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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  
AUTHORITY TO INCREASE ITS INTERIM  
AND BASE RATES AND CHARGES FOR  
ELECTRIC SERVICE.

CASE NO. IPC-E-03-13

IDAHO POWER COMPANY'S  
LEGAL MEMORANDUM IN  
SUPPORT OF INTERIM RATE  
INCREASE

This Memorandum is submitted in response to the Commission's request in Order No. 29369 that parties and intervenors submit legal memoranda addressing the legal standard that the Commission should use in considering Idaho Power's request for interim rate relief and explaining why Idaho Power should or should not be granted the interim rate relief granted in its Application. This Memorandum demonstrates three points. First, Idaho law gives the Commission broad discretion to authorize interim rates. This discretion logically flows from the fact that interim rates can be changed

when the Commission makes its final determination on permanent rates. Second, the standard for granting interim rates is no more stringent than for permanent rates and the just, reasonable and sufficient standard applies equally. Third, a full rate case is not required to authorize interim rates. Interim rates should be granted if the Commission finds that the amount of interim rate relief will not exceed the amount of permanent rate relief ultimately allowed and if the Commission finds that the public interest would support an interim rate order.

This Memorandum also addresses the factual bases upon which the Commission should conclude that the Company's interim rate increase request is in the public interest.

## I.

### **STATEMENT OF THE FACTS**

The Commission's October 28, 2003 Notice of Application correctly summarizes Idaho Power's request for interim rates. The Company has requested that the 4.16% interim rate increase be part of, and not in addition to, the general rate increase proposed by the Company. The Company has also proposed that the interim rates would not be subject to refund but could be adjusted prospectively based on the Commission's ultimate determination in this case. In its request for interim rates, the Company identified four revenue requirement items which represent known and measurable changes to the Company's revenue requirement that have occurred since the last general rate case almost ten years ago:

- (1) The construction and operation of the Danskin Power Plant,

- (2) The costs incurred to relicense the Company's Mid-Snake (Upper Salmon, Lower Salmon and Bliss), Shoshone and C.J. Strike hydro facilities,
- (3) The change in depreciation expense approved in Order No. 29363 in Case No. IPC-E-03-07, and
- (4) The increase in Idaho's share of net power supply costs from 85.5% in 1993 to 94.1% in 2003 due to reallocation between wholesale and retail jurisdictions.

Based on a 2003 test year and holding all other financial and accounting items constant, these four revenue requirement items represent the basis for Idaho Power's request for interim recovery of additional revenue on an annualized basis in the amount of \$20,124,165.

The Company's filing also addresses the recent action of the Company's Board of Directors to reduce the common stock dividend. This action was taken to improve the Company's financial position through improved cash flows and a strengthened balance sheet thereby reducing the Company's cost of financing. Reducing the need for financing and the cost of financing at a time when the Company is embarking on significant infrastructure improvements is clearly in the public interest.

## II.

### LEGAL STANDARD

#### A. The Commission Has the Authority To Establish Interim Rates.

There is no provision in the Idaho Code which directly addresses the legal standard to be applied by the Commission in considering a request for interim rate relief

as compared to the standard to be applied to permanent rates. Idaho Code § 61-502 provides in pertinent part “the Commission shall determine the just, reasonable or sufficient rates, fares, tolls, rentals, charges, classifications, rules, regulations, practices or contracts to be thereafter observed and enforced and shall fix the same by order as hereinafter provided . . . “ Idaho Code § 61-502.

While there is no statutory provision directed specifically to interim rates as compared to permanent rates, it is well settled that the Commission has authority to establish interim rates and substantial discretion in setting the level of those rates. In *Grindstone Butte Mutual Canal Company v. Idaho Power Company*, 98 Idaho 860, 574 P.2d 902 (1978), the Idaho Supreme Court held:

Appellants similarly argue that the Commission lacks authority to enter interim orders. All Commission orders as to rates are subject to change, given the mandate of Idaho Code § 561-502 that the Commission continue to evaluate the rates charged and make changes as necessary. It is true that no statute gives explicit authority to the Commission to enter “interim” or “temporary” orders; however, implied in the directive of on-going investigation is the power to make orders affecting rates that are temporary in nature.

*Grindstone Butte*, 98 Idaho 860, 864.

In *Citizens Utilities Co. v. Idaho Public Utilities Commission*, 99 Idaho 164, 579 P.2d 110 (1978), the Idaho Supreme Court confirmed its recent prior ruling in *Grindstone Butte* that the Commission’s authority under Idaho Code § 61-502 directs the Commission to review, and if necessary, modify rates that are no longer just or reasonable. In interpreting Idaho Code § 61-622 the Court stated:

If the Commission fails to reach a conclusion concerning the merits of a requested rate increase within the seven month suspension period, the rate must go into effect. *The fact that the requested rate increase must go into effect at the*

*expiration of the seven month period, of course, does not in any way conclude the Commission's inquiry into the propriety of the rate increase or any way limit the Commission's authority and duties.* If the suspension period expires before the Commission has reached a conclusion, the utility may implement the new rates subject to subsequent modification by the Commission. Under Idaho Code § 61-502, the Commission is under a continuing obligation to review utility rates and charges.

*Citizens' Util.*, 99 Idaho 164, 169. (Emphasis added)

The *Citizens' Utilities* case is also instructive in its analysis of the various provisions that govern the Commission's review and approval of rate increases. The Court in *Citizens' Utilities* first looked at Idaho Code § 61-307 which provides that a utility must give both the Commission and the public thirty days notice of any increase in rates. As the Court noted, this statute, read alone, would indicate that the thirty days notice is the only requirement for a rate increase. However, as the Court went on to note:

The statute must be read in conjunction with Idaho Code § 61-622. The first sentence of Idaho Code § 61-622 specifies that "[N]o public utility shall raise any fare, rate, toll, rental or charge . . . under any circumstances whatsoever, except upon a *showing before the Commission and a finding by the Commission that such increase is justified.*" (emphasis ours). The second sentence of Idaho Code § 61-622 provides the mechanism for carrying out the requirements of the first sentence, in that it provides that the Commission can "enter upon a hearing concerning the propriety of requested rates increases and enter orders suspending, for a period not exceeding seven months, the time when the requested rate increase would otherwise go into effect pursuant to Idaho Code § 61-307.

*Citizens' Util.*, 99 Idaho 164, 168.

In providing this background, the Court confirmed that if the Commission so desired following the thirty-day period, the Commission has the authority to make a

finding that the rate increase is justified. In other words, Idaho Code § 61-622 is not simply a mechanism to build in delay in the rate approval process, but is a tool that the Commission can use if it needs additional time to make a final decision. Idaho Power believes this sequence of events underscores the role interim rates should play in the ratemaking process. The Commission can approve temporary rates knowing that it can change those rates prospectively at a later date.

