

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF AN INVESTIGATION</b>	)	
<b>OF APPROPRIATE COST RECOVERY</b>	)	<b>CASE NO. IPC-E-10-27</b>
<b>MECHANISMS FOR IDAHO POWER'S</b>	)	
<b>ENERGY EFFICIENCY PROGRAMS</b>	)	<b>ORDER NO. 32245</b>
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On October 22, 2010, Idaho Power Company filed an Application requesting that the Commission issue an Order “accepting the Company’s demand-side resources business model.” Application, p. 1. Idaho Power identified several objectives in its Application, including addressing a growing negative balance in the Energy Efficiency Rider account and implementing an opportunity for the Company to earn on its investments in demand-side resource (DSR) programs. Application, p. 5. Currently, all costs for DSR programs are recovered through the Energy Efficiency Rider (Schedule 91), which is presently 4.75% of base rates. The Rider balance has been negative since April 2008, and had grown to more than \$16 million. Application, p. 5. The Company estimated a 2010 year-end negative balance of \$17,009,140 in the Rider account, increasing to \$29,677,151 in 2012 if not addressed.

The Application sought authorization to implement ways for the Company to recover the costs of some energy efficiency programs; specifically, the Company proposed to (1) move certain demand response incentive payments into the annual Power Cost Adjustment on a prospective basis beginning June 1, 2011; (2) establish a regulatory asset for Custom Efficiency program incentive costs beginning January 1, 2011; and (3) change the carrying charge on the Energy Efficiency Rider from the customer deposit rate to the Company’s authorized rate of return. Application, p. 1. The Company projected that if the Commission implements the first two proposals, the 2010 Rider balance of negative \$17 million would shrink to a negative \$3,356,306 in 2011, and start reducing the negative balance in the Rider account.

On November 24, 2010, the Commission issued a Notice of Application and Notice of Intervention Deadline. Petitions to Intervene were filed by the Industrial Customers of Idaho Power; the Idaho Conservation League, Northwest Energy Coalition and Snake River Alliance (Conservation Parties); the Idaho Irrigation Pumpers Association, Inc.; and the Community Action Partnership Association of Idaho (CAPAI). On January 14, 2011, the Commission issued Procedural Order No. 32160 establishing a schedule for processing the case, including a settlement

conference scheduled for February 7, 2011. The parties subsequently proposed a new procedural schedule, anticipating that a settlement agreement would be filed with the Commission. On February 14, 2011, the Commission issued Procedural Order No. 32178 vacating the existing schedule and adopting a new schedule, providing for the filing of comments and a hearing on March 30, 2011, for oral argument on the proposed settlement agreement.

On March 3, 2011, Idaho Power filed the Stipulation and Motion for Approval. The Stipulation was signed by Idaho Power, Commission Staff, CAPAI, and the Conservation Parties. The Stipulation proposed recovery of incentive payments for three programs in the PCA, with an adjustment to separate the DSM costs and allocate them to each customer class based on the amount that would have been recovered from each class through the Rider. The Custom Efficiency incentive payments would be capitalized as the Company requested, but with a seven-year amortization period instead of four. Finally, the Stipulation provided that the carrying charge for the Rider deferral balance would not be increased from the 1% rate, equal to that on customer accounts, currently in place.

The Industrial Customers opposed the Stipulation, arguing that implementation of the proposed changes is tantamount to increasing the Energy Efficiency Rider from 4.75% to 6.6%. The Industrial Customers believe “the proposal simply masks increased conservation expenditures, and thereby would authorize substantial additional rate recovery for demand-side programs from that currently authorized for Idaho Power.” Reading Direct, p. 6.

Idaho Power, Commission Staff, and the Conservation Parties identified reasons to support the cost recovery changes proposed in the Stipulation. The Conservation Parties note that the Commission has “steadfastly” directed Idaho utilities to pursue all cost-effective DSM programs. The Conservation Parties believe the proposal establishes the proper regulatory structure to remove economic disincentives for Idaho Power to invest in DSM. Hirsh Direct, p. 2. Staff supported the Stipulation as providing a balanced approach for the Company to recover DSM program costs. Staff noted that demand response programs that are viewed as capacity resources with a variable payment from year to year should be treated more like capacity-related supply-side resources with cost recovery through base rates and PCA true-up. Lobb Direct, pp. 7-8. Once some DSM costs are moved to base rates, Staff believes they can be “more effectively evaluated and incorporated in overall customer rates as part of a general rate case.” Lobb Direct, p. 8.

