LISA D. NORDSTROM (Idaho Bar No. 5733)
WELDON B. STUTZMAN (Idaho Bar No. 3283)
DEPUTY ATTORNEYS GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
Telephone: (208) 334-0318

Street Address for Express Mail:

472 W. WASHINGTON
BOISE, IDAHO 83702-5983

Attorneys for the Commission Staff

RECEIVED
FILED
2004 APR 26 PM 4:36
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

STAFF'S POST-HEARING BRIEF

The Commission Staff, by its counsel of record, Lisa D. Nordstrom and Weldon B. Stutzman, Deputy Attorneys General, file this Post-Hearing Brief as provided by the Notice of Scheduling issued November 26, 2003 and at the April 5, 2004 technical hearing. Tr. at 3199.

INTRODUCTION

On October 16, 2003, Idaho Power Company (Idaho Power, Company) applied to the Idaho Public Utilities Commission for authority to increase its rates and charges an average of 17.7% for electric service in the state of Idaho. The Commission held technical hearings to receive evidence in this matter on March 29 – April 5, 2004. Given the extensive record and number of complex issues presented, Staff will focus its legal and factual arguments in this Brief primarily on the Staff-proposed tax, annualized, known and measurable, and pension adjustments. Staff's failure to address an issue should not be construed as acceptance or rejection of a particular position. Based on the record in this case and the Commission's experience in such matters, Staff asks that its recommendations be adopted for the reasons described in greater detail below.

LEGAL STANDARDS

The Commission is specifically delegated broad authority to regulate and fix the charges assessed by a public utility for service. *Idaho Code* §§ 61-502, 61-503. The Idaho Supreme Court has long recognized that the Commission has broad discretion in designing rates, allowing the Commission to rely on its own expertise so long as it refers to matters in the record to substantiate its conclusions or place such matters in the record itself. *Boise Water Corp. v. Idaho PUC,* 97 Idaho 832, 842, 555 P.2d 163, 173 (1976).

In its decision-making, the Commission must consider the public interest and the justice, fairness and equity of the rates it establishes. This result is mandated by *Idaho Code* § 61-301, which provides that all charges made by a public utility shall be rendered just and reasonable. *See also*, *Idaho Power Company v. Idaho PUC,* 99 Idaho 374, 582 P.2d 720 (1978); *Citizens Utilities Company v. Idaho PUC*, 99 Idaho 164, 579 P.2d 110 (1978); *Idaho State Homebuilders v. Washington Water Power*, 107 Idaho 415, 690 P.2d 530 (1984).

From a broader perspective, the Commission must also keep in mind "the overall effect of the rate fixed to determine whether the return to the utility is reasonable and just." *Intermountain Gas Co. v. Idaho PUC*, 97 Idaho 113, 120, 540 P.2d 775, 781 (1975). As the United States Supreme Court stated in *Federal Power Commission v. Hope Natural Gas Co*., 320 U.S. 591, 64 S.Ct. 281, 88 L.Ed. 333 (1944):

> It is not theory but the impact of the rate order which counts. If the total effect of the rate order cannot be said to be unjust and unreasonable, judicial inquiry under the Act is at an end. The fact that the method employed to reach that result may contain infirmities is not then important. Moreover, the Commission's order does not become suspect by reason of the fact that it is challenged. It is the product of expert judgment which carries a presumption of validity. And he who would upset the rate order under the Act carries the heavy burden of making a convincing showing that it is invalid because it is unjust and unreasonable in its consequences.

Thus, the minute details of each Commission decision are of less significance than: 1) the overall effect the ratemaking Order will have on ratepayers; and 2) ensuring that the effect of the Order will not be unreasonable or unjust to the utility.

INCOME TAX ADJUSTMENTS

A. Background

It almost goes without saying that federal income tax laws are complex and often opaque to those unfamiliar with them. For that reason, the Idaho Supreme Court included the following explanation of normalization and flow-through accounting in the *Application of Utah Power & Light Company*:

> Federal income tax laws permit regulated utilities to depreciate their investments in utility property under accelerated methods rather than straight-line methods. In the straight-line method of depreciation, the utility deducts from its taxable income equal annual amounts of depreciation over the life of the asset, whereas in accelerated methods the utility deducts greater amounts initially and smaller amounts during the later years of the asset's life. For ratemaking purposes, regulatory bodies generally allow utilities to charge ratepayers depreciation expenses for their investment under straight-line methods. Thus, a public utility may elect the benefits of accelerated depreciation for income tax purposes but depreciate the property for ratemaking purposes under the straight-line method. When this occurs, regulators choose one of two methods to account for the difference in depreciation for federal income tax and regulatory purposes. These two methods are known as "normalization" and "flow-through" accounting.
>
> Normalization occurs when a utility uses an accelerated depreciation method for income tax purposes, but calculates its tax expense for ratemaking purposes as if it had taken straight-line depreciation. Thus, in the early years of an asset's life the utility collects more from its ratepayers than it actually pays in taxes. This excess amount is usually credited to a reserve account for deferred taxes.... Th[is] reserve account provides a source of funds, for accounting purposes, with which to pay the utility's increased tax bills during the later years of the asset's life. This increased tax liability is caused by the fact that, under a normalization of accounting for ratemaking purposes, a crossover point is reached, when actual taxes paid by the utility begin to exceed revenues collected for taxes. *New England Telephone & Telegraph Co. v. Public Utilities Commission,* 390 A.2d 8, 18-19 n. 4 (Me. 1978).
>
> Flow-through is a ratemaking technique by which rates are based upon the *actual* taxes to be paid in that year by a utility taking accelerated depreciation. The tax "savings" are credited to income, thereby reducing the utility's revenue requirement. In theory, this results in lower rates during the early years of an asset's useful life, but in higher rates after the cross-over point has been reached. 390 A.2d at 19 n. 6.

107 Idaho 446, 449, 690 P.2d 901, 903 (1984).

It should be noted that the issue of depreciation discussed by the Court is not the same as the tax windfall found in the current Idaho Power rate case. Under the tax methodology change discussed below, the Internal Revenue Service (IRS) allowed Idaho Power to expense formerly capitalized assets using either the normalization or flow-through method. The Court's explanation above is relevant to demonstrate the concept that depreciation expense can be treated one way for tax purposes and another for ratemaking purposes, as Staff's proposed tax expense treatment does in this case. Moreover, both issues involve an upfront benefit followed by a "cross-over point" with higher costs later. As explained more fully below, customers will not receive the upfront benefit with Idaho Power's flow-through method but will pay the resulting higher costs later. As with the above Court case, lower tax rates in the early years are a significant part of the reasonableness of the overall tax impact.

