

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: NEIL PRICE
DEPUTY ATTORNEY GENERAL

DATE: APRIL 24, 2009

SUBJECT: IDAHO POWER COMPANY'S APPLICATION FOR APPROVAL OF AN AGREEMENT TO IMPLEMENT A COMMERCIAL DEMAND RESPONSE PROGRAM; CASE NO. IPC-E-09-02

On March 2, 2009, Idaho Power Company ("Idaho Power" or "Company") filed an Application with the Commission seeking approval of an agreement with EnerNOC ("EnerNOC") to implement a voluntary demand response program for its commercial and industrial customers.

On March 20, 2009, the Commission issued a Notice of Application, Notice of Modified Procedure and established an open comment period. Order No. 30755. Commission Staff, the Industrial Customers of Idaho Power ("ICIP") and an Idaho Power customer filed written comments within the established comment period. On April 23, 2009, Idaho Power filed reply comments.

THE AGREEMENT

The Application describes the commercial demand response program ("Program") as a voluntary program "targeting Idaho Power's commercial and industrial customers that are willing and able to reduce their electrical energy loads for short periods (two to four hours) during summer peak days." Application at 1-2. Program participants will receive compensation for voluntarily reducing their loads. *Id.* at 2. The Program will be extended to Schedule 9, Schedule 19 and special contract customers with an average summer billing demand of at least 200 kW. *Id.*

The Company selected EnerNOC through a "competitive RFP process to implement the Program on a turn-key basis." *Id.* EnerNOC will be responsible for the Program's implementation and operation, including the following:

1. Entering into contracts with individual Idaho Power customers to reduce their loads when requested by EnerNOC;
2. Marketing plans;
3. Securing participants;
4. Installing and maintaining all equipment, aside from the meter, used to reduce demand;
5. Tracking participation; and
6. Reporting results to Idaho Power.

Id. Idaho Power will “initiate demand response ‘events’ by notifying EnerNOC, who will, in turn, supply the requested load reduction to the Idaho Power system.” *Id.*

EnerNOC will make incentive payments based on the reduction in demand each customer agrees to provide to the Idaho Power system. *Id.* at 3. These payments will occur monthly based upon predetermined reductions and “event-based payments based on actual kWh energy reductions.” *Id.* EnerNOC will conduct energy audits to identify potential areas for demand reduction. *Id.* There is no monthly fee for program participation. *Id.* Some participants may need to install “pulse initiated metering” and EnerNOC has agreed to reimburse Idaho Power for the cost of installing this type of metering system and for the cost of the individual meter. *Id.* All participants will be able to track their historical and real-time energy use and demand reductions via a web portal. *Id.*

The Application states that the term of Idaho Power’s agreement with EnerNOC begins on February 23, 2009, and extends five years from that date. *Id.* However, it also states that the Agreement is contingent upon Commission approval without material change or condition. *Id.* at 5. The amount Idaho Power has agreed to pay in consideration for EnerNOC’s services are based upon the “value to Idaho Power of delivered capacity and energy reductions.” *Id.* at 3. The Agreement includes a liquidated damages provision should EnerNOC fail to achieve a predetermined level of performance. *Id.*

EnerNOC has committed to deliver a certain amount of demand reduction for the Idaho Power system which varies “from a lower bound of 2 MW and upper bound of 35 MW in 2009, to a lower bound of 35 MW and upper bound of 65 MW in 2013.” *Id.* at 4. The targets for demand reduction for each year of the contract term (2009-2013) “are 2 MW, 30 MW, 40 MW, 50 MW,

and 50 MW, respectively.” *Id.* The parties assume that the Program will be implemented by April 2009. *Id.*

The Agreement stipulates that Idaho Power shall be empowered to initiate a “program event” “between 2 p.m. and 8 p.m. on any non-holiday weekday day between June 1 and August 31 of each program year,” which will then obligate “EnerNOC to reduce customer demand by the agreed upon amount.” *Id.* Idaho Power is limited to one “event” per day, a total of 20 events per season, totaling no more than 60 hours and with duration between 2 and 4 hours per event. *Id.* Idaho Power is required to give at least two hours notice to EnerNOC prior to the initiation of an event. *Id.* Notice to EnerNOC from Idaho Power will be via an electronic dispatch signal and EnerNOC will then notify individual customers by telephone or e-mail. *Id.* EnerNOC will notify customers once an event is terminated. *Id.*

The Application states that the total cost of the Program is approximately \$12.2 million over the life of the contract, varying from approximately \$315,000 in the first year of the Program to approximately \$3.5 million in its final year. *Id.* at 5. Idaho Power estimates that 85% of Program costs will be associated with Capacity Payments to EnerNOC, 6% for Energy Payments to EnerNOC and 9% for Idaho Power administrative costs. *Id.*

The Program was reviewed by Idaho Power’s Energy Efficiency Advisory Group (“EEAG”) and presented at a meeting with the Industrial Customers of Idaho Power. *Id.* The Application contains a cost-effectiveness analysis as an attachment. *Id.* The Company proposes that Program costs be recovered from Energy Efficiency Rider funds, or, “if the Commission decides in the remaining portion of the Irrigation Peak Rewards proceeding . . . that the costs of the Irrigation Peak Rewards Program should be recovered through the Power Cost Adjustment [(“PCA”)],” that Program costs should likewise be recovered through the PCA. *Id.* at 6.

