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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 APPROVAL)	CASE NO. IPC-E-10-24
OF A FIRM ENERGY SALES AGREEMENT)	
FOR THE SALE AND PURCHASE OF)	COMMENTS OF THE
ELECTRIC ENERGY BETWEEN IDAHO)	COMMISSION STAFF
POWER COMPANY AND ROCKLAND WIND)	
PROJECT LLC.)	

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Scott Woodbury, Deputy Attorney General, and in response to the Notice of Application, Notice of Modified Procedure and Notice of Comment/Protest Deadline issued on September 23, 2010 in Case No. IPC-E-10-24, submits the following comments.

BACKGROUND

On September 8, 2010, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 25-year Firm Energy Sales Agreement (Agreement) between Idaho Power and Rockland Wind Project LLC (Rockland) dated September 3, 2010. Under the terms of the Agreement, Rockland will sell and Idaho Power will purchase electric energy generated by the Rockland Wind Project (Facility) located near American Falls in Power County, Idaho. Rockland warrants that the Facility is a qualifying

facility (QF) under applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). Agreement ¶ 3.2.

The Rockland Wind Project will tentatively be comprised of 44 Vestas V100 turbines for a total nameplate rating of 79.2 MW. Agreement Appendix B-1. The maximum capacity amount is 80 MW. Appendix B-4. Because this amount exceeds 10 aMW, Rockland is not eligible to receive published avoided cost rates. Instead, Idaho Power ran its AURORA economic dispatch model consistent with the Commission requirements for projects larger than 10 aMW to establish a beginning point for negotiations for the energy purchase price in the Agreement. The value of other attributes associated with Rockland's generation were negotiated between the parties.

The Agreement provides that it will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments Idaho Power makes to Rockland for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes. Agreement ¶ 21.1.

STAFF ANALYSIS

Prior to beginning negotiations with Rockland, Idaho Power had issued a Request for Proposals (RFP) in May 2009 seeking to acquire up to 150 MW of new wind generation to be online in 2012. The Company evaluated bids in the RFP and entered into negotiations with the top ranked bidder. Negotiations progressed slowly over the course of the next year. Meanwhile, Idaho Power was approached by Rockland who was seeking a contract for an 80 MW PURPA project. The Company negotiated concurrently with both Rockland and the top-ranked RFP bidder for several months. After evaluating both options, Idaho Power chose to terminate the RFP process without signing a contract, and instead chose to pursue a PURPA agreement with Rockland. Idaho Power maintained that the Rockland PURPA Agreement was a clearly superior proposal, and that the Company's need for new generation did not justify pursuing acquisition of the output from both projects.

The Rockland Agreement is unique because it represents the only PURPA agreement negotiated by Idaho Power for a facility larger than 10 aMW. The only other instance of a PURPA agreement for a facility larger than 10 aMW is between Avista and Clearwater Paper (formerly Potlatch). Because the Facility is so much larger than typical PURPA wind projects, the value of the Agreement presented for approval is unusually high. Staff estimates that Idaho Power will pay

Rockland approximately \$422 million over the life of the 25-year Agreement. This equates to a net present value of nearly \$183 million.

The Agreement with Rockland contains many terms and conditions that vary from the standard, under 10 aMW, PURPA firm energy sales agreement typically submitted for approval. The varying terms and conditions of this Agreement include: (1) an energy price that is lower than the published avoided cost rate; (2) a 25-year contract term; (3) providing Renewable Energy Credits (RECs) to the Company after year 2021; (4) better financial damage and security provisions for the benefit of customers; (5) calculation provisions for Partial Completion Damages; (6) simplified Mechanical Availability Guarantee (MAG); and (7) more extensive wind forecasting data. The non-standard terms and conditions are summarized and discussed below:

Energy Price (Reference Agreement Article VII).

Based on prior Commission decisions, projects smaller than 10 aMW are eligible to receive standard "published" rates that are computed based on a surrogate gas-fired combined cycle combustion turbine plant. However, for qualifying facility ("QF") projects 10 aMW and larger, like Rockland, the avoided cost methodology is an Integrated Resource Plan ("IRP") based methodology requiring the utility to make two runs of its power supply model, one using assumptions consistent with its most recent IRP, and a second with the proposed QF included as a no-cost resource. The difference in net power supply cost computed by the model over the term of the proposed contract represents the value of the QF to the utility and is supposed to serve as the basis for establishing an avoided cost rate for the proposed QF. The methodology is intended to capture and fairly value the different individual generation characteristics of proposed projects. The IRP-based methodology was set forth in a Settlement Stipulation approved by the Commission in Order No. 26576 issued September 1996 in Case No. IPC-E-95-9.