B. The Staff's Tax Adjustments

1. Prospective Adjustment for Windfall Refund Effects

In March 2002, Congress enacted the Job Creation and Worker Assistance Act of 2002. The purpose of the Act was to provide tax incentives to stimulate the economy following the attacks of September 11, 2001. Pub. Law. 107-147 (2002). One provision of the Act allowed Idaho Power to change its tax methodology to expense formerly capitalized assets using either the normalization or flow-through method. This change produces an immediate one-time tax refund or windfall in the year the taxpayer filed its return. In exchange for this immediate tax refund, the windfall is recovered on a prospective basis over the remaining lives of the assets. In other words, the tax adjustment is really a timing difference – not a permanent tax benefit. The immediate windfall will result in an immediate increase in taxable income in future years that will cause the repayment of the timing difference.

The new tax method allowed Idaho Power to assign a portion of the indirect overhead expenses[1] that had been capitalized since 1987 to inventory[2] costs, which are immediately expensed. The new methodology decreased Idaho Power taxable income by allowing the Company to report additional expenses for income tax purposes during the prior years 1987-2000. The tax change was effective in the tax year of change, 2001, which created a

---

[1] These indirect overhead expenses include items such as supervisor salaries, engineering fees, consultants, building costs and other items.

[2] The only inventory Idaho Power has is electricity.

significant tax deduction recorded on the Company's books in 2002. Tr. at 2905, 2929. The practical effects of this voluntary methodology change resulted in Idaho Power overpaying its previously paid income taxes for 1987 to 2000. Thus, the Company collected a refund on taxes paid in prior years, creating a $41 million income tax windfall in 2002. The change also means that income taxes in future years will be higher because there are fewer capitalized assets to depreciate for tax purposes.

a. An Inequitable Result:

Over the long-term, this methodology change will be dollar-neutral for the Company. However, because there is a timing difference, ratepayers do not share in the $41 million refund of taxes already paid in 1987-2000 because the one-time benefit occurred outside the 2003 test year. Even though ratepayers paid these income taxes through rates between 1987 and 2000, the Company has made no provision to share this windfall with ratepayers. Adding insult to injury, ratepayers will ultimately pay higher future taxes once the timing difference reverses. While Staff believes the methodology change was legal under the IRS Code, the Company's choice to change its tax methodology and to flow the refund through in a single year outside of the rate case test year is neither just nor reasonable ratemaking for the future without some sort of adjustment to recognize the additional costs that ratepayers will experience in future years. Without an adjustment, ratepayers will be disadvantaged twice: once when the Company failed to share the tax windfall, and once again when tax expense increases in the future. The Company chose a partially projected 2003 test year in large part to flow the tax benefit through to earnings in 2002 without sharing it with customers. Moreover, Idaho Power has made no secret of the fact that IDACORP needed the benefit to increase earnings and pay its dividend to its shareholders. Tr. at 391-92.

If the Commission allows Idaho Power to keep the $41 million one-time benefit without recognizing the resulting future cost that ratepayers will bear, other utilities may be emboldened to disregard the long-term effects that their short-term choices have on ratepayers. The Company argues that Commission precedent prevents the Commission from taking action to offset the higher ratepayer costs in the future. Although it was legal to change the tax methodology for income tax purposes, it was not reasonable, prudent or equitable of Idaho Power to do so without some sort of sharing to recognize the 14 years of ratepayer contributions that allowed such a windfall to occur. It is certainly inequitable for Idaho Power to argue that ratepayers should pay higher future tax expenses created by the windfall enjoyed by shareholders.

Idaho Power has known for some time that Staff did not agree with the ratemaking impact of the flow-through methodology it chose to book the tax methodology change. In its draft audit of the test year 2001, Staff stated that it would oppose the Company's treatment of the tax change and seek a corresponding benefit for customers. At that time, both Staff and Idaho Power agreed that the earnings boost would be beneficial to Idaho Power but that customer benefits would need to be addressed in the rate case. Staff's proposed adjustment addresses those customer benefits.

b. Staff's Proposed Adjustment:

As set out in testimony, Idaho Power used effective rates of 32.795%[3] for federal and 5.9% for state income taxes. Tr. at 580. Staff argued that the Commission should instead use the 5-year average tax rates of 25.24% for federal and 5.62% for state to calculate tax expense for ratemaking purposes. Tr. at 1438. Staff believes this adjustment will recognize and make ratepayers whole for the increased taxes they will be required to pay in the future as a result of the one-time benefit taken by the Company.

Staff's proposed use of an average tax rate is not unusual and is a method frequently used by the Commission to establish rates when circumstances require a proxy to achieve a just ratemaking result. For example, rate base accounts are averaged to smooth out the swings between beginning and ending periods and to provide a better matching of revenues and expenses. Gas and electricity sales and costs are set using weather-normalized amounts that are based upon average weather conditions. Expenses that fluctuate from year to year are often set at levels that are different from actual test year expenses. It has also been a long-standing Commission practice to average or normalize water-testing expenses for water companies. Given their fairness and frequency of use, it is not unreasonable under the circumstances presented in this case to use multi-year averages to set tax rates as well.

c. IRS Normalization Requirement Is Not Violated:

Despite the Company's assertions to the contrary, Staff's adjustment does not violate the IRS's normalization requirement because it is for ratemaking purposes only. The IRS does

---

[3] The Company's 32.795% effective tax rate is calculated using the statutory rate of 35% less the deductibility of the 5.9% state income taxes.

require that certain types of tax changes must be normalized. Those items include accelerated depreciation, CIAC and investment tax credits. This capitalized overhead tax methodology is not subject to the normalization requirement. Tr. at 2927. Idaho Power had the discretion to either normalize the effect of the tax change or to flow it through because neither IRS regulation nor Commission Order required a specific tax treatment. Even if the Commission were now to require something different for ratemaking purposes (e.g., an average rate or normalization), Idaho Power may continue to use the flow-through methodology for income tax purposes. A normalization violation exists when benefits are flowed to ratepayers faster than allowed by IRS normalization requirements. This would not occur under Staff's proposal unless Idaho Power also assumes some other change.

