

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

**FROM: DAPHNE HUANG
DEPUTY ATTORNEY GENERAL**

DATE: APRIL 7, 2016

**SUBJECT: IDAHO POWER'S COMPLIANCE FILING REQUEST FOLLOWING
THE COMMISSION'S PRIOR APPROVAL FOR THE COMPANY TO
EXCHANGE CERTAIN TRANSMISSION ASSETS WITH PACIFICORP,
CASE NO. IPC-E-16-06**

In December 2014, PacifiCorp dba Rocky Mountain Power and Pacific Power (collectively "PacifiCorp"), and Idaho Power Company filed a joint Application asking the Commission to approve the exchange of certain transmission assets. Over the past 40 years, the parties have entered into a number of agreements (generally referred to as "Legacy Agreements") through which they jointly own and operate the Jim Bridger power plant and associated transmission assets. In October 2014, the parties entered into a Joint Purchase and Sale Agreement (JPSA) and a Joint Ownership and Operating Agreement (JOOA) to largely replace or amend three prior Legacy Transmission Agreements. The agreements addressed inefficiencies caused by changes in "the regulatory landscape, . . . load growth, and investments in system upgrades" by exchanging assets, and re-allocating ownership interests and operational responsibilities. Application at 2-3 in Case No. IPC-E-14-41.

The "changes in the regulatory landscape" included the "advent of the Federal Energy Regulatory Commission's (FERC) open-access policies." Duvall Direct at 4, Case No. PAC-E-14-11. FERC's open access policies were initiated in 1996, under FERC Order No. 888, which required public utilities to provide open-access transmission service on a comparable basis to the transmission service they provide themselves (i.e., non-discriminatory access). 61 FR 21540, 21541. Order No. 888 required electric utilities providing transmission services to file an Open

Access Transmission Tariff (OATT) with “minimum terms and conditions of non-discriminatory service.” *Id.*

The Commission granted the Utilities’ Application in June 2015, in Case Nos. IPC-E-14-41 and PAC-E-14-11. Order No. 33313. As part of that Order, the Commission directed the Utilities to establish regulatory deferral accounts for transmission revenues resulting from the transaction and the resulting changes in the Utilities’ OATT rates. Although the parties anticipated that the transaction would ultimately result in an increase in Idaho Power’s OATT rate, FERC subsequently denied Idaho Power’s petition for a one-time adjustment to its transmission formula rate. Compliance Filing at 5-7, *citing* “OATT Rate Order,” 153 FERC § 61,212 (2015). According to Idaho Power, the effect of FERC’s Order “will delay the full realization of increased OATT-related revenues resulting from termination of the Legacy Agreements until October 1, 2017.” *Id.* at 7.

THE COMPLIANCE FILING

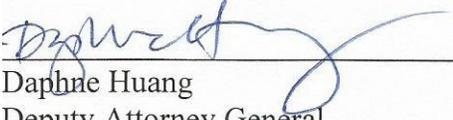
On February 19, 2016, Idaho Power filed a request, styled as a “Compliance Filing” under Case No. IPC-E-14-41 that has been assigned the new Case No. IPC-E-16-06. In it, the Company has provided an updated revenue analysis. Idaho Power states the net result of FERC’s Order denying the Company’s requested increase in OATT rate is a \$1.1 million decrease in Idaho Power’s transmission revenues in 2015, thus creating a regulatory liability balance. Compliance Filing at 10. Idaho Power anticipates that its total cumulative transmission revenue will decrease over the next three years before turning positive in 2019. *Id.* In its request, Idaho Power seeks approval or verification of its regulatory accounting, as required under Commission Order No. 33313, in light of FERC’s ruling and the impacts therefrom. The Company is not requesting any rate increase as a result of this filing.

STAFF RECOMMENDATION

Staff believes the Company’s approach requires an expanded review process to evaluate compliance with Order No. 33313. Thus, Staff recommends that the Commission process Idaho Power’s request under Modified Procedure with a 60-day comment period.

COMMISSION DECISION

Does the Commission wish to issue a Notice of Application and set a 60-day comment period?



Daphne Huang
Deputy Attorney General

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