

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION) CASE NO. IPC-E-21-37
OF IDAHO POWER COMPANY FOR)
AUTHORITY TO ESTABLISH A NEW)
SCHEDULE TO SERVE SPECULATIVE) ORDER NO. 35488
HIGH-DENSITY LOAD CUSTOMERS)
)

On November 4, 2021, Idaho Power Company (“Company”) applied to the Commission for authority to establish a new schedule to serve speculative high-density customers—specifically, large-scale cryptocurrency mining operators (“HDL Customers”). Application at 1.

On December 1, 2021, the Commission issued a Notice of the Company’s Application and Notice of an Intervention Deadline. Order No. 35276. The Industrial Customers of Idaho Power (“ICIP”) and 2140 Labs, LLC (“2140 Labs”) intervened. Order No. 35276.

On February 2, 2022, the Commission issued a Notice of Modified Procedure and set public comment and Company reply deadlines. Order No. 35308

On April 12, 2022, Commission Staff (“Staff”) and 2140 Labs filed comments to which the Company replied. The Commission received one public comment expressing support for the Company’s proposed Schedule 20.

On June 15, 2022, the Commission approved the Company’s Application as filed. Order No. 35428.

On July 6, 2022, GeoBitmine, LLC (“GeoBitmine”) petitioned the Commission to reconsider Order No. 35428 and to grant it intervention into the case (“Petition”).

On July 13, 2022, the Company filed an Answer to GeoBitmine’s Petition.

On July 20, 2022, the Commission received two public comments expressing support for GeoBitmine’s Petition.

With this Order, we grant GeoBitmine’s Petition to Reconsider as articulated below.

APPLICATION

In its Application to implement Schedule 20, the Company stated its concern that increasing electricity demand due to potential cryptocurrency operations coupled with limited capacity would likely constrain its ability to meet peak demand until at least 2026. The Company expressed additional concern that it would acquire new resources to meet demand that would

ultimately become stranded when the economics of cryptocurrency changed. Application at 14. Thus, the Company proposed implementing Schedule 20 to mitigate risks inherent to HDL Customers while meeting its obligation to reliably serve all customers.

The Company explained that attributes of cryptocurrency mining operations are: (1) high energy use and load factor; (2) the ability to relocate and disaggregate equipment to obtain favorable rates; (3) volatile load growth and load reduction; (4) sensitivity to short-term economic signals or volatility; and (5) lack of demonstrated financial viability. *Id.* at 3.

Schedule 20 incorporates three modifications to Schedule 9's (Large General Service) and Schedule 19's (Large Power Service) rate design including: (1) fully interruptible service during the summer peak season between 1:00 p.m. and 11:00 p.m. Monday through Friday; (2) a reallocation of the portion of cost-of-service derived summer generation capacity costs currently collected in an On-Peak demand charge; and (3) pricing "energy at a marginal cost in all pricing periods, based on Avoided Cost Averages as listed in . . . the Company's most recently acknowledged Integrated Resource Plan." *Id.* at 14-15.

STAFF COMMENTS

Staff supported the Company's overall proposal. However, Staff recommended that the Company continue to evaluate data it receives from HDL customers to ensure that HDL Customer costs and benefits were appropriately allocated in the next general rate case. Staff Comments at 2.

Staff noted that Schedule 20 was designed to: (1) minimize the risk of stranded assets by treating HDL Customers' demand as non-firm and requiring interruptible service during summer On-Peak Hours to avoid the need to invest in resources to meet their capacity needs; (2) ensure Schedule 20 customers' share of demand-classified cost is being fully recovered throughout the year, as a result of Schedule 20 requirements for interruptible service during summer On-Peak hours; and (3) recover energy costs using marginal cost energy rates. *Id.*

Staff's comments focused on five areas: (1) cryptocurrency mining risk; (2) interruptible/non-firm service; (3) pricing and recovery of energy-related cost; (4) pricing and recovery of demand-related cost; and (5) an accounting treatment for Schedule 20.