Both PacifiCorp and Avista recognized the complicated ratemaking ramifications associated with the flow-through methodology and consequently have or will normalize the tax change. Tr. at 2921. Although Idaho Power referred to Idaho as a "flow-through" state, Idaho Power normalizes tax adjustments in some instances and flows through adjustment items in others – just as all other utilities do. The IRS did not require the Company to immediately flow the windfall through to earnings; Idaho Power could have normalized the tax change.[4] Tr. at 2926. Neither was there an Idaho requirement for flow-through treatment, despite the Company's claims it was required to do so by past Commission decisions.[5] Tr. at 2926. When Idaho Power decided to seek this tax change with the associated windfall, it did its own analysis comparing the merits of flow through and normalization.[6] Idaho Power did not seek an official determination from the Commission; it simply made the choice on its own after evaluating the risks.

---

[4] Temporary non-depreciation differences like this methodology change may be recovered under either of the two methods. See IRC § 168(f)(2).

[5] As discussed below, Idaho Power relies on prior Commission Orders that do not directly apply to this situation. Even if such Orders where applicable, the Commission is free to change its policies as events change. *Rosebud Enterprise v. Idaho PUC,* 128 Idaho 609, 917 P.2d 766 (1996); *Intermountain Gas Co. v. Idaho PUC*, 97 Idaho 113, 540 P.2d 775 (1975).

[6] As part of its review of the tax change before the rate case, Staff reviewed a confidential Idaho Power management discussion paper entitled, "Final Discussion and Analysis for Management – Tax Accounting Method Change Project." This document contained a summary of the tax change, a list of risks involved and an analysis of past Commission Orders relating to tax treatments.

Regardless of whether Idaho Power's election to use flow-through methodology for tax purposes is affected by the Commission's effort to offset the corresponding future costs to ratepayers, the appropriateness of such an adjustment is unchanged. This ratemaking decision must be based on its own merits, not speculation regarding future IRS actions.

d. Adjustment Is Not Retroactive Ratemaking:

Despite Company arguments to the contrary, Staff's proposed adjustment is not retroactive ratemaking because it will offset income tax expense customers will have to pay in the future, not recover amounts taken by Idaho Power in 2002. Idaho Power cites *Utah Power & Light v. Idaho Public Utilities Commission*, 685 P.2d 276, 107 Idaho 47 (1984) for the proposition that there is a general prohibition against setting rates based on previous periods of unreasonably high or unreasonably low rates. Idaho Power further argues that it is retroactive ratemaking to take into account previous extraordinary revenues or expenses that will not reoccur. Tr. at 2941-42. However, this argument ignores the fact that Staff's proposal prospectively adjusts for known and measurable tax rate changes that will occur in the future. Although these tax changes are capable of being measured, Staff has not been able to calculate the exact timing or amounts of the adjustment. The Staff's adjustment is intended to insure that ratepayers are not paying income taxes twice: in 1987-2000 before the methodology switch and again after the timing reversal when the methodology change will cause increased tax expense.

Idaho Power witness Larry Ripley testified that the Commission has ruled in the past that an adjustment to its rates or revenue requirement is appropriate when taking into account a change in newly enacted income tax rates that were prospective, not retroactive. Tr. at 2944-45. Although Idaho Power's statutory tax rates have not changed, Staff is asking that the Commission similarly adjust Idaho Power's rates or revenue requirement to reflect a change in tax methodology that affects the test year and each future year. Although Staff proposes use of a 5-year average as a proxy to calculate the future effects of the methodology change, Staff does not recommend that the $41 million one-time benefit in 2002 be seized – only that ratepayers not be forced to pay it again in the FUTURE. Thus, the economic impact on both Idaho Power and ratepayers will be neutral over time.

e. Company-Cited Precedent is Inapplicable:

Order Nos. 25339 and 21364 cited by Mr. Ripley are not analogous to the present case and refer to an entirely different situation – mandatory tax rate changes that had no effect on future deductions. Tr. at 2945. Because this voluntary methodology change will have the effect of increasing future income taxes by reducing future depreciation deductions, use of the statutory income tax rate will not incorporate the far-reaching impacts of the methodology change as it would with a tax rate change. Therefore, the past practice Idaho Power refers to is dissimilar to the present case and not binding upon the Commission. Because the Company's methodology change appears to be a case of first impression, the Commission is not required to apply currently enacted income tax rates that will ignore future tax consequences resulting from Idaho Power's choice to flow-through the change rather than normalize it. *Rosebud Enterprise v. Idaho PUC,* 128 Idaho 609, 917 P.2d 766 (1996); *Intermountain Gas Co. v. Idaho PUC*, 97 Idaho 113, 540 P.2d 775 (1975).

One Order that the Company used to justify the flow-through methodology was Order No. 20610. In that case, Idaho Power was ordered to flow-through certain capitalized overhead and repair allowance tax items. The Order states in part:

> Capitalized overhead and repair allowances are more like ongoing operating expenses than long-term capital investments. It is reasonable to flow-thru tax-book timing differences associated with them.

Order No. 20610 at 37.

In some regards, Idaho Power recent tax methodology change is similar to the capitalized overhead and repair allowances mentioned above. However, there is a significant difference – customers were able to receive some of the benefit from the flow-through methodology before they had to pay increased taxes later. In this case, Idaho Power has taken the large benefit, withheld it from customers by purposefully selecting 2003 as a test year, and then fails to recognize the additional expense customers will bear in the future.

Moreover, the Commission has broad latitude to change its orders and policies as conditions and circumstances change. The current Commission is not obligated to rule a certain way solely because a prior set of Commissioners made a different decision many years ago. Departure from past Commission rulings, in and of itself, is not an arbitrary act on the part of the Commission. According to the Idaho Supreme Court:

> "[A]n agency must at all times be free to take such steps as may be proper in the circumstances irrespective of its past decisions. Even when conditions remain the same, the administrative understanding of those conditions may change, and the agency must be free to act." So long as the Commission

> enters sufficient findings to show that its action is not arbitrary and capricious, the Commission can alter its decisions.

