2 will represent less than 20 percent of Company rate base as
3 determined in our last general rate case order. More
4 importantly, I think Ms. Ottens is saying that Langley
5 Gulch is a big investment that will have a significant rate
6 impact. I agree. However, the larger issue is that
7 whatever Idaho Power does to serve load in the next five
8 years is going to have a significant rate impact. Simply
9 doing nothing will not avoid additional costs and may very
10 well impact reliability and quality of service.

11 **ICIP**

12 Q. Ms. Mitchell states on page three of her
13 testimony that the Langley Gulch in-service date has
14 slipped to December 2013 and accordingly the Company has
15 given the Commission an additional six months to review its
16 Application. Is December 2013 the in-service date?

17 A. No. The in-service date for Langley Gulch
18 is December 2012. As described in Mr. Vern Porter's
19 rebuttal testimony, the Company believes it is in its
20 customers' best interest to have Langley Gulch available in
21 the summer of 2012 and is actually pursuing a strategy to
22 make that happen. The strategy will include an incentive
23 payment, which I would urge the Commission to include in

1 its final determination of the Company's Commitment
2 Estimate.

3 Q. On pages 5 and 6 of her testimony, Ms.
4 Mitchell lists a number of items that suggest that the
5 Project might be delayed without a reliability consequence,
6 such as the contract load at Hoku not materializing and
7 additional demand-side resources appearing. Are there
8 other dynamics that counter these speculative assertions?

9 A. Yes. One important development not
10 mentioned is the delay from 2012 to 2015 in the anticipated
11 completion of the 500 kilovolt Boardman to Hemmingway
12 transmission project, which would open up access to
13 resources from the west. With this transmission option
14 unavailable in 2012, it is even more important to have
15 additional generation in place by then. The other wild
16 card in planning for the future is the emergence of new
17 large loads in our service area. These potential new loads
18 are being attracted by the lowest industrial rates offered
19 by investor-owned utilities in the nation and are being
20 actively recruited by Idaho cities, economic developers,
21 and other local agencies eager to get the Idaho economy
22 revived.

1 Q. Ms. Mitchell describes an emerging winter
2 peak for Idaho Power on page 6 of her testimony. Please
3 comment on her discovery.

4 A. Actually, Idaho Power has a history of being
5 dual peaking, which was more pronounced in the past than it
6 is today. However, continued irrigation operations,
7 increased air conditioning load, and a high natural gas
8 penetration for space heat have resulted in the summer peak
9 growing faster than the winter peak. Company witness
10 Michael Mace discusses in detail the nature and history of
11 the Company's peak periods in his testimony.

12 Q. Continuing her discussion on Idaho Power's
13 secondary winter peak on page 25 of her testimony, Ms.
14 Mitchell recommends a review of the Company's current
15 retail tariffs to "ensure that rate design is not at cross
16 purposes with energy efficiency activities and programs."
17 What does Idaho Power presently do to ensure this result?

18 A. On an ongoing and regular basis, management
19 from within the Pricing and Regulatory Department (where
20 rates are designed) and from the Customer Relations and
21 Energy Efficiency Department (where programs are developed)
22 meet and discuss current issues and developments in each of
23 their respective areas. Development of new energy
24 efficiency and demand response programs, as well as new

1 proposed rate design and regulatory issues, are discussed
2 and coordinated.

3 As stated in my direct testimony in the Company's
4 last general rate case (Gale Direct, IPC-E-08-10), the
5 Company is committed to providing customers cost-based
6 price signals which encourage the wise and efficient use of
7 energy and has designed rates in such a manner. Idaho
8 Power's goal is to design rates reflecting the relative
9 cost to operate the system. Customers can then use this
10 pricing information to alter their discretionary patterns
11 of usage, increasing efficiency and lowering the overall
12 cost of energy to the system.

13 To implement this goal, Idaho Power proposed, and
14 the Commission approved, inclining block rates for
15 residential and small commercial customers, mandatory time-
16 of-use rates for large general and large power customers,
17 and load-factor pricing for irrigation customers. These
18 rate designs send seasonally differentiated cost-based
19 price signals to our customers and provide specific
20 opportunities for customers to benefit through energy
21 efficiency activities.

22 Q. For the irrigation class, does a load-factor
23 energy pricing rate design interfere with or become
24 counter-productive to the goals of either the Company's

1 Irrigation Efficiency Rewards Program or the Irrigation
2 Peak Rewards Program?

3 A. No. Participants in the Irrigation
4 Efficiency Rewards Program receive rewards to improve the
5 energy efficiency of their existing irrigation systems or
6 their installation choices for new systems. The right-
7 sizing of equipment encouraged by this program should
8 enhance the customer's load factor. Therefore, load-factor
9 energy pricing has the potential to provide a second set of
10 benefits to the participants in the Irrigation Efficiency
11 Rewards Program.

12 The Irrigation Peak Rewards Program provides
13 economic credits to customers who allow the Company to turn
14 off specific irrigation equipment on a dispatchable basis.
15 Participants in this program generally shift their usage to
16 another time period. Therefore, load-factor energy pricing
17 should not make any significant changes to their monthly
18 load factor.

19 Q. Does the Company anticipate continuing
20 actively proposing new rate design?

21 A. Yes. In 2008, Idaho Power commissioned Dr.
22 Ahmad Faruqui, a nationally recognized expert in the field
23 of dynamic rate design to develop a white paper entitled
24 "*Transitioning to Innovative Rates at Idaho Power:*

1 *Pathways to the Future.*" Idaho Power continues to work
2 with Dr. Faruqui in developing new rate design. Since
3 2005, Idaho Power has successfully operated a Critical Peak
4 Pricing program in the Emmett Valley with customers who
5 piloted the Company's Advanced Metering Infrastructure
6 ("AMI") system. With the full implementation of the AMI
7 system, which is in its first year of a three-year system-
8 wide roll out, and with the implementation of billing and
9 data management systems to manage the AMI data, Idaho
10 Power's intent is to offer additional programs, including
11 dynamic pricing, for customers in all rate classes.

12 Q. Does the Company have other pricing
13 structures that are supportive of the Company's energy
14 efficiency programs?

15 A. Yes. In Case No. IPC-E-04-15, the Company
16 proposed, and the Commission approved, a three-year pilot
17 of a Fixed Cost Adjustment ("FCA") mechanism for its
18 residential and small general service customers. The FCA
19 annually adjusts rates up or down to recover the difference
20 between the fixed costs authorized by the Commission in the
21 most recent rate case and the fixed costs the utility
22 actually recovers from customers during the previous year.
23 In this way, any financial disincentive to the utility
24 investment in energy efficiency programs is removed.

