

October 21, 2005

VIA EMAIL AND US MAIL

Filing Center
Oregon Public Utility Commission
550 Capitol Street NE #215
PO Box 2148
Salem, OR 97308-2148

Re: UM 1182 – Idaho Power’s Reply Comments

Dear Sir or Madam:

Enclosed for filing in the above-named docket is the original Idaho Power Company’s Reply Comments. Please contact me with any questions.

Very truly yours,



Jessica A. Gorham

Enclosure

cc: UM 1182 Service List

**CERTIFICATE OF SERVICE
UM 1182**

I hereby certify that a true and correct copy of **IDAHO POWER'S REPLY
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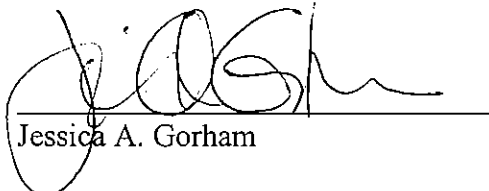
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ATER WYNNE, LLP



Jessica A. Gorham

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2
3 **BEFORE THE PUBLIC UTILITY COMMISSION**
4 **OF OREGON**
5 **UM 1182**

6 In the Matter of

7 NORTHWEST INDEPENDENT POWER
8 PRODUCERS COALITION

9 Petition for an Investigation Regarding
10 Competitive Bidding

IDAHO POWER'S REPLY COMMENTS

11 **INTRODUCTION**

12 Idaho Power Company ("Idaho Power" or the "Company") submits these Reply
13 Comments in accordance with the Ruling issued on September 6, 2005 by Administrative Law
14 Judge Logan in the above-referenced docket.

15 As noted by the Company in its Initial Position Statement and its Opening Statement in
16 this matter, Idaho Power is a multi-jurisdictional public utility that is regulated in the states of
17 Oregon and Idaho. The Company's service territory in Oregon encompasses portions of
18 Malheur, Harney, and Baker counties and comprises only 2% of the electric load regulated by
19 the Public Utility Commission of Oregon ("OPUC"). Approximately 5% of Idaho Power's retail
20 customers are located in Oregon. The remaining 95% of the customers who obtain service from
21 Idaho Power reside in Idaho, where the Idaho Public Utilities Commission ("IPUC") regulates
22 the Company.

23 **COMMENTS**

24 In its Initial Position Statement and Opening Statement in this docket, Idaho Power has
25 consistently expressed its concern that these proceedings not create rigid competitive bidding
26 requirements that may not be compatible with the procedures currently followed in Idaho. The

1 IPUC does not require Idaho Power to issue Requests for Proposals (“RFPs”) to acquire
2 generation resources. However, the Company realizes and accepts its responsibility to justify
3 any resource acquisition and to demonstrate and defend, if necessary, the prudence of its actions.
4 As a result, Idaho Power has customarily acquired larger resources via competitive bidding
5 processes.

6 Idaho Power has participated in each of the workshops held in this matter. The
7 Company’s primary focus has been to monitor the proceedings to encourage continued
8 compatibility in competitive bidding requirements or processes between the two states. The RFP
9 process presently conducted by Idaho Power appears to satisfy the spirit and intent of the
10 guidelines proposed by the OPUC Staff.

11 Continued alignment of the RFP process in Oregon with the Company’s RFP practices in
12 Idaho would assure that the Company would not have to expend significant additional resources
13 to achieve results that may not significantly enhance or alter the quality and results of the
14 competitive bidding process that Idaho Power presently follows in Idaho. Idaho Power’s main
15 concern is that the competitive bidding process remain relatively flexible. That flexibility would
16 afford each utility within the jurisdiction of the OPUC with the elasticity needed to address the
17 unique characteristics of its infrastructure, service territory, and customers.

18 In its Opening Comments dated September 30, 2005, Idaho Power described its position
19 with respect to the Staff’s Straw Proposals dated September 26, 2005 (“Straw Proposal”). The
20 Company’s viewpoints with respect to the Staff’s Straw Proposals are summarized as follows.

21 **RFP after IRP:** Consistent with Proposal No. 1 of OPUC Staff’s Straw Proposal, Idaho
22 Power tenders its RFPs after the Company has completed its biennial filing of its Integrated
23 Resource Plan (“IRP”). Idaho Power’s IRP generally identifies the resources that are expected to
24 be acquired through a competitive bidding process and RFPs are, subsequently, conducted
25 consistent with the IRP recommendations.