1. Cryptocurrency Mining Risk

Staff believed it was reasonable for the Company to proactively mitigate risks inherent to cryptocurrency mining by establishing the proposed customer class.

2. Interruptible/Non-firm Service

Staff stated the proposed interruptible service in Schedule 20 minimized stranded-asset cost risk by reducing the Company's need to acquire additional capacity to serve HDL Customers. Staff concluded that the mandatory interruptible service feature struck a reasonable balance between stranded asset risks and the Company's obligation to meet customer demand. However, Staff ultimately believed that the parameters for interruptible service should be carefully reviewed in the next general rate case or after Schedule 20 customers are established and data has been collected to determine the amount, frequency, and timing of interruptions in service that occur. *Id.* at 4. Staff also recommended that after it gained further experience with these customers, the Company should consider the potential for HDL Customers with loads less than ten MW to be eligible for special contracts.

3. Pricing and Recovery of Energy-Related Cost

Staff agreed that if certain assumptions about Schedule 20 customers held true, a marginal energy rate was appropriate since it is based on the cost of the next increment of electricity beyond what is needed by the Company's core customers. *Id.* That said, Staff was recommended that the Company continue to consider alternative pricing structures.

4. Pricing and Recovery of Demand-Related Cost

Staff supported the Company's proposal to reallocate cost of service derived summer generation capacity costs from the On-Peak Demand charge to the standard Billing Demand charge to ensure Schedule 20 customers paid their fair share for use of the Company's system.

5. Accounting Treatment

Staff supported the Company's proposed treatment of Schedule 20 energy costs, revenue, and usage in the Power Cost Adjustment ("PCA") but noted that additional analysis was needed.

COMPANY REPLY COMMENTS

The Company reiterated the importance of Schedule 20, by pointing to the recent example of a large-scale cryptocurrency mining operation breaking its contract and quickly relocating to a different service area to meet clean energy and other corporate goals. Company Reply Comments at 3. The Company also stated that cryptocurrency miners' stated interest in using shipping containers which are easily movable to different service areas, and the potential that current technological advances in cryptocurrency could reduce electricity demand by 99.9 percent create a real potential for the incurrence of stranded asset costs.

ORDER NO. 35428

The Commission found that “the Company’s creation of a new electric service schedule to provide service to potential HDL Customers was a reasonable approach to proactively mitigate potential stranded asset costs to its core customers.” Order No. 35428 at 6. The Commission “encouraged the Company to continue to evaluate assumptions regarding the risks and need for mandatory interruptible service, the need for non-interruptible service through special contracts or other options for customers with loads below ten MW, and the need for marginal cost-based rates.” *Id.* at 5-7 The Commission directed the “Company to evaluate and compare other methods for determining a marginal cost of energy in addition to the use of ACA in the IRP for setting the Schedule 20 energy rate” before its next general rate case. *Id.*

GEOBITMINE’S PETITION

GeoBitmine stated that it was in the process of constructing a cryptocurrency “mining operation in conjunction with high-capacity indoor farming at the recently idled J. R. Simplot Company (“Simplot”) potato processing plant in Aberdeen, Idaho.” Petition at 3. GeoBitmine explained that it intended to use the waste-heat from its cryptomining operation to create a climate for food production, potato storage, and seed research.

GeoBitmine stated that it began negotiating with the Company in April. GeoBitmine represents that it sought service “for a consistent year-round electrical load of approximately 6,000 kilowatts (“kW”), which would be sufficient electrical power and energy to operate both cryptocurrency and indoor farming/university research operations.” *Id.* at 4. GeoBitmine explained that it initially sought service under Schedule 19, but that the Company required it to take service under Schedule 20 which is “problematic and unrealistic for its proposed Idaho operations.” *Id.* at 5.