Although the *Citizens Utilities* case does not specifically deal with an interim rate request, it confirms that when rates go into effect, either interim or permanent, not even Idaho Code § 61-622 (limiting the period of suspension in a requested rate increase) divests the Commission of authority to continue its inquiry into the propriety of a rate change or in any way limit the Commission's authority and duties to establish just and reasonable rates. As a result, the Commission has the authority, and Idaho Power respectfully submits in this case, the obligation, to implement interim rates recognizing that it can adjust the utility's rates at the conclusion of the rate case.<sup>1</sup>

**B. The Commission Is Not Required To Conduct A Full-Scale Rate Case In Order To Approve Interim Rates.**

There is no difference in the legal standard to be applied to either interim or permanent rates. Both interim rates and permanent rates must be just, reasonable, non-discriminatory, non-preferential and sufficient. There is neither statutory authority nor Idaho case law that would support an argument that an interim rate request is held to a higher legal standard than any other type of rate request. In fact, because the Commission can adjust interim rates following the completion of the rate review

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<sup>1</sup> For the convenience of the Commission, copies of Idaho Code §§ 61-307, 61-502 and 61-622 are attached to this Memorandum.

process, the Commission is not required to conduct a full-scale rate case in order to approve interim rates. So long as the utility has presented a *prima facie* case and the Commission's decision rests on adequate findings, the Commission has all the authority it needs to approve an interim rate request.

Idaho Power acknowledges that before the Commission issues an order approving rates, there must be an adequate record that would allow the Commission to make the required findings of fact and conclusions of law to support its decision. The Company also acknowledges that the granting of interim rates should not be taken lightly. However, because the Commission can subsequently adjust interim rates following the completion of the full rate review process, the Commission is not legally required to conduct a full-scale rate case in order to approve interim rates. Interim rates can be put into effect if the Commission reasonably concludes that the utility has made a *prima facie* case that the interim rates will produce revenues that are less than the revenues the utility will receive upon completion of the permanent rate case.

This is precisely the conclusion the Commission reached in Idaho Power Company's request for interim rate relief in 1982. In Order No. 17070 issued in Case No. U-1006-185-A, the Commission granted Idaho Power's request for interim rate relief because the Commission concluded that the Company had demonstrated that the amount granted in interim revenues would be less than the amount the Company would ultimately receive at the conclusion of the U-1006-185 case with the issuance of the final order addressing all of the issues in the U-1006-185 docket.

We find that \$24,192,800 is the Company's just and reasonable revenue requirement based exclusively upon consideration of Valmy-related changes to its revenue requirement from Case No. U-1006-173.

The Company's need for additional revenues undoubtedly exceeds \$24,192,800. Had this been an ordinary application for interim rate relief in which "the broad public interests" could be considered, *see Intermountain Gas Company v. Idaho Public Utilities Commission*, 97 Idaho 113, 127, 540 P.2d 775, 789 (1975), we would not hesitate to weigh the Company's commendable performance in signing contracts for cogeneration and small power production, to evaluate its progress in the residential weatherization program, or to recognize increased capital costs since issuance of our Order in Case No. U-1006-173 and adjust its equity return. But the Company restricted its Application in Case No. U-1006-185-A to Valmy-related adjustments, and we confirmed this narrowing of the issues by Order. Having narrowly defined the issues in its Application, the Company, as all litigants, must accept in Case No. U-1006-185-A the consequences of doing so. (Order No. 17070, p. 11)

In its Application for interim rates in this proceeding, the Company is requesting that the Commission apply the same legal standard it applied in Case No. U-1006-185 and 185-A in Order No. 17070 in 1982. The four revenue requirement items identified in the Company's Application are all known and measurable changes and do not require extensive review to verify the amounts requested.

It is also important to note that the Commission has a legal obligation to consider the impact of not granting interim rate relief to Idaho Power. Without interim rates and the revenues associated with those interim rates, the Company will continue to earn less than it is legally entitled to earn and shareowner property will continue to be confiscated. The seminal case discussing confiscation of shareholder property is *Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679, 43 S.Ct. 675, 67 Lawyer's Edition 1176 (1923). In *Bluefield* the Supreme Court of the United States held:

The question in the case is whether the rates prescribed in the commission's order are confiscatory and therefore beyond legislative power. *Rates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service are unjust, unreasonable and confiscatory and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment.* This is so well settled by numerous decisions of this court that citation of the cases is scarcely necessary.

262 U.S. at 690, 43 S.Ct. at 678. (Emphasis added)

In their prefiled testimony and exhibits, Company witnesses have presented testimony and exhibits that demonstrate that Idaho Power is not earning an adequate return on its investments currently providing service to customers. At current rates, the Company's ability to attract capital and to maintain adequate service is currently being adversely impacted. The four revenue requirement items identified as the bases for the interim rate request are known and measurable and represent a minimum level of rate recovery currently needed to allow the Company to meet its obligations to its customers.

### III.

#### INTERIM RATES ARE IN THE PUBLIC INTEREST

In Order No. 17070 quoted above, the Commission discussed its ability to grant interim rates based on Idaho Power's commendable performance in signing contracts for cogeneration and small power production, weatherization, etc. The Commission characterized these kinds of considerations as "the broad public interests" (quotation marks in the original, Order No. 17070, p. 8).<sup>2</sup> Idaho Power believes that the prefiled testimonies of Mr. Keen and Mr. Gale presents a *prima facie* case that the

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<sup>2</sup>

A copy of Order No. 17070 is attached to this Memorandum for the Commission's convenience.

“broad public interest” would support the implementation of interim rates at this time. On pages 27 and 28 of Mr. Keen’s direct testimony in the 03-13-A case, Mr. Keen notes that Idaho Power’s Board of Directors recently made one of the most difficult decisions a Board can make by significantly reducing the dividend on the Company’s common stock. This decision demonstrates the importance the Company’s Board places on providing the necessary capital to fund needed infrastructure investments. Mr. Keen’s testimony also notes that despite the decrease in the dividend, the Company will still have to rely heavily on the capital market to fund its system improvement program going forward.

The public interest is served through interim rate relief by providing additional cash for investments in system improvements to benefit customers. But perhaps even more importantly, interim rates will improve the Company’s financial picture with the end goal of reducing the Company’s cost of money. Interim rate relief, coupled with the Board’s reduction of the dividend, will send a strong signal to the capital markets that both the Company and the Commission stand ready to make the decisions necessary to enable Idaho Power to obtain the additional financing required at a reasonable cost. Reducing the need for additional financing and lower financing costs at a time of heavy infrastructure investment is clearly in the public interest.

In addition, Mr. Gale in his testimony describes two Company-initiated programs, the Green Power Program and the Comprehensive Risk Management Policy, both of which certainly qualify as the type of programs that are consistent with “the broad public interests” cited by the Commission in Order No. 17070 as independent grounds for interim rate relief. Idaho Power believes that the Commission can legally

consider both the four known or measurable charges described in Mr. Gale's testimony and the "broad public interest" programs discussed by Mr. Gale and Mr. Keen in reaching a decision on the granting of interim rates.

