

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	CASE NO. IPC-E-16-32
OF IDAHO POWER COMPANY FOR A)	
DETERMINATION OF HELLS CANYON)	ORDER NO. 34031
RELICENSING COSTS THROUGH 2015 AS)	
PRUDENTLY INCURRED)	
)	

On December 14, 2016, Idaho Power Company applied to the Commission to deem prudent \$220,845,830 in Hells Canyon Complex (HCC) relicensing costs. The Company did not ask to adjust customer rates, but stated it would make such request in a later case. The Commission issued a Notice of Application on January 4, 2017. Order No. 33686. The following parties intervened: Idaho Irrigation Pumpers Association (IIPA), and Industrial Customers of Idaho Power (ICIP). *See* Order Nos. 33707, 33716.

In October 2017, the parties met and discussed settlement. On December 8, 2017, Idaho Power, Commission Staff, and IIPA (the “Signing Parties”) filed a Settlement Stipulation and joint motion to approve it. The Signing Parties jointly asked the Commission to review the Settlement Stipulation under Modified Procedure, without waiving the right to a hearing if the Commission were to reject the Stipulation. ICIP agreed to process the Settlement Stipulation under Modified Procedure as proposed by the Signing Parties, but opposed the settlement.

BACKGROUND

Idaho Power has been involved in HCC relicensing activities since the early 1990s, incurring costs over the last several decades. The nearly quarter billion dollar price reflects over 25 years of Company relicensing efforts. Commission Order Nos. 30722 and 32426 authorized Idaho Power to collect \$6,520,122 annually from the Company’s Idaho customers to recover an Allowance for Funds Used During Construction (AFUDC) associated with the HCC relicensing project. As of December 31, 2018, the Company had collected \$58,834,892 from customers. The Company now seeks a prudency determination of reasonably incurred HCC relicensing expenditures not already collected from customers.

THE SETTLEMENT

The Signing Parties agreed to accept expenditures incurred through December 31, 2018, totaling \$216,504,145 as “reasonably incurred and eligible for inclusion in customer rates at

a later date.” Settlement at 3. The amount represents \$213,606,878 in HCC relicensing expenditures, and \$2,897,267 in Baker County settlement agreement expenditures. *Id.* The Signing Parties agreed this represents “a reasonable compromise of the positions in the case for the purpose of settlement and that the agreed upon amounts should be approved by the Commission in their entirety without further adjustment.” *Id.* at 4.

As noted, the proposed settlement includes several expenditures related to a separate settlement the Company entered into with Baker County, Oregon. Generally, that agreement concerns the economic and security impact of HCC operations unique to Baker County. *Id.* The Signing Parties agreed the Company’s expense associated with the Baker County settlement agreement “should be classified as a reasonably incurred [operations and maintenance] expenses and should be deferred for amortization at a later time.” *Id.* at 4-5. The Signing Parties support establishing a regulatory asset for \$2,897,267 in Baker County settlement agreement expenditures incurred through December 31, 2015. *Id.* at 5. The regulatory asset will also include additional amounts to be reviewed for prudence in a future proceeding: \$295,338 incurred between January 1, 2016, and September 30, 2017; and expenditures incurred October 1, 2017, through December 31, 2017. *Id.* at 5. According to the proposed settlement, the Baker County regulatory account “will not accrue AFUDC or a carrying charge of any type.” *Id.*

The Commission previously authorized the Company to collect \$6,520,122 annually from its Idaho customers for partial recovery of AFUDC associated with BCC relicensing. *Id.* (citing Order Nos. 30722, 32426). The Signing Parties agreed the Company should be allowed to continue to collect (and separately track) this AFUDC from customers, and not the AFUDC collected against the BCC balance in future rate proceedings. *Id.* at 5-6.

