

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPROPRIATE</b>	)	
<b>DISPOSITION OF PROCEEDS FROM THE</b>	)	<b>CASE NO. IPC-E-10-20</b>
<b>SALE OF IDAHO POWER COMPANY'S SO<sub>2</sub></b>	)	
<b>EMISSION ALLOWANCES IN CALENDAR</b>	)	<b>ORDER NO. 32162</b>
<b>YEAR 2010</b>	)	

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During calendar year 2010, Idaho Power Company filed three reports declaring that it sold a total of 20,000 surplus sulfur dioxide (SO<sub>2</sub>) emission allowances. In total, the Company reported net sale proceeds of \$543,000 (after deducting brokerage fees of \$5,000). Third Report at 2. Consistent with the Commission's prior Orders, the Company proposed to "share" the proceeds 95% to customers and 5% to shareholders. The Company also proposed to use Idaho's current jurisdictional percentage and to use the accounting treatment approved in Order No. 29852.

On December 2, 2010, the Commission issued a Notice of Modified Procedure requesting public comments regarding the appropriate disposition of the SO<sub>2</sub> proceeds. In response to the Notice, the Commission received comments from the Idaho Energy Education Project (IEEP), members of the public, the Snake River Alliance (SRA), and the Commission Staff. Idaho Power did not file reply comments. After reviewing the comments in this case, the Commission finds that it is appropriate to use the SO<sub>2</sub> proceeds in the Company's annual Power Cost Adjustment (PCA) to benefit all Idaho ratepayers.

**BACKGROUND*****A. The SO<sub>2</sub> Program***

In Order No. 29852 issued August 22, 2005, the Commission granted Idaho Power blanket authority to sell its surplus SO<sub>2</sub> emission allowances. Title IV of the Clean Air Act Amendments of 1990 establishes a national program for the reduction of acid rain. 42 U.S.C. §§ 7651, *et seq.* The centerpiece of the acid rain program is the incentive- or market-based "cap and trade" SO<sub>2</sub> emission program. Under the cap and trade program, the Environmental Protection Agency (EPA) sets a cap or ceiling on the total amount of SO<sub>2</sub> emissions allowed nationwide. Based on this cap, EPA allocates a certain number of SO<sub>2</sub> emission allowances to thermal power plant owners. Each allowance provides the authority to emit one ton of SO<sub>2</sub>. Order No. 29852 at 1.

Each year a thermal power plant owner must hold sufficient allowances to cover actual SO2 emissions. A thermal power plant owner holding insufficient allowances to cover its annual emissions must purchase additional allowances or it is automatically fined and must surrender future year allowances to cover the shortfall. A thermal power plant holding surplus SO2 allowances in a given year may save the surplus allowances or sell them. SO2 emission allowances are fully marketable commodities and can be traded on the open market or in special EPA-sponsored auctions. Idaho Power has an ownership interest in three thermal power plants in the western United States that receive SO2 allowances from EPA. *Id.*

### ***B. Prior Commission Orders***

In October 2005, the Commission initiated a proceeding to determine the appropriate ratemaking treatment of the SO2 proceeds. In March 2006, interested parties stipulated that proceeds from Idaho Power's sale of SO2 allowances should be included in the Company's annual Power Cost Adjustment (PCA) "with 90% of the net proceeds to be passed onto customers, and 10% of the net proceeds to be retained as a shareholder benefit." In Order No. 30041, the Commission approved the stipulation. The Commission found that the PCA "is the logical mechanism to track and distribute proceeds from the sale of excess SO2 allowances." Order No. 30041 at 4.

In Order No. 30715 issued January 9, 2009, the Commission adopted changes to Idaho Power's PCA mechanism based upon a stipulation executed in Case No. IPC-E-08-19. In particular, the parties agreed and the Commission approved changing the sharing methodology that assigns power purchase costs or benefits to customers and shareholders. "Since inception of the PCA, annual deviations in normal power supply costs have been shared 90%/10% by customers and Company shareholders, respectively." Order No. 30715 at 2. The Commission adopted the parties' recommendation that the sharing percentage should be changed to a 95%/5% sharing percentage for customers and the Company, respectively. *Id.* at 5.

In the Commission's last SO2 Order No. 30790 issued May 1, 2009, the Commission allocated all of the available SO2 proceeds to offset the PCA balance. In a previous case, the Commission had used a portion of the SO2 proceeds to fund a two-year energy education proposal that began at the start of the 2009 school year. Order No. 30790 at 3. In Order No. 30790, the Commission found that "it is not appropriate to set aside additional SO2 proceeds for

energy education [programs] until the two-year pilot project has been evaluated.” *Id.* The two-year pilot will be completed in June 2011.

## **THE COMMENTS**

### ***A. IEEP and the Public Comments***

After Idaho Power submitted its first SO2 report in June 2010, IEEP and five supporters filed comments. These comments recommend that the Commission use a part of the SO2 proceeds to continue funding the energy education and efficiency programs in public schools. More specifically, IEEP recommended that 8% of the SO2 proceeds should be used to fund the Energy Efficiency and Education Program authorized by the Commission in Order No. 30760 (March 27, 2009). IEEP also suggested that a portion of the SO2 proceeds be used to implement the energy efficiency upgrades identified by students conducting in-school energy audits.

