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IDAHO PUBLIC
UTILITIES COMMISSION

Attorney for Idaho Power Company

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Boise, Idaho 83702

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

Kimball Properties Limited)
Partnership and Hewlett)
Packard Company,)
)
Complainants,)
)
vs.)
)
Idaho Power Company,)
)
Respondent.)
_____)

CASE NO. IPC-E-00-12

**RESPONDENT'S MOTION TO
COMPEL DISCOVERY RESPONSES
FROM THE COMMISSION STAFF**

COMES NOW, Idaho Power Company ("Idaho Power" or the "Company") and herewith files this Motion to Compel Discovery Responses from the Commission Staff pursuant to Idaho Public Utilities Commission ("IPUC" or the "Commission") Rules of Procedure 221 and 222.

BACKGROUND

On February 2, 2004, Idaho Power served the Commission Staff with the Company's first set of Interrogatories and Requests for Production in the above-

referenced matter. See Exhibit 1, attached. The Staff timely served its responses to those discovery requests on Idaho Power on February 13, 2004. See Exhibit 2, attached.

In Interrogatory No. 7 to the Commission Staff, Idaho Power requested the following information:

On Page 15 of Mr. Sterling's testimony, he states, "It is discriminatory whenever one customer has to pay for substation facilities and another customer, who may require the same or even larger substation capacity, does not have to pay just because extra substation capacity is already available."

- (a) Would Staff also contend that it is discriminatory whenever one customer has to pay for distribution facilities and another customer, who may require the same or even larger distribution capacity, does not have to pay just because extra distribution capacity is already available?
- (b) If the answer to (a) is yes, does the Staff believe that Rule H is discriminatory?
- (c) If the answer to (a) is yes and the answer to (b) is no, please explain why Rule H is not discriminatory.

The Staff objected to Idaho Power's Interrogatory No. 7 on the basis that "distribution facilities and Rule H are not at issue or relevant to this proceeding. The issue in this case is payment for substation facilities, not distribution facilities." Staff Response at 6. Therefore, the Staff did not respond to that discovery request. In conformance with the Commission's rules concerning the scope and procedure of discovery and for the reasons set forth below, Idaho Power hereby respectfully requests that the IPUC compel the Commission Staff to respond to Idaho Power's Interrogatory No. 7.

ARGUMENT

Idaho Rule of Civil Procedure 26(b) governs the scope and procedure of discovery before the Commission.¹ See IPUC Rule of Procedure 221.05. Idaho Rule of Civil Procedure 26(b)(1) states that

[u]nless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows: (1) Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Idaho Rule of Procedure 26(6)(1) (2003)(emphasis added). Thus, in accordance with IPUC Rule of Procedure 221, discovery requests that are relevant to the subject matter involved in the pending action and are reasonably calculated to lead to the discovery of admissible evidence are discoverable.

The key phrase defining the scope of discovery that discovery must be “relevant to the subject matter involved in the pending action” has been construed broadly by the U.S. Supreme Court to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case. *See Hickman v. Taylor*, 329 U.S. 495, 67 S. Ct. 385 (1947). Consistent with the notice-pleading system established by the Rules of Procedure, discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define

¹ Idaho Rule of Civil Procedure 26(b)(1) is identical to the first paragraph of Federal Rule 26(b)(1). The second paragraph of the federal rule specifically details when the court may limit the frequency of use of the discovery methods. *See* Notes following Idaho Rule of Civil Procedure 26(b)(1).

and clarify the issues. *Id.* at 388-89, 500-501.

Rule 26(b)(1) requires only that the information sought be “relevant to the subject matter involved in the pending action.” This is an explicit recognition that the question of relevancy is to be more loosely construed at the discovery stage than at trial or hearing where the relevance question for purposes of admissibility is governed by the Idaho Rules of Evidence.² “Indeed, in many cases, the issues will not be clearly defined at the time discovery is sought, and one of the purposes of discovery is to identify and narrow the issues.” 8 Charles A. Wright & Arthur R. Miller, *Federal Practice and Procedure Civ. 2d* 2008 (2003).

