

DECISION MEMORANDUM

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

FROM: DAPHNE HUANG
DEPUTY ATTORNEY GENERAL

DATE: APRIL 22, 2016

SUBJECT: MATTER IN PROGRESS – IDAHO POWER’S APPLICATION FOR AUTHORITY TO TRANSFER TITLE OF MOBILE MANOR MOBILE HOME PARK METER PEDESTALS, CASE NO. IPC-E-16-07

On April 12, 2016, Idaho Power Company asked the Commission to approve its transfer of 18 meter pedestals in the Mobile Manor mobile home park to Mobile Manor, pursuant to *Idaho Code* § 61-328 and Rule 52. On April 14, the Industrial Customers of Idaho Power (ICIP) filed a Petition to Intervene in the case under Rule 71. *See attached* Petition. ICIP also filed a First Production Request for Idaho Power. *See attached* Production Request. Idaho Power filed a timely Opposition to ICIP’s Petition per Rule 75. *See attached* Opposition.

PETITION TO INTERVENE

ICIP asserts it has “a direct and substantial interest” in this case, as required in Commission Rules, because it is “directly impacted by the administration and application of Idaho Power’s rules, policies and practices” concerning sale and cost of Idaho Power-owned facilities beyond the point of delivery. Petition at 2. ICIP states that it “intends to participate . . . as a party, and if necessary, to introduce evidence, cross-examine witnesses, call and examine witnesses, and be heard in argument.” *Id.* at 2. ICIP further asserts that granting its Petition “will not unduly broaden the issues nor will it prejudice any party.” *Id.* at 3. ICIP’s Production Request includes eight requests to either produce existing records, or make calculations and produce documentation of such calculations. Production Request at 2-4.

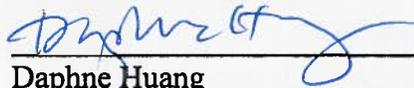
OPPOSITION

Idaho Power contends that ICIP has no direct or substantial interest per Rule 72, asserting that “A general interest in Idaho Power’s rules, policies, and practices is . . . an *indirect interest* in a proceeding.” Opposition at 2-3 (emphasis original). Idaho Power further argues

that ICIP's involvement will "unnecessarily confuse the issues," and "unduly broaden the scope of the proceeding contrary to Procedural Rule 74." *Id.* at 3. Also, Idaho Power notes, "ICIP has already raised its concerns [about calculating a purchase price for Company-owned facilities under Rule M] and requested a generic docket to determine Rule M pricing methodology in Case No. IPC-E-15-26; the parties are currently awaiting an order on reconsideration." *Id.* at 5-6. In its request for relief, Idaho Power asks the Commission to deny intervention and suspend any deadlines associated with ICIP's discovery request until the Commission has ruled on the intervention request. *Id.* at 6.

COMMISSION DECISION

1. Does the Commission wish to grant or deny ICIP's Petition to Intervene?
2. If the Commission wishes to take more time to consider the Petition, does the Commission wish to suspend ICIP's discovery request pending its decision on ICIP's Petition to Intervene?



Daphne Huang
Deputy Attorney General

M:IPC-E-16-07_djh

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2016 APR 14 PM 2:22
IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF) IDAHO POWER COMPANY FOR) AUTHORITY TO TRANSFER TITLE OF) MOBIL MANOR MOBILE HOME PARK) METER PEDESTALS..)	CASE NO. IPC-E-16-07 PETITION TO INTERVENE OF THE INDUSTRIAL CUSTOMERS OF IDAHO POWER
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COMES NOW, The Industrial Customers of Idaho Power, hereinafter referred to as
"Intervenor," and pursuant to this Commission's Rules of Procedure, Rule 71 IDAPA
31.01.01.71 hereby petitions the Commission for leave to intervene herein and to appear and
participate herein as a party, and as grounds therefore states as follows:

1. The name and address of this Intervenor is:

Industrial Customers of Idaho Power
c/o Peter J. Richardson
Richardson Adams, PLLC
515 N. 27th St
P.O. Box 7218
Boise, Idaho 83702
Telephone: (208) 938-7901
Fax: (208) 938-7904
peter@richardsonadams.com