### ***B. Staff Comments***

Staff audited the three SO2 reports submitted by Idaho Power and verified that Idaho Power received net proceeds of \$543,000. Consistent with the Commission’s last SO2 Order No. 30790, Staff recommended that all of the SO2 proceeds offset the PCA deferral balance. Staff believed that applying the SO2 proceeds in the PCA mechanism appropriately benefits all Idaho Power customers. Staff Comments at 1-2.

The net proceeds are jurisdictionally allocated to Idaho at 94.8% for January through May 2010, and at 95% beginning June 2010. Accumulated interest is also added to the Idaho SO2 net proceeds. Staff calculated that the total Idaho jurisdictional amount after the addition of interest is \$490,498.43. *Id.* at 2.

Turning to the IEEP comments, Staff asserted that using the proceeds for energy education programs or to implement measures identified by school energy audits would not be appropriate at this time. Staff observed that the Commission found in Order No. 30790 that “it is not appropriate to set aside additional SO2 proceeds for energy education [programs] until the two-year pilot project has been evaluated.” *Id. citing* Order No. 30790 at 3. Staff also noted that the Notice of Modified Procedure in this case stated that the two-year pilot will not be completed until June 2011. Order No. 32129 at 3. Moreover, as of October 31, 2010, almost \$375,000 of the \$500,000 funding allocated for the energy education program is still available for use. Comments at 2. Thus, Staff asserted additional funding is not justified at this time. Staff

believed that the most appropriate disposition of the 2010 SO2 proceeds would be to offset the PCA balance in the 2011 PCA case.

### ***C. Snake River Alliance***

In its comments, the Alliance acknowledged that the Commission's prior Order No. 30790 stated that it is not appropriate to set aside additional SO2 proceeds for energy education projects "until the two-year pilot project has been evaluated." Comments at 2. Consequently, SRA opined that it "is unlikely SO2 proceeds in this case will be used for anything but passing them through the PCA at the 95-5 split and apportioned equitably between Idaho Power's Idaho and Oregon [customers]." *Id.*

Nevertheless, the SRA indicated that it was appropriate for the Commission and others to consider the appropriate disposition of future SO2 proceeds. (Emphasis added.) In particular, SRA noted that the Boardman coal plant may finish its operational cycle in 2020 and the Bridger and Valmy plants may be retrofitted with additional SO2 conservation equipment in the future. Thus, the Alliance suggested that the Commission and all parties begin serious consideration for the future uses and programs which will have "longer lasting impacts and that can be leveraged with other financial resources" for the public good. *Id.* at 3. Other beneficial uses may include: acquisition of real estate for wind projects; real estate acquisition for solar photovoltaic and thermal solar generating resources; energy efficiency programs, and IEEP's energy education projects. *Id.*

### **DISCUSSION AND FINDINGS**

After reviewing our prior Orders and the comments in this case, we find that the appropriate disposition of the CY 2010 SO2 proceeds is to use the proceeds in the 2011 PCA case to offset the deferred PCA balance. Applying the SO2 proceeds in the PCA mechanism appropriately benefits all Idaho Power customers. Based upon Staff's audit and comments, we find that the proceeds should be jurisdictionally allocated to Idaho at 94.8% for January through May 2010, and at 95% from June to December 2010. We further find that adding the accumulated interest based upon our customer deposit rate of 1% results in SO2 proceeds in the amount of \$490,948 being credited to the Idaho PCA.

We appreciate the IEEP suggestions but those suggestions to use the SO2 proceeds to fund energy education and efficiency programs are premature. As noted by SRA and Staff, our prior Order No. 30790 stated that it is not appropriate to use SO2 proceeds to fund energy

education programs until the pilot project has been evaluated after June 2011. We affirm this position.


In conclusion, we agree with Staff and SRA that the best use of SO2 proceeds and the accumulated interest is to offset the PCA balance. By including the SO2 funds in the PCA mechanism, it will provide an immediate benefit to all customers. Interest shall continue to accumulate until the SO2 funds are dispersed.

### **ORDER**

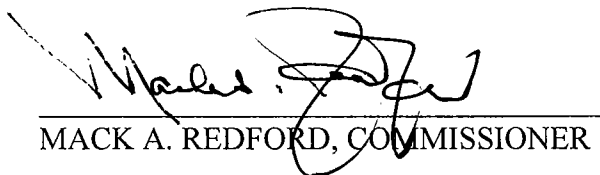
IT IS HEREBY ORDERED that the \$490,498 in jurisdictional SO2 funds be used to offset the Company's PCA deferral balance this year. The SO2 proceeds shall continue to accrue interest at the 1% customer deposit rate (IDAPA 31.21.01.106) until dispersed.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. IPC-E-10-20 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this case. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 19<sup>th</sup>  
day of January 2011.

  
JIM D. KEMPTON, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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