

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**  
3 **UM 1129**

4 In the Matter of

5 PUBLIC UTILITY COMMISSION OF  
6 OREGON

APPLICATION OF IDAHO POWER  
COMPANY

7 Staff's Investigation Relating to Electric  
8 Utility Purchases From Qualifying Facilities

9 Idaho Power Company ("Idaho Power" or "Company"), in accordance with the  
10 provisions of OAR 860-013-0010 and Order No. 05-584 issued by the Public Utility  
11 Commission of Oregon ("Commission") on May 13, 2005, hereby requests that the Commission  
12 approve the enclosed standard form contract for the purchase of energy from PURPA qualifying  
13 facilities with nameplate capacity ratings of 10,000 kW or less that do not directly interconnect  
14 with the Company's electric system, but instead desire to deliver the energy they generate over  
15 the electrical transmission facilities of third parties. In support of this Application, Idaho Power  
16 states as follows:

17 **Notices**

18 In accordance with OAR 860-013-0070, Idaho Power waives service by means  
19 other than by electronic mail. Consistent with that waiver, Idaho Power requests that the  
20 following receive notices and communications with respect to this Application:

21 Barton L. Kline  
22 Senior Attorney  
23 Idaho Power Company  
24 P.O. Box 70  
25 Boise, ID 83707-0070  
26 [bkline@idahopower.com](mailto:bkline@idahopower.com)

Randy Allphin  
Contract Administrator  
Power Supply Planning  
Idaho Power Company  
P.O. Box 70  
Boise, ID 83707-0070  
[rallphin@idahopower.com](mailto:rallphin@idahopower.com)

1 Lisa F. Rackner  
2 Ater Wynne LLP  
3 222 S.W. Columbia  
4 Suite 1800  
5 Portland, OR 97201-6618  
6 [lfr@aterwynne.com](mailto:lfr@aterwynne.com)

Karl Bokenkamp  
General Manager  
Power Supply Planning  
Idaho Power Company  
P.O. Box 70  
Boise, ID 83707-0070  
[kbokenkamp@idahopower.com](mailto:kbokenkamp@idahopower.com)

5 Joanne M. Butler  
6 Legal Administrative Assistant  
7 Idaho Power Company  
8 P.O. Box 70  
9 Boise, ID 83707-0070  
10 [jbutler@idahopower.com](mailto:jbutler@idahopower.com)

Michael Youngblood  
Regulatory Affairs Representative  
Pricing & Regulatory Affairs  
Idaho Power Company  
P.O. Box 70  
Boise, ID 83707-0070  
[myoungblood@idahopower.com](mailto:myoungblood@idahopower.com)

### **Procedural History**

11 On July 12, 2005, Idaho Power filed a standard form contract for purchases of  
12 energy from qualifying facilities with a nameplate capacity rating of 10,000 kW or less that were  
13 seeking to interconnect directly with the Company's transmission/distribution system ("on-  
14 system QFs").

15 In Order No. 05-932 issued on August 23, 2005, the Commission allowed the  
16 standard rate contract for on-system QFs to go into effect subject to investigation.

### **Description of Relief Requested**

17 In this Application, Idaho Power is seeking approval of a second standard QF  
18 contract that deals specifically with QF projects seeking to "wheel" power to Idaho Power over  
19 the transmission system of another entity ("off-system QFs"). The enclosed Energy Sales  
20 Agreement addresses off-system QFs situated both inside and outside of Idaho Power's control  
21 area. When off-system QFs are located within Idaho Power's control area, except for very small  
22 QFs, telemetry from the QF to Idaho Power will be required to allow Idaho Power to comply  
23 with its control-area obligations. The telemetry requirement is the same for non-PURPA projects  
24 desiring to interconnect with the Company's system.

1           In the case of off-system QFs located outside Idaho Power’s control area, the  
2 energy is scheduled to Idaho Power by the transmitting entity and there is usually no telemetry  
3 between the QF and Idaho Power.

4           The enclosed Energy Sales Agreement for off-system QFs is substantially similar  
5 to the standard contract for on-system QFs currently in place in accordance with Commission in  
6 Order No. 05-932.

7           For on-system QFs, the WECC Reliability Management System Criteria (Article  
8 XII of the enclosed standard agreement) are included in the Interconnection Process which will  
9 be the subject of a separate investigation proceeding in the future.

10          For off-system QFs, the WECC Reliability Management System requirements are  
11 included in the body of the Energy Sales Agreement to ensure that the appropriate control-area  
12 operator obtains the compliance of the QF with the WECC Reliability Criteria Agreement.

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

1                   WHEREFORE, for the reasons stated above, Idaho Power respectfully requests  
2 that the Commission issue an Order approving the standard contract for off-system QFs  
3 submitted herewith.

4                   DATED this 18<sup>th</sup> day of November, 2005.

5   ATER WYNNE, LLP

6  
7   /s/ Lisa F. Rackner  
8 Lisa F. Rackner  
9 Ater Wynne, LLP  
10 222 SW Columbia, Suite 1800  
11 Portland, OR 97201  
12 Telephone: (503) 226-8693  
13 FAX: (503) 226-0079  
14 E-mail: [lfr@aterwynne.com](mailto:lfr@aterwynne.com)

15   IDAHO POWER COMPANY

16   Barton L. Kline – Attorney  
17 Idaho Power Company  
18 P.O. Box 70  
19 Boise, ID 83707-0070  
20 Telephone: (208) 388-2682  
21 FAX: (208) 388-6936  
22 E-mail: [bkline@idahopower.com](mailto:bkline@idahopower.com)  
23  
24  
25  
26

ENERGY SALES AGREEMENT  
BETWEEN  
IDAHO POWER COMPANY  
AND

---

(Includes Transmission Provisions)

TABLE OF CONTENTS

<u>Article</u>	<u>TITLE</u>
1	Definitions
2	No Reliance on Idaho Power
3	Warranties
4	Conditions to Acceptance of Energy
5	Term and Operation Date
6	Purchase and Sale of Net Energy
7	Purchase Price and Method of Payment
8	Environmental Attributes
9	Transmission Agreement
10	Records
11	Operations
12	Reliability Management System
13	Indemnification and Insurance
14	Force Majeure
15	Liability; Dedication
16	Several Obligations
17	Waiver
18	Choice of Laws and Venue
19	Disputes and Default
20	Governmental Authorization
21	Successors and Assigns
22	Modification
23	Taxes
24	Notices
25	Additional Terms and Conditions
26	Severability
27	Counterparts
28	Entire Agreement Signatures
29	Commission Investigation
	Appendix A
	Appendix B
	Appendix C

ENERGY SALES AGREEMENT  
(10 MW or Less)

\_\_\_\_\_

Project Number: \_\_\_\_\_

THIS AGREEMENT, entered into on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ between \_\_\_\_\_, a \_\_\_\_\_ company (Seller), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

WITNESSETH:

WHEREAS, Seller will design, construct, own, maintain and operate an electric generation facility; and

WHEREAS, Seller wishes to sell, and Idaho Power is willing to purchase, electric energy produced by the Seller's Facility.

