Office of the Secretary
Service Date
December 19, 2000

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR APPROVAL OF AN AGREEMENT FOR ELECTRICITY SUPPLY AND MANAGEMENT SERVICES BETWEEN IDAHO POWER COMPANY AND IDACORP ENERGY SOLUTIONS, LP.	)))))))	**CASE NO. IPC-E-00-13** **ORDER NO. 28596**

On September 1, 2000, Idaho Power Company (Idaho Power; Company; IPCo) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a proposed Electricity Supply and Management Services Agreement (Agreement) between Idaho Power and Idacorp Energy Solutions, LP (IES), an affiliate of Idaho Power. Appl. Ex. 1. The Company also seeks approval of a related Statement of Policy and Code of Conduct. Appl. Ex. 3.

BACKGROUND

Idaho Power and IES are both wholly-owned subsidiaries of Idacorp, Inc. The activities of IES are not regulated by the Commission. IES is engaged in the marketing of electricity and natural gas on the wholesale level, and makes sales directly to end users in those states where retail access is permitted.

Idaho Power owns and operates electric generating equipment and transmission facilities (system resources) to supply the electric load and service reliability requirements of its customers. The Company also performs wholesale electricity marketing activities to acquire electricity to supplement system resources and to optimize their operation. Transactions in the wholesale market place that involve the sale of energy capacity from system resources or are made for the purpose of balancing system loads and resources or achieving system reliability are referred to as "operating transactions."

Idaho Power has also engaged in power transactions in the wholesale power market which do not involve sales from system resources and are not related to balancing system loads and resources or achieving system reliability. Such transactions are referred to as "non-operating transactions."

FMC and the Industrial Customers of Idaho Power in recent cases before the Commission have expressed concern relating to Idaho Power's operating and non-operating transactions and whether expenses and capital costs are being properly allocated. The Company's filing in this docket addresses these concerns.

Idaho Power in this Application announces its intent to prudently and cost-effectively participate in the wholesale markets for electricity and ancillary services. Idaho Power in this Application announces its intention to transfer its non-operating marketing operations to IES and to establish a clear line of demarcation between the regulated and non-regulated marketing businesses of Idacorp, Inc.

In its Application, the Company describes the proposed physical and structural separation of IES from IPCo. The Company believes that there are significant cost savings and market risk mitigation benefits that could be realized by contracting with IES to provide electricity marketing and other electricity supply management services to IPCo.

The proposed relationship between IPCo and IES under the submitted Agreement, the Company contends, is substantially similar in structure and intent to the existing contract covering natural gas supply management services approved by the Commission for Intermountain Gas.

AGREEMENT

As reflected in its Application, under the Agreement, Idaho Power will continue to own, operate and maintain its system resources and be responsible for system reliability. Idaho Power will continue to dispatch the system resources to match generation and load within the Idaho Power control area. The Agreement, the Company maintains, will not modify Idaho Power's commitment or ability to manage its system resources in a manner that will provide the Company's customers with access to all available capacity and energy from Idaho Power's system resources on a first-priority basis.

Purchase and sales of wholesale power between IPCo and IES will be at market prices. The market price will be determined by reference to published market indices (Mid C or Palo Verde) or through the solicitation of quotes from a number of potential suppliers or purchasers.

From time-to-time, the Company states that IES may act as a broker between it and third-party wholesale purchasers or sellers. In addition, the Agreement provides that IES will provide office support services for marketing activities. IES will confirm purchases and sales, administer contracts, coordinate scheduling of energy transactions in adherence with transaction protocols, and resolve discrepancies between the net of all sales, purchases and wheeling transactions. IES will also provide Idaho Power with risk management services to mitigate price volatility risk.

Idaho Power will continue to be responsible for planning system resource operations and for preparing and obtaining regulatory acknowledgement of the integrated resource plan as required by the Idaho and Oregon Commissions. IES will assist Idaho Power in load forecasting and reviewing resource adequacy and resource options to create a cost-effective strategy for satisfying future load requirements.

