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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF
IDAHO POWER COMPANY FOR AUTHORITY
TO INCREASE ITS RATES AND CHARGES
FOR ELECTRIC SERVICE DUE TO THE
INCLUSION OF THE BENNETT MOUNTAIN
PLANT INVESTMENT IN ITS RATE BASE.**

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) **CASE NO. IPC-E-05-10**
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) **COMMENTS OF THE**
) **COMMISSION STAFF**
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COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Donald L. Howell, II, Deputy Attorney General, and responds to the Notice of Application and Notice of Modified Procedure issued on April 1, 2005.

BACKGROUND

On March 2, 2005, Idaho Power Company (Idaho Power; Company) filed the present Application to recover its capital investment in the new Bennett Mountain generating facility located in Mountain Home, Idaho. More specifically, the Company seeks to rate base \$58,022,983 attributable to the cost of constructing the generating plant and the necessary transmission and interconnection facilities. Idaho Power initially calculated that the addition to rate base will result in an increase to its annual revenue requirement of \$13,482,146.

On March 22, 2005, Idaho Power filed an Amended Application. The Company noted that it had used an incorrect "federal and state income tax rate" that overstated the proposed

increase in the Company's annual revenue requirement. Using the correct federal and state income tax rate of 39.1 percent approved by the Commission in rate case Order No. 29601, the Company requested a revenue requirement of \$9,402,996. Amended Application at 5. To recover this lower amount, the Company proposed to increase its base rates by approximately 1.84 percent. *Id.* at 5- Revised Attch. 4. The Company requests the proposed increase to its base rates become effective June 1, 2005, which would coincide with any rate change caused by the annual Power Cost Adjustment (PCA) mechanism.

COMMENTS

Bennett Mountain CPCN, Case No. IPC-E-03-12

In January 2004, the Commission issued Order No. 29410 approving Idaho Power's Application for a Certificate of Public Convenience and Necessity (CPCN) to construct and operate the Bennett Mountain Power Plant. Bennett Mountain is a 162 MW natural gas-fired, simple-cycle power plant. The plant was constructed by Mountain View Power, Inc. Williams Northwest Pipeline will provide the natural gas necessary to fuel the plant. Mountain View also constructed the natural gas pipeline essential to interconnect with Williams.

In its Application for authority to construct the Bennett Mountain plant, Idaho Power provided the Commission with a "Commitment Estimate" of the project's total capital costs. The Commitment Estimate for the project was \$54 million, which included the firm bid price of the project (\$44.6 million) plus additional costs such as sales taxes, AFUDC, oversight and change orders. Order No. 29410 at 4. The Commitment Estimate did not include the cost of constructing or upgrading transmission facilities necessary to connect Bennett Mountain with the Company's existing transmission system, any legally required equipment changes, and material changes in assumed escalation forecast rates. *Id.* at 16.

At the time, Idaho Power estimated that the interconnection and/or transmission upgrades for the plant would cost between \$5 and \$11.6 million. Reasonable and prudent fuel costs for the Bennett Mountain Plant were to be recovered through the PCA mechanism. *Id.*

In Order No. 29410 issued January 2, 2004, the Commission authorized Idaho Power to build the plant, to recover in the ordinary course of events the base price of \$44.6 million, and to recover reasonable expenses in excess of the base price up to the Commitment Estimate. The recovery of costs above the base price was to be reviewed in a subsequent case, i.e., the present case. Order No. 29410 at 15-16.

Review of Project Costs

Staff has reviewed the project costs and compared them to the costs that were estimated at the time the Certificate of Convenience and Necessity was granted. The following table compares the estimated project costs to the final project costs.

Table 1: Comparison of Estimated and Final Bennett Mountain Project Costs

Description	Estimated Costs	Final Project Costs
Contract Price	44,600,000	44,600,000
AFUDC, sales taxes, IPCo oversight, start-up fuel, all change orders	9,400,000	5,596,872
Total Plant Cost	\$ 54,000,000	\$ 50,196,872
Transmission & Interconnection	5.5 - 11.6 million	7,846,074
Total Project Cost	\$59.5 - \$65.6 million	\$ 58,042,946

As shown in the table, the \$50,196,872 final costs of the plant, not including transmission and interconnection, was less than the \$54 million Commitment Estimate approved by the Commission in Order No. 29410. The final transmission and interconnection cost to integrate the plant into Idaho Power's transmission system was \$7,846,074. This cost falls within the \$5.5 - \$11.6 million range estimated previously by Idaho Power. The overall cost of the project of \$58,042,946 came in below the bottom of the estimated range of total project costs.

