

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
WORKING FILE

FROM: DON HOWELL
KATHY STOCKTON

DATE: OCTOBER 10, 2003

RE: IDAHO POWER LETTER REGARDING THE SALE OF 3 BUILDINGS
NO LONGER IN USE, CASE NO. IPC-E-03-04

BACKGROUND

On March 17, 2003, Idaho Power Company filed a letter with the Commission regarding the sale of surplus buildings. In the letter, Idaho Power states that it "is in the process of disposing of three buildings which the Company no longer uses in its utility operation, i.e., the Homedale Operations Center Building; the Cambridge Operations Center Building; and the Homedale Office Building." The Company stated that it does not believe that the sale of these buildings falls within the provisions of *Idaho Code* §61-328. This statute prohibits an electric utility from selling property used in the generation, transmission, distribution or supply of electric power "except when authorized to do so by order of the public utilities commission." *Idaho Code* §61-328(1). The Company seeks a ruling that *Idaho Code* §61-328 is not applicable to these transactions.

STAFF COMMENTS

Use of the Properties

In response to Staff's audit requests, Staff has learned the following: The Cambridge Operations Center was first used in 1984; the Homedale Operations Center was first used in 1985; and the Homedale Office was first used in 1986. These three properties are currently included in Idaho Power's rate base, Order No. 25880. After the Company acquired these

buildings, the Cambridge and Homedale Operations Centers were used as materials storage facilities. Both properties were also used as construction and maintenance operations centers. The Homedale Office served as a local business office for the Company. It appears to Staff that all three properties were used for the supply of electric power and energy to the public.

Abandonment of the Properties

The Cambridge Operations Center was abandoned in March 2001. The Homedale Operations Center was abandoned in September 2000; and the Homedale Office was abandoned in April 2001. Although these properties are not currently in use, when they were in use their primary function was in support of delivering electric power to the public. Because these buildings were used in the distribution of electric service and are currently in the Company's ratebase, Staff believes that *Idaho Code* §61-328 is applicable. Consequently, the Commission must authorize the sale of these properties.

If the Company is allowed to sell properties based upon the rationale that these properties are no longer being used for utility purpose, the Company could abandon any property it wants to sell and claim the Commission does not have jurisdiction. Moreover, there exists the opportunity for the potential abuse of abandoning particular properties for an indeterminate amount of time so as to circumvent the Commission's authority over properties that were used in the production, transmission, generation, or supply of power and energy to the general public.

STAFF RECOMMENDATION

Staff is not opposed to the sale of these buildings, in fact if the buildings are no longer used and useful for utility purposes, it is prudent to sell the properties. Staff has learned that the Company is entering the process of leasing some of the property with an "option to buy" clause. These properties are no longer used and useful in utility purposes, Staff recommends they be removed from rate base. Staff further recommends that the rate base treatment be determined in the forthcoming rate case. Upon sale of the properties, Staff recommends that regulatory treatment for the sale be determined at that time.

It is Staff's opinion that *Idaho Code* §61-328 applies in this case. Given such, the Commission has jurisdiction over the sale of these buildings. Staff recommends the Commission issue an order affirming jurisdiction and authorize the Company to dispose of the buildings.

Staff further recommends that the Company keep the Commission apprised of the disposition of these buildings. Although Idaho Power does not believe these properties necessarily fall under *Idaho Code* §61-328, it is comfortable with the process proposed and recommendations made by Staff.

COMMISSION DECISION

1. Based upon the facts presented, does *Idaho Code* §61-328 apply in this case?
2. Does the commission approve of the disposal of these buildings?
3. Should the company be directed to advise the Staff of the disposition of these facilities?
4. Shall the ratebase treatment of the disposal be address in the upcoming rate case?
5. Upon sale of the properties, should the regulatory treatment for the sale be determined at that time?



Don Howell



Kathy Stockton

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