

RECEIVED

2014 JUL 31 PM 3:24

IDAHO PUBLIC  
UTILITIES COMMISSION

**DONOVAN E. WALKER**  
Lead Counsel  
[dwalker@idahopower.com](mailto:dwalker@idahopower.com)

July 31, 2014

**VIA HAND DELIVERY**

Jean D. Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
Boise, Idaho 83702

Re: Case No. IPC-E-14-21  
United Materials of Great Falls, Inc. – Idaho Power Company's Application  
Regarding First Amendment to Firm Energy Sales Agreement

Dear Ms. Jewell:

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

Very truly yours,

Donovan E. Walker

DEW:csb  
Enclosures

DONOVAN E. WALKER (ISB No. 5921)  
Idaho Power Company  
1221 West Idaho Street (83702)  
P.O. Box 70  
Boise, Idaho 83707  
Telephone: (208) 388-5317  
Facsimile: (208) 388-6936  
[dwalker@idahopower.com](mailto:dwalker@idahopower.com)

Attorney for Idaho Power Company

RECEIVED  
2014 JUL 31 PM 3: 24  
IDAHO PUBLIC  
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION )  
OF IDAHO POWER COMPANY FOR ) CASE NO. IPC-E-14-21  
APPROVAL OR REJECTION OF THE )  
FIRST AMENDMENT TO THE FIRM ) APPLICATION  
ENERGY SALES AGREEMENT BETWEEN )  
IDAHO POWER COMPANY AND UNITED )  
MATERIALS OF GREAT FALLS, INC. )  
\_\_\_\_\_ )

Idaho Power Company (“Idaho Power” or “Company”), in accordance with RP 52 and the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (“PURPA”), hereby respectfully applies to the Idaho Public Utilities Commission (“Commission”) for an order accepting or rejecting the First Amendment to the Firm Energy Sales Agreement between Idaho Power Company and United Materials of Great Falls, Inc. (“Amendment”).

In support of this Application, Idaho Power represents as follows:

**I. INTRODUCTION AND BACKGROUND**

1. Idaho Power and United Materials of Great Falls, Inc. (“UM”) entered into a Firm Energy Sales Agreement (“FESA”) pursuant to PURPA on January 6, 2004, for

the purchase and sale of energy produced by UM's facility, Horseshoe Bend Wind Park ("Facility"). UM's Facility is a nine megawatt PURPA wind generation qualifying facility ("QF") located at UM's industrial facility near Great Falls, Montana. This FESA is the first wind energy sales agreement that was executed by Idaho Power. The FESA was approved by the Commission on April 23, 2004. Order No. 29479, Case No. IPC-E-04-01.

2. The FESA contains 90/110 firmness requirements that apply a "Market Energy Cost" price to energy deliveries that do not meet the 90/110 requirements. The FESA defines the Market Energy Cost with reference to the Dow Jones Mid-Columbia Index prices for non-firm energy. The FESA provisions for Surplus Energy and the Market Energy Cost generally correlate to Idaho Power's Schedule 86, Cogeneration and Small Power Production Non-Firm Energy.

3. The Dow Jones Mid-Columbia Index was discontinued by the publisher as of October 2013. Case No. IPC-E-13-25 was initiated to address a replacement market index reference for the non-firm energy price reflected in Schedule 86. The parties to Case No. IPC-E-13-25 executed a settlement stipulation ("Stipulation"), approved by the Commission in Order No. 33053, which sets forth reference to the Intercontinental Exchange ("ICE") Mid-Columbia index prices, with a revised formula for calculating the non-firm price in Schedule 86. In addition, the parties to Case No. IPC-E-13-25 agreed to amend the FESAs between Idaho Power and each intervening party to reference the ICE index using the same language as, and consistent with, the Schedule 86 language agreed upon in the Stipulation. In approving the Stipulation, the Commission stated, "We also find it reasonable to allow any additional existing PURPA QFs that currently have a contract with Idaho Power containing reference to the Dow Jones non-firm Mid-

C electricity price index, should they so choose, to amend their respective agreements consistent with the terms of this Settlement Stipulation and similar to the contract amendments approved by this Order.” Order No. 33053, p. 4.

## **II. THE AMENDMENT**

4. Idaho Power and UM have agreed to amend the FESA to include, nearly word for word, the reference to the ICE index and revised formula that was adopted for Schedule 86 in Case No. IPC-E-13-25. Attached hereto as Attachment 1, and incorporated herein by this reference, is the executed First Amendment to the Firm Energy Sales Agreement Between Idaho Power Company and United Materials of Great Falls, Inc. The Amendment simply sets forth, virtually verbatim, the provisions from Schedule 86 to define “Market Energy Cost” in Article 1, Section 1.13 of the FESA. The Amendment was executed by Idaho Power and UM on June 24, 2014.

