

service from Idaho Power and responsible planning and development on the part of the Company, which has a lack of capacity and other constraints on its system. At a time when the ability of Idaho Power's generation and transmission system to serve new load is constrained, the size and operating characteristics of potential large loads, the Company contends, can be very expensive to serve. In recent years, excess capacity has diminished to the point that new large loads will often drive the need to add new generation and/or new transmission. By lowering the size limit, the Company can address service to growing or new load within a special contract, allowing for specific cost-of-service information as well as the unique operating characteristics of customers of this size to be considered and captured within the terms of the contractual agreement. Special contracts can provide some protection to the Company's customers from unintended system impacts that large loads may impose because of their size and their time, nature, and pattern of use.

Idaho Power represents that the proposed change will not affect any current Schedule 19 or 24 customers of Idaho Power. The Company currently has approximately one hundred ten (110) Schedule 19, Large Power Service, customers in its Idaho service territory. The Company also currently has four special contract customers: (1) Micron Technology, Inc.; (2) the United States Department of Energy's Idaho National Laboratory; (3) the JR Simplot Company; and (4) Hoku Materials, Inc. These four customers range in size from 30 to 85 MWs of load. Currently, the Company has approximately 75 potential new customers system-wide with loads greater than 1 MW and one potentially at 240 MW that have expressed interest in obtaining service from Idaho Power. Of the larger ones, a single customer with a load of about 60 MW appears likely at this time to require service.

The most recent special contract, Hoku Materials, Inc., approved by the Commission on March 16, 2009, by Order No. 30748 in Case No. IPC-E-08-21 was developed with several regulatory goals for large load service in mind. These goals, as stated in Company witness Ric Gale's testimony in the aforementioned case, strive to meet the Company's obligation to serve large load customers in its service territory while protecting the Company and its many other retail customers from adverse system impacts that new large loads could impose in an environment when system capacity is limited and/or constrained. These goals are to: (1) provide requested service consistent with system capability and the reliability needs of existing customers; (2) provide options to the customer when the Company is unable to provide service

as requested; (3) mitigate the rate impact on existing customers by developing a rate structure that includes a marginal price component for an initial term of the service agreement; (4) require upfront contributions to capital expenditures associated with facilities that specifically serve the large load customer; and (5) provide a means to quantify known and measurable amounts of additional load for Integrated Resource Planning. The Company's request in this case, it states, better enables it to manage the impacts of potential new large loads on its system in satisfaction of these goals. The Company's Application is supported and accompanied by the prefiled testimony of Michael Youngblood, Manager of Rate Design in the Regulatory Affairs Department.

On September 23, 2010, the Commission issued a Notice of Application and Modified Procedure in Case No. IPC-E-10-23. The deadline for filing written comments was November 12, 2010. Comments were filed by Commission Staff, the intervenor, Industrial Customers of Idaho Power and the Idaho Conservation League. Reply comments were filed by Idaho Power on November 24, 2010. The comments can be summarized as follows:

Idaho Conservation League

Idaho Conservation League supports the Company's Application and recommends approval. ICL identifies four important considerations that it believes the Company should consider in negotiating large load contracts and that the Commission should examine in approving same.

Industrial Customers of Idaho Power (ICIP)

While not opposing the Company's Application, ICIP recommends that the Commission require the Company to include a grandfathering provision in the Company's revised Schedule 19 tariff such that the upper limit for existing Schedule 19 customers will remain at 25,000 kW. ICIP contends that it is unfair and discriminatory to require a special contract for existing Schedule 19 customers who incrementally increase their load (by for example 4,000 kW) to reach the Company-proposed 20,000 kW cap, but to allow a new customer with a 4,000 kW load to have the option of taking service under the Schedule 19 tariff or a special contract.

Commission Staff

Staff recommends that the Company's Application be approved. Staff notes that Avista Utilities requires a special contract when a customer's load exceeds 25,000 kVa, which is

25,000 kW at 100% power factor. Rocky Mountain Power requires a special contract when a customer's load exceeds 15,000 kW three times in a six month period. Staff contends that Idaho Power's request to reduce the load level above which a special service contract is required, from 25,000 kW to 20,000 kW, remains comparable to the special contract service levels approved for other Idaho electric utilities. Staff notes further that the Company's proposal will not impact any existing Schedule 19, Schedule 24 or special contract customers and is consistent with the Hoku special contract previously approved by the Commission.