1 Q. On page 32 of her direct testimony, Ms.
2 Mitchell discusses a shareholders' resolution regarding
3 Company planning for greenhouse gas ("GHG") reductions and
4 its relationship to demand-side management ("DSM")
5 programming. Please comment.

6 A. Both prior to and after the shareholder
7 resolution vote, the Company has repeatedly been on the
8 record both in word and deed as completely supportive of
9 pursuing *cost-effective* energy efficiency, demand response
10 measures, and renewable resources. The Commission and
11 customer groups are aware of the expedited ramp-up of these
12 programs, resources, funding, and results. Absent the
13 removal of the "cost-effective" criterion, there is no GHG
14 plan that would have Idaho Power do more than it is already
15 committed to do to further DSM initiatives. Likewise, our
16 commitment has to stay in step with the public policy
17 determinations of the Commission.

18 In the final analysis, our energy future requires
19 ongoing energy efficiency, renewable resources, and the
20 Langley Gulch production plant.

21 Q. On page 34, Ms. Mitchell states that CWIP is
22 "an artifact of monopoly regulation that is unavailable in
23 the competitive business world." Do you agree with her
24 conclusion?

1 A. No. In the real world customers sometimes
2 make prepayments to new production ventures for product
3 that will be received in the future. These payments can
4 become an important source of financing, which can enable a
5 company to build facilities to produce the product. In
6 Idaho Power's own service territory, it has seen Hoku
7 Materials use this method to finance facilities.

8 Q. Ms. Mitchell testifies that including CWIP
9 in rate base distorts the resource selection process in
10 three ways: (1) by encouraging utilities to build power
11 plants rather than purchasing power, (2) by creating a
12 financial disincentive for energy efficiency, and (3)
13 providing benefits to generation technologies with long
14 lead times. Do you see the same distortions to the
15 resource selection process used in Idaho Power's Integrated
16 Resource Plan ("IRP")?

17 A. I do not. First of all, I would think that
18 most industrial customers really want to optimize the
19 economic and reliability aspects of a resource selection
20 and would be indifferent to the buy versus build decision.
21 The Idaho Power IRP is indifferent to this decision and
22 does not make such a distinction when selecting the
23 resource portfolios. Those distinctions come in the actual
24 acquisition process, as there are some resources that the

1 Company has traditionally filled exclusively through power
2 purchase agreements, while others have included a self-
3 build option among the possibilities.

4 The inclusion of Construction Work in Progress
5 ("CWIP") can help finance a self-build option, thus adding
6 some discipline to a competitive bidding process; however,
7 it is not a factor in the resource selection. The reverse
8 situation might be argued when the inability to put CWIP
9 into rate base takes a self-build option off the table
10 because of financing difficulties.

11 Q. Do you believe that CWIP is a financial
12 disincentive to energy efficiency?

13 A. Idaho Power, along with others, has given
14 much thought to the appropriate regulatory model for energy
15 efficiency. We have pursued ongoing recovery of energy
16 efficiency expenditures via a tariff rider, which typically
17 provides timely cash flow to the utility to finance demand-
18 side measures. Since these measures are financed on the
19 front end, while benefits are enjoyed over the life of the
20 measures, I would argue it is the equivalent of CWIP
21 recovery for supply-side investments rather than a
22 disincentive.

23 Many parties, including the ICIP, have investigated
24 the financial disincentives to energy efficiency through a

1 fairly exhaustive process resulting in the current Fixed
2 Cost Adjustment pilot previously discussed. Thus far, the
3 ICIP has expressed a preference to be excluded from the FCA
4 pilot. As I previously stated, the Company is fully
5 committed to the pursuit of all cost-effective energy
6 efficiency and demand response programs. The inclusion or
7 exclusion of CWIP in generation rate base will not have a
8 bearing on this commitment.

9 Q. Does the inclusion of CWIP in rate base
10 create a bias toward long-lead-time resources?

11 A. No. CWIP availability does not create a
12 bias toward long lead-time assets for the same reasons as
13 it does not favor Company-built options. Again, the
14 reverse is more likely; CWIP can help the financial
15 viability of a long-lead-time Company-built option, which
16 should make for a better resource decision.

17 Q. Please respond to Ms. Mitchell's concern of
18 an intergenerational impact of CWIP.

19 A. Ratemaking is rife with impacts that in
20 isolation appear to be unfair. In Ms. Mitchell's example,
21 a senior citizen starts paying for a resource before it
22 begins operating and may not live long enough to fully
23 enjoy its benefits. In isolation, it is factually true.
24 We have the similar generational mismatch with our funding

1 of demand-side resources - early payment through the Energy
2 Efficiency Rider with longer-lived benefits over the life
3 of the DSM measure. A generational dynamic in the opposite
4 direction is developing in the proposed approaches to
5 addressing carbon concerns, where it is very likely that
6 future customers are going to have to bear the cost of
7 existing carbon-intensive resources. "Gold Medallion"
8 homes and irrigation were once incented and now are a cost
9 concern. New industrial load raises the costs of existing
10 industrial customers. Bonneville Power Administration
11 Residential Exchange program distributes residential and
12 small farm credits during some periods and withholds them
13 in others, often depending on the latest court ruling. The
14 list goes on and on. The bottom line is the Commission
15 will have to determine whether it is good public policy to
16 allow all or some CWIP into rates. On balance they have to
17 weigh all the rate impacts, including the higher long-term
18 rates that come from traditional cost plus AFUDC treatment,
19 the rate shock that comes when the large, long-lead-time
20 asset is placed into rates in a single step, and the
21 financing implications to the utility of having CWIP
22 available or not.

23 Q. Ms. Mitchell also makes statements
24 regarding CWIP and Idaho Power's current financial

1 situation and credit rating implications. Will you address
2 those issues?

3 A. No. Company witness Lori Smith will respond
4 to those issues. However, I would like to respond to the
5 totality of Ms. Mitchell's CWIP testimony by restating the
6 Company's position that CWIP is a tool that is provided to
7 the Commission to use at their discretion either fully or
8 partially and either with or without the ratemaking
9 measures provided by Idaho Code § 61-541.