THEREFORE, In consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 "Commission" - The Oregon Public Utility Commission.
- 1.2 "Contract Year" - The period commencing each calendar year on the same calendar date as the Operation Date and ending 364 days thereafter.
- 1.3 "Designated Dispatch Facility" - Idaho Power's Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.4 "Facility" - That electric generation facility described in Appendix B of this Agreement.
- 1.5 "First Energy Date" - The day commencing at 0001 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power's system at the Point of Delivery.

- 1.6 “Idaho Power Electrical System Control Area” or “Control Area” – The geographical area of integrated transmission and generation controlled by Idaho Power for which Idaho Power is responsible for scheduling interchanges with other control areas and balancing supply and demand within the area. The Control Area may include physical locations and/or electrical systems not served or owned by Idaho Power, but which are dependant upon Idaho Power’s operation of its generation and transmission to balance supply and demand.
- 1.7 “Losses” – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility’s energy is metered and the point the Facility’s energy is delivered to the Idaho Power electrical system by the Transmitting Entity. The loss calculation formula will be as specified in Appendix B of this Agreement.
- 1.8 “Market Energy Cost” – Eighty-five percent (85%) of the weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.9 “Material Breach” – A Default (paragraph 19.2.1) subject to paragraph 19.2.2.
- 1.10 “Maximum Capacity” - The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.11 “Nameplate Capacity” – The generation capacity (MW) of the Facility as rated by the manufacturer and verified in accordance with paragraph 4.1.2. The Nameplate Capacity may not exceed 10 MW.
- 1.12 “Net Energy” – All of the electric energy produced by the Facility, less Station Use and Losses, expressed in kilowatt hours (kWh), which the Transmitting Entity delivers to Idaho Power, that is less than or equal to the Nameplate Capacity. Seller commits to deliver all energy produced by

- the Facility, less Station Use, and Losses, to the Transmitting Entity for delivery by the Transmitting Entity to Idaho Power at the Point of Delivery for the full term of the Agreement.
- 1.13 “Net Energy Amounts” – Monthly Net Energy amounts that the Seller estimates the Facility will produce and the Transmitting Entity will deliver to Idaho Power at the Point of Delivery. The Seller shall use all available information (equipment characteristics, resource characteristics and data, Facility design, etc) to accurately estimate the monthly Net Energy Amounts. These Net Energy Amounts as specified in paragraph 6.2 will be used to calculate the monthly Shortfall Energy quantities within this Agreement.
- 1.14 “Operation Date” – The day commencing at 0001 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.
- 1.15 “Point of Delivery” – The location specified in Appendix B, where the Transmitting Entity delivers the Facility’s Net Energy to the Idaho Power electrical system.
- 1.16 “Prudent Electrical Practices” – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.17 “Schedule 85” – Idaho Power’s Oregon Tariff No E-25, Schedule 85, dated August 11, 2005 or its successor schedules as approved by the Commission.
- 1.18 “Scheduled Operation Date” – The date specified in Appendix B when Seller anticipates achieving the Operation Date.
- 1.19 “Season” – The three periods identified in Schedule 85.
- 1.20 “Shortfall Energy” – The difference (kWh) between the monthly actual Net Energy delivered to Idaho Power and the Monthly Net Energy Amounts specified in paragraph 6.2 of this Agreement.
- 1.21 “Station Use” – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.
- 1.22 “Surplus Energy” – (1) All Net Energy produced by the Seller’s Facility and delivered by the Transmitting Entity to the Idaho Power electrical system that exceeds the Nameplate Capacity of the Facility but is less than the Maximum Capacity of the Facility or (2) All Net Energy produced

by the Seller's Facility and delivered by the Transmitting Entity to the Idaho Power electrical system prior to the Operation Date and is less than the Maximum Capacity of the Facility.

- 1.23 "Total Cost of the Facility" - The total cost of structures, equipment and appurtenances.
- 1.24 "Transmitting Entity" - The signatory(s) (other than the Seller) to the Transmission Agreement referred to in paragraph 9.1 and its successors and assigns.

## ARTICLE II: NO RELIANCE ON IDAHO POWER

- 2.1 Seller Independent Investigation - Seller warrants and represents to Idaho Power that in entering into this Agreement and the undertaking by Seller of the obligations set forth herein, Seller has investigated and determined that it is capable of performing hereunder and has not relied upon the advice, experience or expertise of Idaho Power in connection with the transactions contemplated by this Agreement.
- 2.2 Seller Independent Experts - All professionals or experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller.

## ARTICLE III: WARRANTIES

- 3.1 No Warranty by Idaho Power - Any review, acceptance or failure to review Seller's design, specifications, equipment or facilities shall not be an endorsement or a confirmation by Idaho Power and Idaho Power makes no warranties, expressed or implied, regarding any aspect of Seller's design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility.
- 3.2 Qualifying Facility Status - Seller warrants that the Facility is a "Qualifying Facility," as that term is used and defined in 18 CFR §292.207. Seller's failure to maintain the Facility and operations of the Facility in a manner consistent with the initial Qualifying Facility certificate will be a Material Breach of this Agreement. Idaho Power reserves the right to review the Seller's

Qualifying Facility status and associated support and compliance documents at anytime during the term of this Agreement.

3.2.1 If Idaho Power's obligation to purchase energy from a "Qualifying Facility," as that term is defined in 18 CFR § 292.207 or ORS 758.505(8), is repealed or otherwise terminated, this Agreement will remain in full force and effect unless state or federal law mandates termination of this Agreement.

3.3 FERC License (*only applies to hydro projects*)- Seller warrants that Seller possesses a valid license or exemption from licensing from the Federal Energy Regulatory Commission ("FERC") for the Facility. Seller recognizes that Seller's possession and retention of a valid FERC license or exemption is a material part of the consideration for Idaho Power's execution of this Agreement. Seller will take such steps as may be required to maintain a valid FERC license or exemption for the Facility during the term of this Agreement, and Seller's failure to maintain a valid FERC license or exemption will be a material breach of this Agreement.

#### ARTICLE IV: CONDITIONS TO ACCEPTANCE OF ENERGY

4.1 Prior to the First Energy Date and as a condition of Idaho Power's acceptance of deliveries of energy from the Seller, Seller shall:

4.1.1 Submit proof to Idaho Power that all licenses, permits or approvals necessary for Seller's operations have been obtained from applicable federal, state or local authorities, including, but not limited to, evidence of compliance with Subpart B, 18 CFR 292.207.

4.1.2 Capacity Determination - Submit to Idaho Power such data as Idaho Power may reasonably require to confirm the manufacturer's Nameplate Capacity rating and the Maximum Capacity rating of the Facility. Such data will include but not be limited to, equipment specifications, power factor assumptions, and any other data that would allow Idaho Power to verify the generating capacity and the manufacturer's nameplate rating of this Facility. Upon receipt of this information, Idaho Power will review the provided data and if necessary, request additional data to complete the verification process within a

reasonable time.