On April 1, 2011, the Commission issued final Order No. 32217 denying approval of the Stipulation filed by the parties. The Commission recognized and stated its appreciation for Idaho Power's commitment to improve its DSM programs, including programs that provide direct incentives to customers to use energy efficiently and wisely. Order No. 32217, p. 4. The Commission also noted the Company's enlarged conservation programs have resulted in increased program costs and Commission-approved increases in the Energy Efficiency Rider. Although the Commission did not approve the Stipulation, the Commission recognized that the "funding adjustments proposed by Idaho Power in this case ultimately may be appropriate to ensure DSM programs are adequately funded and that the Company recovers approved expenditures in a timely manner." Order No. 32217, p. 5. The Commission did not approve the Stipulation, finding that issues raised by the proposals should be more carefully scrutinized in a rate case. Finally, the Commission recognized and shared the parties' concern over the amount of the Energy Efficiency Rider deferral balance. The Commission determined to allow Idaho Power to recover \$10 million in DSM expenditures that have already been deemed prudent by the Commission for recovery in the 2011 Power Cost Adjustment, effective June 1, 2011.

On April 22, 2011, Idaho Power filed a Petition for Clarification requesting clarification on three points. First, the Company contends that a possible interpretation of the Commission's decision suggests that Idaho Power "should limit its cost effective DSM expenditures to the level of revenue collected by the Rider until these funding issues are resolved in a general rate case proceeding." Idaho Power Petition for Clarification, p. 2. Accordingly, the Company requested clarification, pending issuance of an Order addressing DSM funding to resolve the negative Rider balance, clarifying that Idaho Power should continue to pursue all cost-effective DSM – even in excess of Energy Efficiency Rider revenues.

Second, Idaho Power seeks clarification regarding its proposal to include demand response incentive payments with its power supply expenses. The Company is evaluating whether to file a general rate case this year that would encompass a decision whether to make a similar proposal in its rate case. The Company requests clarification "to reflect that the Commission is not philosophically opposed to the inclusion of Idaho Power's demand response incentives in power supply expenses." Idaho Power Petition for Clarification, p. 4.

The third clarification requested by Idaho Power relates to the Company's proposal to treat the Custom Efficiency program as a regulatory asset. The Company asserts that the

participants in the case supported the proposal, and that the sole point of disagreement among the parties was in regard to the length of the amortization period. Approval of custom efficiency incentive payments as a regulatory asset would not affect current cost allocations and Idaho Power contends that “this type of accounting would begin treating demand-side investments similar to supply-side resources – a goal supported by all participants in this case – and strengthen the energy efficiency business model.” Idaho Power Petition for Clarification, p. 5. Accordingly, the Company requested the Commission clarify Order No. 32217 to allow the Company to account for incentives paid through the Custom Efficiency program as a regulatory asset beginning January 1, 2011, with an amortization period to be determined later by the Commission.

On April 29, 2011, the Industrial Customers of Idaho Power (ICIP) filed an answer to the Company’s Petition for Clarification. ICIP opposes any clarification of the Order, and requested “that if the Commission is inclined to grant any of Idaho Power’s requests that the Commission first hold an evidentiary hearing where all of the relevant issues can be fully vetted.” ICIP Answer, pp. 4-5. ICIP argues that no further clarification is required regarding the Commission’s intention for Idaho Power to pursue cost-effective DSM, even if program costs exceed funding provided by the Energy Efficiency Rider. ICIP notes that the Commission has stated that the amounts it will authorize for DSM spending are not unlimited, referencing Order No. 31080, and that Idaho Power has placed itself in a difficult position by spending in excess of the amount that is recovered through the Rider. ICIP Answer, p. 6. ICIP argues that Idaho Power can propose another cost recovery mechanism in a general rate case, or the Company can begin reducing its spending to a level that is within the \$38 million per year collected through the Rider, and that no further clarification is needed at this time. ICIP Answer, p. 6.

ICIP also asserts that the Commission should reject Idaho Power’s request for clarification of the Commission’s “philosophical position” regarding recovery of DSM expenses as power supply expenses. ICIP contends that “by granting the clarification sought by the Company, the Commission may handcuff itself from being able to undo this far-reaching impact in a future rate case.” ICIP Answer, p. 7.

Finally, ICIP argues the Commission should reject the Company’s request for clarification regarding treatment of the Custom Efficiency incentive payments. ICIP disagrees with the Company’s assertion that the sole disagreement regarding the proposal was in regard to the length of the amortization period. ICIP asserts that “if these \$5 million in annual incentive

payments are rate based they must be treated as a system resource in a cost of service study.” ICIP Answer, p. 8. ICIP argues that to grant the Company’s request without addressing the cost-of-service issues “would be a failure to address all of the relevant issues regarding whether the Company’s proposal can be workable.” ICIP Answer, p. 8. ICIP requested that if the Commission is inclined to grant Idaho Power’s request, that the Commission approve a 12-year amortization period. ICIP Answer, p. 9.

