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IDAHO PUBLIC
UTILITIES COMMISSION

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT APPLICATION OF IDAHO POWER COMPANY AND TAMARACK RESORT LLC FOR APPROVAL OF AN AGREEMENT TO PROVIDE ELECTRIC DISTRIBUTION FACILITIES.	)))))))	**CASE NO. IPC-E-04-12** **COMMENTS OF THE COMMISSION STAFF**

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Lisa Nordstrom, Deputy Attorney General, and in response to the Notice of Application, Notice of Modified Procedure and Notice of Comment Deadlines issued in Order No. 29509 on June 1, 2004, submits the following comments.

BACKGROUND

On May 5, 2004, Idaho Power Company (Idaho Power, Company) and Tamarack Resort LLC (Tamarack) jointly filed an Application requesting the Commission issue an Order approving an Agreement between Idaho Power and Tamarack ("the Agreement") to provide electric distribution facilities to the Tamarack resort. The Agreement is dated May 3, 2004. Tamarack is developing a substantial four-seasons resort project ("Resort Project") in Valley County, Idaho. Tamarack has indicated that at final build-out, the Resort Project will be a complex featuring approximately 2,000 housing units, approximately 272,000 square feet of commercial space, a golf course, ski lifts and other recreational amenities. The Resort Project will have a combined electrical load of approximately 20 megawatts (MW). Because final build-out is expected to take a number of years, Tamarack has requested that Idaho Power make 7.5 Megavolt-Ampere (MVA) of electrical capacity available to the Resort Project by November 1, 2004.

Because the Resort Project will be located in an area where Idaho Power does not have existing facilities of adequate capacity and desired phase and voltage, the delivery of power (capacity) to the Resort Project site will require the construction of: (1) underground and overhead facilities and lines to interconnect with Idaho Power's existing transmission/distribution system ("Interconnection Facilities"), and (2) installation of additional substation equipment and facilities ("the Substation Facilities"). The Interconnection Facilities and the Substation Facilities are collectively referred to as the "Requested Facilities."

The parties have agreed that the Requested Facilities will be constructed in two phases. Phase 1 facilities have already been constructed and will provide not more than 2 MVA of three-phase power at a point of delivery located adjacent to the boundaries of the Resort Project. A general description of the Phase 1 facilities is included as Exhibit 1 to the Agreement. Idaho Power completed Phase 1 construction in November 2003. Phase 2 construction will be performed during the 2004 construction season and will include the construction of the Requested Facilities to provide 7.5 MVA of electrical capacity at the delivery point. A general description of the Phase 2 Requested Facilities is included as Exhibit 2 to the Agreement. Phase 2 construction is expected to be completed by Idaho Power on or before November 1, 2004.

STAFF ANALYSIS

Line extensions are generally governed by Rule H, Idaho Power's line extension tariff. However, by its terms Rule H does not apply to all line extensions, and the parties have agreed that this Agreement is not subject to or governed by Rule H. Nevertheless, the parties have agreed to use some of the principles contained in Rule H to address refunds of a portion of the contribution in aid of construction ("CIAC") to be paid by Tamarack under the Agreement. For the most part, the parties have applied Rule H principles wherever possible; however, there are several terms of the Agreement that deviate from Rule H.

The line extension requested by Tamarack is considerably more complex than those typically requested by other developments. In this instance, construction of a substantial amount of new distribution facilities is required due to Tamarack's relatively remote location, the unusual geography around Cascade Lake and the size of Tamarack's expected load. The new facilities span a distance of several miles and construction has been spread over two construction seasons. Unlike most line extensions, service to Tamarack will also require significant upgrade and capacity additions to a nearby substation. Tamarack is also unique in that it will ultimately include a diverse mix of residential, commercial and industrial loads. The rate of development within Tamarack will likely be slower than developments in more urban areas, and the uncertainty of whether expected development will actually materialize is perhaps greater than usual. A large quantity of subdivided but undeveloped lots will be subject to development as a direct result of the line extension. For these reasons, Staff believes that a special line installation agreement is appropriate and that deviation from some of the terms of Rule H is reasonable in this case.

Installation of distribution facilities <u>within the boundaries</u> of Tamarack will be made in accordance with Rule H. Staff believes this is appropriate because Rule H should function satisfactorily within the Resort Project boundaries.