IES will also provide finance and accounting support and counter-party credit analysis for power marketing activities. IES will be responsible for invoicing all counter-parties and providing collections and reconciliations. IES will also provide certain communications services, including public relations, web-based commerce innovations, internal and external message development, and collateral support.

To ensure ongoing and timely consultation and oversight of IES's services, IES and Idaho Power will each designate an officer or senior manager to provide such oversight ("Oversight Manager"). Idaho Power's Oversight Manager will report directly to the office of the Chief Executive Officer and to Idaho Power's Risk Management Committee. The Idaho Power Oversight Manager will be responsible for coordinating with IES and providing a single decision-making point from Idaho Power concerning IES's provision of power marketing and system management services.

By entering into the Agreement with IES, Idaho Power believes it will be able to lower its expenses, reduce the risks associated with power market volatility and maintain its existing high level of system operating efficiency and reliability.

CODE OF CONDUCT

In conjunction with the IES Agreement, Idaho Power is offering to put into place a formal Statement of Policy and Code of Conduct which would further define the relationship between IES and IPCo. Appl. Ex. 3.

Procedure

Notices of Application and Modified Procedure in Case No. IPC-E-00-13 were issued by the Commission on September 28, 2000. To facilitate public involvement and understanding of the Company's proposal, a public workshop was noticed and held on October 13. The Company's proposal in that workshop to fashion a stipulation that would be tendered by way of case settlement resulted in subsequent notice and a second workshop on November 9.

As reflected in the Commission's Notice, the stipulation and settlement negotiations were intended to (1) address and clarify the scope of Commission audit of IPCo/IES transactions; (2) establish a capping of annual charges for IES services; (3) establish a procedure for sharing of related benefits with customers; (4) incorporate a Company commitment to ensure reservation of transmission capacity to serve native load customers and (5) provide some further clarification of the Company's proposed relationship with IES. Reference IDAPA 31.01.01.271-280—Settlements.

Pursuant to scheduling and notice, written comments were filed in this case by Commission Staff, J.R. Simplot Company, AARP, and the Industrial Customers of Idaho Power (ICIP). ICIP in this case consists of eight member companies: Amalgamated Sugar, Basic American Foods, Boise Cascade, Crookham Seed Company, Hewlett Packard, Idaho Beef Packers, Inc., Lamb Weston and Nestley Brands. ICIP is not a signatory to the Stipulation and opposes the Application. The written comments of the parties can be summarized as follows:

Commission Staff

Staff supports the tendered Stipulation, believes that it is in the Company's interest and recommends that it be approved by the Commission. As reflected in Staff comments, Staff had the following concerns regarding the transfer of activities to another affiliate under contract:

1. Will the Commission Staff be able to adequately review the books and records of the affiliate related to transactions to assure that customers receive the highest value for services rendered?

2. Will transmission rights and system energy generation resources be secured for native load?

3. Have customers paid for assets or costs that are being transferred to the affiliate?

4. Are the contract charges reasonable?

5. Should customers receive a rate reduction or benefit because of the transfer of activities to the affiliate under contract?

As reflected in Staff comments:

THE STIPULATION

The first concern [of Staff] is addressed in section No. 2 of the Stipulation "Commitments to Facilitate Commission Audits." Staff believes these provisions assure adequate access to books and records for audit to assure procedures, transactions and prices are reasonable. Staff will continue to audit the procedures, prices and energy transactions in each Power Cost Adjustment (PCA) case and any future general rate case.

The second area of concern related to securing transmission rights and system energy resources is addressed in sections No. 4 of the Stipulation "Transmission Reservations" and No. 5 "Economic Dispatch of System Resources." Staff believes these provisions will provide a mechanism to assure these assets are secured for the future benefit of native load customers.

The third, fourth and fifth concerns are all addressed in section No. 1 of the Stipulation "Customer Benefits." Section No. 1.1 reserves the right to address these issues and any other revenue requirement issue in the next general rate case.