1 However, unlike other utilities within the jurisdiction of the OPUC, Idaho Power's
2 current practice does not include conducting all-source RFPs. Instead, the Company seeks
3 competitive bids on a resource-by-resource basis in conformance with the IRP Action Plan. The
4 resource-specific RFP process has proved to be successful and allows the Company to secure the
5 individual resources identified in the IRP's preferred portfolio. By approaching resource
6 acquisition in this manner, Idaho Power is able to assure that its resource portfolio consists of
7 diverse resources and to preserve the benefits associated with the diversity reflected in the IRP's
8 preferred portfolio.

9 **RFP Requirement:** With regard to its Straw Proposal No. 2, OPUC Staff recommends
10 that "[u]tilities must issue RFPs for all Major Resource acquisitions," which the Staff defines as
11 "resources with durations greater than 5 years and quantities greater than 50 MW." The IPUC
12 has not adopted a rule of this nature and the application of this rule in Oregon with its low
13 thresholds may not permit the Company the flexibility needed to effectively purchase certain
14 resources that, by their nature, are time and market sensitive. A protracted RFP process may
15 restrict opportunities for the Company to purchase certain resources that are vulnerable to
16 changing market and load conditions.

17 Furthermore, the acquisition by Idaho Power of certain large capital-intensive resources,
18 such as a large jointly owned thermal plant, may not lend itself to a traditional RFP process
19 because of project complexity, site-specific design, and multiple parties who may be involved.

20 **Exceptions to RFP Requirement:** Idaho Power generally concurs with the Staff that
21 certain exceptions and waivers from the competitive bidding process should be permitted in
22 emergency circumstances, in "situations where there is a time-limited resource opportunity of
23 unique value to customers," and where an alternative acquisition method may be more timely
24 and prudent.

25 **Affiliate Bidding:** With respect to Staff Straw Proposal No. 5, in RFPs tendered by the
26 Company in conformance with its 2004 IRP, Idaho Power is not seeking or considering either

1 self-build bids or bids from affiliate companies. The bid documents advise prospective bidders
2 that bids are not to be sought or considered from those two sources. However, Idaho Power
3 believes that there may be instances where the self-build option can be desirable as a benchmark
4 for cost comparison.

5 **Independent Evaluator:** For the past four resource-specific RFPs, Idaho Power has
6 utilized four different independent consultants to assist and advise the Company's RFP teams in
7 drafting the single-source RFPs, establishing evaluation criteria, evaluating the bids received in
8 response to the Company's RFPs, and monitoring the overall process. Because Idaho Power's
9 IRP Action Plan will generally recommend the acquisition of specific types of resources, both
10 renewable and conventional, the independent consultants provide the Company with additional
11 expertise regarding resources with which the Company may not have specific experience. The
12 independent consultant also provides an objective evaluation of the bids received based on
13 industry-wide practices and standards.

14 In addition to engaging the assistance of independent consultants, Idaho Power has also
15 solicited the input of community representatives. For example, in the Company's present wind
16 RFP, an individual representing renewable resource interests is a member of the Company's RFP
17 evaluation team. The community representative, along with the independent consultant, has
18 been instrumental in preparing the wind RFP, developing the evaluation criteria, and assessing
19 the bids.

20 With regard to Staff's Straw Proposal No. 7, it is Idaho Power's experience, based on
21 securing the assistance of independent consultants in its RFP process, that it would be difficult
22 and potentially unwise to secure the services of an independent consultant or evaluator who has
23 not provided "consulting services to participants in western energy markets." Idaho Power has
24 determined that only a limited number of reputable specialists are available in the country with
25 the expertise to evaluate bids for renewable resources. Thus, the Staff's proscription would have
26 the effect of disqualifying several, if not most, of the evaluators/consultants with the necessary

1 special knowledge to assist utilities in assessing the bids submitted in response to requests for
2 renewable resources.

3 In addition, Idaho Power respectfully disagrees with Staff Straw Proposal No. 7, which
4 suggests that the “IE should be paid by the utility through assessment of all bidders including the
5 utility.” In Idaho Power’s experience, this funding mechanism cannot be practically
6 implemented. First, the cost of employing an independent consultant/evaluator can be
7 expensive. The Company has received estimates ranging from \$35,000 to \$60,000 for those
8 services. Customarily, the actual costs of those services can exceed \$100,000. Idaho Power
9 considers a bid-access fee of even \$10,000 impractical.