#### IV.

#### CONCLUSION

Idaho Power acknowledges that there may be a perception that the granting of interim rates requires a utility to meet a higher legal standard. A review of Idaho law, however, does not support that view.

The legal standard to be applied to the approval of interim rates is the same as for any other rate, i.e., "just, reasonable and sufficient." The real question is whether the Commission must conduct a full rate case before determining that interim rates are appropriate. The Idaho Supreme Court's decisions in *Grindstone Butte* and the *Citizens' Utilities* cases both confirm the Commission's ability under Idaho Code § 61-502 to adjust rates on an interim basis pending a hearing on permanent rates. Recognizing that interim rates are subject to final adjustment at the time final rates are approved, it is logical to conclude that the approval of short-term interim rates does not require a higher standard than that required by Idaho Code § 61-502. Idaho Power's *prima facie* case for interim rate relief has been presented by prefiled testimony and exhibits and by measurable changes that provide the Commission with substantial competent evidence on the record to support a determination by the Commission that a 4.16% interim rate increase will not exceed the amount of permanent rate relief ultimately allowed. In addition, the testimony of Mr. Keen and Mr. Gale demonstrates that the requested interim rate relief is appropriate based on the "broad public interest"

standard as described in Commission Order No. 17070. For all of these reasons, Idaho Power respectfully concludes that the Commission can and should grant the interim rate relief requested.

Respectfully submitted this 12th day of November, 2003.

A handwritten signature in black ink, appearing to read 'B. L. Kline', written over a horizontal line.

BARTON L. KLINE  
Attorney for Idaho Power Company

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of November, 2003, I served a true and correct copy of the within and foregoing IDAHO POWER COMPANY'S LEGAL MEMORANDUM IN SUPPORT OF INTERIM RATE INCREASE upon the following named parties by the method indicated below, and addressed to the following:

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BARTON L. KLINE

**IDAHO CODE**

**§§ 61-307, 61-502 and 61-622**

said schedules. [1913, ch. 61, § 13b, p. 247; compiled and reen. C.L. 106:48; C.S., § 2415; I.C.A., § 59-305.]

**Compiler's notes.** For words "this act" see compiler's note, § 61-304.

#### ANALYSIS

Classification by commission.  
Constitutionality of regulation.

#### Classification by Commission.

Public utilities commission, in the exercise of its authority to see that rates, both as a whole and for each particular service, are just to the utility and reasonable to the consumer, and nondiscriminatory as between consumers, may not only fix rates for each class, but

may classify. *Idaho Power Co. v. Thompson*, 19 F.2d 547, 1927D P.U.R. 388 (D. Idaho 1927) (various rate-making principles discussed and applied).

#### Constitutionality of Regulation.

Any regulation which operates as a confiscation of private property or constitutes an arbitrary or unreasonable infringement of personal or property rights is void because repugnant to the constitutional guaranties of due process and equal protection of the laws. *Osborn Utils. Corp. v. Public Utils. Comm'n*, 52 Idaho 571, 17 P.2d 333 (1932).

#### DECISIONS UNDER PRIOR LAW

#### Water Corporation's Duty to Furnish Water.

A water corporation could not use as a defense that its water rates were not fixed in the manner prescribed by law, when a consumer sued to compel the company to tap its

mains and connect to the consumer's property, when the rate usually charged had been offered and tendered the company. *Bothwell v. Consumers' Co.*, 13 Idaho 568, 92 P. 533 (1907).

**61-306. Schedules — Change in form.** — The commission shall have the power, from time to time, in its discretion, to determine and prescribe by order such changes in the form of the schedules referred to in the two (2) preceding sections as it may find expedient, and to modify the requirements of any of its orders, rules or regulations in respect to any matter in this section referred to. [1913, ch. 61, § 13c, p. 247; reen. C.L. 106:49; C.S., § 2416; I.C.A., § 59-306.]

**61-307. Schedules — Change in rate and service.** — Unless the commission otherwise orders, no change shall be made by any public utility in any rate, fare, toll, rental, charge or classification, or in any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification or service, or in any privilege or facility except after thirty (30) days' notice to the commission and to the public as herein provided. Such notice shall be given by filing with the commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect. The commission, for good cause shown, may allow changes without requiring the thirty (30) days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect, and the manner in which they shall be filed and published. When any change is proposed in any rate, fare, toll, rental, charge or classification, or in any form of contract or agreement or in any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification or service, or in any privilege or facility, attention shall be directed to such change on the schedule filed with the commission by some character to be designated by the commission, imme-

diately preceding or following the item. [1913, ch. 61, § 14, p. 247; reen. C.L. 106:50; C.S., § 2417; I.C.A., § 59-307.]

**Cross ref.** Finding of commission necessary for increase in rate, § 61-622.

**Sec. to sec. ref.** This section is referred to in § 61-622.

**Cited in:** *Wardner v. Oregon R. & Nav. Co.*, 2 P.U.C.I. 128; *Bunker Hill Co. v. Washington Water Power Co.*, 98 Idaho 249, 561 P.2d 391 (1977); *Citizens Utils. Co. v. Idaho Pub. Utils. Comm'n*, 99 Idaho 164, 579 P.2d 110 (1978); *Afton Energy, Inc. v. Idaho Power Co.*, 107 Idaho 781, 693 P.2d 427 (1984).

#### ANALYSIS

Applicability of Administrative Procedures Act.

Change in rates.

Classification by commission.

Jurisdiction.

Municipal utilities.

Not applicable to counties.

Notice.

Service.

— Expense.

— Extension.

— Maintenance.

— Negligible use by passengers.

— Right to.

— Suspension or abandonment.

— Unreasonable and unjust economic loss.

**Applicability of Administrative Procedures Act.**

When the Public Utilities Commission is engaged in a legislative function, such as rate-setting for a cogenerator or small power producer, it need not act pursuant to the Administrative Procedures Act, but need only fulfill the notice requirements imposed on it by the public utility regulation statutes. *A.W. Brown Co. v. Idaho Power Co.*, 121 Idaho 812, 828 P.2d 841 (1992).

**Change in Rates.**

Telephone company was denied permission to put into effect a schedule of rates establishing a uniform initial one-minute period, although it offered to eliminate existing discrimination, where it appeared that this would result in an increase of many existing rates, and that discrimination could be eliminated otherwise. *In re Pacific Tel. & T. Co.*, 2 P.U.C.I. 89, P.U.R. 1915B, 943.

Where public utility was shown to be making a return of 2.6 per cent taking depreciation into consideration, it was permitted to increase its rates so as to realize something less than four per cent; the case being that of an electric railway, an increase in interurban rates was permitted, but commutation and school rates were unchanged. *In re Idaho*

*Trac. Co.*, 3 P.U.C.I. 114, P.U.R. 1915D, 743.

Traction company was not permitted to increase existing rate of school tickets of one cent per mile, although not earning a reasonable return. *In re Idaho Trac. Co.*, 3 P.U.C.I. 114, P.U.R. 1915D, 742.

