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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**

IRRIGATORS' POST-HEARING BRIEF

COMES NOW the Idaho Irrigation Pumpers Association, Inc. ("Irrigators"), through counsel of record and submits this Brief to set forth its position and arguments regarding the issues presented as a part of Idaho Power Company's (hereinafter "Idaho Power" or "Company") Application for a General Rate Increase following the hearings conducted before the Idaho Public Utilities Commission ("Commission").

INTRODUCTION

The Irrigators strongly dispute that their rates are subsidized in any way under the Tariff Schedules currently in effect or that have previously existed pursuant to Orders of the Commission. The so-called "Irrigation Subsidy" exists, if at all, only the context of cost-of-service methodologies presented in this case or previous cases, the accuracy of which is questionable and disputed. The current and all previous Tariff Schedules in effect for irrigation customers were established and exist pursuant to Orders of this Commission which are final and binding. Irrigators pay those rates without any subsidy whatsoever.

The Irrigators will not attempt to address all issues, given the extensive record and multitude of issues presented. Instead the Irrigators focus primarily upon revenue and allocation issues effecting the irrigation class and all customers in general. The Irrigators' failure to address an issue should not be construed as acceptance or rejection, merely that no position is asserted.

REVENUE REQUIREMENT AND PROPOSED ADJUSTMENTS

The Irrigators support the Staff's proposed adjustments, resulting in an Idaho revenue requirement of $498,183,182, and an overall increase of 2.94 percent as reflected in Revised Exhibit 101. The Irrigators' witness Yankel scrutinized the Company's actual and budgeted non-power cost accounts 500-953 expenses for each month for the previous five years (excluding accounts 501, 547, 555 and 557). This analysis reflects that the Company's expense data in the 2003 test year are excessive, being at least 2.7 percent or $5,794,724 greater than supported by the trend analysis. (Yankel, Direct, pp. 4-16) This analysis lends support to the expense reductions Staff recommends.

The Irrigators have also challenged the use of budgeted expense data for the test year, position other parties support. The Company has admitted that actual year-end test year expenses is available and has presented no valid reason why it shouldn't be utilized where accuracy is the goal.

COST-OF-SERVICE STUDIES

1. Purpose and Use.

In this case, as in Idaho Power's three previous rate cases, the Commission is presented with numerous cost-of-service studies based on Idaho Power's loads and resources. In each of the previous cases, the Commission has selected a Weighted 12 Coincident Peak ("W12CP") method to allocate costs among customer classes. In this case, there seems to be much greater effort and emphasis by the Company, Staff and other parties to give great deference to the Company's Cost of Service Study and to rely more heavily upon it in this case than in past cases. Indeed, almost all other intervenors advocate a rapid and systematic move to setting rates based simply upon strict adherence to the Company's ill-conceived pure cost-of-service allocation principles and inaccurate data. These Intervenors exclude all other factors and pay lip service to the principle of "rate shock".

Generally speaking, this Commission has an objective to create rate structures that are cost-based (IPC-E-94-5, Order No. 25937, p. 11, dated March 21, 1995). This Commission has long recognized that cost-of-service studies are works of art, not science. They may be a starting point or tool to aid the Commission in carrying out its statutory responsibility of establishing rates that are fair, just, reasonable and non-discriminatory. Because of the complexity and controversy over the use of various cost-of-service methodologies, data problems and the profound impact they may have on customer rates, this Commission has frequently and repeatedly held that they are but one of many factors in establishing rates.

These principles were artfully stated in the last Idaho Power general rate case, Case No. IPC-E-94-5, where the Commission stated in its Final Order No. 25880 issued on January 31, 1995, as follows:

> "However, we are aware of the limitations of any cost-of-service study, keeping in mind, as stated by IPCo that 'the preparation of a cost-of-service study is still a combination of art and science with the results hinging on key assumptions and allocation methods.' The dynamic nature of a cost-of-service study is reflected in the fact that the results of the W12 CP study in this case vary widely from the results of the same study in IPCo's last rate case. As we stated in an Order issued in IPCo's last rate case, 'cost-of-service studies provide a useful starting point for allocating

revenues, but in the end we must, and do, consider other factors such as rate continuity, equity and proportionality.'" (Order No. 21365, p. 13.)

The Commission more recently reaffirmed these principles in the 1999 Avista case, Number WWWP-E-98-11 Order No. 28097 as follows:

> "Cost of service, however, is only one of many factors to be considered by this Commission in tariff design, there is no required correlation."

