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DIGITAL POWER CORP
Form 10KSB/A
June 29, 2005

U.S. SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-KSB/A-1

(Mark One)

ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934 For the fiscal year ended December 31,
2004

Commission File Number 1-12711

DIGITAL POWER CORPORATION
(Name of small business issuer in its charter)

California 3679 94-1721931

(State or other jurisdiction of (Primary Standard Industrial (I.R.S. Employer
Incorporation or organization) Classification Code) Identification No.)

41920 Christy Street, Fremont, California 94538-3158

(Address of principal executive offices)

510-657-2635

(Issuer's Telephone Number)

Securities registered under Section 12(b) of the Exchange Act:

| Title of Each Class ----- | Name of Each Exchange on Which Registered ----- |
|------------------------------|--|
| Common Stock | American Stock Exchange |

Securities registered under Section 12(g) of the Exchange Act:

Title of Each Class

None

Check whether the registrant (1) filed all reports required to be filed by
Section 13 or 15(d) of the Securities Exchange Act, during the past 12 months
(or for such shorter period that the registrant was required to file such
reports), and (2) has been subject to such filing requirements for the past 90
days. Yes No

Check if there is no disclosure of delinquent filers in response to Item 405 of
Regulation S-B is not contained in this form, and no disclosure will be
contained, to the best of registrant's knowledge, in definitive proxy or
information statements incorporated by reference in Part III of this Form 10-KSB
or any amendment to this Form 10-KSB.

Revenues for the year ended December 31, 2004, were \$8,713,000.

As of May 31, 2005, the aggregate market value of the voting common stock held
by non-affiliates was approximately \$2,166,511 based on the closing price of
\$0.65 per share.

As of May 31, 2005, the number of shares of common stock outstanding was
6,161,859.

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Transitional Small Business Disclosure Format (check one): Yes [] No [X]

PART III

ITEM 9. DIRECTORS, EXECUTIVE OFFICERS, PROMOTERS AND CONTROL PERSONS; COMPLIANCE WITH SECTION 16 EXCHANGE ACT.

| Name | Position | Age | Pe |
|------------------|--|-----|--------|
| Jonathan Wax | Chief Executive Officer and President | 48 | 2004 - |
| Ben-Zion Diamant | Chairman of the Board | 55 | 2001 - |
| David Amitai | Director | 63 | 2001 - |
| Amos Kohn | Director | 45 | 2003 - |
| Yeheskel Manea | Director | 61 | 2002 - |
| Youval Menipaz | Director | 55 | 2002 - |
| Leo Yen | Chief Financial Officer and Secretary | 35 | 2004 - |
| Robert O. Smith | Former Interim Chief Executive Officer | 60 | 2000 - |

Directors

The following is a brief description of the business background of the Company's Directors:

Ben-Zion Diamant Director since 2001

Mr. Ben-Zion Diamant has been the Chairman of the Board of the Company since November 2001. He has also been Chairman of the Board of Telkoor Power Ltd. since 1994. From 1992-1994, Mr. Diamant was a partner and business development manager of Phascom. From 1989 to 1992, Mr. Diamant was a partner and manager of Rotel Communication. He earned his BA in Political Science from Bar-Ilan University.

David Amitai Director since 2001

Mr. David Amitai has been a Director of the Company since 2001. From November 2003 to March 2004, he served as our Executive CEO. He served as our President and CEO of the Company from November 2001 to November 2003. Mr. Amitai also serves as the General Manager of Telkoor Power Ltd.(1) and its subsidiary, Telkoor Power Supplies, since 1994. Mr. Amitai was the founder and General Manager of Tadiran's Microelectronics Division from 1978 to 1989 and was

elevated to Director of Material and Logistics of Tadiran's Military Group where he served from 1989 to 1994. Mr. Amitai held positions in engineering and manufacturing at the California base semiconductor companies: Monolithic

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Memories (MMI) and Fairchild Semiconductor. Mr. Amitai earned his engineering degree from California State University at San Jose, California.

