BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE IDAHO POWER COMPANY APPLICATION FOR A REFUNDABLE EMERGENCY ENERGY CHARGE FOR THE RECOVERY OF EXTRAORDINARY POWER SUPPLY EXPENSES.	**CASE NO. IPC-E-01-7**
IN THE MATTER OF THE IDAHO POWER COMPANY APPLICATION FOR AUTHORITY TO IMPLEMENT A POWER COST ADJUSTMENT (PCA) RATE FOR ELECTRIC SERVICE FROM MAY 1, 2001 THROUGH MAY 15, 2002.	**CASE NO. IPC-E-01-11** **NOTICE OF PREHEARING CONFERENCE** **ORDER NO. 28722**

SUMMARY OF COMMISSION ORDER

In February and March 2001, Idaho Power Company filed two Applications seeking to increase its rates under the annual Power Cost Adjustment (PCA) mechanism first approved by the Commission in 1993. Idaho Power supplies electricity to approximately 360,000 customers across southern Idaho. In its February Application, the Company sought to recover $161 million that represented the amount of off-system power purchases over the preceding 10 months. In March 2001, the Company filed its second Application requesting authority to recover approximately $66.4 million in revenues. Thus, the Company requested recovery of a total of $227.4 million by imposing a uniform 1.8889¢ per kilowatt hour charge for all its customers over a one year period. The proposed rate change reflected an average 45.6% increase above current rates.

In this Order, the Commission finds that Idaho Power should be allowed to immediately recover approximately $168.3 million through the PCA mechanism. This represents 74% of the Company's request and is $159.6 million above current rates. The Commission has deferred recovery of approximately $59 million pending further investigation of several issues. Furthermore, the Commission determined that it is appropriate to initiate an investigation regarding several of the trading practices used to purchase power for the regulated company; whether the purchasing entity failed to execute a timely purchase of power when requested to do so; whether the Company appropriately hedged against market volatility; whether the pricing mechanism used to purchase power should be amended on a prospective basis; and whether the Company's resource plans are adequate to prospectively address current drought and market conditions. The Commission intends to proceed expeditiously in its review of the deferred issues.

After reviewing the record in this matter, the Commission has determined that the rates for the non-residential customer classes should be uniformly increased by 1.3415¢ per kWh over base rates. The percentage increase for each customer class over current rates is: irrigation – 31.3%; small commercial – 18.8%; large commercial – 32.9%; and industrial – 42.1%. The Commission has determined that the approved rates for residential customers should be spread over three blocks that increase as a customer's electric consumption increases. The overall average rate increase for residential customers is 23%. This translates into residential increases of 14.4% for the first block (monthly usage of up to 800 kWs), 28.8% for the second block (monthly usage between 801 and 2000 kWs), and 62% for the third block (monthly usage over 2001 kWs). The average residential customer using 1200 kWh per month would experience a monthly increase from $62.72 to $74.29, or an increase of 18.4%. This rate design is specifically intended to provide rate incentives for customers to conserve electricity.

Finally, in response to comments filed by the parties and members of the public, the Commission has directed Idaho Power to submit additional energy conservation proposals designed to provide customers with the opportunity to reduce electric consumption.

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I. BACKGROUND

A. History of PCA

Because Idaho Power Company is an electric utility that relies predominantly upon hydroelectric generation, the Company's actual costs of providing electricity (i.e., its power supply costs) can vary dramatically from year to year depending upon changes in streamflow and market prices. When streamflows or snowpacks are low, Idaho Power must rely increasingly upon off system purchases and its other generating resources and/or market purchases that are more costly than hydro generation. Conversely, in years of abundant streamflows with correspondingly plentiful, inexpensive hydro generation, the Company's power supply costs are lower. To ameliorate the adverse consequences of fluctuating power supply costs both to customers and the Company, the Commission instituted a "power cost adjustment" (PCA) mechanism in 1993.

The PCA is comprised of two major components. First, the Company is allowed to recover its above normal power supply costs[1] for the preceding 12 months including off-system purchases used to serve Idaho system load.[2] Second, rates are adjusted on an annual basis to

[1] The term "power supply costs" means additional purchases and fuel costs plus decreased surplus sales revenue.