The Idaho Supreme Court has also repeatedly recognized that cost of service is but one criteria among many for consideration in forming a basis for rate differentiation, stating in *Grindstone Butte Mutual Canal Co. vs. Idaho Public Utilities Commission*, 102 Idaho 175; 627 P.2d 804:

> "This Court has previously determined that cost of service is but one criteria among many for consideration in forming a basis for rate differentiation between classes of service and between classifications of customers within a certain schedule. In *Utah-Idaho Sugar vs. Intermountain Gas Co., (supra),* as between classes of service, i.e., one schedule as opposed to another, the relevant criteria included the quantity of the utility used, the nature of the use, the time of use, the pattern of use, the differences in the conditions of service, the cost of service, the reasonable efficiency and economy of operation and the actual differences in the situation of the customers for the furnishing of the service. Specifically, as between classes of customer within a schedule, the criteria included contribution to peak load, cost of service on peak demand days, cost of storage and economic incentives. Id. at 377, 597 P.2d at 1067."

While the various criteria has been listed and discussed, the Supreme Court has clearly indicated that the criteria listed is not exclusive with the Commission granted broad discretion to exercise judgment in the setting of rates. The Court stated in *Grindstone Butte, supra.,* at page 807:

> "We do not find one criteria to be necessarily more essential than another. Nor do we find the criteria as listed above to be exclusive. As this Court has stated in the past:
>
> > 'Each case must depend very largely upon its own special facts and every element and every circumstance which increases or depreciates the value of property, or of the service rendered, should

> be given due consideration, and allowed that to which it is entitled. It is, after all, very much a question of sound and well-instructed judgment.'" (Citation omitted.)

Avoiding rate shock, a principle that has universal acceptance of all parties in this case, in conjunction with discussing any disproportionate increase of the irrigation class, has also been recognized by the Commission as a proper consideration to be taken into account in determining a just, fair and reasonable rate. (Case No. UPL-E-89-7, Order No. 22976, 1990 Ida.PUC Lexis 26, p. 10.)

Idaho Power well recognizes and accepts the above discussed rate making principles. Company Witness John R. Gale, the Vice President of Regulatory Affairs responsible for the overall policy matters relating to regulation and pricing policy decisions, recognized that a pure cost of service approach should not be followed, and that there are many considerations that should be taken into account in establishing class revenue allocations, including rate shock. Rebutting Intervenor Witnesses, Mr. Higgins (Kroger), Dr. Peseau (Micron) and Dr. Powers (AARP), who have suggested rapid and systematic approaches to fully eliminate the irrigation subsidy, Mr. Gale stated in his direct rebuttal testimony beginning at page 25, line 25:

> ". . . The Idaho Commission has historically taken more than just the pure cost of service result into account when establishing class revenue allocations, with rate shock being one of those considerations."
>
> * * *
>
> "In addition, aggressively ramping up irrigation rates without an evaluation at each step could have a severe impact on the irrigation customer class." (P. 27, lines 6-9.)

Economic impacts come into play and must be considered in setting rates, particularly to apply the principle of rate shock. Neither the Company, Staff, nor any Intervenor, including the

Irrigators, presented any analysis or study of the economic impact the rapid and systematic proposals to move Irrigators towards the average 62 mill rate derived from the Company's 5-CP cost of service study. While there is no economic impact evidence in the record established in the technical proceedings, ample evidence exists in the record established at the public hearings where numerous irrigation customers of a variety of sizes and types established an ample record of the potential, if not obvious and certain, disaster to Irrigators and the agricultural economy if this Commission were to make a drastic shift in rates as suggested by the Company's ill-advised cost of service study.

Such a shift in cost responsibility based upon the Company's cost of service would be a clear and inconsistent departure from past rate-making policies and principles. Further, to begin ignoring or giving less weight to the multitude of other factors would be a dangerous precedent that could "handcuff" future Commissions to a narrow and inflexible set of guidelines. Such could impair this Commission's ability and need to exercise broad discretion and sound judgment in shaping public policy.

2. <u>Idaho Power's Proposed Averaging of W12CP and 12CP Methodologies</u>.

The Company's general assertion that it is presenting the same cost allocation methods as in past cases has been shown to be far from accurate. In her direct testimony, Company Witness Brilz discussed the W12CP allocation method stating at page 2, lines 20-25:

> "This study uses the same methodology as previously filed by the Company in Case No. U-1006-185, Case No. U-1006-265A, and Case No. IPC-E-94-5, and used by the Commission in the allocation of the revenue requirement among customer classes in those cases."