- 4.1.3 Engineer's Certifications - Submit an executed Engineer's Certification of Design & Construction Adequacy and an Engineer's Certification of Operations and Maintenance (O&M) Policy. These certificates will be in the form specified in Appendix C but may be modified to the extent necessary to recognize the different engineering disciplines providing the certificates.
- 4.1.4 Insurance - Submit written proof to Idaho Power of all insurance required in Article XIII.
- 4.1.5 Transmission Agreement - Provide Idaho Power with a copy of (1) the Transmission Agreement executed by the Seller and the Transmitting Entity in a form acceptable to Idaho Power and (2) confirmation that the Idaho Power delivery business unit has agreed to accept the Net Energy deliveries at the Point of Delivery in an amount up to the Maximum Capacity Amount. Idaho Power's acceptance will not be unreasonably withheld.
- 4.1.6 Security Requirements – Provide Idaho Power with commercially reasonable representations and warranties and other documentation to determine the Seller's creditworthiness. Such documentation would include, at a minimum, that the Seller is current on existing debt obligations and has not been a debtor in a bankruptcy preceding within the preceding two years. Upon receipt of this information, Idaho Power will review the provided data and, if necessary, request additional data and/or will provide written confirmation or rejection of the provided data within a reasonable time. In lieu of providing evidence of acceptable creditworthiness, the Seller may provide Idaho Power with commercially reasonable security instruments such as letter of credit, senior lien rights, step-in-rights, escrow accounts or other forms of liquid financial security that would provide readily available cash to Idaho Power in the Event of a Default under this Agreement.
- 4.1.7 Written Acceptance – Request and obtain written confirmation from Idaho Power that all conditions to acceptance of energy have been fulfilled. Such written confirmation shall be

provided within a commercially reasonable time following the Seller's request and will not be unreasonably withheld by Idaho Power.

#### ARTICLE V: TERM AND OPERATION DATE

5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the date first written and shall continue in full force and effect for a period of \_\_\_\_\_ (*not to exceed 20 years*) Contract Years from the Operation Date.

5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:

- a) Achieved the First Energy Date.
- b) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner.
- c) Seller has requested an Operation Date from Idaho Power in a written format.
- d) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 If the Seller fails to achieve the Operation Date within 30 days of the Scheduled Operation Date, Seller will reimburse Idaho Power for any Shortfall Energy Repayment Amount accruing from 30 days following the Scheduled Operation Date until the Seller achieves the Operation Date. Such reimbursement shall be determined in the manner described in paragraph 7.3, 7.4 and 7.5 of this Agreement.

5.4 Seller's failure to achieve the Operation Date within ten (10) months of the Scheduled Operation Date will be an Event of Default.

#### ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 Delivery and Acceptance of Net Energy - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy produced by the Facility and delivered by the Transmitting Entity to Idaho Power at the Point of Delivery.

6.2 Net Energy Amounts - Seller intends to produce and Transmitting Entity shall deliver Net Energy in the following monthly amounts:

6.2.1 Monthly Net Energy Amounts:

	<u>Month</u>	<u>kWh</u>
Season 1	March	XXXXXX
	April	XXXXXX
	May	XXXXXX
Season 2	July	XXXXXX
	August	XXXXXX
	November	XXXXXX
	December	XXXXXX
Season 3	June	XXXXXX
	September	XXXXXX
	October	XXXXXX
	January	XXXXXX
	February	XXXXXX

6.2.2 Seller's Adjustment of Monthly Net Energy Amounts –

6.2.2.1 No later than the Operation Date, by written notice given to Idaho Power in accordance with paragraph 24.1, the Seller may revise all of the previously provided Monthly Net Energy Amounts.

6.2.2.2 At any time, by written notice given to Idaho Power in accordance with paragraph 24.1, Seller may revise all of the previously provided Monthly Net Energy Amounts, beginning with the next calendar year for the remaining term of the agreement.

6.3 Unless excused by an event of Force Majeure, Seller's failure to deliver Net Energy in any Contract Year in an amount equal to at least ten percent (10%) of the sum of the Net Energy Amounts as specified in paragraph 6.2 shall constitute an Event of Default.

ARTICLE VII: PURCHASE PRICE AND METHOD OF PAYMENT

7.1 Net Energy Purchase Price – The Seller has selected option \_\_\_\_\_ from Schedule 85 as the

purchase price for the first 15 Contract Years of this Agreement. For all Net Energy delivered to Idaho Power after the first 15 Contract Years and for the remaining term of this Agreement, the Seller has selected option \_\_\_\_\_ from Schedule 85 as the purchase price. The Seller may not select Option 1, Fixed Price Method, for any Contract Years past the first 15 Contract Years. The Net Energy Purchase Price shall be calculated as specified in Schedule 85 for the option(s) selected by the Seller resulting in an on-peak and off-peak Net Energy Purchase Price which will be applied to the applicable energy deliveries during on-peak and off-peak hours as defined by the North American Electric Reliability Council (NERC).

- 7.2 Surplus Energy Price - For all Surplus Energy, Idaho Power shall pay to the Seller the current month's Schedule 85, Option 1 (Fixed Price Method), Off-peak energy price.
- 7.3 Shortfall Energy Repayment Price – If the current month's Market Energy Cost is greater than the current month's Net Energy Purchase Price, the Shortfall Energy Repayment Price will be determined by subtracting the current month's Market Energy Cost from the current month's Net Energy Purchase Price. If the result of this subtraction is less than 0, then the Shortfall Energy Repayment Price is 0.
- 7.4 Shortfall Energy Repayment Amount – Current month's Shortfall Energy multiplied by the Shortfall Energy Repayment Price.
- 7.5 Shortfall Energy Repayment Schedule – By January 31 of the following calendar year, Idaho Power will accumulate all of the previous year's monthly Shortfall Energy Repayment Amounts. The accumulated Shortfall Energy Repayment Amount will then be offset in equal monthly amounts against the next 36 monthly Net Energy payments to the Seller. An annual interest rate of 7.8% will be applied to the unamortized balance of the accumulated Shortfall Energy Repayment Amount at the end of each month. The Seller may at any time pay Idaho Power the outstanding balance of the accumulated Shortfall Energy Repayment Amount, including any interest that has accumulated.
- 7.6 Payment Due Date – Energy payments to the Seller will be disbursed within 30 days of the date which Idaho Power receives and accepts the documentation of the monthly Net Energy actually

produced by the Seller's Facility and delivered to Idaho Power as specified in Appendix A.

#### ARTICLE VIII: ENVIRONMENTAL ATTRIBUTES

- 8.1 Idaho Power waives any claim to ownership of Environmental Attributes. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) directly associated with the production of energy from the Seller's Facility.