5. Prior to executing the Amendment, Idaho Power and UM entered into a letter agreement agreeing to settle disputed claims regarding the FESA by entering into the Amendment to replace the Dow Jones index with the ICE index, as approved in Case No. IPC-E-13-25. Attached hereto as Attachment 2, and incorporated herein by this reference, is a copy of the letter agreement dated June 3, 2014, signed by Idaho Power and UM. Pursuant to the parties’ agreement, and pursuant to the FESA which requires both parties to agree upon a replacement index should the Dow Jones index be discontinued, an effective date of October 2013 for use of the ICE index and calculation referenced in the Amendment is requested. This provides for a switch to and use of the agreed upon ICE index from the time the Dow Jones index was discontinued.

### **III. MODIFIED PROCEDURE**

6. Idaho Power believes that a hearing is not necessary to consider the issues presented herein and respectfully requests that this Application be processed under Modified Procedure; i.e., by written submissions rather than by hearing. RP 201, *et seq.* If, however, the Commission determines that a technical hearing is required, the Company stands ready to prepare and present its testimony in such hearing.

### **IV. COMMUNICATIONS AND SERVICE OF PLEADINGS**

7. Communications and service of pleadings, exhibits, orders, and other documents relating to this proceeding should be sent to the following:

Donovan E. Walker  
Lead Counsel  
Regulatory Dockets  
Idaho Power Company  
1221 West Idaho Street  
P.O. Box 70  
Boise, Idaho 83707  
[dwalker@idahopower.com](mailto:dwalker@idahopower.com)  
[dockets@idahopower.com](mailto:dockets@idahopower.com)

Randy C. Allphin  
Energy Contract Administrator  
Idaho Power Company  
1221 West Idaho Street  
P.O. Box 70  
Boise, Idaho 83707  
[rallphin@idahopower.com](mailto:rallphin@idahopower.com)

### **V. REQUEST FOR RELIEF**

8. Idaho Power respectfully requests that the Commission issue an order accepting or rejecting the First Amendment to the Firm Energy Sales Agreement between Idaho Power Company and United Materials of Great Falls, Inc., without change or condition

Respectfully submitted this 31<sup>st</sup> day of July 2014.



---

DONOVAN E. WALKER  
Attorney for Idaho Power Company

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 31<sup>st</sup> day of July 2014 I served a true and correct copy of the within and foregoing APPLICATION upon the following named parties by the method indicated below, and addressed to the following:

**United Materials of Great Falls, Inc.**

Lonnie Anderson  
United Materials of Great Falls, Inc.  
2100 9th Avenue North  
P.O. Box 1690  
Great Falls, Montana 59403

- Hand Delivered
- U.S. Mail
- Overnight Mail
- FAX
- Email [Lonnie.Anderson@unitedmaterialsgtf.com](mailto:Lonnie.Anderson@unitedmaterialsgtf.com)

William A. Pascoe  
Pascoe Energy Consulting, LLC  
104 Country Club Lane  
Butte, Montana 59701

- Hand Delivered
- U.S. Mail
- Overnight Mail
- FAX
- Email [PascoeEnergy@aol.com](mailto:PascoeEnergy@aol.com)

  
Christa Barry, Legal Assistant

**BEFORE THE  
IDAHO PUBLIC UTILITIES COMMISSION**

**CASE NO. IPC-E-14-21**

**IDAHO POWER COMPANY**

**ATTACHMENT 1**

**FIRST AMENDMENT  
TO THE  
FIRM ENERGY SALES AGREEMENT  
BETWEEN  
IDAHO POWER COMPANY  
AND  
UNITED MATERIALS OF GREAT FALLS, INC.**

This First Amendment of the Firm Energy Sales Agreement ("First Amendment") is entered into on this 24 day of June, 2014 by and between Idaho Power Company, an Idaho corporation ("Idaho Power") and United Materials of Great Falls, INC., a Montana Corporation ("United Materials" or "Seller") (individually a "Party" and collectively the "Parties").