10 **NIPPC**

11 Q. In his testimony on behalf of NIPPC, Dr.
12 Reading testifies that even though the Company is a
13 regulated utility in Oregon, the Company simply ignored the
14 Oregon Public Utility Commission ("OPUC" or "Oregon
15 Commission") Guidelines for Competitive Bidding. Is Dr.
16 Reading correctly presenting the facts?

17 A. No he is not. The Company complied with the
18 Oregon Competitive Bidding Guidelines when it initiated the
19 2012 baseload resource RFP process that selected the
20 Langley Gulch project. In accordance with Guideline No. 2,
21 on April 17, 2008, Idaho Power filed a Petition with the
22 OPUC requesting a partial waiver of the OPUC's Competitive
23 Bidding Guidelines ("the Petition"). A copy of the
24 Petition is attached as Exhibit No. 9.

1 In its Petition, the Company described the events
2 and risk factors that caused the Company to accelerate its
3 issuance of an RFP to acquire a baseload resource to meet
4 anticipated loads in 2012 ("RFP Resource"). The RFP
5 Resource, now known as Langley Gulch, was intended to
6 replace the 250 MW pulverized coal-fired generating
7 resource that had been scheduled to be on-line for 2013 in
8 the Company's acknowledged 2006 IRP.

9 In its Petition, the Company identified those areas
10 in which its RFP would not be in strict compliance with the
11 Competitive Bidding Guidelines. The Company also explained
12 how it had structured its RFP so that it would be in
13 substantial compliance with the Competitive Bidding
14 Guidelines and would provide a fair and cost-effective
15 competitive bidding process. As part of that explanation,
16 the Company described the extensive review process the
17 Idaho Commission would undertake. During May, June, and
18 July of 2008, Idaho Power responded to data requests from
19 the Oregon Commission Staff and participated in a number of
20 discussions with Staff to explain the Company's filing and
21 to provide Staff with additional information concerning the
22 reasons underlying the filing of the Petition.

23 Idaho Power's purpose in asking for the waiver was
24 to comply with Competitive Bidding Guideline No. 2 under

1 which the OPUC can waive the competitive bidding
2 requirements on a case-by-case basis. In so doing, the
3 Company apprised the Oregon Commission of the Company's
4 changing resource plans and gave the Commission an
5 opportunity to review and suggest changes to the Company's
6 RFP process. In filing the Petition, Idaho Power also
7 hoped to obtain the Commission's concurrence with the
8 Company's position that strict compliance with the
9 Competitive Bidding Guidelines would compromise the
10 Company's ability to move quickly enough to secure a needed
11 resource required to meet expected demand and, therefore,
12 strict compliance with the Competitive Bidding Guidelines
13 would not be in the best interest of the customers.

14 The Oregon Commission Staff interprets the Oregon
15 guidelines to require that in order to conduct a RFP, a
16 potential resource must have been explicitly included in an
17 acknowledged IRP. Ultimately, in August of 2008, the OPUC
18 Staff advised the Company that Staff could not conclude
19 that a baseload natural gas-fired resource had been
20 included in an acknowledged IRP and, as such, the Company
21 could not proceed with the waiver request. They reached
22 this conclusion despite the fact that the Company had
23 included a baseload coal-fired generating resource
24 scheduled to be on-line in 2013 in its 2006 acknowledged

1 IRP, the Company's 2008 IRP Update, and the Company's
2 responses to the Staff's data requests. While Idaho Power
3 did not agree with the Oregon Staff's conclusion, its only
4 recourse at that point was to engage in a contested case.
5 A contested case would have been extremely time consuming
6 and expensive. Because the Company planned on opening bids
7 in the RFP process in October, most of the benefits the
8 Company had hoped to receive from the petition process,
9 i.e., suggested changes to the Company's RFP process, would
10 not have been realized even if it ultimately prevailed.
11 From the Company's standpoint, the Petition had become
12 essentially moot. As a result, the Company accepted Oregon
13 Staff's recommendation that the Company withdraw the
14 Petition and address the results of the 2012 RFP in a
15 subsequent proceeding.

16 Q. The bulk of Dr. Reading's testimony on
17 behalf of NIPPC consists of a comparison of the process
18 Idaho Power pursued in this 2012 baseload resource RFP with
19 the Oregon Competitive Bidding Guidelines. Do you have a
20 response to that portion of Dr. Reading's testimony?

21 A. I am not sure what relevance that portion of
22 Dr. Reading's testimony has to this proceeding. The state
23 of Idaho does not have competitive bidding requirements in
24 place and this Commission has already opened another

1 docket, GNR-E-08-03, in which the Commission can address,
2 presumably with all three electric utilities in Idaho, the
3 question of what, if any, competitive bidding guidelines
4 are needed in Idaho. Apparently NIPPC is making a
5 "preemptive strike" by presenting testimony in this
6 proceeding which, presumably, will also be presented in the
7 GNR-E-08-03 docket. Because the Commission has the
8 opportunity to undertake a comprehensive review of the need
9 for competitive bidding guidelines in Idaho in another
10 current docket, I do not think it is fruitful to engage in
11 a point-by-point refutation of Dr. Reading's testimony
12 here.

13 If the Commission decides to proceed with GNR-E-08-
14 03, Idaho Power will participate in good faith. However,
15 in considering Dr. Reading's recommendation in this case
16 that the Commission terminate this proceeding, adopt a new
17 set of bidding guidelines like the Oregon Competitive
18 Bidding Guidelines, and repeat the RFP with the guidelines
19 in place, the Commission should be cognizant of the
20 following facts:

21 1. In July of 2006, PacifiCorp filed an
22 application with the OPUC under the Oregon Competitive
23 Bidding Guidelines to conduct a RFP for a baseload resource
24 to be available in 2012 (PacifiCorp's Draft 2012 Request

1 for Proposals, UM 1208). After that lengthy proceeding had
2 been underway for two and a half years, PacifiCorp withdrew
3 its RFP prior to the completion of the case citing the
4 economic downturn and its belief that it might be able to
5 obtain better pricing. However, by that time PacifiCorp
6 had incurred nearly \$800,000 in Independent Evaluator's
7 ("IE") fees and expected to incur another \$250,000 in IE
8 fees to conclude the case (PacifiCorp's Application for
9 Reauthorization of Deferral Accounting, UM 1285(2),
10 December 15, 2008).

11 2. Conducting RFPs under the Oregon
12 Competitive Bidding Guidelines requires a very large
13 investment of Oregon Commission and Staff time and
14 resources to closely manage the utility's RFP process.

