Office of the Secretary
Service Date
December 15, 2006

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER COMPANY'S APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE EVANDER ANDREWS POWER PLANT	)	**CASE NO. IPC-E-06-09**
	)	**ORDER NO. 30201**

INTRODUCTION

On April 14, 2006, Idaho Power Company filed an Application with the Commission seeking a Certificate of Public Convenience and Necessity for the construction of the Evander Andrews Power Plant. An electrical corporation is prohibited from beginning the construction of a generating plant "without first obtaining from the commission a certificate that the present or future public convenience and necessity require or will require such construction." *Idaho Code* § 61-526. The Company also requested authorization to rate base the prudent capital costs for the project and to recover prudent natural gas costs in the Company's annual Power Cost Adjustment (PCA) mechanism.

On May 9, 2006, the Commission issued a notice of the Company's Application. Order No. 30038. On May 31, 2006, intervention was granted to the Industrial Customers of Idaho Power (ICIP) and to Mountain View Power, Inc. Order Nos. 30057 and 30058. Mountain View Power subsequently withdrew as a party. Order No. 30113. Pursuant to Rule 67, the parties entered into a Protective Agreement regarding the disclosure and treatment of confidential information and trade secrets. IDAPA 31.01.01.067. An evidentiary hearing was held on November 20, 2006. Idaho Power, Commission Staff, and ICIP presented testimony. After reviewing the Application, the testimony[1] and the record, we issue this Order granting the requested Certificate as set out in greater detail below.

THE APPLICATION

A. The Evander Andrews Power Plant

According to the Application the Evander Andrews Plant would consist of a new Siemens-Westinghouse simple-cycle, natural gas-fired combustion turbine rated at 170 MW, along with the typical plant facilities and equipment. Application at 3. Siemens Power

[1] Although absent for part of the evidentiary hearing, Commissioner Kjellander reviewed the testimony contained in the hearing transcript before participating in the Commission's deliberation and issuance of this Order.

Generation, Inc., the same entity that provided labor, materials, and equipment, and that engineered and constructed the Company's Bennett Mountain Power Plant, would construct the Plant. *Id.* at 2. The project would be located at the existing 40-acre Evander Andrews Power Complex north of Mountain Home, formerly referred to as "Danskin." *Id.* at 3. The Evander Andrews Power Complex is currently the home of two 45 MW natural gas-fired generators built by Idaho Power in 2001. *Id.* at 3. The new Evander Andrews Plant is scheduled to be available to meet peak loads in the summer of 2008. *Id.*

Idaho Power plans to connect the plant with its 230 kV transmission system, which is located approximately seven miles from the Evander Andrews Complex. *Id.* The preliminary cost estimate to interconnect the plant to the Company's transmission system is $22.8 million. *Id.* at 5. The natural gas supply will be obtained from the existing 16-inch lateral gas line running from the Williams Northwest Pipeline to the site. The Company states that the existing lateral has sufficient capacity to meet the requirements of both the existing and new generating facilities. *Id.* at 3. The Application also states that substantial water supply capacity and priority water rights exist to serve both the existing and new facilities from a deep well located at the Evander Andrews Complex. The project will comply with all appropriate air and water quality standards. *Id.*

B. Future Necessity and the 2004 IRP

The Company maintains that construction of this plant is necessary to meet future loads and is consistent with the Company's 2004 Integrated Resource Plan (IRP). Application at 3-4. The biennial IRP is a planning mechanism that generally sets forth how Idaho Power intends to meet the electric load requirements of its customers over the next ten years. Order No. 29762 at 1. The 2004 IRP projected a necessary increase in power supply of about 800 aMW to meet the estimated demand, including 88 MW of simple-cycle, natural gas-fired generation. *Id.* at 2.

According to the testimony of Idaho Power witness, Gregory Said, the Company issued a Request for Proposals (RFP) consistent with its 2004 IRP. The Company requested proposals for an 80-200 MW turnkey, electric generation peaking resource located within the Company's service territory that would meet anticipated peak energy demands. Tr. at 57. The Company received 31 proposals from nine bidders that offered generation units ranging in size between 71 MW and 170 MW. *Id.* The RFP evaluation team selected Siemens Power

Generation's Evander Andrews bid as the preferred proposal based upon the predetermined price and non-price criteria used to evaluate all the RFP proposals. Tr. at 59.

The Company also notes other strategies it has employed for satisfying the incremental resource needs identified in the 2004 IRP. Application at 4; Tr. at 50-55. These efforts include: an additional 124 MW of demand-side measures, an RFP for approximately 100 MW of wind-powered generation, and an RFP for 100 MW of geothermal energy. Application at 4.