Staff addressed the third concern during audit and at the workshops. Staff is reasonably assured that the assets being transferred were either purchased after the last rate case so these assets are not currently included in rate base or the assets are nearly depreciated. Staff will further investigate this concern in a comprehensive audit that will include a review of all transfers to affiliates prior to the next rate case. If Staff believes an adjustment is required, Staff will propose it in the next general rate case.

The contract charges are initially established in the "Electric Supply Marketing and Management" Contract (Appl. Ex. 1). Provision 6.1 provides that IES will be paid $300,696.30 per month for services rendered Idaho Power. Provision 7.1 provides that IES will pay Idaho Power $87,293.53 per month for non-power goods and services for the year 2000. The dollar amount will be reviewed and established each year.

These contract charges represent the fourth concern. The payment to IES of $3,608,355.60 annually ($300,696.30 x 12) is less than the cost for these services included in the last rate case of $4,870,263. The contract cost is also significantly less than the total amount incurred by Idaho Power in 1999 for all transactions and the Staff estimated allocation for

> system transactions. Section No. 3 of the Stipulation "Annual Charges" reiterates the right to review the reasonableness of the actual annual charge in the next rate case for inclusion in rates. The annual charge paid to IES from Idaho Power to be included in the revenue requirement will not exceed $5,000,000 in the next rate case.
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> Staff addressed the fifth concern that customers should receive a benefit currently from this transaction. Staff proposed that the difference between the contract charges and the amount reflected in the last rate case (1993 test year) be returned to customers annually. This calculated Idaho jurisdictional benefit [is] rounded to $2,000,000 annually. . . . Stipulation Section No. 1.2 provides that this $2,000,000 will flow back to Idaho customers annually coincidentally with Idaho Power's PCA. This annual reduction will continue until new Idaho Power tariff rates are implemented following the next rate case.

With the provisions included in the Stipulation, Staff recommends approval of the Stipulation and the proposed Electricity Supply and Management Services Agreement between Idaho Power and IdaCorp Energy Solutions, LP (IES), an affiliate of Idaho Power (Appl. Ex. 1). Staff believes that the Stipulation adequately addresses those identified concerns. It protects ratepayer interests, is reasonable and is in the public interest.

The Stipulation, Staff notes, is silent on the Statement of Policy and Code of Conduct (Appl. Ex. 3). Staff recommends acceptance (rather than outright approval at this time) of the Statement of Policy and Code of Conduct as a first step in the process of developing a Policy and Code of Conduct between Idaho Power Company and IES. Idaho Power in reply comments states that it does not object to the Commission's acceptance of the Code of Conduct as suggested by Staff. The Company states that it voluntarily offered the Code of Conduct as a vehicle to address broader policy considerations.

AARP

AARP expresses its strong belief that the transfer of functions proposed by Idaho Power should not adversely affect the rates and services provided to residential consumers in the state of Idaho. IES, AARP contends, should be required to reimburse customers (via Idaho Power) for any tangible or intangible benefits that IES has received as a result of the transfer.

AARP recommends that the Commission adopt a comprehensive Code of Conduct to govern the transactions between Idaho Power and IES. Among other things, the Code of Conduct, AARP contends, should ensure that the affiliates conduct transactions between themselves at arms length. Any potential cost subsidization of IES by Idaho Power should be absolutely prohibited. There should be no shared employees, expenses or assets between them. Moreover, AARP contends that in addition to separate buildings, each entity should be required to maintain separate employee assignments and separate physical assets. For the protection of customers in the state of Idaho, AARP urges the Commission to incorporate these recommendations in the proposed Code of Conduct governing the relationships between IdaCorp Energy and Idaho Power.

J. R. Simplot Company

J.R. Simplot Company supports the Application of Idaho Power without reservation. Simplot views the model adopted by Idaho Power as the model successfully used by Intermountain Gas and IGI Resources. Simplot believes that it can provide positive benefits to all classes of Idaho Power customers and those customers who may have opportunities and special needs with which IdaCorp Energy Solutions LP can provide significant assistance. The relationship between IES and Idaho Power, Simplot contends, may result in the further benefits of lower turnover rates and increased cost efficiency. Simplot supports the Stipulation and the safeguards and auditing opportunities contained therein.

