Office of the Secretary
Service Date
March 12, 2007

# BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

| | | |
|---|---|---|
| **IN THE MATTER OF THE INVESTIGATION OF FINANCIAL DISINCENTIVES TO INVESTMENT IN ENERGY EFFICIENCY BY IDAHO POWER COMPANY.** | ) ) ) ) | **CASE NO. IPC-E-04-15**<br><br>**ORDER NO. 30267** |

On August 10, 2004, the Idaho Public Utilities Commission (Commission) in Order No. 29558 established Case No. IPC-E-04-15 to investigate financial disincentives to investment in energy efficiency by Idaho Power Company (Idaho Power; Company). On January 27, 2006, Idaho Power filed an Application requesting authority to implement a Fixed Cost Adjustment (FCA) decoupling or true-up mechanism for residential and small general service customers. On December 18, 2006, a Joint Motion was filed with the Commission requesting approval of a negotiated Stipulation and implementation of the FCA as a three-year pilot program. The Commission in this Order approves the Stipulation and the FCA pilot program.

**Background**

On August 10, 2004, the Idaho Public Utilities Commission in Order No. 29558 established this case to investigate financial disincentives to investment in energy efficiency by Idaho Power Company. In that Order the Commission approved a series of workshops and directed the participants to provide a written report no later than December 15, 2004 to update the Commission on the status of the workshops.

On December 15, 2004, workshop participants in Case No. IPC-E-04-15 filed a Status Report with the Commission. A Final Report on workshop proceedings was filed on February 14, 2005. The Final Report called for two actions: (1) the development of a true-up simulation to track what might have occurred if a decoupling or true-up mechanism had been implemented for Idaho Power at the time of the last general rate case, and (2) advocacy for filing a pilot energy efficiency program that would incorporate both performance incentives and "lost revenue" adjustments.

**Application to Implement a Decoupling Mechanism**

On January 27, 2006, Idaho Power filed an Application requesting authority to implement a rate adjustment mechanism that would adjust the Company's rates upward or

downward to recover the Company's fixed costs independent from the volume of the Company's energy sales. This type of ratemaking mechanism is commonly referred to as a "decoupling mechanism." However, Idaho Power in its Application believes that a more accurate description of what the Company is proposing is a "true-up mechanism." The true-up mechanism, entitled "Fixed-Cost Adjustment" (FCA) would be applicable only to Residential Service (Schedule 1, Schedule 4 and Schedule 5) and Small General Service (Schedule 7) customers.

As reflected in the Company's decoupling proposal, the fixed-cost portion of the Company's revenue requirement would be established for these two customer classes at the time of a general rate case. Thereafter, the FCA would provide the mechanism to true-up the collection of fixed costs per customer to recover the difference between the fixed costs actually recovered through rates and the fixed costs authorized for recovery in the Company's most recent general rate case.

The Company represents the FCA would work identically for both the residential and small commercial classes. For each class, the actual number of customers would be multiplied by the fixed cost per customer rate (calculated as a part of determining the Company's allowed revenue requirement in a general rate case). This product would represent the "allowed fixed-cost recovery" amount. This pro forma amount would be compared with the amount of fixed costs actually recovered by the Company. To determine this "actual fixed-cost recovered amount," the Company would take weather-normalized sales for each class and multiply that by the fixed-cost per kilowatt-hour rate (again, established in the Company's general rate case). The difference between these two numbers (the "allowed fixed-cost recovery" amount minus the "actual fixed-cost recovered" amount) would be the fixed-cost adjustment for each class. The FCA could be either positive or negative.

The FCA is proposed to change rates coincidentally with Idaho Power's Power Cost Adjustment (PCA) and Idaho Power's seasonal rates. Although the FCA would be timed to adjust on the same schedule as the PCA, the accounting for the FCA will be completely separate from the PCA. Additionally, the Company proposes to include a discretionary cap of 3% as a potential rate mitigation tool for the Commission's use.

The purpose of the FCA, the Company contends, is to remove the financial disincentive in current rate design to the Company's investing fully in energy efficiency activities. Limiting implementation to only residential and small general service customers, the

Company states, provides an incremental approach for evaluating a new type of mechanism for the Company and its customers.