Washington Water Power Co. v. Idaho Public Utilities Commission, 101 Idaho 567, 579, 617 P.2d 1242, 1254 (1980) (quoting 2 Davis Administrative Law Treatise § 18.09 at 610 (1958)).

f. Cases Supporting Staff's Adjustment:

In a 1982 case, the Commission denied an acquisition adjustment requested by Utah Power & Light to convert acquired assets from flow-through to normalization accounting. The Commission determined that the acquisition adjustment was paid merely to recapture accelerated depreciation and investment tax credit, the benefit of which accrued solely to the acquired company's former ratepayers. The Commission further found that the limited benefit of the acquired plant to Idaho ratepayers did not justify adding the acquisition adjustment to Idaho rate base. Order No. 16702. The Idaho Supreme Court upheld this decision on appeal. *Utah Power & Light Co. v. Idaho Public Util. Comm.*, 107 Idaho 446, 690 P.2d 901 (1984). Like Utah Power's requested acquisition adjustment, Idaho Power's tax methodology change will require ratepayers to pay higher taxes in the later years of the asset's life for benefits received by others under the flow-through methodology. Recognizing this injustice, this Commission should adopt Staff's proposed adjustment or craft one of its own.

Two years later in Case No. U-1000-70, the converse situation occurred: Mountain Bell transferred assets to other companies after using normalization for ratemaking purposes and after collecting revenues for future tax liabilities connected with those assets. To balance this inequity between Mountain Bell and its ratepayers, the Commission directed Mountain Bell to adopt an accounting adjustment to amortize over 10 years an amount equal to the deferred tax accumulations collected from intrastate rates and associated with assets that had been transferred to AT&T. Order No. 18872. The Commission reasoned that such an adjustment was necessary because Mountain Bell retained the benefits of funds provided it by ratepayers after the transfer, with no obligation to return those funds to ratepayers. The Commission found:

> The fact is that charges to the ratepayers should have decreased as a result of the election of accelerated depreciation but because of the implementation of normalization, the ratepayers did not see a decrease. They, in fact, have paid more tax expense to the company than the company has had to pay the federal government. The company readily admits that this is a source of capital to it. The commission tried to maintain a balance of fairness by subtracting the amount of the deferred taxes from rate base so that at least the ratepayers were

> not required to pay the company a return on ratepayer-provided funds. We find that the ratepayers paid in and the company had the use of, and still retain the benefit from money that was to pay tax expense that, in actuality, was not paid.

Order No. 18872 at 33-34.

The Commission and Mountain Bell subsequently negotiated a settlement to the state Court appeal issues in 1988 in order to avoid further litigation. Order No. 21774. A similar adjustment, be it Staff's proposal or another, must be adopted in the present case as well. If the Commission chooses to disregard the proposals of Idaho Power and Staff, the Commission can rely on its own expertise to craft fair, just, and reasonable rates in its ratemaking capacity. See *Boise Water Corp. v. Idaho PUC*, 97 Idaho 832, 842, 555 P.2d 163, 173 (1976).

2. Gross-Up Multiplier

The gross-up multiplier is used to calculate income taxes on the projected revenue deficiency that results when newly authorized earnings exceed actual earnings. Staff recommended the Commission reduce the Company's gross-up factor from 1.642 to 1.446 so that the gross-up rate will be the same as the effective rate. Although there was some confusion regarding the use of Idaho Power's "effective tax rate," Idaho Power is proposing to use the statutory rate of 35% in the gross-up factor, even though it used the effective rate of 32.60% to calculate the income tax expense for 2003. Tr. at 2951-52. Idaho Power argues that Staff's use of a net-to-gross tax multiplier based upon a five-year hybrid tax ratio will not adequately reimburse Idaho Power for the income taxes it will pay on revenues that result from this case or from new customers.

As Staff witness Alden Holm stated in his testimony, Staff believes that it is more appropriate to use Idaho Power's actual effective tax rate for the gross-up factor than the strict statutory rate because it is a more accurate method for calculating income tax. Tr. at 1439-1440. In the recent past, the Company has not paid the strict statutory rate of 35% for taxes and will not pay the statutory rate in the future because of many tax deductions and additions. Tr. at 2924-25. In the event the Commission decides to use the statutory rate as adjusted by Idaho Power to calculate income tax expense, it would still be appropriate to use the actual effective tax rate adjusted for the deductibility of the state taxes for the gross-up factor because the effective rate

(32.60%) is more reflective of expected income tax expense in the near future than the statutory rate.[7]

3. Deferred Taxes in Rate Base

When it receives accelerated tax benefits, the Company records deferred tax liabilities to acknowledge the existence of future tax liabilities that result. Until the deferred taxes are absorbed by future tax payments, these deferred taxes are considered to be "cost free" financing and are used to reduce rate base. In other words, deferred taxes are booked because the Company took tax benefits early that will have to be paid back later. Staff proposed the Commission reduce deferred taxes by $352,405 after computing the deferred income tax using Staff's five-year averaged effective income tax. *Supra* at 3-10. On rebuttal Idaho Power argued that application of Staff's five-year hybrid tax ratio to deferred income taxes will cause the current year change for accelerated depreciation to be valued at something other than the statutory rate – thus violating the IRS's normalization requirement. Tr. at 2915-17. However, Staff proposals do not violate the IRS's normalization requirement as discussed above at pages 6-7. This is an area where Staff encouraged the Company to provide additional information or suggest an alternate adjustment to ensure that a violation does not occur. Tr. at 1484, 1847.

Although the Company claims the recomputed reserve for deferred income taxes would increase the Company's rate base by approximately $53 million as the net deferred tax liability balance would drop due to the application of the lower rate, the Company offered no documentation or evidence to support this claim. Tr. at 2917. Staff does not accept this number. Consequently, the Staff stands by its calculation using the Company's primary worksheet in this case until presented with other convincing evidence to the contrary.

4. Additional Tax Assessments

When the IRS periodically audits the Company's income taxes, the IRS may assess a tax deficiency for underpaid income tax during the three-year period. The IRS audits usually occur every three years. When there is a deficiency, this is recovered in the rates paid by ratepayers.

Although it plans to keep the income tax benefits from 2002, Idaho Power wants ratepayers to pay $2.9 million in base rates for additional taxes owed for 1998-2000. While Staff

---

[7] Staff's proposed 1.577 gross up rate uses the actual 2003 effective tax rate of 32.60% as compared to the Company-requested 1.642 gross up that uses the statutory rate of 35%.

recognizes that these assessments are legitimate expenses, there are two problems with the Company's proposal: one is a timing issue and the other flows from the Company's 2002 windfall. As a timing issue, Staff believes that ratepayers should pay these expenses just once over the Company's three-year audit cycle – not each and every year. Therefore, Staff recommends that the Commission should instead use the three-year average of additional tax payments to reduce $1,960,529 from federal and add $55,846 to state tax test year expense. Tr. at 1440-43. As Staff explained above, it is common for the Commission to use an averaging approach to include expenses in revenue requirement when the test year results are skewed.