15 **COMMISSION STAFF**

16 Q. Did you review the testimony of the
17 Commission Staff witnesses?

18 A. Yes. I have no rebuttal comments to the
19 testimonies of Ms. Patricia Harms and Ms. Teri Carlock and
20 just a few regarding Mr. Sterling's testimony.

21 Q. What is your understanding of Mr. Sterling's
22 testimony?

23 A. Mr. Sterling is supportive of the need for
24 the resource and confirms the integrity of the resource

1 acquisition process. Mr. Sterling expresses concerns
2 regarding the Company's decision not to consider "build-
3 and-transfer" bids into the selection process. Mr.
4 Sterling also states concerns regarding certain aspects of
5 the timing of the process - including its relationship to
6 Senate Bill 1123 - and the potential "box" in which he
7 feels the Commission was placed by the Company.
8 Additionally, Mr. Sterling takes a different approach as to
9 the application of caps to the Commitment Estimate.

10 Q. What is Idaho Power's general response to
11 Mr. Sterling's testimony?

12 A. The Company views Mr. Sterling as an expert
13 in the areas of resource planning, resource costing, and
14 resource selection processes and values his support of the
15 need for the resource and the validity of the process to
16 acquire it. The Company has a different perspective on the
17 value of the "build-and-transfer" option in this
18 circumstance, which Idaho Power witness Porter will
19 address. I would like to respond to Mr. Sterling's
20 proposal to apply a cap to the Commitment Estimate and his
21 concern that the Company handcuffed the Commission into a
22 less than optimal set of decisions.

1 Q. Please restate the Company's request in this
2 proceeding related to the application of a cap to the
3 Commitment Estimate.

4 A. Idaho Power is requesting approval of a
5 total Commitment Estimate of \$427,366,729, which includes
6 the power plant and the two transmission interconnection
7 projects related to the Ontario-Caldwell connection and the
8 Caldwell-Willis connection. We are requesting that the
9 Commitment Estimate be subject to a soft cap that provides
10 retail customers with the full benefit of the Project being
11 completed under the Commitment Estimate, while providing
12 the Company with the *opportunity* to justify any costs above
13 the Commitment Estimate as prudent should that be the case.

14 Q. In what ways do you view the CPCN request
15 for the Langley Gulch project as different from the CPCN
16 requests for peaking facilities in recent years?

17 A. Idaho Power has filed CPCNs with the
18 Commission in 2001 (Evander Andrews #2 and #3), 2003
19 (Bennett Mountain), and 2006 (Evander Andrews #1). All of
20 these projects were simple cycle turbine peaking plants
21 compared to Langley Gulch's combined cycle combustion
22 turbine design. They are smaller in size, less expensive
23 to construct, and quicker to construct than Langley Gulch.
24 With smaller dollars to finance and less than a year from

1 the issuance of a CPCN and the commercial date, these
2 projects were financially more secure than the current
3 Project. The uncertainty in today's capital markets has
4 added yet an additional complication to Langley Gulch not
5 experienced in previous projects.

6 Q. Why did the Company not propose a hard cap?

7 A. Idaho Power does not believe a hard cap is
8 necessary to ensure that the project is well managed in an
9 economic manner. The Company has a good track record of
10 bringing projects in at or below cost estimates as
11 demonstrated through our series of combustion turbines and
12 upgrades to our hydro facilities. With the soft cap on the
13 Commitment Estimate, the Commission is in full control as
14 the gatekeeper for the recovery of any additional costs
15 with the full burden of prudence on the utility.
16 Additionally, in this instance, the Project is
17 significantly less expensive than the second best option.

18 Q. Does the Company have concerns regarding Mr.
19 Sterling's proposed implementation of a hard cap?

20 A. Yes. Mr. Sterling's proposal would
21 introduce new features that add risks to cost recovery that
22 have been absent from past CPCN cases where the Company has
23 provided Commitment Estimates. In my view, these new
24 features are not consistent with the intent of the new law.

1 Past CPCNs approved by this Commission have allowed
2 utilities to make a subsequent case for legitimate cost
3 recovery following completion of the project if the
4 additional costs were incurred due to causes beyond the
5 utility's control. Mr. Sterling's proposal does not appear
6 to have that flexibility.

7 Additionally, the language of the law does not
8 contemplate a hard cap, only a soft cap. See Exhibit No. 8
9 and refer to Section 61-541.II(b)(iii). Clearly a cap is
10 provided for, but so is the opportunity for the utility to
11 present additional evidence on the prudence and
12 reasonableness of additional costs.

13 Ultimately, the Company must justify any amount that
14 exceeds the cap and parties can oppose the additional cost
15 recovery at that time. There is no reason to presume that
16 circumstances that may arise should be eliminated from
17 future consideration today.

18 Q. In discussing the need for a hard cap, Mr.
19 Sterling raises a concern about the Project becoming
20 essentially a money pit where the utility embarks upon the
21 construction, but then presents a series of additional cost
22 overrun requests that are justified in part on the sunk
23 costs of dollars already expended. What is your response?

1 A. More than any other entity, the Company
2 would not want to be involved in a project where costs were
3 spiraling. Our past project management record does not
4 indicate a history of out-of-control projects. The
5 circumstances surrounding the development of a combined
6 cycle gas turbine project (i.e., the site, permitting,
7 proven technology, etc.) do not create excessive concerns
8 about a cost spiraling situation; however, as we have seen
9 recently, conditions can change rapidly and situations
10 beyond the Company's control can materially alter costs.
11 Idaho Power cannot guarantee that it will not happen.
12 Reporting requirements, audit controls, and project updates
13 can all assist in monitoring Langley Gulch progress from
14 both a timing and budget perspective. Ultimately, if the
15 Commission determines that a hard cap is necessary to
16 protect against a runaway situation, then it would be
17 reasonable to set it at the level of the second-best
18 alternative bid.

19 Q. Besides the introduction of a hard cap to
20 the Commitment Estimate is there anything else in Mr.
21 Sterling's recommendations on the Commitment Estimate that
22 causes the Company concern from a conceptual standpoint?