The Company's Application details proposed FCA accounting entries for monthly deferrals plus interest. The Company in its Application has filed the supporting testimony and exhibits of Ralph Cavanagh, Michael J. Youngblood, and John R. Gale.

On March 6, 2006, the Commission issued a Notice of Application in Case No. IPC-E-04-15 and established a March 17, 2006 deadline for intervention. Intervenor status was granted to the Industrial Customers of Idaho Power (ICIP) and the NW Energy Coalition (NWEC). In its Notice, the Commission acknowledged the intention of the Company and Commission Staff (together with other parties of record) to initiate and engage in settlement discussions. Reference Commission Settlement Rules of Procedure, IDAPA 31.01.01.272-276.

**Joint Motion for Approval of Stipulation**

Based on settlement negotiations a Joint Motion for Approval of Stipulation was filed with the Commission on December 18, 2006 by Idaho Power, Commission Staff and the NW Energy Coalition. Reference Commission Rule of Procedure 274. Although a party to this proceeding and a participant in settlement negotiations, the Industrial Customers of Idaho Power (ICIP), did not sign the Stipulation.

*Terms of Stipulation*

The Stipulation parties agree that it would be in the public interest for the Company to implement, as a pilot program, the FCA mechanism proposed by the Company in its Application with the following conditions and provisions:

a. Any differences between Schedules 1 and 7 class revenue requirements and the corresponding fixed cost per customer approved by the Commission in Case No. IPC-E-05-28 (2005 general rate case) must be reconciled with the fixed cost per customer and fixed cost per energy utilized in the approved FCA mechanism.

b. To determine the actual number of customers determined by class on a monthly basis, the Company will utilize the same customer count methodology used in the Company's 2005 rate case filing.

c. The methodology used to weather-normalize actual monthly energy used in the FCA will be the same weather normalization methodology used in the Company's filing in the 2005 rate case.

d. The FCA mechanism will be implemented on a pilot basis for a three-year period beginning January 1, 2007 and running through December 31, 2009 plus any carryover. The first rate adjustment will occur June 1, 2008, coincident with the 2008-2009 PCA and subsequent rate adjustment will occur on June 1 of each year during the term of the pilot.

e. Calculation of the monthly FCA deferral will be recorded as a separate line item in the monthly PCA report provided to the Commission. The Commission-approved FCA adjustment will be combined with the Conservation Program Funding Charge for purposes of customer bill presentation. There will be no separate line item for the FCA on customers' billing statements.

f. The Company will file its FCA adjustment request on March 15th of each year. Staff's audit of the FCA adjustment request will include review of deferral balances, comparison of actual energy savings to DSM energy savings estimates as normally provided in the DSM Annual Report and load growth forecasts and verification of the resulting FCA adjustment.

g. Either Staff or the Company can request the Commission to authorize discontinuance of the pilot program during the three-year period. Requests to discontinue the pilot program, with supporting justification, must be filed with the Commission during the March 15 to June 1 review period.

The Company agrees to provide with its annual March 15 filing a detailed summary of energy efficiency and demand-side management (DSM) activities that demonstrate an enhanced commitment resulting from implementation of the FCA mechanism and removal of the financial disincentive to energy efficiency and DSM. Evidence of enhanced commitment will include, but not be limited to, a broad availability of efficiency and load management programs, building code improvement activity, pursuit of appliance code standards, expansion of DSM programs, pursuit of energy savings programs beyond peak shaving/load shifting programs and third party verification. As part of this commitment, the Company's 2008 Integrated Resource Plan will include an evaluation of the costs and potential for energy savings that would occur if the appliance and equipment efficiency standards adopted by the State of Oregon were applicable in the State of Idaho. In addition, the Company makes the following specific commitments in regard to building code improvements and enforcement of such standards:

a. The Company will promote the adoption of energy codes to achieve improved levels of efficiency in new commercial and residential construction and appliance standards in Idaho consistent with the Model Conservation Standards released by the Northwest Power and

Conservation Council or that exceed the 2003 IECC and ASHRAE 90.1 codes.

b. As part of its enhanced commitment to DSM described above, the Company will promote and support appropriate energy code training programs and advocate the enforcement of energy codes. Idaho Power will identify ways to support energy code implementation and enforcement in all jurisdictions in Idaho Power's service territory.