[2] The term "Idaho system load" means that amount of electricity necessary to serve Idaho ratepayers. For the purpose of this Order, it is synonymous with "system operations" as discussed in the section on trading practices.

compensate for the succeeding 12 months' power supply costs based on expected Snake River streamflows and storage. Order No. 24806 at 2-3. For example, for projected periods of low water the Company receives revenues to generate or purchase the necessary replacement power. For periods of high water, customers experience credits from the sale of surplus power. Thus, under the PCA mechanism ratepayers receive a credit when power costs are low and receive a surcharge when power costs are high.[3] During the seven years that the PCA has been in effect, there have been three annual credits and four annual surcharges. This PCA case is the largest amount ever requested – nearly 6 times larger than the next largest increase.[4]

Idaho Power rates are adjusted each May after the Company files its PCA application. The PCA rate usually extends from May 16 to May 15 of the following year. Procedurally, PCA cases are normally processed on an expedited basis through the submission of written comments. IDAPA 31.01.01.122.02.

B. The Two Applications

On February 23, 2001, Idaho Power Company filed an Application in Case No. IPC-E-01-7 for authority to implement a flat "emergency energy charge" of 1.2737¢ per kilowatt-hour (kWh) applicable to all customer classes for a 12-month period. The Company sought to recover an unprecedented $161 million in additional power supply costs incurred over the prior 10 months.

On March 20, 2001, Idaho Power Company filed an additional Application in Case No. IPC-E-01-11 for authority to increase the PCA rate schedule from the existing 0.1371¢ per kWh rate to 0.6152¢ per kWh. The proposed rate increase in this second case is primarily based upon forecasted[5] below-average water flows in Idaho's hydroelectric system for the coming year. If approved, this Application alone would result in an overall revenue increase of approximately $66.4 million.

If approved, these two Applications (hereinafter referred to as the "combined PCA filing") would recover approximately $227.4 million through a flat 1.8889¢ per kWh charge

[3] The Company may recover 90% of the difference between the projected power cost and the Commission's approved base power cost. Order No. 25880.

[4] The next largest increase was $38 million.

[5] Typically this forecast is based upon an April 1 projection of April through July runoff at Brownlee Reservoir. Because the Commission requested that Idaho Power file its PCA case early, the Company substituted a March 1 projection of the April through July Brownlee runoff.

imposed on the Company's customers for one year. Because not all customers pay the same per-kilowatt-hour charge, the proposed 1.8889¢ per kWh charge represents a different percentage increase for each customer class. Idaho Power's proposed approximate rate increases for major customer groups are set out below:

CUSTOMER GROUP	TODAY'S AVERAGE RATE	PROPOSED AVERAGE RATE	PERCENTAGE INCREASE
Residential	5.2 cents per kWh	7.1 cents per kWh	34.4%
Irrigation	3.9 cents per kWh	5.8 cents per kWh	46.8%
Small Commercial	6.4 cents per kWh	8.3 cents per kWh	27.9%
Large Commercial	3.7 cents per kWh	5.5 cents per kWh	49.6%
Industrial	2.9 cents per kWh	4.7 cents per kWh	62.8%

Source: Order No. 28685 at 3.

The combined proposed rate change reflects an average 45.6% increase to current Idaho Power rates. More specifically, the Company's bill stuffer notifies customers that a typical monthly residential bill for 1200 kWh will increase from $62.72 to $84.34 if the proposed 1.8889¢ rate increase were approved.

C. Proceedings

Although the Company requested in its IPC-E-01-7 filing that the emergency energy charge become effective on March 26, 2001, the Commission suspended the effective date until May 1, 2001. Order No. 28665. The suspension allowed the Commission time to examine the prudency of the Company's power purchases, review the Company's promotion of its conservation policies, and conduct public workshops and hearings. When it later filed its PCA Application in IPC-E-07-11, the Company requested an effective date of May 1, 2001 to enable both Applications to be decided in this joint Order. Because the Commission normally considers both PCA elements together, the Commission issued Order No. 28665 to combine the proposed emergency energy charge (IPC-E-01-7) and the PCA (IPC-E-01-11) into a single proceeding. This has facilitated comprehensive consideration of all components of the PCA.