(1) Currently, there is a dispute among certain members of Telkoor Power Ltd.'s Board of Directors as to Mr. Amitai's title for his position held at Telkoor Power Ltd.

Amos Kohn

Director since 2003

Mr. Amos Kohn became a Director of the Company in 2003. Mr. Kohn is the Vice President of Network Modeling of ICTV Inc., a High Tech company located in Los Gatos, California, which is developing a centralized software platform that enables cable operators to deliver revenue-generating new services with full multimedia and real-time interactivity to any digital set-top. In year 2003, Mr. Kohn was Vice President of System Engineering & Business Development of AVIVA Communications, Inc., a High Tech company located in Cupertino, California, which is developing a transport solution for Video On Demand systems. From 2000 to 2003, Mr. Kohn was the Chief Architect of Liberate Technologies, a software company specializing in telecommunications located in San Carlos, California. From 1997 to 2000, Mr. Kohn was the Vice President of Engineering & Technology for Golden Channel, the largest Cable Operator (MSO) in Israel. Mr. Kohn holds a Bachelors of Science in Electronics from ORT Technological College, Israel.

Yehekel Manea

Director since 2002

Mr. Yehekel Manea has served as a Director of the Company since 2002. Since 1996, he has been a Branch Manager of Bank Hapoalim, one of the leading banks in Israel. Mr. Manea has been employed with Bank Hapoalim since 1972. He holds a Bachelors of Science in Economy and Business Administration from Ferris College, University of Michigan.

Youval Menipaz

Director since 2002

Mr. Youval Menipaz has served as a Director of the Company since 2002. Mr. Menipaz has been the Managing Director of Foriland Investments since 2000, a privately owned company that invests in and manages several companies. Since 1977, he has held several executive positions in leading companies within the Israeli market. Among others, he served as the Operation Manager of Osem Industries Ltd, Vice President of Elite Industries Ltd, President of Supershuk Greenberg Ltd. Mr. Menipaz holds a Bachelors of Science in Industrial Engineering from the Technion, the Israeli Institute of Technology.

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Family Relationships

Mr. Manea's daughter is married to Mr. Diamont's son. Mr. Menipaz is the son of Mr. Amitai's cousin. There are no other family relationships between any of the officers or directors.

Audit Committee Financial Expert

The Board of Directors determined that Mr. Manea is qualified as an Audit Committee Financial Expert. Mr. Manea is independent as determined by the AMEX listing standards.

Audit Committee

The Board of Directors of the Company has an Audit Committee. The members of the Audit Committee in 2004 were Messrs. Mark Thum, Amos Kohn, Yehekel Manea and Youval Menipaz. The current members of the Audit Committee are: Messrs.

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Kohn, Manea and Menipaz. All Audit Committee members are independent directors.

Executive Officers

The following is a brief description of the business background of the Company's officers:

The biography of Mr. Diamant can be found above under Directors.

Jonathan Wax

Officer since 2004

Mr. Jonathan Wax became our CEO and President in January 2004. Mr. Wax held Vice President positions with Artesyn Technologies, Inc. and was stationed both domestically and in the Far East, in addition to holding a wide variety of sales positions, including global account responsibilities with some of Artesyn Technologies, Inc.'s largest accounts. From 1994 to 1998, prior to the merger with Zytec and Computer Products, which formed Artesyn Technologies, Inc., Mr. Wax was Vice President of Customer Support and Quality for Computer Products. Mr. Wax holds a Bachelor's degree in Business from the University of Nebraska.

Leo Yen

Mr. Leo Yen became our Chief Financial Officer in January 2005. Mr. Yen is the President of Sagent Management, a financial, accounting and tax consulting firm. From 2002 to 2004, Mr. Yen founded and managed Crystal Compass, which was acquired by Sagent Management in 2004. From 1999 to 2002, he was a Senior Associate with Pricewaterhousecoopers LLP and from 1997 to 1999, he was a Senior Tax Consultant with Ernst & Young LLP. Mr. Yen holds a BS in Finance, Real Estate and Law and a BS in Accounting from California State Polytechnic University Pomona.

