BEFORE THE

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IDAHO PUBLIC
UTILITIES COMMISSION

IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF HOKU MATERIALS, INC. FOR REPARATIONS AND REFORMATION OF ITS AMENDED SPECIAL CONTRACT WITH IDAHO POWER COMPANY.	CASE NO. IPC-E-12-02

DIRECT TESTIMONY OF RANDY LOBB IN SUPPORT OF THE STIPULATION AND SETTLEMENT

IDAHO PUBLIC UTILITIES COMMISSION

FEBRUARY 17, 2012

Q. Please state your name and business address for the record.

A. My name is Randy Lobb and my business address is 472 West Washington Street, Boise, Idaho.

Q. By who are you employed?

A. I am employed by the Idaho Public Utilities Commission as Utilities Division Administrator.

Q. What is your educational and professional background?

A. I received a Bachelor of Science Degree in Agricultural Engineering from the University of Idaho in 1980 and worked for the Idaho Department of Water Resources from June of 1980 to November of 1987. I received my Idaho license as a registered professional Civil Engineer in 1985 and began work at the Idaho Public Utilities Commission in December of 1987. I have conducted analysis of utility rate applications, rate design, tariff analysis and customer petitions. I have testified in numerous proceedings before the Commission including cases dealing with rate structure, cost of service, power supply, line extensions, regulatory policy and facility acquisitions. My duties at the Commission currently include case management and oversight of all technical Staff assigned to Commission filings.

Q. What is the purpose of your testimony in this case?

A. The purpose of my testimony is to describe the settlement reach by Idaho Power Company (Idaho Power), Hoku Materials Inc. (Hoku) and the Commission Staff (Staff) to reform the existing Amended Electric Service Agreement (AESA) between Idaho Power and Hoku and explain Staff's support.

Q. Please summarize your testimony.

A. The existing AESA between Idaho Power and Hoku, requires a minimum monthly payment that Hoku has had difficulty making due to poor market conditions and cash flow problems. Consequently, the Commission issued Order No. 32437 in Case No. IPC-E-11-28, directing the parties to undertake contract reform negotiations. The proposed Settlement Stipulation is a result of those negotiations.

Staff believes that the terms of the Settlement Stipulation reduce minimum monthly payment requirements and adequately address Hoku's cash flow problems and provide more time for market conditions to improve. At the same time, recovering the deferred minimum payments with interest at the end of the deferral period will assure that other Idaho Power customers are no worse off than they otherwise would have been had the agreement not been modified. Staff maintains that the Settlement Stipulation is in the public interest and should be approved by the Commission.

Q. Could you please describe the existing AESA between Idaho Power and Hoku?

A. Yes. The AESA in effect today was originally executed on June 19, 2009. The agreement specifies Hoku contract demand schedules, Idaho Power service obligations, first and second block energy and demand rates, minimum Hoku payment obligations and various other provisions through December 1, 2013. Under the AESA, commencing in April of 2011, Hoku is obligated to pay first block demand and energy charges regardless of whether it actually demands or consumes energy. This is commonly referred to as a "take-or-pay" provision. The maximum contract demand under the agreement is 82 megawatts (MW)

Q. What are the minimum monthly first block demand and energy payments required from Hoku under the agreement?

A. Annual first block demand payments in 2012 are scheduled to be $1,388,850 and minimum annual first block energy payments are scheduled to be $17,807,582 for a total annual minimum first block payment in 2012 of $19,196,432. The monthly minimum first block energy payments are 50% of total contact demand (at 90% capacity factor) and range from $743,176 in July to $1,692,789 in January, May, October and December.

Q. Is Hoku required to make any other minimum payments under the Agreement?

A. Yes, Hoku is also required to pay annual second block demand charges of $1,446,000. This payment is based on full second block contract demand. Therefore, total annual minimum payment in 2012 under the contract is $20,642,432.

