

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

**FROM: WELDON STUTZMAN
DEPUTY ATTORNEY GENERAL**

DATE: MARCH 28, 2014

**SUBJECT: IDAHO POWER COMPANY’S PETITION FOR APPROVAL OF THIRD
AMENDMENT TO AGREEMENT WITH ENERNOC, CASE NO. IPC-E-
14-02**

On March 7, 2014, Idaho Power Company filed a Petition requesting approval of the third amendment to the Company’s Agreement with EnerNOC, Inc. EnerNOC pursuant to the Agreement provides a demand response program for Idaho Power’s commercial and industrial customers, identified as its Flex Peak Management Program. The objective of the Flex Peak Program is to reduce demand on Idaho Power’s system during peak load times by customers’ voluntary reduction in electrical use. EnerNOC is responsible for developing and implementing all marketing plans, securing participants, installing and maintaining all equipment beyond Idaho Power’s meter necessary to reduce demand, track participation, and report results to the Company. Petition, p. 2.

The Commission approved the initial Agreement between Idaho Power and EnerNOC in May 2009, and approved the first amendment to the Agreement in June 2010. In December 2012, Idaho Power filed an application requesting authority to temporarily suspend two demand response programs, the A/C Cool Credit and Irrigation Peak Rewards programs, because the Company’s 2013 Integrated Resource Plan did not show peak hour capacity deficits until July 2016. In February 2013, the parties in the case reached a settlement to allow for the temporary suspension of the A/C Cool Credit Program and Irrigation Peak Rewards Program during the 2013 season. In March 2013, the Company filed a petition seeking Commission approval of second amendment to the Agreement allowing the Company and EnerNOC to reduce the amount

of weekly nominated demand reduction obligations, the available hours of the program, and the amount per kilowatt that Idaho Power pays to EnerNOC. The Commission subsequently approved the second amendment to the Agreement and directed the Company to discuss the future of the Flex Peak Program during demand response workshops to be held that summer. Order No. 32805. Public workshops were convened in July and August 2013, with a final public workshop and settlement conference on August 27, 2013. In October 2013, Idaho Power requested the Commission approve a settlement agreement signed by the Company and participating parties relating to the modification and reinstatement of the Company's demand response programs for 2014 and beyond. Petition, p. 4. The Commission later issued Order No. 32923 approving the settlement agreement. The Company filed a Petition in this case seeking approval of the third amendment to modify the Agreement to comply with the terms of the settlement agreement previously approved by the Commission. Petition, p. 4.

Idaho Power's Petition states that the third amendment aligns with the settlement agreement approved in Case No. IPC-E-13-14. It extends the contract termination date through the end of 2014 program season, reduces payments to EnerNOC, and makes changes to the payment structure, along with other changes. The third amendment also makes a few changes not identified in the settlement agreement. Specifically, the third amendment limits availability of the Flex Peak Program after the first three dispatch events. Idaho Power Petition, p. 5. The Petition states that because these dispatch limitations were not mentioned in the settlement agreement, Idaho Power consulted its Energy Efficiency Advisory Group (EEAG), which supported the Company placing the additional term in the third amendment. *Id.*

Idaho Power states that EnerNOC believes information in the original Agreement and subsequent amendments contain information that is confidential, valuable proprietary information. Accordingly, the Company filed its third amendment under separate cover and in accordance with the Commission's rules on handling confidential information. Petition, pp. 5-6. The Company prepared a confidential explanation of the third amendment that will be available to parties upon request and execution of the appropriate Protective Agreement.

Idaho Power requests that its Petition for approval of the third amendment to the EnerNOC Agreement be processed by Modified Procedure. The Company further requests the Commission issue an Order no later than May 31, 2014. Staff recommends the Commission

issue a Notice of Modified Procedure providing for a 21-day comment period and a 7-day period for reply comments.

COMMISSION DECISION

Should the Commission issues a Notice of Petition and Notice of Modified Procedure providing for a 21-day comment period and a 7-day reply comment period?



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Deputy Attorney General

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