Industrial Customers of Idaho Power (ICIP)

As previously indicated, ICIP opposes the Company's Application believing that (1) it does not protect the ratepayers; (2) counter-party default provisions are one-sided; (3) auditing options are not meaningful; and (4) that the Application simply moves the problem—it doesn't solve the problem. The relationship between Idaho Power and IES, ICIP contends, leaves Idaho Power's ratepayers little protection against the incentive of a non-regulated Company (IES) to engage in market transactions for the benefit of IdaCorp shareholders at the expense of Idaho Power's ratepayers. Despite the best-intentioned actions on the part of IES employees, the ratepayers remain at risk because of the very nature of that relationship. That is true, ICIP maintains, because the structure of the relationship allows for no market tests for reasonableness, as it does not contemplate competitive bidding for provision of the services IES proposes to provide to Idaho Power.

The counter-party default provisions are one-sided, ICIP contends, because parties will prorate losses only. Fairness, ICIP contends, requires that ratepayers similarly share in the gain on any such wholesale transactions.

After-the-fact auditing, ICIP contends, is effectively meaningless in light of the extremely complicated and intermingled nature of the transactions IES proposes to enter into. After-the-fact attempts to unravel the source of kilowatts on a given day, hour or minute, are simply impossible. ICIP further observes with concern that there are no professional commodity traders experienced in wholesale electric markets on Staff at the Commission.

ICIP notes that it has been critical in the past of the problems inherent in maintaining both a speculative and non-regulated trading floor and a regulated system trading floor under the same roof and using the same personnel. While ICIP appreciates the Company's efforts to address this problem by moving its trading activities to a separate corporate entity, the relationship proposed in the immediate proceeding, ICIP contends, is no solution. In fact, ICIP maintains that the problems identified in the past and briefly reiterated in its comments will not be solved; instead they will have been moved, and perhaps made more difficult to solve.

ICIP urges the Commission to deny Idaho Power's Application and initiate meaningful proceedings to arrive at a real solution to the problem.

Idaho Power Reply

In a filed reply, Idaho Power addresses ICIP's criticism. Regarding counter-party defaults, the Company states that it is important to remember that the issue addressed is the very rare occurrence where a counter-party to a wholesale contract has defaulted in its performance. While the scenarios ICIP complains of, are theoretically possible, the Company maintains that they are so improbable that they should not factor into the Commission's consideration of the Company's Application.

Regarding the possibility of unethical conduct by IES and Idaho Power, Idaho Power states that as a regulated utility, the Company continues to have a very real incentive to ensure that the Agreement works to the benefit of Idaho Power's customers. The advantages of bidding (if any), the Company states, are outweighed at this time by the familiarity of IES employees with Idaho Power's predominantly hydroelectric generating system and its loads as well as being well versed in how hydro resources fit into current wholesale markets.

Regarding audit concerns, the Company notes, that ICIP's concern is not shared by Commission Staff. If at any time the Commission Staff felt they needed additional expertise to analyze the transactions between Idaho Power and IES, Idaho Power states that it would have no objection to their obtaining such experts and would cooperate with Staff and its consultant in any review.

All of ICIP's concerns, Idaho Power maintains, can be addressed within the existing framework of the continuing jurisdiction of the Commission and Idaho Power's obligations under Idaho law.

Status Conference

A Status Conference and procedural hearing in Case No. IPC-E-00-13 was held on November 28, 2000. The following parties appeared by and through their counsel and/or representatives:

Idaho Power Company	Bart Kline
Commission Staff	Scott Woodbury
Industrial Customers of Idaho Power	Peter Richardson/Molly O'Leary
Idaho Irrigation Pumpers Association	Randy Budge
J.R. Simplot Company	David Hawk