10 Second, the bid-access fee alone may discourage certain bidders from responding to an
11 RFP. Because the number of bidders is unknown at the time a respondent submits a bid, the
12 actual bid fee may exceed \$10,000. Certain bidders will not risk submitting a bid if they
13 anticipate having to solely pay a sizeable evaluator/consultant fee or splitting the cost of that fee
14 among a limited number of bidders. Furthermore, if the actual cost of the services exceeds the
15 estimate at the time of receipt of bids, the ability of a utility to recoup the difference in the
16 estimated and actual costs from those who submitted bids might also prove difficult.
17 Alternatively, Idaho Power recommends that the costs associated with hiring an independent
18 evaluator/consultant be borne by the utility and that, provided those costs are prudent, the utility
19 be permitted to recoup the cost of those services in rates.

20 **Bid Scoring and Evaluation Criteria:** Consistent with Staff Straw Proposal No. 8,
21 Idaho Power selects bids based on price and non-price factors that have been pre-determined
22 prior to bid opening with the aid of an independent consultant. A copy of the evaluation is
23 sealed and securely stored prior to bid opening. Typically, Idaho Power does not evaluate the
24 price scores of bids using forward market prices since the State of Idaho is not a market-based
25 jurisdiction.

1 With regard to Staff's recommendation in Straw Proposal 8(b), certain licensing
2 obligations that Idaho Power has with its computer software vendors may prevent access of an
3 independent evaluator/consultant to the Company's production cost and risk models and other
4 analytical tools.

5 **RFP Design:** With regard to Staff Straw Proposal No. 9, because Idaho Power routinely
6 employs the services of an independent consultant in its RFP process, the Company does not
7 distinguish between "Standard" and "Non-Standard" RFPs. Furthermore, because the Company
8 issues resource-specific RFPs instead of all-source RFPs, the Company has the flexibility of
9 determining, once bids are opened, whether it may be in the best interests of its customers to
10 request that bidders amend their bids to include either an ownership option, a power purchase
11 agreement, or an alternate means of acquiring the resource. All-source bid-lettings do not permit
12 that degree of flexibility without significant difficulty.

13 **Minimum Bidder Requirements:** Consistent with Staff Straw Proposal No. 10, in
14 evaluating responses to its RFPs, Idaho Power considers bidder attributes including experience
15 constructing the type of resource contemplated by the Company, litigation activity, credit-
16 worthiness and references. Consideration is also given to the extent of control a bidder has over
17 a proposed construction site and the extent to which necessary permits have been obtained and a
18 community's likely response to placement of a proposed resource in an area. Those minimum
19 bidder requirements are customarily established with the assistance and input of the Company-
20 secured independent consultant.

21 **RFP Approval:** If intended to be available for public examination, Idaho Power
22 respectfully objects to Staff's Straw Proposal that the utility submit bid evaluation and scoring
23 criteria to the Commission for use in workshops on any upcoming RFP. Idaho Power regards the
24 bid evaluation and scoring criteria as proprietary. The Company believes that public availability
25 of that information could influence bid prices and not assure that its customers would receive the
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1 best price for purchased resources. Therefore, the protective measures outlined in Staff Straw
2 Proposal No. 15 should be afforded that proprietary information.

3 **RFP Acknowledgement:** It is Idaho Power’s practice to keep the IPUC Staff apprised of
4 its progress in conducting a specific RFP. Throughout the RFP process, Company
5 representatives meet periodically with the IPUC Staff to inform the Staff of the bidding progress
6 and to obtain any direction recommended from the Staff.

7 Moreover, in Idaho, Idaho Power is required to seek a Certificate of Convenience and
8 Necessity from the IPUC before the construction or expansion of new electrical facilities. At the
9 time application for approval of the Certificate is made, the Company submits statements or
10 prepared testimony and exhibits to the Commission explaining why the proposed construction or
11 expansion is or will be in the public convenience and necessity. Cost estimates and revenue
12 requirements are also submitted. Commonly, the Company also identifies a maximum not-to-
13 exceed cost estimate for the project with cost overruns borne by the Company’s shareholders.
14 The Commission issues notice of the Company’s application to all interested persons. This
15 certification process serves the purposes intended by the Staff in its Straw Proposal Nos. 11 and
16 16.

17 **CONCLUSION**

18 Given Idaho Power’s limited presence in the State of Oregon and the success with which
19 the competitive bidding process has been conducted by the Company under the present
20 guidelines set forth by the Oregon and Idaho Commissions, Idaho Power respectfully requests

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1 and encourages the continued compatibility of the competitive bidding requirements and/or
2 guidelines between the two states.

3 Respectfully submitted this 21st day of October 2005.

4 ATER WYNNE, LLP

5
6 /s/ Sarah Wallace

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