The Agreement

The ultimate goal of the Agreement is to fairly apportion the costs of the Interconnection Facilities and Substation Facilities amongst Idaho Power and those customers who benefit from the facilities. In reaching that goal, the Agreement seeks to place the financial risk, should development not occur, on Tamarack rather than on Idaho Power. Under terms of the Agreement, Tamarack is required to pay nearly all of the initial cost of the Requested Facilities, but is eligible for refunds over time as additional customers begin taking service and begin generating revenue, a part of which goes to satisfy the revenue requirement for these facilities.

The total estimated cost of the design and construction of the Requested Facilities is \$2,704,886. Assuming Tamarack makes all of its required payments on schedule, the CIAC to be paid by Tamarack will not exceed \$1,891,372. Tamarack has paid Idaho Power \$1,055,375 for the Phase 1 Requested Facilities, and \$764,798 for Phase 2 Requested Facilities. As provided in the Agreement, Tamarack has agreed to pay Idaho Power an additional $191,199 on or before October 1, 2004.

Idaho Power will own, operate and maintain the Requested Facilities constructed pursuant to this Agreement. Tamarack recognizes that it is paying a proportionate share of the total costs of improving a portion of Idaho Power's utility system. Tamarack also understands that Idaho Power will utilize the improvements to the system to provide service to other customers, and that the improvements will be a part of Idaho Power's electrical transmission and distribution system. In recognition of the fact that Idaho Power (and other new and existing customers) will benefit as a result of the Interconnection Facilities, the parties have agreed that Tamarack will pay the majority of the project costs with a portion subject to refund as other customers utilize the facilities paid for by Tamarack. Idaho Power has agreed to pay a small portion of the cost of Interconnection Facilities not required by Tamarack.

In order to supply 7.5 MVA of electrical capacity to Tamarack with the power quality specifications requested by Tamarack, Idaho Power had to construct a portion of the Interconnection Facilities outside the Resort Project boundaries with a capacity greater than 7.5 MVA. Tamarack will not be entitled to use more than 7.5 MW of capacity in the Interconnection Facilities.

Vested Interest Refunds and Line Capacity Charges

Because the Requested Facilities will create additional capacity that can be used to serve future customer loads, Idaho Power has agreed to collect contributions from other customers who utilize the Requested Facilities to receive electric service. In turn, these contributions will be refunded to Tamarack because its CIAC funded most of the construction cost initially. These contributions will be collected in two forms: vested interest refunds similar to those provided for under Rule H, and "line capacity charges" as defined in the Agreement. Both refund mechanisms are proposed so that proportionate refunds can be received from small and large customers alike, thus fairly spreading the cost burden of the facilities onto all customers deriving benefit from the facilities.

Under the Agreement, vested interest refunds are designed to address cost sharing with large customers who may eventually connect and use the Interconnection Facilities. Portions of the Interconnection Facilities subject to vested interest refunds and the maximum refund dollar amounts are described more particularly in the Agreement. Vested interest refunds generally will follow the concepts contained in Rule H with one major exception. Under this Agreement, vested interest refunds will be collected for a ten-year period following the completion of the Phase 2 Requested Facilities. Under Rule H, the refund period for vested interest refunds is five years. Staff believes, however, that a ten-year refund period is reasonable in this case because of the rural, recreational nature of property in the area and the likelihood that surrounding development will not occur in less than five years. The Commission has allowed a ten-year vested interest refund period in instances in the past, most recently for the line extension made in 2000 to serve the Bogus Basin Recreational Area (see Case IPC-E-00-5, Order No. 28403). The parties have agreed that vested interest payments will only be collected from up to four customers, each connecting a load of not less than 400 kW.

In order to equitably share the cost of the Interconnection Facilities with smaller customers who interconnect, Idaho Power has agreed to collect a line capacity charge. Line capacity charges would be assessed, collected and refunded to Tamarack as follows:

(a) Idaho Power will inventory all lots that are currently being "served" but are not connected that might attach to facilities that will utilize the Requested Facilities to receive electrical service. These are the lots where the customer(s) have previously paid to install facilities to receive power on the lots, but the lots have not been connected. Capacity has previously been reserved for these lots, and customers have been advised that power is readily available to their lot. These lots will be exempt from paying the line capacity charges.

(b) Schedule 01, Residential, and Schedule 01, Non-Residential Customers (or their successor schedules) would pay $800 per connection.

(c) Customers receiving service under Schedules 7, 9, 19, 24, 45 and 46 (or their successor rate schedules) would pay $40 per kW of connected load.

