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UTILITIES COMMISSION

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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE JOINT APPLICATION)
OF IDAHO POWER COMPANY AND SINCLAIR)
OIL CORPORATION FOR THE SALE AND)
TRANSFER OF CERTAIN UTILITY OWNED)
FACILITIES.)**

CASE NO. IPC-E-05-16

**COMMENTS OF THE
COMMISSION STAFF**

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 submits the following comments in response to the Notice of Application and Waiver Request in Order No. 29837 issued on August 2, 2005.

BACKGROUND

On May 2, 2005, Idaho Power Company (Idaho Power) and Sinclair Oil Corporation dba Sun Valley Company (Sun Valley) filed a Joint Application requesting that the Commission approve the sale and transfer of certain utility distribution property to Sun Valley. The distribution facilities subject to the proposed transfer are located on the grounds of the Sun Valley Resort. Idaho Power would also remove its existing service meters for those customers within the resort that are directly billed by the utility.

On July 13, 2005, the Applicants amended their Application. In particular, the parties requested that the Commission grant Idaho Power a waiver of the Company's Master Metering

tariff found in Section 4 of Rule E. Idaho Power's Master Metering tariff is nearly identical to the Commission's Master Metering Rule 103. IDAPA 31.26.01.103. Rule 103 prohibits utilities from removing individual service meters in shopping centers where the tenants control their own electric space heating, water heating, or air-conditioning appliances.

Idaho Power and Sun Valley executed a Memorandum of Understanding (MOU) regarding the proposed sale and transfer of utility distribution property. As set out in the MOU, Idaho Power proposes to sell and transfer its distribution facilities that serve portions of the Sun Valley Resort including the Lodge, the Inn, stores in the mall area, the skating rinks, the Opera House, and Moritz Hospital.

The parties assert that transfer of the facilities to Sun Valley will enable Sun Valley to more efficiently operate and manage its facilities within the resort complex. The parties have agreed that Sun Valley will pay the sum of \$135,533 to Idaho Power. Application at 2. This amount includes Idaho Power's costs of removing the meters and reconfiguring the system (estimated at \$7,500). If the actual reconfiguring costs are lower or higher, the parties have agreed to adjust the transaction price accordingly. MOU at ¶ 3. They represent that this transaction will be revenue neutral to Idaho Power (there is neither a gain nor loss on the sale). The rates of other customers will not be affected by the sale. Application at 2.

Several tenants in the Sun Valley Mall currently receive metered electric service directly from Idaho Power. Once the meters are removed and the service lines reconfigured, electric service to the tenants will be provided under the master meter arrangement between Idaho Power and Sun Valley. Sun Valley intends to recover the cost of electric service provided to tenants in the Sun Valley Mall by means of a "monthly charge included as part of the lease arrangement between Sun Valley and the individual tenants." Amended Application at 2-3. Sun Valley stated that it has advised all of its affected tenants of the proposed transaction. MOU at ¶ 5.

Both the utility's tariffs and the Commission's Master Metering Rule 103 prohibit the conversion of individual tenant meters to master meters. In particular, Rule 103 provides that no unit contained within "commercial buildings and shopping centers shall be master metered for electric service after July 1, 1980, if the [tenant] units . . . contain an electric space heating, water heating, or air-conditioning [appliance] that is not centrally controlled and over which the unit's tenants individually control electric usage." IDAPA 31.26.01.103. Given this prohibition against new master metered arrangements, the parties request that the Commission grant a

waiver of the Company's tariff and Rule 103. MOU at ¶ 6. To comply with the spirit of the Master Metering Rule, Sun Valley asserts that within 60 days of the transfer, it "will retrofit the individual thermostats for each of its tenants" so that each thermostat in the mall units will be centrally controlled by Sun Valley. *Id.* ¶ 5(a). Once the retrofits are completed, Sun Valley will provide the Commission with a certification that the retrofits have been completed and that Sun Valley personnel centrally control the space heating and air-conditioning appliances for the tenants in the Sun Valley Mall.

