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IDAHO PUBLIC
UTILITIES COMMISSION

LISA D. NORDSTROM
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November 24, 2010

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-10-23
***IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY
FOR AUTHORITY TO MODIFY SPECIAL CONTRACT ELIGIBILITY BY
REDUCING THE UPPER LIMIT OF POWER REQUIREMENTS FOR
LARGE LOAD CUSTOMERS***

Dear Ms. Jewell:

Enclosed for filing please find an original and seven (7) copies of Idaho Power Company's Reply Comments in the above matter.

Very truly yours,

Lisa D. Nordstrom

LDN:csb
Enclosures

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Attorneys for Idaho Power Company

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF IDAHO POWER COMPANY FOR)	CASE NO. IPC-E-10-23
AUTHORITY TO MODIFY SPECIAL)	
CONTRACT ELIGIBILITY BY REDUCING)	IDAHO POWER COMPANY'S
THE UPPER LIMIT OF POWER)	REPLY COMMENTS
REQUIREMENTS FOR LARGE LOAD)	
CUSTOMERS.)	
)	
)	

COMES NOW, Idaho Power Company ("Idaho Power" or "Company"), and in response to Comments of the Industrial Customers of Idaho Power ("ICIP") filed in this docket, submits the following Reply Comments.

I. BACKGROUND – IDAHO POWER APPLICATION

On August 26, 2010, the Company filed an Application with the Idaho Public Utilities Commission ("Commission") for an Order authorizing the reduction of the upper limit for Large Power Service under Schedule 19, Agricultural Irrigation Service under Schedule 24, and point of delivery service requirements in Rule C (Service and Limitations) from 25,000 kilowatts ("kW") to 20,000 kW of aggregate load. Under the

Company's proposal, service at levels exceeding 20,000 kW would require special contract arrangements. The Company requested that the tariff modifications become effective on or before January 1, 2011.

Schedule 19, Large Power Service, is currently available and mandatory for customers who register a meter demand of 1,000 kW or more per billing period for 3 or more billing periods during the most recent 12 consecutive months, up to a maximum demand of 25,000 kW. Schedule 24, Agricultural Irrigation Service, is applicable to agricultural use customers operating water pumping or water delivery systems used to irrigate agricultural crops or pasturage for loads up to 25,000 kW. A customer is not eligible for Schedule 19 or Schedule 24 service if its aggregate power requirement at one or more points of delivery on the same premises exceeds 25,000 kW. Point of delivery service requirements in Rule C state that a special contract is required when an aggregate power requirement exceeds 25,000 kW.

The Company, with its Application, proposed to reduce the 25,000 kW eligibility limit to 20,000 kW for Schedules 19 and 24 and Rule C. Idaho Power filed its request in response to the continued high interest from potential large industrial load customers to take service from Idaho Power and an identified need to address responsible planning and development on the part of the Company. At a time when the ability of Idaho Power's generation and transmission system to serve new load is constrained, the size and operating characteristics of potential large loads can be very expensive to serve. By lowering the size limit, the Company can address service to growing or new load within a special contract, allowing for specific cost-of-service information as well as the unique operating characteristics of customers of this size to be considered and captured

within the terms of the contractual agreement. Special contracts can provide some protection to the Company's customers from unintended system impacts that large loads may impose because of their size and their time, nature, and pattern of use.

The proposed change will not affect any current Schedule 19 or 24 customers. The Company has approximately one hundred ten (110) Schedule 19, Large Power Service, customers in its Idaho service territory. The Company currently has four special contract customers: (1) Micron Technology, Inc.; (2) the United States Department of Energy's Idaho National Laboratory; (3) the JR Simplot Company; and (4) Hoku Materials, Inc. These four customers range in size from 30 to 85 megawatts of load.

The Idaho Conservation League ("ICL"), Staff, and ICIP all filed comments in this docket. The ICL supports Idaho Power's request and urges the Commission to approve the Application. The Staff recommends that the Company's request to reduce the minimum load requirement for a special contract from 25,000 kW to 20,000 kW be approved as filed. ICIP did not oppose the Company's proposal to require a special contract for new large loads, but requests that the Commission require the Company to include a grandfathering provision such that the upper limit for existing Schedule 19 customers will remain at 25,000 kW. These Reply Comments are in response to ICIP's Comments, specifically its request for a grandfathering provision for existing Schedule 19 customers.