C. Capital Cost Commitment Estimate

The Company has provided a "Commitment Estimate" of $60 million for the project. Application at 5. The Commitment Estimate is a good faith estimate of the project's total capital cost based upon a negotiated Agreement for Engineering, Procurement and Construction with Siemens Power Generation in the amount of $49,999,000. The additional $10,001,000 of the Commitment Estimate represents certain additional costs the Company knows it will incur but cannot quantify with precision at this time such as sales taxes, allowances for funds used during construction (AFUDC), cost of Idaho Power oversight of the project, and the cost of capitalized start up fuel. Application at 4-5.

The Commitment Estimate does not include the approximately $22.8 million estimated cost of constructing transmission and substation facilities required to upgrade the Company's transmission system from Mountain Home to the Treasure Valley load center. *Id.* at 5. The Company states that the studies needed to define the transmission costs have not been completed, but Idaho Power's Power Delivery (transmission) Unit has provided a "preliminary" upper limit estimate of $22.8 million. *Id.* Idaho Power proposes to procure and install the new Plant for the Commitment Estimate, subject to adjustment, and to rate base only the amount actually incurred up to the Commitment Estimate of $60 million. *Id.*

D. Fuel Cost

The Company states that it owns firm fuel transportation rights sufficient to supply the new plant, and that management of the fuel supply will be done by Idaho Power personnel possibly in conjunction with a third party such as IGI Resources, Inc. Application at 6. The Company requests that the Commission allow it to include the cost of fuel, fuel storage, and fuel transportation for recovery through the existing Power Cost Adjustment (PCA) mechanism. *Id.*

ISSUES AND FINDINGS

The Commission has been asked to grant Idaho Power a Certificate that the present or future public convenience and necessity requires or will require the construction of a new power plant to meet the Company's growing load. The primary focus of this proceeding is to examine two questions: Does the present or future public convenience and necessity require additional resources, and is the Evander Andrews Plant a reasonable means of meeting this need? This request touches upon a function of the Commission that is fundamental to our system of public utility regulation and the "regulatory compact." *See Idaho Power & Light Co. v. Bloomquist*, 26 Idaho 222, 141 P. 1083, 1087-97 (1914). It involves considerations regarding: (1) the Company's obligation to serve its customers' demand; (2) the inclusion of capital investment in the Company's rate base – ultimately to be recovered from customers; (3) the Company's Integrated Resource Plan; and (4) the RFP process utilized to acquire additional generating resources.

A. The Public Necessity – Integrated Resource Planning

The need for the Evander Andrews Power Plant originates with Idaho Power's 2004 Integrated Resource Plan (IRP). In general, the IRP process evaluates the Company's future loads and resources and the various options for meeting projected loads. The options for meeting load include: The purchase of power from the wholesale market; the acquisition of additional generating resources (e.g., natural gas, wind, geothermal, etc.); the implementation of pricing options to dampen peak loads; and/or implementing demand-side management (DSM) or conservation programs. The IRP is a planning process on how Idaho Power intends to meet its obligations to serve its customers' loads. Since 1989 the Commission has required the electric utilities in Idaho to submit an IRP biennially. Order No. 22299. The Commission has directed that,

> The IRP should not be regarded by Idaho Power as simply an academic or regulatory exercise. It must be reasonable to expect that the IRP is an actual planning document of the Company, that it accurately represents the Company's best estimate of future changes in loads, resources and contract obligations and is indicative of how the Company intends to meet its statutory obligations to serve native load. ... [T]his Commission ... expects that [the IRPs] will be treated by the Company as a viable planning document that the public can with reasonable assurance rely on as being representative of the utility's resource strategy.

Order No. 29189 at 20-21.

1. Idaho Power. Idaho Power witness Said maintained that the need for the Evander Andrews Plant is based upon and justified by the 2004 IRP. Tr. at 47. He reported that customer growth in the Company's service territory is the primary driving force behind Idaho Power's need for additional power resources. Tr. at 47-48. The Company estimated that the number of households in its service territory would increase from 320,000 to 380,000 over the course of the 10-year planning period of the IRP. Tr. at 48; Order No. 29762 at 2.