Upon Commission approval of the settlement, the Company “will cease filing a status report and AFUDC accumulation updates in the current format.” *Id.* at 6 (citing Order No. 30722). Rather, the Company will collaborate with interested parties to develop a refined process for filing annual reports with the Commission of HCC relicensing efforts and associated costs. *Id.*

Finally, the Company agreed to implement a retention policy for information related to HCC relicensing. Further, the Company will request a prudence determination on HCC relicensing expenditures incurred after December 31, 2015, through a date “not to exceed five years from the Commission’s approval of this Settlement Stipulation.” *Id.*

Staff comments recounted the audit process undertaken to review the Company's records associated with the HCC project. Staff's extensive audit of HCC costs included an analysis of the project on available information¹ from 1997 through 2015. Staff Comments at 3. Staff reported the source document included over 186,000 lines of transactions. *Id.* Staff submitted several production requests, audit requests, and conducted multiple on-site audits. *Id.* Staff also completed its own evaluation of the requested HCC costs with most audit issues being related to the lack of document retention. *Id.* Staff reported that the Company's relicensing process was actually far longer than the construction period for generating units and transmission projects. *Id.*

Due to the Company's deficient record retention policy, Staff adjusted the Company's request by initially removing all transactions with no invoice; inadequately documented transactions that should have been expensed; and transaction types that are traditionally excluded. *Id.* at 4. Staff further reduced AFUDC to reflect the adjustments. *Id.* Staff also utilized specific invoice reviews and prior audits to verify labor, material, purchased services, and other overhead. *Id.* In particular, Staff referenced and reviewed prior rate case audits, external auditor work papers, Sarbanes-Oxley control reviews, Security Exchange Commission reporting reviews, and Federal Energy Regulatory Commission audit reviews. *Id.*

A. ICIP Comments

ICIP fully participated in settlement negotiations, but did not join in the Settlement Stipulation. ICIP does not object to the Signing Parties' position regarding the amount of expenses, but contends there is no legal basis for the Company to seek a prudence finding now.

ICIP pointed out in its comments that the Company filed its Application under Idaho Code § 61-524. ICIP contends, "[t]his Code Section provides no foundation upon which the Commission may make a prudence finding." ICIP Comments at 2. ICIP further submits, "there is nothing in the Idaho Code permitting, or even addressing, the question of a prudence review for future assets." *Id.* at 3.² ICIP argues that Idaho Code §§ 61-502A and -541 may be a more appropriate basis for the Application, because they respectively allow for the inclusion of

¹ Some information was unavailable due to deficient Company record retention policies.

² ICIP incorrectly states, "The word 'prudence' is never used in the Idaho Public Utilities Code." *Id.* at fn 1. In fact, Idaho Code § 61-541, which ICIP cites, uses the word "prudence." Idaho Code § 61-541(2)(b) states: "For purposes of this section, ratemaking treatments for a proposed facility include but are not limited to: . . . (iii) The maximum amount of costs that the commission will include in rates at the time determined by the commission without the public utility having the burden of moving forward with additional evidence of the *prudence* and reasonableness of such costs...." *Emphasis supplied.*

construction work in progress in current rates, or for binding future ratemaking treatment. Neither section, however, allows the Commission to act on HCC costs now. *Id.* Section 61-502 only applies when property is not used and useful, and the HCC is used and useful and providing ... generating service.” *Id.* (quoting Idaho Power’s Application at 3). Section 541, on the other hand, would require the Company to show that HCC, when relicensed, will be “reasonable when compared to energy efficiency, demand-side management and other feasible alternative sources of supply.” *Id.* at 4. (quoting §541(4)(iv)).

ICIP concedes that HCC is now used and useful and providing reliable generating service, but submits that the Company cannot show that HCC will be reasonable “when compared to energy efficiency, demand-side management and other feasible sources of supply” once it is fully relicensed. *Id.* Thus, ICIP requests that any order on this matter should be explicit that any Commission prudence determination be “based only on assumptions that appear to be reasonable today, and that should those assumptions prove to be false, inaccurate or misplaced, [then any] prudence determination will be subject to appropriate revision.” *Id.* at 5. In other words, ICIP supports “a prudence finding that is EXPLICITLY contingent upon a future commission’s finding that [a fully relicensed HCC] is a prudent investment,” is used and useful, and providing service to future ratepayers in Idaho Power’s system. *Id.* (emphasis in original).

B. Company Comments

The Company provided comments to support the settlement, and reply comments in response to ICIP. In its supporting comments, the Company discussed the HCC relicensing process and the Company’s support for the settlement terms.

The Company highlighted that, unlike normal investments in generation units, HCC has been, and continues to be operational and generate energy through the relicensing process. Company Comments at 7. The Company noted, “in 2016 the HCC provided 28.3 percent of Idaho Power’s total electricity generated to benefit its customers.” *Id.*

The Company agreed in the settlement that funding it provided to Baker County in a separate settlement agreement for recreational construction and maintenance projects are “more appropriately classified as an operation and maintenance (O&M) expense and should be deferred for amortization at a later time.” *Id.* at 8. The Company agreed these expenses would not accrue AFUDC or a carrying charge of any type. *Id.* The Company also acknowledged this accounting

treatment will “not be indicative of accounting treatment of costs associated with any future settlement agreement the Company may enter into with other parties, if any.” *Id.* at 9.

