

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF IDAHO POWER )**  
**COMPANY'S APPLICATION TO )** **CASE NO. IPC-E-15-26**  
**APPROVE THE TRANSFER AND SALE OF )**  
**CERTAIN ASSETS TO THE UNITED )**  
**STATES DEPARTMENT OF JUSTICE, )** **ORDER NO. 33514**  
**FEDERAL BUREAU OF INVESTIGATION )**  
**)**

---

Idaho Power Company filed an Application with the Commission for an Order approving the transfer and sale of assets to the United States Department of Justice, Federal Bureau of Investigation (FBI), under *Idaho Code* § 61-328. The Commission approved Idaho Power's Application in Order No. 33470. Intervenor Industrial Customers of Idaho Power (ICIP) filed a timely Petition for Reconsideration, generally asserting that the Commission's Order does not conform to the law, and asking that the Commission initiate a separate case to establish rules governing the price customers must pay to purchase assets from Idaho Power. The Commission granted the Petition to reconsider issues raised therein. Order No. 33501. On reconsideration, the Commission affirms its prior order on different grounds. In summary, we find that *Idaho Code* § 61-328 does not govern the sale of the property here because that property is serving only the FBI and not the public or a portion thereof. We affirm our approval of the sale, however, because it is in the public interest and does not increase costs and rates for customers. Lastly, we deny ICIP's request that we initiate a proceeding to establish parameters for determining the price for the sale of Idaho Power's assets. Our decision is explained below.

**BACKGROUND**

Idaho Power provides electric service to an FBI facility in the Company's service territory. Application at 2. Idaho Power owns and operates transformers and other facilities ("Assets") on the FBI's side of the Point of Delivery (the point at which the customer's power usage is measured, hereafter "POD"), to meet the FBI's service requirements. *Id.* The rates and charges for providing and maintaining these Assets to large customers are governed by Idaho Power's Rule M "Facilities Charge Service" in the Company's Tariff No. 101.<sup>1</sup> *Id.* Consistent

---

<sup>1</sup> Tariffs are rules or rate schedules applicable to a particular utility. Tariffs are generally approved by the Commission under *Idaho Code* §§ 61-502, 61-507, 61-523 and 61-622. Idaho Power Company's Rule M Facilities Charge Service can be found on the Commission's web site at:  
<http://www.puc.idaho.gov/fileroom/tariff/electric/Idaho%20Power%20Company.pdf>.

with Rule M, the FBI has paid Idaho Power a monthly facilities charge for this optional service. *Id.*

At the FBI's request, Idaho Power entered into an Asset Sale Agreement, to transfer and convey the Assets to the FBI for a purchase price of \$79,373. Agreement (Redacted) at 3. Idaho Power applied to the Commission for approval of the proposed Agreement under *Idaho Code* § 61-328 and Idaho Power's Rule M. *Id.* at §§ E., 3(a). The Commission issued a Notice of Application in December 2015. Order No. 33433.

ICIP filed a Petition to Intervene, which the Commission granted. Order No. 33443. The Commission received comments from Staff, ICIP, and the FBI, and reply comments from the Company. All parties, including ICIP, recommended – or did not object to – approval of Idaho Power's Application. The Commission also held a public technical hearing, at which representatives from Idaho Power, ICIP, and Commission Staff appeared and addressed the Commission, consistent with their comments. On February 24, 2016, the Commission issued Order No. 33470, approving Idaho Power's Application. Despite its non-opposition, ICIP filed a Petition for Reconsideration. Idaho Power filed a timely Answer to the Petition. The Commission granted the Petition, and now enters this Order on Reconsideration.