To gather public input on the combined PCA filing, the Commission held workshops and public hearings in American Falls, Pocatello, Twin Falls, Caldwell and Boise. Approximately 105 people attended the five workshops and 118 people observed the four hearings.[6] Of those who attended, 41 people testified at the hearings.

[6] Although no public hearing was held in American Falls, those who attended the American Falls workshop could testify the following evening at the Pocatello hearing.

In Order Nos. 28665 and 28685, the Commission solicited written comments to be filed on or before April 16, 2001. As of that date the Commission received 314 individual written comments from the public and 23 petitions containing a total of 406 signatures. All but 10 of the public comments received objected to the proposed PCA increase.

D. Parties

The following persons were made parties to the combined PCA filing.

Idaho Power Company	Larry D. Ripley
Commission Staff	Lisa Nordstrom Deputy Attorney General
Astaris LLC	Conley Ward Givens Pursley LLP
	Ken Tandy Astaris LLC
Irrigation Pumpers Association, Inc.	Randall C. Budge Racine Olson Nye Budge & Bailey, Chartered
	Anthony Yankel
U.S. Department of Energy	Lawrence A. Gollomp Assistant General Counsel
Land & Water Fund of the Rockies Mary McGown	William M. Eddie
Idaho Rivers United	Sara C. Denniston
Idaho Rural Council	Kristy Webb
Industrial Customers of Idaho Power	Peter J. Richardson Molly O'leary Richardson & O'leary
	Stuart Trippel Trippel Mast Consulting

Each party filed written comments except Astaris, which provided oral testimony at the Pocatello hearing. Staff and the Company participated in all of the public hearings. Idaho

Power Company filed its response to these comments on April 21, 2001. With this background, we turn to the issues.

II. THE WATER FORECAST COMPONENT

As explained above, the forecasted water conditions for the next 12 months are the second component of the PCA. In their comments, the Company and the Staff agreed that expected power supply costs totaled $132,938,867, based on forecasted April through July 2001 Brownlee inflows. After computing the above-normal power supply costs, the Company determined that the PCA rate should recover $41.7 million when adjusted for Idaho's jurisdictional share of the increase and the 90/10 sharing between ratepayers and shareholders. The Staff calculated the power supply costs attributable to low streamflow as $45.8 million but its calculation was based upon a different amount of assumed kWh expected to be sold by Idaho Power. However, the Staff and the Company agreed that a rate of .3861¢ per kWh was necessary to recover anticipated power supply costs.

Although the Company sought to impose the .3861¢ per kWh as part of the PCA rate, Staff recommended this forecasted amount be deferred until next year's PCA. Staff asserts the forecast amount severely underestimates expected power supply costs in light of low reservoir water and high market prices. In its response, the Company does not believe deferring this amount until next year's PCA is in the public interest. Response at 5. The Company maintained that deferring the water forecast amount from this year's PCA

> will only exacerbate the Company's true-up for next year and will provide no cash to pay for the increased power supply costs we all know are coming. Additionally, those who set the Company's credit ratings and those who provide it with much needed capital in these difficult times are also watching this decision very closely. Failure to include the [water] forecast in the PCA adjustment will likely be viewed as failure of the mechanism to assure recovery of costs resulting in credit downgrades and restricted access to capital in the marketplace when it is needed most.

Id.

<u>Commission Findings</u>. Based upon our review of the record, the Commission finds that the PCA rate attributable to predicted streamflows is .3861¢ per kWh. See Appendix 1 to this Order.

Although the Commission understands that Staff's purpose in recommending deferred recovery of this PCA component is to mitigate the anticipated large rate increase this year, deferring this amount would only increase next year's PCA rate. Staff's reasoning that the low water projection will underestimate actual power supply costs is in itself justification for allowing recovery in this PCA case. The Commission is hopeful that regional power market prices will decline and that Idaho will soon experience an above-average water year. Even if these favorable conditions come to pass, the Commission is concerned that next year's PCA request may be sizable to recover excess power purchase costs incurred during the coming year and to fund conservation or demand-side management programs like the Irrigation Buy-Back Program.