WHEREAS, Idaho Power and Seller entered into a Firm Energy Sales Agreement on January 6, 2004 (the "Agreement") for the purchase and sale of energy produced by the Seller's facility that was approved by the Idaho Public Utilities Commission ("Idaho PUC") in Order No. 29479 on April 23, 2004;

WHEREAS, as agreed to in the Parties' letter settlement agreement, Seller and Idaho Power desire to amend the definition of Market Energy Cost in this Agreement to reflect the stipulation which parties reached in Case No. IPC-E-13-25 before the Idaho Public Utilities Commission;

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto agree as follows:

1. **Incorporation of Recitals.** The above-stated recitals are incorporated into and made a part of this Agreement by this reference to the same extent as if these recitals were set forth in full at this point.
2. **Definitions.** Article 1, section 1.13 shall be deleted in its entirety and the following section shall be substituted in its stead:

1.13 "Market Energy Cost" – Eighty-five percent (85%) of (82.4% of the monthly arithmetic average of each day's Intercontinental Exchange ("ICE") daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg index prices).

Each day's index prices will reflect the relative proportions of peak hours and off-peak hours in the month as follows:

Heavy Load (HL) Hours: The daily hours from hour ending 0700-2200 Mountain Time, (16 hours) *excluding* all hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

Light Load (LL) Hours: The daily hours from hour ending 2300-0600 Mountain Time (8 hours), plus all other hours on all Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

The actual Market Energy Cost calculation being:

$$.85 * (.824 * (\sum_{X=1}^n \{(ICE \text{ Mid-C Peak Avg}_x * HL \text{ hours for day} + (ICE \text{ Mid-C Off-Peak Avg}_x * LL \text{ hours for day})\} / (n*24)))$$

where n = number of days in the month

If the ICE Mid-C Index prices are not reported for a particular day or days, prices derived from the respective averages of HL and LL prices for the immediately preceding and following reporting periods or days shall be substituted into the formula stated in this definition and shall therefore be multiplied by the appropriate respective numbers of HL and LL Hours for such particular day or days with the result that each hour in such month shall have a related price in such formula. If the day for which prices are not reported has in it only LL Hours (for example a Sunday), the respective averages shall use only prices reported for LL hours in the immediately preceding and following reporting periods or days. If the day for which prices are not reported is a Saturday or Monday or is adjacent on the calendar to a holiday, the prices used for HL Hours shall be those for HL hours in the nearest (forward or backward) reporting periods or days for which HL prices are reported.

If the ICE Mid-C Index reporting is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the ICE Mid-C Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.

**3. Effect of Amendment.** Except as expressly amended by this First Amendment, the Agreement shall remain in full force and effect.

**4. Capitalized Terms.** All capitalized terms used in this First Amendment and not defined herein shall have the same meaning as used in the Agreement.

**5. Scope of Amendment.** This First Amendment shall be binding upon and inure to the benefit of the Parties hereto, and their respective heirs, executors, administrators, successors, and assigns, who are obligated to take any action which may be necessary or proper to carry out the purpose and intent thereof.

6. **Authority.** Each Party represents and warrants that (i) it is validly existing and in good standing in the state in which it is organized, (ii) it is the proper party to amend the Agreement, and (iii) it has the requisite authority to execute this First Amendment.

7. **Counterparts.** This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be duly executed as of the date above written.

UNITED MATERIALS OF GREAT FALLS, INC

By: Lonnie G. Anderson

Name: Lonnie G. Anderson

Title: PRESIDENT

IDAHO POWER COMPANY

By: Lisa Grow

Lisa Grow

Sr. Vice President, Power Supply

**BEFORE THE  
IDAHO PUBLIC UTILITIES COMMISSION**

**CASE NO. IPC-E-14-21**

**IDAHO POWER COMPANY**

**ATTACHMENT 2**



June 3, 2014

**Randy C. Allphin**  
Energy Contracts Coordinator, Ldr  
Tel: (208) 388-2614  
[rallphin@idahopower.com](mailto:rallphin@idahopower.com)

Pasco Energy Consulting, LLC  
Attn: Bill Pascoe  
104 Country Club Lane  
Butte, MT 59701

E-mail Copy: Bill Pasco                    [PascoeEnergy@aol.com](mailto:PascoeEnergy@aol.com)  
                  Lonnie Anderson                [Lonnie.Anderson@unitedmaterialsgtf.com](mailto:Lonnie.Anderson@unitedmaterialsgtf.com)

Re:    United Materials, Horseshoe Bend Wind generation Project

Bill,

Idaho Power is in receipt of your letter dated March 13, 2014, in which you have requested revised payments for Surplus Energy deliveries to Idaho Power that occurred in the months of December 2013 and January 2014. Idaho Power disagrees with your assertions that it did not correctly calculate and pay for Surplus Energy according to the Firm Energy Sales Agreement (FESA). The calculation, as specified in the FESA and as described further in this letter, resulted in a payment of \$0 for Surplus Energy. However, Idaho Power proposes, consistent with your stated "possible options for moving forward" number 2, that we reach an agreement to replace the index and calculation in our FESA with new provisions that have been negotiated as part of Idaho Public Utilities Commission Case No. IPC-E-13-25, summarized below. Upon your agreement to amend the FESA with a new index and calculation, Idaho Power would agree to apply this new index and calculation to the months of December 2013, and January 2014, as described in this letter.