Traction company was not permitted to increase its fare from five to ten cents, although not earning a reasonable return on its investment, where it was bound by contract based upon donations of money and rights of way in which it was agreed that five cents should be the maximum fare, and where persons had purchased suburban tracts on such lines with the five cent fare as an inducement. *In re Idaho Trac. Co.*, 3 P.U.C.I. 114, 7, P.U.R. 1915D, 742.

Increases in rates, when necessary to enable a utility either to keep its service at the point the public demands, or to attract new capital with which to make needed improvements, are justified. *In re Idaho Power Co.*, P.U.C.I. Case F333, Order 694, P.U.R. 1920D, 806.

Street car company must not only put into effect all reasonable economies, but it must also go after new business, and proof of such issues will be regarded as essential before an increase in rates will be granted. *In re Boise Street Car Co.*, P.U.C.I. Case F477, Order 824, P.U.R. 1922B, 796.

Where large power utility had created large demand for electricity for domestic water-heating purposes based upon low flat rate, it would not be equitable to permit a sudden placing of such customers on a higher meter basis, although furnishing current at flat rate was at a loss. *In re Idaho Power Co.*, P.U.C.I. Case F417, Order 939, P.U.R. 1924C, 313.

The commission had authority to fix utility rates which would supersede rates previously fixed by private contract, but before the commission could increase electric service rates charged to an industrial customer under a special service contract it was required to find specifically that the different rate was unreasonable and adverse to the public interest. *Agricultural Prods. Corp. v. Utah Power & Light Co.*, 98 Idaho 23, 557 P.2d 617 (1976).

**Classification by Commission.**

Public utilities commission, in the exercise of its authority to see that rates, both as a whole and for each particular service, are just to the utility and reasonable to the consumer, and nondiscriminatory as between consumers, may not only fix rates for each class, but may classify. *Idaho Power Co. v. Thompson*, P.U.R. 1927D, 388 (1927) (various rate-making principles discussed and applied).

mountain Gas Co. v. Idaho Pub. Utils. Comm'n, 98 Idaho 718, 571 P.2d 1119 (1977).

The public utilities commission had jurisdiction to decide the issues in a petition for a declaratory ruling brought by the Department of Energy (DOE), as signatory to a three-party agreement with the Power Company (IPC) and the Utah Power and Light Co. (U.P. & L.) for the furnishing of energy to the National Engineering Laboratory (NEL), whereby the DOE sought a ruling that upon the exercise of its right to terminate the agreement, IPC would have the right to be the sole supplier of electricity to INEL. Utah Power & Light Co. v. Idaho Pub. Utils. Comm'n, 112 Idaho 10, 730 P.2d 930 (1986), cert. denied, 484 U.S. 801, 108 S. Ct. 44, 98 L. Ed. 2d 9 (1987).

Under Art. 5, § 9 of the Idaho Constitution, the Idaho Supreme Court has only limited jurisdiction to review decisions of the Public Utilities Commission; on questions of law, the review on appeal shall not be extended further than to determine whether the commission has regularly pursued its authority. A.W. Brown Co. v. Idaho Power Co., 121 Idaho 812, 828 P.2d 841 (1992).

#### Monopolies.

Constitutional prohibition of monopolies did not have in view a public utility corporation governed and controlled by law for the

best interests of the people. Idaho Power & Light Co. v. Blomquist, 26 Idaho 222, 141 P. 1083, Ann. Cas. 1916E, 282 (1914).

Antitrust statute has now been superseded, insofar as public utilities over which the commission has been given direct control are concerned, by the policy which recognizes monopolies under the regulatory powers of the commission. In re Hydro-Electric Cos., 2 P.U.C.I. 260, P.U.R. 1915F, 876.

Merger of five hydroelectric companies into one large operating company was held to inure to benefit of public and investors, since commission has ample power under the public utilities law to regulate rates and service. In re Hydro-Electric Cos., 2 P.U.C.I. 260, P.U.R. 1915F, 876.

#### Suspension of Jurisdiction.

In absence of constitutional limitations, right of state to regulate rates may be suspended for a limited time by valid contract authorized by legislature, but when such contract is relied upon, it must appear that authority was clearly and unmistakably granted, and that its delegation is free from doubt. Sandpoint Water & Light Co. v. City of Sandpoint, 31 Idaho 498, 173 P. 972, 1918F P.U.R. 1106 (1918).

**Collateral References.** 64 Am. Jur. 2d, Public Utilities, §§ 151-171.

73B C.J.S., Public Utilities, §§ 15-59.

**61-502. Determination of rates.** — Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, fares, tolls, rentals, charges or classifications, or any of them, demanded, observed, charged or collected by any public utility for any service or product or commodity, or in connection therewith, including the rates or fares for excursions or commutation tickets, or that the rules, regulations, practices, or contracts or any of them, affecting such rates, fares, tolls, rentals, charges or classifications, or any of them, are unjust, unreasonable, discriminatory or preferential, or in any wise in violation of any provision of law, or that such rates, fares, tolls, rentals, charges or classifications are insufficient, the commission shall determine the just, reasonable or sufficient rates, fares, tolls, rentals, charges, classifications, rules, regulations, practices or contracts to be thereafter observed and in force and shall fix the same by order as hereinafter provided, and shall, under such rules and regulations as the commission may prescribe, fix the reasonable maximum rates to be charged for water by any public utility coming within the provisions of this act relating to the sale of water. [1913, ch. 61, § 30(a), p. 247; reen. C.L. 106:83; C.S., § 2451; I.C.A., § 59-502.]

**Compiler's notes.** For words "this act" see compiler's note, § 61-501.

**Cross ref.** Air carriers, power of commission to fix rates, § 61-1116.

Effective date of new rate, § 61-623.

Valuation, determination of for purpose of

rate making, § 61-523.

**Cited in:** State v. Kouni, 58 Idaho 493, 76 P.2d 917 (1938); Idaho Mut. Benefit Ass'n v. Robison, 65 Idaho 793, 154 P.2d 156 (1944); In re Pacific Tel. & Tel. Co., 71 Idaho 476, 233 P.2d 1024 (1951); Citizens Utils. Co. v. Idaho

**Cited in:** Neil v. Public Utils. Comm'n, 32 Idaho 44, 178 P. 271 (1919); Capital Water Co. v. Public Utils. Comm'n, 41 Idaho 19, 237 P. 423 (1925).

**Suspension of Order.**

In case a utility is ordered to lower rates on branch line to those of main line with permission to apply for opportunity within twenty days of showing that existing rate of branch line is not discriminatory, if such application

is made the order should be suspended pending further hearing. Peterson v. Oregon S.L.R.R., 3 P.U.C.I. 71, P.U.R. 1915D, 749.

Effective date of abandonment order was extended upon condition that the customers would make arrangements to assure payment to the utility of actual operating expenses. In re Richfield Pub. Serv. Co., P.U.C.I. Case F442, Order 818, P.U.R. 1922B, 342.