For this Agreement, Idaho Power executed the AURORA economic dispatch model for the Facility's estimated energy shape in accordance with Commission requirements. The energy price identified by the AURORA run, including a discount of \$6.50 per megawatt-hour (MWh) for wind integration, was a levelized price of \$56.21. This price is intended to serve as the starting point for further negotiations.

Idaho Power believes, and Staff agrees, that the AURORA-generated avoided cost rate simply represents a market price alternative that primarily reflects the value of energy and does not fully reflect capacity value. Furthermore, the AURORA energy price contains no value for RECs or other

items of value identified in the Agreement. The Company believes that many, if not all, of these additional items of value are difficult, if not impossible, to quantify precisely. These items include the following:

- Renewable Energy Certificate ownership for years 11-25
- Mechanical Availability Guarantee
- Wind forecasting data
- Greater security and damage provisions
- Right of first offer for ownership or expansion of the site
- Extended contract term at reasonable cost

In addition, Idaho Power believes there is value in a long-term fixed priced contract as compared to volatile market prices over the same period. Although the removal of market price risk is difficult to quantify, the Company believes it does offer some value that should be reflected in the contract price.

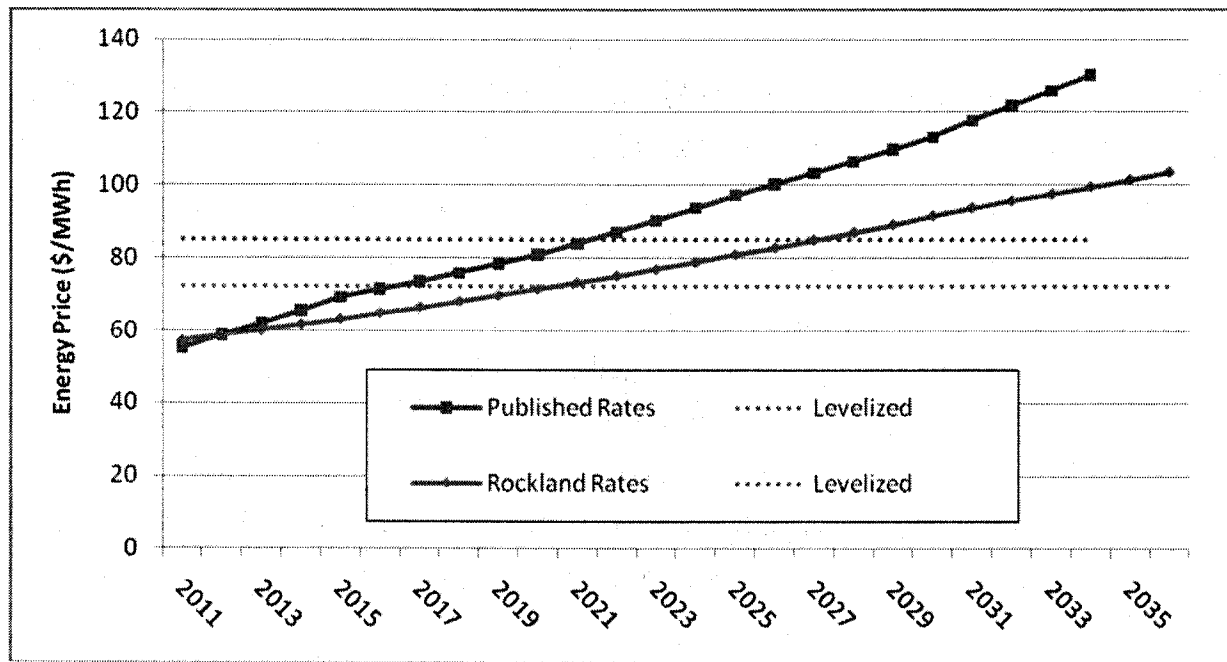
The parties have negotiated energy prices for the 25-year term that are equivalent to a levelized price of \$71.29 per MWh. It is unclear to Staff *exactly* how Idaho Power and Rockland began with a 20-year AURORA price of \$56.21 and ultimately reached a negotiated 25-year levelized rate of \$71.29. Presumably, the parties assigned value to some of the factors listed above, even though the value of each factor was not individually quantified. Nevertheless, the rates included in the Agreement were reached through mutual negotiations.