Audit and Revenue Requirement

To establish costs associated with the construction, transmission and interconnection facilities attributed to Bennett Mountain, Staff performed a detailed analysis of the Company's present Application and workpapers. The analysis included a comprehensive project specific desk audit outlining Bennett Mountain actual and estimated transmission and plant expenditures. The two key contractors on the plant project were TR2, and Siemens Westinghouse Power Corporation. Combined, these two contracts totaled more than 75 percent of the overall power plant costs. On the transmission and communication side of the project, the major contractors were Par Electrical, Thomas & Betts, Paradise Excavation, and Mountain View Power Inc.

To analyze the difference between the contract amounts and the actual amounts, Staff reviewed all change orders to identify the prudence of these transactions. In addition to the change orders, Staff reviewed all major vendor invoices, contracts and financial transactions of the project to insure reasonableness and accuracy. Some of the most prominent change orders were related to delay issues, environmental impacts, relay protection on transformers, gas

pressure losses and the need for additional concrete for retaining walls at the plant. Other than the single change order discussed below, all change orders seem reasonable and prudent.

In addition to the comprehensive project specific desk audit, Staff conducted a physical on-site examination of the Bennett Mountain plant, the new Rattlesnake switching station and the Rattlesnake Butte microwave radio station. The on-site examination included a detailed review of the major components of the plant, a comparison of the contracts with the equipment installed and an overview of the plant operations. In addition, Staff verified all capitalized spare parts that were held in reserve. All parts were reconciled with purchase orders provided by Idaho Power.

Using updated actual costs through March 2005 and projected costs for April 2005 provided by Idaho Power, Staff compiled the following chart showing items purchased and related costs. These costs are comprised of plant construction costs as well as transmission and interconnection costs associated with the project. When comparing Idaho Power's original requested amount of \$58,022,983 to the Company's updated expenses of \$58,042,946 there is a variance of \$19,936. Staff believes that this variance is due to the nature of the April projections and does not seem out of the ordinary given the detail and nature of the costs.

Table 2: Bennett Mountain Project Costs

Description	Total Costs Through March Including Projections for April (excluding AFUDC & Overheads)	Total AFUDC Through March Including Projections for April	Total Overheads through March Including Projections for April	Final Project Costs through March including Projections for April
Bennett Mountain Power Plant Construction	46,751,849	-	1,910,733	48,662,582
Capitalized Spare Parts 2004 Bennett Mountain	1,534,290	-	-	1,534,290
Subtotal Plant Costs	48,286,139		1,910,733	50,196,872
BMPR0301 Bennett Mountain Power Plant	1,915,563	255,931	38,778	2,210,272
Bennett Mountain to Rattlesnake Line	1,582,302	21,238	26,062	1,629,601
Line 716 Right of Way	97,765	-	-	97,765
New Rattlesnake Switching Station	1,929,006	288,097	46,826	2,263,929
Rattlesnake Property Purchase	106,517	-	-	106,517
Rattlesnake to Line 906, In/Out	619,613	1,789	10,240	631,642
Reconductor Line 906 at Boise	77,150	6,173	942	84,264
Line 906 In/Out Right of Way	25,064	-	-	25,064
Make Ready Work for Fiber Install	44,170	7,948	323	52,441
Distribution and Local Service	72,439	10,291	807	83,537
Fiber From Rattlesnake to Bennett Mountain	19,680	3,200	760	23,640
Upgrade Communications From Bennett Mountain	548,367	79,996	9,039	637,402
Subtotal Transmission & Interconnection Costs	7,037,635	674,663	133,776	7,846,074
Total Project Costs	55,323,775	674,663	2,044,508	58,042,946

The \$58,042,946 shown in Table 2 as total project costs will be rate based as plant in service. The net rate base will also reflect the deductions for accumulated depreciation and deferred income taxes associated with this plant. This net rate base figure will be \$52.7 million if the Commission accepts the proposed Staff adjustment discussed below.

Staff notes that under the construction contract between Mountain View Power and Idaho Power, a letter of "Final Acceptance" was required when Idaho Power was satisfied that the plant meets all contract specifications and is ready to generate power commercially. The Company sent that letter on April 1, 2005 when the construction was essentially complete. Control and operation of the plant has been transferred to Idaho Power. The plant is now available for serving Idaho ratepayers. Staff has reviewed the letter of acceptance and agrees that Idaho Power appropriately accepted the plant and that the costs should be transferred to the Company's books.

Costs Associated with the Delay Change Order

Staff opposes only one change order associated with completion of the project. Because of Idaho Power's delay in issuing the full "Notice to Proceed" to Mountain View by December 31, 2003, Idaho Power paid Mountain View an additional amount of \$71,875. Section 10.1 of Idaho Power's contract with Mountain View dated November 6, 2003 provided that if the Commission issued a Certificate of Convenience and Necessity between January 1, 2004 and January 31, 2004, Idaho Power would pay a penalty of not more than \$100,000 as a result of the delay. Staff Attachment No. 1. Idaho Power issued a "partial" Notice to Proceed to Mountain View on about January 15, 2004 and a "full" Notice to Proceed on January 24, 2004. Therefore, Change Order No. 1 was executed containing a prorated penalty of \$71,875. Staff Attachment No. 2.

