

WELDON B. STUTZMAN  
DEPUTY ATTORNEY GENERAL  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074  
(208) 334-0318  
IDAHO BAR NO. 3283

RECEIVED  
FILED  
2005 FEB -9 PM 2: 06  
IDAHO PUBLIC  
UTILITIES COMMISSION

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

Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE APPLICATION OF )  
IDAHO POWER COMPANY FOR AN ) CASE NO. IPC-E-04-30  
ACCOUNTING ORDER REGARDING THE )  
TREATMENT OF THE SHOSHONE-BANNOCK )  
TRANSMISSION RIGHT-OF-WAY EASEMENT ) COMMENTS OF THE  
GRANT. ) COMMISSION STAFF

---

**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 Application and Notice of Modified Procedure issued in Order No. 29689 on January 19, 2005, submits the following comments.

**BACKGROUND**

On December 27, 2004, Idaho Power Company filed an Application for an accounting Order authorizing the Company to amortize the cost of the Shoshone-Bannock Tribe (Tribe) Transmission Right-of-Way Easement Grant. The accounting order would allow the Company to amortize the cost of a newly negotiated easement across tribal property. The term of the easement extends through December 31, 2027, but also covers the period between 1996 to the present. The total amount of the negotiated easement grant is \$7,490,000, most of which will be paid in three annual installments.

The new Easement Grant results from negotiations that began in 1996 to renew four right-of-way easements for five transmission lines that cross the Fort Hall reservation near Pocatello, Idaho. The total amount of the Easement Grant payments is \$7,490,000, representing \$7,145,000 in total cash payments and \$345,000 in college scholarship payments over the 23-year life of the easements. Idaho Power requests confirmation from the Commission that the net amount of the Easement Grant may be booked and amortized through 2027 with the expenses recoverable in future rates.

## **STAFF ANALYSIS**

### **Accounting Methodology**

The Company is proposing to book this particular easement to a unique sub account in FERC Plant Account #302 – Franchises and Consents. Transmission right-of-ways are usually booked to FERC Plant Account #350 – Transmission Plant, Land & Land Rights. The Company maintains that this Easement Grant is different because the easement is for the contract time period. The Company states there is a precedent for this type of separate accounting treatment because it currently has another right-of-way agreement with the Tribe that is being accounted for in a similar fashion.

Staff acknowledges that using the same accounting for similar easements is reasonable. Staff supports the proposed accounting treatment where the Company capitalizes the easement grant to a unique sub account in FERC Plant Account #302.

### **Cost of the Shoshone-Bannock Easement Grant**

The Company has agreed to pay the Tribe a cash payment of \$7,145,000 and scholarship payments of \$15,000 per year totaling \$345,000 through the end of the agreement. Staff has reviewed this compensation package. When negotiations began, both the Tribe and the Company valued the easements in substantially different ways. The Company took an asset approach, looking at what the real estate is worth. The Company's standard approach is to value the easement at 50% of the land value. Idaho Power obtained an independent appraisal of the easements in connection with its applications to renew the easements. The appraisal was based on standard land valuation principles, in this case the value of the dry grazing land. The

Company received an appraisal for the four easements of \$448,030. The Tribe, on the other hand, used a market approach. The Tribe based its valuation on the easements using an opportunity cost valuation of \$19 million. The opportunity cost is calculated by determining what the cost would be to the Company to circumvent the reservation.

The Company made several offers and counter-offers to the Tribe. For example, in April of 2001 the Company made an offer for \$4.2 million for a 25-year easement. Another offer was made for \$6.1 million for a 20-year right of way, and yet another offer of \$7.1 million for a 25-year right of way. The Tribe ultimately accepted the negotiated offer in October of 2004 that would pay \$7.1 million over 3 years for a 23-year right-of-way.

This approach by the Tribe is similar to the market approach used when evaluating other amounts paid for similar items. For instance, the Fort Peck Tribe in Montana recently approved a 50-year agreement with Northern Border Pipeline for a natural gas pipeline. Under the agreement, the pipeline company will pay \$7.4 million in back taxes to the tribe, which extends an existing 25-year contract set to expire in 2011. The pipeline company also agreed to pay \$1.55 million in annual taxes to continue piping gas across the reservation.

According to Idaho Power Company, other companies that have challenged the tribes and have pursued legal avenues to renew their easements on the reservations have ending up paying higher compensation than would be paid for similar easements off the reservation. In light of this, Staff is comfortable with the efforts of the Company to obtain the easements across the Shoshone-Bannock Reservation at the lowest cost.

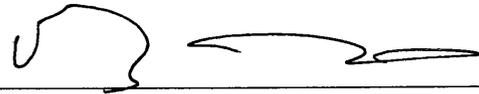
## **RECOMMENDATIONS**

Staff recommends that the Company be authorized to amortize the expenses associated with the Shoshone-Bannock Easement Grant as requested. No increase in rates is requested with this filing. In the next general rate case, the Company plans to include the unamortized plant in the rate base and the annual amortization in expense when determining its revenue requirement.

Respectfully submitted this

*WBS*

day of February 2005.



---

Weldon B. Stutzman  
Deputy Attorney General

Technical Staff: Kathy Stockton

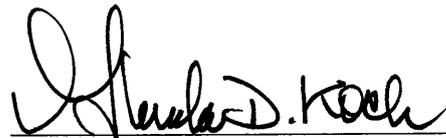
i:umisc:comments/ipce04.30wsdes

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 9<sup>TH</sup> DAY OF FEBRUARY 2005, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-04-30, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

PATRICK A. HARRINGTON  
IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707-0070

JEANNETTE C. BOWMAN  
SR. ANALYST  
IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707-0070

  
\_\_\_\_\_  
SECRETARY