The information sought by Idaho Power in its Interrogatory No. 7 to the Commission Staff is relevant to the subject matter involved in the pending action. The Staff correctly states that the subject matter of the pending action “is payment for substation facilities, not distribution facilities.” Staff Response at 6. However, by way of this response, the Staff dodges responding to the larger question raised by the Company concerning the similarity between the Company’s methodology in calculating payments from customers who have requested service at locations where inadequate substation facilities exist and the payments authorized by Commission-approved Rule H for the installation or alteration of Company-owned distribution facilities where inadequate distribution facilities exist.

In fact, the procedure used by Idaho Power to determine the payment due from the Complainants in this action mirrors the Commission-approved procedure by

² IPUC Rule of Procedure 261 indicates that the “presiding officer at hearing is not bound by the Idaho Rules of Evidence.” IPUC Rule of Procedure 261. “Rules as to the admissibility of evidence used by the district courts of Idaho in non-jury civil cases are generally followed.” *Id.* The presiding officer may admit evidence “if it is a type generally relied upon by prudent persons in the conduct of their affairs” and that the “Commission’s expertise, technical competence and special knowledge may be used in the evaluation of the evidence.” *Id.*

which the Company seeks contributions in aid of construction from customers seeking or requiring new distribution facilities in accordance with Rule H. However, the Complainants allege that Idaho Power discriminatorily charged them for the cost of the substation facilities that were required as a result of the Complainants' proposed improvements. Furthermore, the Commission Staff asserts that "[i]t is discriminatory whenever one customer has to pay for substation facilities and another customer, who may require the same or even larger substation capacity, does not have to pay just because extra substation capacity is already available." Rick Sterling Direct Testimony at 15.

On the bases of Staff's Direct Testimony and the fact that the procedure the Company uses to determine substation costs mirrors the procedure permitted under Commission-approved Rule H for the cost of installing distribution facilities at the request of a customer in locations where inadequate distribution facilities exist, the Company seeks to know from the Commission Staff whether it regards the Rule H methodology of calculating costs to be discriminatory. The Company seeks to obtain information from the Staff that is "relevant to the subject matter involved in the pending action" and in conformance with the scope of discovery permitted by the Commission.

CONCLUSION

For the foregoing reasons, Idaho Power respectfully requests that the Commission compel the Commission Staff to respond to Idaho Power's Interrogatory No. 7.

Respectfully submitted this 18th day of February 2004.



MONICA B. MOEN
Attorney for Idaho Power Company

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 18th day of February 2004, I served a true and correct copy of the within and foregoing APPLICATION upon the following named parties by the method indicated below, and addressed to the following:

Scott Woodbury	<input checked="" type="checkbox"/>	Hand Delivered
Deputy Attorney General	<input type="checkbox"/>	U.S. Mail
Idaho Public Utility Commission	<input type="checkbox"/>	Overnight Mail
472 West Washington Street	<input type="checkbox"/>	FAX
P.O. Box 83720		
Boise, ID 83720-0074		

Peter J. Richardson	<input type="checkbox"/>	Hand Delivered
Richardson & O'Leary PLLC	<input checked="" type="checkbox"/>	U.S. Mail
99 E. State Street	<input type="checkbox"/>	Overnight Mail
P. O. Box 1849	<input type="checkbox"/>	FAX
Eagle, Idaho 83616		

Brian Graham	<input type="checkbox"/>	Hand Delivered
Hewlett Packard Company	<input checked="" type="checkbox"/>	U.S. Mail
11311 Chinden Blvd.	<input type="checkbox"/>	Overnight Mail
Boise, Idaho 83714	<input type="checkbox"/>	FAX



MONICA B. MOEN

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-00-12

IDAHO POWER COMPANY

EXHIBIT 1

MONICA B. MOEN ISB # 5734
Idaho Power Company
P. O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-2692
FAX Telephone: (208) 388-6936

Attorney for Idaho Power Company

Street Address for Express Mail:

1221 West Idaho Street
Boise, Idaho 83702

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**KIMBALL PROPERTIES LIMITED
PARTNERSHIP AND HEWLETT
PACKARD COMPANY,**

Complainants,

vs.