#### **FINAL ORDER NO. 33470**

In our final Order, the Commission determined that Rule M and *Idaho Code* § 61-328 were satisfied. Applying Section 61-328, we found that the Assets transfer would not impact deliverability or reliability of electric service to other customers, as the Assets serve only the FBI, thus satisfying the public interest requirement. Order No. 33470 at 5. The Commission also found “the sales price methodology in the Agreement protects ratepayers and does not cause rates to increase.” *Id.* In addition, the Commission found no indication that “the FBI lacks the bona fide intent and financial ability to operate and maintain the Assets.” *Id.* We noted that the sales price was “mutually agreed upon by Idaho Power and the FBI after careful consideration” of the requirements for an equitable asset sale. *Id.* at 6. There being no evidence to the contrary, and no opposition to the transaction, the Commission concluded that all statutory requirements were met. *Id.*

The Commission then addressed ICIP's recommendation to open a separate docket to address how to value the purchase price of utility-owned assets. Although ICIP did not oppose the transaction between Idaho Power and the FBI, ICIP asked the Commission to define rules to

be applied to all future sales of utility-owned facilities that serve a single customer. ICIP Comments at 3. The Commission declined ICIP's proposal, and instead emphasized, "we do not endorse Idaho Power's price methodology . . . as precedent going forward." Order No. 33470 at 6. The Commission continued, "The circumstances of any given agreement between a utility and customer for the purchase of utility-owned assets are unique. . . . [A]greements like that between Idaho Power and the FBI here, are ill-suited to, and would not benefit from, the imposition of rules for determining a purchase price." *Id.* Accordingly, the Commission determined that applications for the sale of facilities will be evaluated "on a case-by-case basis." *Id.*, citing Order No. 32426 at 33; *see also* Order No. 32940 at 5.

### THE PETITION FOR RECONSIDERATION

ICIP asserts that the Commission's Order "is not in conformity with the law." Petition at 2. According to ICIP, the Order "(1) obviates the Commission's obligations under the Idaho Public Utility Laws; (2) inappropriately applies Idaho Code Sections 61-327 and 61-328 . . . and (3) . . . is arbitrary because it allows Idaho Power to engage in discriminatory treatment of its customers in the determination of the sales price for . . . utility-owned assets." *Id.*

As to its first argument, ICIP contends that *Idaho Code* §§ 61-301 and 61-302 obligate the Commission "to insure that rates and charges Idaho Power extracts for its service and facilities are fair, just and reasonable." *Id.* ICIP asserts the Commission has "broad powers to regulate the provision of utility services, including the provision of utility-owned facilities on the ratepayer side of the meter," citing *Idaho Code* § 61-503. *Id.* at 3. According to ICIP, the Commission has allowed "Idaho Power to unilaterally determine the price for the sale of utility-owned assets on the customer side of the meter, [thus] leaving the ratepayer to fend for him or herself in exactly the unequal bargaining position that [Idaho's] Public Utilities Laws . . . were designed to prevent." *Id.* at 4. ICIP further argues that "the Commission has explicitly declined to make its statutorily obligated findings with regard to the sufficiency of the price [of the Assets purchased by the FBI]." *Id.* ICIP indicates that its Petition "does not address whether the Commission has the authority to force a particular sale, but only that when a utility proposes to engage in such a sale that the Commission has the obligation to set fair, just and reasonable rates, fares, tolls and contracts inherent in those sales." *Id.* at 5.

ICIP's second argument is that *Idaho Code* § 61-328 does not apply to this case because Idaho Power's sale is to a single customer, whose use of the Assets will serve only that

customer, and not the broader public. *Id.* at 6-7. ICIP argues that the statutory scheme relied on by the Commission does not give the Commission authority to structure a sale of utility assets to an entity – the FBI – that is not subject to its regulatory authority. *Id.* at 8, *citing Idaho Code § 61-327 and Idaho Power Co. v. State of Idaho*, 104 Idaho 575, 589, 661 P.2d 741, 755 (1983).

