BRAD PURDY

DEPUTY ATTORNEY GENERAL

IDAHO PUBLIC UTILITIES COMMISSION

PO BOX 83720

BOISE, IDAHO  83720-0074

(208) 334-0357

Street Address for Express Mail:

472 W WASHINGTON

BOISE ID  83702-5983

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE PETITION OF IDAHO POWER COMPANY FOR A DECLARATORY ORDER DETERMINING THAT CERTAIN RISK MANAGEMENT TRANSACTIONS ARE NOT SECURITIES WHICH ARE SUBJECT TO TITLE 61, CHAPTER 9, IDAHO CODE. | ))))))) | CASE NO. IPC-E-96-19COMMENTS OF THECOMMISSION STAFF |

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Brad Purdy, Deputy Attorney General, and in response to the Petition for Declaratory Order filed by Idaho Power Company (IPC) on September 12, 1996 submits the following comments.

Idaho Code Section 61-901 provides, in part:

61-901.  Electric, telephone, water and gas utilities-Issuance of securities authorized-Liens-Pledges-Purposes-Terms-Supervision and control of public utilities commission.-The right of every public utility, as defined in section 61-129, Idaho Code, furnishing electric, telephone, water or gas service in the state of Idaho, to issue, assume or guarantee securities and to issue mortgages, deeds of trust or other instruments of security with respect to its property situated within the state of Idaho, is hereby subjected to the regulation and supervision of the public utilities commission of the state of Idaho, as hereinafter set forth in this act.

Securities are best defined as financial instruments that represent an ownership interest or evidence of indebtedness on the part of the holder.  These financial instruments include bonds, loans, structured notes, mortgage backed securities, indexed debt instruments, interest-only and principal-only obligations, subordinated deferrable interest instruments, any other debt obligation, preferred stock and common stock.  Security instruments provide the major source of funding for utility companies.

Derivatives are made up of two categories of instruments:  1) derivative financial instruments including futures, forwards, swaps, options, and other financial instruments with similar characteristics and 2) derivative commodity instruments including, to the extent they are not derivative financial instruments, commodity futures, commodity forwards, commodity swaps, commodity options, and other commodity instruments with similar characteristics that are reasonably possible to be settled in cash, with another financial instrument or with another commodity instrument.

Derivatives can be effective tools for managing exposure to market risks.  Market risk is the risk of loss from adverse changes in market rates and prices, such as interest rates, foreign currency exchange rates, commodity prices and similar market rate or price changes.

Idaho Power Company has developed and the Board has approved effective July 11, 1996 the Risk Management Policy, Procedures and Controls dated July 17, 1996.  This policy assures Staff that the derivatives Idaho Power may utilize will be used for hedging purposes only and not for speculative purposes.  Staff will review the use of derivatives in audits and when determining the cost of electricity for Idaho Power.  Staff recommends that Idaho Power Company be required to file with the Commission Staff a confidential copy of any changes to the Risk Management Policy, Procedures and Controls.

It is Staff’s position that the use of swaps or other forms of derivatives for the purpose of risk management does not require a filing under Idaho Code Title 61, Chapter 9.

Incidentally, Staff notes that gas utilities have used gas swaps or other forms of derivatives to manage the cost of gas.  These transactions have not been considered by the Commission Staff as a security requiring approval under Idaho Code Title 61, Chapter 9.  Instead they have been reviewed by Staff in the cost of gas calculation.

DATED  at Boise, Idaho, this            day of November 1996.

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Brad Purdy

Deputy Attorney General

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Terri Carlock

Accounting Section Supervisor

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