**IDAHO POWER COMPANY, an
Idaho Corporation,**

Respondent.

CASE NO. IPC-E-00-12

**IDAHO POWER COMPANY'S
FIRST SET OF
INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
TO THE COMMISSION STAFF**

COMES NOW, Idaho Power Company ("Idaho Power" or the "Company") and herewith files its First Set of Interrogatories and Requests for Production to the Idaho Public Utilities Commission Staff in the above-referenced matter. Please provide the responses and the requested documents and information on or before **Friday, February 13, 2004.**

INTERROGATORIES

INTERROGATORY NO. 1: Based upon Mr. Sterling's statement on Pages 6-7 of his testimony that "HP/Kimball is (and has been) paying for this share of substation costs through its rates as a Schedule 9 customer," is it Staff's contention that HP/Kimball has been paying its specific cost of service or that HP/Kimball has been paying the cost of service attributed to the Schedule 9 class cost of customers?

INTERROGATORY NO. 2: Does the Staff have an opinion as to the relative cost of service for a new customer requiring additional substation facilities as opposed to the cost to serve the incumbent customer within the same customer class? If so, please state the Staff's opinion and the basis for said opinion.

INTERROGATORY NO. 3: Is it the Staff's position that any refund to HP/Kimball will then be considered an investment of Idaho Power that will be an increase to rate base? If yes, which customers does the Staff believe will pay the return on investment on that rate base?

INTERROGATORY NO. 4: Please describe the Staff's understanding of who pays for the return on investment for the unused capacity of substations included in rate base.

INTERROGATORY NO. 5: Does the Staff believe that it is in ratepayer's interest that new customers be encouraged to locate in area where unused substation capacity already exists? If not, please explain.

INTERROGATORY NO. 6: In Mr. Sterling's testimony on Page 11, he states that HP/Kimball will effectively pay twice.

(a) Has the Staff performed an HP/Kimball-specific cost of service study that would demonstrate that HP/Kimball would be paying twice its cost of service?

(b) Is it Staff's position that HP/Kimball would be paying twice its cost of service?

(c) If the answer to (b) above is "No," to what does the word, "twice," refer?

INTERROGATORY NO. 7: On Page 15 of Mr. Sterling's testimony, he states, "It is discriminatory whenever one customer has to pay for substation facilities and another customer, who may require the same or even larger substation capacity, does not have to pay just because extra substation capacity is already available."

(a) Would Staff also contend that it is discriminatory whenever one customer has to pay for distribution facilities and another customer, who may require the same or even larger distribution capacity, does not have to pay just because extra distribution capacity is already available?

(b) If the answer to (a) is yes, does the Staff believe that Rule H is discriminatory?

(c) If the answer to (a) is yes and the answer to (b) is no, please explain why Rule H is not discriminatory.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Has the Staff performed any studies to determine if HP/Kimball's cost of service is greater or less than the cost of service for the Schedule 9 class? If so, please provide such studies.

REQUEST FOR PRODUCTION NO. 2: In the Staff Attorney's question on Page 10 of Mr. Sterling's testimony is a statement that "Certainly at least some of the unused capacity that HP/Kimball originally requested is now being used to serve new customers."

If HP/Kimball requested 4 MW and Idaho Power added 20 MW, is it the Staff's position that other new customers are utilizing both the 16 MW that Idaho Power funded for use by customers other than HP/Kimball and a portion of the 4 MW for which HP/Kimball paid? If so, please provide the analysis that supports that position.

REQUEST FOR PRODUCTION NO. 3: Please produce any Staff studies that demonstrate that, by paying an upfront contribution for substation costs, HP/Kimball will pay higher than its costs of service.