Finally, ICIP argues that the Commission’s Order is discriminatory and arbitrary. Petition at 8. ICIP asserts, “Allowing Idaho Power to unilaterally determine the sales price, and charge for lost revenues and profits, is not only a departure from historic Commission precedent, it is an arbitrary abdication of the Commission’s duties to affirmatively set the rates and terms of service for utilities it regulates.” *Id.* at 8-9. ICIP continues, “The Commission has not explained why it has suddenly departed from its traditional book value approach to the sale of utility assets by now allowing Idaho Power to unilaterally set a sales price that far exceeds book value.” *Id.* at 9.

In its prayer for relief, ICIP asks that the Commission reconsider “its decision not to initiate a proceeding to establish parameters for determining the price for the sale of Idaho Power-owned assets subject to Rule M.” *Id.*

#### **IDAHO POWER’S ANSWER**

Idaho Power notes that “ICIP explicitly did not object to the Sale in its Comments . . . or at the public technical hearing.” Answer at 2. Idaho Power asserts that ICIP “misunderstands Rule M, [regarding the Company’s] Facilities Charge Service,” and explains that “Idaho Power provides the Facilities Charge Service at the customer’s request and the Company’s option to the approximately 260 Idaho jurisdictional customers that have requested it.” *Id.* at 2-3 (footnote omitted). The Company contends, “Idaho Power has no monopoly beyond the POD,” noting that the Facilities Charge Service is beyond the POD and “provided as a voluntary service.” *Id.* at 4.

Idaho Power agrees that “the ‘public service’ language in *Idaho Code § 61-328(3)(c)* is awkward,” but disagrees that the statute is inapplicable to its sale of Assets to the FBI. *Id.* at 5. The Company argues that the Commission’s Orders issued under Section 61-328 “enable the utility to provide clear title and authorize removal of facilities from the utility’s system of accounts governed by *Idaho Code § 61-524.*” *Id.* Also, the “Commission’s role is to protect the general body of customers from negative impacts resulting from the sale; it is not the Commission’s duty to protect an individual in an arm’s length transaction to procure facilities or services that can be acquired from other providers.” *Id.* at 6.

Idaho Power asserts that the Commission’s case-by-case review of facilities sales under Rule M is appropriate. *Id.* at 6. “When the Commission reviews utility facility sales to customers in the context of the circumstances present, it fulfills its statutory duty under *Idaho Code* § 61-328 to authorize only those transactions consistent with the public interest.” *Id.* at 6-7. Although “other circumstances may warrant different pricing methods or contract terms to reflect the value proposition present in a particular transaction,” Idaho Power maintains that the pricing methodology used in this case “provides a reasonable framework for evaluating facilities . . . sales [here and] in the future.” *Id.* at 7. In sum, the Company asserts that ICIP’s request “for a generic pricing methodology is not necessary or required” to safeguard the public interest or to ensure that “other customers are not negatively impacted.” *Id.* at 9. Idaho Power therefore asks the Commission to deny ICIP’s Petition.

### **LEGAL STANDARD**

Under Idaho’s Public Utilities Law and Commission rules, any person interested in a final order of the Commission shall have the right to petition for reconsideration thereof. *See Idaho Code* § 61-626(1); IDAPA 31.01.01.331.01. A petition for reconsideration must articulate “grounds why . . . the order is unreasonable, unlawful, erroneous or not in conformity with the law.” IDAPA 31.01.01.331.01. Reconsideration provides an opportunity for a party to bring to the Commission’s attention any issue previously determined, and thereby affords the Commission an opportunity to correct any mistake or omission. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 591 P.2d 122 (1979). The Commission may grant reconsideration by reviewing the existing record, or by soliciting additional pleadings or evidence. *Idaho Code* § 61-626; IDAPA 31.01.01.332. If the Commission believes its final order “should be changed, the Commission may [do so].” *Idaho Code* § 61-626(3). An order on reconsideration that changes the original final order shall have the same force and effect as the original order. *Id.*; *see also Idaho Code* § 61-624.

