

JAYME B. SULLIVAN
BOISE CITY ATTORNEY

Ed Jewell ISB No. 10446
Deputy City Attorney
BOISE CITY ATTORNEY'S OFFICE
150 N. Capitol Blvd.
P.O. Box 500
Boise, ID 83701-0500
Telephone: (208) 608-7950
Facsimile: (208) 384-4454
Email: BoiseCityAttorney@cityofboise.org

Attorney for Petitioner

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IDAHO PUBLIC
UTILITIES COMMISSION

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION**

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

Case No. IPC-E-22-06

**CITY OF BOISE CITY'S
RECONSIDERATION REPLY
COMMENTS**

COMES NOW, the city of Boise City, herein referred to as "Boise City," and pursuant to Rules 331 through 340 of the Rules of Procedure of the Idaho Public Utility Commission (IDAPA 31.01.01.331 – 31.01.0.340), and pursuant to the Reconsideration Order, Order No. 35532, issued by the Commission on September 19, 2022, hereby respectfully submits the following reply comments and states as follows:

Boise City maintains that the Commission made numerous substantive errors in Order No. 35482 that must be corrected on reconsideration. The Commission's findings were not based on substantial competent evidence in the record and resulted in discriminatory contract terms that unduly burden Micron Technology, Inc. ("Micron") and future Clean Energy Your Way – Construction Option ("CEYW-CO") participants. Taken individually and when applied in tandem,

the Commission's imposition of 95% cost sharing for excess generation credits ("EGCs") and renewable capacity credits ("RCCs") and a "backstop mechanism" in the determination of EGCs is discriminatory and results in rates that are unreasonable.

I. 95% Cost Sharing is unnecessary to protect non-participating customers, does not incentivize the Company to negotiate the least cost, and unduly burdens Micron.

Staff of the Idaho Public Utilities Commission ("Staff") asserts the "purpose of sharing specific to non-PURPA PPAs is primarily to motivate the Company to achieve the best deal for all customers during its negotiation prior to authorization for recovery." Staff Reconsideration Comments at 6. While Boise City generally agrees with this characterization for non-PURPA power purchase agreements ("PPAs") procured by the Company to meet its general power supply needs, the responsibilities in the Micron Energy Services Agreement ("Micron ESA") and supporting renewable resource procurement are fundamentally different than non-PURPA PPAs and the structure between Micron, Idaho Power Company ("Company") and non-participating customers, eliminates the need for 95%-5% cost-sharing.

Boise City contends that it is unreasonable to treat Micron or other CEYW-CO participants as "suppliers," as proposed by Staff in its justification for the application of cost-sharing because customers participating in CEYW-CO projects are not procuring resources and are not responsible for the operation, maintenance, or any other aspect of electricity generation. Micron cannot "select the renewable resource of its choice" because Micron is not the project developer or owner. *See* Staff Reconsideration Comments at 6. This degree of retail choice is not permissible in Idaho's model of regulated, vertically integrated utilities. Additionally, unlike other non-PURPA suppliers, Micron cannot choose how or where electricity produced by the Black Mesa solar project is sold. No direct contractual relationship is proposed or contemplated in the Company's Application between Micron and the Black Mesa solar project. The renewable resource procured by the

Company operates as a system resource, regardless of the virtual behind-the-meter accounting arrangement agreed to between Micron and the Company. If Micron had the ability to negotiate and procure electricity directly from a renewable resource, without the participation of the Company, or chose to develop a solar project and negotiate a PPA with the Company, then it would be reasonable to consider it a supplier. However, the more accurate way to view Micron, as the participating customer in this CEYW-CO project, is as a guarantor. Micron is assuming the risk and costs of all kWh output from the Black Mesa facility, regardless of Micron's consumption.

Evaluating the actual costs to non-participating customers in the Company's application to facilitate the development of the 40 MW Black Mesa solar project clearly demonstrates PCA cost-sharing is unnecessary to yield the best deal possible for all customers. Non-participating customers receive the benefit of and provide no compensation to Micron for the reduction in net power supply expense due to the electricity from the Black Mesa solar project. The electricity generated by the Black Mesa solar project will go directly to meeting the Company's system needs, including charging co-located utility-scale batteries procured by the Company to meet capacity deficits¹. All customers will gain the full operational benefits of this co-located solar facility at a fraction of the cost, only paying the Commission approved RCC value in hours where the solar output aligns with peak and premium peak hours. Reducing the value of the RCCs and EGCs through PCA cost-sharing is not justified based on the actual negotiated values in the Company's application. Additionally, PCA cost sharing is unnecessary when non-participating customers are not fully compensating Micron for the value the solar output at Black Mesa provides and in the context of the Company's overall resource procurement needs.

¹ IPC-E-22-13 Application at 6

Boise City believes the unique relationship between Micron, and other future CEYW-CO participants, the Company, and renewable resource developers more than adequately motivates the Company to secure the best deal for all customers without PCA cost sharing. Under the CEYW-CO program, Micron is reliant on the Company to negotiate and secure the renewable resource at the most competitive price possible, leveraging its experience identifying affordable, least-risk, and reliable resources. The Company must keep the renewable resource price low to ensure customer participation. The Company must also ensure non-participating customers are held harmless to receive Commission approval of all future CEYW-CO project agreements. Order No. 35482 at 17. In this case, there is a demonstrated \$4 million benefit to non-participating customers from the agreement presented by the Company to the Commission. The 95% cost sharing would only serve to create a cost-recovery shortfall for the Company or increase costs passed on to Micron. The practical effect will be to penalize the customer by 5% for no justified reason.

II. Determination of the EGC is unreasonable and discriminatory.

The Commission's adoption of Staff's proposed "backstop" methodology is not needed to protect non-participating customers, unreasonably burdens Micron, and discriminatorily applies a pricing structure that only serves to punish the participating customer. The "backstop" applied in determining EGCs, where the hourly energy price paid to Micron is the lower of a double discounted Integrated Resource Plan ("IRP") market price forecast or actual Mid-C market price, is an unfair solution to the inherent reality of relying on a forecasted price.

Analysis completed by Staff asserts that, using 2019 data, "the backstop would come into play less than 10% of the time (819 hours out of 8760 hours)." Staff's Reconsideration Comments at 7. While Staff presents this analysis to show the limited application of the "backstop" pricing, the analysis more clearly demonstrates a lack of need for the "backstop" altogether. Ignoring the significant changes in the energy market since 2019, this analysis shows the double discounted

IRP market price forecast under-compensates Micron more than 90% of the time. The “backstop” is not necessary to protect customers and is discriminatorily applied to further reduce the economic incentive for customers to participate in CEYW-CO.

If the Commission, or Staff, found the double discounted IRP market price forecast inaccurate or too risky for non-participating customers, a reasonable compensation framework might be to compensate Micron at an actual market price framework, where both Micron and non-participating customers are equally exposed to market price risk. Alternatively, a band approach where Micron would be compensated at the discounted market price forecast when it is within an acceptable range of actual market prices, 15% above or below as an example, and the actual price market price when the difference between the forecast is outside of the acceptable range might also be reasonable and non-discriminatory. However, the method advocated by Staff and chosen by the Commission unjustifiably penalizes Micron and is not reasonable.

III. Conclusion.

Micron, and other customers interested in CEYW-CO, have clearly established expectations as customers for their electric utility to supply increasingly clean energy to reduce exposure to risk associated with volatile fossil fuel prices, climate change, and greenhouse gas emissions. Establishing reasonable terms in CEYW-CO agreements is an essential opportunity for the Company to meet customer demand and bring additional, required system resources online at a benefit to all customers.

The Commission should reconsider the application of the 95% - 5% PCA cost sharing to EGCs and RCCs and the methodology used to determine the EGCs. Individually these modifications to the Company’s proposed compensation structure unreasonably burden Micron and, when combined, produce a result that requires CEYW-CO participants to unreasonably

subsidize other ratepayers. Without reconsideration, the Commission's decision will unfairly, unjustly, and unreasonably place undue burden on Micron and future customers who wish to meet their own demand with a dedicated clean energy resource.

DATED this 28th day of October 2022.



Ed Jewell
Deputy City Attorney

CERTIFICATE OF SERVICE

I hereby certify that I have on this 28th day of October 2022, served the foregoing documents on all parties of record as follows:

Jan Noriyuki
Commission Secretary
Idaho Public Utilities Commission
11331 W. Chinden Blvd., Ste. 201-A
Boise, ID 83714
jan.noriyuki@puc.idaho.gov

- U.S. Mail
- Personal Delivery
- Facsimile
- Electronic
- Other: _____

Riley Newton
Deputy Attorney General
Idaho Public Utilities Commission
11331 W. Chinden Blvd., Ste. 201-A
Boise, ID 83714
riley.newton@puc.idaho.gov

- U.S. Mail
- Personal Delivery
- Facsimile
- Electronic
- Other: _____

Donovan E. Walker
Idaho Power Company
PO Box 70
Boise, ID 83707
dwalker@idahopower.com
dockets@idahopower.com

- U.S. Mail
- Personal Delivery
- Facsimile
- Electronic
- Other: _____

Tim Tatum
Connie Aschenbrenner
Idaho Power Company
PO Box 70
Boise, ID 83707
ttatum@idahopower.com
caschenbrenner@idahopower.com

- U.S. Mail
- Personal Delivery
- Facsimile
- Electronic
- Other: _____

Peter J. Richardson
Industrial Customers of Idaho Power
Richardson Adams, PLLC
515 N. 27th St.
Boise, ID 83702
peter@richardsonadams.com

- U.S. Mail
- Personal Delivery
- Facsimile
- Electronic
- Other: _____

Dr. Don Reading
Industrial Customers of Idaho Power
6070 Hill Road
Boise, ID 83703
dreading@mindspring.com

- U.S. Mail
- Personal Delivery
- Facsimile
- Electronic
- Other: _____



Michelle Steel,
Paralegal