One way to judge the reasonableness of the negotiated rates in the Agreement is to compare those rates to the published avoided cost rates for projects 10 aMW and smaller. The \$71.29 levelized rate in the Agreement could be compared to the published avoided cost levelized price for a 10 aMW or less PURPA wind project with a planned on-line year of 2011 of \$79.76 per MWh.¹ A graphical comparison of the rates is depicted below.

Comparing the rates on an annual basis, the actual all-hours energy pricing stream in the Agreement (Agreement ¶ 7.3) begins at \$57.15 per MWh in 2011, escalates at 2.5 percent through the first 20 years to \$91.36 in the 20th contract year (2030), then escalates at a reduced rate of two percent for the last five years of the Agreement, ending at a price of \$101.37 in the 25th contract year (2035). In comparison, the published avoided cost rate available to PURPA wind projects less than 10 average MW for the year 2011 is \$55.26 per MWh, escalating to \$130.17 per MWh in year 2034.

¹ The 20-year levelized rate, including a \$6.50 per MWh wind integration adjustment, is \$75.88. Although 25-year contracts are not normally offered for published rates, the equivalent 25-year levelized rate would be \$79.76 with the wind integration adjustment included.

Although the \$71.29 levelized energy price within this Agreement is greater than the base AURORA value of \$56.21, it is lower than the comparable 25-year published avoided cost rate of \$79.76, both on a levelized and an annual basis.



Another way to judge the reasonableness of the rates in the Agreement is to compare them to prices bid into the 2012 Wind RFP issued in May 2009, which Idaho Power recently concluded without awarding a contract. Idaho Power received bids from 25 projects, or project configurations, from 14 different bidders. The bids included projects in Idaho, Utah, Wyoming, Montana, Washington, and Oregon. The 20-year levelized prices ranged from approximately \$85 per MWh to almost \$150 per MWh. Sixteen of the 25 project configurations had calculated 20-year levelized costs less than \$100 per MWh. All of the calculated 20-year levelized costs include transfer of the RECs to Idaho Power. All of the calculated 20-year levelized costs include the estimated transmission charges, if necessary, to deliver the energy to the Idaho Power system. The bid requirement was that the project must be on-line in 2012.

Clearly, the \$71.29 levelized energy price in the Rockland Agreement is below any of the prices bid in the wind RFP, although the Rockland Agreement does not entitle Idaho Power to REC ownership for the first 10 years. Nevertheless, even when REC ownership is considered, Staff believes the Rockland Agreement compares favorably.

By both measures—comparison to published avoided cost rates or comparison to 2012 Wind RFP bid prices—Staff believes the prices in the Agreement are reasonable. When REC ownership and other factors are considered as well, the prices in the Agreement seem even more reasonable.

Idaho Power believes that the negotiations with Rockland, which resulted in the present Agreement, evidence the fact that the PURPA negotiation process for large QFs greater than 10 aMW is viable and can result in a project that is both feasible for the developer and favorable to Idaho Power customers. Staff agrees.

Contract Term

The Facility has selected July 15, 2011, as the Scheduled First Energy date and December 31, 2011, as the Scheduled Operation Date. Appendix B-3. The contract term specified in this Agreement is 25 years. Agreement ¶ 5.1. This term is greater than the standard term of 20 years as provided in the less than 10 aMW PURPA agreements. Idaho Power explains that this 25-year contract term was a result of negotiations that attempted to balance many related factors within the Agreement in a manner that was favorable to Idaho Power customers and also manageable for Rockland. According to the Company, some of those factors are

- a) the Project's willingness to meet performance requirements for the full 25-year term;
- b) financial security for the entire term of the Agreement;
- c) advantageous energy pricing for the years past 20 years;
- d) Idaho Power ownership of the RECs generated in years 11 through 25; and
- e) Idaho Power's right of first offer to participate in expansion and/or ownership of the Facility at any time during the term of the Agreement.