On rebuttal, Idaho Power noted that the Commission previously ordered in Order No. 17499 that any income tax deficiencies actually paid the test year be included in the regulatory tax expense. Tr. at 2915, 2917-48. Staff would note that our proposal does not exclude tax deficiencies from recovery in the revenue requirement – it merely allows for the Company's fair recovery of these three-year deficiencies once rather than each and every year until the next rate case.

The second problem is related to the windfall tax refund the Company received in 2002. When the IRS conducts its audit for the Company's 2001 tax year, the Service may assess a deficiency for calculation of the windfall. If this were to occur, Idaho Power ought not be allowed to recover the deficiency from ratepayers. Ratepayers have already paid the taxes for 1987-2000, they did not share in the 2002 windfall refund, and they will (unless adjusted) pay higher rates in the future due to this new tax methodology change that causes less deductions and higher taxable income in future years. The Commission's Order in this case should prohibit this inequity as it relates to the Company's decision to change its tax methodology.

ANNUALIZING AND KNOWN AND MEASURABLE ADJUSTMENTS

There are two kinds of test year adjustments. First, "annualizing" adjustments are made to reflect changes that occur <u>within</u> the test year and adjust account balances as if the changes were in effect for the full test year. Second, "known and measurable" adjustments are made to reflect changes that occur <u>after</u> the test year and adjust account balances as if the changes were in effect for the full test year. In this case, both types of adjustments effectively treat plant additions to rate base as if the plant were in service during all the months of the averaging period. As discussed below, the Commission has adopted these types of adjustments in prior cases as it determined the appropriateness of using average-year value or end-of-year value for establishing rate base.

1. Company-Proposed Adjustments

a. Annualizing:

Idaho Power seeks a net annualizing adjustment to average rate base to account for major production and transmission plant additions placed into service during the last trimester of the 2003 test year. The requested adjustments would increase rate base by $19,779,389 and expenses by $873,129. Tr. at 528. On rebuttal, the Company argued that it should be allowed to include the total cost of the plant additions in rate base because customers will receive the benefit of these assets being in service on a going forward basis. Idaho Power claims these plant assets are non-revenue producing and non-expense reducing. Tr. at 2786-95, 3153-56.

b. Known and Measurable:

Idaho Power also asked that average rate base be increased for a known and measurable adjustment in the amount of $18,388,690 for major plant additions of transmission assets placed into service after the end of the test year, but before the issuance of an Order by the Commission on the rate case. Tr. at 530. On rebuttal, Idaho Power argued that it is consistent with past Commission actions to include the total cost of the plant if they come into service within a short period of time after the rate case. According to the Company, Valmy I and Swan Falls were examples of prior known and measurable adjustments to the test year. Moreover, Idaho Power argued this is equitable because customers receive investment benefits now even though the plant additions may not produce revenues. Tr. at 2786-95, 3153-56.

2. Staff-Proposed Adjustments

a. Annualizing:

Staff recommends denial of both Company-proposed annualizing adjustments – the addition to rate base and the increase to expenses. The Commission has consistently ordered the use of the "average" rate base rather than other methods because it provides a better matching between rate base, revenues and expenses. The Company-proposed annualization adjustment treats the plant additions as if in service for the full 13 months of the average. However, the revenue and expenses associated with the plant additions are not included in the Company-proposed end-of-year rate base, thus creating a mismatch between investment and test year expenses/benefits.

For example, the newly rewound Bridger generator #3 will generate power more efficiently and cost less to repair and maintain in the future. Tr. at 1585-86. Although the Company claims that the efficiencies and benefits are reflected in the power supply cost model (Tr. at 2802), the matching is still incomplete for two reasons. First, this model does not show a separate adjustment was made. Second, the availability input data and generation output data for Bridger Unit #3 remained the same as for the other Bridger units. Consequently, there is a mismatch between rate base and expenses/benefits.

Another transmission plant example is ratebasing the Brownlee-Oxbow transmission line. While including the cost of the line in rate base, the Company has not factored in: 1) additional wheeling revenues from third parties, 2) reduced delivery costs of purchased energy, or 3) minimized the cost to deliver Company-generated energy. Maintenance and repair expense for transmission lines will also decrease. Tr. at 1585-88. Use of the Staff-proposed average rate base methodology would avoid determinations of whether plant was "revenue producing" or "expense saving," and consequently remove both the $19,779,389 increase in rate base and the $623,915 increase in expenses[8] proposed by Idaho Power. Tr. at 1552.

Micron witness Dennis Peseau agreed with Staff that the Company-proposed annualization adjustment created a clear mismatch of revenues and expenses. Rather than recommending disallowance of the Company's proposed adjustments as Staff did, Dr. Peseau argued that this mismatch occurred because revenues are centered on June 30, 2003 due to hybrid test year while rate base and expenses are centered on December 31, 2003. Tr. at 2426 - 2428. Dr. Peseau's solution to this mismatch is to assume a 4.06% revenue growth rate and annualize revenues to year-end levels. Micron's annualizing adjustment would add $9,731,765 to IPC test year revenues. Tr. at 2428 - 2430.

b. Known and Measurable:

Staff argued that Idaho Power should not increase rate base for the full amount of the plant additions placed in service after the test year. Staff proposes that these additions be included in rate base by reflecting the cost of the additions in the 13-month averaging methodology. As a result, the cost of the additions would be included in the December 2003

---

[8] $623,915 is the sum of the following disallowed expenses: depreciation of $498,427; property taxes of $120,654; and insurance expense of $4,834.

monthly rate base. This methodology provides a better matching of revenues and expenses for these rate base additions than if they were included at the full value expected when placed in service.

For example, Idaho Power's newly built transmission stations will reduce maintenance expenses for the old Goshen station and create additional revenues from the growth served by the new Star, Vallivue and Midrose stations. Tr 1589 - 1593. However, these revenue producing and expense saving benefits are currently unaccounted for in the Company-proposed test year adjustments. If adopted, Staff's proposed adjustment to value these plant additions at average-year amounts would remove $16,974,175 from the Company's proposed rate base increase of $18,388,690 (i.e., Staff would limit the increase in rate base to $1,414,515). Tr. at 1556.