GeoBitmine argued that there were practical and legal problems with Schedule 20 and the process by which the Commission approved Order No. 35248. Therefore, GeoBitmine requested the Commission deny the Company’s Application for approval of Schedule 20 and grant GeoBitmine’s status as an intervening party.

GeoBitmine was concerned with the Company’s ability under Schedule 20 to implement a mandatory interruption period for up to 225 hours a year. GeoBitmine explained that interrupting service would have devastating impacts on its goal of facilitating indoor food production, potato storage, and seed research.

GeoBitmine also took issue with the marginal energy rates under Schedule 20 which it argued place it at a competitive disadvantage and is inconsistent with the Company's other similarly situated ratepayers.

In addition to mandatory service interruption and marginal energy rates, GeoBitmine argued that Schedule 20 was problematic because the Company has "unfettered" discretion to determine who takes service under Schedule 20 and there are no clear guidelines dictating who must take service under Schedule 20.

GeoBitmine argued that "Schedule 20 is an illegally discriminatory classification and hence in violation of law and beyond the Commission's authority to approve." *Id.* at 11 citing *Idaho Code*. § 61-315.

GeoBitmine also cited *Idaho State Homebuilders v Washington Water Power* ("*Homebuilders*") 107 Idaho 415, 417, 690 P.2d 350, 354 (1984) for the proposition that any discrimination in rates and charges must be "justified by a corresponding classification of customers that is based upon factors such as cost of service, quantity of electricity used, differences in conditions of service, or the time, nature and pattern of the use." *Id.* at 13. GeoBitmine argued that Schedule 20 discriminates between old and new customers without any reasonable justification and was approved by the Commission without any consideration of the factors listed in the *Homebuilders* decision. *Id.* at 14.

In sum, GeoBitmine argued that the Commission lacked a sufficient record demonstrating that Schedule 20's customers' usage characteristics distinguish it from Schedule 19 customers and, therefore, the Commission failed to make a reasoned decision supported by sufficient findings of fact and substantial evidence in its order approving Schedule 20.

GeoBitmine also petitioned the Commission to grant it intervention in this case. In support of this request, GeoBitmine stated that it has a "direct and substantial interest" in this proceeding and that, if the Commission denied its Petition to Reconsider, it must have status as an intervenor to appeal this denial to the Idaho Supreme Court.

THE COMPANY'S ANSWER

The Company replied that: (1) Schedule 20 complies with *Idaho Code* § 61-315; (2) based on the information before it, the Company properly determined that Schedule 20 applied to GeoBitmine; and (3) Geobitmine's Petition to reconsider Order No. 35248 and to intervene in this case should be denied.

1. Idaho Code § 61-315

The Company noted that *Idaho Code* § 61-315 precludes a public utility from establishing or maintaining “unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service.” Company Answer at 3 (emphasis in the original). The Company argued that the rates and terms of service Schedule 20 imposes on cryptomining customers is reasonable. In support of this argument, the Company cited other special contracts with utility customers, either approved, pending approval, or previously approved by the Commission, containing interruptible service provisions and pricing based on marginal rates. *Id.* at 4-6.

In addition, the Company noted that the Court in the *Homebuilders* case “identified cost of service, quantity of electricity used, differences in conditions of service, or the time, nature, and pattern of use as appropriate justifications for setting different rates and charges to different customers.” *Id.* at 7 (citing *Homebuilders*, 107 Idaho at 420, 690 P.2d at 355). The Company cited *Grindstone Butte Mutual Canal Co. v. Idaho Public Utilities Commission*, 102 Idaho 175, 180-181, 627 P.2d 804, 809-810 (1981) for the proposition that, “[a]bsent a legislative pronouncement to the contrary,” the Commission may consider “all relevant criteria including energy conservation and concomitant concepts of optimum use and resource allocation” in determining rates” and *Utah-Idaho Sugar Company v. Intermountain Gas*, 100 Idaho 368, 597 P.2d 1058 (1979) for the proposition that “a reasonable classification of utility customers may justify the setting of different rates and charges for the different classes of customers.” *Id.* at 7. The Company argued that the “time, nature, and pattern of use” of cryptocurrency miner’s operations, including designing “their facilities for ease of movement,” and the quick influx of transitory load, can result in cost shifts to other customers and therefore justifies the creation of a different rate and customer classification. *Id.* at 7-8.