Q. Were these Hoku revenue streams included in retail rates as part of the last Idaho Power general rate case?

A. Yes. In fact, rates from the last Idaho Power rate case were designed assuming that Hoku would actually be using first block demand and energy. Actual annual Hoku revenue built into rates under full contract commitment was $24,204,343 and $7,380,681 for the first and second service blocks respectively for total annual expected revenue of $31,585,024. Exhibit 3, p. 24 of 24 (Case No. IPC-E-11-08). Annual Hoku energy assumed in the rate case totaled approximately 370,000 MWh and 197,000 MWh in the first and second blocks, respectively. Hoku's actual energy consumption is currently well below that level. Billed consumption in November 2011 was only 46 MWh.

Q. What is the impact on Idaho Power and its customers if Hoku does not use the energy or generate the revenue assumed in the rate case?

A. There are several impacts. If Hoku uses no energy in the first block, Hoku payments are limited to contract minimums. The revenue loss of approximately $3.62 million ($22.81 million in energy revenue less $19.2 million minimum revenue) flows through the Power Cost Adjustment (PCA) mechanism as lost surplus sales revenue. Under the current AESA, first block energy revenue is treated as surplus sales revenue in the determination of net power supply costs. Idaho customers pick up 95% of the jurisdictionally allocated (95% ID) impact. Idaho Power picks up 5% of the Idaho allocated impact due to PCA sharing.

It is also likely that actual power supply expenses will decline over the amount included in rates if Hoku does not use energy assumed in the calculation of base power supply expenses.

Another impact is the loss of retail energy sales and revenue associated with second block consumption that Idaho Power anticipated in the rate case. The Company would lose revenue from base rates needed to recover its fixed costs. However, reduced Hoku retail energy sales would show up as lost energy sales in the PCA for reimbursement to the Company by customers through the Load Change Adjustment Rate (LCAR).

Q. Are these the impacts that occur as a result of the stipulated changes to the existing AESA in this case?

A. No. These impacts are simply the difference between what Hoku must pay at a minimum under the take-or-pay provision of the existing agreement if it uses no energy and the assumed Hoku energy consumption and revenue that was incorporated in Idaho Power's recently completed general rate case.

Q. Why has Hoku been unable to ramp up to the contract demand anticipated in the agreement or assumed as part of Idaho Power's last general rate case?

A. Hoku maintains that through a series of events and circumstances beyond its control, it has not yet begun expected production ramp-up at the polysilicon plant.

Q. Why is it necessary for Hoku to modify the existing AESA?

A. Hoku maintains that it is experiencing periodic cash flow shortages because the manufacturing facility is not yet operational and producing revenue. As a consequence of its cash flow shortage, Hoku initially could not make its November 2011 power payment and Idaho Power issued a notice of termination. Although Hoku has since paid both its November and December 2011 invoices, Hoku maintains that without modification of the AESA to reduce the minimum monthly first block energy payment, it will not be able comply with the terms of the existing agreement.

Failure of Hoku to make payments under the existing AESA will result in service disconnection, default by Hoku on the agreement, immediate loss of revenue associated with Hoku service and litigation by Idaho Power to collect amounts due under the AESA. Hoku also maintains that disconnection would result in damage to critical equipment at the plant and jeopardize future operations.

Q. Has the Commission issued any Orders dealing with termination of service or modification of the AESA?

A. Yes. As a result of Case No. IPC-E-11-28 (Hoku Material, Inc.'s Complaint to stay termination of service), the Commission issued Order No. 32437, directing Idaho Power and Hoku, with facilitation by Staff, to negotiate contract reform. The Commission stated:

> We also direct Idaho Power and Hoku to immediately enter into negotiations regarding Hoku's Petition to reform the amended special contract. Staff counsel shall facilitate the negotiation in an effort to determine whether the parties can settle the issue in Hoku's reformation petition.

Order No. 32437 at 11.

The proposed Settlement Stipulation is the result of five negotiation sessions.

