

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION BY) CASE NO. GNR-U-02-1
AVISTA UTILITIES, INTERMOUNTAIN GAS)
AND PACIFICORP TO IMPLEMENT A TWO-) NOTICE OF APPLICATION
YEAR PILOT WINTER PROTECTION)
PROGRAM THAT ESTABLISHES MINIMUM) NOTICE OF
MONTHLY PAYMENTS DURING THE) MODIFIED PROCEDURE
WINTER MORATORIUM, AND A WAIVER OF)
WINTER MORATORIUM RULE 306, IDAPA) ORDER NO. 29145
31.21.01.306.)

On October 11, 2002, the Commission received a joint Application from Avista Corporation, Intermountain Gas Company and PacifiCorp (Applicants) seeking authorization to implement a two-year pilot "Winter Protection Program" that establishes minimum monthly payments during the winter moratorium period. Since February 2002, the Applicants, Commission Staff, Department of Health and Welfare, and Community Action agencies have sought to address payment arrangement issues that culminated in this joint Application. Given their desire to implement the pilot program prior to this winter's heating season, the Applicants request this Application be reviewed under Modified Procedure and become effective December 1, 2002 through November 30, 2004. In this Order the Commission issues a Notice regarding the proposed program and solicits comments on the Application.

BACKGROUND

In 1978, Congress enacted the Public Utility Regulatory Policies Act (PURPA) which required this Commission to consider whether it was appropriate to adopt certain federal standards concerning the termination of utility service to customers of gas and electric companies. In 1979, the Commission implemented a "winter moratorium program" that prohibited electric and natural gas utilities from disconnecting service to certain residential customers during the winter heating months if those customers failed to make payments for energy services.

The program was a balance of competing interests. On the one hand, consumer groups initially proposed that utility service not be terminated from October 15 to April 15 or at any time when the temperature was forecast to fall below 32° Fahrenheit or if termination would lead to

impairment of health or the possible loss of life. Order No. 15025 at 2. These groups expressed a general concern that terminating heating services during the winter months for customers who are unable to pay presented serious threats to the public health and safety. They suggested that customers who were unable to pay but acknowledged the utility debt and committed themselves to pay the bill in full over a period of time should not have their service terminated. Those customers who are capable of paying utility bills but refuse because of “dishonesty, obstinacy or other such bad-faith reasons” should not be immune from disconnection. *Id.* at 3.

For their part, the utilities generally opposed the extended winter-time moratorium and instead suggested that customers having difficulty paying their energy utility bills during the winter should be allowed two monthly postponements of termination of service for medical reason. In addition, the utilities offered to establish payment arrangements over the telephone for customers who experience difficulty in paying their monthly bills. *Id.* at 2.

After examining the comments of the parties and the public testimony, the Commission implemented the winter moratorium program. The program has been amended over time, but the essence has remained the same. Under Utility Customer Relations Rule 306 (and its predecessors), the utility service of certain residential customers cannot be terminated during a three-month period from December 1 through February 28 if customers fail to make payments for energy service. IDAPA 31.21.01.306. Service may not be terminated for residential customers who declare they are unable to pay their electric or natural gas bills and whose households include: (1) children – under the age of 18; (2) elderly – above the age of 62; or (3) “infirm persons” – those who would be adversely affected by the termination of service for health or safety reasons. In addition, all customers are encouraged to make reasonable payment plans in the event they were unable to fully pay their monthly utility bills. The moratorium does not excuse customers from paying their utility bills; it merely postpones the disconnection for failure to pay their bills. Customers who participate in the winter moratorium plan and do not make payments during the three-month period usually face large bills on March 1 or disconnection of service when the moratorium is ended.

NOTICE OF APPLICATION

YOU ARE HEREBY NOTIFIED that the Application states that “the purpose of this filing [is] to minimize the impact winter bills have on customers least able to pay the accumulated winter use at the end of the winter moratorium.” Application at 2. According to the Application,

this pilot “Winter Protection Program” would allow customers, agencies and utilities to provide assistance for customers to maintain uninterrupted service. The pilot program would also aid customers in establishing a pattern of consistent monthly customer payments, allowing participating customers to avoid disconnection and having to pay the entire past-due balance before service is reconnected.

YOU ARE FURTHER NOTIFIED that the Applicants propose to change the basic eligibility for participation. As proposed, any residential customer who declares that he or she is unable to pay for service and then applies for and meets the income eligibility requirements for receiving energy assistance benefits under the Low-Income Heating Energy Assistance Program (LIHEAP) will be eligible to participate in the Winter Protection Program. Except as provided elsewhere in the Customer Relations Rules, no gas or electric utility may terminate service during the months of December through February to any customer who participates in the Winter Protection Program. With the exception of customers who qualify for a postponement under Rule 308 due to a serious illness or medical emergency, termination of service may occur if customers do not participate in the Winter Protection Program.