PURPA, and the implementing regulations, require only that avoided costs be established and made available to QFs with a capacity of 100 kilowatts or less. 18 C.F.R. § 292.304(c). The Act and regulations are silent as to the length of the contract over which the QF is entitled to receive the avoided cost rate. Consequently, this is a matter that lies within this Commission's discretion. The Commission's policy with respect to the standard contract length has evolved over the years. Prior to 1987, utilities were obligated to provide QFs with 35-year contracts. The reason for the 35-year maximum contract length was that 35 years was the amortization period allowed for similar utility owned facilities. A contract length that agreed with the project's amortization schedule served to make financing easier, and in effect, helped to encourage QF development.

In 1987 (Reference Order No. 21630), the Commission shortened the standard contract length to 20 years reasoning that risk and uncertainty inherent in long-range forecasting increases dramatically with time and that a shorter contract term would reduce that risk. The Commission ruled that contracts longer than 20 years would be available to QFs only upon a persuasive showing of need.

Later, in 1996 (Reference Order No. 26576), the Commission again re-examined the issue of contract length and shortened the required contract length to five years for projects 1 MW and larger. In 1997, the Commission extended the five-year contract limitation established for large QFs to smaller than 1 MW QFs as well.

In 2002, the Commission approved a return to a standard contract length to 20 years, stating "A longer contract, we find, better coincides with the amortization period or planned resource life of the renewable or cogeneration resources being offered, better reflects the amortization period of generation projects constructed by the utilities themselves and will coincidentally provide a revenue stream that will facilitate the financing of QF projects."² (Reference Order No. 29029 p. 7). The 20-year standard contract length has remained in place since 2002.

Despite the changes that have occurred over time in the standard contract length for PURPA projects, one thing that has stayed consistent is that the Commission has always remained amenable to considering longer contract lengths upon a persuasive showing of need. (Reference e.g., Order Nos. 21630, 26576). In the case of Rockland, a 25-year contract term coincides with the expected 25-year life of the Project. Idaho Power also presented other reasons as listed earlier in support of a 25-year term. Staff believes that the reasons presented by Idaho Power for a 25-year term are persuasive. Moreover, it appears that the price and other terms of the Agreement were contingent upon a 25-year contract term; consequently, the Agreement may have never been able to be executed with a shorter contract term.

Although Staff supports a 25-year term in this instance, it does have some concerns. Clearly, the current vintage of wind turbines do not have a long track record upon which to judge their long-term durability and performance. A 25-year equipment life may be possible, yet it has not been proven. Staff's concerns are significantly mitigated, however, because performance requirements within this Agreement provide financial motivation for the project to maintain, operate, and replace

² At the same time it increased the standard contract length to 20 years, the Commission increased the size limitation for eligibility for published rates from 1 MW to 5 MW. That size limit was subsequently increased to 10 aMW in 2002. (Reference Order No. 29069).

the wind turbines as required to meet the Mechanical Availability Guarantee for the full 25-year contract term. In addition, the turbines for this project will be supplied by one of the oldest and reputable manufacturers in the wind industry.

Renewable Energy Credits³ (Reference Agreement Article VIII).

Under the terms of the Agreement, Rockland retains the rights to all RECs through the end of calendar year 2021. Agreement ¶ 8.1. Idaho Power will own the rights to all RECs from the beginning of calendar year 2022 through the remaining term of the Agreement (a minimum of 15 years). Agreement ¶ 8.2. This allows the QF developer to retain the RECs for the initial 10 years of the Agreement and obtain what value it can for them to help offset the cost of development for the project at a time when the Company does not have a Renewable Portfolio Standard (RPS) obligation for the RECs. At the same time, it also allows the Company to retain the RECs for the last 15 years of the Agreement, after the project is developed and mature, and when a future RPS may require the Company to obtain and have RECs.

In response to Staff production requests, Idaho Power admits that many, if not all, of the additional items of value in the Agreement - including RECs - are difficult, if not impossible, to quantify precisely. However, based on available information about REC pricing, Idaho Power estimates REC pricing to range from a low of approximately \$4-\$5 to a high of \$50 per REC. The Idaho Power 2009 IRP estimated forward REC prices to be approximately \$20 in the expected case, and \$50 in the high case. Currently, Idaho Power reports REC prices for WECC wind short-term transactions are being quoted in the \$5-\$6 range. As another example, the Company states that it is currently engaged in a hydro REC sale to another utility at a price of \$17.50. Finally, California Energy Commission certified RECs are currently trading at approximately \$15 according to Idaho Power.