REQUEST FOR PRODUCTION NO. 4: Please produce any Staff analyses that demonstrate that after having made a contribution in aid of construction, HP/Kimball has a lower cost of service than other Schedule 9 customers.

DATED at Boise, Idaho, this 2nd day of February 2004.



MONICA B. MOEN
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of February 2004, I served a true and correct copy of the within and foregoing IDAHO POWER COMPANY'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION TO THE COMMISSION STAFF on the following named parties by the method indicated below, and addressed to the following:

Scott Woodbury	<u> x </u>	Hand Delivered
Deputy Attorney General	<u> </u>	U.S. Mail
Idaho Public Utilities Commission	<u> </u>	Overnight Mail
P. O. Box 83720	<u> </u>	FAX
Boise, Idaho 83720-0074		

Peter J. Richardson	<u> </u>	Hand Delivered
Richardson & O'Leary PLLC	<u> x </u>	U.S. Mail
99 E. State Street	<u> </u>	Overnight Mail
P. O. Box 1849	<u> </u>	FAX
Eagle, Idaho 83616		

Brian Graham	<u> </u>	Hand Delivered
Hewlett Packard Company	<u> x </u>	U.S. Mail
11311 Chinden Blvd.	<u> </u>	Overnight Mail
Boise, Idaho 83714	<u> </u>	FAX



MONICA B. MOEN

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

CASE NO. IPC-E-00-12

IDAHO POWER COMPANY

EXHIBIT 2

SCOTT WOODBURY
 DEPUTY ATTORNEY GENERAL
 IDAHO PUBLIC UTILITIES COMMISSION
 472 WEST WASHINGTON STREET
 PO BOX 83720
 BOISE, IDAHO 83720-0074
 (208) 334-0320
 BAR NO. 1895

Street Address for Express Mail:
 472 W. WASHINGTON
 BOISE, IDAHO 83702-5983

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

KIMBALL PROPERTIES LIMITED)	
PARTNERSHIP, AND HEWLETT PACKARD)	CASE NO. IPC-E-00-12
COMPANY,)	
)	
COMPLAINANTS)	RESPONSE OF THE
)	COMMISSION STAFF TO
vs.)	IDAHO POWER COMPANY'S
)	FIRST SET OF
IDAHO POWER COMPANY,)	INTERROGATORIES AND
)	REQUESTS FOR PRODUCTION
RESPONDENT.)	
)	

The Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Scott Woodbury, Deputy Attorney General, hereby responds to the First Set of Interrogatories and Requests for Production of Idaho Power Company to the Commission Staff filed February 2, 2004.

Staff notes by way of preface to its Interrogatory responses that Idaho Commission Rule of Procedure 225.01.a clearly states, "Production requests or written interrogatories should not be used to obtain statements of opinion or policy not previously written or published and may be objected to on that grounds." IDAPA 31.01.01.225.01.a. Despite the objectionable nature of some of the Company's Interrogatories, Staff voices no objection.

INTERROGATORY NO. 1: Based upon Mr. Sterling's statement on pages 6-7 of his testimony that "HP/Kimball is (and has been) paying for this share of substation costs through its rates as a Schedule 9 customer," is it Staff's contention that HP/Kimball has been paying its specific cost of service or that HP/Kimball has been paying the cost of service attributed to the Schedule 9 class cost of customers?

RESPONSE TO INTERROGATORY NO. 1: Based on Mr. Sterling's statement identified in the interrogatory, Staff makes no contention whatsoever concerning cost of service, either for HP/Kimball individually or for the Schedule 9 customer class. Staff has not prepared and is not aware of any cost of service study that determines cost of service for HP/Kimball specifically.

HP/Kimball is billed by the Company and is paying for service as a Schedule 9 customer. Rates for Schedule 9 customers were set at cost of service in Idaho Power's last general rate case; therefore, HP/Kimball is paying the cost of service attributed to the Schedule 9 customer class.