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Robert O. Smith

Officer from 1989-2001, 2003 to 2004

Mr. Robert O. Smith served as the Company's interim Chief Executive Officer from November 2003 to January 2004. Currently, Mr. Smith returned as an employee of the Company in April 2005 for Strategic Business Planning. Mr. Smith has been a Director of Castelle (NASDAQ: CSTL) since 2004. Mr. Smith served as a Director of the Company from 1989 to 2002. Since 2001, he has served as a consultant to the Company. Mr. Smith served as Chief Executive Officer from 1989 to 2001, President from 1996 to 2001 and Chairman of the Board from 1999 to 2001. From 1980 to 1989, he served as Vice President/Group Controller of Power Conversion Group, General Manager of Compower Division, and President of Boschert, a subsidiary of Computer Products, Inc., a manufacturer of power conversion products and industrial automation systems. Mr. Smith received his B.S. in Business Administration from Ohio University and has completed course work at the M.B.A. program at Kent State University.

SECTION 16 TRANSACTIONS

Section 16(a) of the Exchange Act requires our executive officers and directors to file reports of ownership and changes in ownership of our common stock with the SEC. Executive officers and directors are required by SEC regulations to furnish us with copies of all Section 16(a) forms they file. Based solely upon a review of Forms 3, 4 and 5 delivered to the Securities and Exchange Commission ("Commission") during fiscal year 2002, all current directors and officers of the Company timely filed all required reports pursuant to Section 16(a) of the Securities Exchange Act of 1934.

Code of Ethics

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We have adopted a code of ethics that applies to our principal executive officer, principal financial officer, principal accounting officer, controller and other persons performing similar functions. A copy of our code of ethics can be found on our website at <http://www.digipwr.com/CodeofEthics.doc>. The Company will report any amendment or wavier to the code of ethics on our website within five (5) days.

ITEM 10. EXECUTIVE COMPENSATION.

EXECUTIVE COMPENSATION AND OTHER TRANSACTIONS

This table lists the aggregate compensation paid in the past three years for all services of the Chief Executive Officer and other persons who earned over \$100,000 during the last fiscal year.

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| SUMMARY COMPENSATION TABLE | | | | | |
|---|------|---------------------|--------------------------------------|--------------------------------------|--|
| Name and Principal Position | Year | Annual Compensation | | Awards | |
| | | Salary (\$) | Other Annual Compensation (\$) | Restricted Stock Award(s) (\$) | Securities Underlying Options (#) |
| Jonathan Wax, Chief Executive Officer | 2004 | \$153,066 | \$12,541 | \$0 | \$0 |
| Robert O. Smith, Strategic Business Planning, Former Consultant and President and CEO | 2004 | \$ 0 | \$100,000 | \$0 | 0 |
| | 2003 | \$ 0 | \$100,000 | \$0 | 0((1)) |
| | 2002 | \$ 0 | \$100,000 | \$0 | 100,000((1)) |

(1) Pursuant to Mr. Smith's consulting agreement, he was entitled to receive options to purchase 100,000 shares at \$3.00 per share on the first business day of the year in 2002, 2003 and 2004. On January 16, 2004, the Company and Mr. Smith agreed to cancel the options to purchase 100,000 common shares at \$3.00 per share that were granted on January 2002, and 100,000 common shares at \$3.00 per share that were granted on January 2004, which the Company was obligated to grant under the Termination and Consulting Agreement. In lieu thereof, Mr. Smith was granted options to purchase 100,000 shares at \$1.16 per share.

Options Granted in Last Fiscal Year

Individual Grants

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| Name | Number of Securities Underlying Options Granted | Percent of Total Employees in Fiscal Year | Options Granted to Exercise Base Price (\$/share) | Expiration Date |
|-----------------|---|---|---|-----------------|
| Jonathan Wax | 150,000 | 39.6% | \$0.99 | 1/20 |
| Robert O. Smith | 100,000 | 26.4% | \$1.16 | 1/20 |

Aggregated Option Exercises in Last Fiscal Year and Fiscal Year-End Option Values

The following table sets forth executive officer options exercised and option values for fiscal year ended December 31, 2004, for all executive officers at the end of the year.