Q. What does the Settlement propose in terms of modifying the existing AESA?

A. The Settlement proposes several revisions to the AESA including: 1) a reduction in minimum first block energy payments for an 18-month period beginning January 1, 2012, with subsequent repayment by extending the agreement by twelve months through November of 2014; 2) an initial payment to Idaho Power of $3.8 million using $2 million of the existing $4 million Hoku deposit with additional payments spread over the next 18 months; 3) usage triggers requiring 30-days notice from Hoku when it plans to exceed 10 MW and 6-month notice when it plans to exceed 20 MW.

Q. Would you please describe the proposed reduction in the minimum first block energy payment?

A. Yes. The existing AESA requires that Hoku make minimum first block energy payments based on 50% of total contact demand each month (82 MW maximum). The proposed minimum energy payment would be $800,000 each month less the current first and second block minimum demand charges. For example, Hoku would be required to make a minimum first block energy payment of $1,692,789 (744*41*0.9*$61.66) in January under the existing AESA and only $545,550 under the revised agreement for a difference of $1,147,239.

This difference accrues each month in a balancing account with a 6% carrying charge through June of 2013. The deferred payments along with carrying charges would then be amortized and paid by Hoku on a monthly basis over 12 months starting in December of 2014. Staff Exhibit No. 101 shows how the deferred minimum energy charges would accrue and be repaid by Hoku through November of 2014.

Q. How does this modification impact Idaho retail customers?

A. Reduction in the Hoku minimum first block energy payments will flow through the PCA as a loss of surplus sales revenue resulting in higher than normal net power supply expenses embedded in rates as part of the last general rate case. Hoku energy payments deferred in 2012 and 2013 will cause increased PCA rates for retail customers in 2013, 2014 and 2015.

Q. If Idaho Power and its customers are entitled to Hoku revenue in 2012 under the agreement, how are they reimbursed for allowing the Hoku payment deferral?

A. The Idaho customer share of the deferred revenue (that is covered by customers through the PCA) will be tracked on a monthly basis with a 6% carrying charge. The deferred balance will then be reimbursement to customers over the twelve month period of December 2013 to November 2014 under the modified agreement.

Q. Are there any other impacts to Idaho retail customers as a result of Agreement modification?

A. There are no other negative impacts identified as a result of modifying the Agreement.

Q. What happens if Hoku does not meet the terms of the modified agreement?

A. If Hoku fails to make required minimum payments, then Idaho Power would terminate service and seek legal recourse to recover Hoku revenue obligations under the agreement.

Q. How did Staff determine that modification of the

AESA was justified and that the terms of the Settlement were reasonable?

A. Staff based its analysis of Hoku AESA modification solely on its impact on other Idaho Power retail customers. The starting point in evaluating modification impact was the minimum Hoku payment required under the Agreement.

Although Idaho Power base rates and power supply expenses assumed a level of usage and revenue generation from Hoku above minimum levels, it is only the failure of Hoku to pay existing AESA minimum payments or modification of AESA minimum payments that have further impact on Idaho Power customers. Clearly, the failure of Hoku to make any payments under the agreement has the largest potential negative impact on Idaho Power customers.

Based on the proposed ramp up schedule for Hoku's Pocatello plant, the future status of the plant given the currently low polysilicon prices and Hoku's recent Idaho Power payment history, it appears likely that Hoku will have difficulty making the minimum payments under the existing AESA.

Consequently, Staff's approach was to reduce the minimum payments required from Hoku under the existing AESA and recover the difference by extending the term of the agreement. The proposed Settlement Stipulation will still provide some minimum level of revenue under the AESA, it will allow Hoku more time to resolve its cash flow and plant ramp up issues and it will still make customers no worse off during the term of the agreement if Hoku were to be disconnected.

Q. Does Staff support the $3.8 million payment required by Idaho Power as part of the Settlement Stipulation?

A. Yes. Staff supports the Settlement Stipulation and all of its terms. The $3.8 million dollar payment required by Idaho Power as a condition to modify the AESA does not actually impact Idaho Power's other retail customers. This condition was proposed by the Company to assure reimbursement of Idaho Power net power supply expenses as included in base rates.

The Company generally derived the payment amount by subtracting estimated power supply expense savings (Hoku without energy consumption) during the 18 month deferral period from the expected Hoku revenue included in base rates (Hoku with assumed energy consumption).

Q. Why does Staff support use of $2 million of the $4 million Hoku deposit as partial payment of the $3.8 million fee?

A. Staff supports use of the deposit in recognition that the remaining $2 million deposit will still exceed two times the modified monthly Hoku payment required under

Company rules. Use of the deposit in conjunction with amortization of the remaining fee over 18 months addresses Hoku's cash flow problems that resulted in AESA modification in the first place.

Q. Did Staff's impact analysis identify power supply expense reductions that might occur with AESA modification?

A. No. Staff's analysis assumes there would be no significant change in power supply expense as a result of reducing Hoku minimum energy payments under the AESA. The existing minimum payment under the current AESA and the minimum payment under the Settlement assume Hoku uses little or no energy. Variable power supply costs would not change significantly under these circumstances.

Q. What happens if Hoku's Pocatello plant comes on line and uses sufficient energy to exceed the minimum revenue specified in the modified AESA?

A. Any consumption up to 20 MW that results in Hoku revenue paid to Idaho Power that exceeds the minimum monthly energy payment would be booked as surplus sales revenue and flow though the PCA. A reduced amount of revenue would be deferred in the balancing account up to monthly minimum revenue specified in the original AESA when no revenue deficiency would be deferred.

Q. What happens if Hoku uses energy in excess of 20 MW?

A. According to the Settlement Stipulation, Hoku would be required to pay the minimum first block energy payments specified in the original AESA for the remainder of the deferral period.

However, the Settlement Stipulation also requires that Hoku notify Idaho Power six months in advance before usage exceeds 20 MW. Staff believes the 20 MW threshold is consistent with service provided to other Schedule 19 customers and the 6-month notification period allows Idaho Power time to plan and acquire the necessary energy and capacity.

Q. Could you please summarize Staff's support for the Settlement Stipulation?

A. Yes. Given Hoku's payment history and the current limited market for polysilicon from the Pocatello plant, Staff believes that Hoku will be unable to make its minimum first block energy payments under the agreement without modification of the existing AESA. Because these payments are treated as surplus sales in the calculation of base rate net power supply expense, any revenue reduction results in above normal power supply expenses in the PCA and increased PCA rates for Idaho Power's other customers.

Staff believes that some near term revenue from Hoku under the modified AESA is better than no near term revenue, disconnection and litigation. Reducing the minimum payment under the AESA will improve Hoku's cash flow, improve its ability to make its payments and provide additional time for the Pocatello plant to come on line.

At the same time, customers can be held harmless over the term of the contract by deferring, for subsequent repayment, the difference between the minimum payment Hoku would have made under the AESA and what it will make under the modified AESA. Consequently Staff believes that the Settlement Stipulation modifying the existing AESA is in the public interest and should be approved by the Commission.

