

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE JOINT)
APPLICATION OF IDAHO POWER) CASE NO. IPC-E-05-16
COMPANY AND SINCLAIR OIL)
CORPORATION FOR THE SALE AND) NOTICE OF APPLICATION AND
TRANSFER OF CERTAIN UTILITY OWNED) WAIVER REQUEST
FACILITIES)
)
) NOTICE OF
) MODIFIED PROCEDURE
)
)
) ORDER NO. 29837**

On May 2, 2005, Idaho Power Company and Sinclair Oil Corporation dba Sun Valley Company ("Sun Valley") filed a Joint Application requesting that the Commission approve the sale and transfer of certain utility distribution property to Sun Valley. The distribution facilities subject to the proposed transfer are located on the grounds of the Sun Valley Resort. Idaho Power would also remove its existing service meters for those customers directly billed by the utility.

On July 13, 2005, the Applicants amended their Application. In particular, the parties requested that the Commission grant Idaho Power a waiver of the Company's Master-Metering tariff found in Section 4 of Rule E. Idaho Power's Master-Metering tariff is nearly identical to the Commission's Master-Metering Rule 103. IDAPA 31.26.01.103. Rule 103 prohibits utilities from removing individual service meters in shopping centers where the tenants control their own electric space heating, water heating, or air-conditioning appliances.

The parties requested that their Joint Application and the waiver request be processed under Modified Procedure. Based on our review of the pleadings, we find that this matter should be processed under Modified Procedure.

NOTICE OF APPLICATION

YOU ARE HEREBY NOTIFIED that Idaho Power and Sun Valley executed a Memorandum of Understanding (MOU) regarding the proposed sale and transfer of utility distribution property. As set out in the MOU, Idaho Power proposes to sell and transfer its

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distribution facilities that serve portions of the Sun Valley Resort including the Lodge, the Inn, stores in the mall area, the skating rinks, the Opera House, and Moritz Hospital.

YOU ARE FURTHER NOTIFIED that the parties assert that transfer of the facilities to Sun Valley will enable Sun Valley to more efficiently operate and manage its facilities within the resort complex. The parties have agreed that Sun Valley will pay the sum of \$135,533 to Idaho Power. Application at 2. This amount includes Idaho Power's costs of removing the meters and reconfiguring the system (estimated at \$7,500). If the actual reconfiguring costs are lower or higher, the parties have agreed to adjust the transaction price accordingly. MOU at ¶ 3. They represent that this transaction will be revenue neutral to Idaho Power (there is neither a gain nor loss on the sale). The rates of other customers will not be affected by the sale. Application at 2.

YOU ARE FURTHER NOTIFIED that several tenants in the Sun Valley Mall currently receive metered electric service directly from Idaho Power. Once the meters are removed and the service lines reconfigured, electric service to the tenants will be provided under the master-meter arrangement between Idaho Power and Sun Valley. Sun Valley intends to recover the cost of electric service provided to tenants in the Sun Valley mall by means of a "monthly charge included as part of the lease arrangement between Sun Valley and the individual tenants." Amended Application at 2-3. Sun Valley stated that it has advised all of its affected tenants of the proposed transaction. MOU at ¶ 5.

THE WAIVER REQUEST

YOU ARE FURTHER NOTIFIED that both the utility's tariffs and the Commission's Master-Metering Rule 103 prohibit the conversion of individual tenant meters to master-meters. In particular, Rule 103 provides that no unit contained within "commercial buildings and shopping centers shall be master-metered for electric service after July 1, 1980, if the [tenant] units . . . contain an electric space heating, water heating, or air-conditioning [appliance] that is not centrally controlled and over which the unit's tenants individually control electric usage." IDAPA 31.26.01.103. Given this prohibition against new master-metered arrangements, the parties request that the Commission grant a waiver of the Company's tariff and Rule 103. MOU at ¶ 6. To comply with the spirit of the Master-Metering Rule, Sun Valley asserts that within 60 days of the transfer, it "will retrofit the individual thermostats for each of

its tenants” so that each thermostat will be centrally controlled by Sun Valley. *Id.* ¶ 5(a). Once the retrofits are completed, Sun Valley will provide the Commission with a certification that the retrofits have been completed and that Sun Valley personnel centrally control the space heating and air-conditioning appliances for the tenants in the Sun Valley Mall.

YOU ARE FURTHER NOTIFIED that *Idaho Code* § 61-328 prohibits Idaho Power from selling any distributing facility without the written authorization of the Commission. Before authorizing such a transaction, the Commission must find that: (1) the transaction is consistent with the public interest; (2) the transaction will not cause the costs of or rates for supplying electricity to increase; and (3) Sun Valley has the intent and financial ability to operate and maintain the property.

NOTICE OF MODIFIED PROCEDURE

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission’s Rules of Procedure, IDAPA 31.01.01.201 through .204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on the Joint Application or waiver request may file a written comment in support or opposition with the Commission within twenty-one (21) days from the service date of this Notice. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this matter shall be mailed to the Commission and the Applicants at the addresses reflected below:

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074

Street Address for Express Mail:

472 W. Washington Street
Boise, ID 83702-5983

Barton L. Kline, Senior Attorney
Idaho Power Company
PO Box 70
Boise, ID 83707-0070
E-Mail: bkline@idahopower.com

Dean J. Miller
McDevitt & Miller, LLP
PO Box 2564
Boise, ID 83701-2564
E-mail: joe@mcdevitt-miller.com
Attorneys for Sun Valley

These comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at www.puc.idaho.gov. Click the "Comments and Questions" icon, and complete the comment form, using the case number as it appears on the front of this document. These comments must also be sent to the Applicants at the e-mail addresses listed above.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider the matters on their merits and enter its Order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

YOU ARE FURTHER NOTIFIED that the Joint Application and the waiver request have been filed with the Commission and are available for public inspection during regular business hours at the Commission offices. The Joint Application and waiver request are also available on the Commission's Website at www.puc.idaho.gov under the "File Room" icon and then "Electric Cases."

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and specifically *Idaho Code* § 61-328 and Rule 103, IDAPA 31.26.01.103. The Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

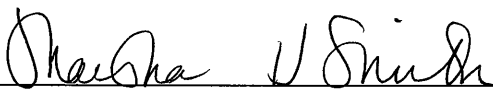
ORDER

IT IS HEREBY ORDERED that persons desiring to submit written comments regarding the Joint Application or the request to waive the master-meter prohibition found in Rule 103 (IDAPA 31.26.01.103) may do so within twenty-one (21) days of the service date of this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 2nd day of August 2005.



PAUL KJELLANDER, PRESIDENT

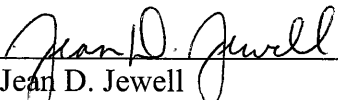


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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