The parties to the Stipulation agree that the Stipulation represents a compromise of the positions of the parties of the case. The Stipulation is supported by the filed testimony of the Stipulation parties. Those testimonies can be summarized as follows:

*Idaho Power – Testimony of John R. (Ric) Gale*

In supplemental testimony, Ric Gale notes the previously filed supporting testimony of himself, Ralph Cavanagh and Michael Youngblood in support of a Fixed Cost Adjustment (FCA) rate mechanism.

Gale notes that in his previously filed testimony, Company witness Cavanagh advocated for a pilot energy efficiency program that might contain incentive elements. In a separate filing, but related to this proceeding and its genesis, Gale states that the Company is proposing to implement a performance based incentive (and penalty) pilot for an energy efficiency program targeted to new residential construction. Reference Case No. IPC-E-06-32.

In support of the proposed FCA, Gale contends that if a utility recovers the material portion of its fixed costs through variable energy rates, it is not rational for the utility to embark on any programs or initiatives that reduce the amount of energy sold. The proposed FCA, he states, strikes a middle ground between sound business practice and energy efficiency. With approval of the proposed FCA, Gale contends that the utility becomes indifferent to increases or decreases in energy sales and the disincentive to promote programs and services that reduce energy consumption is eliminated.

Idaho Power proposes an incremental approach to introduction of a true-up mechanism by limiting the FCA to Schedules 1 and 7 in order to gain experience and to minimize exposure to potential unintended consequences. Schedules 1 (Residential) and 7 (Small General Service), it contends, are logical places to start in that these two customer classes present the most fixed cost exposure in percentage terms.

Two advantages of starting the accounting on January 1, 2007 are that numbers can tie directly to the numbers reported in the Company's general rate filings as opposed to split year reporting and that weather can be normalized on a calendar basis. Use of a June 1, 2008 date for changing rates allows ample time for the Company's books to close and for the FCA rate application to be filed, reviewed, and authorized. The June 1 date is especially desirable to the Company because it allows the Company to change customer rates once for the Power Cost Adjustment (PCA), the FCA and the summer season.

Idaho Power proposes a 3% cap on potential rate increases. The Commission at its discretion and judgment, however, it states, can impose the cap or let the rate change as calculated.

The FCA proposal, Idaho Power contends, provides an opportunity to conservatively test the concept of a true-up mechanism and the removal of a financial disincentive to energy efficiency activities. The FCA, it states, will make Idaho Power properly indifferent to choices between demand and supply side resources, creating an environment where load reduction activities can be pursued and balanced with Idaho Power's financial goals. The proposal incrementally addresses the customer classes that are the simplest to administer and that have the largest relative exposure to problems with fixed cost recovery. In addition, safeguards have been added to protect against the unintended consequences. The deferred aspect of the FCA, it states, is mirrored after another mechanism that has been successfully in effect since 1993, the Power Cost Adjustment mechanism. Finally, Idaho Power contends that the FCA is consistent with the National Action Plan for Energy Efficiency introduced last summer and endorsed by many entities including the National Association of Regulatory Utility Commissioners (NARUC) and the Edison Electric Institute. Company Exhibit No. 11.

Idaho Power believes that the Stipulation satisfies the criteria developed by the participants in the workshops. These criteria were:

1. Stakeholders are better off than they would be without the mechanism.
2. Cross-subsidies are minimized across customer classes.
3. Financial disincentives are removed.
4. The acquisition of all cost-effective DSM is optimized.
5. Rate stability is promoted.
6. The mechanism is simple.
7. Administrative costs and impacts of the mechanism are known, manageable, and not subject to unexpected fluctuation.
8. Short and long term effects to customers and Company are monitored.

9. Perverse incentives are avoided.
10. A close link between the mechanism and desired DSM outcomes is established.

*Commission Staff – Testimony of Randy Lobb*

Staff believes the filed Stipulation establishes a reasonable pilot mechanism to track the effects on fixed cost recovery of Company-provided energy efficiency and DSM programs and removes the perceived disincentive by reimbursing the Company for identified losses.

