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IDAHO PUBLIC  
UTILITIES COMMISSION

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October 28, 2022

**VIA ELECTRONIC FILING**

Jan Noriyuki, Secretary  
Idaho Public Utilities Commission  
11331 W. Chinden Blvd., Bldg 8,  
Suite 201-A (83714)  
PO Box 83720  
Boise, Idaho 83720-0074

Re: Case No. IPC-E-22-06  
In the Matter of Idaho Power Company's Application for Approval of a  
Replacement Special Contract with Micron Technology, Inc. and A Power  
Purchase Agreement with Black Mesa Energy, LLC

Dear Ms. Noriyuki:

Attached for electronic filing is Idaho Power's Reply Comments on Reconsideration in the above-entitled matter.

Please feel free to contact me directly with any questions you might have about this filing.

Very truly yours,

Donovan E. Walker

DEW:sg  
Enclosure

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Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER )  
COMPANY'S APPLICATION FOR ) CASE NO. IPC-E-22-06  
APPROVAL OF A REPLACEMENT )  
SPECIAL CONTRACT WITH MICRON ) IDAHO POWER COMPANY'S  
TECHNOLOGY, INC. AND A POWER ) REPLY COMMENTS ON  
PURCHASE AGREEMENT WITH BLACK ) RECONSIDERATION  
MESA ENERGY, LLC. )  
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Idaho Power Company ("Idaho Power" or "Company"), pursuant to Rule 332 of the Rules of Procedure of the Commission and the Order granting Idaho Power's Petition for Clarification and Reconsideration, Order No. 35532, issued September 19, 2022, provides these Reply Comments on Reconsideration of the Commission's finding that the Excess Generation credit ("EGC") and renewable capacity credit ("RCC") payments made to Micron Technology, Inc. ("Micron") through their Revised Special Contract ("ESA") included in the Company's power supply expense be subject to 95 percent sharing in the Power Cost Adjustment ("PCA").

As set forth by the Company in its Application, the Micron ESA is consistent with the regulatory framework of the Clean Energy Your Way (“CEYW”) program previously proposed by the Company in an effort to expand clean energy options for customers.<sup>1</sup> From its inception, a priority in development of the Company’s CEYW program was to design a menu of clean energy offerings that would appeal to customers of all sizes and seeking a variety of clean energy objectives, while also holding non-participants harmless.<sup>2</sup> It was through this lens that Idaho Power engaged in the special contract negotiation with Micron to design a pricing structure that does not harm non-participants, but also appropriately recognizes the value all Idaho Power customers receive when a new, 100 percent paid-for renewable resource is added to the Company’s system. Application of the PCA sharing mechanism to Micron’s ECG and RCC payments has the potential to upset that balance and result in pricing terms which go beyond holding non-participants harmless, and instead result in either Micron or Idaho Power subsidizing power supply expense of all customers.

**The Commission’s Order May Introduce Power Supply Expense Subsidization by Clean Energy Your Way Participants**

Idaho Power is concerned Staff’s rationale for recommending the PCA’s 95/5 sharing mechanism apply to EGC and RCC payments may indicate a misunderstanding of the nature of the proposed CEYW transaction as applied in the Micron ESA. First, it is important to recognize that Micron, under the ESA, is required to pay for 100 percent of the output of a new resource which supplies energy and capacity to Idaho Power’s

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<sup>1</sup>*In the Matter of Idaho Power Company’s Application to Expand Optional Clean Energy Offerings Through the Clean Energy Your Way Program*, Case No. IPC-E-21-40, Application (Dec. 2, 2021), p. 3.

