Office of the Secretary
Service Date
September 28, 2004

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR AUTHORITY TO IMPLEMENT POWER COST ADJUSTMENT (PCA) RATES FOR ELECTRIC SERVICE FROM MAY 16, 2004 THROUGH MAY 31, 2005.	**CASE NO. IPC-E-04-9** **ORDER NO. 29600**

On April 15, 2004, Idaho Power Company filed an Application for authority to implement its annual Power Cost Adjustment (PCA) rates. Since 1993 the PCA mechanism has permitted Idaho Power to adjust its rates upward or downward to reflect the Company's annual "power supply costs." Under the PCA mechanism ratepayers receive a credit when power costs are low, but are assessed a surcharge when power costs are high. In Order No. 29506 issued on May 25, 2004, the Commission authorized Idaho Power to implement PCA rates that included the power supply expenses Idaho Power incurred to replace Valmy generation that was unavailable from June 26 through September 9, 2003 due to an inadvertent energization of the Valmy Plant Unit No. 2 generator. In that Order, the Commission directed Staff and Idaho Power to advise the Commission whether next year's PCA should be adjusted to recover the cost of the replacement power.

On August 16, 2004, Idaho Power and Commission Staff (the "Parties") filed a Joint Motion for Acceptance of Settlement to resolve the Valmy 2 replacement power expense issue. In addition, the stipulation resolves two other issues: the expense adjustment rate for growth ("EARG") component of the Company's PCA calculation[1] and certain regulatory accounting issues related to the Company's 2001 non-recurring income tax deduction created by its accounting method change for capitalized overhead costs.

On August 18, 2004, the Commission issued a Notice of Proposed Settlement and sought comments from the public and other parties to the PCA case about whether the Commission should adopt the settlement proposed by Idaho Power and Staff. Order No. 29568. After reviewing the record, comments and the provisions of the Settlement Stipulation, the

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[1] In Order No. 29505 issued in Case No. IPC-E-03-13, the Commission directed Idaho Power and Staff to initiate a separate proceeding to address the EARG component of the PCA calculation.

Commission accepts the Stipulation as a fair, just and reasonable resolution to the Valmy replacement power costs, the EARG growth adjustment, and the 2001 non-recurring income tax deduction issues remaining in this case.

THE PROPOSED SETTLEMENT

In their Stipulation, the Parties agreed on a single comprehensive settlement amount to resolve all the outstanding issues identified in the Stipulation. First, the Parties propose the EARG would continue at its existing value, 16.84 mills per kWh, until the next general revenue requirement case in which the Company resets the base rates for PCA computation purposes.

Second, Idaho Power will also provide a $19.3 million revenue credit to Idaho Power customers in the Company's PCA. This revenue credit will be a separate $804,166 monthly line item for the months June 2004 through May 2006 in the PCA true-up calculation and includes interest from June 1, 2004 at the PCA carrying charge rate of one percent (1%). This $804,166 monthly credit is in addition to the $2,000,000 annual credit currently being provided to Idaho customers in conjunction with the settlement of Case No. IPC-E-01-16. Exhibit 1 to the Settlement Stipulation shows how the monthly revenue credit will be accrued and paid.

Finally, the Parties acknowledge that the June 2003 Valmy Unit No. 2 inadvertent energization incident was an atypical event at least in part beyond the control of Idaho Power Company. The Parties agree that under the specific circumstances of this case, it is in the public interest to utilize the PCA and comprehensive settlement to resolve the outstanding issues associated with this event.

The Parties ask that the Commission accept this Stipulation without material change or condition. The Parties agree that the Stipulation is in the public interest, claiming it is a fair, just and reasonable resolution of multiple issues affecting the Company's PCA.

COMMENTS

In response to its request for comments from the public and parties to the PCA case, the Commission received supporting comments from Idaho Power and the Commission Staff. No other comments were received.

Idaho Power

Idaho Power estimates that the cost of replacement power attributable to the Valmy 2 outage was between $6 million and $7 million. If the Company concludes that it would be cost-effective to pursue a claim against Valmy 2's operator, Sierra Pacific, the ultimate determination of whether Sierra Pacific breached the Valmy Operating Agreement would not be finally determined for a number of years. In light of the risk of an adverse outcome, the lengthy delay associated with a legal determination of fault, and the need to maintain equity in the PCA process, Idaho Power submits that it is prudent to settle this matter thereby providing immediate benefits to customers.

To settle the regulatory accounting issues associated with the 2002 refund of a 2001 non-recurring income tax deduction, the Parties have agreed that a portion of this refund will be credited to customers. In addition, because the Internal Revenue Service audit cycle takes years to complete, there is still a possibility that the IRS could contest the Company's income tax deduction and trigger an income tax deficiency in a future test year. Idaho Power agreed not to seek recovery in its revenue requirement of an IRS deficiency assessment related to the one-time adjustment associated with the capitalized overhead cost tax method change for the years 1987 through 2000.

