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DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

March 5, 2007

Public Utility Commission of Oregon
Filing Center
550 Capitol Street, NE
Suite 215
Salem, Oregon 97308

Re: Docket No. UM 1198

Dear Filing Center:

On January 23, 2007, the parties to Docket No. UM 1198, the Citizens' Utility Board ("CUB"), Idaho Power Company ("Idaho Power") and staff of the Public Utility Commission of Oregon ("staff"), submitted a stipulation resolving all issues presented by Idaho Power's Petition for an Order Addressing Excess Net Power Supply Expenses Deferred in Accordance with Order No. 05-870. On February 7, 2007, the administrative law judge issued an interrogatory asking the parties to the stipulation to address the prudence of the deferred costs.

In response to the administrative law judge's interrogatory, the parties now submit an Amended Stipulation and Amended Joint Brief in Support of Stipulation, which addresses the prudence of the costs at issue. This stipulation and joint brief is intended to replace the filings made on January 23, 2007.

Thank you for your attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephanie S. Andrus".

Stephanie S. Andrus
Assistant Attorney General

Enc.

c. service list

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**
3 **UM 1198**

4 In the Matter of

5 IDAHO POWER COMPANY

6 Authorization to Defer for Future Rate
7 Recovery Certain Excess Net Power Supply
8 Expenses.

AMENDED STIPULATION

9 **INTRODUCTION**

- 10 1. The parties to this Stipulation are Idaho Power Company (“Idaho Power” or
11 “Company”), staff of the Public Utility Commission of Oregon (“Staff”), and the
12 Citizens’ Utility Board (“CUB”), collectively referred to as “the Parties.” The Parties
13 are the only parties to the above-captioned docket.
- 14 2. By entering into this Stipulation, the Parties intend to resolve all issues arising from
15 and relating to Idaho Power’s Petition for an Order Addressing Excess Net Power
16 Supply Expenses Deferred in Accordance with Order No. 05-870 (hereinafter referred
17 to as “the Petition”).

18 **BACKGROUND**

- 19 3. In Order No. 01-307, the Commission authorized Idaho Power to defer and amortize
20 net power supply expenses resulting from the 2001 energy crisis (“the 2001
21 deferral”). Idaho Power is currently amortizing the amount in the 2001 deferral
22 account at the maximum level allowed under ORS 757.259(10).
- 23 4. On March 2, 2005, Idaho Power filed an application for authorization to defer for
24 future rate recovery certain excess net power supply expenses incurred from March 2,
25 2005 through February 28, 2006 (“the 2005 deferral”). The Commission docketed
26 Idaho Power’s application as Docket No. UM 1198.

- 1 5. On July 1, 2005, the Parties submitted a Settlement Stipulation and supporting
2 testimony pursuant to OAR 860-014-0085 in which the Parties agreed that the
3 Company's Application to defer certain excess net power supply expenses incurred
4 during the March 2, 2005 through February 28, 2006 deferral period should be
5 accepted by the Commission in accordance with the terms and conditions in the
6 Settlement Stipulation.
- 7 6. In Order No. 05-870, the Commission approved the Parties' Settlement Stipulation
8 and Idaho Power's Application for an accounting order requesting authorization of
9 deferred accounting. The Commission's approval was for accounting purposes only.
- 10 7. Because current amortization of the 2001 deferral balance is at the maximum allowed
11 under Oregon law, Idaho Power anticipates that at current revenue levels, it will not
12 be able to begin amortizing the 2005 deferral amount until approximately 2009.
- 13 8. On April 19, 2006, Idaho Power filed the Petition at issue in this docket.
- 14 9. The Parties met for settlement discussions on June 14, 2006. As a result of those
15 discussions, the Parties enter into this Stipulation.

16 **STIPULATION**

- 17 10. During the 2005 deferral period, on a system-wide basis, Idaho Power accrued
18 approximately \$105,000,000 in net excess power supply expenses. The Parties agree
19 that these expenses were prudently incurred. As of February 28, 2006, Oregon's
20 share after application of the deadband and sharing methodology approved in Order
21 No. 05-870 was approximately \$2,718,000, which included interest in the amount of
22 \$102,000. As of December 31, 2006, the 2005 deferral amount was \$2,889,117,
23 including \$284,789 of interest.
- 24 11. The \$2,718,000 was properly deferred in accordance with Order No. 05-870.
- 25 12. Idaho Power's overall earnings from March 5, 2005 to February 28, 2006, did not
26 exceed authorized levels.