Mr. Sterling's statement "HP/Kimball is (and has been) paying for this share of substation costs through its rates as a Schedule 9 customer," means that Schedule 9 rates include a component for substation costs, and since HP/Kimball is paying Schedule 9 rates, it is therefore paying a portion of substation costs as are all other Schedule 9 customers.

The response to this request was prepared by Rick Sterling, P.E., Staff Engineer, in consultation with Scott Woodbury, Deputy Attorney General for the Idaho Public Utilities Commission Staff.

INTERROGATORY NO. 2: Does the Staff have an opinion as to the relative cost of service for a new customer requiring additional substation facilities as opposed to the cost to serve the incumbent customer within the same customer class? If so, please state the Staff's opinion and the basis for said opinion.

RESPONSE TO INTERROGATORY NO. 2: Staff believes that the relative cost of service for a new customer requiring additional substation facilities will generally always be higher than the cost to serve the incumbent customer within the same customer class due to the tendency of new plant to be higher cost than existing plant.

The response to this request was prepared by Rick Sterling, P.E., Staff Engineer, in consultation with Scott Woodbury, Deputy Attorney General for the Idaho Public Utilities Commission Staff.

INTERROGATORY NO. 3: Is it the Staff's position that any refund to HP/Kimball will then be considered an investment of Idaho Power that will be an increase to rate base? If yes, which customers does the Staff believe will pay the return on investment on that rate base?

RESPONSE TO INTERROGATORY NO. 3: Yes. Staff agrees that any refund to HP/Kimball is an investment of Idaho Power that is eligible for rate base treatment. Any change in rate base must be authorized in a general rate case. The return on investment on that rate base would be paid by the general body of ratepayers in accordance with the portion of costs allocated to each customer class.

The response to this request was prepared by Rick Sterling, P.E., Staff Engineer, in consultation with Scott Woodbury, Deputy Attorney General for the Idaho Public Utilities Commission Staff.

INTERROGATORY NO. 4: Please describe the Staff's understanding of who pays for the return on investment for the unused capacity of substations included in rate base.

RESPONSE TO INTERROGATORY NO. 4: The return on investment for the unused capacity of substations included in rate base is paid by the general body of ratepayers in accordance with the portion of costs allocated to each customer class.

The response to this request was prepared by Rick Sterling, P.E., Staff Engineer, in consultation with Scott Woodbury, Deputy Attorney General for the Idaho Public Utilities Commission Staff.

INTERROGATORY NO. 5: Does the Staff believe that it is in ratepayer's interest that new customers be encouraged to locate in area[s] [sic] where unused substation capacity already exists? If not, please explain.

RESPONSE TO INTERROGATORY NO. 5: Generally, yes. To the extent that substation cost is a ratepayer expense, Staff believes that it is in ratepayers' interest that new customers be located in areas where unused substation capacity already exists. Fewer facilities generally means less cost must ultimately be recovered through rates. The only tariff or rule that addresses payment for substations is Schedule 19 wherein it states, "To the extent that additional facilities not provided for under Rule H, including transmission and/or substation facilities, are required to provide the requested service, special arrangements will be made in a separate agreement between the Customer and the Company." The provision itself does not encourage Schedule 19 customers to locate in areas where unused substation capacity already exists; it is Idaho Power's application of the provision that provides encouragement, if any. Staff is aware of no other provisions in Idaho Power's rules or tariffs that encourage customers, or allow Idaho Power to encourage customers, to locate in areas where unused substation capacity already exists.

The response to this request was prepared by Rick Sterling, P.E., Staff Engineer, in consultation with Scott Woodbury, Deputy Attorney General for the Idaho Public Utilities Commission Staff.

INTERROGATORY NO. 6: In Mr. Sterling's testimony on page 11, he states that HP/Kimball will effectively pay twice.

(a) Has the Staff performed an HP/Kimball-specific cost of service study that would demonstrate that HP/Kimball would be paying twice its cost of service?

(b) Is it Staff's position that HP/Kimball would be paying twice its cost of service?