#### ARTICLE IX: TRANSMISSION AGREEMENT

- 9.1 Transmission Agreement - The Seller will arrange and pay for the delivery of Net Energy over the facilities of the Transmitting Entity(s) (XXXXXX) to the Point of Delivery. The delivery of Net Energy from the Facility to the Idaho Power Point of Delivery shall be in accordance with the terms and conditions of a Transmission Agreement between the Seller and the Transmitting Entities.
- 9.2 Acceptance of Transmission Agreement - This Agreement is expressly conditioned and contingent upon Idaho Power's acceptance of the Transmission Agreement. Such acceptance will not be unreasonably withheld. A default by Seller under the Transmission Agreement will be a Material Default under this Agreement.
- 9.3 Losses - Idaho Power will only purchase the Net Energy that is delivered by the Transmitting Entity to Idaho Power at the Point of Delivery. Losses will be calculated as provided in Appendix B of this Agreement.
- 9.4 Required Transmission Agreement provisions for Facilities not located within the Idaho Power Electrical System Control Area –

If the Facility is not located within the Idaho Power Electrical System Control Area, the following requirements must be contained within the Transmission Agreement (s);

- 9.4.1 Scheduling and delivery of Net Energy – The Transmission Agreement shall include provisions that require the Transmitting Entity(s) to schedule and deliver

the Facility's energy to Idaho Power in accordance with industry standard Western Electricity Coordinating Council (WECC) scheduling processes and procedures.

9.4.2 Energy Reserve Requirements – The Transmitting Entity(s) will provide all generation reserves as required by the WECC and/or as required by any other governing agency or industry standard to deliver the Net Energy to the specified Point(s) of Delivery.

9.4.3 Documentation – Seller and/or the Transmitting Entity will provide Idaho Power with monthly documentation in a form acceptable to Idaho Power showing the amount of energy scheduled and delivered to Idaho Power on an hourly bases.

#### ARTICLE X - RECORDS

10.1 Maintenance of Records - Seller shall maintain at the Facility or such other location mutually acceptable to the Parties adequate total generation (kWh), Net Energy, Station Use and maximum generation (kW) records in a form and content recommended by Idaho Power.

10.2 Inspection - Either Party, after reasonable notice to the other Party, shall have the right, during normal business hours, to inspect and audit any or all generation (kWh), Net Energy, Station Use and maximum generation (kW) records pertaining to the Seller's Facility.

#### ARTICLE XI - OPERATIONS

11.1 Communications - Idaho Power, the Transmitting Entity and the Seller shall maintain appropriate operating communications through Idaho Power's Designated Dispatch Facility in accordance with Appendix A of this Agreement.

11.2 Energy Acceptance –Idaho Power shall be excused from accepting and paying for Net Energy produced by the Facility and delivered by the Transmitting Entity on behalf of the Seller to the Point of Delivery, if it is prevented from doing so by an event of Force Majeure, or if Idaho Power determines that curtailment, interruption or reduction of Net

Energy deliveries is necessary because of line construction or maintenance requirements, emergencies, electrical system operating conditions on its system or as otherwise required by Prudent Electrical Practices. If, for reasons other than an event of Force Majeure, Idaho Power requires such a curtailment, interruption or reduction of Net Energy deliveries for a period that exceeds twenty (20) days, beginning with the twenty-first day of such interruption, curtailment or reduction, Seller will be deemed to be delivering Net Energy at a rate equivalent to the pro rata daily average of the amounts specified for the applicable month in paragraph 6.2. Idaho Power will notify Seller when the interruption, curtailment or reduction is terminated.

- 11.3 Scheduled Maintenance – On or before January 31 of each calendar year, Seller shall submit a written proposed maintenance schedule of significant Facility and/or Transmitting Entity maintenance for that calendar year and Idaho Power, Seller and the Transmitting Entity shall mutually agree as to the acceptability of the proposed schedule. The Parties' determination as to the acceptability of the Seller's timetable for scheduled maintenance will take into consideration Prudent Electrical Practices, Idaho Power system requirements and the Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed maintenance schedule.
- 11.4 Maintenance Coordination - The Seller, Idaho Power and the Transmitting Entity shall, to the extent practical, coordinate their respective line and Facility maintenance schedules such that they occur simultaneously.
- 11.5 Contact Prior to Curtailment - Idaho Power will make a reasonable attempt to contact the Seller and/or the Transmitting Entity prior to exercising its rights to curtail, interrupt or reduce deliveries from the Transmitting Entity from the Seller's Facility. Seller and the Transmitting Entity understand that, in the case of emergency circumstances, real time operations of the electrical system, and/or unplanned events Idaho Power may not be able to provide notice to the Seller or the Transmitting Entity prior to interruption, curtailment, or reduction of electrical energy deliveries to Idaho Power.

## ARTICLE XII: RELIABILITY MANAGEMENT SYSTEM

If the Facility is not located within the Idaho Power Electrical System Control Area, the Seller will be required to comply with the Reliability Management processes of the control area operator having control of the specific location of the Facility and this Article XII will not apply. If the Facility is located within the Idaho Power Control Area, the Seller is required to comply with the following:

- 12.1 Purpose. In order to maintain the reliable operation of the transmission grid, the WECC Reliability Criteria Agreement sets forth reliability criteria adopted by the WECC to which Seller and Idaho Power shall be required to comply. Seller acknowledges receipt of and understanding of the WECC Reliability Criteria Agreement and how it pertains to the Seller's Facility.
- 12.2 Compliance. Seller shall comply with the requirements of the WECC Reliability Criteria Agreement, including the applicable WECC reliability criteria set forth in Section IV of Annex A thereof, and, in the event of failure to comply, Seller agrees to be subject to the sanctions applicable to such failure. Such sanctions shall be assessed pursuant to the procedures contained in the WECC Reliability Criteria Agreement. Each and all of the provisions of the WECC Reliability Criteria Agreement are hereby incorporated by reference into this Article 12 as though set forth fully herein, and Seller shall for all purposes be considered a Participant, and shall be entitled to all of the rights and privileges and be subject to all of the obligations of a Participant, under and in connection with the WECC Reliability Criteria Agreement, including, but not limited to the rights, privileges and obligations set forth in Sections 5, 6 and 10 of the WECC Reliability Criteria Agreement.
- 12.3 Payment of Sanctions. Seller shall be responsible for reimbursing Idaho Power for any monetary sanctions assessed against Idaho Power by WECC due to the action or inaction of the Seller, pursuant to the WECC Reliability Criteria Agreement. Seller also shall be responsible for payment of any monetary sanction assessed against the Seller by WECC pursuant to the WECC Reliability Criteria Agreement. Any such payment shall be made pursuant to the procedures specified in the WECC Reliability Criteria Agreement.
- 12.4 Transfer of Control or Sale of Generation Facilities. In any sale or transfer of control of any

generation facilities subject to this Agreement, Seller shall, as a condition of such sale or transfer, require the acquiring party or transferee with respect to the transferred facilities either to assume the obligations of the Seller with respect to this Agreement or to enter into an agreement with Idaho Power imposing on the acquiring party or transferee the same obligations applicable to the Seller pursuant to this Article 12.