The Company recognized that due to the long time frame of the document review, its deficient information retention policy required the use of “alternative” auditing practices to support its request. *Id.* The Company has thus committed to work with Staff and interested parties to “develop a regulatory framework to ease the review of future HCC relicensing expenditure prudence determination requests.” *Id.* The Company concludes that the proposed settlement is a reasonable resolution of the issues and is in the public interest. *Id.* at 10.

In its reply comments to ICIP’s remarks, the Company again highlighted that the HCC is used and useful. Reply Comments at 6-7. It further urged the Commission to continue its practice of avoiding “hindsight” reviews, and requested that the Commission resist ICIP’s recommendation that the Commission make a determination contingent upon a future finding. *Id.* at 2. Rather, the Company pointed out that ICIP does not necessarily resist a prudency finding, and that the Commission has ample authority to review expenses to include in rates. *Id.* at 3 (citing Idaho Code § 61-501, which authorizes the Commission to “do all things necessary to carry out the spirit and intent of the provisions of this act”).

The Company explained it appropriately cited Idaho Code § 61-524 because its underlying request “would require the review of nearly three decades worth of transactions and confirmation that the Company had accounted for the expenses according to the Commission’s prescribed ‘forms of accounts’ and that the ‘receipts and expenditures of moneys’ was sufficient for the Commission to determine the reasonableness of the HCC relicensing expenditures.” *Id.* at 4. It further pointed to Commission Rule 13, which confirms that the Commission is “to secure a ‘[j]ust, speedy and economical determination of all issues presented.’” *Id.* at 5.

Beyond arguing the extent of the Commission’s legal authority, the Company explained that it is requesting a prudence review of the HCC relicensing expenditures now because of the voluminous transaction data file; key subject matter experts and employees involved in relicensing are retiring; and a “prudence determination outside of a general rate case would allow Staff ...to focus solely [on] the extensive data associated with HCC relicensing costs.” *Id.* at 10-11.

C. Public Comments

The Commission received four public comments. Three commenters opposed approving the relicensing costs, citing the BCC's environmental impact and negative effect on fisheries. Further, the commenters opposing the settlement relate their strongly held view that the HCC's environmental and economic harm far exceeds the benefits it provides as an energy source. One commenter relayed support for the settlement, and stated that the BCC "is critical to Idaho's economic future and sustainable growth."

DISCUSSION AND FINDINGS

Idaho Power is an electrical corporation and public utility as defined in Idaho Code §§ 61-119 and -129, and the Commission has jurisdiction over it and the issues in this case under Title 61 of the Idaho Code, including Idaho Code § 61-501, -524, and -601.

We find and thus conclude that the Signing Parties' proposed settlement satisfies the requirements of Rules 271-280, and relevant Idaho Code, as discussed herein. In summary, based on our review of the record, and the comments of the Parties, the Company prudently incurred \$216,504,145 in HCC relicensing expenditures (\$213,606,878 in direct BCC relicensing expenditures, and \$2,897,267 related to Baker County settlement) through December 31, 2015. The expenditures have been reasonably incurred and it is fair, just and reasonable to allow the Company to include these expenditures in customer rates at a later date.

A. Records Retention

The extent of the expenditures does not escape the Commission, nor does the over-25 year period Idaho Power has been attempting to relicense the BCC. Relicensing is beyond this Commission's control and lies appropriately under the Federal Energy Regulatory Commission's (FERC's) jurisdiction. We are optimistic that, after the extensive efforts undertaken by the utility, interested parties, multiple state agencies and several state commissions, FERC will allow the relicensing process to finally come to a successful conclusion. Customers have benefited from the dam complex for decades and, since the license expired in 2005, customers have continued to benefit despite the fact that relicensing expenditures are not presently recovered in rates.

Regardless of the drawn-out relicensing period, we have serious concerns with the Company's records retention policy, which resulted in significant expenses that lacked proper documentation. We expect that the Company will review and revise this policy and not repeat this mistake again.