**61-619. Record.** — A full and complete record of all proceedings had before the commission or any commissioner on any formal hearing had, and all testimony shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. [1913, ch. 61, part of § 57a, p. 247; reen. C.L. 106:128; C.S., § 2496; I.C.A., § 59-619.]

**61-620. Record on appeal. [Repealed.]**

**Compiler's notes.** This section which comprised 1913, ch. 61, last part of § 57a, p. 247; reen. C.L. 106:129; C.S., § 2497; am. 1921, ch. 72, § 6, p. 141; am. 1925, ch. 88, § 1, p. 123; I.C.A., § 59-620 was repealed by S.L. 1977, ch. 299, § 1.

**61-621. Complaint by utility.** — Any public utility shall have a right to complain on any of the grounds upon which complaints are allowed to be filed by other parties, and the same procedure shall be adopted and followed as in other cases, except that the complaint may be heard ex parte by the commission or may be served upon any parties designated by the commission. [1913, ch. 61, § 58, p. 247; reen. C.L. 106:130; C.S., § 2498; I.C.A., § 59-621.]

**Cross ref.** Action, prosecution by attorney general; § 61-701.

Right and duty of attorney general to represent and appear before commission in all

actions and proceedings; § 61-204.

**Cited in:** Joy v. Winstead, 70 Idaho 232, 215 P.2d 291 (1950).

**61-622. Finding of commission necessary for increase in rate.** — No public utility shall raise any rate, fare, toll, rental or charge or so alter any classification, contract, practice, rule or regulation as to result in an increase in any rate, fare, toll, rental or charge, under any circumstances whatsoever, except upon a showing before the commission and a finding by the commission that such increase is justified. The commission shall have power, and is hereby given authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public utility or utilities, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation, and pending the hearing and decision thereon, such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation shall not go into effect; provided, that the period of suspension of such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation shall

not extend beyond thirty (30) days when such rate, fare, toll, rental, charge, classification, contract, practice, rule or regulation would otherwise go into effect, pursuant to section 61-307, Idaho Code, unless the commission in its discretion extends the period of suspension for an initial period not exceeding five (5) months, nor unless the commission after a showing of good cause on the record grants an additional sixty (60) days; provided further, that prior to the expiration of said periods of suspension the commission may, with the consent in writing signed by the party filing such schedule, permanently or further suspend the same. On such hearing, the commission shall establish the rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. [1913, ch. 61, § 59a, p. 247; reen. C.L. § 106:131; C.S., § 2499; I.C.A., § 59-622; am. 1975, ch. 81, § 1, p. 166; am. 1976, ch. 263, § 1, p. 887.]

**Compiler's notes.** Section 2 of S.L. 1975, ch. 81 declared an emergency. Approved March 21, 1975.

Section 2 of S. L. 1976, ch. 263, declared an emergency. Approved March 31, 1976.

**Cross ref.** Common carriers, establishment of joint rate, § 61-504.

Power to raise, lower, change and fix rates, § 61-502.

Railroads, schedule of rates and charges, §§ 61-304, 61-306, 61-308 — 61-310.

**Cited in:** In re Pacific Tel. & T. Co., 2 P.U.C.I. 89, P.U.R. 1915B, 943; In re Pacific Tel. & Tel. Co., 71 Idaho 476, 233 P.2d 1024 (1951); Tappen v. State, Dep't of Health & Welfare, 102 Idaho 807, 641 P.2d 994 (1982).

#### ANALYSIS

Abbreviated proceedings.

Additional period of suspension.

Amortization period.

Burden of proof.

Discretion of commission.

Effective date of increase.

Hearings and findings.

Increase in rates.

Interpretation.

Invalid revenue model.

Jurisdiction.

Municipal utilities.

Rate base.

Recovery of past losses.

Rejections without a hearing.

Returns and dismissals.

Test-year data.

#### Abbreviated Proceedings.

An accelerated rate of recovery of company's demand side management program expenditures, programs designed to help reduce energy consumption, would not increase the company's authorized rate of return; therefore, the public utilities commission was pursuing its statutory authority when it adopted

abbreviated proceedings to account for this single item expense of the company. *Industrial Customers of Idaho Power v. Idaho Pub. Utils. Comm'n*, 134 Idaho 285, 1 P.3d 786 (2000).

#### Additional Period of Suspension.

The words "a showing of good cause on the record" can be read to mean only that the record in the case must disclose that the additional days are necessary, as opposed to allowing the commission to act with absolute discretion. *Washington Water Power Co. v. Idaho Pub. Utils. Comm'n*, 101 Idaho 567, 617 P.2d 1242 (1980).

Where the commission determined from the record that good cause existed to suspend the rates for the additional 60 days because of the size of the increase requested, the complexity of the cases presented by the electric utility and the workload of the commission at that time, and where no challenge had been made to these findings, the commission acted properly. *Washington Water Power Co. v. Idaho Pub. Utils. Comm'n*, 101 Idaho 567, 617 P.2d 1242 (1980).

#### Amortization Period.

When faced with competent testimony on the reasonableness of five, seven, and twenty-four year amortization periods, the public utilities commission could, relying upon the testimony presented in addition to its own expertise, reasonably determine that a twelve-year amortization period was adequate and reasonable. *Industrial Customers of Idaho Power v. Idaho Pub. Utils. Comm'n*, 134 Idaho 285, 1 P.3d 786 (2000).

#### Burden of Proof.

Burden was on telephone company in proceeding before public utilities commission by other such companies to reduce former company's rate for exchange service on ground that increased rate was never legally inaugu-

**IDAHO POWER COMPANY**

**Case No. U-1006-185 & 185-A**

**Order No. 17070**

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION )  
OF IDAHO POWER COMPANY FOR )  
AUTHORITY TO INCREASE ITS RATES )  
AND CHARGES FOR ELECTRIC SERVICE )  
TO ELECTRIC CUSTOMERS IN THE STATE )  
OF IDAHO; )

CASE NO. U-1006-185

AND IN THE EVENT OF SUSPENSION OF )  
THESE RATES AND CHARGES, THE )  
COMPANY REQUESTS, )

A UNIFORM PERCENTAGE INCREASE )  
IN RATES AND CHARGES TO RECOVER )  
INCREASED COSTS TO THE COMPANY )  
AS A RESULT OF VALMY STEAM )  
ELECTRIC GENERATING STATION UNIT )  
ONE BEING PLACED INTO SERVICE. . . )

CASE NO. U-1006-185-A

ORDER NO. 17070

APPEARANCES

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FOR THE DSI'S AND  
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RONALD L. SAXTON and  
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Boise, ID 83707

Idaho Power Company initiated these Case Nos. U-1006-185 and U-1006-185-A on December 30, 1981, by Application for a general rate increase. By this Order issued in Case No. U-1006-185-A, we find that the Company has a Valmy-related revenue deficiency from its retail Idaho Customers of \$24,192,800.