In exchange for removal of the disincentive, the three-year pilot requires measured improvement by the Company with respect to the size and availability of energy efficiency and DSM programs provided within its service territory. It also provides symmetry (surcharge/credit) when fixed cost recovery per customer varies above or below a Commission established base. Staff therefore supports the Stipulation.

Staff notes that the Parties to the underlying investigation agreed that disincentives did exist but were unable to agree that restoration of lost fixed revenues would result in additional or more effective investment in energy efficiency and DSM by Idaho Power. Nevertheless, Staff notes the parties agreed to a set of criteria that would be required for any FCA mechanism and agreed to conduct a simulation of a proposed fixed cost true-up mechanism to identify potential impacts.

As a result of the workshop process, simulation of mechanism impacts and significant additional analysis and evaluation of cost recovery between rate cases, Staff concluded that energy efficiency and DSM programs reduce fixed cost recovery over what otherwise would have occurred, creating a financial disincentive for the Company to implement such programs. To the extent these disincentives are a significant barrier to cost effective energy efficiency and DSM, Staff believes the barrier should be removed.

Staff further determined that the proposed mechanism is appropriately structured because it uses a Commission approved fixed cost recovery level and it provides symmetrical adjustment to fixed cost recovery above or below the Commission approved base. By agreeing to the mechanism as proposed in the Stipulation, Staff believes the Company has committed to embark on a significantly expanded level of energy efficiency and DSM to the benefit of all ratepayers. To the extent barriers perceived by the Company are removed, Staff expects a

renewed commitment to energy efficiency and DSM including support for building codes and appliance standards that otherwise would not have occurred.

Issues of concern to Staff in evaluating the FCA mechanism included the potential impact on customer rates, recovery of assumed fixed costs associated with new customers, recovery of lost fixed costs due to reasons other than Company DSM and energy efficiency programs and whether removal of disincentives through the FCA will result in measurable improvement in Company programs. Staff concluded that approval of the mechanism in pilot form will allow the Commission and other interested parties to evaluate Idaho Power's progress after removal of the disincentive. Staff concluded that for a Company with consistent customer growth such as Idaho Power, an overall per-customer comparison is more practical than trying to adjust for changes in consumption due to customer growth. Staff ultimately concluded that the potential improvement in accuracy did not justify the additional complexity required to remove the effect of non-DSM factors for purposes of the proposed pilot mechanism.

The Stipulation includes provisions for Staff to audit FCA results annually to compare actual savings as adjusted in the mechanism to DSM savings estimates. Staff will also compare actual new customer consumption to new customer load growth estimates as provided in the Company's Integrated Resource Plan (IRP). Both the Company and Staff have reserved the opportunity to request that the mechanism be discontinued if it fails to perform as intended.

As reflected in the prefiled testimony of Company witness Youngblood in this case, the anticipated impact of the proposed mechanism on customer bills, Staff states, was evaluated by simulating the FCA true-up mechanism over the period 1994 through 2004. The Company's evaluation of the simulation showed that the mechanism could result in both customer credits and surcharges ranging from an annual reduction of less than 1% to an increase of almost 4%. The proposed mechanism includes a 3% cap on annual increases with carryover of unrecovered deferred costs to subsequent years.

Staff has evaluated the simulation methodology and has concerns about the validity of the results. Staff also recognizes that the results are highly dependent upon many variables including relative success of Company energy efficiency and DSM programs, new customer energy consumption and the timing of Company general rate cases. That is why Staff insisted upon a three-year pilot program with annual audits to evaluate the impact of the mechanism as a condition of agreeing to the Stipulation.

Staff notes to the extent energy efficiency and DSM programs are significantly expanded, it is likely that the Company will request an increase in the conservation program funding charge to recover additional program costs. The ultimate effect on individual customer bills will depend on the availability of energy efficiency and DSM programs and the level of customer participation in those programs.

Staff supports the FCA mechanism agreed to in the Stipulation because it has the potential to deliver cost-effective DSM and energy efficiency that otherwise might not occur. The pilot nature of the mechanism, the required commitment of the Company to expand its programs and the opportunity for annual audit with off-ramps to modify or terminate the mechanism all reflect uncertainty regarding the mechanism's actual impact and an appropriately cautious approach to implementation.