Like Staff, Micron witness Dr. Peseau disagreed with the Company's proposed known and measurable adjustments for major plant additions. He testified that with the exception of depreciation, all remaining known and measurable adjustments should be denied because they are not sufficiently certain to occur and IPC has made no effort to quantify offsetting revenue benefits like the embedded cost of long-term debt. Tr. at 2436. Micron's proposed adjustment would reduce Idaho revenue requirement by $11,768,222. Tr. at 2438.

3. The Commission's Average Rate Base Standard

The Commission has generally held that all major utilities should determine rate base for a rate case on an average rate base value as opposed to determining rate base on an end-of-year value. In most cases, the averaging methodology is an average of the monthly rate base amounts for a 13-month period spanning the test year. The Commission articulated its preference for this averaging standard in Washington Water Power Case No. U-1008-234, decided February 1986:

> The earlier justifications for the year-end rate base no longer exist. Periods of high inflation and intense construction are over. Further, the average rate base provides a better matching of revenues and expenses with fewer chances for error or omission. Therefore, we find it is fair, just and reasonable to require Water Power to utilize an average rate base, the same as every other major utility that we regulate in Idaho.

Order No. 20267 at 5.

The Commission's use of average-year rate base has been upheld by the Idaho Supreme Court as being permissible and within the discretion of the Commission. See *Citizens Util. Co. v. Idaho Public Util. Comm.*, 99 Idaho at 171-172, 579 P.2d at 117-118 (1978); *Utah Power & Light Co. v. Idaho Public Util. Comm.*, 105 Idaho 822, 673 P.2d 422 (1983). Staff's proposal to use average-year rate base should not surprise Idaho Power. The Commission has consistently used average-year rate base in the last three Idaho Power rate cases. See Order No. 17499 at 31 (Case No. U-1006-185 decided August 1982), Order No. 20610 at 49 (Case No. U-1006-265 decided July 1986), and Order No. 25880 at 5 (Case No. IPC-E-94-5 decided January 1995).

Although it has consistently approved the average-year rate base with the few notable exceptions discussed below, the Commission has heard arguments for year-end rate base before. In Boise Water Case No. U-1025-51 decided in June 1986, Boise Water Corporation indicated it would support the use of an average rate base only if "non-revenue producing or non-expense reducing plant" is included at year-end levels. The Commission noted that:

> In terms of cash flow all depreciable investments are revenue producing. In addition, the difficulty and subjective decision-making process in determining what classes of property are or are not "revenue producing" or "expense saving" presents a quagmire into which we decline to step.

Order No. 20592 at 7. Quoting from Order No. 19902 issued a year earlier in 1985, the Commission went on to find that the following rationale still applied to support use of an average rate base:

> The Company is not experiencing the explosive growth that it experienced in the 1970s and is not suffering the effects of the double-digit inflation of the early 1980s. Moreover, Boise Water does not ordinarily increase its rate base through very large, discrete construction projects, as do electric utilities. When it did make such an addition – such as the Ranney collector put into service approximately at the time of its most recent rate case – the arguments in favor of the end-of-year rate base were stronger. But in this case Boise Water's plant additions were not so large as to unreasonably distort the matching of its revenues, expenses, and rate base. For these reasons, it is most appropriate to apply the average-year rate base.

Order No. 19902 at 14. Thus, in adopting an average-year rate base the Commission also identified exceptions that would be considered for including some or all plant at end-of-year values. Those exceptions are: explosive growth, double-digit inflation, and very large discrete construction projects. Because explosive growth and double digit inflation do not apply to this case and the projects Idaho Power proposed for year-end rate base inclusion do not fall within the definition of "very large, discrete construction projects," the rate base projects proposed by Idaho Power should be averaged in the test year like other unexceptional projects.

4. Exceptional Deviations from Average Rate Base

Idaho Power makes reference to exceptional adjustments allowed in previous rate cases to adjust average rate base by year-end values for specific plant. However, as explained above, special treatment of these adjustments were necessitated due to explosive growth, double-digit inflation, or because they were very large, discrete construction projects. Order No. 19902.

For example, the Company cited an exception made for the $116,844,000 annualizing adjustment for Valmy I. Tr. at 2787. In Case No. U-1006-185 decided in August 1982, the Commission allowed the addition of Valmy I and conservation investments[9] at year-end rather than average rate base value. Order No. 17499 at 31. Although this is the same rate base valuation treatment the Company presently seeks for its annualizing adjustments, Idaho Power did the very thing in the 1982 case that Staff and Micron desire in this case: it included additional revenues and cost-reducing expenses in the adjustment to present a fair representation of what revenues and expenses would be if the plant was in service the entire year. The Commission explained:

> We accept both of these adjustments to the average-year rate base and base our findings upon them. We accept the Valmy related adjustments to rate base <u>because the Company adjusted revenues and expenses to simulate what they would have been had Valmy been in operation for the entire year.</u> We find that this gives a proper matching of rate base, revenues and expenses that permits inclusion of Valmy in rate base as though it had been in operation for the entire year.

Order No. 17499 at 32 (emphasis added). It is Staff's and Micron's assertion that the Company has not presented fairly all the additional revenues and expenses associated with the plant the Company wants to include in rate base. Consequently, the Company's proposed adjustments are unfair and should be denied.

Idaho Power also noted that it was allowed to annualize the $23,038,500 cost to reconstruct the hydroelectric facility at Cascade. Tr. at 2787. In Case No. U-1006-265 decided

---

[9] While Staff would agree that conservation investments have consistently been adjusted to year-end values, the plant the Company is seeking to annualize is not a conservation investment.

in July 1986, the Commission included the total cost of the reconstruction in rate base because "on the whole, the balance of factors favoring inclusion of Cascade in rate base strongly outweighs those favoring its partial or total exclusion." Order No. 20610 at 65. Several important distinctions exist between the Cascade plant and the projects the Company presently wants to annualize. The Cascade rebuild was one distinct project, had prior approval from the Commission, was a generating facility, and large in cost. In this present rate case, the Company is asking to annualize projects that have no prior Commission approval, are relatively small in cost, and are an aggregation of projects that are not all generating facilities. Although the Bridger rewind project could be similar to Cascade in that it is a rebuild of a generating facility, the Bridger rewind project without the aggregation[10] of other unrelated projects is relatively small at only $2,292,326. Tr. at 2808-09.

