

## DECISION MEMORANDUM

**TO:** COMMISSIONER REDFORD  
COMMISSIONER SMITH  
COMMISSIONER KEMPTON  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL

**FROM:** NEIL PRICE  
DEPUTY ATTORNEY GENERAL

**DATE:** NOVEMBER 21, 2008

**SUBJECT:** IDAHO POWER COMPANY'S APPLICATION FOR APPROVAL OF A  
SPECIAL CONTRACT TO SUPPLY ELECTRICAL POWER TO HOKU  
MATERIALS, INC.; CASE NO. IPC-E-08-21

On October 24, 2008, Idaho Power Company ("Idaho Power" or "Company") filed an Application with the Commission seeking approval of a special contract to supply electrical power to Hoku Materials, Inc. ("Hoku"). On November 6, 2008, Staff submitted production requests to the Company. The Company's responses are due November 28, 2008.

### THE AGREEMENT

The Energy Sales Agreement ("ESA") entered into between Idaho Power and Hoku dictates that Idaho Power would sell and Hoku would purchase in excess of 25,000 kW. Application at 2. The parties have entered into special contractual arrangements that comport with the requirements outlined in Commission Tariff No. 101. *Id.* Idaho Power has also agreed to construct, at Hoku's expense, certain interconnection facilities necessary to enable delivery of electrical service to Hoku's facilities. *Id.*

The effective date of the ESA begins on June 1, 2009 and concludes on May 31, 2013. *Id.* at 3. Under the terms of the special contract, either party can terminate the ESA by issuing prior written notice to the other party within one year of the effective termination date. *Id.* The Application stipulates that if the effective termination date occurs prior to the implementation of a subsequent ESA between the parties then Hoku's energy and demand rates will be equivalent to the Company's Schedule 19-T rates until a replacement contract is approved by the Commission. *Id.*

Under the ESA, Hoku's demand will vary during the summer and non-summer seasons. *Id.* Hoku's peak demand during the term of the ESA will not exceed 82 MW. *Id.* The parties have agreed that Hoku's scheduled load demand for the summer of 2012 is contingent upon Idaho Power's ability to integrate "major transmission and generation projects" into its system. *Id.*

The parties have agreed to divide Hoku's demand and energy requirements into "two blocks for pricing purposes." *Id.* at 4. The first block is equivalent to the Company's "current Commission-approved avoided cost rates." *Id.* The second block rates, 25 MW or more, are consistent with the Company's approved Schedule 19-T rates. *Id.*

Hoku is required to "take-or-pay" a certain amount of energy from Idaho Power every month but it is also allowed to "request a release of all or part of its first block energy purchase commitment." *Id.* Idaho Power states that it will "make a commercially reasonable effort to absorb or resell the released energy and provide a credit to Hoku." *Id.* The amount credited will depend upon the rate period during which the Company receives timely notice of Hoku's request to release its energy demands as well as the Company's ability to "manage and supply commitments to serve Hoku's load." *Id.*

In addition, if Hoku wishes to procure additional power during the summer rate period then Idaho Power is obligated to make the same "commercially reasonable efforts to obtain proposals to supply Hoku's additional energy request." *Id.* at 5. Hoku will be responsible for the costs of these "purchases and any associated transmission and ancillary service expense to transport such purchase to the Hoku Facility." *Id.* Hoku's ability to expand its first block up to 175,000 kW hinges upon the Company's ability to supply and deliver additional power. *Id.*

The Company's Application seeks an effective date of June 1, 2009 to coincide with the effective date of the parties' ESA. *Id.* The Application asks that the first block revenues and expenses be treated similarly to wholesale purchases and sales and thus not be included under the Company's yearly PCA. *Id.* Finally, the Application states that the ESA will only become effective if all of its "terms and provisions" are approved by the Commission "without change or condition." *Id.*

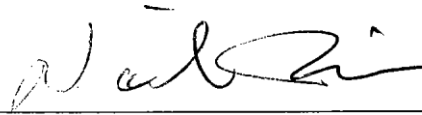
In support of its Application, the Company has submitted the testimony of Ric Gale, Vice President of Regulatory Affairs. Mr. Gale's testimony explains, in greater detail, the Company's rationale for the specific elements of its ESA with Hoku.

**STAFF RECOMMENDATION**

Staff has reviewed Idaho Power’s Application and recommends that it be processed through Modified Procedure, i.e., through a written comment period in lieu of a hearing, and recommends a notice and comment period of 60 days. *See* IDAPA 31.01.01.201-204.

**COMMISSION DECISION**

Does the Commission wish to process Idaho Power’s Application through Modified Procedure with a 60-day comment period following a Notice of Application and Notice of Modified Procedure?



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Deputy Attorney General

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