The Commission finds it reasonable and in the public interest to allow recovery of the forecasted power supply costs in the current 2000-2001 PCA. The PCA was designed to allow consistent recovery of anticipated power supply costs. The Commission chooses not to deviate from the established formula in this case. Given the volatility and high wholesale prices in regional power markets, the Commission finds immediate recovery of the forecast amount is reasonable. This recovery also assures the financial community that the Company will be allowed to recover its reasonably incurred power supply costs. Moreover, immediate recovery of this forecasted amount will minimize the interest costs that would otherwise be included in next year's PCA.

III. THE POWER SUPPLY COSTS COMPONENT

Of the total $227.4 million PCA revenue requested by the Company, approximately $186 million is attributable to last year's unrecovered power supply costs. Idaho Power applied for $161 million in its emergency energy charge filing in IPC-E-01-7 for 90% of above forecasted power supply costs from April 2000 through January 2001.[7] In its PCA filing in IPC-E-01-11, the Company requested an additional $25 million to recover the customer's share of forecasted power supply costs for February 2001. To facilitate the early PCA filing requested by the Commission, recovery of the customers' portion of the March 2001 above forecast power supply costs will be deferred to the 2001-2002 PCA case.

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[7] See *infra* note 3.

Staff recommended recovery of $126.212 million of the $186 million in power supply costs. Staff indicated that these costs were reasonably and prudently incurred to serve the Company's Idaho customers. Staff also recommended that $8 million be recorded below-the-line, thus denied recovery, and that recovery of the remaining $51 million be deferred pending further investigation. See Trading Practices and Disputed November Transaction Sections below. Other parties also recommended that portions of the PCA be denied for various reasons. The Rural Council suggested that one-third of the total PCA request be denied. Rural Council Comments at 3. The Industrial Customers of Idaho Power (ICIP) and others argue that some of the power purchases may have been imprudent and any rate increase should be subject to refund. ICIP Comments at 20. Parties also urged the Commission to initiate a general rate case or initiate an investigation into issues in this case. *Id.* at 5-6, 18-19; Irrigation Pumpers Comments at 2; Land and Water Fund and Idaho Rivers United Comments at 3; DOE Comments at 3.

Commission Findings. The Commission finds that $126.212 million excess power supply costs should be recovered immediately in this PCA. Although some parties offered general objections or concerns about the purchase power component, the Commission is persuaded by the Staff comments. As discussed below in greater detail, the Commission shall defer recovery of some power supply costs and open an investigation to examine some of the issues raised by the parties. However, it is evident that the Company did purchase power to meet its obligation to serve Idaho ratepayers.

1. Adjustments. Staff concurred with two adjustments made by the Company in its "true-up" calculation. First, the Company adjusted the load change expense for February 2001 to account for differences in "actual firm load" reported in previous months. Second, the Company adjusted the interest calculation on the deferred balance of August, October and February to reflect differences in market purchases, sales, and load change expenses reported in previous months.

The Company used a 5% interest rate for April through December 2000 and a 6% interest rate for January and February 2001 in its calculation. To be consistent with past PCA calculations, Staff recommended that the 5% interest rate be used for the entire PCA period. Staff Comments at 5. By previous agreement between the Company and Staff, a single Commission-approved interest rate (i.e., the rate paid on customer deposits effective at the beginning of the PCA year) has previously been used for all months in the PCA year.[8] IDAPA 31.21.01.106.

Commission Findings. The Commission finds that the adjustments agreed to by the Company and the Staff are reasonable and should be adopted. To maintain consistency with prior PCA cases, the Commission further finds it appropriate to apply the 5% interest rate on deposits to the deferred balances for the entire PCA period of April 2000 through March 2001.

2. Consumption Data. Staff pointed out in its comments that the Company used different annual energy consumption totals to calculate the PCA rates proposed in its two separate filings. In the emergency surcharge case (IPC-E-01-7), the Company used normalized 1999 Idaho jurisdictional firm load of 12,632,017 MWh.[9] In its second filing (IPC-E-01-11), the Company used 10,802,636 MWh – the normalized Idaho jurisdictional firm load that was used in the Company's last general rate case. Staff recommended that the Commission use the 1999 Idaho jurisdictional load of 12,770,405 MWh.[10] Staff Comments at 39.