The EARG value of 16.84 mills per kWh has been unchanged since the inception of the PCA. Recognizing the substantial workloads for both Company and Staff personnel and that the 16.84 mills per kWh amount roughly splits the difference between the Company's position and the Staff's position, the Parties agreed it is in the public interest to maintain the EARG at its existing level until the next time the Company files for general rate relief.

Idaho Power further noted that it had contacted counsel for each of the Parties that participated in both this case and in the Company's general rate case (IPC-E-03-13). The United States Department of Energy has agreed to and signed the Stipulation. All of the other Parties authorized Idaho Power to represent to the Commission that they do not object to the Commission accepting the proposed settlement. Idaho Power believes the complete lack of opposition to the settlement embodied in the Stipulation strongly supports the conclusion that the settlement is fair, just and reasonable and in the public interest. Consequently, Idaho Power urges the Commission to issue its Order granting the Joint Motion and approve the Settlement Stipulation.

Commission Staff

Staff believes that the stipulated resolution of these contested issues is a reasonable compromise of the Parties' divergent claims and results in a comprehensive settlement amount of $19.3 million without specifically attributing a dollar amount to any single issue. While the cause of the Valmy outage is not in dispute, several issues complicate any possible recovery from the responsible party, and mitigate the responsibility of Idaho Power. Those issues include the magnitude of the replacement power costs, the inability of Idaho Power to control the events, the uncertainty and difficulty of cost recovery from the operating utility (Sierra Pacific) and the nature of the PCA (which passes through the benefits of superior plant performance as well as the costs of poor plant performance). These considerations influenced Staff's decision to settle this issue as part of the Stipulation, which establishes a significant credit for customers through the PCA.

The EARG level of 16.84 mills agreed to by Staff and Idaho Power as part of this Stipulation continues the EARG adjustment originally approved by the Commission when the PCA was first established. Staff asserted, absent approval of the Stipulation and pending further proceedings on this issue, it is likely that the existing EARG would remain in place anyway. Consequently, Staff believes that including the EARG in the comprehensive settlement at the $16.84/MWh level is consistent with Commission Orders, is roughly half way between the proposals of the parties, and assisted in compromise between the Parties on the other issues resolved in the Stipulation. Moreover, the settlement on EARG modification is essentially for an interim period until the next general rate case that is anticipated to be filed within two years. Both Staff and the Company believe that EARG modification can be more properly identified and included upfront as an issue in that case.

The dispute between the Parties regarding the 2001 non-recurring income tax deduction includes multiple regulatory accounting concerns associated with the dollar amount and regulatory accounting treatment. By including this issue as part of a comprehensive settlement, the Parties can resolve these contentious issues without fully determining the magnitude of any expense reduction or the merits of an out-of-test year regulatory adjustment. Staff believes that both Parties reasonably compromised on the 2001 non-recurring income tax deduction issue, and that this compromise is reflected in the comprehensive settlement.

COMMISSION FINDINGS AND DISCUSSION

Pursuant to Commission Rule 274 we shall decide whether to accept the Stipulation and Settlement Agreement based on the record currently before us. IDAPA 31.01.01.274. The facts of the issues resolved by this Stipulation are not in dispute and all parties that materially participated in this docket have either signed this Agreement or did not actively oppose it.

Accordingly, we find further proceedings are not necessary for us to determine whether we should accept this Agreement.

As Staff noted in its comments, the issues included in the comprehensive settlement are complex in that they involve difficult accounting, tax reporting and third-party subrogation issues. Staff and Idaho Power took widely divergent stances on how these issues should be resolved. We find that the potential for resource consuming formal proceedings, and the risk to each party of unfavorable resolution on each issue, is high for both Parties. The Commission finds that the compromise embodied in the Stipulation serves the best interest of Idaho Power ratepayers and the parties involved. Moreover, the resulting $19.3 million customer credit benefits customers and will promote rate stability over the next two years.

The Commission finds that this Stipulation finally resolves the Valmy 2, EARG and regulatory tax accounting issues. We further find that this Stipulation has been made to compromise contested claims and is entered largely for the purpose of avoiding expense, inconvenience, and uncertainty of further litigation. Finally, pursuant to Commission Rule 275 we find that the Parties have carried their burden of showing that the Stipulation is just, fair and reasonable, in the public interest, and in accordance with the law and regulatory policy of this State. IDAPA 31.01.01.275. Accordingly, we accept and approve the Stipulation as proposed by the parties without modification.

ORDER

IT IS HEREBY ORDERED that the proposed Stipulation is just, fair and reasonable, in the public interest, and in accordance with the law and regulatory policy of this State. Accordingly, we accept and approve the Stipulation as proposed by the parties in settlement of the Valmy 2, EARG and regulatory tax accounting issues identified therein. Thus, the Joint Motion for Acceptance of Settlement is granted.

IT IS FURTHER ORDERED that the parties shall comply with all terms contained in the Stipulation.

THIS IS A FINAL ORDER ON RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. IPC-E-04-9 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 28th day of September 2004.

PAUL KJELLANDER, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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