*NW Energy Coalition – Testimony of Steven D. Weiss*

By way of background, Steven Weiss notes that the Coalition was an intervenor in Idaho Power Company's 2003-04 general rate case (IPC-E-03-13). In that case, Ralph Cavanagh presented testimony for the Coalition urging the adoption of a fixed-cost adjustment mechanism to better align the interests of Idaho Power's customers and shareholders. Mr. Cavanagh also recommended an exploration of performance incentives to encourage strong performance in demand-side management (DSM) by Idaho Power Company. Pursuant to Commission Order in that case, the Coalition filed a Petition initiating this docket.

The existing regulatory paradigm, the Coalition contends, places the utility's interest (to increase sales) in conflict with the customer's interest (to reduce their total energy cost). Not only does this foster a corporate culture that opposes direct utility investments in programs that reduce energy use, but the Coalition contends that it further motivates the utility to discourage customer-financed reduction measures and to oppose efforts to tighten building codes and appliance standards.

The Coalition believes that decoupling results in a better alignment of shareholder, management and customer interests to provide for more economically and environmentally efficient resource decisions. Decoupling, it states, is essential to establishing a corporate culture that promotes strong cost-effective conservation investments.

While decoupling removes the Company's disincentive to encourage energy conservation, the Coalition contends that it does not provide a positive incentive to acquire cost-

effective conservation. Decoupling, it states, is only intended to make the utility indifferent to changes in energy usage. The Coalition conditions its support on strong, incremental conservation commitments. The Stipulation provides for thorough reviews of the Company's conservation activities and includes safeguards to ensure no unintended consequences result from decoupling. These commitments, coupled with the Company's increased portfolio of DSM programs as reflected in its 2006 Integrated Resource Plan, provide the Coalition with ample assurance that decoupling will create tangible, positive results. The Commission additionally will have an opportunity to review the Company's performance annually, as well as at the end of the three-year pilot program. The Coalition recommends that the Commission approve the Stipulation.

On January 4, 2007, the Commission issued a Notice of Settlement Stipulation and Modified Procedure in Case No. IPC-E-04-15 and established a comment deadline of January 31, 2007. Comments opposing the Stipulation and Joint Motion were filed by the Idaho Community Action Network (ICAN) and a utility customer. No reply comments were filed. The Commission Staff filed comments adopting its previously filed testimony in support of the Stipulation.

*Public Comments*

The customer filing comments summarizes the Company's two filings in Case Nos. IPC-E-04-15 and IPC-E-06-32 (DSM Incentive Pilot Program). One, he states, would allow an annual increase to customers' electric rates if Company investments in energy efficiency programs increase Company costs. The other, he states, would give the Company financial incentives for meeting performance levels in a program to encourage energy-efficient home construction.

As the customer recalls, the most recent rate increase allowed to Idaho Power was justified by an increase in demand for electricity. Now, as he understands it, Idaho Power is seeking a rate increase if demand is decreased by conservation or efficiency measures. He concludes that ratepayers are being asked to pay more either way.

*Idaho Community Action Network Comments*

The Idaho Community Action Network (ICAN) opposes approval of the Stipulation and the proposed Fixed Cost Adjustment mechanism. Decoupling, it states, is contrary to the

interest of Idaho Power's customers, favoring instead the utility and its shareholders. ICAN contends that the general public is completely unaware of the significant change in the way rates will be set in the future and recommends that the Commission hold public hearings before considering the Stipulation.

Contrary to the Commission's long-standing approach to ratemaking, where all revenues and expenses are on the table, ICAN states the Stipulation will authorize the Company to receive additional revenue through a decoupling mechanism without any proof of need. What makes this scheme patently unfair, unjust and unreasonable, it contends, is that it ignores the economic conditions of the utility at the time the surcharge is incurred or imposed.

In its evaluation of the Stipulation, ICAN recommends that the Commission seek answers to at least the following questions:

1. What is the actual amount of revenue lost due to Idaho Power's own energy efficiency efforts and the significance of the financial impact on the Company?

2. What proportion of declining customer use is attributable to Company conservation efforts, as compared to other causes not related to Company actions (e.g., better housing codes, appliance standards, price elasticity)?