In this case, the Company in fact proposed to allocate costs using an average of a 12CP and W12CP method. Further, the new W12CP method in this case provided for the first time ever, a "0" weighting in 7 months for the purpose of allocating capacity costs, and a "0" weighting in 9 months for the purpose of allocating transmission-related costs. Accordingly, for purposes of the W12CP half of the equation, the Company is in effect using a 5CP or 3CP method. The Company admitted on cross-examination by the Irrigators that it has never previously proposed to allocate costs based on an averaging of 12CP and W12CP. Nor has the Company ever proposed, or this Commission ever approved for Idaho Power, Avista or PacifiCorp such an average, nor utilizing "0" weighting factors in any month. In fact, this Commission has never used a weighting factor when it utilized a 12CP method in any Avista or PacifiCorp cases.

The effect of the Company's "0" weighting factors and methodologies is to allocate far greater costs to the Irrigators than under past methodologies. On its face, the Company's weighting rationale appears sound, because of load growth during certain peak months. However, load growth is also appearing in all months. When applied to the Irrigators, it appears particularly unfair and unjust to charge them with the cost of growth on the Idaho Power system caused by other customers, given that the irrigation class has shown no growth whatsoever the past ten years and is projected to have no growth in the future. The percentage of growth by class since the last case is depicted graphically and by percentage in the Irrigator's Figure 10. (Yankel, Reb., p. 10)

In the past three Idaho Power general rate cases, the Irrigators received disproportionate and larger increases than the overall increases to all customers in an effort to move Irrigators closer to their perceived cost of service. Now, suddenly, in this case, if the Company's cost-of-service methodology is accepted, the deficiency gap for Irrigators has grown to $40.5 million, which would require a 67.1 percent increase to close. Since there has been no growth for ten years in the irrigation class, the growth of the deficiency gap is directly attributable to the new allocation methodologies and inaccurate data employed by the Company in this case.

It appears patently unfair to use a new allocation method which not only saddles the Irrigators with a disproportionately large share of embedded costs, but also a disproportionately large share of growth-related costs, which they did not create. The fact that the Company used demand data for the irrigation class based upon the requirements of the drought year 2002 and yet normalized (reduced) revenues to normal levels is an example of the mismatch of data that is being utilized to contribute to the unfair and unreasonable result found in the Company's cost of service study. If the principle of cost causation is to be followed, which virtually all witnesses advocated in this case, it can only mean that the Company's cost allocation methodologies must be rejected and new methodologies found and employed that better allocate the costs of growth to the Residential and Commercial Schedules 7 and 19 and Special Contract Customer Micron that are fueling growth-related costs, not the Irrigators who have not.

3. W12CP - Weighting Factor Adjustments.

Should the Commission choose to rely upon W12CP allocation, the Irrigators urge that the weighting factors be based upon sound and reliable data. Such data was presented by the Irrigators in their rebuttal testimony (Yankel, Reb. P. 16 line 1 through p. 17 line 8) changed to correlate with the Integrated Resource Plan ("IRP").

The Company's W12CP weighting factors are simply arbitrarily selected values that are not even derived from the data they are claimed to represent. The Company contended its 2002 IRP identified five capacity deficit months (June, July, August, November and December) that are driving the need for additional peaking resources. (Brilz, Dir., p. 15, lines 8-24.) In relying on the IRP to formulate its weighting factors, the Company focused on the five-year time frame of 2003-

2007 and the Seventieth Percentile Water and Load Condition.[1] However, that IRP clearly and repeatedly states that Idaho Power had capacity deficits in only the four months of June, July, November and December. Nowhere does August appear as a deficit month, and it appears to have been arbitrarily selected. (Exhibit 314, Figure 5) Further, there is no correlation between the size of the capacity deficits identified in the IRP and the weighting factors the Company chose.

On cross-examination from the Irrigators, Mr. Said could not explain the use of the month of August or why the weighting factors didn't correlate with the IRP and deferred to Ms. Brilz. She explained that the IRP had been "updated" to remove Gannet after that plant was cancelled, which then added August as a deficit month. Later in the proceeding, the supporting documentation was supplied which consisted of the Company's "Report to IPUC on replacing the Gannet Power Purchase Agreement". However, the so-called IRP Update Report shows no update of the "Capacity Deficit for 70th Percentile Water and Load" without Gannett, which was now claimed to be the source of the Company's 5 deficit months used to formulate its weighting factors. Instead, the bottom graph on page 8 reflects 90th percentile water. Further, the Update Report depicting the capacity deficit with Gannett should be identical to the same graph in the original 2002 IRP, yet is substantially different, as can be seen by comparing Exhibit 314, Figure 5 with Exhibit 315, page 8, top graph. If that is in fact the IRP Update Report being relied on, as the Company witness (Said or Brilz) contended during cross-examination, the year 2007 reflects six capacity deficit months which include the months of September and October, but not November.