<sup>2</sup> *Id.*, p. 2.

system. While Micron will receive the benefit of the resource's renewable attributes, all Idaho Power customers benefit because the participant-paid resource has the potential to avoid or defer future capacity needs and will supply energy to the system, which may either displace more-costly resources or market purchases, or be sold into the market, both of which reduce power supply expense to the benefit of all customers. Providing a fair value to Micron for the benefits the resource brings to the system is integral to the viability of the proposed CEYW program.<sup>3</sup>

Staff's recommendation is based on the premise that priced too high, EGC and RCC payments will over compensate CEYW participants at the expense of all other customers. That is a valid concern and one that has been appropriately mitigated by a thorough review and vetting of the proposed transaction in this case. It is important to note, the corollary also exists, under valuing the EGC and RCC payment will provide a benefit to all other customers at the expense of the CEYW participant. Instead of seeking to minimize EGC and RCC payments and favor non-participants over CEYW participants, it is more appropriate to strive to achieve an EGC and RCC payment that is not overvalued or undervalued, but instead near an equilibrium value where both CEYW and non-participants would be held neutral. The purpose of this case is to seek Commission review and approval of the ESA between Micron and Idaho Power to ensure that the pricing and compensation structure provided for under the ESA is fair, just, and reasonable for Micron, Idaho Power and Idaho Power's customers. Once the Commission establishes that an ESA compensation structure is indeed fair, just, and reasonable from

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<sup>3</sup> The CEYW program docket (Case No. IPC-E-21-40) remains pending, and as such any reference herein to the CEYW program or CEYW participants/customers is prospective. While the issue on reconsideration is specific to the Micron ESA, it relates to a fundamental component of the proposed CEYW program that could also impact future CEYW customers generally.

the perspective of each of those parties, it is inappropriate to subsequently apply an additional discount factor in the form of the PCA sharing percentage to further lower the compensation cost.

Staff's argument for applying the PCA sharing mechanism to Micron's EGC and RCC payments is that "the Company will have the financial incentive to negotiate the best rates for its customers, resulting in a prudent least cost, least risk outcome."<sup>4</sup> Following this logic through, by introducing a financial penalty to Idaho Power of 5 percent of the EGC and RCC payment, Staff posits this will motivate the Company to negotiate lower EGC and RCC payments in future contracts. This premise is flawed, as from the Company's perspective, the only way to avoid financial penalty from CEYW-like transactions is to reduce the value of EGC and RCC payments towards zero or not engage in such transactions altogether. In order to prevent financial harm, Idaho Power envisions it would seek modification of the Micron ESA, to only pass through the value of EGC and RCC payments for which the Company can recover, thereby compensating Micron at a level below that which the Commission has already determined to be fair, just and reasonable.

What Staff's rationale does not consider is whether or not the value the CEYW resource provides all Idaho Power customers is already appropriately valued, which would negate the need to introduce an incentive for further reduction. Because the Commission has ordered EGC and RCC payments be set at avoided cost,<sup>5</sup> application of 5 percent sharing, or any other arbitrary reduction to the recovery of EGC or RCC

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<sup>4</sup> Staff Reconsideration Comments, p. 5.

<sup>5</sup> Order No. 35482, p.15-17.

payments, changes the balance from one which the CEYW and non-participant is neutral, to one which Micron now provides a subsidy to the benefit of all customers. Staff's rationale in their Reconsideration Comments is also incongruent with their prior Comments to establish not "least-cost" pricing, but neutral pricing:

...for energy exported or "sold" to the Company, the principles established through PURPA for not harming customers is to base the rates on avoided cost. Under PURPA, utility customers must be economically indifferent to purchases of Qualifying Facility ("QF") power by paying no more for power than the amount they would have paid but for the purchase from the QF.<sup>6</sup>

Staff has advocated for, and the Commission has adopted, economically indifferent pricing for Micron's EGC and RCC. Staff's position on reconsideration, however, undermines this premise as it would result in Micron subsidizing power supply expense for all other Idaho Power customers to benefit from.

Finally, it is important to make the distinction that while Staff argues "the Company has the flexibility to negotiate the rates it pays to Micron for excess generation,"<sup>7</sup> that negotiated rate has been directed by the Commission to be one based on avoided cost. It is also important to note, the avoided cost compensation level for each individual CEYW ESA must be reviewed and approved prior to any compensation cost being incurred by the Company. Staff argues "the Company mistakenly assumes the Commission mandated the EGC and RCC rates be based on avoided cost as a matter of policy."<sup>8</sup> The Company does not believe the Commission made a policy decision regarding avoided-cost pricing terms be applied across all CEYW transactions, but instead highlights the

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<sup>6</sup> Staff Comments, p. 7 (citing *Indep. Energy Producers Ass'n, Inc. v. Cal. Pub. Utils. Comm'n*, 36 F.3d 848, 858 (9<sup>th</sup> Cir. 1994)).