A third exception cited by Idaho Power is the $54,542,500 rebuild of the Swan Falls facility. In Case No. IPC-E-94-5 decided January 1995, the Commission authorized Idaho Power to increase rate base by the actual expenditures for the rebuilding of the Swan Falls facility completed in November 1994. Order No. 25880 at 12. Like the Valmy I and Cascade facilities, the Swan Falls facility was exceptional in that the Commission pre-approved the rebuild, it was a power generating facility, it was a <u>large</u> expenditure, and it was a single distinct project.

Idaho Power's requested average-year rate base adjustments, be they annualizing or known and measurable, are simply not in the same league with the adjustments previously approved by the Commission. Moreover, it is unreasonable to include these adjustments without inclusion of the increased revenues or reduced expenses that should flow from these projects.

---

[10] The Company's $19,779,389 annualizing adjustment for "Bridger rewind project" is actually an aggregation of four unrelated projects. Tr. at 1582, 2808. While Company testimony attributes $6,621,907 of this total adjustment to the project it calls "Bridger Rewind," Smith Exhibit No. 18 and Staff Exhibit No. 146 show that only $2,292,326 of the $6,621,907 was actually spent on the rewind of Bridger generator #3. The balance of the $6,621,907 proposed adjustment is for a dragline replacement ($1,385,193), controls replacement ($1,676,680), and spent liquor ponds ($1,796,706) at the Bridger power plant. Tr. at 2808- 09.

PENSION ADJUSTMENTS

1. Annual Pension Expense

Idaho Power initially proposed a $7,018,000 test year pension expense and sought a $2,170,163 increase to 2003 service costs to make it "more reflective of pension costs going forward." Tr. 529, 1253. Citing our disagreement with three Company methodologies to calculate pension expense, Staff believes the Company should ultimately receive $0 for pension expense in this case. First, Staff recommended denial of the $2,170,163 adjustment that would increase pension expense from Net Periodic Pension Cost to the Service Cost. Tr. at 1496. Second, Staff proposed reducing test year pension expense by an additional $1,379,149 to offset Idaho Power's projected return on assets using a newly revised assumption for its future expected return on plan assets. Tr. at 1500-04. Staff disagreed with the Company's actuarial assumption changes because the plan has earned an average 12.97% return over the past 15 years and there were no extraordinary circumstances or changes in investment policy to prompt the revisions. Finally, Staff proposed a pension expense adjustment to reconcile the $5,638,851 difference between cash and accrual accounting to recognize that Idaho Power paid nothing into the plan in 2003. Staff witness Donn English further testified that Idaho Power was not required or even able to pay anything into this plan since 1995 and is unlikely to contribute to the pension plan for several more years. Tr. at 1509. These three adjustments taken cumulatively would reduce the Company's proposed pension expense from $9,188,163 to $0.

On rebuttal, Idaho Power accepted Staff's first adjustment of $2,170,163 to Idaho Power's proposed pension expense (now collecting only $7,018,000) and Staff's use of Net Periodic Pension Cost. Tr. at 3181, 2856-58. The Company did not endorse Staff's recommendation to offset Idaho Power's projected return on assets by $1,379,149 by continuing to use the 9% return assumption utilized since 1986 rather than the Company's newly proposed 8.5%, even though Mr. Fowler testified that the plan has historically earned 12.97% and is one of the best performing plans he reviews. Tr. at 2871, 2885, 2887. Although Staff disagrees with the Company's changed actuarial assumptions, this point of contention becomes a non-issue in terms of the revenue requirement if the Commission agrees with Staff that $0 pension expense is necessary at this time given that the Company has not made cash contributions since 1995, did not make a contribution in the test year, and is unlikely to do so in the near future.

Company witness Bradley Fowler argued that Statement of Financial Accounting Standards No. 87 (FAS 87) is the best measure of pension costs because it is a publicly disclosed and audited value, controlled by a well-defined and consistent accounting standard. Tr. at 2856. Mr. Fowler further states that FAS 87 was specifically developed to create consistency of measurement from period to period, and to facilitate comparison of pension costs on a consistent basis from one company to another. Tr. at 2857. Though Staff agrees that FAS 87 is the basis for measuring pension costs for financial reporting purposes, the Company agrees that FAS 87 makes no mention of regulatory recovery or regulatory accounting. Tr. at 2884.

Staff does not contest that FAS 87 is the accounting standard for pensions for financial reporting purposes. The argument against using FAS 87 net periodic pension expenses for regulatory recovery has probably never been more compelling than in this case. Idaho Power has collected $19 million more in rates for pension expense than it has contributed to the pension plan since its last rate case in 1994-95. If the Commission were to approve the Company-requested net periodic pension expense in this case, Idaho Power will collect another $28 million from ratepayers between now and 2007, the earliest the Company expects to contribute to the plan. Tr. at 2879. It is extremely unfair for ratepayers to pay pension expense in rates when no cash contributions are actually paid. Accordingly, it is appropriate for the Commission to grant Idaho Power recovery of only the amount it has paid: $0.

2. Prepaid Pension Expense in Rate Base

Idaho Power's base rates established by Order No. 25880 in 1995 included pension expense of more than $3 million annually. In its Application, Idaho Power seeks to include $17,800,477 in rate base to earn a rate of return on prepaid pension assets. In the test year the Company contributed nothing, but due to market gains and a negative net periodic pension cost under FASB 87, it expensed negative amounts that significantly increased the prepaid pension asset. Although this phenomenon appears in the Company's financial books for financial reporting purposes to denote the extent to which the pension plan is exceeding its actuarial assumptions, Idaho Power's actual cash contribution in 2003 was $0. As previously stated, the cash contributions have been zero since 1995 and will continue to be zero for several years. Tr. at 1509.

Staff recommends denial of this addition because the underlying trust asset was not paid by Company or shareholder investment. Prepaid pension assets are the result of investment return on invested payroll benefits <u>funded by ratepayers</u>. Accordingly, prepaid pension expense is not an asset that provides electric service on which the Company and shareholders are entitled to earn a return on investment.

According to the Company, inclusion of a prepaid pension amount in the rate base recognizes the investment and carrying costs the Company has incurred over the years, both in cash contributions and the value added through proper oversight, portfolio management techniques and asset allocation policies. Tr. at 1509. However, the Company has not incurred any carrying costs or made cash contributions since 1995, while ratepayers funded contributions through base rates that included pension expense. Tr. at 1512. Staff also argues that there is no reason to compensate the Company for its proper oversight of the pension plan because the Company must comply with its fiduciary and legal responsibilities set forth in the Employee Retirement Income Securities Act (ERISA) of 1974. It is illogical to reward the Company for actions that are required by law.