Staff believes that this delay penalty is Idaho Power's responsibility and should not be passed on to ratepayers. The potential for the penalty was known in advance by Idaho Power because it was contained in the contract between Idaho Power and Mountain View. In its September 26 Application the Company requested expedited treatment and that the Commission issue an Order no later than December 31, 2003. During the Commission's October 7, 2003 decision meeting, the Company's request for an expedited schedule was discussed. The Commission expressed some concern about the expedited, fast track schedule. Two Commissioners noted "that if Idaho Power has determined it needs the resource, then it had

better go forward and not wait around for the Commission's preapproval to give it further assurance of how it will be treated later on." Staff Attachment No. 3 (Minutes of Decision Meeting, October 7, 2003). Nevertheless, an extremely compressed schedule was adopted in an attempt to accommodate the Company's request for expedited treatment.

A chronology of the case is set out below. Events above the solid black line occurred prior to the filing of the Company's Application; events below the line occurred after the filing of the Application.

Table 3: Chronology of Case No. IPC-E-02-12, Bennett Mountain CPC

24-Feb-2003	RFP Issued
28-Apr-2003	Bids Received by Idaho Power
29-Apr-2003	Idaho Power Began Initial Screening of Bids
May-2003	Short List Developed
June-2003	Meetings with Bidders
12-Sep-2003	Final Modifications to Two Top Bids Accepted
17-Sep-2003	Recommendation of Mountain View Power Proposal to IdaCorp Board of Directors
18-Sep-2003	Board of Directors Approved Mountain View Power
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26-Sep-2003	Application for Certificate of Public Convenience and Necessity Filed with the Commission
3-Oct-2003	Decision Memo Submitted by Staff
7-Oct-2003	Decision Meeting - Decision to Issue a Notice and Set Prehearing Conference
10-Oct-2003	First Production Request of the Commission Staff to Idaho Power (82 Requests)
22-Oct-2003	Prehearing Conference
27-Oct-2003	IPCo Response to Staff's First Production Request
30-Oct-2003	Notice of Modified Procedure Issued
7-Nov-2003	IPCo Further Response to Staff's First Production Request
8-Dec-2003	IPCo Supplemental Response to Staff's First Production Request
11-Dec-2003	IPCo Supplemental Response to Staff's First Production Request
15-Dec-2003	Staff Comments Filed (37 pps., 10 Attachments)
15-Dec-2003	Comments Received from Advocates for the West
17-Dec-2003	Reply Comments of Mountain View Power
18-Dec-2003	Reply Comments of Idaho Power
22-Dec-2003	Bennett Mountain Case on Decision Meeting Agenda
2-Jan-2004	Order No. 29410 issued Approving Certificate of Public Convenience and Necessity
8-Jan-2004	Certificate of Public Convenience and Necessity Issued
12-Jan-2004	Idaho Power Filed Petition for Clarification
24-Jan-2004	Notice to Proceed Issued by Idaho Power to Mountain View Power
26-Jan-2004	Order No. 29422 on Petition for Clarification

As shown by the case chronology above, Staff and the Commission worked extremely diligently to process the case quickly. From the time the Application was filed until the time a final order was issued, barely more than three months elapsed. Staff made 82 production requests in the case, receiving Idaho Power's last supplemental response just four days before it

filed very extensive comments on December 15, 2003. Three days later, Idaho Power filed reply comments. Merely two working days later, on December 22, 2003, the case was on the Commission's decision meeting agenda. Deliberation and preparation of an order was accomplished in six working days, mostly between the Christmas and New Years holidays. Despite Staff and the Commission's best efforts, Order No. 29410 approving the Certificate of Public Convenience and Necessity was not issued until Friday, January 2, 2004, the first working day following December 31, the deadline for Idaho Power to issue a Notice to Proceed. Issuance of the Certificate of Public Convenience and Necessity, which is simply a ministerial matter, followed on January 8, 2004. Idaho Power should have filed its Application earlier than September 26 to allow sufficient and ample time for Commission review. The delay in submitting the Notice to Proceed could have been avoided if Idaho Power filed its Application earlier.

There are two other reasons that support Staff's determination that the Change Order charge is neither reasonable nor prudent. First, Order No. 29410 issued January 2, 2004, authorized Idaho Power to construct the Bennett Mountain plant. The second ordering paragraph states "Idaho Power's Application seeking a Certificate of Public Convenience and Necessity to build the Bennett Mountain project is approved. Certificate No. 420 will be issued to Idaho Power." Order No. 29410 at 16. Thus, the Order authorizing the issuance of the Certificate is service dated January 2, 2004. However, the Company did not issue its full "Notice to Proceed" until January 24, 2004. Clearly ratepayers should not be held accountable for Idaho Power's delay in issuing the unconditional Notice to Proceed once the Commission issued its Order on January 2, 2004.