3. What is Idaho Power's track record on energy efficiency?

4. Are there reasons why Idaho Power has pursued energy efficiency without a decoupling mechanism and can it be expected to do so in the future?

5. What specific additional energy efficiency programs will Idaho Power customers see if decoupling is adopted (separate from the program proposed in IPC-E-06-32)?

6. Are customers compensated for their increased risk and the reduction of risk to shareholders (i.e., is the shift reflected in a downward adjustment to the Company's return on equity)?

7. Are there alternatives to decoupling?

ICAN in its comments proposes some answers to the questions it poses.

Should the Commission approve the proposed decoupling mechanism, ICAN recommends that the Commission take steps to limit the potential liability of consumers and to ensure that the project accomplishes what it is intended to accomplish and to such end recommends the following:

- Establish a mandatory 3% revenue cap on the Fixed Cost Adjustment.
- Create a separate line item for the FCA on billing statements to increase transparency and public education about the program.
- Establish a clear conservation plan with real accountability.

The Stipulation, ICAN contends, does not outline clear conservation goals or accountability measures. The Company commitment it describes, ICAN contends, is extraordinarily vague; it will "support" and "promote" changes in housing codes, but has no authority to ensure that those changes occur. There are no set conservation targets or benchmarks. ICAN recommends that the Commission require Idaho Power to commission a third party to perform a conservation study; develop a conservation plan with targets and benchmarks; create an advisory group to review the conservation study and plan; issue requests for proposals to implement the plan; and demonstrate to the Commission within a year of approval of the pilot program that it will meet the plan's targets. The plan, ICAN contends, should include increased levels of low-income weatherization assistance to mitigate the impact of the FCA on low-income customers. If Idaho Power fails to meet these deadlines, ICAN recommends that the Commission terminate the pilot program.

- Extension of the decoupling program.

ICAN reports that the Washington UTC recently ordered that a decoupling mechanism in a natural gas case "may only be extended as part of a general rate case, and only after a thorough evaluation of the mechanism performed by an independent consultant." ICAN recommends that the Commission make extension of the decoupling and other pilot programs conditional on a general rate case to allow the revenue distortions caused by the FCA to be evaluated and eliminated. ICAN recommends that a third-party evaluation also be required.

- Return on equity.

ICAN recommends that the Commission reduce Idaho Power's return on equity by at least 50 basis points. Otherwise, it states, shareholders are doubly benefiting from stable revenue and a lower cost of capital at the expense of customers.

- Use of 2005 numbers for setting recovery benchmarks.

ICAN contends that the real solution is to evaluate the utility on its overall revenue instead of simply per-customer usage. However, absent that, in order to avoid the growing gap caused by using Idaho Power's 2005 general rate case established aggregated residential

customer revenue and subtracting the 2005 general rate case aggregated residential customer usage, ICAN recommends that the revenue be based on actual income for residential customers and then offset by the 2005 per customer usage.

***Commission Findings***

The Commission has reviewed and considered the filings of record in Case No. IPC-E-04-15 including the Company's Fixed Cost Adjustment (FCA) filing and supporting testimony and the proposed Stipulation conditions and provisions and supporting testimony. We have also reviewed the filed comments and recommendations of ICAN and the Company's customer.

The proposed FCA is a three-year pilot program that will be applicable to Residential Service (Schedules 1, 4 and 5) and Small General Service (Schedule 7) customers. These two classes present the most fixed cost exposure for the Company. The FCA is designed to provide symmetry (surcharge/credit) when fixed cost recovery per customer varies above or below a Commission established base. The FCA mechanism also incorporates a 3% cap on annual increases with carryover of unrecovered deferred costs to subsequent years. Pursuant to the Stipulation, the first rate adjustment will occur June 1, 2008 coincident with the 2008-2009 PCA and subsequent rate adjustments will occur on June 1 of each year during the term of the pilot. The program envisions close review and monitoring by Staff and interested parties with reporting requirements and opportunities for discovery and comment. Either Staff or the Company can request the Commission to authorize a discontinuance of the pilot program during the three-year period.