Idaho Power Reply Comments

Idaho Power opposes the ICIP's grandfathering recommendation for existing Schedule 19 customers. ICIP erroneously states, the Company contends, that a new customer with 4,000 kW of load has the option of taking service under either a Schedule 19 tariff or a special contract. That is not true, the Company states. An industrial customer with 4,000 kW of load can only take service under Schedule 19, and the Company has the obligation to serve that customer under the provisions of the tariff. Despite ICIP's argument and representations to the contrary, large customers whose aggregate loads may have incrementally grown to be larger than 20,000 kW, Idaho Power contends, can have significant impact on the Company's ability to manage and serve that load. The Company's proposal is that the utility be given the opportunity to address the impacts of that large load through the provisions of a negotiated special contract rather than being required to serve that load under the constraints of a tariff, which would not allow any differentiation and treatment for a customer from 1,000 kW to 20,000 kW.

The Company opposes the recommendation of ICIP because it believes grandfathering as proposed may be in violation of *Idaho Code* § 61-315, Discrimination and Preference Prohibited. If the Commission were to adopt grandfathering as ICIP suggests, Idaho Power contends that then some customers within Schedule 19 would be treated differently than other customers within the same tariff by a provision for growth and expansion beyond a limit that is not the same for all. *Citing Idaho State Homebuilders v. Washington Water Power*, 107 Idaho 415, 690 P.2d 350 (1984). In that case, the Idaho Supreme Court identified cost of service, quantity of electricity used, differences and conditions of service, or the time, nature and pattern of use as appropriate justifications for setting different rates and charges for customers. ICIP's grandfathering recommendation, the Company contends, would also be extremely difficult to administer.

COMMISSION FINDINGS

The Commission has reviewed and considered the filings of record in Case No. IPC-E-10-23, including the Application (with supporting testimony and exhibits), the comments of the Industrial Customers of Idaho Power, the Idaho Conservation League and Commission Staff and the reply comments of Idaho Power. Based on our review of the filings in this case, we find that we have an adequate record to render a decision and further find it reasonable to do so without further notice or procedure. IDAPA 31.01.01.204.

Submitted for Commission consideration in this case is Idaho Power's Application to reduce the load level above which a special service contract is required from 25,000 kW to 20,000 kW of aggregate load. The Application affects Company tariff Schedules 19 and 24 and Rule C (Service and Limitations). As represented by the Company, the proposed change will not affect any current Schedule 19 or 24 customers.

We find that no party submitting comments opposes the Application. ICIP, however, recommends that existing Schedule 19 customers retain the grandfathered right to increase their service levels beyond 20,000 kW to 25,000 kW without special contract requirement. As represented by Idaho Power and agreed to by Staff, we find that a large customer whose aggregate electric load exceeds 20,000 kW can have a significant impact on the Company's ability to manage or serve that load. We find ICIP's grandfathering proposal for existing Schedule 19 customers and related rationale advanced in support of said proposal to be unpersuasive. *Idaho Code* § 61-315.

Idaho Power represents and we recognize that the ability of the utility's generation and transmission system to serve large load customers is constrained. We find that the Company's proposal will enable it to better manage the impacts of potential new large loads on its system. The Commission thus finds the Company's proposal to reduce the minimum load requirement for electric service pursuant to a negotiated special contract based on a customer's unique circumstances to be reasonable and in the public interest. We accordingly find it reasonable to approve the Company's Application for an effective date of January 1, 2011.

CONCLUSIONS OF LAW

The Commission has jurisdiction over the issues raised in Case No. IPC-E-10-23 and over Idaho Power Company, an electric utility, pursuant to the authority granted in Title 61,

Idaho Code (including 61-502, 61-503, and 61-315), and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

ORDER

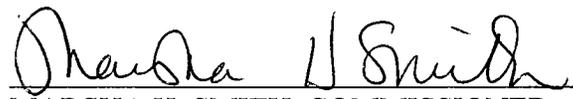
In consideration of the foregoing and as more particularly described above IT IS HEREBY ORDERED that Idaho Power's Application in Case No. IPC-E-10-23 is approved. The Company is to file revised compliance tariffs (Schedule 19, Large Power Service; Schedule 24, Agricultural Irrigation Service; and Rule C, Service and Limitations) for an effective date of January 1, 2011.

IT IS FURTHER ORDERED that the request of the Industrial Customers of Idaho Power for grandfathered treatment of existing Schedule 19 customers 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. 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 7th day of December 2010.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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