SCOPE OF CASE NO. U-1006-185-A

In Case No. U-1006-185 the Company requested rate relief of \$72,941,628, effective February 1, 1982. In the alternative, if the Commission suspended its proposed rates in Case No. U-1006-185-A, the Company requested rate relief of \$29,676,000, effective February 1, 1982. The Company alleged that its request in the latter case was based upon inclusion of its Valmy Unit No. 1 in its rate base and associated changes in expenses and

revenues based upon the 1980 test year, i.e., the test year used in the preceding general rate case, No. U-1006-173. Application, ¶ XIX.

In Order No. 16993, issued January 6, 1982, we suspended the proposed increase in both Case Nos. U-1006-185 and U-1006-185-A for thirty days plus five months from the proposed effective date of February 1, 1982. I.C. § 61-622.

On January 8, 1982, we issued Order No. 16996, defining the issues in these two cases. Order No. 16996 provided:

We hereby provide that Case No. U-1006-185-A is considered a part of U-1006-185 and therefore restrict the issues which may be considered in Case No. U-1006-185-A to those related to inclusion of the Valmy Plant in rate base and related adjustments resulting from its inclusion in rate base. We hereby provide that all findings, orders and rates resulting from Case No. U-1006-185-A are subject to revision in Case No. U-1006-185, which is hereby declared to be a general rate case in which all issues normally considered in a general rate case may be addressed, and we further declare that, unless otherwise directed by order, rates established by order in Case No. U-1006-185-A shall not later be retroactively adjusted in Case No. U-1006-185, but may be prospectively revised or amended. For purposes of petition for rehearing and appeal, orders issued in Case No. U-1006-185-A shall be considered interlocutory orders in Case No. U-1006-185.

On January 8, 1982, the Commission Staff filed a statement of position with regard to rate allocation in Case No. U-1006-185-A. It served notice that the Staff would recommend a uniform percentage increase in total revenues to all customer classes and special contract customers except FMC, but would recommend that the base of FMC's increase be the revenue requirement allocated to FMC in Case No. U-1006-173 and that FMC's increase would be calculated by applying the same uniform percentage increase to that base as applied to other customers. The Pumpers filed a similar recommendation on January 11, 1982, and Grindstone Butte followed on January 19, 1982.

In response FMC moved to continue the hearings in Case No. U-1006-185-A and objected to the Staff's and Irrigators' proposed spread of requested interim relief. The Staff filed a written response to FMC's Motion.

At the hearing on January 25, 1982, we heard argument on the Motion. Tr. pp. 19-43. We ruled in the following manner, *id.* at 44-45:

(1) The statements of the Staff, the Pumpers and Grindstone Butte would be treated as motions;

(2) Order No. 16993 limited the scope of Case No. U-1006-185-A to issues associated with inclusion of Valmy in the rate base;

(3) The Staff's, Pumpers' and Grindstone Butte's motions would expand the scope of the case beyond the limiting Order;

(4) Therefore, the Staff's, Pumpers' and Grindstone Butte's motions were denied; and

(5) FMC's motion was denied because there was no need to continue the case to allow it to rebut the others' positions.

#### REVENUE REQUIREMENT

The Company's Application alleged and its prepared testimony and exhibits introduced at hearing supported a revenue deficiency of \$29,676,000 resulting from inclusion of Valmy in the rate base. Application, ¶ XVIII; testimony of Bruce, Tr. 56; testimony of Crowley, *id.* at 87; Ex. 2A, p. 4.<sup>1</sup>

The Staff's prepared testimony submitted before the hearing calculated the Company's revenue requirement as \$25,551,300. Testimony of Miller, Tr. p. 177; Ex. 101, p. 2. Before testimony was taken, the Company agreed to accept the Staff's recommendation. Tr. pp. 31, 49. See also *id.* at 224.

Both the Company's and the Staff's recommendations on revenue requirement were modified from that contained in their prepared testimony in response to Order No. 17045, issued on January 21, 1982, in Case No. U-1006-193. That Order shifted master-metered mobile home parks and apartment buildings that

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1. In developing Cost of Service, the Company recognized the normalization requirements of the Economic Tax Recovery Acts of 1981. See Answer to Data Request 16.

submeter their tenants from the commercial class to the residential class, thereby reducing the Company's revenues to the extent that the commercial rates formerly paid by these customers would exceed their residential rates. This reclassification of customers increased the Company's revenue requirement by \$48,431.81. Testimony of Eberle, Tr. p. 167; testimony of Miller, *id.* at 181.

Idaho Power Company's calculation of the \$29,676,000 revenue requirement was made in two steps: (1) Addition to the rate base approved by the Commission in Case No. U-1006-173 of that portion of the investment in Valmy allocated to rate base under the interstate allocation factors used in Case No. U-1006-173, testimony of Crowley, Tr. pp. 85-86; and (2) additions to the Company's revenues and expenses approved in that case for the test year 1980 that would have resulted from operation of Valmy, *id.* at 86-88.

The Staff accepted the Company's inclusion of Valmy in the rate base, testimony of Miller, *id.* at 175-177; Ex. 101, p. 1; but rejected the Company's adjustments to 1980 revenues and expenses resulting from Valmy-related opportunity sales, purchased power expenses, fuel expenses and the like because the Company did not treat those items in Case U-1006-185-A consistently with its method of treating them in Case U-1006-173, testimony of Ferguson, Tr. p. 213. Because the Staff was unable to review the reasonableness of the Company's adjustments to expenses and revenues from the 1980 test year under the ratemaking standards of Case U-1006-173, the Staff recommended that no adjustments to revenues and expenses be recognized other than a wash transaction equating the two. *Id.* at 217-218, 220-221.

No party opposed the Staff's position by direct testimony. However, during cross-examination of Crowley and Ferguson it was established that Idaho Power normalized its data for the 1980 test year to take into account additional revenues and expenses which would have been associated with the Valmy Plant had it been in operation during that year, but did not also

adjust its revenue and expense data for other plants to take into account how Valmy would have affected their operations. *Id.* at 109, 111-112, 136-140, 240-250. Both witnesses also conceded during cross-examination that Valmy's addition to the Company's facilities would have affected the operation of other plants. *Id.* at 112, 139-140, 231-233.

In their post-hearing memorandum, the DSI's argued that Idaho Power's revenue requirement in this case should not exceed \$17,981,400. They calculated this revenue requirement by taking the Company's own adjustments to revenues and expenses to the Company's total system contained in the Company's exhibits in Case No. U-1006-185, then altering the Company's exhibits in Case No. U-1006-185-A to take into account the effect of Valmy's operation on the test-year data for Case No. U-1006-185-A. They argued that their calculation took into account Valmy's effect upon the opportunity sales and fuel costs associated with Idaho Power's other resources, but the Company's and the Staff's calculations did not. DSI's memorandum, pp. 1-2.