1 13. Idaho Power received a total of \$81,623,000, net of transaction fees of \$24,500, from
2 the sale of SO₂ emission allowances in 2005 and 2006. The *after-tax* amount of
3 proceeds allocated to the State of Oregon (approximately 39.1% Federal Tax rate and
4 jurisdictional allocation of 4.8%) is \$2,386,199. The Parties agree that the 2005
5 deferral amount should be offset by applying the SO₂ proceeds consistent with the
6 Idaho Public Utilities Commission's order allocating 90% to ratepayers and 10% to
7 shareholders. This allocation results in a \$2,327,666¹ offset to Idaho Power's 2005
8 excess power costs, leaving a 2005 deferral amount of \$561,451, as of December 31,
9 2006.

10 14. Idaho Power will receive a benefit for the income taxes already paid on the sale of the
11 SO₂ emission allowances, and will apply 90% of Oregon's jurisdictional share when
12 the benefit is realized by the Company, approximately July 1, 2007. The amount of
13 the benefit will be approximately \$1,378,534 and will be applied to the remaining
14 2005 deferral balance. Any excess benefit amount will then be applied against the
15 2001 deferral balance.

16 15. Idaho Power should be authorized to accrue interest on the 2005 deferral amount in
17 accordance with the Commission's final order in Docket No. UM 1147.

18 16. Absent this stipulation Idaho Power would not be able to begin amortizing the 2005
19 deferral amount until 2009. The Commission could, pursuant to OAR 860-027-
20 0300(9), authorize Idaho Power to amortize the 2005 deferral amount when Idaho
21 Power has completed amortization of the 2001 deferral. However, when the offsets
22 of the SO₂ proceeds and tax benefit are applied to the 2005 deferral balance as
23 described above, the 2005 deferral balance will be eliminated, and therefore the need
24
25

26 ¹ \$2,327,666 includes interest through December 2006 of \$180,086 (90% of interest through
December 31, 2006 of \$200,096).

1 for the Commission to authorize a delay in the amortization of the 2005 deferral
2 amount, pursuant to OAR 860-027-0300(9) can be eliminated.

3 17. The Stipulation will be offered into the record of the above-captioned docket pursuant
4 to OAR 860-014-0085. The Parties will support the Stipulation throughout this
5 proceeding and any appeal, provide witnesses to sponsor the Stipulation at any
6 hearing held in the above-captioned docket, and recommend that the Commission
7 issue an order adopting the settlement contained herein.

8 18. The Parties have negotiated the Stipulation as an integrated document. If the
9 Commission rejects all or any material portion of the Stipulation, or conditions its
10 approval upon the imposition of additional material conditions, any party
11 disadvantaged by such action shall have the rights provided in OAR 860-014-0085
12 and shall be entitled to seek reconsideration of the Commission's order.

13 19. By entering into this Stipulation, no party shall be deemed to have approved, admitted
14 or consented to the facts, principles, methods or theories employed by any other party
15 in arriving at the terms of the Stipulation. No party shall be deemed to have agreed
16 that any part of the Stipulation is appropriate for resolving issues arising in any other
17 proceeding.

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19 ///

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21 ///

22 ///

23 ///

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26 ///

1 20. The Stipulation may be executed in counterparts and each signed counterpart shall
2 constitute an original document.