Staff agrees with Idaho Power that it is virtually impossible to quantify the value of its ownership of RECs during the last fifteen years of the 25-year Agreement. Staff believes that current pricing is not indicative of prices that might be expected 15 years from now. Furthermore, Staff expects REC prices to vary widely in the future based on state and federal REC policy, Renewable Portfolio Standards (RPS) requirements, and REC supply and demand conditions. Staff believes it is plausible that RECs could have greatly increased value in the future, or conversely, that they could

³ Under Agreement paragraph 5.12, if Rockland is unable to obtain an agreement for the sale of RECs associated with the expected Net Energy (initial year 218,062,000 kWh, ¶ 6.4.1) produced by the Facility on terms acceptable to Seller, then Seller shall have the right to terminate the Agreement.

have no value at all. In any case, Idaho Power perceives that REC ownership will have value 15 - 25 years in the future, yet it has not specifically quantified a value in the Agreement. Presumably, the value of REC ownership is embedded in the purchase rates specified in the Agreement.

Staff believes that it makes sense for Idaho Power to seek ownership of RECs associated with the Project, even if it is only for the last 15 years of the Agreement. Staff believes it is likely that Idaho Power will be obligated to meet an RPS requirement at some point in the future, and it would be unfortunate if the Company were to forego ownership of RECs from such a large project. On the other hand, Idaho Power is not currently subject to any REC ownership requirement, and nearly all of the RECs it currently acquires are sold, with the revenue being passed on to ratepayers. Consequently, there is some rationale for the Company not to seek ownership of RECs from the Project at least in the early years of the Agreement.

Damages and Security

This Agreement, the Company contends, has considerably more identified damages and security requirements of Rockland than those that are typically applied to a QF project in a standard PURPA firm energy sales agreement. All specified damages are supported by liquid security requirements placed upon Rockland. Thus, in the event Idaho Power must exercise any of the damage claims, there is established security that Idaho Power may draw upon to satisfy the damages. Just as in standard PURPA agreements, Rockland must post \$45 per kW (\$3,600,000 total) of Delay Security that Idaho Power may draw upon if the Facility is delayed in achieving its Operation Date. Agreement ¶ 5.10.1. Additional security required in this Agreement that is above and beyond that required in standard PURPA agreements includes Signing Security and Operational Security.

Signing Security - \$300,000

Rockland must post this security prior to Idaho Power filing this Agreement with the Commission seeking its approval. As of September 3, 2010, Rockland posted the required \$300,000 signing security with the Company. ¶ 5.9. If Rockland terminates the Agreement prior to Commission approval, it forfeits the entire amount of signing security. If Rockland terminates within 30 days of Commission approval, it incurs a penalty of \$1 million, of which the \$300,000 Signing Security can be used as partial payment. If Rockland terminates the Agreement more than 60 days after Commission approval, then it will be subject to the full amount of Delay Security (\$3.6 million).

As Staff understands it, the viability of the Project depends upon Rockland's ability to secure a sale of RECs for the first ten years of the contract term. Because such a sale has yet to be secured, there is some risk that Rockland can follow through under the Agreement. The signing security is intended to provide a source of funds that can be drawn upon to compensate Idaho Power for various resource planning costs if the Rockland Project is not built. The amount of the Signing Security was a negotiated amount, which Staff believes is reasonable.

Operational Security - \$1,500,000 (Reference Agreement ¶ 5.3(e)).

Rockland must post this security prior to the project achieving its Operation Date and shall then maintain this security for the full term of the Agreement. The Agreement provides for the calculation of damages due Idaho Power if the project fails to meet various performance and other contract requirements throughout the contract term. Past history on PURPA agreements has indicated that while damages can contractually be calculated and assessed, quite often recovery of those calculated damages can be very difficult because the projects quite often do not have liquid assets available. Operational Security of \$1,500,000 was a negotiated value, and provides certainty that Idaho Power can collect at least this amount of calculated damages. This value, Idaho Power maintains was a negotiated amount that the Project was able to provide without requiring substantial impact to the energy pricing.