- 12.5 Publication. Seller consents to the release by the WECC of information related to the Seller's compliance with this Agreement only in accordance with the WECC Reliability Criteria Agreement.
- 12.6 Third Parties. Except for the rights and obligations between the WECC and the Seller specified in this Article 12, this Agreement creates contractual rights and obligations solely between the Parties. Nothing in this Agreement shall create, as between the Parties or with respect to the WECC: (a) any obligation or liability whatsoever (other than as expressly provided in this Agreement), or (b) any duty or standard of care whatsoever. In addition, nothing in this Agreement shall create any duty, liability or standard of care whatsoever as to any other party. Except for the rights, as a third-party beneficiary under this Article 12, of the WECC against the Seller for the Seller, no third party shall have any rights whatsoever with respect to enforcement of any provision of this Agreement. Idaho Power and the Seller expressly intend that the WECC is a third-party beneficiary to this Article 12, and the WECC shall have the right to seek to enforce against the Seller any provision of this Article 12, provided that specific performance shall be the sole remedy available to the WECC pursuant to Article 12 of this Agreement, and the Seller shall not be liable to the WECC pursuant to this Agreement for damages of any kind whatsoever (other than the payment of sanctions to the WECC, if so construed), whether direct, compensatory, special, indirect, consequential, or punitive.
- 12.7 Reserved Rights. Nothing in the Article 12 of this Agreement or the WECC Reliability Criteria Agreement shall affect the right of Idaho Power, subject to any necessary regulatory approval, to take such other measures to maintain reliability, including disconnection that Idaho Power may otherwise be entitled to take.

12.8 Termination of Article 12. Seller may terminate its obligations pursuant to this Article 12:

12.8.1 If after the effective date of this Article 12, the requirements of the WECC Reliability Criteria Agreement applicable to the Seller are amended so as to adversely affect the Seller, provided that the Seller gives fifteen (15) days' notice of such termination to Idaho Power and WECC within forty-five (45) days of the date of issuance of a FERC order accepting such amendment for filing, provided further that the forty-five (45) day period within which notice of termination is required may be extended by the Seller for an additional forty-five (45) days if the Seller gives written notice to Idaho Power of such requested extension within the initial forty-five (45) day period; or

12.8.2 For any reason on one year's written notice to Idaho Power and the WECC.

### ARTICLE XIII: INDEMNIFICATION AND INSURANCE

13.1 Indemnification - Each Party shall agree to hold harmless and to indemnify the other Party, its officers, directors, agents, affiliates, subsidiaries, parent company and employees against all loss, damage, expense and liability to third persons for injury to or death of person or injury to property, proximately caused by the indemnifying Party's construction, ownership, operation or maintenance of, or by failure of, any of such Party's works or facilities used in connection with this Agreement. The indemnifying Party shall, on the other Party's request, defend any suit asserting a claim covered by this indemnity. The indemnifying Party shall pay all costs, including reasonable attorney fees, that may be incurred by the other Party in enforcing this indemnity.

13.2 Insurance -

13.2.1 If the Facility's Nameplate Capacity as determined in paragraph 1.9 of this Agreement is greater than 200 kW, the Seller shall secure and continuously carry the following insurance coverage:

13.2.1.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit.

The deductible for such insurance shall be consistent with current Insurance

Industry Utility practices for similar property.

13.2.1.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include:

- (a) An endorsement naming Idaho Power as an additional insured and loss payee as applicable; and
- (b) A provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

13.2.1.3 Seller to Provide Certificate of Insurance - As required in paragraph 4.1.4 herein and annually thereafter, Seller shall furnish Idaho Power a certificate of insurance, together with the endorsements required therein, evidencing the coverage as set forth above.

13.2.1.4 Seller to Notify Idaho Power of Loss of Coverage - If the insurance coverage required by paragraph 13.2 shall lapse for any reason, Seller will immediately notify Idaho Power in writing. The notice will advise Idaho Power of the specific reason for the lapse and the steps Seller is taking to reinstate the coverage. Failure to provide this notice and to expeditiously reinstate or replace the coverage will constitute a Material Breach of this Agreement.

#### ARTICLE XIV. FORCE MAJEURE

14.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the control of the Seller or of Idaho Power which, despite the exercise of due diligence, such Party is unable to prevent or overcome. Force Majeure includes, but is not limited to, acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, or changes in law or regulation occurring after the Operation Date, which, by the exercise of reasonable foresight such party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to

overcome. If either Party is rendered wholly or in part unable to perform its obligations under this Agreement because of an event of Force Majeure, both Parties shall be excused from whatever performance is affected by the event of Force Majeure, provided that:

- (1) The non-performing Party shall, as soon as is reasonably possible after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence.
- (2) The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.
- (3) No obligations of either Party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence.

#### ARTICLE XV: LIABILITY; DEDICATION

15.1 Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Idaho Power as an independent public utility corporation or Seller as an independent individual or entity.

#### ARTICLE XVI: SEVERAL OBLIGATIONS

16.1 Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or impose a trust or partnership duty, obligation or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this

Agreement.

ARTICLE XVII: WAIVER

- 17.1 Any waiver at any time by either Party of its rights with respect to a Default under this Agreement or with respect to any other matters arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent Default or other matter.

ARTICLE XVIII: CHOICE OF LAWS AND VENUE

- 18.1 This Agreement shall be construed and interpreted in accordance with the laws of the State of Oregon without reference to its choice of law provisions.
- 18.2 Venue for any litigation arising out of or related to this Agreement will lie in the District Court of the Ninth Judicial District of Oregon in and for the County of Malheur.

ARTICLE XIX: DISPUTES AND DEFAULT

- 19.1 Disputes - All disputes related to or arising under this Agreement, including, but not limited to, the interpretation of the terms and conditions of this Agreement, will be submitted to the Commission for resolution.
- 19.2 Notice of Default -
- 19.2.1 Defaults. If either Party fails to perform any of the terms or conditions of this Agreement (an “Event of Default” or “Default”), the nondefaulting Party shall cause notice in writing to be given to the defaulting Party, specifying the manner in which such Default occurred. If the defaulting Party shall fail to cure such Default within the sixty (60) days after service of such notice, or if the defaulting Party reasonably demonstrates to the other Party that the Default can be cured within a commercially reasonable time but not within such sixty (60) day period and then fails to diligently pursue such cure, then, the nondefaulting Party may, at its option, terminate this Agreement and/or pursue its legal or equitable remedies.

19.2.2 Material Breaches – The notice and cure provisions in paragraph 19.2.1 do not apply to Defaults identified in this Agreement as Material Breaches. Material Breaches must be cured as expeditiously as possible following occurrence of the breach.

19.3 Security for Performance - Prior to the Operation Date and thereafter for the full term of this Agreement, Seller will provide Idaho Power with the following:

19.3.1 Insurance - Evidence of compliance with the provisions of paragraph 13.2. If Seller fails to comply, such failure will be a Material Breach and may only be cured by Seller supplying evidence that the required insurance coverage has been replaced or reinstated;

19.3.2 Engineer's Certifications - Every three (3) years after the Operation Date, Seller will supply Idaho Power with a Certification of Ongoing Operations and Maintenance (O & M) from a Registered Professional Engineer licensed in the State of Oregon, which Certification of Ongoing O & M shall be in the form specified in Appendix C. Seller's failure to supply the required certificate will be an Event of Default. Such a Default may only be cured by Seller providing the required certificate; and

19.3.3 Licenses and Permits - During the full term of this Agreement, Seller shall maintain compliance with all permits and licenses described in paragraph 4.1.1 of this Agreement. In addition, Seller will supply Idaho Power with copies of any new or additional permits or licenses. At least every fifth Contract Year, Seller will update the documentation described in paragraph 4.1.1. If at any time Seller fails to maintain compliance with the permits and licenses described in paragraph 4.1.1 or to provide the documentation required by this paragraph, such failure will be an Event of Default and may only be cured by Seller submitting to Idaho Power evidence of compliance from the permitting agency.