Commission Findings. The Commission finds it appropriate to adopt the Staff and Company proposal to use normalized 1999 kWh for 12 and one-half months (13,253,976 MWh) to calculate this year's true-up PCA rate. If the Company sells this amount of electricity, as it expects to, the Company will recover all of its true-up costs. See Appendix 2.

A. Trading Practices

1. Background. The Commission received many comments regarding the relationship and the transactions that have occurred between the regulated entity (Idaho Power Company) and another subsidiary called IDACORP Energy Solutions (IES). Idaho Power and IES are both wholly-owned subsidiaries of IDACORP, Inc. IDACORP desired that IES engage in the marketing of electricity and natural gas on the wholesale level. In other words, IES will "trade" (actually purchasing and selling) natural gas and electricity as commodities.

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[8] This practice was instituted to simplify the true-up calculation and adopts the interest rate established by the Commission at the beginning of each calendar year.

[9] The Company has subsequently indicated that the correct normalized 1999 Idaho jurisdictional firm load is 12,770,405 MWh.

[10] The Company's response proposed to add 483,571 MWh to the 12,770,405 MWh load amount, for a total of 13,253,976. This additional amount is the one-half of May's kWh that must be recovered to effectuate a May 1, 2001 effective date.

a. <u>The IES Agreement</u>. On September 1, 2000, Idaho Power filed an Application requesting that the Commission approve a proposed Electric Supply and Management Services Agreement (Agreement) between Idaho Power and IES. This Agreement was reached after approximately two years of negotiation, after which Staff recommended approval of the Agreement. Under the Agreement, Idaho Power sought authority to transfer its operating transactions (e.g., purchasing and selling power for itself to meet the utility's Idaho system load) to IES. Agreement ¶ 1, Atch. 1 ¶ 3.1. Such transactions or trades for Idaho Power are referred to as "operating or system transactions." IES would also engage in transactions in the wholesale power market that do not involve sales from Idaho Power resources and are not related to the Idaho Power system. For example, IES would purchase gas and electricity from third parties and resell these commodities to parties other than Idaho Power. Such electric transactions are referred to as "non-operating or non-system transactions."

The Attachment to the Agreement noted that the "sales price for delivered energy and capacity acquired by Idaho Power from IES to supply Native Load will be equal to the Market Price determined in accordance with Section 5." Agreement, Atch. 1, ¶ 3.1, the market price for purchasing power to meet Idaho Power's obligation to serve its Idaho system load was based on the Dow Jones Mid-Columbia Electricity Price Index (Mid-C). *Id.* at ¶ 5.1.

In addition to the pricing mechanism, Idaho Power would compensate IES for its services in the amount of $300,696.30 per month. *Id.*, ¶ 6.1. In addition to purchasing and trading for Idaho Power, IES proposed to provide other management services such as executing "hedges" intended to "minimize the risk of financial loss from an adverse price change in a commodity market." Atch. 1, ¶ 2.1.3. Other services include real-time power marketing, intramonth power marketing (trades that supply power from one day to one month), and risk management activities intended to reduce risk of losses "that would cause Idaho Power to incur higher costs for supplying Native Load." *Id.*, ¶ 2.1.1 through 2.1.7.

b. <u>The IPC-E-00-13 Case</u>. In Order No. 28596 issued December 19, 2000, the Commission approved the Agreement between IES and Idaho Power. Terms of the Agreement provide that it does not become effective until the state regulatory commissions of Idaho, Oregon, and Nevada all approve the Agreement in addition to the Federal Energy Regulatory Commission (FERC). Agreement at ¶ 6. The Agreement provides that it "shall not become effective until the commissions have issued their respective final orders approving the

Agreement or any future amendments." *Id.* at ¶ 9. With this background, we now turn to the particular concerns raised by the Staff comments in this case.

The Staff expressed several concerns regarding the trading practices and transactions. In addition, other parties questioned the prudency or practices of the Company's power purchases. These are discussed in further detail below.

