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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPROPRIATE)	
DISPOSITION OF PROCEEDS FROM THE)	CASE NO. IPC-E-11-17
SALE OF IDAHO POWER COMPANY'S SO2)	
EMISSION ALLOWANCES IN CALENDAR)	COMMENTS OF THE
YEAR 2011.)	COMMISSION STAFF
)	

The Staff of the Idaho Public Utilities Commission comments as follows on Idaho Power Company's ("Idaho Power"; "Company") September 19, 2011 report ("Report") regarding the Company's sale of sulfur dioxide (SO2) emission allowances in 2011.

BACKGROUND

On September 19, 2011, Idaho Power reported on its sale of SO2 emission allowances in 2011. The Company reported selling or contracting to sell 6,216 surplus SO2 emission allowances in 2011. Idaho Power stated it expects to receive \$21,756 in net proceeds from the sale (after deducting brokerage fees of \$1,554). The Company says it will account for the proceeds using the same interim accounting method that the Commission approved in Order No. 29852. *See Report at 3.*

Title IV of the Clean Air Act Amendments of 1990 establishes a national plan to reduce acid rain. 42 U.S.C. §§ 7651, *et seq.* The acid rain plan's centerpiece is the incentive- or market-based "cap and trade" SO2 emission program. Under the cap and trade program, the Environmental

Protection Agency (EPA) caps the total amount of SO2 emissions allowed nationwide. Based on this cap, EPA allocates a certain number of SO2 emission allowances to thermal power plant owners. Each allowance provides a plant owner with authority to emit one ton of SO2. *See* Order No. 29852 at 1.

Each year a plant owner must hold sufficient allowances to cover actual SO2 emissions. If a plant owner has insufficient allowances to cover its annual emissions, it must purchase additional allowances or it is automatically fined and must surrender future year allowances to cover the shortfall. A plant owner with surplus SO2 allowances in a given year either 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.*

In 2005, the Commission first authorized Idaho Power to sell the Company's surplus SO2 emission allowances. *Id.* The Commission required Idaho Power to report the SO2 sale proceeds within 60 days of receipt. *Id.* In 2006, the Commission approved a stipulation which, among other things, directed the Company to include SO2 allowance sales proceeds in the Company's annual Power Cost Adjustment ("PCA") as an off-set to reduce the level of PCA rates, subject to the sharing mechanism already in place for the PCA. *See* Order No. 30041.

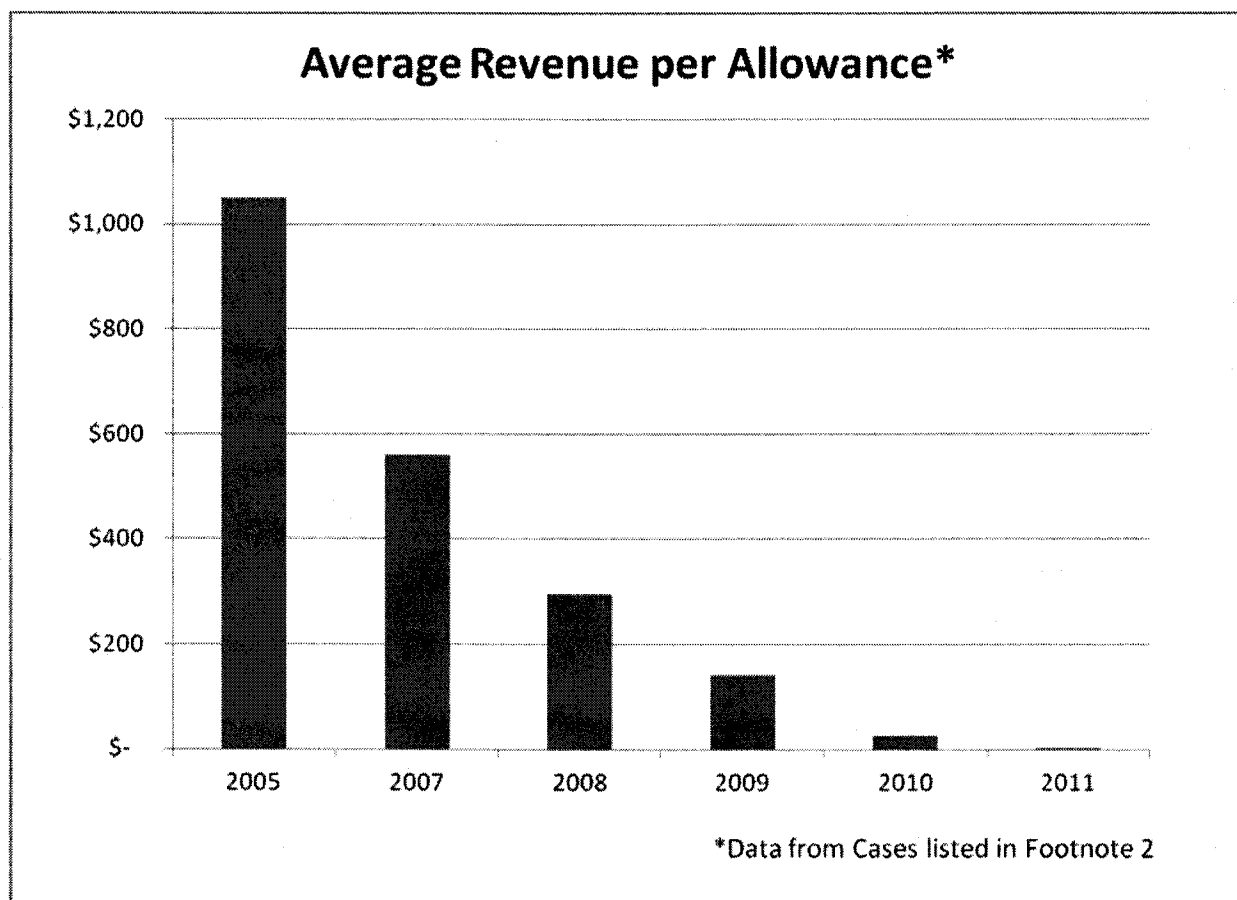
On October 26, 2011, the Commission issued Order No. 32385 initiating the current proceeding. In this Order, the Commission requested public comments regarding the appropriate disposition and ratemaking treatment of revenues derived from the sale of Idaho Power's SO2 allowances. The Commission directed that written comments be filed no later than November 16, 2011.