19.3.4 Security Requirements – During the full term of this Agreement, Seller shall maintain the Security Requirements established in accordance to paragraph 4.1.6. Failure to maintain these Security Requirements will be a Material Breach of this Agreement.

## ARTICLE XX: GOVERNMENTAL AUTHORIZATION

This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party of this Agreement.

## ARTICLE XXI: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto, except that no assignment hereof by either Party shall become effective without the written consent of both Parties being first obtained. Such consent shall not be unreasonably withheld. Notwithstanding the foregoing, any party which Idaho Power may consolidate, or into which it may merge, or to which it may convey or transfer substantially all of its electric utility assets, shall automatically, without further act, and without need of consent or approval by the Seller, succeed to all of Idaho Power's rights, obligations and interests under this Agreement. This article shall not prevent a financing entity with recorded or secured rights from exercising all rights and remedies available to it under law or contract. Idaho Power shall have the right to be notified by the financing entity that it is exercising such rights or remedies.

## ARTICLE XXII: MODIFICATION

No modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.

## ARTICLE XXIII: TAXES

Each Party shall pay before delinquency all taxes and other governmental charges which, if failed to be paid when due, could result in a lien upon the Facility or the Interconnection Facilities.

## ARTICLE XXIV: NOTICES

All written notices under this agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Seller: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To Idaho Power:

Original document to:

Vice President, Power Supply  
Idaho Power Company  
P. O. Box 70  
Boise, Idaho 83707

Copy of document to:

Cogeneration and Small Power Production  
Idaho Power Company  
P. O. Box 70  
Boise, Idaho 83707

ARTICLE XXV: ADDITIONAL TERMS AND CONDITIONS

This Agreement includes the following appendices, which are attached hereto and included by reference:

Appendix A	-	Generation Scheduling and Reporting
Appendix B	-	Facility and Point of Delivery
Appendix C	-	Engineer's Certifications

ARTICLE XXVI: SEVERABILITY

The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other terms or provisions and this Agreement shall be construed in all other respects as if the invalid or unenforceable term or provision were omitted.

ARTICLE XXVII: COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE XXVIII: ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement of the Parties concerning the subject matter hereof and supersedes all prior or contemporaneous oral or written agreements between the Parties concerning the subject matter hereof.

ARTICLE XXIX: COMMISSION INVESTIGATION

The Seller and Idaho Power acknowledge that the rates, terms and conditions specified in this Agreement and the related tariffs are being investigated by the Oregon Public Utility Commission. Upon a decision by the Oregon Public Utility Commission in the investigation, Idaho Power will notify the Seller within ten (10) calendar days. The Seller shall have thirty (30) calendar days from the effective date of the revised standard contract and tariffs complying with the Commission’s order to amend this Agreement if the Seller so chooses to adopt the revised standard contract and/or the revised rates, terms and conditions in the tariff approved by the Oregon Public Utility Commission as a result of the investigation.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:

Idaho Power Company \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

Dated \_\_\_\_\_

Dated \_\_\_\_\_

“Idaho Power”

“Seller”

APPENDIX A

A –1 MONTHLY POWER PRODUCTION AND SWITCHING REPORT FOR PROJECTS  
LOCATED WITHIN THE IDAHO POWER ELECTRICAL SYSTEM CONTROL AREA

At the end of each month, the following required documentation will be submitted to:

Idaho Power Company  
Attn: Cogeneration and Small Power Production  
P. O. Box 70  
Boise, Idaho 83707

The Meter readings required on this report will be the reading on the Meter Equipment measuring the Facility's Net Energy delivered by the Transmitting Entity to the Idaho Power electrical system and/or any other required energy measurements to adequately administer this Agreement. If the Metering Equipment is not located at the point which is able to measure the exact energy deliveries to the Idaho Power electrical system, then the metered energy amounts will be adjusted to account for electrical Losses occurring between the metering point and the point which the energy is delivered to the Idaho Power electrical system.

**Idaho Power Company**

**Cogeneration and Small Power Production**

**MONTHLY POWER PRODUCTION AND SWITCHING REPORT**

Month \_\_\_\_\_ Year \_\_\_\_\_

Project Name \_\_\_\_\_ Project Number: \_\_\_\_\_  
 Address \_\_\_\_\_ Phone Number: \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

	<u>Facility Output</u>	<u>Station Usage</u>	<u>Station Usage</u>	<u>Metered Maximum Generation</u>
Meter Number:	_____	_____	_____	kW
End of Month kWh Meter Reading:	_____	_____	_____	
Beginning of Month kWh Meter:	_____	_____	_____	
Difference:	_____	_____	_____	<u>Net Generation</u>
Times Meter Constant:	_____	_____	_____	
kWh for the Month:	_____	-	_____	
Metered Demand:	_____	_____	_____	_____

**Breaker Opening Record**

<u>Date</u>	<u>Time</u>	<u>Meter</u>

<u>* Reason</u>

**Breaker Closing Record**

<u>Date</u>	<u>Time</u>	<u>Meter</u>

- \* **Breaker Opening Reason Codes**
- 1 Lack of Adequate Prime Mover
  - 2 Forced Outage of Facility
  - 3 Disturbance of IPCo System
  - 4 Scheduled Maintenance
  - 5 Testing of Protection Systems
  - 6 Cause Unknown
  - 7 Other (Explain)

**I hereby certify that the above meter readings are true and correct as of Midnight on the last day of the above month and that the switching record is accurate and complete as required by the Energy Sales Agreement to which I am a Party.**

\_\_\_\_\_  
Signature Date

A-2 ROUTINE REPORTING FOR PROJECTS WITHIN THE IDAHO POWER ELECTRICAL SYSTEM CONTROL AREA.

Idaho Power Designated Dispatch Facility contact information

Daily Energy Production Reporting

All projects with a Nameplate Capacity of 1 MW or greater shall:

Call daily by 10 a.m., 1-800-356-4328 or 1-800-635-1093 and leave the following information:

- Project Identification - Project Name and Project Number
- Current Meter Reading
- Estimated Generation for the current day
- Estimated Generation for the next day

If Idaho Power determines that adequate generation data is available for this Facility's daily generation, Idaho Power may modify these reporting requirements

Planned and Unplanned Project outages

Call 1-800-345-1319 and leave the following information:

- Project Identification - Project Name and Project Number
- Approximate time outage occurred
- Estimated day and time of project coming back online

Seller's Contact Information

24-Hour Project Operational Contact

Name: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Cell Phone: \_\_\_\_\_

Project On-site Contact information

Telephone Number: \_\_\_\_\_

A-3 MONTHLY POWER PRODUCTION AND SWITCHING REPORT FOR PROJECTS  
LOCATED OUTSIDE OF THE IDAHO POWER ELECTRICAL SYSTEM CONTROL AREA.