### **DISCUSSION AND FINDINGS**

We have reviewed the record, including ICIP’s Petition for Reconsideration and Idaho Power’s Answer. As noted in our Order granting the Petition, we found it unnecessary to accept further evidence or argument. Order No. 33501 at 2-3. Based on our review of the record and all pleadings before us, we deny ICIP’s requested relief, and enter this Order modifying our analysis in final Order No. 33470.

### ***A. Right to Petition for Reconsideration***

As an initial matter, we question whether ICIP has a sufficient “interest” to allow it to petition for reconsideration. To petition for reconsideration, a petitioner must have a legally cognizable interest in a matter decided in the order. *See Idaho Code* § 61-626(1). Our decision whether a legally cognizable interest exists is informed by the doctrine of standing. To demonstrate standing, a petitioner must show:

- (1) an injury in fact, (2) a sufficient causal connection between the injury and the conduct complained of, and (3) a like[lihood] that the injury will be redressed by a favorable decision.

*Coeur d’Alene Tribe v. Denney*, \_\_\_ Idaho \_\_\_ (November 20, 2015), 2015 WL 7421342 at \*3, quoting *State v. Philip Morris, Inc.*, 158 Idaho 874, 881, 354 P.3d 187, 194 (2015). An injury in fact “must be concrete and particularized and actual or imminent, not conjectural or hypothetical.” *Id.*

The record before us fails to reveal any impact (adverse or otherwise) on ICIP from the Asset transfer. Because there is no actual, imminent or even hypothetical injury, there is nothing to remedy with a favorable decision on reconsideration. Nevertheless, because the Commission historically has liberally allowed persons to participate in Commission proceedings, and because we have already permitted ICIP to intervene in this case, we accept ICIP’s petition and explain why it fails on its merits.

### ***B. The Commission’s Order Complies with its Statutory Obligations***

ICIP argues the Commission has obviated its statutory obligations by failing to “insure that rates and charges . . . are fair, just and reasonable.” Petition at 2. Sections 61-301 and 61-302 of the Idaho Code, cited by ICIP, are “duties of public utilities” to set “just and reasonable” charges, and maintain “adequate service.” *Idaho Code* §§ 61-301, 61-302. Sections 61-502 and 61-503, also cited by ICIP, give the Commission “power to investigate and fix rates,” upon a motion or complaint, and determine “just, reasonable or sufficient rates.” *Idaho Code* §§ 61-502, 61-503. ICIP has failed to demonstrate how the Commission, or the Order for which ICIP seeks reconsideration, are in violation of these, or any other, statutory provisions.

ICIP asserts, for the first time in its Petition, that applying Rule M “only partially fulfill[s] [the Commission’s] statutory obligation” because it “does not address the determination of the price or terms for the sale of . . . facilities that are used *solely by the ratepayer taking such service.*” Petition at 3, 4 (emphasis added). ICIP thus contends that the Commission is

statutorily obligated to determine the “sufficiency of the price,” or whether the “charges for [Idaho Power’s] lost revenues and profits are ‘just, reasonable or sufficient’” from the perspective of the purchasing customer. Petition at 4. According to ICIP, the Commission “explicitly declined to make its statutorily obligated findings with regard to the sufficiency of the price.” Petition at 4. This argument both presupposes a non-existent statutory obligation, and falsely asserts an “explicit” lack of findings about the sufficiency of the sales price.

ICIP identifies no legal basis to extend the Commission’s statutory duties to include second-guessing whether the FBI negotiated a “sufficient” price in its agreement to purchase Assets from Idaho Power. The Commission has the power and duty to ensure just, reasonable and sufficient rates. *See Idaho Code* § 61-502. But the Commission lacks jurisdiction to infringe on a utility’s freedom of contract absent a finding that such contract is “inimical to the public interest.” *Afton Energy v. Idaho Power Co.*, 111 Idaho 925, 928, 729 P.2d 400, 403 (1986), *see also Idaho Power Co. v. New Energy Two*, 156 Idaho 462, 463-64, 328 P.3d 442, 443-44 (2014) (“Freedom of contract is a fundamental concept underlying the law of contract and is an essential element of the free enterprise system.”) (citations omitted). The record, Idaho statutes and case law support the Commission’s findings here.