YOU ARE FURTHER NOTIFIED that the Applicants propose that participants in the Winter Protection Program must make a minimum payment to remain in the program. Currently, eligible residential customers are not required to make any monthly payment to avoid disconnection. Eligible low-income customers would have to make a minimum monthly payment equal to one-half ($\frac{1}{2}$) the average monthly bill during the three winter months of the plan as computed under the Level Pay Plan in Commission Rule 313.06. Level pay plans are based on any existing arrearage plus the anticipated monthly bills for a 12-month period. In other words, large heating bills from the winter months are “levelized” over the entire year with the intended result of making the monthly bills more affordable.

YOU ARE FURTHER NOTIFIED that the following table sets out the anticipated income eligibility standards for the 2002/2003 LIHEAP program. The LIHEAP eligibility for this season’s winter moratorium period and the pilot proposal is 150% of federal poverty guidelines. The table shows the monthly and three-month maximum income for LIHEAP eligibility:

Members in the Household	Monthly Income	Three-Month Income
2	\$1,493	\$3,323
3	\$1,878	\$4,478
4	\$2,263	\$5,633
5	\$2,648	\$6,788

Under the LIHEAP program, LIHEAP makes one payment to the utility and any unused balance of the payment is credited to future monthly balances. For Participants in the Winter Protection Program, any credit will be used to satisfy future monthly payment amounts rather than the full balance owing.

YOU ARE FURTHER NOTIFIED that customers suffering from serious illness or medical emergency may still postpone termination of a utility service for a 30-day period by providing the utility with a certificate by a licensed physician or public health official that termination of utility service would adversely affect that customer, member of the customer's family or resident of the household. See Customer Relations Rule 308, IDAPA 31.21.01.308.

YOU ARE FURTHER NOTIFIED that the Applicants propose that customers who participate in the Winter Protection Program may avoid termination of service by making up a missed monthly payment. To be eligible to participate in the Winter Protection Program in the following year, customers must be current on prior winter payments. Customers may use any source of funds/grants to satisfy the payment requirements of the Winter Protection Program and are required to apply for LIHEAP and encouraged to seek assistance from other programs such as Project Share.

YOU ARE FURTHER NOTIFIED that the Application offered the following example to illustrate the proposed pilot low-income program. A residential customer currently has levelized monthly bills of \$150 per month. The customer also has an existing unpaid balance of \$100 on December 1. Under the proposed Winter Protection Program, this eligible customer's monthly payments during the three months (December – February) would be calculated as follows:

\$150/month level pay ÷ 2 =	\$75.00/month
\$120/past due ÷ 12 months =	<u>\$10.00/month</u>
Minimum monthly payment during Protection plan =	\$85.00/month

The balance owing on March 1 would be \$225. In comparison, existing Rule 306.01 currently allows any customer who has children, elderly or infirm persons living in the household to make no payment until March 1. At that time, the customer would be required to pay their postponed “moratorium bill” of \$550.

YOU ARE FURTHER NOTIFIED that to facilitate implementation of the pilot program, the Applicants request that:

- 1) They be exempted from the provisions of Rule 306.01-.06 during the two-year pilot program;
- 2) Winter Protection Program eligibility be defined as “any residential customer who declares that he or she is unable to pay for utility service during the specific months of December, January and February and whose household qualifies for energy assistance (LIHEAP) from a local Community Action Agency”; and
- 3) The three-month winter moratorium from December 1 through February 28 be replaced with a minimal monthly payment plan equal to one-half (1/2) of the Level Pay Plan amount. The Level Payment Plan amount will be calculated according to Utility Customer Relations Rule 313.06.

YOU ARE FURTHER NOTIFIED that the Applicants request that this case be processed under Modified Procedure, i.e., by written submission rather than by hearing. IDAPA 31.01.01.201-204. The Applicants also requested the pilot program be effective December 1, 2002 through November 30, 2004.

NOTICE OF MODIFIED PROCEDURE

YOU ARE FURTHER NOTIFIED that the Commission has determined that a formal hearing in this matter may not be necessary and will process this Application under Modified Procedure pursuant to Rules 201 through 204 of the Commission’s Rules of Procedure, IDAPA 31.01.01.201-.204.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application may file a written comment in support or opposition with the Commission. From the outset, the Commission recognizes that changes to the winter moratorium program (Rule 306) may garner significant interest. To assist the Commission in evaluating the merits of the Application, the Commission specifically invites interested persons to comment on the following questions:

1. Should customers generally pay what they can during the three moratorium months? For customers who do not pay during the moratorium, are there other approaches to mitigate the large account balances after the moratorium has ended?
2. Should participation in the pilot program be based solely on income eligibility (recognizing that medical extensions are still available)? If so, is the LIHEAP eligibility of 150% of the federal poverty level an appropriate income threshold?
3. Is the recommended payment amount (50% of levelized payment) reasonable and adequate?
4. If a customer is not eligible to participate in the proposed plan, are the existing level pay or special payment options sufficient to address the payment concerns of residential customers during the winter months?
5. Is a two-year pilot project too long or too short?
6. Should the pilot project be restricted to only gas or electric or both types of utilities?
7. Should implementation of the pilot program be postponed until next (2003/2004) winter?