2. Lack of Authority. As a threshold matter, the Staff asserted that the IES Agreement (including the Mid-C Pricing Index contained in the Agreement) is not in force because the Agreement had not been approved by the FERC or the Oregon Public Utility Commission. Consequently, Staff argued the market functions continue to be under Idaho Power and the Mid-C pricing structures should not be solely utilized. Staff Comments at 22-23. In Staff's view, Idaho Power should still be performing these trading transactions on its own behalf. If Idaho Power is still responsible for power purchases, it appears inappropriate and unreasonable to charge ratepayers $51 million more than the cost of the purchased power.

3. Hedging. Staff also expressed concern with the Company's apparent failure to properly use hedging instruments. Staff maintained that the Company has substantially limited long-term purchase contracts in favor of more expensive day-ahead market purchases. The Staff argued that the ability "to purchase power at a fixed price is a valuable tool for rate stability." According to Staff, the Company should have been aware of generating shortfalls and that its system would need to rely more heavily on expensive day-ahead markets. Staff Comments at 22.

After reviewing the Company's recent power purchases, the Staff determined that the Company only executed one power purchase contract in the month of February 2001 that was over a month in duration. Staff argued this apparent failure to properly hedge subjected ratepayers to greater market volatility and risk. *Id.* By comparison, Staff found during the months of June 2000 through August 2000, 30.5% of the Company's non-system purchases were term purchases of one month or more and an additional 60.2% were from the day-ahead market. In January and February 2001, 15.2% of the Company's non-system purchases were long-term and 70.3% were day-ahead transactions. This increased reliance on more expensive day-ahead markets is one factor that Staff believes has contributed to the overall increase in costs to ratepayers. *Id.*

4. Transaction Pricing

a. Mid–C Price Index. Staff recommended that a portion of the purchased power component of the PCA be deferred until the Commission re-examines the use of the Mid-C Pricing Index.[11] Staff Comments at 20-22, 29. Staff analyzed all transactions for the three months from December 2000 through February 2001, comparing purchases for the Company's operating system and non-operating system. The analysis showed that in 155 out of 161 transactions (more than 96%), the regulated entity paid more for power than was paid by the non-regulated entity. *Id.* at 23; Atch. Nos. 7-10. The Staff argued that the Mid-C pricing mechanism adopted in the Idaho Power-IES Agreement no longer represents a reasonable surrogate price for system power transactions. "[T]he Mid-C pricing does not produce rates that are fair, just and reasonable." *Id.* at 23.

To correct this pricing inaccuracy, Staff recommended that purchases by IES for Idaho Power be priced at the "lower of cost or market." Under a typical "lower of cost or market" approach for prudent and reasonable expenses, system units owned by the Company would normally be operated and dispatched if the cost of running these units was below alternatives available from the market. If market alternatives were less expensive, purchases would be made to take advantage of these lower costs for customers. Staff Atch. 19 at 4. The Staff argued that for purposes of determining the "market price," the Commission could use the Mid-C price or another acceptable pricing mechanism. Staff recommended that the cost be based on the daily weighted average of the price actually paid for the power by the non-operating book to third parties. *Id.* at 28.

In its reply comments, Idaho Power argued that the Mid-C Index continues to represent a relevant market price to use for affiliate transactions because it is the closest trading hub and is a liquid, objective pricing point. The Company maintained that it should be entitled to rely upon the Commission's previous orders and should be authorized to collect the $51,234,902 amount the Staff would "re-price" under a yet undefined methodology. Response at 7-8. The Company asserted that Order No. 28596 explicitly approved the Mid-C pricing mechanism contained in the Agreement. *Id.* at 9. Consequently, the Company claimed that it "has followed both the letter and the spirit of [the Order] in all of its actions." *Id.*

[11] The Staff recommended both an adjustment be made below the line and that the Commission investigate this issue in a "second phase or a separate case." Staff Comments at 29.