As indicated in Order No. 33470, we are aware of no authority – and ICIP cites none –allowing the Commission to “force a particular sale between a utility and customer.” Order No. 33470 at 6, *citing* Order No. 32940 at 5-6. We found that the sales price in this case “was mutually agreed upon by Idaho Power and the FBI after careful consideration of ‘all the necessary elements for completing an equitable asset sale.’” Order No. 33470 at 5, 6. Neither ICIP, the FBI, nor any other party, asked the Commission to investigate the sufficiency of the sales price from the FBI’s perspective. Indeed, *ICIP has never asserted* that Idaho Power’s and the FBI’s agreed sales price is *not* “just, reasonable or sufficient.” In its written comments, ICIP did not “endorse the methodology” used to calculate the price, and did “not oppose approval of [Idaho Power’s] application.” ICIP Comments at 2. Instead, ICIP asked that the Commission “disclaim that this docket has any precedential value in establishing any controlling rule (explicitly or implicitly) for governing future sales of [Idaho Power]-owned facilities beyond the customer’s POD.” *Id.* at 3.

In our Order, “we emphasize[d] that . . . we do not endorse Idaho Power’s price methodology in the Agreement approved here, as precedent going forward.” Order No. 33470 at

6. We further observed that agreements like Idaho Power's and the FBI's "are ill-suited to, and would not benefit from, the imposition of rules for determining a purchase price." *Id.* at 5. Thus, we stated that the Commission "will evaluate applications for the sale of facilities on a case-by-case basis." *Id.* at 6.

Veering outside the scope of this case, ICIP then asserts its disapproval of Order No. 32940, in Case No. IPC-E-13-17. Petition at 5. That case involved a disputed sale of assets between Idaho Power and J.R. Simplot Company (a member of ICIP). ICIP argues that the Commission's solution in that case "for determining the sales price . . . is no solution at all." *Id.* Although ICIP apparently disagrees with the outcome of Order No. 32940, issued December 5, 2013, the deadline for seeking reconsideration of that Order has passed. We, therefore, decline to address what amounts to an impermissible collateral attack of an Order that has become final and conclusive as a matter of law. *Idaho Code* § 61-625.

Finally, ICIP proclaims that the Commission "has a statutory obligation to step up to the plate and establish parameters for determining the price for the sale of utility assets." Petition at 6. Conspicuously absent is a supporting statutory citation. We find none. For these reasons, we find that ICIP has failed to demonstrate that the Commission obviated its duties under the Idaho Public Utilities Law. We therefore reject ICIP's first argument because it fails to articulate how the Commission's Order is unreasonable, unlawful, erroneous or not in conformity with the law.

### ***C. Section 61-327 and 61-328***

We next address ICIP's contention that we inappropriately applied *Idaho Code* §§ 61-327 and 61-328 to the FBI's purchase of Assets from Idaho Power. ICIP argues that Sections 61-327 and 61-328 preclude the sale of utility property to a single private entity not subject to Commission-regulation. In support, ICIP quotes Section 61-327 and an Idaho Supreme Court decision, *Idaho Power Co. v. State of Idaho*, 104 Idaho 575, 661 P.2d 741. *Id.* at 7-8. On closer examination of Sections 61-327 and 61-328, we agree that they do not strictly apply in the narrow circumstances present in this case.