Promotion of cost-effective energy efficiency and demand-side management (DSM), we find, is an integral part of least-cost electric service. This case was opened to identify financial disincentives to Idaho Power's investment in energy efficiency. The Company-proposed FCA mechanism removes a Company-identified financial disincentive to energy efficiency and DSM investment and is designed to reduce on a per-customer basis the utility's dependence on revenue from stable kilowatt-hour sales. The FCA methodology is a departure from traditional ratemaking and merits a cautious approach to implementation. The annual FCA true-up mechanism assures a more stable utility recovery of fixed costs that are now recovered in the energy rate component of residential and small general service customers.

Making the Company indifferent to reduced energy consumption and demand is but one half of the quid pro quo agreed to by the stipulating parties. In return for the FCA, the

Company is expected to demonstrate an enhanced commitment to energy efficiency and DSM. Evidence of enhanced commitment will include, but not be limited to, measures identified in Stipulation paragraph 8, measures including efforts to improve and enforce state building codes and appliance efficiency standards, as well as expansions and improvements to its load efficiency, load management and DSM programs.

Determining whether the FCA will operate as envisioned will require close monitoring. It remains to be seen whether sufficient performance metrics can be developed to accurately measure the extent and effectiveness of Idaho Power's efforts. This uncertainty is a good reason to adopt it now only as a pilot. A pilot will enable program corrections or cessation if it is unsuccessful or if unintended consequences develop.

The Stipulation and proposed decoupling mechanism is opposed by the Idaho Community Action Network (ICAN) and a customer of Idaho Power. The Company's customer concludes that he is being asked to pay for both kilowatt-hour increases and decreases. His position is understandable. We note by way of explanation that there are two dynamics in play. First, increases in load (new customers and increased consumption by existing customers) require additional resources, often at additional and higher cost. Second, because under traditional ratemaking a portion of the Company's fixed costs are allocated to the energy component of rates, decreases in customer usage affects the Company's ability to recover its fixed costs. To the extent energy efficiency and DSM programs are effective in reducing total load, the Company's overall costs of supply and thus the cost to customers will be less than it would otherwise be if the Company was required to meet new load growth with new supply-side resources. To the extent a customer is able to reduce his energy consumption through participation in Company energy efficiency and DSM programs or individual energy saving measures, he of course reduces his out-of-pocket cost below what it otherwise would have been.

ICAN requests that the Commission hold a public hearing prior to any consideration of the Stipulation and FCA mechanism. The Commission has reviewed the filings of record in this case including the Final Report on workshop proceedings. Parties participating in the workshops were Idaho Power, Commission Staff, the NW Energy Coalition, the Industrial Customers of Idaho Power and the Community Action Partnership of Idaho. ICAN was not a participant. The Commission finds that the concerns raised by ICAN are many of the same concerns raised by workshop participants and Settlement parties. We find most of its

recommendations to be issues that will be considered in our assessment of the continuing viability of the pilot program. The recommended return on equity adjustment, however, is a general rate case issue and can be addressed in the Company's next rate case. The Commission encourages ICAN to participate in future opportunities for review, monitoring, discovery and comment. We decline to hold a hearing at this time, but retain that option for review of the FCA.

The Commission continues to find it reasonable to process this case pursuant to Modified Procedure, i.e., by written submission rather than by hearing. IDAPA 31.01.01.204. We further find it reasonable to approve the three-year Fixed Cost Adjustment pilot and Stipulation conditions and provisions.

**Petition for Intervenor Funding**

On December 26, 2006, a Petition for Intervenor Funding was filed by the NW Energy Coalition. Reference *Idaho Code* § 61-617A; IDAPA 31.01.01.161-165. The Coalition requests $8,342.10.

*Idaho Code* § 61-617A and Rules 161-165 of the Commission's Rules of Procedure provide the framework for awards of intervenor funding. Section 61-617A(1) declares that it is the "policy of this state to encourage participation at all stages of all proceedings before the Commission so that all affected customers receive full and fair representation in those proceedings." Accordingly, the Commission may order any regulated utility with intrastate annual revenues exceeding $3,500,000 to pay all or a portion of the costs of one or more parties for legal fees, witness fees and reproduction costs, not to exceed a total for all intervening parties combined of $40,000.