Copies of all pleadings, production requests, production responses, Commission orders

and other documents should be provided to Peter Richardson as noted above and to:

Dr. Don Reading
6070 Hill Road
Boise, Idaho 83703
(208) 342-1700 Tel
(208) 383-0401 Fax
dreading@mindspring.com

2. This Intervenor, the Industrial Customers of Idaho Power, ("ICIP") is an unincorporated association of Schedule 19 customers of Idaho Power. All ICIP members receive electric utility services from Idaho Power Company. The ICIP claims a direct and substantial interest in this proceeding in that its members are interested in, and directly impacted by, the administration and application of Idaho Power's rules, policies and practices as they impact the sale, disposal, operation, maintenance and cost of Idaho Power owned facilities beyond the point of delivery. In addition, the ICIP members are interested in the potential discriminatory impact of the sale, disposal, operation, maintenance and cost of Idaho Power owned facilities beyond the point of delivery that are not governed by the administration of Rule M versus those that are governed by the administration of Rule M.

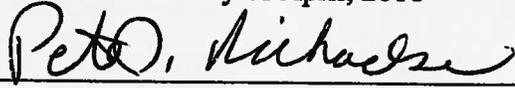
3. This Intervenor, in its capacity as a representative of industrial customers intends to participate herein as a party, and if necessary, to introduce evidence, cross-examine witnesses, call and examine witnesses, and be heard in argument. The nature and quality of evidence which this Intervenor will introduce is dependent upon the nature and effect of other evidence in this proceeding.

5. Without the opportunity to intervene herein, this Intervenor would be without any means of participation in this proceeding which may have a material impact on the rates its members pay for electric service.

6. Granting this Intervenor's petition to intervene will not unduly broaden the issues nor will it prejudice any party to this case.

WHEREFORE, the Industrial Customers of Idaho Power respectfully requests that this Commission grant its Petition to Intervene in these proceedings and to appear and participate in all matters as may be necessary and appropriate; and to present evidence, call and examine witnesses, present argument and to otherwise fully participate in these proceedings.

DATED this 14th day of April, 2016



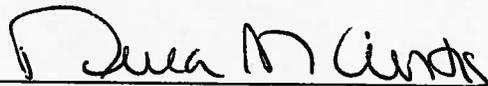
Peter J. Richardson
RICHARDSON ADAMS, PLLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of April, 2016, a true and correct copy of the within and foregoing PETITION TO INTERVENE BY THE INDUSTRIAL CUSTOMERS OF IDAHO POWER in Docket No. IPC-E-16-07 was served electronically and by HAND DELIVERY, to:

Julia A. Hilton
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Idaho Power Company
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2016 APR 14 PM 2:23
IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for the Industrial Customers of Idaho Power

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR)
AUTHORITY TO TRANSFER TITLE OF)
MOBILE MANOR MOBILE HOME PARK)
METER PEDESTALS.)

CASE NO. IPC-E-16-07

FIRST PRODUCTION REQUEST OF
THE INDUSTRIAL CUSTOMERS OF
IDAHO POWER TO IDAHO POWER
COMPANY

Pursuant to Rule 225 of the Rules of Procedure of the Idaho Public Utilities Commission (the "Commission"), The Industrial Customers of Idaho Power ("ICIP") by and through their attorney of record, Peter J. Richardson, hereby requests that Idaho Power Company ("Company") provide the following documents.

This production request is to be considered as continuing, and the Company is requested to provide by way of supplementary responses additional documents that it or any person acting on its behalf may later obtain that will augment the documents produced.

Please provide one physical copy and one electronic copy, if available, of your answer to Mr. Richardson at the address noted above. Please provide an additional electronic copy, or if unavailable a physical copy, to Dr. Don Reading at: 6070 Hill Road, Boise, Idaho 83703, Tel:

(208) 342-1700; Fax: (208) 384-1511; dreading@mindspring.com

For each item, please indicate the name of the person(s) preparing the answers, along with the job title of such person(s) and the witness at hearing who can sponsor the answer.

If some of the following requests include disclosures deemed by Idaho Power to be confidential, the ICIP has already entered into Idaho Power's standard confidentiality agreement.