23 A. Mr. Sterling's line item application of the
24 soft cap is a very conservative approach that micro-manages

1 the Company. It is also a significant departure from prior
2 Commission treatment of commitment estimates in CPCNs.
3 Under its Application, the Company could bring Langley
4 Gulch into commercial operation early and under the
5 Commitment Estimate and still suffer cost recovery
6 disallowances because each line item did not come in as
7 precisely as originally estimated. I do think a line item
8 evaluation of overages could have value if the soft cap on
9 the Commitment Estimate was exceeded and the Company was
10 actually requesting additional recovery. Then the
11 component analysis of the cost variances could be useful to
12 the Commission in its deliberations to determine if certain
13 component costs justifiably drove overall costs above the
14 Commitment Estimate.

15 Q. Please sum up your response to Mr.
16 Sterling's recommendations of caps to the Commitment
17 Estimate.

18 A. I would strongly urge the Commission to
19 evaluate the Project's total Commitment Estimate as the
20 prudence test for bringing the plant on line. Line item
21 variances should be examined if the Company actually has
22 additional costs that it later brings to the Commission for
23 additional recovery. A hard cap is not necessary and, if

1 applied, should be set at the level of the cost of the
2 second-best bid received in the RFP.

3 Q. At the end of his testimony, Mr. Sterling
4 criticizes Idaho Power for handcuffing the Commission in
5 its decision making, stating that "Staff does not believe
6 that either ratepayers or the Commission should be held
7 hostage because of the Company's inability to plan and
8 acquire resources in a less time constrained manner."
9 Please respond.

10 A. I agree with Mr. Sterling's assertion that
11 the Company should not handcuff the Commission and its
12 customers or hold them as hostage as a result of its
13 inability to plan and acquire resources in an appropriate
14 manner. Limiting the Commission's options was certainly
15 not Idaho Power's intent. However, I disagree with Mr.
16 Sterling that the Langley Gulch CPCN application fits that
17 description. Resource filings are increasingly complicated
18 and subject to a tension between enough time to process and
19 enough current information to make a quality decision. For
20 example, we can look at PacifiCorp's recent experience in
21 Oregon, where it filed an application to conduct a RFP for
22 a baseload resource to be available in 2012. As discussed
23 in the Company's Response to the Intervenors' Joint Motion
24 to Stay (pages 19-20) and referenced in my testimony above

1 on page 19, PacifiCorp withdrew its RFP two and a half
2 years into the RFP process due in part to a reduction in
3 the price of commodities and its belief that it might be
4 able to obtain better pricing. Had Idaho Power filed in
5 2006, like PacifiCorp did in Oregon, the Idaho Commission
6 would not have had an opportunity to consider some of the
7 impacts of the economic downturn and data closer to the on-
8 line date.

9 Additionally, a key difference between Idaho Power's
10 perspective and Staff's perspective is the value and
11 viability of the "build-and-transfer" proposals. For the
12 reasons expressed in Mr. Porter's testimony, the Company
13 feels strongly that the "build-and-transfer" option does
14 not bring value to the process. If the Commission agrees
15 with the Company on the value of the build and transfer
16 option, then a six-month procedural schedule should be
17 adequate for regulatory review. Should the Commission feel
18 otherwise, then Idaho Power will dutifully adjust our
19 approach in future filings.

20 Q. Have you concluded your testimony?

21 A. Yes.

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-09-03

IDAHO POWER COMPANY

GALE, DI REB
TESTIMONY

EXHIBIT NO. 9

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1378

IN THE MATTER OF IDAHO POWER
COMPANY'S REQUEST FOR A PARTIAL
WAIVER OF COMPLETIVE BIDDING
GUIDELINES

PETITION FOR A PARTIAL WAIVER OF
COMPETITIVE BIDDING GUIDELINES
(Expedited Consideration Requested)

8 Pursuant to OAR 860-013-0020, Idaho Power Company ("Idaho Power" or
9 "Company") petitions the Public Utility Commission of Oregon ("Commission") for an order
10 exempting Idaho Power from compliance with several of the guidelines governing
11 competitive bidding adopted by the Commission in Order No. 06-446 ("Competitive
12 Bidding Guidelines"). For the reasons discussed below, Idaho Power requests expedited
13 review of this petition ("Petition").

14 I. INTRODUCTION

15 Over the last several years Idaho Power has experienced substantial load growth,
16 and the Company has accordingly planned to add significant base load generation to its
17 portfolio. To that end, the Company's recently-acknowledged 2006 IRP included a
18 250 MW pulverized coal resource, to be added in 2013 and a second 250 MW coal-fired
19 resource, an integrated gasification combined cycle turbine ("IGCC") to be added in 2017.

20 Recent events, however, require a change of course. *First*, due to changes in
21 federal water policy, the Company will have reduced levels of hydro generation available
22 during the peak demand summer months.

23 *Second*, the Company has recently received a number of requests for service to
24 new, large industrial/commercial loads. These new large loads are asking for service to
25 commence in the 2009-2012 period. As a result, the Company finds that it must now be
26 prepared to bring a new base load resource on line earlier than 2013.

1 *Third*, due to the uncertainties associated with permitting and future carbon
2 regulation and the costs of developing coal-fired generation resources, the Company's
3 plan to develop a pulverized coal resource is no longer feasible.

4 For these reasons, the Company has issued a Request for Proposals ("RFP")
5 soliciting bids for power purchase agreements, including tolling agreements, for up to
6 600 MW of firm energy, to be available not later than June 1, 2012. To ensure the
7 availability of base load resources in 2012, the Company will concurrently pursue the
8 development of up to 600 MW of natural gas-fired combined cycle combustion capacity
9 ("CCCT") that will serve as the Benchmark Resource in the competitive bidding process.¹
10 A copy of the RFP is attached as Exhibit A. While the procedures contemplated by the
11 RFP do not adhere to all of the Commission's Competitive Bidding Guidelines, they are
12 designed to produce the same result—a full and fair vetting of all reasonable resource
13 proposals.

14 Not surprisingly, Idaho Power is not alone among electric utilities and other
15 generators in abandoning plans for coal plants in favor of CCCTs. Indeed with demand for
16 CCCT's at an all-time high, orders for the generating equipment (turbines, heat recovery
17 equipment and generators) and the engagement of construction contractors must be
18 completed years in advance of on-line dates. If Idaho Power were to fully comply with all
19 of the Commission's Competitive Bidding Guidelines, (1) it would most likely be unable to
20 secure generating equipment and engage a construction contractor in time to ensure that
21 the Benchmark Resource CCCT would be available if it is selected as the best possible
22 alternative to meet customer demand and (2) other bidders that intend to construct a

23 _____
24 ¹ The RFP's request for up to 600 MW of firm energy by 2012 reflects the potential for service
25 to new large loads. Several of these potential new customers have expressed interest in funding
26 additional generation to accommodate their loads. Prior to acceptance of proposals in the RFP,
Idaho Power will either have secure financial commitments from these new large loads or the amount
of resources to be acquired through the RFP process will be scaled back.