Recovery of prepaid pension expense in rates would also defy regulatory logic. As discussed previously, a prepaid pension asset is created when the cash contributions to a pension plan exceed the amounts the Company has recorded on its books. Conversely, a pension liability occurs when a Company contributes less cash to the plan than it records on its books. If the prepaid pension asset were to be included as an addition to rate base, it would also be necessary to reduce rate base when a pension liability occurs.

The issue of not including prepaid pension assets in rate base has been previously addressed by other state Commissions. The Nevada Public Service Commission denied Central Telephone Company-Nevada's request to include over $10 million in prepaid pension asset in base rates, stating: "The Commission believes it is illogical to conclude that investors should receive a return on a book entry that reduces expense. Investors are entitled to a return only on funds that are actually provided and not on assets that accrue as a result of accounting procedures." Docket Nos. 91-5054 and 91-7026, 1992 WL 402072 (Nev. P.S.C.). In adopting the OCA's[11] recommendation to deny the Company's request, the Nevada Commission noted "the proposed adjustment to [decrease] rate base properly reflects the fact that the [utility] has

---

[11] The OCA is more formally known as Nevada Attorney General's Office of Advocate for Customers of Public Utilities, but the acronym is used for simplicity.

made no contributions and, therefore, should earn no return on rate base relating to pensions." *Id.*

The Texas Public Utility Commission also addressed this pension asset issue when Central Telephone Company of Texas (CENTEL) asked to include over $2 million in prepaid pension assets in rate base. In rejecting CENTEL's request, the Texas Commission used rationale that also applies to the similar facts presented in this Idaho Power case. It found that:

> CENTEL collected, through its rates, enough money from ratepayers to fund its pension plan. Because CENTEL did not accurately predict that its pension fund would experience favorable investment results and that there would be reductions in benefit levels, the pension fund was subsequently overfunded. If CENTEL had predicted these events in advance, CENTEL's revenue requirement would have been reduced, the ratepayers would not have paid in as much, and CENTEL's pension plan would not be overfunded as it presently is. Therefore, CENTEL's argument that the Company or investors would have had use of the additional money in the pension fund is without merit.

Docket No. 9981, 1993 WL 595464 (Tex. P.U.C.).

Finally, Staff addresses the Company's inference during the hearing that adopting Staff's recommendation to remove prepaid pension expense from rate base is a departure from the last rate case Order. Tr. at 1528. Although Order No. 25880 authorized approximately $2.7 million of pre-paid pension expense in the last rate case, the Order does not suggest that the relatively small amount approved was contested or scrutinized in any detail. Because circumstances have changed such that Idaho Power: 1) did not make cash contributions since 1995; 2) could not contribute to its pension plan during the test year; and 3) is unlikely to do so until at least 2007, the Commission's review and denial of these amounts are justified. Simply put, the recovery of pension costs not incurred is unjust and unreasonable. As noted above, the Commission is free to change its policies given changing circumstances. *Rosebud*, 128 Idaho at 609, 917 P.2d at 776 (1996); *Intermountain Gas*, 97 Idaho at 113, 540 P.2d at 775.

CONCLUSION

In light of the record and the need to balance the interests of both Idaho Power and its ratepayers, the Commission should adopt the Staff's adjustments discussed above.

Respectfully submitted this 26th day of April 2004.

Lisa D. Nordstrom

Lisa D. Nordstrom
Deputy Attorney General

Weldon B. Stutzman
Deputy Attorney General

M:IPCE0313_Post-Hearing Brief_ln

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 26TH DAY OF APRIL 2004, SERVED THE FOREGOING **STAFF'S POST-HEARING BRIEF,** IN CASE NO. IPC-E-03-13, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

BARTON L KLINE
MONICA MOEN
IDAHO POWER COMPANY
PO BOX 70
BOISE, ID 83707-0070

JOHN R GALE
VICE PRESIDENT – REG AFFAIRS
IDAHO POWER COMPANY
PO BOX 70
BOISE, ID 83707-0070

PETER J RICHARDSON ESQ
RICHARDSON & O'LEARY
PO BOX 1849
EAGLE ID 83616

DON READING
BEN JOHNSON ASSOCIATES
6070 HILL ROAD
BOISE ID 83703

RANDALL C BUDGE
RACINE OLSON NYE BUDGE BAILEY
CHARTERED
PO BOX 1391
POCATELLO ID 83204-1391

ANTHONY YANKEL
29814 LAKE ROAD
BAY VILLAGE OH 44140

LAWRENCE A GOLLOMP
ASSISTANT GENERAL COUNSEL
U.S. DEPARTMENT OF ENERGY
1000 INDEPENDENCE AVE SW
WASHINGTON DC 20585

DENNIS GOINS
POTOMAC MANAGEMENT GROUP
5801 WESTCHESTER ST
ALEXANDRIA VA 22310-1149

DEAN J MILLER
McDEVITT & MILLER LLP
PO BOX 2564
BOISE ID 83701

JEREMIAH J HEALY
UNITED WATER IDAHO INC
PO BOX 190420
BOISE ID 83719-0420

WILLIAM M EDDIE
ADVOCATES OF THE WEST
PO BOX 1612
BOISE ID 83701

NANCY HIRSH
NW ENERGY COALITION
219 FIRST AVE SOUTH SUITE 100
SEATTLE WA 98104

CONLEY E WARD
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701-2720

DENNIS E PESEAU PH.D.
UTILITY RESOURCES INC.
SUITE 250
1500 LIBERTY STREET SE
SALEM OR 97302

BRAD M PURDY
ATTORNEY AT LAW
2019 N 17TH STREET
BOISE ID 83702

MICHAEL KARP
147 APPALOOSA LANE
BELLINGHAM WA 98229

MICHAEL L KURTZ, ESQ
KURT J BOEHM ESQ
BOEHM KURTZ & LOWRY
36 E. SEVENTH ST SUITE 2110
CINCINNATI OH 45202

THOMAS M POWER
ECONOMICS DEPARTMENT
LIBERAL ARTS BLDG. 407
UNIVERSITY OF MONTANA
32 CAMPUS DR
MISSOULA MT 59812

Brenda Sorrell
SECRETARY