<sup>7</sup> Staff Reconsideration Comments, p. 3.

<sup>8</sup> *Id.*

specific determination of avoided-cost pricing terms made for Micron's CEYW transaction. Idaho Power seeks equal treatment for Micron's avoided cost-based payment as all other arrangements where the Company utilizes avoided costs as a basis for establishing pricing or compensation for contracted energy and capacity, treatment that permits the Company to collect these costs – in their entirety – from all customers. This is the case for all PURPA compensation, demand response incentive payments, and energy efficiency incentive payments.

### **EGC and RCC Valuation is Self-Adjusting for Future Additional CEYW Resources**

Staff cites the consideration that there is potential for Micron and other CEYW Construction option customers' net exports to become an increasingly large portion of the Company's net power supply expense as they add resources to approach meeting 100 percent of their annual energy requirements with renewables.<sup>9</sup> The existing Micron ESA terms for EGC and RCC payments are already self-adjusting for potential future renewable resource additions and how they impact Idaho Power's power supply expense.

First, in determining the value of the RCC, the Company includes evaluation of both the year in which Idaho Power first has a capacity deficiency, and the ability of the resource to meet the Company's system capacity needs. As ordered by the Commission, the Black Mesa capacity credit is provided starting on the Commission-authorized first deficiency date, July 1, 2026. Future resources will be eligible to receive a capacity credit based on the deficiency date authorized by the Commission at the time of Power Purchase Agreement execution, with that eligibility date updated through time as the Company's capacity needs change. As an example of the ability of the resource to meet

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<sup>9</sup> *Id.*

the Company's system capacity needs, in the context of a solar photovoltaic ("PV") resource, the capacity contribution methodology results in reduced capacity contribution for each incremental solar PV resource added. If Micron was to contract for additional solar generation under the CEYW offering, each additional solar tranche is likely to receive less capacity value than the previous under Idaho Power system configuration today because each additional tranche provides less capacity benefit during the Company's highest risk hours. The other portion of the RCC value comes from the surrogate resource value. If costs of future capacity resources decrease, that cost reduction will be captured in the Integrated Resource Plan ("IRP") surrogate capacity resource reference. Micron's terms already seek to value the capacity of the CEYW resource based on system costs at the time the resource is contracted, ensuring the capacity value it receives does not exceed the value it provides Idaho Power's system when additional resources are contracted for Micron.

Second, the EGC payment contemplates compensation at either a market price forecast updated every two years in conjunction with IRP acknowledgement, or an actual market price which adjusts to real-time market dynamics. If Micron's resources grow to comprise a large proportion of Idaho Power's generation resources, any energy not required to serve system load will be sold into the market and Idaho Power receives the same value for which Micron is compensated. If the concern is CEYW resources may grow so large as to displace Idaho Power's lower-cost resources, those lower-cost resources may still be run and their excess energy sold into the market, valued at the same amount for which Micron is credited, resulting in an offsetting power supply credit to the EGC payment Micron would receive.



The existing Micron contractual terms for crediting CEYW resources for the EGC and RCC already provide the necessary mechanisms to appropriately reflect the capacity and energy value delivered to Idaho Power's system as new resources are added without further reduction.

### **Implementation of Sharing Potentially Introduces Magnifying Circular Mechanics**

Because Staff's recommendation does not include an example of how it is envisioned the mechanism work, Idaho Power assumes there are two potential approaches for Staff's intent: 1) EGC and RCC compensation is to be reduced by five percent, which the Company would pass on to Micron, or 2) any EGC and RCC payments are always only to be recoverable at only 95 percent of the compensation amount. The second approach has the potential to introduce a circular calculation where the EGC and RCC amounts are reduced by 5 percent in perpetuity.