Q. Does this conclude your testimony in this case?

A. Yes it does.

HOKU CONTRACT REFORMATION
CASE NO. IPC-E-12-02

Year	Month	Assumed Load	AESA First Block Energy Minimum	Reformed AESA First Block Energy Minimum	Difference AESA to Reformed AESA Minimums	Difference JA = .95 Sharing =.95	Cumulative Deferral	Interest 6.0%	Cumulative Deferral with Interest	Repayment with Interest
		(kW)	($)	($)	($)	($)	($)	($)	($)	($)
	Totals		36,046,017	$18,394,548	($17,651,468)	($15,930,450)		($1,051,914)		$16,941,419
2012	Jan	0	1,692,789	$545,550	($1,147,239)	($1,035,383)	($1,035,383)		($1,035,383)	
	Feb	0	1,583,577	$545,550	($1,038,027)	($936,819)	($1,972,202)	($5,177)	($1,977,379)	
	Mar	0	1,690,514	$545,550	($1,144,964)	($1,033,330)	($3,005,532)	($9,861)	($3,015,393)	
	Apr	0	1,638,183	$545,550	($1,092,633)	($986,101)	($3,991,633)	($15,028)	($4,006,661)	
	May	0	1,692,789	$545,550	($1,147,239)	($1,035,383)	($5,027,016)	($19,958)	($5,046,975)	
	Jun	0	1,178,693	$591,375	($587,318)	($530,054)	($5,557,071)	($25,135)	($5,582,206)	
	Jul	0	743,176	$637,200	($105,976)	($95,643)	($5,652,714)	($27,785)	($5,680,499)	
	Aug	0	1,073,476	$608,090	($465,386)	($420,011)	($6,072,724)	($28,264)	($6,100,988)	
	Sep	0	1,488,349	$563,175	($925,174)	($834,970)	($6,907,694)	($30,364)	($6,938,057)	
	Oct	0	1,692,789	$545,550	($1,147,239)	($1,035,383)	($7,943,077)	($34,538)	($7,977,615)	
	Nov	0	1,640,458	$545,550	($1,094,908)	($988,155)	($8,931,231)	($39,715)	($8,970,947)	
	Dec	0	1,692,789	$545,550	($1,147,239)	($1,035,383)	($9,966,615)	($44,656)	($10,011,271)	
2013	Jan	0	1,692,789	$545,550	($1,147,239)	($1,035,383)	($11,001,998)	($49,833)	($11,051,831)	
	Feb	0	1,528,971	$545,550	($983,421)	($887,537)	($11,889,535)	($55,010)	($11,944,545)	
	Mar	0	1,690,514	$545,550	($1,144,964)	($1,033,330)	($12,922,865)	($59,448)	($12,982,312)	
	Apr	0	1,638,183	$545,550	($1,092,633)	($986,101)	($13,908,966)	($64,614)	($13,973,580)	
	May	0	1,692,789	$545,550	($1,147,239)	($1,035,383)	($14,944,349)	($69,545)	($15,013,894)	
	Jun	0	1,638,183	$545,550	($1,092,633)	($986,101)	($15,930,450)	($74,722)	($16,005,172)	
	Jul	82,000	1,692,789	1,692,789	$0	$0	($15,930,450)	($79,652)	($16,084,824)	
	Aug	82,000	1,692,789	1,692,789	$0	$0	($15,930,450)	($79,652)	($16,164,477)	
	Sep	82,000	1,638,183	1,638,183	$0	$0	($15,930,450)	($79,652)	($16,244,129)	
	Oct	82,000	1,692,789	1,692,789	$0	$0	($15,930,450)	($79,652)	($16,323,781)	
	Nov	82,000	1,640,458	1,640,458	$0	$0	($15,930,450)	($79,652)	($16,403,433)	
	Dec	82,000								$1,411,785
2014	Jan	82,000								$1,411,785
	Feb	82,000								$1,411,785
	Mar	82,000								$1,411,785
	Apr	82,000								$1,411,785
	May	82,000								$1,411,785
	Jun	82,000								$1,411,785
	Jul	82,000								$1,411,785
	Aug	82,000								$1,411,785
	Sep	82,000								$1,411,785
	Oct	82,000								$1,411,785
	Nov	82,000								$1,411,785
	Dec	82,000								

Exhibit No. 101
Case No. IPC-E-12-2
R. Lobb, Staff
02/17/12

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS **17TH** DAY OF FEBRUARY 2012, SERVED THE FOREGOING **DIRECT TESTIMONY OF RANDY LOBB IN SUPPORT OF THE STIPULATION AND SETTLEMENT,** IN CASE NO. IPC-E-12-02, BY E-MAILING AND MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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