YOU ARE FURTHER NOTIFIED that if no protests or comments are received within the deadline, the Commission may consider the matter and enter its Order without a hearing. If protests or comments are filed within the deadline, the Commission will consider them and may set the matter for hearing or may decide the matter and issue its Order on the basis of the written positions before it. IDAPA 31.01.01.204.

NOTICE OF COMMENT DEADLINE

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application may file a written comment in support or opposition with the Commission **no later than 21 days from the service date of this Order**. The service date is in the upper right hand corner of the first page.

YOU ARE FURTHER NOTIFIED that written comments concerning this Application 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
E-mail: secretary@puc.state.id.us

Street Address for Express Mail:

472 W. Washington Street
Boise, ID 83702-5983

Kelly O. Norwood
Avista Utilities
1411 East Mission
PO Box 3727
Spokane, WA 99220-3727
Email: kelly.norwood@avistacorp.com

Paul Powell
Intermountain Gas Company
555 South Cole Road
PO Box 7608
Boise, ID 83707
Email: customerinput@intgas.com

Carole Rockney
PacifiCorp
1900 S.W. Fourth Avenue, Plaza Level
Portland, OR 97201
Email: carole.rockney@PacifiCorp.com

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 either e-mailing to the Commission's e-mail address above or by accessing the Commission's home page located at www.puc.state.id.us under the "File Room" icon. Once at the "File Room" page, select "File a Comment," fill in the case number as it appears on the front of this document, and enter your comments. These comments must also be sent to the Applicants at the e-mail addresses listed above.

YOU ARE FURTHER NOTIFIED that the Application can be reviewed at the Commission's office during regular business hours. In addition, the Application is available on the Commission's Website at www.puc.state.id.us under the "File Room" icon.

ORDER

IT IS HEREBY ORDERED that the Commission solicits public written comment on the Application as more particularly described above. Comments should be filed with the Commission and the Applicants within 21 days of the service date of this Notice.

IT IS FURTHER ORDERED that the Applicants shall issue appropriate press releases advising customers of the proposed pilot and their opportunity to submit comments regarding the Application. The Commission also encourages the Applicants to provide such additional notice of the proposed program to individual customers as may be appropriate in the limited amount of time

available. The Companies may also wish to provide additional information regarding the proposal on their websites.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 31st day of October 2002.



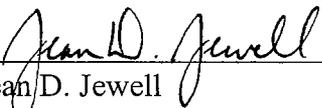
PAUL KJELLANDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER

Commissioner Hansen Dissent Opinion Attached
DENNIS S. HANSEN, COMMISSIONER

ATTEST:



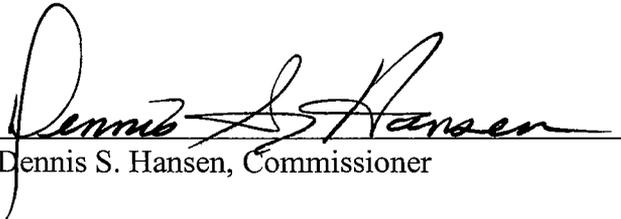
Jean D. Jewell
Commission Secretary

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**DISSENTING OPINION OF
COMMISSIONER DENNIS S. HANSEN
CASE NO. GNR-U-02-1, ORDER NO. 29145**

After reviewing the Application and deliberating this matter with my colleagues, I must respectfully dissent. In general, I agree with the concept that customers ought to pay what they can during the winter moratorium. Consequently, I agree with that portion of the Order that recites that the existing Winter Moratorium Rule does not excuse customers from paying their utility bills, it merely postpones the disconnection for failure to pay their bills.

My disagreement is with the timing of this Application. The beginning of the moratorium period is only 30 days away. I believe that implementing a change to the existing moratorium programs should have been submitted well before the present Application giving adequate notice to customers to comment. Although the Commission's Order directs that the three utilities issue press releases, there is not enough time to individually notify customers of the pilot proposal. In addition, I believe that given the current economic conditions in Idaho where many have lost their employment to layoffs or company closures, now is not an appropriate time to change a long established program that is intended to protect the public health and safety. Consequently, I believe that there is not a sufficient amount of time in which to notify ratepayers, review their comments, and implement a pilot program before the onset of the winter moratorium on December 1. Rushing to implement this pilot program will cause a lot of people to suffer this winter. It would be much better to conduct workshops and hearings throughout the State and then, with that information, structure a pilot program.


Dennis S. Hansen, Commissioner