After reviewing the extensive audit process undertaken by the Company, and independently verified by Staff, plus the detailed audit independently completed by Staff, we believe that the process accurately captures the expenditures made in the relicensing process. This includes adjustments for transactions that should have been expensed as general operating costs rather than capitalized. The process also excludes transactions traditionally removed from the revenue requirement. The audit also included a review of prior Staff audits to verify labor, materials, purchased services, and overhead. The prior audit work included prior rate cases, Sarbanes-Oxley control reviews, Security Exchange Commission reporting reviews, and FERC audits.

In sum, we find that the extensive audit captures only expenditures that were made as part of the HCC relicensing process, and eliminates dubious or questionable expenditures, or those that lack independent verifiable support.

B. Prudency

We decline ICIP's request that the Commission establish only a system of accounting, or make a contingent prudence finding that reserves a final determination to a future Commission. Rather, we find this Commission has ample authority to determine prudency now, and that now is the appropriate time to make that judgment. BCC has been used and useful for the entire time under consideration. It is the largest single component of the Company's generation portfolio, and customers have benefited from the relicensing efforts.

Idaho Code § 61-501 illustrates the Commission's broad authority "to supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the provisions of this act." *Id.* To that end, when Idaho Code §§ 61-301, -502, -502A, -503, and -524 are read as components of the overall statutory scheme governing Idaho public utilities, our power is clear, and a prudence determination is appropriate.

The Company has provided an extensive accounting of HCC relicensing expenditures, which have been verified by Staff. The settlement amount has not been disputed. Also undisputed is that the HCC is used and useful, and continues to provide over 1,100 megawatts of generation annually benefiting Idaho Power customers. The costs incurred directly correlate to relicensing

efforts. To that end, the Commission has previously authorized the inclusion of AFUDC in rates.³ Order No. 30722.

After thoroughly reviewing the record, we can confidently judge that the Company's relicensing expenditures were reasonable and prudent based upon the circumstances confronting the Company when the expenditures were made. Reserving that determination for a future Commission, as requested by ICIP would not change the outcome: "We will not examine the evidence using hindsight, but rather make our findings based upon the circumstances at the time [the expenditures were made]." *In the Matter of the Idaho Power Company Application for a Refundable Emergency Energy Charge for the Recovery of Extraordinary Power Supply Expenses*, Case No. IPC-E-01-7, Order No. 28852 at 8 (September 8, 2001). Likewise, when "assessing the reasonableness of the Company's deferred costs we consider whether the Company's decisions based on the information available at the time were reasonable when made and whether the utility's attempt to control the costs were prudent." *In the Matter of the Submission of the Status Report of Avista Corporation and Application for a Continuation of a Power Cost Adjustment (PCA) Surcharge*, Case No. AVU-E-02-6, Order No. 29130 at 14 (October 15, 2002).

CONCLUSION

The Company is an electrical corporation as defined by Idaho Code § 61-119, and a public utility subject to the Commission's jurisdiction under Idaho Code § 61-129. The Company's duties, and burden in presenting this Application to the Commission, are set forth in Title 61 of the Idaho Code, and the Commission's Rules of Procedure, IDAPA 31.01.01.000, et seq. The Commission looks to Chapter 3 of Title 61 in reviewing this Application to ensure the proposed action is "just and reasonable," and "prudent." *See, e.g.*, Idaho Code § 61-301 through 61-315, and -541.

Based on our review of the record, and the discussion above, we find that the Company prudently incurred \$216,504,145 in HCC relicensing expenditures (\$213,606,878 in direct HCC relicensing expenditures, and \$2,897,267 related to Baker County settlement) through December 31, 2015. Consequently, we accept and approve the Settlement of the Parties, and find its terms to be just, fair, and reasonable, in the public interest, and in accordance with law.

³ Notably, once the project is relicensed, customer costs relating to AFUDC will be reduced, rather than the continuing compounding of costs during the relicensing period.

ORDER

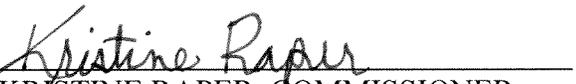
IT IS HEREBY ORDERED that the terms of the Settlement agreement regarding Idaho Power's Application for a finding of prudence related to Hells Canyon Complex relicensing expenditures through December 31, 2015, is approved. The Commission finds that \$216,504,145 in relicensing expenditures (\$213,606,878 in direct HCC relicensing expenditures, and \$2,897,267 related to Baker County settlement) were prudently incurred.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 13th day of April 2018.



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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