

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER) CASE NO. IPC-E-20-15
COMPANY’S APPLICATION FOR A)
DETERMINATION OF 2019 DEMAND-SIDE)
MANAGEMENT EXPENSES AS) ORDER NO. 34874
PRUDENTLY INCURRED)
)

On March 13, 2020, Idaho Power Company (“Company”) applied to the Commission for an order finding that the Company’s demand-side management (“DSM”) expenses for 2019 were prudently incurred.

On October 30, 2020, the Commission issued Order No. 34827 approving the Company’s 2019 DSM expenses as prudent with the exception that the Company’s 2019 DSM labor expenses exceeded the 2% cap on wage increases established in prior cases and disallowing \$51,165 in 2019 DSM total labor expense.

On November 20, 2020, the Company filed a Petition for Clarification and/or Reconsideration (“Petition”) about the (1) method for evaluating the 2% DSM labor cap, and (2) establishing a new baseline to comply with Order No. 34827.

On November 30, 2020, Staff filed comments in response to the Company’s Petition clarifying its position on DSM labor expense calculations. No other persons or entities filed comments or Cross Petitions for Reconsideration and/or Clarification.

Now, having reviewed the record, the Commission grants Clarification and Reconsideration of the issues raised by the Company regarding Order No. 34827. We find that the submissions of the parties are sufficient to evaluate and address the concerns raised by the Company on Clarification/Reconsideration.

BACKGROUND

The Commission issued final Order No. 34827 in this case on October 30, 2020. The Commission found that all but \$51,165 of the Company’s requested 2019 DSM expenses were prudently incurred. The Commission explained that the Company’s labor expenses in 2019 exceeded the 2% cap established in Case No. IPC-E-17-03. Consequently, the exceeded labor expense of \$51,165 was disallowed.

In Case No. IPC-E-17-03, the Commission stated “[r]ather than establishing a cap on the Rider-funded labor expenses at 2016 levels, we find it reasonable to include *actual wage* increases up to a 2% cap in the DSM rider.” (Emphasis added). *See* Order No. 33908. The Commission did not order a specific method for applying the cap, nor did it determine a specific base year for which the cap applied.

In Case No. IPC-E-18-03, Staff noted that the Company’s decision to apply the 2% cap to the average labor expense per full time equivalent (“FTE”) followed the earlier labor adjustments (2011-2016) but contradicted the Commission’s intent in Order No. 33908. Staff argued that if the Commission intended to cap total labor rather than average labor per FTE, the Company’s Rider expenses should be reduced. In reply, the Company disagreed that the Commission intended to apply the cap to total labor expenses. The Company argued that Staff’s interpretation of Order No. 33908 would “remove the Company’s ability to properly increase labor resources for additional energy efficiency program activity opportunities.” The Company argued the “2% cap should apply to *wages per FTE*,” consistent with the Commission’s approved method in prior DSM labor increases. (Emphasis added). The Commission implicitly adopted the reasoning of the Company and found the amounts incurred for the year were prudent. *See* Order No. 34141.

The Commission did not discuss DSM labor costs in IPC-E-19-11 because labor expenses did not exceed a 2% cap by any methodology. However, Staff’s comments in IPC-E-19-11 noted a 1% decrease in total DSM labor expenses and a 1.3% increase of average labor expense per FTE.

THE COMPANY’S PETITION

The Company petitioned the Commission for Clarification and/or Reconsideration under the Commission’s Rule of Procedure 325, IDAPA 31.01.01.325.¹ Specifically, the Company requested the Commission offer Clarification and/or Reconsideration of “the method the Commission intends for the Company to apply when evaluating the level of labor to be recovered through the Rider.”

¹ IDAPA 31.01.01.325 states:

Any person may petition to clarify any order, whether interlocutory or final. Petitions for clarification from final orders do not suspend or toll the time to petition for reconsideration or appeal a final order. A petition for clarification may be combined with a petition for reconsideration or stated in the alternative as a petition for clarification and/or reconsideration. The Commission may clarify any order on its own motion.

The Company argued the record does not support Order No. 34827 disallowing \$51,165. The Company stated the Commission “unreasonably relied on a misunderstanding of the Company’s DSM labor expense calculation, rendering the findings in Order No. 34827 erroneous and not supported by the record in this case.” The Company argued the DSM labor approach discussed in Staff’s comments “does not conform with the Commission’s directives and establishes a new methodology and baseline to measure future DSM labor expenses.”

The Company characterized Staff’s recommendation as evaluating the change in labor expenses on a year-over-year basis, and not utilizing a 2016 baseline with 2% annual increases. The Company insisted that it has applied the same methodology since Case No. IPC-E-17-03. Since that case, the Company has utilized a 2016 baseline with an escalating 2% annual per FTE increase.

The Company argued implementing a year-over-year 2% increase (as suggested by Staff) has two major adverse and unintended consequences by (1) limiting operational flexibility; and (2) creating a new annual baseline each year.

The Company stressed the operational flexibility afforded by a 2% annual increase based on a 2016 baseline. In years it did not increase wages the full 2%, the Company’s interpretation would still allow it to capture the 2% escalation for the benefit of the following year.

The Company also maintained that setting a new baseline every year would hinder the Company’s flexibility to fully recognize employee performance and longevity.