REQUEST FOR PRODUCTION NO. 1

Please provide all of the Company's discovery responses to all other parties regardless of whether said requests for discovery were formal or informal.

REQUEST FOR PRODUCTION NO. 2

Rule M¹ governs Idaho Power's arrangements for the ownership, maintenance, cost responsibility and transfer of Company owned facilities beyond the Point of Delivery for just Schedule 9 and 19 customers. Please provide a copy of the Company's policy, tariff, understanding or other documentation of the arrangements for the ownership, maintenance, cost responsibility and transfer of Company owned facilities beyond the Point of Deliver for all of the other Idaho Power customer classes.

REQUEST FOR PRODUCTION NO. 3

Please calculate the sales price for the transfer of Company owned assets Beyond the Point of Delivery to the Mobile Manor using the same methodology used to calculate the sales price to the FBI of Company owned assets Beyond the Point of Delivery used by the Company in Docket No. IPC-E-15-26. Please provide copies of all calculations, workpapers and documentation of said calculations.

¹ I.P.U.C No. 29, Tariff 101, Original Sheets No. M-1 – M3.

REQUEST FOR PRODUCTION NO. 4

Please provide a list, sorted by customer class, and include original cost and current net book value, of all assets owned by the Company Beyond the Point of Delivery used to serve all classes of customers including Schedules 9 and 19. For each class please quantify the revenue received from each class of customer from Company owned facilities beyond the point of delivery. Please provide a copy, or describe if not available in writing, of the Company's policies for the arrangements for the ownership, maintenance, cost responsibility and transfer of said assets. If the policies differ for different classes of customers please so state, and identify which policy applies to each class of customers. If the policies differ for different classes of customers please provide documentation to the source of each policy and of the authority upon which the Company relies to differentiate said policies by customer class.

REQUEST FOR PRODUCTION NO. 5

The Company's Application at page 3 provides, "Lastly, the property will no longer be maintained in the public service." Please describe what is meant by the phrase "maintained in the public service."

Please reconcile the statement that "the property will no longer be maintained in the public service," with the statutory requirement, quoted on the same page of the Application, that "[T]he applicant for such acquisition or transfer has the bona fide intent and financial ability to operate and maintain said property in the public service."

REQUEST FOR PRODUCTION NO. 6

The Company's Application at page 3 provides, "Upon approval of this transaction, Mobile Manor's meter pedestals will become customer-owned, receiving similar treatment as other customers." Please explain, in detail, how Mobile Manor is, in its proposed acquisition of

Idaho Power owned assets Beyond the Point of Delivery, is receiving similar treatment as do Schedule 9 and 19 customers who acquire or seek to acquire ownership of Idaho Power owned assets Beyond the Point of Delivery.

REQUEST FOR PRODUCTION NO. 7

The Company, in its Application at page 4, requests the Commission to process its Application “by written submissions rather than by hearing.” Please explain, and document, the basis for the Company’s understanding that the Commission may ignore the quoted portion of the Idaho Code; to wit “the Commission ‘shall conduct a public hearing on the application.’ ”

Is it Idaho Power’s position that compliance with the quoted Idaho Code provision is optional or subject to waiver by order of the Commission? Please explain.

REQUEST OF PRODUCTION NO. 8

Please reconcile the assertion in the Company’s Application at page 3 that, “Mobile Manor has significant financial interest in maintaining and operating the property,” with the requirement in the quoted section of the Idaho Code that, “The applicant . . . has the bona fide intent and financial ability to operate and maintain said property...”²

Please explain whether, and if so on what basis, it is Idaho Power’s understanding that the having a “financial interest in maintaining” the property is equivalent to having the “financial ability” to operate and maintain the property.

DATED this 14th day of April 2016.

² Emphasis provided.

Richardson Adams, PLLC

By 
Peter J. Richardson
Industrial Customers of Idaho Power

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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-16-07
AUTHORITY TO TRANSFER TITLE OF)
MOBILE MANOR MOBILE HOME PARK) IDAHO POWER COMPANY'S
METER PEDESTALS.) MOTION IN OPPOSITION TO THE
) INDUSTRIAL CUSTOMERS OF
) IDAHO POWER'S PETITION TO
) INTERVENE
)

Pursuant to Rule of Procedure 75, Idaho Power Company ("Idaho Power" or "Company") hereby moves the Idaho Public Utilities Commission ("Commission") to issue an order denying the Petition to Intervene filed by the Industrial Customers of Idaho Power ("ICIP") in this proceeding.