### **COMMISSION FINDINGS**

The Commission issues this Order in response to Idaho Power’s Petition for Clarification to assist the Company in furthering its cost-effective efficiency programs and to allay any undue concerns resulting from the Commission’s disapproval of the Stipulation filed in the case. First, the Company should not regard the Commission’s Order as reflecting in any way a desire to scale back on cost-effective conservation programs. Although the Commission, like the parties, is concerned with the growing balance in the Rider deferral account, our decision is not a signal that Idaho Power should limit its cost-effective DSM expenditures to no more than the level of revenue collected by the Rider. Idaho Power’s energy efficiency programs are reviewed by Staff and other third parties and then by the Commission to evaluate their effectiveness. Existing processes enable the Company to determine which programs should be enlarged or scaled back, based on an analysis of cost effectiveness. The Commission has and will authorize recovery of program costs that are prudent, and is open to different proposals for recovery of costs. For example, the Commission approved recovery of \$10 million in Idaho Power’s annual Power Cost Adjustment this year. In the meantime, Idaho Power should continue to pursue all cost-effective DSM – even in excess of Energy Efficiency Rider revenues.

Second, the Commission affirms it “is not philosophically opposed to the inclusion of Idaho Power’s demand response incentives in power supply expenses.” Idaho Power Petition for Clarification p. 4. As we stated in Order No. 32217, the “funding adjustments proposed by Idaho Power in this case ultimately may be appropriate to ensure DSM programs are adequately funded and that the Company recovers approved expenditures in a timely manner.” Order No. 32217, p. 5. The Commission again affirms that the Company’s proposal to include demand response incentive payments in power supply expenses may be reasonable and appropriate. But that cannot be ascertained until the specifics of a proposal are reviewed in a rate case. The Commission did not intend to discourage presentation of a reasonable proposal.

Finally, the Commission will allow Idaho Power to account for incentives paid through the Custom Efficiency program as a regulatory asset beginning January 1, 2011, with an amortization period to be determined later by the Commission. Establishing a regulatory asset account for Custom Efficiency program incentive payments does not change current customer rates, nor does it presume recovery of any amount without appropriate program cost reviews by the Commission. That review process will also provide a basis for the Commission to determine the appropriate amortization period.

#### **PETITIONS FOR INTERVENOR FUNDING**

On April 15, 2011, Applications for Intervenor Funding were filed by the Idaho Conservation League, Northwest Energy Coalition, and Snake River Alliance (Conservation Parties) all of whom were represented by attorney Benjamin Otto. The Community Action Partnership Association of Idaho (CAPAI) also filed an Application requesting intervenor funding. No motions were filed in opposition to the intervenor funding requests of either CAPAI or the Conservation Parties, which must be filed within 14 days after the request for intervenor funding is filed. IDAPA 31.01.01.164.

The Commission's Rules of Procedure 161 through 165 provide the requirements for the petitions for intervenor funding and the standards for determining approval of intervenor funding awards. Rule 162 requires applications to include an itemized list of expenses, statement of proposed findings, statement showing costs, explanation of cost statement, statement of difference, statement of recommendation, and statement showing class of customers. IDAPA 31.01.01.162. Rule 165 states the Commission must find that the intervenor's presentation materially contributed to the Commission's decision, the costs of intervention are reasonable in amount, the costs of intervention were a significant hardship for the intervenors, the recommendations of the intervenors differed materially from the testimony and exhibits of the Commission Staff, and the intervenor addressed issues of concern to the general body of users or consumers. IDAPA 31.01.01.165.

The Commission has reviewed the Applications for Intervenor Funding and finds that they comply with the Commission's Rules. Each of the Applications provides the information required for an Application for Intervenor Funding, and the Commission finds that both intervenor applications satisfy the requirements of Rule 165. The Commission specifically notes that the requested intervenor funding amounts are reasonable. The Conservation Parties' request totals \$4,200, and CAPAI's request is for \$2,080.72.

The Commission approves the Application for Intervenor Funding filed by CAPAI in the amount of \$2,080.72, and also approves the Application for Intervenor Funding filed by the Conservation Parties in the amount of \$4,200. Both awards of intervenor funding are chargeable to the residential class of customers and will be an allowable business expense in Idaho Power's next rate case. See IDAPA 31.01.01.165.

### **ORDER**

IT IS HEREBY ORDERED that Order No. 32217 is clarified as set forth above in response to Idaho Power's Petition for Clarification to assist the Company in its furtherance of cost-effective efficiency programs.

IT IS FURTHER ORDERED that the Applications for Intervenor Funding filed by CAPAI in the amount of \$2,080.72, and by the Conservation Parties in the amount of \$4,200, are approved. Both awards of intervenor funding are chargeable to the residential class of customers and will be an allowable business expense in Idaho Power's next rate case.

THIS IS AN ORDER ISSUED TO CLARIFY A FINAL ORDER. Pursuant to Rule 325 of the Commission's Rules of Procedure, IDAPA 31.01.01.325, this Order does not suspend or toll the time for the filing of a petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 17<sup>th</sup>  
day of May 2011.

  
PAUL KJELLANDER, PRESIDENT

  
MACK A. REDFORD, COMMISSIONER

  
MARSHA H. SMITH, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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