Second, ten days after the Commission issued its authorizing Order Idaho Power filed a Petition for Clarification/Reconsideration. Idaho Power's concern in its Petition for Clarification addressed the use of the word "may" in Commission Order No. 29410. In particular, Order No. 29410 stated that "in the ordinary course of events, Idaho Power may anticipate rate basing \$44.6 million..." Order No. 29410 at 11 (emphasis added).

Although the Staff recognizes Idaho Power's right to petition for a clarification, Idaho Power should have anticipated the possibility of a reconsideration or clarification period in its contract with Mountain View. According to the chronology set out above, there was approximately a three-month gap between June 2003 (meeting with bidders) and the date final bid modifications were due (September 12, 2003). There is no explanation why Idaho Power did

not require final bids before September 12. Clearly ratepayers should not be responsible for the Company's delay in issuing its Notice to Proceed.

In summary, Staff contends that responsibility for issuing the Notice to Proceed 23 days late rests with Idaho Power for the following reasons:

1. Staff and the Commission adopted an extremely compressed schedule for an Application of this magnitude, while still meeting requirements for public notification and comment, and extensive discovery. Idaho Power should have filed its Application earlier than September 26 to allow sufficient and ample time for Commission review.
2. Order No. 29410 was issued on January 2, 2004. The Order explicitly stated that Idaho Power's Application seeking a Certificate of Public Convenience and Necessity to build the Bennett Mountain Power Plant was approved and that Certificate No. 420 would be issued to Idaho Power.
3. Any delay in issuing the Notice to Proceed beyond January 2, 2004 was the responsibility of Idaho Power. On January 12, 2004, Idaho Power filed a Petition for Clarification of Order No. 29410 seeking clarification of what the Commission intended by its use of the language "Idaho Power may recover the reasonable and prudent costs of the Bennett Mountain project."

For these reasons, Staff recommends that the \$71,875 delay penalty paid by Idaho Power to Mountain be disallowed for recovery from ratepayers. In addition to removing a portion of the plant costs, Staff also removes \$2,315 for depreciation expense and \$1,384 for property tax expense that is associated with the capital amounts.

Incremental Power Supply Costs and the PCA

In its Application the Company proposed to adjust base rates to include the costs of the Bennett Mountain Project, except for the incremental costs of power supply. The incremental costs of power supply (fuel costs plus purchased power costs less secondary sales revenues) decrease when a new resource is added. The Idaho jurisdictional decrease in incremental power supply costs (\$478,300) is more than offset by the Idaho jurisdictional revenue requirement that comes from fixed cost increases. These fixed costs increase the overall revenue requirement return on the plant, operation and maintenance expenses, depreciation expense and taxes.

However, the Company's proposal is to capture the incremental power supply cost reduction through the PCA process instead of adjusting base rates. This is done by allowing the PCA to capture the difference in normalized power supply costs with and without Bennett Mountain and to also credit ratepayers the 10 percent difference from the sharing mechanism that would otherwise go to shareholders. This approach captures the same \$478,300 reduction in power supply costs through the PCA mechanism that would be captured if base rates were reduced. Because this reduction occurs under all water conditions, it is not subject to sharing by shareholders. Thus the 10 percent sharing credit must be provided until base power supply costs are updated to include Bennett Mountain, which will probably occur in the Company's next general rate case.

In its next rate case the Company will adjust base rates to reflect reduced incremental power supply costs and those same incremental power supply costs will be used in the PCA to measure differences between actual and base conditions. After base rates are adjusted, the PCA will no longer capture a difference between normal power supply costs with and without Bennett Mountain in operation.

Staff accepts the Company's proposed methodology in this filing because it achieves the same result as the more traditional adjustment to base rates and because the Company has made its 2005 PCA filing based on this methodology. However, for future filings where the proposal is to include the revenue requirement associated with fixed costs in base rates, Staff prefers that incremental power supply costs be included in base rates and that the appropriate PCA adjustments be made. These adjustments would include updating the PCA base and the forecast formula.

Rates

To recover the increased base revenue requirement the Company has calculated a uniform percentage increase to the demand and energy rates within each schedule. The Company also increased lighting rates by the same percentage. Although Staff proposes to reduce the revenue requirement requested by the Company in this case, Staff supports the Company's revenue allocation and rate design methodology. Staff proposes to summarize specific Bennett Mountain rate impacts in comments filed in Idaho Power's PCA Case No. IPC-E-05-15. Staff will also summarize the rate impacts associated with the Income Tax Case No. IPC-E-05-14. Rate changes resulting from all three cases are proposed to go into effect