The DSI's argument is persuasive, but their calculation of the revenue requirement is defective. We find that it is unreasonable to include Valmy in the rate base without also adjusting the revenues and expenses of the total system to take into account Valmy's effect upon them. We find on this record that it is proper to adjust the Company's data in the manner suggested by the DSI's memorandum. We further find that adjustments of this kind give the best matching of rate base, revenues and expenses available on this record. We note, further, that the DSI's adjustments to the Company's Ex. 2A had their origin in the Company's Ex. 4, an exhibit based upon a method of stream flow normalization not yet approved by the Commission and one that (according to the Company's testimony in that case) will yield a larger revenue requirement on a given rate base than the method used in Case No. U-1006-173 (although the same testimony asserts that it should lead to smaller rate bases in the future).

Thus, according to the Company's testimony, the DSI's memorandum overstates the Company's Valmy-related revenue and expense adjustments (other than income taxes) based upon the stream-flow normalization method used in Case No. U-1006-173 to the extent that it differs from the method of Case No. U-1006-185.

Nevertheless, we do not accept the DSI's calculation of the revenue requirement as an upper limit. We make three adjustments to it: the first, to take into account the transfer of some commercial customers to the residential rate schedule; the second, to take into account the Company's underestimation in its Application of its investment in Valmy; and the third, to take into account the omitted tax consequences of the DSI's adjustments to the Company's test-year revenues and expenses. The testimony of Eberle, Tr. p. 167; the testimony of Miller, *id* at 177, 181; and Ex. 101, Col. (d) explain the first two adjustments. The third is shown in the attachments. The calculation of the resulting revenue requirement of \$24,192,800, or a 9.53% increase, is shown in the schedules attached to this Order.

We find that \$24,192,800 is the Company's just and reasonable revenue requirement based exclusively upon consideration of Valmy-related changes to its revenue requirement from Case No. U-1006-173. We further note that calculation of the revenue requirement was impeded by, not helped by, the DSI's presentation of its position through memorandum, which cannot be cross-examined, rather than by direct testimony. Had they presented their position by direct testimony, all parties would have had an opportunity to note its deficiencies, and the Company would have had an opportunity to rebut it. In the regulation of public utilities, in contrast to setting rates for public power, it is the practice to allow other parties to cross-examine the Intervenor's case. Having said this, we tell the Intervenor that they may pursue the matter in the general case.

The Company's need for additional revenues undoubtedly exceeds \$24,192,800. Had this been an ordinary application for

interim rate relief in which "the broad public interests" could be considered, see *Intermountain Gas Company v. Idaho Public Utilities Commission*, 97 Idaho 113, 127, 540 P.2d 775, 789 (1975), we would not hesitate to weigh the Company's commendable performance in signing contracts for cogeneration and small power production, to evaluate its progress in the residential weatherization program; or to recognize increased capital costs since the issuance of our Order in Case No. U-1006-173 and adjust its equity return. But the Company restricted its Application in Case No. U-1006-185-A to Valmy-related adjustments, and we confirmed this narrowing of the issues by Order. Having narrowly defined the issues in its Application, the Company, as all litigants, must accept in Case No. U-1006-185-A the consequences of doing so.

#### RATE ALLOCATION AND RATE DESIGN

The Company and the Staff both recommended that the rates of each class of tariff customer be increased by approximately a uniform percentage equalling the percentage increase by which the revenue requirement exceeds existing revenues.<sup>2</sup> Testimony of Crowley, Tr. p. 94; Ex. 5A, Ex. 6A; testimony of Ferguson, Tr. pp. 222-233. We find this proposal to be a just and reasonable method of allocating the rate increase among the tariff customers and adopt it for the reasons given in their testimony.

The Company and the Staff also recommended that the uniform percentage increase be spread to Monsanto, INEL and Simplot, *id.*, but the Company recommended that this be done by a uniform percentage increase to their demand, minimum and energy charges, Ex. 5A, Tr. pp. 17-20, while the Staff recommended that all increases in their rates be allocated to energy, *id.* at 223. The Company testified that the special contract customers' rates

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2. The uniform percentage increase for tariff and special contract customers is based upon the adjusted kwh sales shown in Ex. 6A. Total adjusted sales in that exhibit are 9,084,464,837 kwh. It is also based upon the revenue requirement found reasonable in Case No. U-1006-173, some of which was unfunded.

would be unreasonable, discriminatory and preferential without such increases. *Id.* at 95. The Staff agreed. *Id.* at 223.

We find that it would be unfair, unreasonably discriminatory, preferential and adverse to the public interest not to adjust these special contract customers' rates because it would be unfair, unjust, unreasonably discriminatory, preferential and adverse to the public interest to exempt them from the increased costs associated with this new production plant. We further find for the reasons stated by the Staff that it is just and reasonable to allocate the increase exclusively to their energy charges and to leave the demand or minimum charges in their contracts constant. We further direct that INEL's and Monsanto's contracts be modified in a manner that will give the increase in the energy charges directed by this Order solely to Idaho Power Company and not to any other utility. Further, pursuant to agreement between INEL and the Company, we also provide that the increase in INEL's demand charges inconsistent with the Order in Case No. U-1006-173 be corrected.

Finally, with regard to FMC, we note that its rates can now be set under the same standards as a tariff customer's because its contract with Idaho Power has been modified to that effect. We find that it is just and reasonable to allocate to it a uniform percentage increase funded exclusively by its energy charges for the same reasons given for that allocation to the tariff customers. Further, our finding that the Company's total revenue requirement in this case was \$24,192,800 was built upon a revenue base including revenues allocated to FMC in Case No. U-1006-173, but not funded. Testimony of Miller, Tr. pp. 183-188. We find that it would be unreasonably discriminatory and preferential to allocate any of the uniform percentage increase on this unfunded amount to customers other than FMC. We further find that it would expand the issues of this case to fund the uniform percentage increase on this amount to FMC. Therefore, we find that it is just and reasonable to leave the uniform percentage increase on this

amount unfunded. We therefore find that it is just and reasonable to allocate to FMC a uniform percentage increase on its rates now in effect.

#### REVIEW OF THE ORDER

In Order No. 16996, issued January 8, 1982, in Case Nos. U-1006-185 and U-1006-185-A, we provided:

We hereby provide that all findings, orders and rates resulting from Case No. U-1006-185-A are subject to revision in Case No. U-1006-185, which is hereby declared to be a general rate case in which all issues normally considered in a general rate case may be addressed, and we further declare that, unless otherwise directed by Order, rates established by Order in Case No. U-1006-185-A shall not later be retroactively adjusted in Case No. U-1006-185, but may be prospectively revised or amended. For purposes of petition for rehearing and appeal, orders issued in Case No. U-1006-185-A shall be considered interlocutory orders in Case No. U-1006-185.

Our finding of the revenue requirement of \$24,192,800 based upon the record in this case and our recognition at pp. 7-8 of this Order that the Company's actual revenue requirement is larger convinces us that no customer of Idaho Power Company will pay unreasonably high rates as a result of this Order. We therefore provide that this Order be considered interlocutory and that the rates established by this Order will not be retroactively adjusted in Case No. U-1006-185, but may be prospectively revised or amended in that Case.