Idaho Code § 61-328 prohibits Idaho Power from selling any distributing facility without the written authorization of the Commission. Before authorizing such a transaction, the Commission must find that: (1) the transaction is consistent with the public interest; (2) the transaction will not cause the costs of or rates for supplying electricity to increase; and (3) Sun Valley has the intent and financial ability to operate and maintain the property so that its tenants will continue to receive electric service.

STAFF ANALYSIS

Effects on Customers and Master Metering Issues

Currently, Idaho Power serves 19 tenants of the Sun Valley Mall through 20 individually metered service points. If the sale of facilities is approved, these tenants will be served under a master metered arrangement between Idaho Power and Sun Valley. Of these 19 tenants, 15 do not receive bills directly from Idaho Power. Sun Valley is the customer of record for these 15 locations (and not the individual tenants). The remaining four tenants are directly billed customers of Idaho Power. After the conversion to master metering, these four tenants will no longer be billed by Idaho Power for the electricity they use.

In the Joint Application filed on May 2, 2005, Sun Valley and Idaho Power represented that all of the affected tenants had been contacted and that agreement had been reached on how those tenants would be billed for electricity after the sale. However, Staff was subsequently advised that neither Sun Valley nor Idaho Power had notified tenants of the Application as of June 22, 2005. In response to Staff's inquiry, Sun Valley indicated that it would notify its tenants of the proposed change. In order to assure that the four tenants who are direct-billed customers of Idaho Power were aware of the Application and had an opportunity to comment, Staff mailed a copy of Order No. 29837 along with a brief cover letter to each of them on

August 4, 2005. The letter advised recipients of the comment deadline (August 23, 2005) and provided them with the name and telephone number of a Staff member (Beverly Barker) to call if there were any questions. To date, Ms. Barker has not been contacted.

From a technical viewpoint, the conversion of a directly metered customer to a master metered service arrangement will be simple and should present few, if any, service problems. However, as noted previously, such a conversion is prohibited by both Commission Rule and Idaho Power tariff. In its Order No. 15556, the Commission stated that its decision to adopt the Master Metering Rules was "based not only upon the conservation goals of PURPA, but also upon goals of fostering and maintaining direct relations between electric utilities and their customers and of equitable treatment of the ultimate consumers of electricity." Order at page 1.

In the Motion to Amend Application to include a Request for Waiver of Master Metering Rule, Sun Valley stated its intent "to take certain steps to assure that the spirit of the master-metering rules is maintained after the Company-owned facilities are transferred from Idaho Power to Sun Valley." Motion at page 3, paragraph 5. Sun Valley committed to retrofit (replace) individually controlled thermostats with centrally controlled thermostats for space heating and air conditioning. Sun Valley represents that individual water heaters are used "primarily for hand washing purposes". Motion at page 3, paragraph 5.b. Staff assumes that at least one of the affected customers, a deli, uses water for other purposes as well. Sun Valley has also indicated that energy costs will be factored into tenants' lease payments.

Staff does not oppose granting Idaho Power a waiver of the Master Metering Rules in this particular case. Only 4 of the 19 tenants directly pay Idaho Power for the electricity they use. After the conversion, space heating and air conditioning will no longer be individually controlled by any tenants of the Sun Valley Mall. Sun Valley intends to allocate electric costs to its tenants by adjusting rental amounts to reflect each tenant's prior 12-month consumption on the Idaho Power rate schedule under which the tenant previously took service. Sun Valley will not impose any additional service charge or overhead factor associated with the provision of electric service. Although the price signals and historical usage data provided on individual bills will be lost for the four tenants who currently are direct billed customers of Idaho Power, all tenants will have an indirect incentive to be conscious of usage since the cost of electricity will affect lease rates.

Accounting Issues

Idaho Power is proposing to sell to Sun Valley Company the aforementioned facilities for \$135,533, which is book value. The price is revenue neutral from Idaho Power's point of view, and Idaho Power will realize neither a gain nor a loss on the sale. As provided in the Memorandum of Understanding, Sun Valley Company will reimburse Idaho Power for the costs of reconfiguring the metering and other reasonable costs associated with the sale. As such, the ratepayers will not be harmed by the sale price of this proposed transaction.