It can be clearly concluded that the Company either misinterpreted its own IRP or simply did not rely upon it to identify the capacity deficit months and the weighting factors as it should have.

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[1]Response to Federal Executive Agency's Request 1-d at page 6.

The deficit months the Company utilizes simply do not correlate with the deficit months specifically identified in the IRP. Nor do the weighting factors correlate with the size of the identified deficits. For these reasons the Company's W12CP is inaccurate and unreliable and should be disregarded. Alternatively, if weighting factors are going to be utilized, the values offered by the Irrigators of the highest marginal price paid for short-term or intermediate-term firm power at the hour of each monthly system peak is far more reliable and reflective of actual peak costs on the system.

4. Irrigators' Recommendation.

During the past three Idaho Power general rate cases, the parties have extensively analyzed and scrutinized the input data the Company employed for purposes of its cost-of-service studies, and explored a number of different alternatives. Unfortunately, other than the Irrigators, the level of scrutiny has simply not existed in this case as most everyone chose to accept as "gospel" the input data, methodologies and results from the Company's cost-of-service studies. For these reasons, the Irrigators urge the Commission to initiate a separate proceeding to thoroughly investigate and analyze cost-of-service issues. This would permit a thorough investigation of the quality, quantity and validity of the load research data the Company uses as input to its cost-of-service study. It would also permit an understanding, scrutiny and alternative runs of the Company's Loadstar Load Research Data Program and the Company's cost-of-service program, which is totally lacking in this case. The Company chose to ignore the problems encountered by the Irrigators' Witness Yankel in his efforts to understand these "black boxes". The Irrigators urge the Commission to consider spreading rates on an equal percentage basis in the meantime. Once the investigation has been completed, many questions should be answered and the Commission will have a more accurate and reliable basis upon which to move rates towards cost of service should it so choose, either at that time or during more regular general rate cases, which Idaho Power anticipates in the next several years, as its capital expenditure program is initiated.

The Company did not accurately identify the deficit months or apply proper weighting factors based upon the IRP, the results of their W12CP Allocation Study are inaccurate and unreliable and should be rejected. Furthermore, the Company's cost of service study completely mismatches irrigation peak demands from a drought year with "normalize" year revenues. Additionally, it assigns underground distribution plant to Irrigators when everyone agrees that Irrigators do not use this type of plant that has been extensively installed in recent years.

If the Commission is not willing to initiate a separate proceeding to investigate cost of study issues as suggested, the Irrigators recommend the use of a 12CP allocation methodology. This would be consistent with the 12CP methodology the Company used for the Jurisdictional Separation Study.

The Commission should also correct the mismatches between demand assignment to the Irrigators and the use of normalized revenues, as well as remove all allocation of underground-related distribution costs. These steps would not correct all of the inadequacies with the Company's cost of services study, but would be a step in the right direction using data and issues that should have little or no controversy.

CLASS REVENUE ALLOCATION

The parties have presented the Commission with three separate and distinct alternatives for approaching revenue allocation between the customer classes. The Company and Staff propose a case-by-case analysis of allocation issues, using a 12CP method to allocate between the jurisdictions and an average 12CP and W12CP (with new allocators weighting only five months) to allocate cost between the customer classes. Both propose that more than just cost of service be considered in setting rates. To avoid rate shock the Company proposes a 25% cap to Irrigators, while the Staff proposes a 15% cap. The Irrigators propose that any increase be spread on an even percentage basis, with a separate proceeding initiated to thoroughly investigate cost of service issues. Most other Intervenors, including Micron, AARP and Kroger, propose a rapid and systematic increase to the Irrigators based upon only the results of the Company's inaccurate cost of service methodology. Brief comment will be provided on each separate proposal.