ICIP COMMENTS

In its comments, ICIP offered general support of the concept of demand-side response programs. However, ICIP also issued some general criticisms of Idaho Power’s proposal and suggested certain “modifications” of its proposed demand response program prior to Commission approval.

Specifically, ICIP believes that the Irrigation Peak Rewards program, IPC-E-08-23, should serve as a “benchmark against which to measure the EnerNOC aggregation Program” and argued that “the Irrigation Peak Rewards tariff has many attractive features not likewise available

under the EnerNOC Program.” ICIP Comments at 2-3. Such features include the following: (1) a longer notice period in advance of “an event of curtailment;” (2) opt-out and drop-out rights through a one time cash payment; and (3) a shorter, six-week, potential curtailment period. *Id.* at 4-7.

In addition, ICIP expressed concern regarding what it characterized as “the lack of transparency” of the individual contractual relationships between EnerNOC and each commercial and industrial customer. *Id.* at 3. According to ICIP, the relative level of expertise and bargaining power between EnerNOC and the commercial and industrial customers supports the need for “more transparency” as to the manner “each [program] participant will be treated . . .” *Id.*

STAFF COMMENTS

Staff believes that Idaho Power “reasonably evaluated the benefits and costs of this Program” and recommends that the Commission approve the Agreement between Idaho Power and EnerNOC to implement a commercial demand response program. *Id.* at 4-5. Specifically, Staff expressed satisfaction with the following provisions and elements of the Company’s proposal:

- 1) [The] program’s projected cost effectiveness between .51 in the first year to 1.12 in the final year;
- 2) reasoning for the selection of EnerNOC in the RFP process;
- 3) rationale for negotiating the number of events and event durations specified in the contract;
- 4) plan for managing the contractual number of events and event durations and how other demand response programs will be integrated;
- 5) approximation of ‘snapback,’ [shifted energy following a demand response event due to the catch up effect of cooling loads or industrial processes];
- 6) anticipated maximum number of additional meters and costs of meters for 2009; and
- 7) description of how it will conduct post implementation evaluations and confirm demand savings.

Staff closed its comments with a reminder that, as with all demand-side management programs, it will defer its determination of the prudence of the Program until “after the Company has implemented and at least preliminarily evaluated this Program.” *Id.* at 5.

CUSTOMER COMMENTS

An Idaho Power customer residing in Nampa, Idaho submitted an e-mail to the Commission’s website expressing a concern that the Company’s Application should have demonstrated an awareness of or referenced “other options” such as “line conditioning that utilizes new but reliable technologies that reduce the consumption levels of inductive loads continuously.”

IDAHO POWER REPLY COMMENTS


Idaho Power offered specific comments in response to ICIP's previously submitted comments. The Company disagreed with ICIP's recommendation that its proposed Program can and/or should be "conducted in a manner similar to the Irrigation Peak Rewards Program." Idaho Power Reply Comments at 2. Idaho Power believes that it is "not practical to implement the same type of program for commercial and industrial customers at this time." *Id.* The Company cites the following reasons in support of this assertion: (1) the variance in the type of equipment and load profiles between irrigation and commercial/industrial customers; and (2) the availability of historical data and experience developing a demand response program for irrigation customers and lack thereof for commercial/industrial customers. *Id.* at 3-4.

Idaho Power countered the notion that EnerNOC will be able to "take advantage of the inexperience of commercial and industrial customers when it negotiates contracts" by referring to the fact that some of the Company's most sophisticated customers belong to its commercial/industrial class of customers and/or are "members of large national chains of companies" that have experience working with EnerNOC in other jurisdictions. *Id.* at 6. The Company mentioned that "EnerNOC has publicly stated that participating customers who contract with EnerNOC will likely receive between \$25 to \$35 per kW annually, depending on the number of events called," an amount "very similar to the yearly average of \$32 per kW that irrigation customers will receive." *Id.* at 5-6.

Finally, Idaho Power dismissed ICIP's remaining concerns by noting that the proposed commercial DR Program provides an opt-out right that is "more generous" as well as a period of advance notice prior to a curtailment event that potentially exceeds that which is available under the Irrigation Peak Rewards Program. *Id.* at 7-8. Idaho Power believes that the extended length of the curtailment season compared to the Peak Rewards Program is necessary in order to "maintain flexibility to call events during the summer during *all* on-peak times, including all of June and August." *Id.* at 9.

COMMISSION DECISION

Does the Commission wish to approve Idaho Power's Application for approval of its Agreement with EnerNOC to implement a commercial demand response program? If so, does the Commission wish to direct that program costs be recovered either from Energy Efficiency Rider funds, the Power Cost Adjustment or another specific source of funds?



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