Why can't you tell them no?

One of the most frequent questions we get after a utility files a rate increase application is, ***"Why can't you just tell them no?"***

We can and we have said no, but we must have evidence to do so, evidence that can withstand state Supreme Court appeal.

For nearly 100 years, public utility regulation has been based on this **regulatory compact** between utilities and regulators: *Regulated utilities agree to invest in the generation, transmission and distribution necessary to adequately and reliably serve all the customers in their assigned territories. In return for that promise to serve, utilities are guaranteed recovery of their prudently incurred expense along with an opportunity to earn a reasonable rate of return.* The rate of return allowed must be high enough to attract investors for the utility's capital-intensive generation, transmission and distribution projects, but not so high as to be unreasonable for customers.

In setting rates, the commission must consider the needs of **both** the utility and its customers. The commission serves the public interest, not the popular will. It is not in customers' best interest, nor is it in the interest of the State of Idaho, to have utilities that do not have the generation, transmission and distribution infrastructure to be able to provide safe, adequate and reliable electrical, natural gas and water service. This is a critical, even life-saving, service for Idaho's citizens and essential to the state's economic development and prosperity.

Unlike unregulated businesses, utilities cannot cut back on service as costs increase. As demand for electricity, natural gas and water grows, utilities are statutorily required to meet that demand. In Idaho recently, and across the nation, a continued increase in demand as well as a number of other factors have contributed to rate increases on a scale we have not witnessed before. It is not unusual now for Idaho's three major investor-owned electric utilities to file annual rate increase requests.

In light of these continued requests for rate increases, the Commission walks a fine line in balancing the needs of utilities to serve customers and customers' ability to pay.

When a rate case is filed, our staff of auditors, engineers and attorneys will take up to six months to examine the request. During that period, other parties, often representing customer groups, will "intervene" in the case for the purpose of conducting discovery, presenting evidence and cross-examining the company and other parties to the case. The Commission staff, which operates independently of the commission, will also file its own comments that result from its investigation of the company's request. The three-member Commission will also conduct technical and public hearings.

Once testimony from the company, commission staff and intervening parties is presented and testimony from hearings and written comments is taken, all of that information is included in the official record for the case. It is only from the evidence contained in this official record that the Commission can render a decision.

If the utility has met its burden of proof in demonstrating that the additional expense it incurred was 1) **necessary** to serve customers and 2) ***prudently incurred***, the commission must allow the utility to recover that expense. The commission can -- and often does -- deny recovery of some or all the expense utilities seek to recover from customers if the commission is confident it has the legal justification to do so. Utilities and parties to a rate case have the right to petition the Commission for reconsideration. If reconsideration is not granted, utilities or customer groups can appeal the Commission's decision to the state Supreme Court.

In the end, the Commission's job is to ensure that customers are paying a reasonable rate and are receiving adequate and reliable service and that utilities are allowed to recover their prudently incurred expenses and earn a fair rate of return.