The 2004 IRP was prepared by evaluating the adequacy of the Company's resources to meet customer needs based upon planning criteria that included 70th percentile water conditions and 70th percentile load conditions. Tr. at 48. The Company changed this to "worse-than-median" level of water criteria for its 2002 IRP, primarily to lessen the Company's reliance on purchases from the regional market during low water periods. *Id.* After evaluation of 12 possible resource portfolios, a "Near-Term Action Plan" was developed which identified specific actions to be taken by the Company prior to the filing of the 2006 IRP.[2] Tr. at 50.

The Near-Term Action Plan from the 2004 IRP called for the issuance of an RFP to acquire 88 MW of combustion turbine peaking resource. *Id.* The RFP was issued March 30, 2005. Tr. at 110. The Evander Andrews Plant was selected as the preferred proposal on November 22, 2005. Tr. at 59. The Near-Term Action Plan also called for the issuance of RFPs for 200 MW of wind generation, 100 MW of geothermal generation, and 12 MW of combined heat and power generation. Tr. at 50.

2. Commission Staff. Staff witness Rick Sterling agreed that the 2004 IRP demonstrates a need for a peaking power plant. Tr. at 93. Sterling stated that the 2004 IRP showed peak hour deficits for both the summer and winter peak periods in every year of the 10-year planning period, and that even using median water and load planning conditions there are still deficits of approximately 200 MW starting in the July-August time period. *Id.* Additionally, when it is assumed that power is imported up to the limits of Idaho Power's transmission system capacity, the analysis shows peak hour deficits beginning in the summer of 2006 and growing rapidly thereafter. *Id.*

Given the filing of the 2006 IRP, Mr. Sterling testified that the Company should have updated its evaluation of the need for the plant with the most up-to-date information in the 2006

[2] The 2006 IRP was filed September 29, 2006. Idaho Power also submitted revisions to the IRP on October 18, 2006. Case No. IPC-E-06-24.

IRP. Tr. at 92. He observed that the 2006 IRP contains the addition of the Company's Bennett Mountain gas peaking plant, a revised load growth forecast, impacts of peak load reduction DSM programs, and has assumed that the proposed Evander Andrews Plant is approved and constructed. Tr. at 93-94. After evaluating the addition of both the Bennett Mountain and Evander Andrews Plants, as well as the implementation of new DSM programs, Mr. Sterling found the Company's most recent load-resource balance still demonstrates an inability to meet peak-hour loads in the summer and winter beginning in 2009. Tr. at 94. In other words, even with the Evander Andrews Plant, the Company will not meet its forecast loads in 2009.

Additionally, Mr. Sterling stated that the 2006 IRP's analysis of transmission constraints demonstrates that the Company's ability to import power through market purchases to meet peak load demand is severely limited. Tr. at 97-98. The analysis shows that power to meet a peak-hour deficiency cannot be imported from the Pacific Northwest over the existing transmission system starting in July 2007, growing to 1,550 MW by 2025. Tr. at 97. He testified that given the current transmission system constraints, unless some other means to reduce peak hourly loads or to increase generation is developed, Idaho Power will not be able to meet its loads and load curtailment would be necessary. Tr. at 97-98.

Mr. Sterling also examined a number of alternatives potentially available to the Company to meet its peak loads other than constructing a new thermal power plant. Tr. at 98-109. These alternatives include: (1) Customer Owned Generation (e.g., combined heat and power cogeneration such as the proposed Heinz project), Tr. at 98-100; (2) PURPA qualifying facilities (e.g., wind projects), Tr. at 100; (3) Market Purchases, Tr. at 101-02; (4) Conservation, Tr. at 103-04; (4) Demand Response Programs (e.g., A/C Cool Credit and Irrigation Peak Rewards), Tr. at 104-06; (5) Alternative Rate Designs (e.g., time-of-use rates, seasonal rates, Time-of-Day and Energy Watch Pilot Programs), Tr. at 106-07; (6) Transmission Upgrades, Tr. at 107-08; and (7) Shoshone Falls Plant Upgrade, Tr. at 108-09. Mr. Sterling concluded that none of these alternatives can alone or collectively substitute for a new gas-fired peaking plant. Tr. at 109. While each of the alternatives is important, he testified that all of the alternatives are either already being pursued and are a part of the Company's plan going forward, or they cannot be counted on with certainty. *Id.* He felt that while there may be room for increased efforts, particularly with regard to conservation and demand response, a new peaking resource is still necessary. *Id.*

3. ICIP. The ICIP asserted that the Evander Andrews plant is not needed by Idaho Power in order to meet peak hour loads. Tr. at 192. ICIP witness Dr. Don Reading argued that the Company's reliance on the 2004 IRP is misplaced, as that information is outdated and that it would be more appropriate to use the information developed for the 2006 IRP. Tr. at 197-98. Dr. Reading cited a "substantial" increase in natural gas prices as a major change since the issuance of the 2004 IRP, and takes exception with the Company's continued use of 2004 gas prices in evaluation of the RFP bids. Tr. at 203-04. Although the Company claims that it is only important in the evaluation of bids that the same gas price forecast be used for all of the bidders, even if outdated, Dr. Reading stated that increasing gas prices should cause the Company to consider the fundamental question of whether a gas-fired resource is the best resource choice. Tr. at 204.