The Company pointed out that GeoBitmine’s concern that marginal energy rates presented a devastating risk to its operation was exaggerated and potentially inaccurate. The Company explained that had GeoBitmine “modeled proposed costs under either Schedule 20 or Schedule 19, it would have likely found that Schedule 20 may be more economically advantageous to their operation due to the inclusion of marginal cost-based energy prices and their treatment under the [PCA] mechanism.” *Id.* at 9.

To GeoBitmine’s concern relating to the mandatory interruptible service provision under Schedule 20, the Company pointed to other customers in its service area who repeatedly choose to operate with interruptible service. The Company also questioned GeoBitmine’s assertion that being subject to interruptible service during the peak season would be devastating on its associated greenhouse, potato storage, and seed research program. Finally, the Company pointed out that interruptible service with “interruptible rates tailored for cryptocurrency mining operations,” is not uncommon and exists in other jurisdictions. *Id.* at 11. *See, e.g., Cytline, LLC v. Pub. Util. Dist. No. 2 of Grant Cnty., Washington*, 849 F. Appx 656 (9th Cir. 2021) (affirming the lower district court’s decision upholding a local utility district’s implementation of a new electricity rate class that applied to cryptocurrency mining operations.)

2. The Company’s determination that Schedule 20 applies to GeoBitmine

The Company explained that GeoBitmine initially requested service exceeding 20 MW on May 9, 2022, at one location then, on May 24, 2022, submitted a Customer Load Information interest form to the Company indicating it was taking service at a different location with an anticipated initial load of six to seven MW. *Id.* at 12.

Later, based on information gained during a call with a Simplot representative and GeoBitmine, the Company understood that GeoBitmine would be leasing a single warehouse at Simplot’s Aberdeen, Idaho site, and the predominant load at the site would be six to seven MW for GeoBitmine’s cryptocurrency operations.

After applying Schedule 20’s criteria to the information it had received regarding GeoBitmine’s Idaho plans, the Company determined that GeoBitmine should be classified as a customer under Schedule 20. The Company explained that information recently put forward by GeoBitmine regarding its partnerships with various entities including the Simplot potato cellar and the University of Idaho’s Agricultural Extension School was not previously provided to the Company and that it would consider reevaluating GeoBitmine’s claim that it should not be required to take service under Schedule 20. *Id.* at 14.

3. GeoBitmine’s Petition to Intervene and Reconsider

The Company argued that GeoBitmine’s failed to state a “substantial reason” for its delayed intervention request as required by Commission Rule of Procedure 73, IDAPA 31.01.01.073. The Company also pointed out that, due to the same attorney representing an existing intervening party—ICIP—who has conducted discovery in this case, “[i]t appears that

the discovery materials gained by one client were used for the benefit of another who had not yet sought permission to intervene nor secured the right to conduct its own discovery.” *Id.* at 20. Because of these “procedural irregularities” and because the Company had not had a chance to conduct discovery of GeoBitmine’s proposal, the Company objected to the GeoBitmine’s late intervention.

The Company explained that many of the issues raised in GeoBitmine’s Petition pertain to how the Company applied Schedule 20 and are outside of the scope of the current case. The Company questioned whether the Commission could address “GeoBitmine-specific issues in a separate complaint case to be initiated by GeoBitmine or opened by the Commission on its own motion” which would allow Staff and the Company to determine if Schedule 20 still applied to GeoBitmine “in light of potential changes in GeoBitmine’s business partnerships and risk profile.” *Id.* at 21.