(d) Line capacity charges will be collected for a period ending five (5) years after the completion of the Phase 2 Requested Facilities, currently scheduled for November 1, 2004.

(e) Line capacity charges collected by Idaho Power will be paid to Tamarack on a quarterly basis without interest.

(f) Planned developments such as subdivisions will pay line capacity charges at the time of the application (when the lots are "served") and not at the time of the physical power connection to the individual lot.

(g) Cash allowances through Rule H would not be applicable to reduce line capacity charges.

The basis for the $800 per connection line capacity charge for Schedule 1 customers is that $800 is the same amount refunded to developers when a residential customer connects within a subdivision. The basis for a $40 per kW line capacity charge for non-residential customers is that $40 was the amount of the refund for new commercial and industrial customers under a previous Rule H tariff.[1] Idaho Power and Tamarack have agreed that a five-year period, the same as allowed under Rule H, will be used in assessing line capacity charges. Staff believes that these line capacity charge amounts and the other proposed rules pertaining to line capacity charges as described above are reasonable.

Collections and refunds for both line capacity charges and vested interest payments will cease when Tamarack has been refunded 80% of the total amount Tamarack has paid for distribution facilities. This is consistent with Rule H. Idaho Power will include the tax gross-up portion of Tamarack's payments in the amount subject to refund to Tamarack. The total amount that could be refunded to Tamarack from vested interest payments and line capacity charges would be $1,075,571.

Substation Costs

As stated previously, service to Tamarack will require that a substation be significantly upgraded. Substation costs are normally not charged directly to non-industrial customers (non-Schedule 19), and instead are recovered by Idaho Power through the revenue generated by energy sales. In this case, Tamarack will include Schedule 19 load as a result of ski lifts, as well as residential and commercial loads. Furthermore, the substation capacity will be increased by 20 MW but Tamarack will only utilize 7.5 MW of that capacity. Consequently, the Agreement requires that Tamarack contribute a share of the Substation Facilities cost proportionate to what it needs, and be eligible for refunds for Tamarack's non-Schedule 19 load that might ultimately be served by the substation.

[1] Idaho Power relied on a previous Rule H tariff as the basis for establishing the $40 per kW line capacity charge for commercial and industrial customers because the version of Rule H currently in effect provides no refund amount for these customers. Instead, the current Rule H provides an adjusted allowance amount that effectively accomplishes a similar result.

Tamarack will pay Idaho Power $546,909 for substation capacity of 7.5 MW (2.5 MW for Schedule 19 load and 5 MW for non-Schedule 19 load). The prorated share for the non-Schedule 19 load of $364,606 (5000 kW/7500 kW = 67% x $546,909) is eligible for refund. Refunds will be available for a ten-year period following the completion of the Phase 2 Requested Facilities. Idaho Power will pay Tamarack $73 per kW of load ($364,606/5000 kW) for facilities installed within the Resort Project boundaries and taking service under Rate Schedule 01, 07, 09, 24, 45 and 46. The demand amount used for refunding purposes will include a diversity factor and will be equivalent to the demand on the substation. The estimated demand for a subdivision lot will be 10 kW per lot for a refund amount of $730 per lot. Substation refunds to Tamarack will be made after the final 2004 payment, and only after the completion of the individual distribution work orders have been completed. These refund payments will be made without interest and with a maximum refund payout of $364,606.

Because Tamarack's expected load will require a substantial increase in substation capacity, and because Tamarack's load is speculative, Staff believes it is reasonable to require Tamarack to contribute a refundable share of costs proportionate to its non-Schedule 19 load. It is also reasonable for Tamarack to not be entitled to refunds for its share of substation costs associated with Schedule 19 load. In summary, Staff believes the terms in the Agreement pertaining to substations are fair and reasonable.

RECOMMENDATIONS

Staff believes that the uniqueness of Tamarack's situation warrants a special agreement to provide Interconnection and Substation Facilities. The Agreement generally follows the guidelines of Rule H, but deviates appropriately in order to achieve greater fairness in terms of the cost responsibilities of the various customers who will eventually utilize the facilities. Staff has carefully reviewed the terms of the Agreement and recommends approval.

Respectfully submitted this day of July 2004.

Lisa Nordstrom
Deputy Attorney General

Technical Staff: Rick Sterling

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS DAY OF JULY 2004, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF,** IN CASE NO. IPC-E-04-12, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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