The Company stated there are additional advantages to the use of the Mid-C Index. Utilizing the Mid-C Index eliminates the ability of Company personnel to manipulate the price and they have no ability to pick and choose which transactions to classify as operating or non-operating. *Id.* at 11. The Company insisted that changing "the affiliate pricing procedures without prior Commission review is equally inappropriate and would result in retroactive ratemaking." *Id.* The Company also noted that the FERC believes an established relevant market index adequately mitigates affiliate abuse concerns. "Moreover, this is exactly what Idaho Power proposed and this Commission approved in Order No. 28596." *Id.* at 12.

b. Weighted Average. Staff also maintained that in the past real-time power purchases always flowed through the system at their actual costs. After conducting its review, Staff insisted that the Company is now pricing these transactions on the weighted average price for all real-time transactions that touch the Idaho Power system on an hourly basis. Staff Comments at 24. According to Staff's analysis, this results in overcharges and underpayments in several cases. Adjusting the inter-book real-time sales and purchases for the months of December 2000 through February 2001, Staff calculated that an adjustment of $4.6 million is necessary.[12] *Id.* The Staff's calculations are shown in Staff Attachment Nos. 7-10 and summarized on Staff Attachment No. 13.

The Company in its reply comments objected to the Staff's proposed adjustment. It argued setting transfer prices at the weighted average of all real-time affiliate transactions would expose the regulated utility to "risks, volatilities and costs of other markets outside the physical markets available for actual supply or sale of energy from the Idaho Power system." Reply at 14. The Company maintained that using the Staff's suggested methodology, the $24.4 million ratepayer benefit would in all actuality result in a $21 million detriment. *Id.* at 15. Furthermore, the Company maintains that any change in this pricing methodology could only be applied prospectively.

5. Transmission Pricing. Finally, Staff expressed concern that IES is utilizing the Company's transmission facilities without proper benefit or compensation to the regulated utility and its customers. Staff Comments at 25. For example, the Staff suspected that IES may be using "flip" transmission transactions. A "flip" occurs where power is received at one point in

[12] The actual amount would be lower when adjusted for jurisdictional and sharing allocations.

the Company's transmission system and is delivered at another point. *Id.* For its part, the Company maintained that during the current PCA year alone, "the non-operating business paid $55,839,701 in transmission expenses and booked a credit reserve of $21,682,000." Reply at 14.

Commission Findings. Based on the above-mentioned comments, the reasonableness and prudency of several of Idaho Power's trading practices is directly disputed by the Staff, as well as indirectly by Intervenors. Moreover, we find that there is a legitimate dispute whether the Idaho Power/IES Agreement was actually in effect during the 2000-2001 PCA year. The Company's reply comments did not address the approval status of the Idaho Power/IES Agreement before either the Oregon or Federal Energy Regulatory Commissions.[13]

The Commission also finds that Staff has made a sufficient case for us to examine in greater detail the hedging practices of the Company. Reducing the use of long-term contracts, as we have seen in California, places over-reliance on the spot market and exposes utilities to possible exercise of market power by wholesale power sellers during periods of short supply. *California Power Exchange Corp. v. FERC*, ___ F.3d ___, 2001 WL 366364 (April 1, 2001). Consequently, we find it appropriate and in the public interest to examine the hedging issue more closely.

The Commission further finds that an investigation of the Mid-C Price Index is appropriate so that we may determine whether the charges proposed and the Company are reasonable. The Staff and other parties question the Company's power purchase practices. Although we recognize that use of the Mid-C Index was contemplated by our Order No. 28596 in Case No. IPC-E-00-13, Staff has raised the issue of whether the Agreement is in effect without all the other regulatory approvals. In addition, we find it necessary to review whether the Mid-C Index is an appropriate safeguard to determine the reasonableness of transactions between IES and Idaho Power. The Commission further finds that it is appropriate to examine Staff's allegations that IES/Idaho Power changed the manner that it purchased term power and billed/priced real-time power purchases. The Staff proposed an adjustment, to which the Company objects. Another disputed issue appears to be whether IES is appropriately

[13] After the record was closed in this case, the Federal Energy Regulatory Commission (FERC) issued an Order on April 27, 2001 concerning the Idaho Power/IES Service Agreement in Docket No. ER01-1329-000. In its Order, FERC approved the use of the Mid-C Index and the Palo Verde Index for day-ahead transactions. The FERC requested further filings for real-time transactions.

compensating Idaho Power for use of the transmission system. Given these disputes, the Commission exercises its discretion to also set these matters for hearing.