In support of this Motion, Idaho Power states as follows:

1. On April 14, 2016, ICIP filed a Petition to Intervene ("ICIP's Petition") as well as its First Production Request to Idaho Power in Case No. IPC-E-16-07. Idaho Power hereby objects to the intervention of ICIP in the present case, which asks for

Commission approval for transfer of title for 18 meter pedestals located in the Mobile Manor Mobile Home Park, including the Mobile Manor Subdivision, Mobile Manor First Addition, and Mobile Manor Second Addition (collectively, "Mobile Manor") in Pocatello, Idaho. This objection is filed pursuant to Procedural Rule 75, which states that any party opposing a petition to intervene must do so by motion in opposition filed within seven days after receipt of the petition to intervene.

2. ICIP's Petition should be denied because (1) ICIP has no direct or substantial interest in this proceeding as required by Procedural Rule 72, (2) ICIP's involvement in this case will cause unnecessary confusion of the issues, and (3) ICIP's involvement in this case will cause additional and costly delay and unnecessarily and unduly expand the scope of the issues in the case, which is not allowed under Procedural Rule 74.

3. A petition to intervene must set forth a "direct and substantial interest of the petitioner in the proceeding." Proc. Rule 72. A petition to intervene is granted, subject to reasonable conditions, if it "shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues." Proc. Rule 74.

4. ICIP has no direct or substantial interest in this proceeding as required by Procedural Rule 72. ICIP's Petition states that its members are interested in the administration and application of Idaho Power's rules, policies, and practices relating to Idaho Power facilities beyond the point of delivery. Particularly, as those relate to Idaho Power-owned facilities beyond the point of delivery, which ICIP argued in Case No. IPC-E-15-26. A general interest in Idaho Power's rules, policies, and practices is on its face an *indirect interest* in a proceeding, and certainly does not rise to the level of "direct

or substantial interest” as required by Procedural Rule 72. The transaction in this case deals with a residential customer and will not impact industrial customers, directly or indirectly.

5. ICIP’s involvement in this case will unnecessarily confuse the issues. In its discovery requests, ICIP is requesting a comparison between two very different types of facilities (meter pedestals for residential customers as compared to Company-owned facilities beyond the point of delivery for Rule M customers), which will unduly broaden the scope of the proceeding contrary to Procedural Rule 74. In this case, Idaho Power is requesting authority to transfer title of certain specific residential meter pedestals within a mobile home park to the owner of 18 different lots within the park. Starting in 1981, meter pedestals (the mobile home park equivalent of meter bases) have been owned by the owner of the underlying land, but meter pedestals installed prior to 1981 are still owned by the Company. Meter bases for residential homes are owned by the homeowner for all Idaho Power residential customers. Due to the long-term expense associated with maintaining and repairing the pedestals and in order to promote consistency in ownership of meter bases and pedestals across residential customer classes, Idaho Power seeks to transfer title of Company-owned pedestals when possible.

6. ICIP’s First Production Request indicates its apparent reason for intervention: An attempt to compare the transfer of residential meter pedestals to the sale of Company-owned facilities beyond the point of delivery for Facilities Charge Service customers under Rule M. Rule M has limited applicability: it applies to (1) customers who fall under Schedule 9 (Large General Service), Schedule 19 (Large Power Service), Special Contract, or Transmission Service customers under Schedule

24 (Agricultural Irrigation Service); (2) customers taking primary or transmission service; and (3) customers who choose a facilities charge arrangement. Facilities charge customers under Rule M are typically large customers with specific electricity needs who are responsible for facilities beyond the point of delivery. To solely serve an individual Rule M customer's specific needs, at the Rule M customer's request, the Company often agrees to install new and different facilities beyond the point of delivery in exchange for a facilities charge. Such a comparison between two types of facilities and customers, if taken to its conclusion, would unduly expand the scope of the case far beyond the Company's simple request to transfer title of 18 meter pedestals to a residential customer.