1. **Company Proposal.**

The Company places near exclusive reliance on its cost of service proposals to allocate revenues to the classes. Yet, the Company apparently lacks confidence in the results of its W12CP method. Otherwise, it would not have initiated in this case a process that averaged the W12CP with a 12CP method to achieve its calculated result. Never before has the Company proposed, nor this Commission approved, an averaging of allocation methods, nor the use of "0" monthly allocators. The "0" allocators effectively result in a 5CP for capacity-related costs and 3CP for transmission-related costs. As a result, costs are heavily and unfairly weighted to Irrigators. It is the use of these new methodologies (combined with other data problems) that create the size and gap of the so-called "irrigation subsidy". To mitigate the 67.1 percent increase that the Company's cost of service study would place upon the Irrigators, the Company recognizes the rate principle of rate shock avoidance should be applied. Thus, the Company proposes that the Irrigation rate increase should be limited to 25 percent or 1.5 times the average jurisdictional increase.

The difficulty with the Company's proposal is illustrated by Exhibit 44, page 6. This exhibit shows the impact of the Company's rate design proposal on Schedule 24 by reason of the diversity of the irrigation class. Exhibit 44 shows that only 23 percent of the class would actually receive a 25 percent increase, while the increase to the remaining 77 percent of the class would be greater than 25 percent, with 46 percent of the class receiving an increase ranging from 32 to 50 percent. Rate shock must be viewed from the perspective of the impact on individual irrigators, not merely from the class as a whole perspective.

2. Staff Proposal.

Staff appears to accept the Company's input data based upon the Loadstar program, together with the Company's cost of service proposal, all with little or no scrutiny of the input data nor concern about the total lack of transparency of these complex models. Staff also appears to support a strong cost of service move and addresses the concern over rate shock to the irrigation class by proposing a 15 percent limit.

While the Staff's proposed 15 percent cap on irrigation rates on its face seems moderate compared to the Company's 25 percent cap, it is not necessarily so in practical application. The Company's proposed 25% cap raises irrigation rates 8 percentage points or approximately 50 percent more than the jurisdictional average rate increase of 17.9 percent. On the other hand, the 15 percent cap the Staff proposes is 5 times greater than the 2.94 percent jurisdictional average increase Staff proposes.

In evaluating any move of the Irrigators towards their perceived cost of service, the Commission should (n the exercise of its judgment) give appropriate consideration towards how the increase affects individual customers in the class, the overall percentage increase, and how the increase compares to the overall jurisdictional average increase.

3. Pure Cost of Service.

The proposal of Intervenors Micron, AARP and Kroger to systematically move the Irrigators to the Company's suggestsed rate levels should be rejected. There is no guarantee their proposals to systematically increase rates to Irrigators would be accurate now or over the time of implementation. Cost of service issues and changes in class revenue allocation can best be examined at a point in time on a case-by-case basis. Farmers are under extreme pressure with low commodity prices, rising water and fuel costs, making it clear that a sudden increase in rates would be economically disastrous to the class as well as the agricultural economy.

4. <u>Irrigators' Proposal</u>.

The Irrigators believe that the Company's Load Research Data and Cost of Service Study must be put in an electric format that is understandable and transparent to all parties so that they can be fully scrutinized. That has not happened in this case. The Company and Intervenors have chosen to simply ignore the Irrigators' concerns on these issues. Given the cost of service questions raised in this case, the Irrigators believe the time is now appropriate to initiate a separate proceeding to comprehensively study the data used as input to the Cost of Service Study as well as cost of service methodologies. The Irrigators propose that any rate increase be spread evenly between the customer classes until such time as more accurate and reliable information is available.

5. <u>Irrigation Subsidy</u>.

While the term "irrigation subsidy" has been regularly discussed and repeated in this case, it only exists in the context of the present and past cost of service studies conducted by the Company. Each of these studies was different, with each study placing more weight on the Irrigation demand. In fact, the present and past irrigation rates are simply not subsidized as a matter of law. Irrigation rates, like those of all other customers, are set in tariff established by order of the

Commission based upon many factors – a cost of service study supplied by the Company being just one of those factors.

RATE DESIGN

The Irrigators oppose the Company's proposal to increase the "in season" demand charge from $3.58 per KW to $5.40 per KW and to increase the customer charge from $10.07 per month to $25.00 per month. Irrigators propose the customer charge and demand charge increases for Irrigators should not exceed the system average rate increase. This properly places monetary impact on the one cost component over which Irrigators have control. Further, it avoids even greater disparities of rate increases upon individual irrigators within the class based on their size and use patterns.

RESPECTFULLY SUBMITTED this 22nd day of April, 2004.

RACINE, OLSON, NYE, BUDGE &
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By Randall C. Budge
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of April, 2004, I mailed a true and complete copy of the foregoing document, postage prepaid, to each of the following:

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