In summary, the Commission finds that these issues taken collectively raise sufficient concerns that an evidentiary hearing is required to fully develop the record in this case.

Until the hearing is complete and an order is issued, the Commission finds it necessary to defer recovery of the $51,234,902 in disputed pricing of power purchases. This hearing will also satisfy the concerns of the Industrial Customers of Idaho Power and others, who specifically objected to Modified Procedure and requested that a hearing be scheduled. A Prehearing Conference to set further proceedings will occur on **MAY 10, 2001 AT 10 A.M.** See Notice of Prehearing Conference Section below. To complete a review of these issues, the Commission finds it is appropriate to further suspend portions of the Company's Applications (IPC-E-01-7 and IPC-E-01-11) until such time as the Commission has completed its review of these issues.

B. The Disputed November Transaction

In its comments, Staff identified one transaction which also deserves further investigation by the Commission. For purposes of identification, we shall refer to it as the "November Transaction." An explanation and examination of this issue requires some background information. Idaho Power's parent corporation IDACORP has created a Risk Management Committee which maintains general oversight of energy commodity trading and assessments of financial risk. Staff Comments at 25. The Committee meets regularly to review "the profit and loss reports, exposure reports, strategies and program objectives. Decisions of the Committee are made by a simple majority and recorded in the minutes." *Id.* As described by the Staff, the Committee normally meets to evaluate whether Idaho Power needs to purchase off-system generation or whether it has system generation to sell. Once the Committee makes a decision regarding the purchases or trades, the purchase order is sent to the energy trader at IES "via e-mail and the traders carry out the orders of the [Committee] immediately." *Id.* at 26.

In reviewing the Committee minutes, the Staff focused on a particular Committee event in November 2000. The Staff alleged that the Committee instructed the energy trader to buy power that would be necessary to meet Idaho Power's future system needs in January 2001. Staff claimed that the November buy order of the Committee was not carried out. When a purchase was subsequently made to meet this need, the Staff alleged that the market price of power had substantially increased.

When the Staff inquired about this issue, the Company replied that the Committee minutes do not accurately reflect what happened. According to the Staff, the Company stated that after the Committee discussed making a purchase, it was decided by the Committee that no purchase would be necessary. However, the minutes do not reflect this subsequent discussion or action. Consequently, the Staff recommended that the Company's power purchase expense be reduced by $10,286,154 to reflect the difference between the market price of a timely executed purchase in November 2000 and the subsequent purchase at a higher price. *Id.* at 39.

In its response, the Company calculates the Staff's adjustment to be $7,976,701 million. The difference between the Company's calculation and Staff's calculation was premised upon the Company using Idaho jurisdictional data that would pass through the PCA, whereas the Staff was using multi-state system data. Response at 3-4. Idaho Power responded that this issue "is more of a dispute over appropriate recordkeeping than an error in trading activities." *Id.* at 4. Given the dispute concerning this issue, the Company requested that this matter be immediately set for hearing to determine the appropriateness of Staff's recommended denial.

<u>Commission Findings</u>. The Commission finds that there are considerable concerns regarding the November transaction and that they do not necessarily lend themselves to resolution by the submission of written comments. As is customary of most PCA cases, the Staff and intervenors generally examine the books and records of the Company to determine the validity or reliability of entries. In this instance the Staff has challenged the appropriateness of this action and recommended an adjustment to the PCA request. The Commission believes that it is necessary to conduct an evidentiary hearing in this matter. There is sufficient cause to examine this transaction in greater detail. An evidentiary hearing will afford all parties an opportunity to adequately develop the record so that the Commission can make an informed judgement. Consequently, the Commission will defer recovery of $7,976,701 million and will schedule an evidentiary hearing on this issue. See Notice of Prehearing Conference Section below. To complete our review of this issue, the Commission finds it is appropriate to further suspend portions of the Company's Applications (IPC-E-01-7 and IPC-E-01-11) until such time as the Commission has completed its review of this matter.