Both Sections 61-327 and 61-328 concern the transfer of property "used in the generation, transmission, distribution or supply of electric power and energy *to the public or any portion thereof.*" *Idaho Code* §§ 61-327, -328 (emphasis added). We find on reconsideration that the "any portion thereof" language in these provisions contemplates the transfer of property

that is already devoted to the public service, not a transfer of property that serves only a single customer. That same language appears in the Idaho Public Utilities Law definition of “public utility.” *Idaho Code* § 61-129(1). The Idaho Supreme Court has interpreted service performed for (or commodity delivered to) “any portion” of the public as including that “devoted to a public use.” *Stoehr v. Natatorium Co.*, 34 Idaho 217, 221, 200 P. 132, 133 (1921). A “portion” of the public, for purposes of the statute, does not include utility services offered “to one person or corporation under a contract. . . .” *Humbird Lumber Co. v. Idaho PUC*, 39 Idaho 505, 511, 228 P. 271, 273 (1924).

While we find that *Idaho Code* § 61-327 and 61-328 do not apply where the property is not already used to serve the public or a portion thereof, evaluating sales of utility assets in light of the Section 61-328 factors has proven an effective means of protecting the public interest and ensuring that ratepayers will not be harmed by such transactions. *See e.g.* Order Nos. 32624, 29864, 25241. We find it appropriate to consider the factors set forth in Section 61-328(3) as guidance when evaluating a utility’s proposal to transfer assets that historically have been devoted to serving only a single customer. Accordingly, we direct Idaho Power to file a revised tariff Schedule M to reflect these findings.

ICIP never explains how an alternate interpretation of *Idaho Code* §§ 61-327 and 61-328 would require the Commission to “initiate a proceeding to establish parameters for determining the price for the sale of Idaho Power-owned assets.” Petition at 9. ICIP has cited no legal authority for this purported obligation, and we find none. ICIP contends that if such parameters were established, purchasing “customers and Idaho Power will know, in advance, of the possible dollar impact of their embarking on negotiations [sic] for the sale/purchase of such assets.” *Id.* However, nothing in the record demonstrates that the FBI or Idaho Power desired or would have benefited from Commission-mandated parameters in exercising their right to contract, or in otherwise negotiating their agreement. And as already discussed, even if such parameters were established, the utility cannot be compelled to sell its assets against its will. Accordingly, we deny ICIP’s requested relief to initiate a proceeding.

***D. The Commission’s Order Is Not Discriminatory, Arbitrary,  
Nor a Sudden Departure from Prior Orders***

Finally, we address ICIP’s argument that our “treatment of [the] sale of utility-owned assets on the customer side of the meter” is “discriminatory” and an “arbitrary abdication of the

Commission's duties." Petition at 8-9. According to ICIP, Order No. 33470 presents a sudden and unexplained "departure from historic Commission precedent," and allows "Idaho Power to unilaterally determine the sales price, and charge for lost revenues and profits." *Id.* at 8. ICIP further asserts that "[a]rbitrary changes of Commission policy with no explanation or rationale are contrary to the Commission's obligations to set fair, just, reasonable and non-discriminatory rates." *Id.* at 9. ICIP's dramatic rhetoric is again devoid of citation to statutory authority, and belied by the actual language of Order No. 33470, as well as the prior Orders cited by ICIP.

As already discussed, we found that the sales price in this matter was "mutually agreed upon by Idaho Power and the FBI after careful consideration." Order No. 33470 at 6. Thus, it was not "unilaterally determine[d]" by Idaho Power. ICIP has not articulated a cogent argument that the Order is "discriminatory," and we find no basis to further explore ICIP's vague assertion of the same. Petition at 8; *see Bach v. Bagley*, 148 Idaho 784, 790, 229 P.3d 1146, 1152 (2010) (courts will not consider issues unsupported by argument and authority). Regarding pricing methodology, we explained, "The circumstances of any given agreement between a utility and customer for the purchase of utility-owned assets are unique." Order No. 33470 at 6. We also recognized that negotiations between a utility and customer for such a voluntary agreement are incompatible with rules dictating the sales price. *Id.* at 5.

