

ORDER NO. 00-210

ENTERED APR 12 2000

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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UF 4169

In the Matter of the Application of Idaho Power	)	
Company for Authority to Borrow not more than	)	ORDER
\$24,245,000 and Guarantee Tax-Exempt Bonds.	)	
	)	

**DISPOSITION: APPLICATION APPROVED WITH REPORTING  
REQUIREMENTS AND CONDITIONS**

On March 24, 2000, the Commission received an application from Idaho Power Company (Company), filed pursuant to ORS 757.415 and OAR 860-027-0030, requesting authority to borrow not more than \$19,885,000 from The American Falls Reservoir District (the District), Idaho, and \$4,360,000 from the Port of Morrow (the Port), Oregon.

Based on a review of the application and the Commission's records, the Commission finds that the application satisfies applicable statutes and administrative rules. At its Public Meeting on April 11, 2000, the Commission adopted Staff's recommendation to approve the application with conditions and subject to reporting requirements. Staff's recommendation is attached as Appendix A and is incorporated by reference.

**OPINION**

**Jurisdiction**

ORS 757.005 defines a "public utility" as anyone providing heat, light, water, or power service to the public in Oregon. The Company is a public utility subject to the Commission's jurisdiction.

**Applicable Law**

ORS 757.415(1) provides that:

A public utility may issue [stocks and bonds, notes, and other evidences of indebtedness] for the following purposes and no others. . .:

- (a) The acquisition of property, or the construction, completion, extension or improvements of its facilities.
- (b) The improvement or maintenance of its service.
- (c) The discharge or lawful refunding of its obligations.
- (d) The reimbursement of money actually expended from income or from any other money in the treasury of the public utility not secured by or obtained from the issue of stocks or bonds, notes or other evidences of indebtedness, or securities of such public utility, for any of the purposes listed in paragraphs (a) to (c) of this subsection . . .
- (e) \*\*\*\*\*

When an application involves refunding of obligations, the applicant must show that the original borrowings were made for a permissible purpose. *Avion Water Company, Inc.*, UF 3903, Order No. 83-244 at 3; *Pacific Power & Light Co.*, UF 3749, Order No. 81-745 at 5.

ORS 757.415(2) provides that:

[The applicant] shall secure from the commission . . .an order . . .stating:

- (a) The amount of the issue and the purposes to which the proceeds are to be applied; and
- (b) In the opinion of the commission, the [proceeds] reasonably [are] required for the purposes specified in the order and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility, and will not impair its ability to perform that service; and
- (c) Except as otherwise permitted in the order in the case of bonds, notes, or other evidences of indebtedness, such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The Commission believes that the proposed transaction is reasonably required for the purposes stated, is compatible with the public interest, and is consistent with the proper performance of the Company's public utility service. The proposed transaction will not impair the Company's ability to

perform that service. The purposes of the proposed issuance are not, in whole or part, reasonably chargeable to operating expenses or to income.

For ratemaking purposes, the Commission reserves judgment on the reasonableness of the Company's capital costs and capital structure. In its next rate proceeding, the Company will be required to show that its capital costs and structure are just and reasonable. *See* ORS 757.210.

### CONCLUSIONS

1. The Company is a public utility subject to the Commission's jurisdiction.
2. The Company's application meets the requirements of ORS 757.415.
3. The application should be granted.

### ORDER

IT IS ORDERED that the application of Idaho Power Company for authority to borrow not more than \$19,885,000 from The American Falls Reservoir District, Idaho, and \$4,360,000 from the Port of Morrow, Oregon, is granted, subject to the conditions stated in Appendix A.

Made, entered, and effective \_\_\_\_\_.

BY THE COMMISSION:

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**Vikie Bailey-Goggins**  
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements of OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070. A party may appeal this order pursuant to ORS 756.580.

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: April 11, 2000**

**REGULAR AGENDA** \_\_\_\_\_ **CONSENT AGENDA**   X   **EFFECTIVE DATE**

**DATE:** April 4, 2000

**TO:** Bill Warren through Mike Myers

**FROM:** John S. Thornton

**SUBJECT:** UF 4169ΣIdaho Power Company=s Application for Authority to Borrow Not More than \$24,245,000 and Guarantee Tax-Exempt Bonds

**SUMMARY RECOMMENDATION:**

I recommend approving the application with reporting requirements and conditions.

**DISCUSSION:**

On March 24, 2000, Idaho Power Company filed an application pursuant to Oregon Revised Statute (ORS) chapter 757. The application requests authority to borrow not more than \$19,885,000 from The American Falls Reservoir District (the District), Idaho, and \$4,360,000 from the Port of Morrow (the Port), Oregon. The District and the Port are organizations authorized to issue tax-exempt bonds, who in turn will issue debt on the same terms to Idaho Power Co. The coupon rates might be fixed or floating, but in either case the tax-exempt feature provides lower rates to the District and the Port than if the bonds were taxable. In effect, Idaho Power is issuing tax-exempt bonds through the District and the Port in a loan and guarantee arrangement. The utility, in turn, receives the favorable interest rate tax-exempt bonds carry.

Idaho Power might also enter into one of a number of credit enhancement arrangements such as letters of credit, insurance, or collateralizing the tax-exempt bonds with Idaho Power=s own first mortgage bonds. Credit enhancement is intended to enhance the credit rating of a bond, resulting in a lower coupon rate. Idaho Power requests authority to enter into these credit enhancements such as letters of credit or issuing first mortgage bonds to be used as collateral, in conjunction with its authority to borrow from the District and the Port.

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The new loans and tax-exempt bonds are intended to refinance existing tax-exempt bonds with lower rates and/or longer maturities. The ratepayer cost of the existing Port of Morrow debt is 7.435 percent. The equivalent ratepayer cost of the existing American Falls bonds is 8.070%, according to the company. I propose a condition below that the ratepayer cost of the new bonds be no greater than the ratepayer cost of the existing bonds.

### **Use of Proceeds**

Idaho intends to use the proceeds from the borrowing to refinance existing loans from the District and the Port that correspond to existing tax-exempt bonds. Those loans were incurred to finance, or refinance, qualifying pollution control facilities at the Boardman plant and reconstruction at the American Falls Dam plant. Such uses are permissible uses of proceeds under ORS 757.415 (1).

### **Expenses**

Idaho expects that its combined fees and expenses for the two issuances will not exceed \$991,100.00, including a 1.15 percent underwriters' commission and 2 percent call premium on the existing American Falls bonds. Such fees and expenses are reasonable.

### **Concerns**

My two concerns with the application are that Idaho Power refinance the outstanding loans at no greater ratepayer debt cost than the existing debt and that competitive rates are obtained on the new debt. I propose two conditions below to address my two concerns.

### **STAFF RECOMMENDATION:**

I recommend that Idaho Power Company's application be approved, subject to the following two conditions: (1) Idaho Power's refinancing shall be cost-effective (the ratepayer cost of the new loans shall be no greater than the ratepayer cost of the existing loans); and, (2) Idaho Power will demonstrate that the interest rate it achieves is competitive. My second condition mitigates the need for an interest rate cap in the order, which Idaho proposed to be 7.0 percent. Idaho Power's authority should be valid as long as its senior secured debt maintains investment-grade bond ratings from Standard & Poor's (BBB- or better) and Moody's (Baa3 or better), or the equivalent from at least two nationally recognized agencies. I also recommend that the company be required to file the usual Report of Securities Issued and Disposition of Net Proceeds statements as soon as possible after each sale.