Staff believes that Operational Security is warranted, especially for such a large project. Further, Staff believes that an Operational Security amount of \$1.5 million is reasonable.

Partial Completion Damages (Reference Agreement ¶ 5.11).

The expected Nameplate Capacity of the Facility is 80 MW. Under the terms of the Agreement, if the Nameplate Capacity is less than 72 MW, Idaho Power will be entitled to collect Partial Completion Damages from Rockland in the amount of \$10,000 per MW less than 72 MW.

Because the size of the proposed facility is so large, Staff believes that it is reasonable to include provisions for damages in the event of partial completion. Projects of this magnitude are individually significant enough that Idaho Power would invariably have to include acquisition of the Project's contracted quantity of energy and capacity in its resource acquisition plans. If the Project were to achieve only partial completion, it is reasonable to expect that Idaho Power would be forced to acquire an alternate resource to satisfy load, perhaps at a higher cost and perhaps on short notice. The amount of the damages and the capacity threshold below which it engages have been negotiated

and mutually agreed to by both parties. Staff sees no reason to oppose this provision of the Agreement.

Mechanical Availability Guarantee (Reference Agreement ¶ 6.6).

The Mechanical Availability Guarantee (MAG) calculation within this Agreement, the Company notes, is more stringent and potentially easier to administer than the MAG in standard PURPA agreements. In both this Agreement and standard PURPA agreements, the MAG is set at 85 percent. However, in this Agreement, the mechanical availability of the Facility is determined by dividing the availability of each turbine as recorded in the automated operating system of each turbine by the Nameplate Capacity of each turbine less Idaho Power-caused curtailments. In comparison, in the standard PURPA agreements, impact of available wind, unplanned maintenance, and many other factors are included in the Mechanical Availability calculation.

Staff is not opposed to the MAG provisions included in the Agreement. Like standard PURPA agreements, the MAG in this Agreement is still set at 85 percent. Moreover, many of the factors used in standard PURPA agreements that are difficult to measure have been eliminated in this Agreement.

Wind Forecasting (Reference Agreement ¶ 9.3).

In addition to Rockland being required to contribute to the Idaho Power wind forecasting cost as specified for all new PURPA wind agreements, this Agreement also requires Rockland to install, maintain, and provide wind measurement data from state-of-the-art wind monitoring equipment to Idaho Power for the full term of the Agreement. Installation of wind monitoring equipment, Staff believes, is standard practice for new, large wind projects. It makes sense that if such equipment is installed by Rockland, that the data be shared with Idaho Power. This provision was mutually agreed to by both parties, and Staff believes it is reasonable.

Interconnection and Transmission

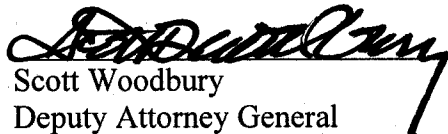
The Agreement provides that Rockland must have completed an interconnection feasibility study, is responsible to complete a Generation Interconnection Agreement (GIA), and is responsible for all costs associated with interconnection of the Facility to Idaho Power's system. Agreement ¶ 5.8. As of the time of filing this Application, Idaho Power has completed the feasibility study. The parties are in the final stages of a facility study with an executed Generation Interconnection

Agreement to follow. The Company's Power Supply Department has also filed a Transmission Service Request for this project and has received a favorable response from the transmission group that transmission capacity is available for this project contingent upon completion of the GIA and this Agreement. Staff expects that the Generation Interconnection Agreement will be submitted for Commission approval once it is finalized.

STAFF RECOMMENDATION

Staff recommends that the Commission approve all of the Agreement's terms and conditions and declare that all payments Idaho Power makes to Rockland for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this *19th* day of November 2010.



Scott Woodbury
Deputy Attorney General

Technical Staff: Rick Sterling

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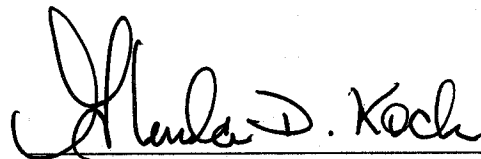
CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 19TH DAY OF NOVEMBER 2010, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-10-24, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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