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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Micron Technology, Inc.
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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

**POST-HEARING BRIEF OF MICRON
TECHNOLOGY, INC.**

This Post-Hearing Brief deals with only one issue—the proper inter-class allocation of any rate increase the Commission may approve. As the Commission is well aware, the primary allocation question is whether the enormous disparity in rates of return between Schedule 24 and all other customer classes should be eliminated.

Micron respectfully submits that a failure to address the existing cross subsidy of Schedule 24 customers in this case would amount to a violation of Section 61-315, Idaho Code, which provides:

No public utility shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The commission shall have the power to determine any question of fact arising under this section.

ORIGINAL

While Section 61-315 explicitly applies only to public utilities themselves, the Idaho Supreme Court has repeatedly held that it implicitly imposes a duty on the Commission to correct any “unjust, unreasonable, discriminatory or preferential rates.” *See Grindstone Butte Mutual Canal Co. v. Idaho Power Co.*, 89 Idaho 860, 867, 574 P.2d 902 (1978).

Micron does not contend that the Commission must slavishly follow any particular cost of service approach in administering Section 61-315. The Commission is entitled to consider “all relevant criteria” in determining whether inter-class allocations are reasonable. *Grindstone Butte, etc. v. Idaho P.U.C.*, 102 Idaho 175, 181, 627 P.2d 804 (1981). But it is likewise true that cost of service is the generally accepted foundation of ratemaking.

Rates found to be far in excess of cost are at least highly vulnerable to a charge of unreasonableness. Rates found well below cost are likely to be tolerated, if at all, only as a necessary and temporary evil. For if rates are not compensatory, they are not subsidy free. In fact, the golden rule of socially optimal ratemaking is that, whenever possible, prices should track all the identifiable (marginal, private and social) costs occasioned by a service’s provision.

JAMES C. BONBRIGHT, *PRINCIPLES OF PUBLIC UTILITY RATES* 109-110 (1988). Thus, where the Commission assesses costs disproportionately between customer classes, it must at the very least “explain the reasoning employed to reach its conclusions.” *Boise Water Corp to Rev & Inc. Rates*, 128 Idaho 534, 537, 916 P.2d 1259 (1996).

On this record, there are only three remotely plausible rationales for rejecting the substantially similar results of the cost of service studies presented by Idaho Power Company, Micron and the Commission Staff. The Irrigators first argue that the studies are so deeply flawed that they should be rejected out-of-hand. Their second line of defense is that Schedule 24 customers are not significant contributors to Idaho Power’s incremental costs associated with load growth. Finally, they contend that the adverse economic impact of “rate shock” should stay the Commission’s hand. None of these arguments are persuasive or defensible.

Accepting the Irrigators' attack on the other parties' cost of service methodologies would require the Commission to overturn a long line of precedent adopting and refining the methodologies that produced the cost of service results in this case. It would also require the Commission to disregard the unanimous opinion of all the cost of service testimony other than that presented by the Irrigators. Finally, to accept the Irrigators' position the Commission would have to reject the use of seasonal peak weighting in cost of service studies, despite the overwhelming evidence in the record and in numerous economic studies that seasonal peaks are extremely important drivers of Idaho Power's and other electric utilities' overall cost of service.

The Irrigators' second argument, that they have not contributed to load growth, is neither supported by the facts nor reasonable as a matter of law. In the first place, there is no evidence in the record that the requested increase is due solely, or even primarily, to load growth. Many other factors, including general inflation and on-peak consumption, are also partially responsible for the requested increase, and the Irrigators are as responsible for these increased costs as any other customer class. Moreover, if the Commission accepted the Irrigators' contention that they should not have to shoulder costs associated with growth, it necessarily follows that individual businesses and residential customers whose loads have not grown should likewise be assigned less than a full share of Idaho Power's costs.

Assigning costs on this basis is not only impractical, it is also unlawful. The Idaho Supreme Court has twice held that Section 61-315 prohibits the disproportionate assignment of incremental load growth costs to a subset of a utility's general body of customers. In *Idaho State Homebuilders v. Washington Water*, 107 Idaho 415, 690 P.2d 350 (1984), the Court struck down as discriminatory a Commission decision that imposed a \$50 per kilowatt charge on new electric space heating customers after March 1, 1980. Similarly, in *Boise Water Corp to Rev. & Inc.*

Rates, *supra*, the Court held that incremental costs associated with load growth could not be collected solely from new customers in the form of a hook up fee. The Irrigators' argument in this case is squarely contrary to the holdings in both *Boise Water* and *Washington Water*, and its adoption in this case would undoubtedly lead to a reversal on appeal.

The Irrigators' concerns about adverse economic impacts and rate shock are matters the Commission is entitled to consider, but these arguments are not persuasive when viewed in context. In the first place, Schedule 24 is slated to receive a 15 percent rate decrease when the current PCA expires on May 31, 2004. See Case No. IPC-E-04-9, Order No. 29478. If the Commission were to adopt the Staff recommendation for Schedule 24 rates, the resulting effect would be no net increase at all for the Irrigators on June 1, 2004, while most of the customers who are subsidizing the irrigation customers would presumably experience a net increase. This is hardly a compelling case for the "rate shock" argument.

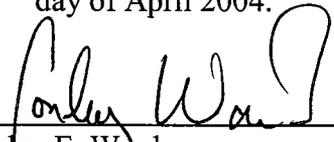
Furthermore, a number of parties have offered phase-in proposals that would eliminate any sudden "rate shock" for Schedule 24. Dr. Peseau's proposal has the decided advantage of immediately terminating the subsidy payments from other customer classes. But regardless of the manner in which the phase-in is handled, the Commission has the tools available to mitigate the impact of a sudden and dramatic increase for Schedule 24. Under these circumstances, it is disingenuous for the Irrigators to advance "rate shock" as a reason why they should continue to be subsidized indefinitely by other customers who have their own adverse economic impacts and "rate shock" concerns to worry about.

Finally, the Commission might find it instructive to review the Court and Commission decisions in *Grindstone Butte Mut. Canal v. Idaho Power Co.*, 98 Idaho 860, 574 P.2d 902 (1978). The Irrigators made many of the same arguments in that case when faced with a

disproportionate rate increase to bring their rates up to cost of service parity. The Commission nevertheless approved, and the Court upheld, the disproportionate increase. While this undoubtedly caused some pain in the farming community, the predicted economic ruin for that sector of the economy clearly did not come to pass.

In summary, Micron submits that it is past time for Schedule 24 to start paying its fair share of Idaho Power Company's costs. The other ratepayers have subsidized the Irrigators far longer and more heavily than is reasonable. Continuing this subsidy into the future is both unreasonable and unduly discriminatory.

RESPECTFULLY SUBMITTED this 26TH day of April 2004.



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CERTIFICATE OF SERVICE

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