---

Confidential Offer to Settle Disputed Claims

Page 1 of 6

P O Box 70 Boise, Idaho 83707

1221 W Idaho St. Boise, Idaho 83702

**Surplus Energy and Monthly Market Energy Cost Calculation**

In your letter of March 13, 2014, you state,

It is my understanding that Idaho Power did not pay for Surplus Energy in December 2013 and January 2014 because Platt's did not report any non-firm energy transactions during those months. United Materials does not have access to the Platt's index or supporting information, but my understanding is that Platt's did in fact report nonfirm index prices in December 2013 and January 2014. Although these prices were based on a survey of market participants rather than specific transactions, they are nonetheless the Platt's nonfirm index prices for this period.

The FESA for your project contains specific provisions that define Surplus Energy to be Net Energy that is scheduled and delivered to Idaho Power that exceeds 110% of the Net Energy Amount. The Net Energy Amount being monthly kWh estimates provided by the Seller. The FESA also contains provisions that provide the project with mechanisms to ensure it performs within its monthly kWh estimates.

Paragraph 7.3 of the FESA states, "For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Market Energy Cost of or the Base Energy Purchase Price specified in paragraph 7.1 whichever is lower." Paragraph 1.13 of the FESA states, "Market Energy Cost" – eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.

Your understanding of how the Surplus Energy is calculated is not correct. Idaho Power receives daily on-peak and off-peak non-firm index transaction volumes and pricing directly from a third-party index provider. This provider has consistently been McGraw Hill (1999 through September 2013 it was the McGraw Hill Non-Firm Dow Jones Index, October 2013 forward it has been the McGraw Hill Non-Firm Platts Index). These daily transaction volumes (MWh) and pricing received from McGraw Hill are then directly input into a calculation that is used to calculate the monthly weighted average non-firm market price. To achieve this weighted average, the reported daily on-peak and off-peak transaction volumes (MWh) are multiplied by the applicable reported price for every day of the month. These individual transaction dollar values are then added together creating a total month's dollar value of the reported transactions. This total month's dollar value is then divided by the total volume of transactions (MWh) reported for the month resulting in a weighted average of the non-firm on-peak and off-peak reported transactions for each month. This resulting value is then multiplied by 85% to provide the Market Energy Cost as defined in the FESA.

Confidential Offer to Settle Disputed Claims

Page 2 of 6

In various Idaho Public Utility Commission (IPUC) orders the IPUC has noted that the 90% and 110% performance band and the associated provisions establish a reasonable expectation for QF firm energy deliveries and any deliveries that do not meet these criteria are to be considered non-firm energy deliveries (i.e. Surplus Energy, Shortfall Energy) and priced accordingly. The IPUC approved the use of the non-firm on-peak and off-peak index prices in May of 1999 and Idaho Power has used this approved surplus energy price definition in all QF contracts since that time and has consistently applied the following weighted average calculation.

Idaho Power believes that the Surplus Energy calculations and the associated Surplus Energy Prices have been calculated correctly. You are correct that the project did deliver Surplus Energy to Idaho Power in the months of December 2013 and January 2014 and the payment to the project for this energy was \$0. However, this is a result of the calculated Surplus Energy Price per kWh, in accordance with the FESA, resulting in \$0, and thus the \$0 payment.

#### **Proposed resolution**

In your letter of March 13, 2014 you have presented two possible options for moving forward. You state that United Materials would prefer to resolve the matter amicably rather than being forced to pursue legal or regulatory remedies. Idaho Power welcomes this opportunity and proposes, consistent with your stated "possible options for moving forward" number 2, that we reach an agreement to replace the index and calculation in our FESA with new provisions that have been negotiated as part of Idaho Public Utilities Commission Case No. IPC-E-13-25. Idaho Power makes the following offer of settlement:

#### **Surplus energy price definition**

At the present time there is a case being processed by the IPUC (Case No. IPC-E-13-25) in which the energy prices to be included in the Idaho Power Schedule 86 Non Firm agreements is being reviewed. The existing Schedule 86 energy prices are the same provisions included in the FESA regarding the Surplus Energy Prices and many of the same questions and concerns you have raised in your letter are consistent with issues being addressed in this IPUC case. The parties to this case have reached agreement on a settlement to this case and have filed this settlement with the IPUC for approval. The settlement provides for a revised definition of the Market Energy Cost to be used for future deliveries of non-firm energy (i.e. Surplus Energy). Idaho Power is willing to enter into an amendment of your FESA consistent with the settlement agreement reached by the parties to the IPC-E-13-25 case. The settlement agreement provides for the use of the Intercontinental Exchange ("ICE") firm daily Mid-C price index, at a discount that represents conversion of the firm index to a non-firm index. This would include agreement to amend your FESA with the following provisions:

Deleting the current paragraph 1.13 and replacing it with the following:

1.13 “Market Energy Cost” – 85% of (82.4% of the monthly arithmetic average of each day’s Intercontinental Exchange (“ICE”) daily firm Mid-C Peak Avg and Mid-C Off-Peak Avg index prices).

The actual Market Energy Cost calculation being:

$$.85 * (.824 * (\sum_{x=1}^n \{(\text{ICE Mid-C Peak Avg}_x * \text{HL hours for day}) +$$
$$\text{ICE Mid-C Off-Peak Avg}_x * \text{LL hours for day}\}) / (n*24))$$

where n = number of days in the month

If the ICE Mid-C Index prices are not reported for a particular day or days, prices derived from the respective averages of HL and LL prices for the immediately preceding and following reporting periods or days shall be substituted into the formula stated in this definition and shall therefore be multiplied by the appropriate respective numbers of HL and LL Hours for such particular day or days with the result that each hour in such month shall have a related price in such formula. If the day for which prices are not reported has in it only LL Hours (for example a Sunday), the respective averages shall use only prices reported for LL hours in the immediately preceding and following reporting periods or days. If the day for which prices are not reported is a Saturday or Monday or is adjacent on the calendar to a holiday, the prices used for HL Hours shall be those for HL hours in the nearest (forward or backward) reporting periods or days for which HL prices are reported.

If the ICE Mid-Columbia Index reporting is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the ICE Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.

**Prior months Surplus Energy payments**

As part of the proposed settlement, Idaho Power is willing to recalculate the Surplus Energy Price for any months after November 2013 using the revised Market Energy Cost as defined above and revise the Surplus Energy payments made for those months.

Applying the revised Surplus Energy Prices to the actual Surplus Energy delivered, results in the following Surplus Energy payments:

| <b>Month</b>  | <b>Surplus Energy (kWh)</b> | <b>Surplus Energy Price (per kWh)</b> | <b>Surplus Energy Payment</b> |
|---------------|-----------------------------|---------------------------------------|-------------------------------|
| December 2013 | 653,900                     | \$0.035754                            | \$23,379.80                   |
| January 2014  | 237,500                     | \$0.028195                            | \$6,696.41                    |
| February 2014 | 0                           | \$0.048133                            | \$0.00                        |
| March 2014    | 0                           | \$0.018236                            | \$0.00                        |
| April 2014    | 46,500                      | \$0.017671                            | \$821.69                      |
|               |                             | Total                                 | \$30,897.89                   |

**Idaho Public Utility Commission (IPUC) Approval**

Upon your agreement with this proposed resolution Idaho Power will prepare an amendment for your FESA for execution by both parties and documentation to file with the IPUC seeking approval of the amendment and the revised payment calculation. Only after the IPUC has approved this resolution shall the amendment become effective and Idaho Power will make the appropriate payments.

Due to the pending case at the IPUC, and the similarities between the issues within this case and your FESA, Idaho Power is unable to substantially deviate from this proposed resolution. Please provide any comments to Idaho Power at your earliest convenience and/or if you agree with this proposed resolution please indicate by signing below and returning a copy to Idaho Power, at which time Idaho Power will prepare the Amendment and forward to you for execution.

Agreed, Understood and Accepted:

United Materials of Great Falls, Inc.

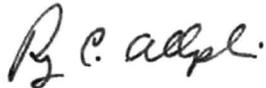


Signature

Lonnie G. Anderson      PRESIDENT

Print Name and Title

Sincerely,



Randy C. Allphin

Cc:    Donovan Walker (IPCo)  
      Tess Park (IPCo)  
      Julia Hilton (IPCo)  
      Jill Glenn (IPCo)

Confidential Offer to Settle Disputed Claims

Page 6 of 6

P O Box 70 Boise, Idaho 83707

1221 W Idaho St. Boise, Idaho 83702