7. Furthermore, these meter pedestals are not Company-owned facilities beyond the point of delivery; they are the point of delivery. See Rule B ("Point of Delivery is the junction point between facilities owned by the Company and the facilities owned by the Customer . . ."). The point of delivery, which now occurs in residential meters, exists within the pedestal in pre-1981 meter pedestals. There is no reasonable comparison between the transfer of title for 18 residential meter pedestals and a large-scale customer desiring to purchase specialized equipment which Idaho Power installed for the customer's sole purpose under a facilities charge arrangement.

8. ICIP's Petition alleges that there may be a potential discriminatory impact in this transfer of title. There will be no discriminatory impact because all customers within a customer class are treated similarly. All residential transfers of meter pedestals are treated similarly, and have absolutely no association or impact on sales involving Rule M facilities beyond the point of delivery. As with all utility service, reasonable differences occur between different rate classes. *Idaho State Homebuilders v.*

Washington Water Power, 107 Idaho 415, 690 P.2d 350 (1984). Residential customers do not require specialized equipment like specific large-scale customers, nor do they pay a facilities charge; thus, they are governed by different rules.

9. ICIP's Petition alleges that the issues raised in this proceeding may have a material impact on rates its members pay for electric service. The transfer of 18 meter pedestals will not create a material impact on rates that any customer class pays for service. *Idaho Code* § 61-328 governs the Commission approval of sale of property and requires a Commission finding that the "cost of and rates for supplying service will not be increased by reason of such transaction." Idaho Power must prove and the Commission must accept that rates will not increase; therefore, *in order to meet the requirements of the law governing the transaction, this transfer cannot have a material impact on rates for customers, including other customers in the residential rate class or customers, like ICIP members, that belong to a different rate class.* As described in the Application, elimination of the long-term maintenance and repair costs of continued utility ownership of outdated meter pedestals outweighs the minimal costs to update them prior to the transfer of title.¹ No material impact on rates for any customer class will occur, and the legal requirements for Commission approval of the transaction prevent potential for any such occurrence.

10. It is Idaho Power's understanding that ICIP generally disputes the Company's Rule M methodology for calculation of a purchase price for Company-owned facilities beyond the point of delivery. ICIP has already raised its concerns and

¹ Idaho Power's preliminary estimates show that costs to update the pedestals prior to transfer of title may be approximately \$500-\$600 per pedestal. Because the long-term maintenance and repair costs of continued utility ownership would outweigh this updating expense, the total cost to update 18 pedestals will not have a material impact on any customer class and will not impact rates.

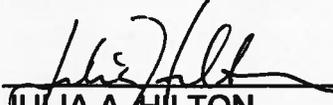
requested a generic docket to determine Rule M pricing methodology in Case No. IPC-E-15-26; the parties are currently awaiting an order on reconsideration. ICIP's attempt to raise industrial customers' concerns in this case unduly expands the scope of the issues to tangential and indirect concerns. ICIP is not without means with which to address the issues it feels are relevant to its member's concerns, and it is not necessary for it to intervene in Mobile Manor's case in order to be heard.

11. ICIP's involvement will cause unnecessary delay to the process and confusion of the issues. In addition to filing its Petition to Intervene, ICIP filed a set of discovery requests. This alone, without even considering the substance of its production requests, introduces additional time and delay to the proceedings. Additionally, there are objectionable issues regarding the substance of ICIP's requests, all of which will introduce additional delay and issues into this case.

REQUEST FOR RELIEF

WHEREFORE, because this transaction will have no direct or substantial impact on Idaho Power's industrial customers, and allowing the intervention will cause undue delay, unnecessary confusion of the issues, and unduly expand the scope of the proceedings, Idaho Power respectfully requests that the Commission issue an order denying ICIP's Petition to Intervene in this matter. Idaho Power also requests that the Commission suspend deadlines associated with ICIP's discovery request in this case until the Commission has ruled on ICIP's intervention request.

Respectfully submitted at Boise, Idaho, this 21st day of April 2016.



JULIA A. HILTON
Attorney for Idaho Power Company