COMMISSION FINDINGS AND DECISION

Reconsideration provides an opportunity for a party 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). The Commission may grant reconsideration by reviewing the existing record, by written briefs, or by evidentiary hearing. IDAPA 31.01.01.311.03. 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).

Consistent with the purpose of reconsideration, the Commission’s Rules of Procedure require that petitions for reconsideration “set forth specifically the ground or grounds why the petitioner 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, IDAPA 31.01.01.331.01. Rule 331 further requires that the petitioner provide a “statement of the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted.” *Id.* A petition must state whether reconsideration should be conducted by “evidentiary hearing, written briefs, comments, or interrogatories.” IDAPA 31.01.01.331.03. Grounds for reconsideration or issues on reconsideration that are not supported by specific explanations may be dismissed. IDAPA 31.01.01.332.

Rule 73 of the Commission's Rules of Procedure provides in pertinent part that:

[P]etitions to intervene must be filed at least fourteen (14) days before (1) the deadline for filing initial comments, if the case is being processed by modified procedure Petitions not timely filed must state a substantial reason for delay. The Commission may deny or conditionally grant untimely petitions for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or unduly broadening the issues, or for other reasons.

IDAPA 31.01.01.73.

Rule 74 of the Commission's Rules of Procedure, provides in pertinent part that: "[i]f a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the Commission or the presiding officer will grant intervention, subject to reasonable conditions." IDAPA 31.01.01.74.

GeoBitmine states that "the existing 'evidentiary record' . . . as well as the applicable law requires that the Commission modify Order No. 35428 by denying [the Company's] Application for approval of Schedule 20." Petition at 19. The Commission finds that additional consideration of these issues raised in GeoBitmine's Petition and the record is appropriate. We further find it appropriate to reconsider our findings in Order No. 35428 based on the issues raised by the Petition and the record. We find that reconsidering Order No. 35428 by written comments, associated documents, and affidavits in support of the comments is reasonable. *Idaho Code* § 61-626(2) ("If reconsideration be granted, said order shall specify how the matter will be reconsidered The matter must be reheard, or written briefs, comments or interrogatories must be filed, within thirteen (13) weeks after the date for filing petitions for reconsideration.").

Current intervenors in the case, the Company, and Staff shall have 21-days from the service date of this Order to provide additional comments on the issues raised by GeoBitmine's Petition and the record. GeoBitmine shall have 7-days after the 21-day comment period has closed to reply to Staff's, the Company's, and the intervenor's comments. The parties, including GeoBitmine, may file associated documents and affidavits in support of their comments. The parties may include additional, relevant evidence within their comments concerning the issues raised in the Petition and the record if they so choose. After the comment deadline has closed, the Commission will issue a final order on the merits of GeoBitmine's Petition.

While we agree that GeoBitmine may have a substantial interest in whether the Company appropriately required GeoBitmine to take service under Schedule 20, we find this issue to be

beyond the scope of this case and appropriately addressed in a separate proceeding or agreement between the Company and GeoBitmine.

Because we have granted GeoBitmine's Petition to Reconsider, it is unnecessary to grant GeoBitmine status as an intervenor. Therefore, Geobitmine's petition to intervene is denied.

ORDER

IT IS HEREBY ORDERED that GeoBitmine's Petition to Reconsider is granted to allow current intervenors, the Company, and Staff 21-days from the service date of this Order to file written comments, associated documents, affidavits, and relevant evidence if necessary. GeoBitmine shall have 28-days from the service date of this Order to file a reply, associated documents, affidavits, and relevant evidence.

IT IS FURTHER ORDERED that GeoBitmine's petition to intervene is denied.

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 regarding any matter decided in 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 3rd day of August 2022.



ERIC ANDERSON, PRESIDENT

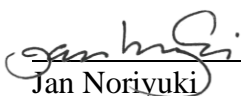


JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary