

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF IDAHO POWER</b>	)	
<b>COMPANY'S APPLICATION FOR APPROVAL</b>	)	<b>CASE NO. IPC-E-03-10</b>
<b>OF AN AGREEMENT WITH THE</b>	)	
<b>AMALGAMATED SUGAR COMPANY, LLC FOR</b>	)	
<b>THE SALE AND PURCHASE OF SURPLUS</b>	)	<b>ORDER NO. 29420</b>
<b>ELECTRIC ENERGY.</b>	)	

On September 2, 2003, Idaho Power Company (Idaho Power, Company) filed an Application requesting an Order that approves an Agreement for Sale and Purchase of Surplus Energy (Agreement) between the Company and the Amalgamated Sugar Company, LLC (TASCO). The Company filed an amended Application on November 10, 2003 that incorporated the original Application by reference and replaced the original Agreement attached as Exhibit 1 with a modified Agreement. The Company asked the Commission to declare that all payments for energy purchases made under this Agreement be allowed as prudently incurred expenses for ratemaking purposes.

In the Notice of Application and Modified Procedure issued on December 9, 2003, the Commission solicited comments regarding Idaho Power's Application. Only the Commission Staff submitted comments, which supported approval of the Agreement. In this Order the Commission grants Idaho Power's Application as set out in greater detail below.

**BACKGROUND**

Idaho Power provides electric service to TASCO's refined sugar production facility in Nampa, Idaho, under Schedule 19 to supplement TASCO's own on-site electric generation. During periods where it generates electricity in excess of its needs, TASCO sells its excess generation to Idaho Power.

The Commission has approved the sale and purchase of surplus energy between Idaho Power and TASCO in the past. In Order No. 27885 issued in Case No. IPC-E-98-15 on January 22, 1999, the Commission approved an agreement for the sale and purchase of surplus electric energy from TASCO at market-based prices. The Commission approved modification of this contract in Order No. 28865 issued in Case No. IPC-E-01-26 on September 28, 2001, to increase

the maximum surplus electric energy that TASC0 was permitted to deliver to Idaho Power to 8.5 MW and extend the contract's expiration date to September 1, 2003.

### **THE AGREEMENT**

Although the parties wish this arrangement to continue, the Application indicated that the previous contract did not adequately address the future electrical requirements of Idaho Power or TASC0. Both Idaho Power and TASC0 believe this new Agreement addresses current regulations and operating issues to their satisfaction. Electric energy to be sold under the new Agreement is non-firm energy and will only be available when TASC0's Nampa facility does not consume the electric energy and/or when TASC0 elects to generate in excess of its energy consumption. Under the new Agreement:

- The purchase price for the energy is set at 85% of the Avoided Energy Cost as defined within Idaho Power's IPUC Schedule 86.
- The term of the Agreement is 5 years with automatic annual renewals. Following the initial 5-year term, either party may terminate the Agreement with 6 months prior written notice.
- The interconnection equipment and point of delivery terms specified in the 2001 amended contract will continue.

Although the Agreement states its effective date as September 1, 2003 for purposes of a smooth transition, the Agreement provides that it will not become effective until the Commission approves the Agreement and declares that all surplus energy payments made under the Agreement shall be allowed as prudently incurred expenses for ratemaking purposes.

The only portion of the Agreement that has changed since the original Application was filed on September 2, 2003 is the Surplus Energy Purchase Price term found in Section 4.3.2. As this section appears in the amended November 10, 2003 Application, if Idaho Power requests and TASC0 agrees to provide continuous energy at a designated MW level for set length of time, the Adjusted Surplus Energy Price for that energy will be less than or equal to the Surplus Energy Price set forth in the Agreement. This provision will not bind Idaho Power if the Company determines the continuing operation of its electrical system is in jeopardy or access to alternative energy resources is not physically possible. In the event the parties agree to an Adjusted Surplus Energy Price, Idaho Power will advise the Commission of the agreed upon price.

## STAFF COMMENTS

Staff filed the only comments received by the Commission in this case. In short, Staff recommends that the Agreement for Sale and Purchase of Surplus Energy between Idaho Power and the Amalgamated Sugar Company be approved. Staff believes that the Agreement will help Idaho Power meet expected loads while reducing the Company's reliance on purchases at full market price, thus minimizing power supply costs. Staff also recommends that the reasonably incurred costs associated with the TASCOCO Agreement be passed through the PCA.

Staff noted that under the Agreement, TASCOCO is required to annually provide Idaho Power with estimated monthly surplus energy amounts before April 1 of each contract year. Thus, while Idaho Power will not know the precise amount or timing of the surplus energy it will be required to purchase from TASCOCO, it will at least have a fair indication. TASCOCO's monthly estimates of surplus energy make it firmer than most of the energy Idaho Power purchases under its Schedule 86 non-firm energy tariff, where neither the timing nor the amount of generation provided is generally known with any certainty.

The Agreement also contains a provision that permits the parties to adjust the surplus energy price if, at the request of Idaho Power, TASCOCO agrees to provide continuous energy at a designated MW level for an agreed upon length of time. The Agreement envisions such a circumstance, for example, when Idaho Power's access to alternative sources of supply is not physically possible or when the continuing operation of Idaho Power's system is in jeopardy. In such an instance, Staff agrees that it may be advantageous to Idaho Power and its customers to pay more than 85% of market price. The Agreement requires Idaho Power to notify the Commission of the price paid, the energy purchased and the circumstances that the Company believes warranted such purchases.

For ratemaking purposes, Staff agrees that the payments should be treated as system power supply costs and passed through the Power Cost Adjustment (PCA) mechanism, subject to Staff's normal audit. By paying 85% of market prices for these power purchases, customers will benefit by Idaho Power either offsetting market purchases at full market price or reselling power it does not need at full market price. Moreover, the purchase price is consistent with the price Idaho Power pays for other non-firm energy purchases.

## DISCUSSION

The Commission has reviewed and considered the filings of record in Case No. IPC-E-03-10, including the comments and recommendations of the Commission Staff. Based on our review, we continue to find it reasonable to process this case pursuant to Modified Procedure, i.e., by written submission rather than by hearing. Reference IDAPA 31.01.01.204. We note that there were no opposing comments and the only comments submitted supported approval of the Agreement.

The Commission believes the Agreement's use of market prices as a basis for the purchase price is both advantageous to ratepayers and appropriate given the short-term nature of the Agreement and the somewhat non-firm nature of the energy. We find that the rates that Idaho Power will pay for surplus energy generated by TASCOCO under this Agreement are reasonable and thus the Agreement between Idaho Power and TASCOCO should be approved. TASCOCO is a qualifying facility pursuant to the Public Utilities Regulatory Policy Act of 1978 (See, 18 C.F.R. Part 292). We further find that payments to TASCOCO under the Agreement are prudently incurred expenses for ratemaking purposes and are recoverable through the Power Cost Adjustment mechanism.

## CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*, and the Public Utilities Regulatory Policies Act of 1978 (PURPA).

The Commission has the authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualifying facilities and to implement FERC rules.

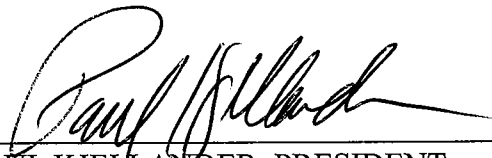
## ORDER

IT IS HEREBY ORDERED that Idaho Power Company's Application requesting approval of an Agreement for Sale and Purchase of Surplus Energy between the Company and the Amalgamated Sugar Company, LLC (TASCOCO) is granted.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. IPC-E-03-10

may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this order or in interlocutory Orders previously issued in this Case No. IPC-E-03-10. For purposes of filing a petition for reconsideration, this order shall become effective as of the service date. *Idaho Code* § 61-626. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

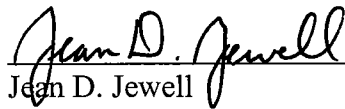
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 15<sup>th</sup> day of January 2004.

  
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PAUL KJELLANDER, PRESIDENT

  
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MARSHA H. SMITH, COMMISSIONER

  
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DENNIS S. HANSEN, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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