LISA NORDSTROM
WELDON B. STUTZMAN
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0314
IDAHO BAR NOS. 5733 AND 3283

Street Address for Express Mail:
472 W. WASHINGTON
BOISE, IDAHO 83702-5983

Attorney for the Commission Staff

RECEIVED [X]
FILED [ ]
2004 SEP -1 PM 3:44
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** **COMMENTS OF THE COMMISSION STAFF ON PROPOSED SETTLEMENT**

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Weldon B. Stutzman, Deputy Attorney General, and in response to the Notice of Proposed Settlement, Notice of Modified Procedure and Notice of Comment and Protest Deadline issued on August 18, 2004 submits the following comments.

BACKGROUND

In this case, IPC-E-03-13, Idaho Power filed its test year income tax expense based on the current statutory income tax rates. The Commission Staff (Staff) proposed use of an historic five-year average to calculate income tax expense. In Order No. 29505, the Commission adopted the Staff's position and approved rates using an historic five-year average to calculate the test year income tax expense. This reduced the test year revenue requirement attributable to income tax expense by $11,504,677. Idaho Power filed a timely Petition for Reconsideration and in Order No. 29547, the Commission granted reconsideration of that portion of Order No. 29505 related to the determination of Idaho Power's income tax expense for revenue requirement purposes.

STAFF ANALYSIS OF THE STIPULATION

In their settlement stipulation, the parties agree that Order No. 29505 should be modified to reflect the income tax rate utilized to compute test year income tax expense and that base rates be set using the statutory rate of 35% for the federal tax rate (32.795% net of state benefit) and a 6.3% state tax rate. Rather than increase base rates immediately, the stipulation provides for a deferral of the additional revenue Idaho Power would have received through its energy rates if they included the higher tax expense. The deferral will be recorded between June 1, 2004 and May 31, 2005, then base rates will change at the same time as the next PCA rate change on June 1, 2005. Staff worked with Idaho Power to determine the proper formula to calculate the additional revenues for deferral and the proper regulatory accounts to record the deferral and recovery of these deferred amounts. The formula, regulatory accounts and procedures are set forth in detail in the stipulation.

While the Staff does not necessarily agree that the Company would have lost the ability to use accelerated depreciation for income tax purposes, this settlement removes the concern and allows Idaho Power to continue to be in compliance with the normalization provisions of the Internal Revenue Code and associated Treasury Regulations. With the proposed modifications to the Commission's decision, continued compliance will not trigger any IRS disallowance of the benefits from accelerated depreciation. This provides a substantial benefit to customers currently and in the future. If the accelerated depreciation was lost, income taxes would be significantly higher and Idaho Power would be required to obtain additional financing and probably increase rates further to cover the tax expense.

The Company has guaranteed that it will not seek recovery of any additional IRS income tax deficiency assessments for the one-time capitalized overhead cost tax method change for the years 1987 - 2000. This also provides a benefit for customers.

This stipulation resolves the income tax rate issue and eliminates the possibility of an IRS disallowance for accelerated depreciation. Rehearing of this issue would have taken a significant amount of time and resources of the Commission and Staff. If Idaho Power requested a Private Letter Ruling from the IRS, it would require additional time to get the ruling. Depending on how the letter request was phrased it could also provide the IRS with an additional opportunity to challenge further deductions, without any assurance that the customers would have received any benefit from this protracted process. The Stipulation settles these issues so rehearing is not necessary and no appeal will be filed with the Supreme Court related to these issues or any other issue in the case.

The settlement, with the ongoing tax expense allowance no longer being an issue, will also allow Idaho Power and the Commission's regulatory actions to be viewed positively by the various rating agencies. Base rates will reflect the statutory income tax rate, the risk of recovery is lower and borrowing costs may be less expensive.

CONCLUSION

The stipulation is in the best interest of all parties. Continued compliance with the normalization provisions of the Internal Revenue Code and associated Treasury Regulations assures ongoing benefits to customers and Idaho Power from accelerated depreciation. If these accelerated depreciation benefits were lost, the increased revenue requirement would be several times greater than the increase to base rates from using the statutory income tax rates in this case.

Respectfully submitted this 1st day of September 2004.

Weldon B. Stutzman
Deputy Attorney General

Technical Staff: Terri Carlock

i:umisc/comments/ipc03.13lntc

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 1ST DAY OF SEPTEMBER 2004, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF ON PROPOSED SETTLEMENT,** 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

Jo Nelson
SECRETARY