II. COMPANY'S RESPONSE TO ICIP'S COMMENTS

Idaho Power opposes the implementation of any grandfathering provision as suggested by ICIP. ICIP suggests that the impact on the Company's system and its

ability to provide service is the same for a Schedule 19 customer who may grow beyond 20,000 kW by adding an additional 4,000 kW to its operations, and a new customer with a 4,000 kW load taking service under a Schedule 19 tariff. ICIP erroneously states that the new customer with 4,000 kW of load has the option of taking service under either a Schedule 19 tariff or a special contract. That is not true. An industrial customer with 4,000 kW of load can only take service under Schedule 19, and the Company has the obligation to serve that customer under the provisions of the tariff. The Company is not at liberty to suggest any treatment or provision for that customer that may be different from all the other Schedule 19 customers. However, ICIP is attempting to have the Commission focus on the 4,000 kW of incremental load, not the entire load of the existing Schedule 19 customer. The fact is that a large customer whose aggregate load may have grown to be larger than 20,000 kW can have a significant impact on the Company's ability to manage and serve that load. The Company's proposal is that it be given the opportunity to address the impacts of that large load through the provisions of a negotiated special contract rather than being required to serve that load under the constraints of a tariff, which would not allow any differentiation in treatment for a customer from 1,000 kW to 20,000 kW. ICIP recommends grandfathering 110 existing Schedule 19 customers at 25,000 kW, which would exacerbate the problem.

While ICIP's recommendation to grandfather existing Schedule 19 customers at 25,000 kW would be extremely difficult to administer, the primary reason Idaho Power opposes the recommendation for grandfathering is because it may not be legal. The statutory framework within which the Commission is authorized to set rates is found in Title 61, Chapters 3 and 5 of the Idaho Code. The Idaho Legislature specifically

authorizes the Public Utilities Commission in Idaho Code §§ 61-502 and -503 to determine just and reasonable rates, charges, classifications, rules, regulations, practices or contracts for utility service in Idaho. This authority is limited by Idaho Code § 61-315, which provides:

Discrimination and preference prohibited. No public utility shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The commission shall have the power to determine any question of fact arising under this section.

The Idaho Supreme Court interpreted this statute in the *Idaho State Homebuilders v. Washington Water Power*, 107 Idaho 415, 690 P.2d 350 (1984), and identified cost-of-service, quantity of electricity used, differences in conditions of service, or the time, nature, and pattern of use as appropriate justifications for setting different rates and charges for customers. If the Commission would adopt grandfathering as ICIP suggests, then some customers within Schedule 19 would be treated differently than other customers within the same tariff by a provision for growth and expansion beyond a limit that is not the same for all.

III. CONCLUSION

The Company contends that by reducing the upper power requirement limit of large load customers from 25,000 kW to 20,000 kW, the Company can help mitigate the rate impact of potential new large load customers on existing customers by requiring them to make special contract arrangements with the Company. The Company can more accurately price the new load based on its unique characteristics, more accurately

assigning the costs of servicing the new large load. Under a special contract, the parties can negotiate a price that reflects a blend of marginal and embedded costs, or the flexibility to offer the large load customer pass through access to market rates, depending on resources required to serve the new load. Parties could agree to allow the Company to shape the load or service requirements in response to resource limitations or transmission constraints during system peaks. The Industrial Customers of Idaho Power do not oppose the Company's proposal for *new* large load customers, but maintain that existing customers who grow beyond the same large load level of 20,000 kW should be treated differently by allowing these existing customers to grow beyond 25,000 kW before a special contract is required. For the reasons stated above, Idaho Power maintains this would be discriminatory treatment and would not be legal under Idaho Code.

Idaho Power respectfully requests that the Commission issue an Order authorizing reduction of the upper limit for Large Power Service under Schedule 19, Agricultural Irrigation Service under Schedule 24, and point of delivery service requirements in Rule C (Service and Limitations) from 25,000 kW to 20,000 kW of aggregate load, and that the tariff modifications become effective on or before January 1, 2011.

DATED at Boise, Idaho, this 24th day of November 2010.


LISA D. NORDSTROM
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of November 2010 I served a true and correct copy of IDAHO POWER COMPANY'S REPLY COMMENTS upon the following named parties by the method indicated below, and addressed to the following:

Commission Staff

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