(c) If the answer to (b) above is "No," to what does the word "twice" refer?

RESPONSE TO INTERROGATORY NO. 6:

(a) In its full context, the statement in Mr. Sterling's testimony states the following:

- Q. If the Commission decides that Idaho Power should not refund any substation costs to HP/Kimball, and HP/Kimball continues to take service as a Schedule 9 customer and thus pay for substations through a portion of its rates, won't HP/Kimball pay twice and Idaho Power collect twice for the cost of the substation?
- A. Yes, HP/Kimball will effectively pay twice, but no, Idaho Power won't collect twice. HP/Kimball will have paid once through up-front charges and will effectively pay a second time for a share of substation costs built into the rates paid by it and all other Schedule 9 customers. Idaho Power won't collect twice, but it will, however, have to collect less in the future from its other Schedule 9 customers if it retains HP/Kimball's contribution. HP/Kimball's contribution will reduce rate base, and the substation revenue requirement for all other Schedule 9 customers will be less by the amount of HP/Kimball's contribution.

In response to the interrogatory, no, Staff has not performed an HP/Kimball-specific cost of service study. Furthermore, Staff makes no allegation concerning HP/Kimball's cost of service in the cited testimony.

(b) No, Staff does not know the cost of service for HP/Kimball or any other individual Schedule 9 customer.

(c) The word "twice" is clearly explained in Mr. Sterling's testimony as repeated above in the sentence "HP/Kimball will have paid once through up-front charges and will effectively pay a second time for a share of substation costs built into the rates paid by it and all other Schedule 9 customers." Pay twice means pay two times; it does not necessarily mean pay double the amount.

The response to this request was prepared by Rick Sterling, P.E., Staff Engineer, in consultation with Scott Woodbury, Deputy Attorney General for the Idaho Public Utilities Commission Staff.

INTERROGATORY NO. 7: On Page 15 of Mr. Sterling's testimony, he states, "It is discriminatory whenever one customer has to pay for substation facilities and another customer, who may require the same or even larger substation capacity, does not have to pay just because extra substation capacity is already available."

(a) Would Staff also contend that it is discriminatory whenever one customer has to pay for distribution facilities and another customer, who may require the same or even larger distribution capacity, does not have to pay just because extra distribution capacity is already available?

(b) If the answer to (a) is yes, does the Staff believe that Rule H is discriminatory?

(c) If the answer to (a) is yes and the answer to (b) is no, please explain why Rule H is not discriminatory.

RESPONSE TO INTERROGATORY NO. 7: Staff objects to this request on the grounds that distribution facilities and Rule H are not at issue or relevant to this proceeding. The issue in this case is payment for substation facilities, not distribution facilities. Rule H clearly states, "This rule does not apply to transmission or substation facilities, or for requests for electric service that are of a speculative nature." See Said direct testimony pp. 5, 6.

The response to this request was prepared by Rick Sterling, P.E., Staff Engineer, in consultation with Scott Woodbury, Deputy Attorney General for the Idaho Public Utilities Commission Staff.

REQUEST FOR PRODUCTION NO. 1: Has the Staff performed any studies to determine if HP/Kimball's cost of service is greater or less than the cost of service for the Schedule 9 class? If so, please provide such studies.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: No, Staff has not performed any studies to determine if HP/Kimball's cost of service is greater or less than the cost of service for the Schedule 9 class.

The response to this request was prepared by Rick Sterling, P.E., Staff Engineer, in consultation with Scott Woodbury, Deputy Attorney General for the Idaho Public Utilities Commission Staff.

