DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

MYRNA WALTERS

TONYA CLARK

BILL EASTLAKE

DON HOWELL

STEPHANIE MILLER

RICK STERLING

DAVID SCOTT

WORKING FILE

FROM:SCOTT WOODBURY

DATE:DECEMBER 18, 1998

RE:CASE NO. IPC-E-98-14 (IDAHO POWER)

MAGIC RESERVOIR HYDROELECTRIC PROJECT

AMENDMENT TO FIRM ENERGY SALES AGREEMENT

On November 6, 1998, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commis­sion) in Case No. IPC-E-98-14 requesting approval of a proposed Third Amendment to a July 10, 1987, Firm Energy Sales Agreement between Idaho Power and Magic Reservoir Hydroelectric, Inc. (MRHI; successor in interest to Cook Electric, Inc.) for the Magic Reservoir Hydroelectric Generating Project.

Pursuant to the Public Utility Regulatory Policies Act of 1978 (PURPA) Idaho Power is required to purchase energy from qualifying small power production facilities (QFs). The Magic Reservoir project is a QF.  In Order No. 21690 in Case No. U-1006-292, the Commission established security provisions for the overpayment liability that results from levelized QF contracts.  The Commission’s Order required QFs to establish maintenance reserve and low water reserve escrow accounts in an Idaho financial institution.

Since the Commission initially established the requirement for escrow accounts, Idaho Power reports that one by one the local banks have opted to exit the business of providing the required account services.  For the past several years, Idaho Power states that the only Idaho bank willing to provide this escrow service has been Wells Fargo Bank.  Idaho Power has now been advised by several QF developers that Wells Fargo also desires to cease providing this service.

In response to a notice from Wells Fargo, MRHI contacted Idaho Power and proposed a simplified alternative escrow account arrangement that it represents is acceptable to First Security Bank.  The procedure described in the Third Amendment would allow funds from the maintenance reserve account and low water reserve account to be mingled in a single account with separate accounting for each of the two reserved amounts.  Permitted withdrawals from the single account requires two signatures, either by two Idaho Power signatories or by one Idaho Power signatory and one Magic Reservoir Hydroelectric, Inc. signatory.  Idaho Power states that such an arrangement will allow it to effectively monitor and control disbursements from the account.

Commission Notices of Application and Modified Procedure in Case No. IPC-E-98-14 were issued on November 18, 1998.  The deadline for filing written comments was December 9, 1998.  The Commission Staff was the only party to file written comments (attached).

Staff believes that the alternative escrow account arrangements outlined in the Third Amendment are reasonable and recommends approval.

Commission Decision

Should the proposed Third Amendment to the Firm Energy Sales Agreement for the Magic Reservoir Hydroelectric project be approved?  If not, what is the Commission’s preference?

Scott Woodbury

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