1 CCCT to deliver firm energy under a power purchase agreement will likely face the same
2 equipment acquisition deadlines. Therefore, Idaho Power requests a partial waiver of the
3 Commission's Competitive Bidding Guidelines as described below. This partial waiver is
4 appropriate given the short time frame in which the Company can acquire the necessary
5 resource, the limited nature of the waiver request, and the in-depth involvement of the
6 Idaho Public Utilities Commission ("Idaho Commission") in the RFP process.

7 **II. NOTICE AND EXHIBITS**

8 In accordance with OAR 860-013-0070, Idaho Power hereby waives service by
9 means other than service by electronic mail. Consistent with that waiver, communications
10 regarding this Application should be addressed to all of the following:

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12 Vice President, Regulatory Affairs
13 Pricing Regulatory Services
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1 **III. BACKGROUND**

2 **A. Idaho Power's 2004 and 2006 Integrated Resource Plans**

3 Idaho Power's 2004 IRP included a 500 MW pulverized coal-fired resource
4 scheduled to come on line in 2011.² In response to uncertainty surrounding potential
5 carbon legislation, in its 2006 IRP Idaho Power replaced half of the 500 MW coal plant
6 with a 250 MW IGCC resource scheduled to come on line in 2017. The IRP retained a
7 250 MW pulverized coal resource to come on line in 2013.³

8 In comments filed in response to the 2006 IRP, Commission Staff expressed
9 concern about the 250 MW pulverized coal-fired resource.⁴ Staff requested that Idaho
10 Power continue to consider alternatives and recommended that the Company delay a final
11 commitment to a pulverized coal resource.⁵

12 In its Order acknowledging the 2006 IRP, the Commission noted the Company's
13 need to add base load generating resources within the timeline planned by the Company,
14 but echoed Staff's concerns about adding a coal resource.⁶ Accordingly, the Commission
15 modified the 2006 IRP to address the proposed coal resource. Pursuant to those
16 modifications, Idaho Power agreed that it would not commit to the development of the
17 2013 coal plant before presenting an update of the 2006 IRP to the Commission.⁷ In the
18 update, Idaho Power agreed to (a) discuss possible federal and state regulation of CO₂
19 emissions and the effects of a cap and trade mechanism or other limits on the Company's

20 ² *Re Idaho Power Co. 2004 Integrated Resource Plan*, Docket LC 36, Order No. 05-782 at 12
21 (June 17, 2005).

³ *Id.* at 10-11.

22 ⁴ *Re Idaho Power Co. Application for Adoption of its 2006 Integrated Resource Plan*, Docket
23 LC 41, Staff Comments on 2006 Integrated Resource Plan at 8-9 (Mar. 16, 2007).

⁵ *Id.* at 9.

24 ⁶ *Re Idaho Power Co. Application for Adoption of its 2006 Integrated Resource Plan*, Docket
25 LC 41, Order No. 07-394 (Sept. 12, 2007).

⁷ *Id.* at 22.

1 use of coal; and (b) demonstrate that Idaho Power conducted a rigorous financial and
2 economic analysis of portfolio adjustments that may delay the need for a base load coal
3 resource.⁸

4 **B. Changes in Circumstances since the 2006 Integrated Resource Plan**

5 Since Idaho Power filed its 2006 IRP, the Company's resource needs have
6 changed.

7 First, the Company will need to add the 250 MW base load resource a full year
8 earlier than previously expected. In August 2007 the United States Bureau of
9 Reclamation ("Bureau"), along with Bonneville Power Administration and the U.S. Army
10 Corps of Engineers released the Biological Assessment for Bureau of Reclamation
11 Operations and Maintenance in the Snake River Basin above Brownlee Reservoir. The
12 Bureau's proposed actions include providing flow augmentation water earlier in the spring
13 season as opposed to the current emphasis on delivery in the June to August period.
14 Previously, the Bureau released water for fish passage in the summer, providing Idaho
15 Power with increased hydroelectric generation during its peak-load period in June, July,
16 and August. The fisheries agencies and the Bureau have now decided to move releases
17 of water for fish passage to the spring to provide colder water for fish vitality. By changing
18 the release time, the Bureau has effectively reduced Idaho Power's hydro-electric
19 generation during the summer peak period, thereby accelerating the need for new firm
20 energy resources.

21 Second, Combined Heat and Power and Geothermal resource development has
22 not materialized as robustly as anticipated in the 2006 IRP, and the developers forecasts
23 for PURPA generation have not materialized relative to their contract commitments used
24 in the 2006 IRP.

25 _____
⁸ *Id.* at 23.

26

1 Third, the Company has received requests for service from several new large
2 loads to commence in the 2009-2012 period.

3 And finally, the Company has abandoned its plan to develop a 250 MW coal-fired
4 resource in 2013 and instead will acquire alternative resources, probably gas-fired, to be
5 available no later than the summer of 2012.

6 As the Commission is aware, political and regulatory responses to climate change
7 have prompted electric utilities to reevaluate the feasibility of adding new coal-fired
8 resources. In Idaho Power's case, the Company has reason to believe that financing a
9 new coal-fired resource would prove extremely difficult. In addition, up until late fall 2007
10 the Company had expected to build the coal-fired resource in partnership with either
11 PacifiCorp or Avista. As a result of recent changes to the law in Oregon and Washington,
12 however, these two utilities are precluded from further consideration of coal-fired
13 resources. Thus, after considering all factors and alternatives, Idaho Power has
14 abandoned its plan to develop a 250 MW coal resource in favor of acquiring, through an
15 RFP process, up to 600 MW of firm or unit contingent energy no later than 2012.