STAFF’S COMMENTS

On November 30, 2020, Staff filed a response to the Company’s Petition. Staff discussed the history of DSM wage increase calculations since Case No. IPC-E-17-03. Staff acknowledged the Company’s interpretation that the cap on Rider-funded labor expenses was a cumulative cap utilizing a 2016 base year escalated annually by 2%.

For its part, Staff has consistently calculated the annual 2% cap based on the previous year’s average labor expense per FTE:

In 2018, the Company incurred \$3,262,501 in Rider-funded labor expense: a 1% decrease in total DSM labor expense charged to the Tariff Rider. However, on a [FTE] basis, the average increase was 1.3%, indicating that employees charged less of their time to the Tariff Rider. The Company’s labor expense is below the 2% cap established by the Commission and Staff recommends it be approved.

Staff Comments in Case No. IPC-E-19-11 at 5.

Based on its interpretation of the Commission’s findings and directives in the Company’s 2018 DSM case, in 2019 Staff applied the 2% cap to the previous year’s average labor increase per FTE.

STANDARD OF REVIEW

A person may petition the Commission to reconsider its orders. *See Idaho Code* § 61-626; Rules 331-333 (IDAPA 31.01.01.331-.333). Reconsideration allows the petitioner to bring to the Commission’s attention any question previously determined and thereby affords the Commission an opportunity to rectify any mistake or omission. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979); Rule 325. The petitioner has 21 days from the date of the final Order in which to ask for reconsideration. *Idaho Code* § 61-626(1). The petition must specify why it “contends that the order or any issue decided in the Order is unreasonable, unlawful, erroneous or not in conformity with the law.” Rule 331.01. Further, the petition “must state whether the petitioner . . . requests reconsideration by evidentiary hearing, written briefs, comments, or interrogatories.” Rule 331.03. Any answers or cross-petitions must be filed within seven days after the petition was filed. Rule 331.02 and .05.

Once a petition is filed, the Commission must issue an Order saying whether it will reconsider the parts of the Order at issue and, if reconsideration is granted, how the matter will be reconsidered. *Idaho Code* § 61-626(2). If reconsideration is granted, the Commission must complete its reconsideration within 13 weeks after the date for filing petition(s) for reconsideration. *Idaho Code* § 61-626(2). The Commission must issue its final Order on reconsideration within 28 days after the matter is finally submitted for reconsideration. *Id.*

Additionally, any person may petition the Commission to clarify an order. Rule 325. Petitions for clarification do not suspend or toll the timing requirements for petitions for reconsideration. *Id.* Petitions for clarification may be combined with petitions for reconsideration. *Id.*

COMMISSION DECISION AND FINDINGS

The Commission has reviewed the record in this case and its prior orders related to the issues in the Company’s Petition. With this Order, we clarify what we intended in Order No. 34827. Also, upon Reconsideration of our analysis and findings, we confirm the Commission’s original findings and conclusions.

In Case No. IPC-E-17-03, Order No. 33908, we specifically declined to establish a cap on DSM labor expenses at 2016 levels. Instead, we stated that the Company could “include actual wage increases up to a 2% cap in the DSM rider.”

We again addressed the application of the 2% annual increase cap for DSM labor expenses in Case No. IPC-E-18-03. In that case, the Company applied the 2% cap to average wage per FTE. Order No. 34141. Staff argued that total labor expense increases should be capped at 2%, not average wages per FTE. *Id.* The Commission affirmed the Company’s application of the 2% cap and approved the Company’s proposed labor expenses as prudent. *Id.*

In the present case, the Company claims it followed the same approach by applying a 2% increase cumulatively to a 2016 baseline. This Commission has not explicitly addressed whether the 2% increase was intended to be applied year-over-year or cumulatively. To be clear, we never intended to establish a baseline that would cumulatively increase from a certain year regardless of the actual average wage increases. Instead, the intent was that the 2% cap would apply to the prior year’s increase in average wages per FTE.

We still expect that the method for calculating DSM labor expenses will be reset in a general rate case. However, in order to allow for determinations of prudently incurred DSM expenses until the Company’s next general rate case, we find the Commission’s methodology as stated herein to be reasonable and just. The Company shall apply the 2% cap to actual average wages per FTE going forward. The baseline for the 2% cap shall be the prior year’s actual average wages per FTE. Consequently, we continue to find it reasonable to disallow the amount above the 2% cap - \$51,165 – of the Company’s 2019 DSM total labor expenses.


ORDER

IT IS HEREBY ORDERED that the Company’s petition for Clarification and/or Reconsideration is granted. The Company shall apply the 2% cap for DSM labor expense increases to the actual average wage per FTE based on the prior year’s average wage per FTE. The Company’s 2019 DSM expenditures of \$45,028,314 are approved as prudently incurred.

THIS IS A FINAL ORDER ON RECONSIDERATION. Any party aggrieved by this Order may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. *See Idaho Code* § 61-627.

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DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 18th
day of December 2020.



PAUL KJELLANDER, PRESIDENT

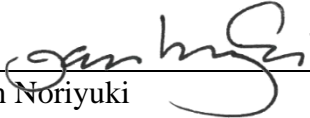


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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