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BASED UPON THE BASIC FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED IN THE TEXT OF THIS ORDER, WE MAKE THE FOLLOWING FINDINGS OF ULTIMATE FACT AND CONCLUSIONS OF LAW:

#### FINDINGS OF ULTIMATE FACT

##### I

Idaho Power Company is an electrical corporation subject to our regulation under the Public Utilities Law. The rates of all of its tariff customers and its special contract customers in the State of Idaho are subject to our regulation under the Public Utilities Law.

11

Idaho Power Company's increased revenue requirement based solely upon addition of the Valmy Unit No. 1 to its rate base and related adjustments to the Company's revenues and expenses is \$24,192,800. This revenue requirement is a 9.53% increase over its currently existing rates.

III

It is just and reasonable to allocate this revenue requirement by a 9.53% increase to the rates of all tariff and special contract customers. It is just and reasonable to allocate this increase exclusively to their energy charges.

IV

It would be unfair, unjust, unreasonably discriminatory, preferential and adverse to the public interest not to increase the rates of special contract customers Monsanto, INEL and Simplot, by 9.53%.

#### CONCLUSIONS OF LAW

I

The Commission has jurisdiction to authorize Idaho Power Company a rate increase in this matter to both its tariff and special contract customers.

II

The Commission has authority to increase the rates of Idaho Power Company's special contract customers in the manner provided in this Order.

III

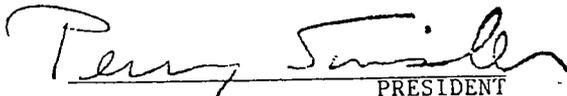
This Order is an interlocutory order and not a final order.

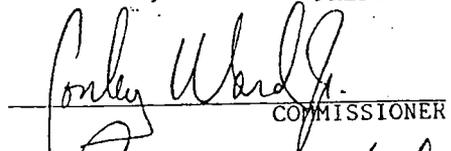
#### O R D E R

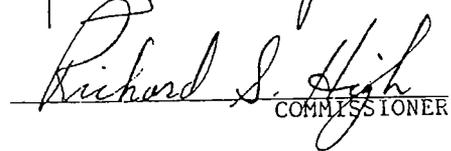
IT IS HEREBY ORDERED that Idaho Power Company may file rates and charges authorized by this Order for its tariff and special contract customers to be effective on one day's notice for service rendered thereafter.

IT IS FURTHER ORDERED that all rates and charges filed by Idaho Power Company conform to this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 5<sup>th</sup> day of February, 1982.

  
PRESIDENT

  
COMMISSIONER

  
COMMISSIONER

ATTEST:

  
ASSISTANT SECRETARY

ss/5Cf

IDAHO POWER COMPANY

Idaho Rate Base  
(\$000 's)

	Per IPUC Order #16830	Company Proposed Adjustments	Company Proposed Rate Base	Staff Adjustment to Company Proposal	Adjusted Rate Base
Electric Plant in Service	\$ 1,061,688.3	\$ 111,988.8	\$ 1,173,677.1	\$ 1,752.0	\$ 1,175,429.1
Less: Accumulated Depreciation	171,985.6	1,720.2	173,705.8	70.2	173,776.0
Amortization of Other Util. Plant	348.3	.2	348.5		348.5
Net Electric Plant	\$ 889,354.4	\$ 110,268.4	\$ 999,622.8	\$ 1,681.8	\$ 1,001,304.6
Less: Customer Advances for Construction	4,538.1	---	4,538.1		4,538.1
Accumulated Deferred Taxes	66,357.1	( 1.7)	66,355.4		66,355.4
Add: Fuel Inventory	4,434.6	3,355.1	7,789.7		7,789.7
Materials & Supplies	7,551.0	1.4	7,552.4		7,552.4
Working Cash Allowance	---	---	---		---
Net Electric Rate Base	\$ 830,444.8	\$ 113,626.6	\$ 944,071.4	\$ 1,681.8	\$ 945,753.2
Investment in Conservation	2,741.4	---	2,741.4		2,741.4
Subsidiary Rate Base	11,137.9	---	11,137.9		11,137.9
Total Combined Rate Base	\$ 844,324.1	\$ 113,626.6	\$ 957,950.7	\$ 1,681.8	\$ 959,632.5

IDAHO POWER COMPANY  
Statement of Operations  
(\$000's)

	<u>Company Exhibit 2A Page 2 of 34</u>	<u>Expense &amp; Revenue Adjustment Proposed by DSI's Including Income Tax Effects</u>	<u>DSI Proposal Adjusted for Income Tax</u>	<u>Revenue Shortfall from U-1006-193</u>	<u>Adjusted Test Year Operations</u>
<u>OPERATING REVENUES</u>					
Firm Energy Sales	\$222,476.7	\$	\$222,476.7	\$(48.4)	\$222,428.3
Unbilled Revenues	3,320.7		3,320.7		3,320.7
Opportunity Sales	35,268.7	4,073.4	39,342.1		39,342.1
Other Operating Revenue	6,410.6		6,410.6		6,410.6
Total Revenue	<u>\$267,476.7</u>	<u>\$ 4,073.4</u>	<u>\$271,550.1</u>	<u>\$(48.4)</u>	<u>\$271,501.7</u>
<u>OPERATING EXPENSE</u>					
O & M Expense	\$139,679.9	\$(1,831.4)	\$137,848.5	\$	\$137,848.5
Depreciation Expense	27,832.9	---	27,832.9		27,832.9
Amortization Expense	123.2		123.2		123.2
Taxes Other than Income Tax	12,227.3		12,227.3		12,227.3
Prov. for Deferred Taxes	8,768.0		8,768.0		8,768.0
Investment Tax Credit Adjustment	8,396.1		8,396.1		8,396.1
Federal Income Tax	( 2,663.7)	2,539.7	( 124.0)	(20.8)	( 144.8)
State Income Tax	915.2	383.8	1,299.0	( 3.2)	1,295.8
Total Expense	<u>\$195,278.9</u>	<u>\$ 1,092.1</u>	<u>\$196,371.0</u>	<u>\$(24.0)</u>	<u>\$196,347.0</u>
Operating Income	\$ 72,197.8	\$ 2,981.3	\$ 75,179.1	\$(24.4)	\$ 75,154.7
Subsidiary Income	<u>2,868.1</u>		<u>2,868.1</u>		<u>2,868.1</u>
Consolidated Operating Income	<u>\$ 75,065.9</u>		<u>\$ 78,047.2</u>		<u>\$ 78,022.8</u>

IDAHO POWER COMPANYRevenue Requirement  
(\$000's)

Rate Base	\$ 959,632.5
Authorized Rate of Return	x <u>11.188%</u>
Income Requirement	\$ 107,363.7
Less: Operating Income	<u>78,022.8</u>
Income Deficiency	\$ 29,340.9
Tax Factor	x <u>1.9806</u>
Revenue Deficiency	\$ 58,112.6
Less: Revenue Granted Order #16830	<u>33,919.8</u>
NET REVENUE REQUIREMENT	<u>\$ 24,192.8</u>