16 Unfortunately, Idaho Power's switch from coal to gas creates serious problems in
17 meeting the 2012 deadline. Idaho Power is only one among many utilities that have
18 concluded that the most practical option for a dispatchable base load resource in the near-
19 term is a CCCT. This simultaneous "race to gas" by multiple utilities throughout the United
20 States (and, in fact, throughout the world) has placed tremendous pressure on the three
21 original equipment manufactures ("OEM") of CCCTs. Idaho Power has been advised by
22 its independent consultant and by the OEMs that all manufacturing capacity for CCCT
23 equipment for deliveries in time to facilitate a 2011 on-line date is fully committed and
24 there are a limited number of manufacturing slots available for delivery of equipment to
25 support an April 1, 2012 on-line date. As a result, Idaho Power has concluded that in
26 order to be assured that a CCCT can be on-line April 1, 2012, Idaho Power must move

1 expeditiously to place an order for the power generation equipment by early summer
2 2008.⁹

3 IV. Proposed RFP Process

4 In response to the above-described changes in circumstances, Idaho Power has
5 developed and commenced an RFP process to obtain up to 600 MW of firm energy which
6 could include up to 600 MW of CCCT resource. In so doing, Idaho Power has sought to
7 balance its need to meet essential deadlines against the need for a process that is as
8 consistent with the Commission's Competitive Bidding Requirements as possible. The
9 proposed process is described in the RFP as follows:

10 The RFP requests proposals for power purchase agreements ("PPA") where the
11 seller supplies fuel and fuel transportation or tolling agreements ("TA") while Idaho Power
12 supplies the fuel and fuel transportation, to supply firm or unit contingent energy,
13 dispatchable on June 1, 2012 or earlier. The minimum proposal size is 50 MW and the
14 maximum is approximately 600 MW. Depending on the size of the proposed resources,
15 Idaho Power may combine proposals to meet its minimum 250 MW requirement. The
16 minimum term of a PPA or TA that Idaho Power will consider is 15 years with at least one
17 five-year renewal option. In the RFP process, the Company will also submit and consider
18 a self-build CCCT as the Benchmark Resource against which it will evaluate proposals
19 and as a fail-safe to be sure at least 250 MW of firm energy will be available in 2012.
20 Bids are due on October 17, 2008.

21 Evaluation of the bids will take place as follows: Initially, the Company will screen
22 proposals for minimum qualifications, such as quantity and term. Second, Idaho Power
23 will evaluate the proposals on the basis of scoring factors. The scoring criteria are

24 ⁹ The purchase order will allow Idaho Power to cancel or assign the power island equipment
25 contract if the self-build CCCT is not the successful respondent in the RFP process.

26

1 described in detail on Page 16 of Exhibit A. Generally, however, Idaho Power will use
2 price as 60 percent of the score and non-price criteria, such as risk and environmental
3 factors, as 40 percent of the score. Third, Idaho Power will notify short-listed respondents
4 with whom it will commence negotiations.

5 The Company will employ an independent consultant to assist the Company in
6 designing the RFP process and evaluating short-listed bids. The independent consultant
7 will independently score all or a sample of the proposals to determine whether the short
8 list is consistent with the scoring criteria. The independent consultant will then compare
9 those results with Idaho Power's scoring and work with the Company to resolve any
10 scoring differences. Idaho Power will provide periodic briefings to the Idaho Commission
11 Staff, and the Oregon Commission Staff if requested, throughout the RFP process. The
12 independent consultant will prepare reports to the Commission as requested by the
13 Company

14 V. DISCUSSION

15 The Competitive Bidding Guidelines specifically allow an electric utility to request a
16 waiver under appropriate circumstances. In this case, where adherence to the Guidelines
17 would jeopardize Idaho Power's ability to meet customer demand, and where the
18 alternative RFP process proposed by the Company will yield fair and reasonable results
19 for customers, the Commission should grant the requested waiver.

20 A. Exemptions from RFP Guidelines

21 In 2006 the Commission adopted Competitive Bidding Guidelines to facilitate the
22 RFP process.¹⁰ These Guidelines establish detailed procedures that are intended to result
23 in a full review and evaluation of all potential resources; they also necessarily result in an
24

25 ¹⁰ *Re Investigation Regarding Competitive Bidding*, Docket UM 1182, Order No. 06-446
26 (Aug. 10, 2006).

1 extremely expensive and time-consuming process. In recognition of this fact, in
2 Guideline 2, the Commission outlined three circumstances under which a utility is not
3 required to issue an RFP:¹¹

- 4 a. Acquisition of a Major Resource in an emergency or where there is a time-
5 limited resource opportunity of unique value to customers ["Exemption 2(a)"];
- 6 b. Acknowledged IRP provides for an alternative acquisition method for a Major
7 Resource;
- 8 c. Commission waiver on a case-by-case basis ["Exemption 2(c)].¹²

8 Idaho Power's Petition should be granted under Exemptions 2(a) and 2(c). In
9 adopting the Competitive Bidding Guidelines, the Commission explicitly recognized that a
10 utility might be presented with a time-limited opportunity to acquire a resource—which
11 opportunity might be lost if the Company were required to issue an RFP in accordance
12 with the Competitive Bidding Guidelines. In fact, the Commission contemplated that under
13 such circumstances the utility might not even have time to request a waiver in advance of
14 the acquisition. In such cases, the Commission requires only that the utility notify the
15 Commission after the acquisition and explain why it was unable to follow the RFP
16 process.¹³

17 In this case, Idaho Power does have time to request this partial waiver in advance
18 of the acquisition. However, the pressing need to commence the acquisition process has
19 required the Company to issue its RFP before receiving a waiver from the Commission. In
20 addition, Guideline 2(c) allows the Commission to waive RFP requirements on a case-by-
21 case basis if the utility does not believe the requirement would be suitable to the resource
22 acquisition.¹⁴

23 ¹¹ *Id.* at 4.

24 ¹² Order No. 06-446 at 4.

25 ¹³ *Id.*

26 ¹⁴ *Id.*

1 As described above, due to circumstances beyond the Company's control, Idaho
2 Power now has a critical need for a 250 MW firm energy resource in 2012 and it must plan
3 to construct a CCCT to satisfy that need. It is therefore in the public interest for the
4 Commission to waive those certain requirements of the UM 1182 Competitive Bidding
5 Guidelines that would prevent the Company from meeting this need.