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| Name | Shares Acquired or Exercised | Value Realized | Number of Options at December 31, 2004 (Exercisable/Unexercisable) | Value of Options at December 31, 2004 (Exercisable/Unexercisable) |
|-----------------|------------------------------|----------------|--|---|
| Jonathan Wax | 0 | 0 | 37,500/112,500 | |
| Robert O. Smith | 0 | 0 | 511,500/0 | |

Footnotes to Table

(1) Market price at December 31, (200) (4) for a share of common stock was \$(1.25) (.)

Directors' Compensation

All directors who are not employees of the Company are paid \$10,000 per annum paid quarterly. Upon joining the Board, they are granted options to purchase 10,000 shares of common stock vesting upon completion of one year of service.

Employment Agreements

In January 2004, we entered into an employment agreement with Mr. Jonathan Wax, our President and Chief Executive Officer. The agreement has a term of one year with annual renewals thereafter. Annual compensation is \$165,000. In the

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event of a change in control or early termination without cause, we will be required to pay Mr. Wax one year's compensation. As a part of the employment contract, Mr. Wax was granted options to purchase 150,000 shares, 37,500 shares vested immediately and the remainder vests over three years.

Subsequent to the year end, on April 2, 2005, we entered into an employment agreement with Mr. Robert O. Smith for Strategic Business Planning. Under the agreement, Mr. Smith is paid \$1,000 per month and is eligible for a stock option grant.

Consulting Agreement

On November 16, 2001, the Company and Mr. Robert Smith entered into a consulting agreement for a period of three years. Under the Consulting Agreement, Mr. Smith is paid \$100,000 per year and granted options to purchase 100,000 shares of common stock each year. On January 16, 2004, the Company and Mr. Smith agreed to cancel the options to purchase 100,000 shares of common stock at \$3.00 per share that were granted on January 2002 and 100,000 shares of common stock at \$3.00 per share that were granted on January 2004, which the Company was obligated to grant under the Termination and Consulting Agreement. In lieu thereof, Mr. Robert Smith was granted options to purchase 100,000 shares of common stock at \$1.16 per share. The Consulting Agreement expired on December 31, 2004.

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Ten-Year Options/SAR Repricings

There were no repricings during the year ended December 31, 2004

ITEM 11. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

STOCK OWNERSHIP

The following table shows the amount of our shares of common stock (AMEX Symbol: DPW) beneficially owned (unless otherwise indicated) by each shareholder known by us to be the beneficial owner of more than 5% of our common stock, by each of our directors and nominees and the executive officers, directors and nominees as a group. As of April 29, 2005, there were 6,161,859 shares of common stock outstanding. All information is as of April 29, 2005. Unless indicated otherwise, the address of all shareholders listed is Digital Power Corporation, 41920 Christy Street, Fremont, California 94538.

| Name & Address of Beneficial Owner ----- | Shares Beneficial Owned(1) Number ----- | P ----- |
|---|--|------------|
| Telkoor Power Ltd. 5 Giborei Israel Netanya 42293 Israel | 2,661,261 | |
| Ben-Zion Diamant David Amitai | 3,028,765 (2) 2,861,261 (3) | |
| Yeheskel Manea Youval Menipaz Amos Kohn | 20,000 (4) 20,000 (4) 20,000 (4) | |

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| | |
|--|---------------|
| Digital Power ESOP | 167,504 |
| Barry W. Blank | 450,800 |
| P.O. Box 32056 Phoenix, AZ 85064 | |
| All directors and executive officers as a group (6 persons) | 3,363,765 (5) |

Footnotes to Table

-
- * Less than one percent.
- (1) Except as indicated in the footnotes to this table, the persons named in the table have sole voting and investment power with respect to all shares of common stock shown as beneficially owned by them, subject to community property laws where applicable.
- (2) Mr. Diamant serves as a director of Telkooor Power Ltd. Includes options to purchase 200,000 shares owned by Mr. Diamant and 2,661,261 shares beneficially owned by Telkooor Power Ltd., which may also be deemed beneficially owned by Mr. Diamant.

