

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1205

In the Matter of)	
)	
IDAHO POWER COMPANY)	ORDER
)	
Requests blanket authority to sell surplus sulfur)	
dioxide emission allowances, an accounting)	
order to record gains from emission sales and a)	
waiver of certain filing requirements in)	
ORS 757.480 and OAR 860-027-0025.)	

DISPOSITION: AUTHORIZATION FOR SALE OF AIR EMISSION ALLOWANCES WITHOUT CERTAIN FILINGS AND ACCOUNTING ORDER APPROVED

On June 13, 2005, Idaho Power Company (Idaho Power) filed an application requesting blanket authority to sell surplus sulfur dioxide (SO₂) emission allowances and an accounting order to record gains from emission sales. Idaho Power states that it cannot fully participate in the allowance trading market if it must obtain regulatory approval prior to each sale of SO₂ emission allowances. Additionally, Idaho Power requests a waiver of certain filing requirements pursuant to ORS 757.480 and OAR 860-027-0025. A description of the filing and its procedural history is contained in the Staff Report, attached as Appendix A, and incorporated by reference.

Staff recommends the Commission declare that Idaho Power does not need blanket authority from the Commission to sell surplus sulfur dioxide emission allowances. Staff further recommends the Commission approve an accounting order to record gains of emission sales.

At its Public Meeting on September 13, 2005, the Commission adopted Staff's Recommendation and approved Idaho Power's current request.

ORDER

IT IS ORDERED that Idaho Power Company does not need blanket authority from the Commission to sell surplus sulfur dioxide emission allowances. Idaho Power Company's request for an accounting order to record gains of emission sales is approved, effective September 13, 2005, subject to the following conditions:

1. Idaho Power Company agrees to file a report with the Commission within 60 days after receipt of any proceeds from the sale of any sulfur dioxide emission allowances.
2. Idaho Power should defer any gains for later consideration by the Commission. The deferral should accumulate interest at a rate consistent with the Commission's policy.
3. Ratemaking treatment of the sale of the permits is reserved for a ratemaking proceeding.

Made, entered, and effective SEP 13 2005



BY THE COMMISSION:

Becky L. Beier

Becky L. Beier
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A party may appeal this order to a court pursuant to ORS 756.580.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: September 13, 2005**

REGULAR _____ CONSENT X EFFECTIVE DATE September 13, 2005

DATE: September 6, 2005

TO: Public Utility Commission

FROM: Carla Owings *CO* and Stefan Brown *SB*

THROUGH: Lee Sparling *LS*, Ed Busch *EB*, Marc Hellman *MH*, Judy Johnson *JJ* and Bryan Conway *BC*

SUBJECT: IDAHO POWER COMPANY: (Docket No. UM 1205) Requests blanket authority to sell surplus sulfur dioxide emission allowances, an accounting order to record gains from emission sales and a waiver of certain filing requirements in ORS 757.480 and OAR 860-027-0025.

STAFF RECOMMENDATION:

Staff recommends the Commission declare that Idaho Power does not need blanket authority from the Commission to sell surplus sulfur dioxide emission allowances. Staff further recommends the Commission approve an accounting order to record gains of emission sales effective September 13, 2005, subject to the following conditions:

1. Idaho Power agrees to file a report with the Commission within sixty days after receipt of any proceeds from the sale of any SO₂ emission allowances.
2. Idaho Power should defer any gains for later consideration by the Commission. The deferral should accumulate interest at a rate consistent with the Commission's policy.
3. Ratemaking treatment of the sale of the permits is reserved for a ratemaking proceeding.

DISCUSSION:

On June 13, 2005, Idaho Power Company filed an application requesting blanket authority to sell surplus sulfur dioxide (SO₂) emission allowances and an accounting order to record gains from emission sales. Additionally, Idaho Power requests a waiver of certain filing requirements pursuant to ORS 757.480 and OAR 860-027-0025.

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Title IV of the Clean Air Act Amendments of 1990 (CAA) require that thermal power plant owners must hold allowances equal to the plant's SO₂ emissions. A utility that holds a sufficient quantity of allowances over its annual requirement is considered to have surplus SO₂ allowances. Under the Clean Air Act these surplus allowances are fully marketable commodities. A centerpiece of the CAA amendments is the provision that SO₂ emission allowances not be considered property. The salient provision of the CAA is as follows:

An allowance allocated under this subchapter is limited authorization to emit sulfur dioxide in accordance with the provisions of this subchapter. Such allowance does not constitute a property right. Nothing in this subchapter or in any other provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization. 42 USCS § 7651b(f)

Idaho Power states that it cannot fully participate in the allowance trading market if it must obtain regulatory approval prior to each sale of SO₂ emission allowances. Therefore, the company requests blanket authorization, effective September 13, 2005, for emission allowance sales. The company agrees to file a report to the Commission within sixty days after receipt of any proceeds from the sale of any SO₂ emissions.

Additionally, Idaho Power requests an accounting order directing all gains from the sale of air emission allowances be recorded in Account 254, Other Regulatory Liabilities, pending the ratemaking treatment for such gains. The company agrees to allow interest on the balance of the deferred gains to accrue at a rate consistent with the Commission policy.

ORS 757.480 grants the Commission authority to approve utility transactions to sell, lease, assign or otherwise dispose of property necessary or useful in the performance of its duties to the public. Staff's counsel advises that since the CAA amendments of 1990 declare SO₂ emissions to be commodities rather than property, no waiver of ORS 757.480 or OAR 860-027-0025 is needed by Idaho Power to sell SO₂ emission allowances. Staff further notes that the Commission has previously granted blanket authority to sell SO₂ emissions to PacifiCorp in Order No. 94-1295 and Portland General Electric in Order No. 96-023.

Accordingly, Staff recommends that the Commission declare that Idaho Power may sell the surplus emission allowances without making filings otherwise required by ORS 757.480 and OAR 860-027-0025. Staff does not take a position about whether or not the Company should sell the permits. However, if the Company sells permits, Staff's

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position is that the value of these emissions was created by plant for which customers supplied the dollars and therefore, customers retain the rights to the gains.

Staff further recommends that the Commission approve the accounting treatment for the gains from the sales of the allowances as proposed by the company subject to Staff's conditions.

PROPOSED COMMISSION MOTION:

Idaho Power does not need blanket authority from the Commission to sell surplus sulfur dioxide emission allowances. We approve Idaho Power's request for an accounting order to record gains of emission sales effective September 13, 2005, subject to Staff's conditions.

UM 1205 IPC Emission Sales