6 **B. Proposed Modifications to RFP Guidelines**

7 Idaho Power has identified specific Competitive Bidding Guidelines that would
8 preclude Idaho Power from meeting the deadlines to acquire a CCCT and should be
9 waived:

10 Guideline Number 5 - Independent Evaluator. This guideline requires utilities to
11 use an Independent Evaluator ("IE") in each RFP to assure equitable and fair evaluation of
12 offers.¹⁵ Guideline No. 5 provides that the IE will contract with and be paid by the utility
13 and will confer with Commission Staff as needed.¹⁶

14 The far-reaching involvement of the IE as contemplated by the Competitive Bidding
15 Guidelines will delay the final conclusion of the RFP process. The use of an IE in the
16 process would almost certainly preclude Idaho Power from meeting deadlines for
17 acquiring a CCCT resource. Idaho Power is also concerned that the involvement of the IE
18 as contemplated in the Commission's Competitive Bidding Guidelines would substantially
19 increase the cost of the RFP process as compared to the cost Idaho Power has previously
20 incurred by utilizing the independent consultant in the manner described above. This is of
21 particular concern given that the Company's ability to recover the costs of an IE in Idaho is
22 questionable.

23 Idaho Power's RFP contemplates the use of an independent consultant to assist

24 _____

25 ¹⁵ *Id.* at 6.

26 ¹⁶ *Id.*

1 the Company in designing its RFP, ensuring that its RFP process is fair, and evaluating
2 short-listed bids. Idaho Power has successfully used independent consultants in previous
3 RFPs. The independent consultant will ensure that the RFP is fair and efficient and can
4 provide the Commission with a sworn statement to that effect. Idaho Power requests that
5 the Commission waive the requirement to use an IE to evaluate this RFP.

6 Guideline Number 6: RFP Design. This guideline requires utilities to conduct
7 bidder and stakeholder workshops to provide all parties and interested persons in the
8 utilities most recent general rate case and IRP dockets with an opportunity to comment on
9 the design of the proposed RFP.¹⁷

10 As previously noted, Idaho Power has concluded that the time required to schedule
11 and conduct multiple formal workshops prior to the issuance of an RFP would inevitably
12 have resulted in significant delays in issuance of the RFP. Idaho Power's need to commit
13 to equipment and construction contracts simply does not allow for the additional time
14 required for full compliance with Guideline 6.

15 The Company will provide periodic informal briefings to the Idaho Commission
16 Staff during the course of the RFP process. Idaho Power would certainly be willing to
17 include the Oregon Commission Staff as a part of those briefings. Accordingly, Idaho
18 Power requests that the Commission waive application of Guideline 6.

19 Guideline Number 7: RFP Approval. This guideline requires the Commission to
20 undertake a public notice and comment process on both the utility's draft RFP and the
21 Commission approval of the draft RFP.¹⁸ The guideline indicates that the Commission will
22 target a decision within sixty (60) days after the draft RFP filing,¹⁹ but the Commission

23

24 ¹⁷ Order No. 06-446 at 7.

25 ¹⁸ *Id.* at 9.

26 ¹⁹ *Id.*

1 obviously cannot commit that the process will be concluded that quickly. Idaho Power's
2 concern with Guideline 7 is the time that will be required to go through the public notice
3 and comment process in conjunction with issuance of the RFP. Delaying the issuance of
4 the RFP by sixty (60) or more days could have made it impossible for the Company to
5 meet the tight time schedules required to ensure that the resource is on-line by April 1,
6 2012. Idaho Power therefore requests that the Commission waive the public notice and
7 comment and Commission approval process in Guideline 7.

8 Guideline Number 8: Benchmark Resource Score. This guideline requires the
9 utility to file a detailed score for any Benchmark Resource with supporting cost information
10 to the Commission and IE approval prior to the opening of the bidding process.²⁰

11 Idaho Power's self-build Benchmark Resource team intends to determine the cost
12 of the Benchmark Resource by issuing separate competitive RFPs to select the power
13 generation equipment and the EPC contractor. There is not sufficient time to allow the
14 Company to complete both RFPs and submit the completed score for the Benchmark
15 Resource prior to the time the Company issued its RFP.

16 Idaho Power recognizes that the Benchmark Resource must be evaluated on a
17 level playing field with other bidders. As Idaho Power has done in prior RFPs that
18 included a utility-sponsored Benchmark Resource, Idaho Power will segregate and secure
19 the bidding information provided by all respondents to ensure there is no transfer of
20 information concerning bids to Idaho Power personnel preparing the Benchmark Resource
21 bid or to other bidders. Idaho Power will also finalize and seal a copy of its bid evaluation
22 manual prior to opening any bids. Idaho Power requests that the Commission waive the
23 requirement that the Company file a detailed score for the Benchmark Resource prior to
24 opening the bidding process.

25 _____
²⁰ *Id.* at 10.

1 **C. The Idaho Commission's Oversight of the Process Will Protect Idaho Power's**
2 **Customers.**

3 Waiver here is especially appropriate where oversight of the RFP process by the
4 Idaho Commission will ensure that all of the Company's customers are protected. More
5 than 95 percent of Idaho Power's revenue requirement is allocated to its Idaho customers.
6 As a result, the Idaho Commission has a significant stake ensuring that Idaho Power
7 conducts a fair RFP process. While the Idaho Commission does not exercise the same
8 degree of oversight as the Oregon Commission's bidding guidelines require prior to
9 issuance of the RFP, the Idaho Commission is no less rigorous in its review of the fairness
10 and efficiency of the procedures its utilities use to conduct and evaluate RFPs.

11 The Idaho Commission has traditionally concentrated its RFP oversight efforts
12 through its Staff during the RFP process and at the time the utility requests approval of its
13 selected resource choice. For example, if the RFP process in this case ultimately
14 concludes that the most cost-effective resource is the construction of the Benchmark
15 Resource (a CCCT to be owned by Idaho Power and placed in Idaho Power's rate base),
16 under Idaho law Idaho Power is obligated to apply to the Idaho Commission for a
17 Certificate of Public Convenience and Necessity ("CPCN") to construct the Benchmark
18 Resource.²¹ The filing of the CPCN application would trigger a full review of the RFP
19 process including the evaluation methods, economic analysis, and fairness of the
20 process.²² The Company's application for a CPCN would be a public process involving
21 potential for intervention by third parties, a thorough Staff review of the Company's RFP
22 process and selected resource, and a public hearing process that would provide the
23 record upon which the Commission would ultimately issue its order either granting or
24 denying the CPCN.

25 ²¹ Idaho Statute 61-526, IDAPA 31.01.01 Rule 112.

26 ²² IDAPA 31.01.01 Rule 113.

1 grant Idaho Power a waiver from compliance with those portions of the Competitive
2 Bidding Guidelines described herein. Due to the short timelines involved in this RFP,
3 Idaho Power requests that the Commission grant expedited review of this Petition.

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DATED: April 17, 2008.

McDOWELL & RACKNER PC



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