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- (3) Mr. Amitai serves as a director of Telkooor Power Ltd. Includes options to purchase 200,000 shares owned by Mr. Amitai and 2,661,261 shares beneficially owned by Telkooor Power Ltd., which may also be deemed beneficially owned by Mr. Amitai,.
- (4) Includes options to purchase 20,000 shares exercisable within 60 days.
- (5) Includes 2,661,261 shares owned by Telkooor Power Ltd., which may be deemed beneficially owned by Mr. Diamant and Mr. Amitai, options to purchase 460,000 shares owned by directors, options to purchase 75,000 shares owned by Mr. Wax and 167,504 shares owned by Digital Power ESOP of which Mr. Wax and Mr. Diamant are trustees and may be deemed beneficial owners.

Equity Compensation Plan Information

The following table provides aggregate information as of the end of the fiscal year ended December 31, 2004 with respect to all compensation plans (including individual compensation arrangements) under which equity securities are authorized for issuance.

| Plan category | Number of securities to be issued upon exercise of outstanding options, warrants and rights | Weighted-average exercise price of outstanding options, warrants and rights | Number remain futura equity (excl reflect |
|--|--|---|--|
| | (a) (b) (c) | | |
| Equity compensation plans approved by security holders | 1,550,425 | 1.37 | |
| Equity compensation plans not approved by security holders | - | - | |
| Total | 1,550,425 | 1.37 | |

ITEM 12. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS.

On March 31, 2003, we entered into an agreement to sell 900,000 shares of

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common stock to Telkoo Power Ltd. ("Telkoo") in consideration of \$600,000. As a part of the transaction, Telkoo's warrant to purchase 900,000 shares was canceled. The warrant to purchase 900,000 shares would have expired on May 23, 2003. Our Chairman, Mr. Diamant owns 42.45% and our Director, Mr. Amitai owns 39.98% of the outstanding shares of Telkoo Power Ltd.

On January 12, 2004, we entered into a securities purchase agreement with Telkoo. Under the securities purchase agreement, Telkoo acquired 290,023 shares of common stock for the aggregate purchase price of \$250,000. Additionally, under the agreement, Telkoo had the right to invest an additional \$250,000 on or before June 30, 2004. The purchase price per share for the additional investment was agreed to be the average closing price of the Company's common stock twenty (20) trading days prior to notice of intent to

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invest. On June 14, 2004, Telkoo gave notice of its intent to invest \$250,000 and the parties entered into a definitive agreement on June 16, 2004. Telkoo purchased 221,238 shares at \$1.13 per share.

On February 3, 2005, Telkoo loaned the Company \$250,000 through a Convertible Note. Under the terms of the Convertible Note, Telkoo loaned \$250,000 interest free until the tenth business day after the Company announces its financial results for fiscal 2005. Telkoo has the right to convert the debt to common stock at \$1.06 per share. The loan will automatically convert at \$1.06 per share if the Company meets its set budget for the fiscal year 2005.

There is currently a dispute between certain shareholders and managers of Telkoo, which is subject to litigation in Israel. Two of the members of our Board of Directors and the two members that comprise the Board of Directors of Digital Power Limited are involved in this dispute. Although, the Company does not believe the dispute has seriously effected the day-to-day operations of the Company, it is having impact on certain decision making in the Company or with one of its suppliers (Telkoo).