3 The Stipulation is entered into by each Party on the date entered below.

4
5 CITIZENS' UTILITY BOARD

IDAHO POWER

6 Dated: _____

Dated: _____

7 By: _____
8 Lowrey Brown

By: _____
Lisa Rackner

9
10 PUBLIC UTILITY COMMISSION STAFF

11 Dated: 3/5/07

12 By: [Signature]
13 Stephanie Andrus

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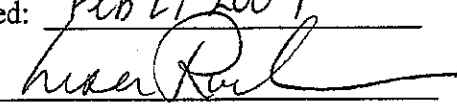
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5 CITIZENS' UTILITY BOARD

IDAHO POWER

6 Dated: _____

Dated: Feb 27 2007

7 By: _____
8 Lowrey Brown

By: 
Lisa Rackner

9
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IDAHO POWER

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Dated: _____

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By: _____
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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1198**

In the Matter of
IDAHO POWER COMPANY
Authorization to Defer for Future Rate
Recovery Certain Excess Net Power Supply
Expenses.

AMENDED JOINT BRIEF IN SUPPORT OF
STIPULATION

All the parties to the above-captioned proceeding, Idaho Power Company (“Idaho Power”), the Citizens’ Utility Board (“CUB”), and staff of the Public Utility Commission of Oregon (“Staff”) (hereinafter “the Parties”), have entered into a stipulation resolving the issues raised by Idaho Power’s petition for an order addressing excess net power supply expenses deferred in accordance with Order No. 05-870 (“the Stipulation”). Specifically, Idaho Power asked for an order confirming that it: 1) correctly deferred for later recovery in rates its excess net power supply expenses (“NPSE”) incurred between March 2, 2005 and February 28, 2006 (“2005 deferral”); 2) could delay amortization of the 2005 deferral until it fully amortized excess net power supply expenses incurred in 2001; and 3) did not earn above authorized levels during the deferral period. The Parties have entered into a stipulation (hereinafter referred to as “the Stipulation”) and submit it to the Commission for approval. Pursuant to OAR 860-014-0085(4), the Parties also submit this Joint Brief in support of the Stipulation.

Briefly, the Stipulation includes the following provisions. The Parties agree that Idaho Power appropriately deferred approximately \$2,718,000 of prudently incurred expense during the 2005 deferral period, had earnings below its authorized rate of return during the deferral period, and that the provision in OAR 860-027-0300(9) requiring utilities to request amortization of deferral amounts within one year of the time the deferral ceased should not apply to the 2005 deferral. Further, the Parties agree that rather than amortizing the 2005 deferral into rates, Idaho

1 Power should offset the balance with proceeds from the sale of surplus sulfur dioxide (SO₂)
2 emission allowances and the benefit that Idaho Power will receive from income taxes already
3 paid on the sale of the SO₂ emission allowances. When combined, these offsets exceed the 2005
4 deferral balance.

5
6 **1. Idaho Power properly deferred costs pursuant to the sharing mechanism
imposed by the Commission.**

7 In Order No. 05-870, the Commission authorized Idaho Power to defer excess NPSE that
8 Idaho Power incurred between March 5, 2005 and February 28, 2006, subject to a sharing
9 mechanism. Idaho Power incurred approximately \$105,000,000 in excess NPSE during the
10 deferral period. Staff reviewed Idaho Power's expenses, and the Parties agree that these costs
11 were prudently incurred. The Parties further agree that Oregon's allocated share of those costs
12 on February 28, 2006, after application of the deadband and sharing mechanism, was
13 approximately \$2,718,000, which included interest in the amount of \$102,000. As of December
14 31, 2006, the 2005 deferral amount was \$2,889,117, which includes \$284,789 of interest.

15
16 **2. Idaho Power could not amortize the 2005 deferral within one year of the date
the deferral ceased.**

17 OAR 860-027-0300(9)(a) provides that an electric utility must ask to amortize deferred
18 amounts within one year from the date the deferral ceased, unless authorized by the Commission
19 to do otherwise. Idaho Power is statutorily precluded from amortizing the 2005 deferral amounts
20 for a period of several years, and accordingly, could not comply with the requirement in OAR
21 860-027-0300(9)(a). This is because Idaho Power is currently amortizing excess NPSE incurred
22 during the 2001 Western Power Crisis at the maximum rate allowed under ORS 757.259. In
23 these circumstances, the Parties agree that it is appropriate for the Commission to conclude that
24 the limitation in OAR 860-027-0300(9)(a), that the utility seek amortization of any deferral
25 amounts no later than one year after the deferral ceased, should not apply.