REQUEST FOR PRODUCTION NO. 2: In the Staff Attorney's question on page 10 of Mr. Sterling's testimony is a statement that "Certainly at least some of the unused capacity that HP/Kimball originally requested is now being used to serve new customers." If HP/Kimball requested 4 MW and Idaho Power added 20 MW, is it the Staff's position that other new customers are utilizing both the 16 MW that Idaho Power funded for use by customers other than HP/Kimball and a portion of the 4 MW for which HP/Kimball paid? If so, please provide the analysis that supports that position.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: The direct testimony of Idaho Power witness Sikes in this case at page 14, lines 8-23 states as follows:

- Q. Given the current loads at these locations versus what was originally requested, is the Bethel Court substation being adequately utilized?
- A. Yes. The summer 2003 load on the Bethel Court feeders was BCRT – 011 at 8.1 MW and BCRT – 012 at 8.3 MW.
- Q. Isn't that a significant amount of load when you say the Company would not have built the substation absent Hewlett Packard's request?
- A. As I previously testified, when Idaho Power constructs new capacity, the Company attempts to fully utilize that capacity as a means of offsetting projects in other areas so the Company can manage its overall budget. By shifting existing loads to these newer facilities, the Company is able to unload other facilities where the growth is occurring to enable those facilities to continue to provide safe and reliable services.

Based on this testimony, 16.4 MW of Bethel Court's capacity was utilized in 2002.

Mathematically, it is possible that new customers are utilizing only the 16 MW that Idaho Power funded for use by customers other than HP/Kimball and that Idaho Power is preserving the unutilized portion of HP/Kimball's 4 MW request. However, Staff believes it would be unwise to continue to preserve HP/Kimball's unused remaining capacity since Staff is not aware of any indication being given that HP/Kimball intends to utilize the capacity in the future. In fact, Idaho Power witness Sikes testimony at page 9, lines 1-3 states that HP/Kimball would likely operate its call center at this location for only about three years. Given that new development continues to occur in the vicinity of the Bethel Court substation, and that vacant property still exists, it seems

inevitable that new customers will eventually use the remaining capacity of the Bethel Court substation.

The response to this request was prepared by Rick Sterling, P.E., Staff Engineer, in consultation with Scott Woodbury, Deputy Attorney General for the Idaho Public Utilities Commission Staff.

REQUEST FOR PRODUCTION NO. 3: Please produce any Staff studies that demonstrate that, by paying an upfront contribution for substation costs, HP/Kimball will pay higher than its costs of service.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Staff has prepared no such study. Moreover, as stated previously, Staff does not know the cost of service for HP/Kimball specifically.

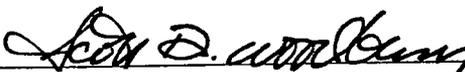
The response to this request was prepared by Rick Sterling, P.E., Staff Engineer, in consultation with Scott Woodbury, Deputy Attorney General for the Idaho Public Utilities Commission Staff.

REQUEST FOR PRODUCTION NO. 4: Please produce any Staff analyses that demonstrate that after having made a contribution in aid of construction, HP/Kimball has a lower cost of service than other Schedule 9 customers.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: As stated previously, Staff does not know the cost of service for HP/Kimball specifically, thus it has no way of knowing how HP/Kimball's cost of service compares to other Schedule 9 customers.

The response to this request was prepared by Rick Sterling, P.E., Staff Engineer, in consultation with Scott Woodbury, Deputy Attorney General for the Idaho Public Utilities Commission Staff.

DATED at Boise, Idaho, this 13th day of February 2004.



Scott Woodbury
Deputy Attorney General

Technical Staff: Rick Sterling

sw:gdk/umisc/prdreq/ipce0012.swrpsresponse 1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 13TH DAY OF FEBRUARY 2004, SERVED THE FOREGOING COMMISSION STAFF'S RESPONSE TO IDAHO POWER COMPANY'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION, IN CASE NO. IPC-E-00-12, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

PETER J RICHARDSON
RICHARDSON & O'LEARY
PO BOX 1849
EAGLE ID 83616

GREGORY W SAID, DIRECTOR
REVENUE REQUIREMENT
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070

BRIAN GRAHAM
HEWLETT PACKARD COMPANY
11311 CHINDEN BLVD
BOISE ID 83714

MONICA MOEN
IDAHO POWER COMPANY
PO BOX 70
BOISE, ID 83707-0070


SECRETARY