

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF

FROM: DON HOWELL

DATE: SEPTEMBER 6, 2005

SUBJECT: THE APPLICATION OF IDAHO POWER COMPANY AND SUN VALLEY COMPANY SEEKING APPROVAL TO SELL AND TRANSFER CERTAIN UTILITY PROPERTY TO SUN VALLEY, CASE NO. IPC-E-05-16

On May 2, 2005, Idaho Power Company and Sinclair Oil dba Sun Valley Company (“Sun Valley”) filed an Joint Application requesting that the Commission approve the sale and transfer of certain distribution property to Sun Valley pursuant to *Idaho Code* § 61-328. The distribution facilities proposed to be transferred are located on the grounds of the Sun Valley Resort. On July 13, 2005, the Applicants amended their Application and 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.

On August 2, 2005, the Commission issued its Notice of Application and Notice of Modified Procedure. The only comment was submitted by the Commission Staff.

THE APPLICATION

Idaho Power and Sun Valley executed a Memorandum of Understanding (MOU) regarding the proposed sale and transfer of certain distribution facilities that serves portions of the Sun Valley Resort including the Lodge, the Inn, stores in the mall area, and the skating rinks. The parties assert that the transfer of the facilities 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. This amount includes Idaho Power's cost of removing meters and reconfiguring the system (estimated at \$7,500). The parties have agreed to adjust the transaction price if the actual reconfiguration costs are different than the estimate. The Application states that the transaction will be revenue neutral to Idaho Power and the rates of other customers will not be affected by the sale.

Sun Valley asserts it has advised all of its affected tenants of the proposed transaction. If the meters are removed and the service lines are 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 costs 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.

Idaho Code § 61-328 prohibits Idaho Power from selling any distribution facilities 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 cost of or rates for supplying electricity to increase; and (3) Sun Valley has the intent and financial ability to maintain the transferred facilities so its tenants will continue to receive electric service.

WAIVER REQUEST

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

Given this prohibition against new master-metering arrangements, the parties request that the Commission grant a waiver of the Company's tariff and Rule 103. 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 tenant so that each thermostat will be centrally controlled by Sun Valley.

STAFF COMMENTS

Turning first to the sales transaction, the Staff did not object to the sale and transfer of the distribution facilities. Staff noted that the sale agreement provides for Sun Valley to compensate Idaho Power for the cost of removing its meters and reconfiguring the wiring. Staff calculated that Idaho Power will experience a net decrease in operating income of approximately \$4,184 per month, or \$50,208 per year. This reduction in annual revenue is de minimus (approximately 0.0096% of its jurisdictional revenue). The sales price is revenue neutral from Idaho Power's standpoint, i.e., Idaho Power will realize neither a gain nor a loss on the sale. Consequently, ratepayers will not be harmed by the sale of the distribution facilities.

Staff also noted that this Application stated that the transfer will allow Sun Valley to more efficiently operate and manage its facilities within the resort complex. Because Sun Valley is currently maintaining the electric system to serve its other tenants within the mall area, Staff believes that Sun Valley should be able to adequately maintain these facilities. In addition, Staff noted that Sinclair Oil Company is owner of the Sun Valley Company, and "appears to have the financial resources to ensure continued services to its tenants." Staff Comments at 6.

Turning to the master-metering issue, Staff determined that Idaho Power serves 19 tenants in the Sun Valley Mall through 20 individually metered service points. However, only four of these tenants receive bills directly from Idaho Power – Sun Valley is the customer of record for the remaining locations. Staff mailed a copy of the Commission's Order No. 29837 and advised the tenants that they may file comments in this case. As noted above, only the Staff filed comments.

Staff does not oppose granting Idaho Power a waiver of the master-metering rule based on the facts of this particular case. As noted above, only 4 of the 19 tenants directly pay Idaho Power for their service. Sun Valley intends to allocate electric costs to its tenants by adjusting the lease amount. Although the four customers will no longer receive historic usage data on their monthly bills, all of the 19 tenants will have indirect incentive to be conscious of their usage since the cost of electricity will affect lease rates.

In summary, Staff recommended that the Commission approve the Amended Application. Staff also recommended that the Commission grant Idaho Power a waiver of the Commission's Master-Meter Rule 103 and Idaho Power's master meter tariff found in Section 4

of Rule E. Staff believes that the Applicants have satisfied the three-part test of *Idaho Code* § 61-328.

COMMISSION DECISION

1. Does this transaction meet the requirements of *Idaho Code* § 61-328 (public interest, no increase in rates, and Sun Valley able to maintain service lines)?
2. Does the Commission wish to grant the Amended Application of Idaho Power and Sun Valley? Does the Commission wish to add any conditions or comments?
3. Does the Commission wish to grant a waiver of its Master-Metering Rule 103 and Idaho Power's tariff?
4. Does the Commission wish to address any other issues?



Don Howell

bls/M:IPCE0516_dh2