Prior Commission Orders cited by ICIP do not, as ICIP argues, establish a pricing methodology to which we are bound in this case. The language that ICIP cites from Order No. 31007 is a *summary of Staff's position* in that case. Petition at 8, *citing* Order No. 31007 at 2. In the Commission's findings and decision, it applied *Idaho Code* § 61-328 and found the "terms and conditions of the parties' Agreement . . . to be just, reasonable and in the public interest." Order No. 31007 at 3. In Order No. 29864, also referenced by ICIP, the Commission found the "transaction meets the requirements of *Idaho Code* § 61-328," as it did not "cause any increase in rates," the purchasing entity would "be able to maintain . . . facilities necessary to serve its tenants," and the sale would "serve the public interest." Order No. 29864 at 3-4. Nothing in those Commission's Orders is inconsistent with Order No. 33470. Further, the Commission has previously stated, "we envision that the sale of facilities will occur on a case-by-case basis." Order No. 32426 at 32-33.

Even if our Order here departed from a past decision, such departure alone is no basis for finding error. "[R]egulatory bodies perform legislative as well as judicial functions in their

proceedings, [thus] they are not so rigorously bound by the doctrine of *stare decisis* that they must decide all future cases in the same way as they have decided similar cases in the past.” Order No. 32755 at 12, *quoting McNeal v. Idaho PUC*, 142 Idaho 685, 690, 132 P.3d 442, 447 (2006); *Idaho Power Co. v. Idaho PUC*, 155 Idaho 780, 788, 316 P.3d 1278, 1286 (2013). So long as the Commission adequately explains its departure, “orders based upon positions substantially different than those taken in previous proceedings can be upheld.” Order No. 33419 at 24, *quoting Intermountain Gas Co. v. Idaho PUC*, 97 Idaho 113, 119, 540 P.2d 775, 781 (1975). Here, our Final Order is neither a departure from past decisions, nor was it inadequately explained. Accordingly, we reject ICIP’s argument that Order No. 33470 is discriminatory, arbitrary and a sudden departure from prior Orders.

There being no legal obligation for the Commission to open a separate docket, as requested by ICIP in this case, the Commission’s decision regarding ICIP’s request was discretionary. As demonstrated herein, the Commission exercised its discretion and made a reasoned decision rejecting the request. Order No. 33470 at 6.

### **CONCLUSION**

For the foregoing reasons, we find that although Section 61-328 does not strictly apply to transfers of utility assets used by a single customer, it is appropriate to use Section 61-328(3) as guidance in similar future transactions. We direct Idaho Power to update its Rule M accordingly. We otherwise affirm our prior Order No. 33470 approving Idaho Power’s asset transfer with the FBI. We further affirm our denial of ICIP’s request to initiate a separate proceeding.

### **ORDER**

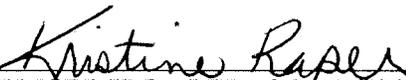
IT IS HEREBY ORDERED that ICIP’s Petition is granted in part and denied in part, as more fully explained in the body of this Order. We affirm our approval of Idaho Power Company’s Application to transfer assets to the FBI.

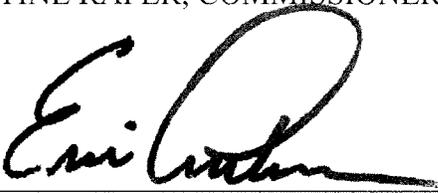
IT IS FURTHER ORDERED that Idaho Power amend its Rule M as set out above.

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-15-26 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

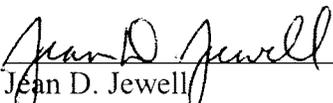
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 10<sup>th</sup>  
day of May 2016.

  
\_\_\_\_\_  
PAUL KJELLANDER, PRESIDENT

  
\_\_\_\_\_  
KRISTINE RAPER, COMMISSIONER

  
\_\_\_\_\_  
ERIC ANDERSON, COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
Jean D. Jewell  
Commission Secretary

O:IPC-E-15-26\_djh6\_Final Reconsideration