- a.) The Transmitting Entity will schedule and deliver the Facility's Net Energy to the Idaho Power electrical system at the Point of Delivery in accordance with the electrical industry standard WECC scheduling and delivery processes. As specified in paragraph 9.4.3 the Seller and/or the Transmitting Entity shall provide Idaho Power with monthly documentation indicating the hourly energy scheduled and delivered to Idaho Power. This documentation will be reconciled with Idaho Power records of energy scheduled and received from this Facility. In the event a discrepancy exists between the Idaho Power records and the Seller / Transmitting Entity documents, Idaho Power records will be considered to be accurate until such time as Idaho Power, the Seller and the Transmitting Entity mutually agree on an adjustment to the Idaho Power records.
- b.) The Seller shall submit to Idaho Power a Monthly Power Production And Switching Report as specified in Appendix A-1 of this Agreement. The meter readings on this report shall be the meter readings at the actual Facility measuring the actual energy deliveries to Transmitting Entity at the Facility.

A-4 ROUTINE REPORTING FOR PROJECTS OUTSIDE OF THE IDAHO POWER  
ELECTRICAL SYSTEM CONTROL AREA.

The Seller and Transmitting Entity shall maintain appropriate communications with the Idaho Power Designed Dispatch Facility in compliance with electric industry standard WECC energy scheduling processes and procedures.

APPENDIX B

FACILITY AND POINT OF DELIVERY

PROJECT NO. \_\_\_\_\_

\_\_\_\_\_

B-1 DESCRIPTION OF FACILITY

---

---

B-2 LOCATION OF FACILITY

---

---

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected \_\_\_\_\_ as the estimated Scheduled First Energy Date.

Seller has selected \_\_\_\_\_ as the estimated Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date.

B-4 MAXIMUM CAPACITY AMOUNT:

This value will be \_\_\_\_\_ MW. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho Power electrical system at any moment in time and will be consistent with the designed capacity of the Facility.

B-5 POINT OF DELIVERY

\_\_\_\_\_ at the point on the Idaho Power electrical system where the Sellers Facility's Net energy is delivered by the Transmitting Entity to the Idaho Power electrical system.

B-6 LOSSES

- a. For Facilities within the Idaho Power Electrical System Control area - If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Transmitting Entity on behalf of the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Transmitting Entity on behalf of the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller's Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power will configure a revised loss calculation formula to be agreed to by both parties and used to calculate the kWh Losses for the remaining term of the Agreement. If at anytime during the term of this Agreement, Idaho Power determines that the loss calculation does not correctly reflect the actual kWh losses attributed to the electrical equipment between the Facility and the Idaho Power electrical system, Idaho Power may adjust the calculation and retroactively adjust the previous months kWh loss calculations.
- b. For Facilities outside of the Idaho Power Electrical Control area - Idaho Power will only pay for Net Energy that is scheduled and delivered by the Transmitting Entity to the Point of Delivery. All energy Losses between the Facility and the Point of Delivery will be borne by either the Transmitting Entity or the Seller.

## B-7 INTERCONNECTION FACILITIES

The Seller and Transmitting Entity shall construct, operate and maintain the Facility and all interconnection and protection equipment in accordance with Prudent Electrical Practices, the National Electric Safety Code and any other applicable local, state and federal codes

## B-8 METERING AND TELEMETRY

- a. For Facilities located within the Idaho Power Electrical System Control Area

Metering Equipment - At the minimum the Metering Equipment and Telemetry equipment must be able to provide and record hourly energy deliveries by the Transmitting Entity to the Point of Delivery and any other energy measurements required to administer this Agreement.

Telemetry Equipment - At the minimum the Telemetry Equipment must be able to provide Idaho Power with continuous instantaneous telemetry of the Facility's energy deliveries to the Transmitting Entity. The Seller will arrange for and make available at Seller's cost, a communications circuit acceptable to Idaho Power, dedicated to Idaho Power's use to be used for load profiling and another communications circuit dedicated to Idaho Power's communication equipment for continuous telemetering of the Facility's energy deliveries to the Transmitting Entity to Idaho Power's Designated Dispatch Facility.

All costs including but not limited to actual equipment, installation, engineering, monthly communication circuit fees, operations and maintenance will be the responsibility of the Seller.

*Exact details of the Metering and Telemetry equipment and specifications will need to be added to this appendix once more information becomes available in regards to the physical and electrical configuration at this site and the configuration of the interconnection at the Point of Delivery.*

b. For Facilities located outside of the Idaho Power Electrical System Control Area

Metering Equipment - At the minimum the Metering Equipment must be able to provide and record hourly energy deliveries by the Facility to the Transmitting Entity and any other energy measurements required to administer this Agreement.

Telemetry Equipment – If Telemetry Equipment is required by the Transmitting Entity and the Transmitting Entity and Idaho Power determine that it is required that Idaho Power have access to the automated data. The Seller shall be responsible for all costs associated with providing the automated telemetry data to Idaho Power.

*Exact details of the Metering and Telemetry equipment and specifications will need to be added to this appendix once more information becomes available in regards to the physical and electrical configuration at this site and the configuration of the interconnection at the Point of Delivery.*

APPENDIX C

ENGINEER'S CERTIFICATION

OF

OPERATIONS & MAINTENANCE POLICY

The undersigned \_\_\_\_\_, on behalf of himself and \_\_\_\_\_, hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Oregon.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and \_\_\_\_\_ as Seller, dated \_\_\_\_\_.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. \_\_\_\_\_ and is hereinafter referred to as the "Project."
4. That the Project, which is commonly known as the \_\_\_\_\_, is located in Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_, \_\_\_\_\_ County, \_\_\_\_\_.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for period of \_\_\_\_\_ years.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has reviewed and/or supervised the review of the Policy for Operation and Maintenance ("O&M") for this Project and it is his professional opinion that, provided said Project has been designed and built to appropriate standards, adherence to said O&M Policy will result in the

Project's producing at or near the design electrical output, efficiency and plant factor for a period of \_\_\_\_\_years.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By \_\_\_\_\_

(P.E. Stamp)

Date \_\_\_\_\_

APPENDIX C  
ENGINEER'S CERTIFICATION  
OF  
ONGOING OPERATIONS AND MAINTENANCE

The undersigned \_\_\_\_\_, on behalf of himself and \_\_\_\_\_ hereinafter collectively referred to as "Engineer," hereby states and certifies to the Seller as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Oregon.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement," between Idaho Power as Buyer, and \_\_\_\_\_ as Seller, dated \_\_\_\_\_.
3. That the cogeneration or small power production project which is the subject of the Agreement and this Statement is identified as IPCo Facility No. \_\_\_\_\_ and hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the \_\_\_\_\_, is located at \_\_\_\_\_.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a period of \_\_\_\_\_ years.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project.
8. That Engineer has made a physical inspection of said Project, its operations and maintenance records since the last previous certified inspection. It is Engineer's professional opinion, based on the Project's appearance, that its ongoing O&M has been substantially in accordance with said O&M Policy; that it is in reasonably good operating condition; and that if adherence to said O&M Policy continues, the Project will continue producing at or near its design electrical output, efficiency and plant factor for the remaining \_\_\_\_\_ years of the Agreement.

9. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, is relying on Engineer's representations and opinions contained in this Statement.

10. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By \_\_\_\_\_

(P.E. Stamp)

Date \_\_\_\_\_

APPENDIX C  
ENGINEER'S CERTIFICATION  
OF  
DESIGN & CONSTRUCTION ADEQUACY

The undersigned \_\_\_\_\_, on behalf of himself and \_\_\_\_\_, hereinafter collectively referred to as "Engineer", hereby states and certifies to Idaho Power as follows:

1. That Engineer is a Licensed Professional Engineer in good standing in the State of Oregon.
2. That Engineer has reviewed the Energy Sales Agreement, hereinafter "Agreement", between Idaho Power as Buyer, and \_\_\_\_\_ as Seller, dated \_\_\_\_\_, \_\_\_\_\_.
3. That the cogeneration or small power production project, which is the subject of the Agreement and this Statement, is identified as IPCo Facility No \_\_\_\_\_ and is hereinafter referred to as the "Project".
4. That the Project, which is commonly known as the \_\_\_\_\_ Project, is located in Section \_\_\_\_\_ Township \_\_\_\_\_, Range \_\_\_\_\_, \_\_\_\_\_ County, \_\_\_\_\_.
5. That Engineer recognizes that the Agreement provides for the Project to furnish electrical energy to Idaho Power for a \_\_\_\_\_ (\_\_\_\_) year period.
6. That Engineer has substantial experience in the design, construction and operation of electric power plants of the same type as this Project.
7. That Engineer has no economic relationship to the Design Engineer of this Project and has made the analysis of the plans and specifications independently.
8. That Engineer has reviewed the engineering design and construction of the Project, including the civil work, electrical work, generating equipment, prime mover conveyance system, Seller furnished Interconnection Facilities and other Project facilities and equipment.

9. That the Project has been constructed in accordance with said plans and specifications, all applicable codes and consistent with Prudent Electrical Practices as that term is described in the Agreement.

10. That the design and construction of the Project is such that with reasonable and prudent operation and maintenance practices by Seller, the Project is capable of performing in accordance with the terms of the Agreement and with Prudent Electrical Practices for a \_\_\_\_\_ (\_\_\_\_\_) year period.

11. That Engineer recognizes that Idaho Power, in accordance with paragraph 5.2 of the Agreement, in interconnecting the Project with its system, is relying on Engineer's representations and opinions contained in this Statement.

12. That Engineer certifies that the above statements are complete, true and accurate to the best of his knowledge and therefore sets his hand and seal below.

By \_\_\_\_\_  
(P.E. Stamp)

Date \_\_\_\_\_

**CERTIFICATE OF SERVICE**  
**UM 1129**

I hereby certify that a true and correct copy of **IDAHO POWER'S APPLICATION** was served via U.S. Mail on the following parties on November 18, 2005:

MARK ALBERT  
VULCAN POWER COMPANY  
1183 NW WALL ST STE G  
BEND OR 97701

RANDY ALLPHIN  
IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707-0070

MICK BARANKO  
DOUGLAS COUNTY FOREST PRODUCTS  
PO BOX 848  
WINCHESTER OR 97495

R THOMAS BEACH  
CROSSBORDER ENERGY  
2560 NINTH ST, STE 316  
BERKELEY CA 94710

LAURA BEANE  
PACIFICORP  
825 MULTNOMAH STE 800  
PORTLAND OR 97232-2153

KARL BOKENKAMP  
IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707-0070

LOWREY R BROWN  
CITIZENS' UTILITY BOARD OF OREGON  
610 SW BROADWAY, SUITE 308  
PORTLAND OR 97205

JOANNE M BUTLER  
IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707-0070

BRIAN COLE  
SYMBIOTICS, LLC  
PO BOX 1088  
BAKER CITY OR 97814

BRUCE CRAIG  
ASCENERGY CORP  
440 BENMAR DR STE 2230  
HOUSTON TX 77060

RANDY CROCKET  
D.R. JOHNSON LUMBER COMPANY  
PO BOX 66  
RIDDLE OR 97469

CHRIS CROWLEY  
COLUMBIA ENERGY PARTNERS  
100 E 19TH STE 400  
LA CENTER WA 98629

DATA REQUEST RESPONSE CENTER  
PACIFICORP  
825 NE MULTNOMAH, SUITE 800  
PORTLAND OR 97232

CAREL DE WINKEL  
OREGON DEPARTMENT OF ENERGY  
625 MARION STREET NE  
SALEM OR 97301

CRAIG DEHART  
MIDDLEFORK IRRIGATION DISTRICT  
PO BOX 291  
PARKDALE OR 97041

ELIZABETH DICKSON  
HURLEY, LYNCH & RE, PC  
747 SW MILL VIEW WAY  
BEND OR 97702

JASON EISDORFER  
CITIZENS' UTILITY BOARD OF OREGON  
610 SW BROADWAY STE 308  
PORTLAND OR 97205

JOHN M ERIKSSON  
STOEL RIVES LLP  
900 SW FIFTH AVENUE, SUITE 2600  
PORTLAND OR 97204-1268

RANDALL J FALKENBERG  
RFI CONSULTING INC  
PMB 362  
8351 ROSWELL RD  
ATLANTA GA 30350

JAMES F FELL  
STOEL RIVES LLP  
900 SW 5TH AVE STE 2600  
PORTLAND OR 97204-1268

JOHN R GALE  
IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707-0070

J RICHARD GEORGE  
PORTLAND GENERAL ELECTRIC COMPANY  
121 SW SALMON ST  
PORTLAND OR 97204

THOMAS M GRIM  
CABLE HUSTON BENEDICT ET AL  
1001 SW FIFTH AVE STE 2000  
PORTLAND OR 97204-1136

DAVID HAWK  
J R SIMPLOT COMPANY  
PO BOX 27  
BOISE ID 83707

STEVEN C JOHNSON  
CENTRAL OREGON IRRIGATION DISTRICT  
2598 NORTH HIGHWAY 97  
REDMOND OR 97756

BARTON L KLINE  
IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707-0070

ALAN MEYER  
WEYERHAEUSER COMPANY  
698 12TH STREET, SUITE 220  
SALEM OR 97301-4010

MONICA B MOEN  
IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707-0070

THOMAS H NELSON  
THOMAS H NELSON & ASSOCIATES  
825 NE MULTNOMAH STE 925  
PORTLAND OR 97232

JANET L PREWITT  
DEPARTMENT OF JUSTICE  
1162 COURT ST NE  
SALEM OR 97301-4096

PGE-OPUC FILINGS RATES & REGULATORY  
AFFAIRS  
PORTLAND GENERAL ELECTRIC COMPANY  
121 SW SALMON STREET, 1WTC0702  
PORTLAND OR 97204

ATER WYNNE LLP

  
Jessica A. Gorham