Rule 162 of the Commission's Rules of Procedure provides the form and content requirements of a petition for intervenor funding. The petition must contain: (1) an itemized list of expenses broken down into categories; (2) a statement of the intervenor's proposed finding or recommendation; (3) a statement showing that the cost the intervenor wishes to recover are reasonable; (4) a statement explaining why the costs constitute a significant financial hardship for the intervenor; (5) a statement showing how the intervenor's proposed finding or recommendation differed materially from the testimony and exhibits of the Commission Staff; (6) a statement showing how the intervenor's recommendation or position addressed issues of concern to the general body of utility users or customers; and (7) a statement showing the class of customer on whose behalf the intervenor appeared.

Pursuant to *Idaho Code* § 61-617A and the Commission's Rules of Procedure 161-165, NW Energy Coalition applies for intervenor funding in the amount of $8,342.10. The Coalition's Application is supported by points and authority. The itemized list of expenses is comprised of $8,090 in attorney fees, $224.60 for airfare and $27.50 for ground transport. Costs related to time expended by Coalition employees Nancy Hirsch, Ken Miller, and Steven Weiss for participating in and preparing workshops (and for Mr. Weiss) in preparing his testimony and working with counsel were not included in the Coalition's Application. In addition, the Coalition notes that it incurred other minor copying, postal and telecommunication expenses that are also not included in its Application. The Coalition contends that its recommendations and positions focused on matters which impact all utility customers and that the Coalition most directly represents the interests of residential and small commercial customers.

***Commission Findings***

Submitted for Commission consideration is a Petition for Intervenor Funding filed by the NW Energy Coalition. Reference *Idaho Code* § 61-617A; IDAPA 31.01.01.161-165. The Coalition requests $8,342.10. We find that the Petition for Intervenor Funding in this case was timely filed and satisfies the "procedural" requirements set forth in Rules 161-165 of the Commission's Rules of Procedure.

*Idaho Code* § 61-617A includes a statement of policy to encourage participation by intervenors in Commission proceedings. The Commission determines an award for intervenor funding based on the following considerations:

a. A finding that the participation of the intervenor has materially contributed to the decision rendered by the Commission;

b. A finding that the costs of intervention are reasonable in amount and would be a significant financial hardship for the intervenor;

c. The recommendation made by the intervenor differed materially from the testimony and exhibits of the Commission Staff; and

d. The testimony and participation of the intervenor addressed issues of concern to the general body of users or consumers.

We find that the Petition of the NW Energy Coalition satisfies the findings that we are required to make to justify an award. The NW Energy Coalition was principally responsible for initiating this inquiry. Its participation materially contributed to the outcome. This particular case was

resolved by way of Settlement, compromise of positions and not litigation. We find that the Petition satisfies the substantive requirements of Commission Rule of Procedure 165. We find it fair, just and reasonable to award the total request of NW Energy Coalition in the amount of $8,342.10 and find that the public interest and the interests of residential and small general service customers are well served by such award. We further find that the Coalition was professional and economical in the marshalling of its time and efforts and that failure to grant its request for funding would be a significant financial hardship for the Coalition.

## CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over this matter and over Idaho Power, an electric utility, pursuant to the jurisdiction granted under Title 61 of the Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

## ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby approve the December 1, 2006 Stipulation and the proposed three-year pilot program Fixed Cost Adjustment (FCA) mechanism for Residential Service (Schedule 1, Schedule 4, and Schedule 5) and Small General Service (Schedule 7) customers.

IT IS FURTHER ORDERED that the NW Energy Coalition's Petition for Intervenor Funding is granted in the amount of $8,342.10. Reference *Idaho Code* § 61-617A. Idaho Power is directed to pay said amount to Advocates for the West, counsel for NW Energy Coalition, within 28 days from the date of this Order. Idaho Power shall include the cost of this award of intervenor funding to the Coalition as an expense to be recovered in the Company's next general rate case proceeding from the Residential (Schedules 1, 4 and 5) and Small General Service (Schedule 7) customer classes.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 12th day of March 2007.

PAUL KJELLANDER, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

MACK A. REDFORD, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

bls/O:IPC-E-04-15_sw2