26 ///

1 **3. Idaho Power did not over-earn during the 2005 deferral period.**

2 ORS 757.259(5) provides that amounts deferred under the statute shall be allowed in
3 rates only to the extent authorized by the Commission in a proceeding under ORS 757.210 to
4 change rates, and upon review of the utility's earnings. OAR 860-027-0300(9) requires the
5 utility to provide the Commission with its financial results for a 12-month period, or multiple 12-
6 month periods, that encompass all or part of the deferral period in order to allow the Commission
7 to review the utility's overall earnings. The Parties have reviewed Idaho Power's earnings
8 during the 2005 deferral period. Idaho Power earned a return that is substantially below its
9 authorized rate of return. Thus the Parties agree that Idaho Power is entitled to recover the 2005
10 deferral amounts.

11 **4. Idaho Power should offset the 2005 deferral balance with benefits Idaho
12 Power owes, or will owe, customers.**

13 Finally, the Parties also agree that the 2005 deferral balance should be offset with
14 proceeds from the sale of surplus sulfur dioxide (SO₂) emission allowances and the benefit that
15 Idaho Power will receive from income taxes already paid on those proceeds. In Order No.
16 05-983, the Commission authorized Idaho Power to defer the proceeds from any SO₂ emissions
17 sales for later consideration by the Commission. Idaho Power has done so. The after-tax amount
18 of proceeds allocated to the State of Oregon (approximately 39.1% Federal Tax rate and
19 jurisdictional allocation of 4.8%) is \$2,386,199.

20 Further, around July 1, 2007, Idaho Power will realize a benefit for income taxes already
21 paid on the sale of the SO₂ emission allowances. Oregon's jurisdictional share of that benefit
22 will be approximately \$1,378,534. This amount, when combined with Oregon's share of the
23 proceeds from the SO₂ emission sales, exceeds the 2005 deferral.

24 The Parties agree that the 2005 deferral balance should be offset with SO₂ proceeds and
25 tax benefit in a manner that is consistent with Idaho Power's agreement with the Idaho Public
26 Utility Commission: 90% allocation to ratepayers and 10% allocation to shareholders. The

1 Parties further agree that the remaining balance of the SO₂ emission proceeds and tax benefit
2 should be offset against Idaho Power's 2001 deferral balance. These offsets will resolve the
3 issue addressed in Section 2 above.

4 The Parties ask the Commission to conclude that the Stipulation is reasonable. Notably,
5 customers are benefited by the offset agreed to in the Stipulation because it will save customers
6 from paying interest on the balance while Idaho Power waits for opportunity to amortize it.

7 **CONCLUSION**

8 For the foregoing reasons, the Commission should approve the Parties' Stipulation.

9
10 CITIZENS' UTILITY BOARD

IDAHO POWER

11 Dated: _____

Dated: _____

12 By: _____
13 Jason Eisdorfer

By: _____
Lisa Rackner

14 PUBLIC UTILITY COMMISSION STAFF

15 Dated: 3/5/07

16 By: [Signature]
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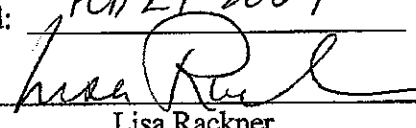
8
9 **CITIZENS' UTILITY BOARD**

IDAHO POWER

10 Dated: _____

Dated: Feb 27 2007

11 By: _____

By: 

12 Jason Eisdorfer

Lisa Rackner

13 **PUBLIC UTILITY COMMISSION STAFF**

14 Dated: _____

15 By: _____

16 Stephanie Andrus

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10 Dated: Feb 27, 2007

Dated: _____

11 By: Jason Eisdorfer
12 Jason Eisdorfer

By: _____
Lisa Rackner

13 **PUBLIC UTILITY COMMISSION STAFF**

14 Dated: _____

15 By: _____
16 Stephanie Andrus

CERTIFICATE OF SERVICE

I certify that on March 5, 2007, I served the foregoing upon all parties of record in this proceeding by delivering a copy by electronic mail and by mailing a copy by postage prepaid first class mail or by hand delivery/shuttle mail to the parties accepting paper service.

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Department of Justice
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