ITEM 13. EXHIBITS

- 3.1 Amended and Restated Articles of Incorporation of Digital Power Corporation (1)
- 3.2 Amendment to Articles of Incorporation (1)
- 3.3 Bylaws of Digital Power Corporation (1)
- 4.1 Specimen Common Stock Certificate (2)
- 4.2 Specimen Warrant (1)
- 4.3 Representative's Warrant (1)
- 10.1 Agreement with Fortron/Source Corp. (1)
- 10.2 Gresham Power Asset Purchase Agreement (3)
- 10.3 Securities Purchase Agreement between the Company and Telkoo Telecom Ltd. (now Telkoo)
- 10.4 2002 Stock Option Plan (5)
- 10.5 Securities Purchase Agreement between the Company and Telkoo Telecom, Ltd. (now Telkoo)
- 10.6 Employment Letter with David Amitai (7)
- 10.7 Employment Agreement with Jonathan Wax (7)
- 10.8 Convertible Note with Telkoo Power Ltd. (8)
- 21.1 The Company's sole subsidiary is Digital Power Limited, a corporation formed under the laws of Israel (1)
- 23.1 Consent of Ernst & Young (9)
- 31.1 Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act (1)
- 31.2 Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act (1)
- 32 Certification of Chief Executive Officer and Chief Financial Officer pursuant to Section 303 of the Sarbanes-Oxley Act (1)

- (1) Previously filed with the Commission on October 16, 1996, to the Company's Registration Statement on Form SB-2.
- (2) Previously filed with the Commission on December 3, 1996, to the Company's Pre-Effective Amendment No. 1 to Registration Statement on Form SB-2.
- (3) Previously filed with the Commission on February 2, 1998, to the Company's Form 8-K.
- (4) Previously filed with the Commission with its Form 8-K filed on November 21, 2001.
- (5) Previously filed with the Commission with its Proxy Statement for the Shareholders Meeting held on September 23, 2002.
- (6) Previously filed with the Commission with its Form 8-K filed on January 14, 2004.
- (7) Previously filed with the Commission with its Form 10-KSB for the year ended December 31, 2003.
- (8) Previously filed with the Commission with its Form 8-K filed on February 9, 2005.
- (9) Previously filed with the Commission with its Form 10-KSB for the year ended December 31, 2004.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES.

Kost Forer Gabbay & Kasierer, a Member of Ernst & Young Global served as our independent auditors for the annual audit for the year ended December 31, 2004 and 2003.

Audit Fees

The aggregate fees billed by Kost Forer Gabbay & Kasierer, a Member of Ernst & Young Global, for professional services rendered for the audit of the Company's financial statements for the fiscal year ended December 31, 2004 was \$98,000 and December 31, 2003 was \$95,000.

Audit-Related Fees

The aggregate fees billed for assurance and related services by the principal accountant that are reasonably related to the performance of the audit or review of the Company's financial statements for the year ended December 31, 2004 was \$0 and December 31, 2003 was \$0.

Tax Fees

The aggregate fees billed for tax compliance, tax advice and tax planning rendered by our independent auditors for the fiscal year ended December 31, 2004 was \$24,000 and December 31, 2003 was \$30,000.

All Other Fees

The aggregate fees billed for all other professional services rendered by the Company's independent auditors for the fiscal year ended December 31, 2004 was \$0 and December 31, 2003 was \$0.

The Audit Committee approved 100% of the fees paid to the principal accountant for audit-related, tax and other fees in the fiscal year 2004. The Audit Committee pre-approves all non-audit services to be performed by the auditor in accordance with the Audit Committee Charter. The percentage of hours expended on the principal accountant's engagement to audit the Company's financial statements for the most recent fiscal year that were attributed to work performed by persons other than the principal accountant's full-time, permanent employees was 0%.

SIGNATURES

In accordance with Section 13 or 15(d) of the Exchange Act, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

DIGITAL POWER CORPORATION,
a California Corporation

Dated: June 28, 2005

/s/ Johnathan Wax

Jonathan Wax,
Chief Executive Officer
(Principal Executive Officer)

Dated: June 28, 2005

/s/ Leo Yen

Leo Yen,
Chief Financial Officer
(Principal Financial and
Accounting Officer)