In the first example, as noted earlier, should the Commission affirm application of the PCA's sharing provision to Micron's EGC and RCC payments, Idaho Power is likely to seek modification of the ESA to only pass-through payments to Micron which are recoverable, resulting in Micron's compensation receiving a 5 percent reduction.

However, in the second approach, Idaho Power would again seek to only pass through to Micron what is recoverable through the PCA, but regardless of the amount the Company included for recovery through the PCA, under Staff's recommendation, that amount would be subject to a further five percent reduction.

If the Commission affirms Staff's recommendation, careful consideration of how to effectuate the intent of Staff's recommendation must be made; is the goal solely to reduce the existing Micron ESA EGC and RCC payment term by 5 percent or simply to introduce

an unavoidable financial penalty to Idaho Power for facilitating CEYW transactions?

### **The 'lower of' EGC Provision Unfairly Applies Asymmetrical Risk to Micron**

In their Order granting clarification and reconsideration, the Commission provided Boise City the opportunity to provide a reply regarding arguments it made with respect to the method for calculating EGCs having a discriminatory effect on other CEYW Construction option customers.<sup>10</sup> Boise City raised issues regarding use of the "lower of" mechanism to determine EGC value,<sup>11</sup> with Micron's EGC value capped at the lower of 85 percent of an hourly non-firm Integrated Resource Plan ("IRP") Mid-Columbia ("Mid-C") forecast price, or actual heavy-load or light-load market price. The Company respectfully reiterates prior Comments it has made on the record for this issue:

Idaho Power disagrees with the recommendation and believes price risk should be symmetrically applied. One of Staffs arguments for the "lesser of" concept is the introduction of risk from customers paying forecast Mid-C prices which are above actual market Mid-C prices for excess generation. Idaho Power agrees with Staff there is potential risk that the Mid-C forecast exceeds actual hourly Mid-C prices; however, Staffs "lower of" recommendation does not provide symmetrical treatment for that risk and instead shifts all downside risk to Micron, while affording customers all of the benefit of actual Mid-C prices that are higher than the forecast rate contemplated by the ESA. Price risk should be symmetrical, achieved through either compensating Micron's excess energy at the Mid-C forecast price, or at actual Mid-C price, not through an artificial ceiling from the "lower of" concept.<sup>12</sup>

### **Conclusion**

The Company respectfully requests the Commission reconsider application of the PCA's 95/5 sharing mechanism to Micron's EGC and RCC payments. Application of the sharing provision to Commission-approved pricing components based on avoided cost-

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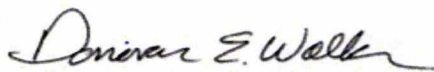
<sup>10</sup> Order 35532, p. 8.

<sup>11</sup> City of Boise City's Petition for Reconsideration, p. 7.

<sup>12</sup> Idaho Power Reply Comments, p. 10.

based payments has the unintended consequence of shifting value from one near equilibrium between Micron and other Idaho Power customers, to favoring one group of Idaho Power customers at the expense of another Idaho Power customer. Idaho Power does not believe it is Staff's intent to determine winners and losers in proposing application of the PCA sharing mechanism to EGC and RCC payments but that is the consequence of this position. It is important to recognize that advocating for the least-cost is not the same as *fair-cost*, and any discount to avoided cost-based payments will result in Micron receiving less than the value its contracted resource provides all Idaho Power customers or an unwarranted and unavoidable financial penalty to Idaho Power. The incentive for Idaho Power is fair treatment of all customers which the Company believes can be achieved by the Commission consistently applying the same recovery standard for excess energy and capacity payments in similar situations which are based on avoided cost, with 100 percent recovery through the PCA.

Respectfully submitted this 28th day of October 2022.



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DONOVAN E. WALKER  
Attorney for Idaho Power Company

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28<sup>th</sup> day of October 2022, I served a true and correct copy of the foregoing Idaho Power Reply Comments on Reconsideration upon the following named parties by the method indicated below, and addressed to the following:

**Commission Staff**

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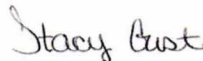
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