STAFF ANALYSIS

Staff verified that the SO2 sales transactions were booked accurately. The review included inspection of all contracts, sales terms for allowances sold, vintage of allowances, price per allowance, brokerage fees and receipt of funds. The Company asserts the Commission previously authorized it to record proceeds *net* of income taxes and transaction fees from future SO2 allowance sales in the PCA for purposes of calculating interest. However, Idaho Power's review of tax law and policy has led the Company to determine that it is more appropriate to record the *gross* benefits

(less transaction costs) of the sale of excess SO2 allowances. Revenues and brokerage fees arriving at net revenues are reflected in the PCA report in the month revenues are received. If SO2 allowances sales exist and the PCA's sharing mechanisms are triggered, customers will benefit by earning interest on the gross amount of the income from the SO2 allowances instead of the net amount. Tax and interest impacts are appropriately established within the PCA calculation. Staff recommends Idaho Power continue to book SO2 revenues in this manner.

The market for SO2 allowances has declined dramatically. As such, the number of allowances sold and revenues from the sale of allowances have also declined. The chart below demonstrates the extreme reduction in average revenues per allowance generated by Idaho Power's sales of excess SO2 allowances.¹ Only one transaction materialized this year for Idaho Power to sell available SO2 allowances. Less than one-third of the available allowances for sale were sold.



¹ This does not represent the price received per allowance, which historically has demonstrated high variability, but rather the simple arithmetic average of overall revenues per SO2 allowance.

The current filing represents the sixth SO₂ case formally submitted by the Company since 2005.² Consistent with paragraph 8 of the Stipulation in Case No. IPC-E-05-26, Idaho Power has recorded and included the sales proceeds as part of the annual PCA filing.³ The Commission noted in its findings in Order No. 30041 that “the PCA... is the logical mechanism to track and distribute proceeds from the sale of excess SO₂ allowances.” Staff believes that the PCA should continue to be the instrument for SO₂ tracking and revenue disbursement.

In reviewing the Stipulation, Staff found nothing requiring Idaho Power to submit its SO₂ sales report as a standalone docket. Beyond including proceeds in the PCA, the Company was directed to file its Report within sixty days of receipt. The reporting process is now a fairly routine process. Therefore, Staff believes a separate case is unnecessary and going forward Idaho Power should submit any such report concurrent with its monthly PCA filing. Staff will continue to review sales, revenues and benefits from surplus SO₂ allowances as part of the annual PCA filings.

Funds reserved in the amount of \$500,000 for an Idaho Energy Education Program in 2008 continue to be utilized. *See* Case No. IPC-E-08-11. As of August 31, 2011, funds of just under \$100,000 continue to be available. Staff is aware that the remaining balance will be used to purchase additional Energy Wise classroom kits for the 2011-2012 school year, and two additional SEE-related kits for iSTEM lending libraries in Meridian and Twin Falls.

STAFF RECOMMENDATION

Staff recommends that the customers’ share of SO₂ proceeds be passed through the PCA in its entirety for the current year. Doing so would result in a modest decrease in net power cost subject to recovery through the PCA. Staff further recommends that the Company submit subsequent reports on the proceeds from excess SO₂ allowances concurrent with the monthly PCA report that conforms to the sixty-day notification window.

² *See* Case Nos. IPC-E-05-26, IPC-E-07-18, IPC-E-08-14, IPC-E-09-08, and IPC-E-10-20.

³ Paragraph 8 states, in pertinent part: “Idaho Power will record any proceed of future sales of surplus SO₂ allowances, net of taxes and fees, received after June 1, 2006 in the PCA. Within future PCA true-ups the recorded amount will be jurisdictionalized and shared.” *See* 04/07/06 Sipulation, Case No. IPC-E-05-26.

Respectfully submitted this

16th

day of November, 2011.



Karl T. Klein

Deputy Attorney General

Technical Staff: Bryan Lanspery
Terri Carlock

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 16TH DAY OF NOVEMBER 2011, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-11-17, BY E-MAILING AND MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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