Idaho Power estimates the current monthly revenues from the facilities in question to be \$45,129 and the corresponding estimated monthly expenses to be \$1,080. After the proposed sale of the facilities, Idaho Power estimates its monthly revenues will decrease by \$5,264 to \$39,865 and its monthly expenses will decrease to zero. Overall, the net decrease in operating income would be about \$4,184 per month or a yearly decrease of \$50,208.

In response to Audit Request 26, which asked the Company to explain why Idaho Power is willing to give up the future revenue stream associated with the facilities in this proposed sale transaction, Idaho Power stated that "Over the past several years Sun Valley has expanded its facilities as part of its development plan. A consequence of this expansion is that Sun Valley's facilities are in certain circumstances built around Idaho Power's electrical facilities, making access for maintenance difficult. Idaho Power is willing to sell these facilities to Sun Valley to eliminate the difficulties associated with this intermingling of facilities."

Staff was initially concerned by the effect this sale could have on the existing metered Idaho Power customers, other than Sun Valley Company, that are located in the Mall area. However, the yearly revenue decrease is minimal and would not affect the current rate structure. Staff asserts that the decrease in annual operating income (\$50,208 or 0.0096% of the total authorized Idaho jurisdictional revenues) resulting from this proposed sale of facilities is not a significant factor in approving the sale of the facilities. There are no compelling accounting concerns that would preclude this sale from going forward.

TECHNICAL REVIEW

This sale presents no difficult technical issues to either Idaho Power or Sun Valley. There are two sets of facilities included in the sale that currently serve two separate areas off of Idaho Power's primary equipment. At one location, No. 3 on the Company Feeder Map (provided with the initial Application), there is a transformer and single-phase overhead service

to the Sun Valley Mall serving the four direct-billed Idaho Power customers. Additionally, there is overhead service and an Idaho Power transformer (located at point No. 9 on the Idaho Power feeder map) serving in another area of the Mall from an adjacent Idaho Power feeder.

After the sale, all tenants of the Sun Valley Mall will be served directly from transformers and overhead service lines owned by Sun Valley.

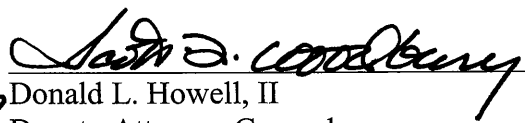
Idaho Power will remove its meters and make any other wiring or equipment changes necessary to complete the conversion. The sale agreement provides for compensation to Idaho Power for this work. There should be no technical difficulty in completing the conversion, and the changes can be completed quickly enough that proper scheduling will allow work to be performed with little disruption of service to customers.

Idaho Power has stated that it will not be solicited to provide contract maintenance services for the equipment Sun Valley is buying. Since Sun Valley is currently maintaining the electrical system being used to serve its other tenants within the mall area, there is no reason to believe that Sun Valley will not be able to provide adequate maintenance, either directly or through contract services, for the equipment purchased from Idaho Power. Sinclair Oil Company, as the owner of the Sun Valley Company, appears to have the financial resources to insure continued services to its tenants.

STAFF RECOMMENDATION

Staff recommends that the Commission approve the Application as amended. Staff also recommends that the Commission grant Idaho Power a waiver of the Commission's Master Metering Rule 103 and Idaho Power's Master Metering tariff found in Section 4 of Rule E.

Respectfully submitted this 23rd day of August 2005.


for Donald L. Howell, II
Deputy Attorney General

Technical Staff: Kathy Stockton
Harry Hall
Beverly Barker

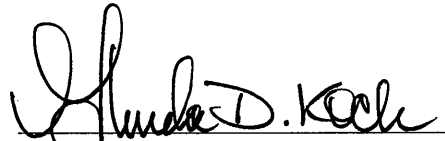
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 23RD DAY OF AUGUST 2005, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-05-16, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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