Stipulation

At the hearing Idaho Power formally offered the proposed Stipulation filed on November 17, 2000 for the Commission's consideration and by way of case settlement. The Stipulation was signed by Idaho Power, Commission Staff, ASTARIS (formerly FMC), Idaho Irrigation Pumpers Association, AARP, Idaho Retailers Association, J.R. Simplot Company and Micron. Idaho Power contends that the Stipulation complements and further strengthens the Company's intention to establish an arms-length relationship for transactions between Idaho Power and IES; that it establishes significant audit procedures; and that it provides for shared savings by way of an immediate flow through of immediate cost savings ($2,000,000) coincident with the PCA. The submitted Agreement (as modified by Stipulation), Idaho Power maintains, will result in the following benefits: lower operating costs, better market intelligence, better management of Idaho Power resources for the benefit of customers and the removal of more speculative trading and marketing activities to IES.

Commission Findings:

The Commission has reviewed and considered the filings of record in Case No. IPC-E-00-13 including the submitted Electricity Supply and Management Services Agreement, the related Statement of Policy and Code of Conduct, the submitted Stipulation, the filed comments and the transcript of the November 28, 2000, proceedings.

The Commission finds that the public interest was well served by the procedure adopted in this case, i.e., the two public workshops and an opportunity for written comments. The resultant Stipulation, we find, has improved the underlying Agreement and dispensed with the necessity of further proceedings. IDAPA 31.01.01.204. We note that the ICIP, while not signing the Stipulation, expressly states that it does not object to the continued use of Modified Procedure in this case. We accept the case as fully submitted and find that we have an adequate record to fully consider the issues presented by the Company's Application.

Regarding the IPCo/IES Agreement, we find that the Agreement establishes a reasonable and transparent structure for prioritizing, protecting and serving native load requirements. We are convinced that the Agreement gives the Company's native load customers priority and the economic use and dispatch of Company generation resources, transmission and distribution facilities. In distinguishing between operating and non-operating transactions, it also provides a reasonable means of assuring that the Company's native load customers are not saddled with those risks unrelated to providing regulated utility service.

We find the identified cost savings and related benefits to customers set forth in the Stipulation and the method for flowing those savings through to customers to be an important factor in assessing the merits of the underlying Agreement. We hope that the savings actually realized will approximate or exceed the Company's estimation.

We find the Company commitments to facilitate Commission audit of IPCo and IES transactions to be a valuable tool for continued monitoring of the Company's dealings with its affiliate and insuring that the Company remains focused and cognizant of its statutory and regulatory responsibilities and that the system reliability, operational and economic interests of its customers remain forefront and protected. We note ICIP's concerns regarding post transaction audits and the expertise of Staff to analyze and assess such transactions. We are comfortable with our Staff's ability to review affiliate transactions and are confident that Staff will obtain contract services should it prove necessary.

All amendments to the underlying Agreement and Statement of Services are to be submitted for review and Commission approval. The Company is to apprise the Commission in writing three months in advance of any intent to extend or cancel beyond the initial five-year term of the Agreement or subsequent two-year extension terms and shall notify the Commission of any cancellation by IES.

The Commission finds the submitted Statement of Policy and Code of Conduct to be a recognition that a policy for affiliate relationships needs to be established. We believe that this matter requires further development and opportunity for public input (workshops, etc.). We expect the Company to refile its proposed (or amended) Statement of Policy and Code of Conduct within 30 days for a more focused consideration of such a policy and code. In the interim, we find it reasonable that the Company and IES conduct themselves in accordance with the terms submitted.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, and its Application in Case No. IPC-E-00-13 pursuant to the authority and power granted under Title 61 of the Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

O R D E R

In consideration of the foregoing and as more particularly described and qualified above, IT IS HEREBY ORDERED and the Commission does hereby approve the proposed Electricity Supply and Management Services Agreement (between Idaho Power and IdaCorp Energy Solutions, LP, an affiliate of Idaho Power) together with the terms of the Stipulation subsequently submitted.

IT IS FURTHER ORDERED and the Commission does hereby direct Idaho Power Company to make a formal filing within 30 days of any proposed Policy and Code of Conduct for affiliate relationships.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 19th day of December 2000.

DENNIS S. HANSEN, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

PAUL KJELLANDER, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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