Dr. Reading advocated that there are several viable, more cost-effective alternatives to gas-fired generation. These alternatives include combined heat and power cogeneration projects (CHP), increased Demand-Side Management (DSM) projects, "virtual peaking plants" that utilize emergency backup generators distributed throughout the Company's service area to provide peak load generation, and other proven methods for decreasing or meeting peak demand. Tr. at 218, 241.

Dr. Reading also insisted that Idaho Power's peak load deficiency is overstated. Tr. at 269. He contended that the Company: Has failed to account for additional power that will be available to it from increases in PURPA and CSPP purchases (Tr. at 263); has failed to effectively utilize DSM resources and failed to account for future DSM savings (Tr. at 251-52); passed up an opportunity to acquire a CHP project with Heinz at its potential new facility in Ontario, Oregon (Tr. at 221-40); and that the Conservation Reserve Enhancement Program (CREP) will take irrigation pumps offline and effectively reduce peak demand. Tr. at 269-70. Dr. Reading also argued that if the Company builds the Evander Andrews Plant, its availability as a resource will act as a significant disincentive for the Company to pursue additional DSM, conservation, and other alternatives.

Commission Findings: Based upon our review of this record, we find that the need for future power to meet the projected peak loads of Idaho Power has been adequately demonstrated. Except for the possible load reduction attributable to CREP, the Industrial Customers' argument is not so much with the forecast of possible peak deficiencies, but with

Idaho Power's solution for addressing peak loads. However, the estimated CREP load reductions do not outweigh the forecasted loads in either the 2004 or 2006 IRPs. ICIP advocates the use of alternatives to the construction of a new thermal generating resource to meet the Company's peak load deficiencies. We find Mr. Sterling's analysis of the 2006 IRP and its load forecasts convincing. He testified that even with the 170 MWs of Evander Andrews, Idaho Power will experience peak deficiencies in both the winter and summer of 2009. Tr. at 94.

Moreover, Mr. Sterling also observed that constraints in the Company's transmission system will restrict the ability to import power next summer. Tr. at 97. The Evander Andrews Plant was originally scheduled to come online for the summer of 2007. Tr. at 60-62. However, the Company was able to economically secure a 50 MW firm energy purchase from the eastern side of its system to cover the heavy load hours during the summer of 2007. Tr. at 62. This enabled the Company to delay the online date for the proposed Evander Andrews Plant for one year while, at the same time, meeting the capacity planning criteria established in the IRP. *Id.* No party has sufficiently disputed the fact that the Company will experience peak load deficiency in the future. Consequently, we find based on this record that the need for future power to meet the projected peak loads of Idaho Power is supported by substantial and competent evidence.

B. Meeting the Public Need – Request for Proposals

1. Idaho Power. Based upon the Near-Term Action Plan in the 2004 IRP, Idaho Power issued an RFP for a peaking generation resource. Application at 4. Although the 2004 IRP called for an 88 MW peaking resource, the Company also sought some flexibility in both the RFP and the responses to the RFP. *Id.* In particular, Idaho Power expected that the RFP would specify a range of turbine sizes, up to 200 MW, similar to the Bennett Mountain RFP in 2003. *Id.* The RFP asked for proposals for an electric generation resource in a range from 80 MW to 200 MW located within the Company's service territory. Tr. at 57. Mr. Said testified that the flexibility in the RFP plant capacity permitted bidders to respond to the RFP with their most cost effective proposals. *Id.*

The Company utilized an independent, third party (Power Engineers) to assist in the development of the 2005 RFP and the evaluation criteria, as well as to assist in the review and evaluation of bids. Tr. at 58. The Company received 31 proposals from 9 bidders that offered generation units ranging in size from 71 MW to 170 MW. Tr. at 57. All proposals went through

an initial screening process where the bids were scored based on predetermined price and non-price criteria established with the assistance of Power Engineers. Tr. at 58. Based on the initial screening, the top 15 proposals received from 4 different companies were short-listed and face-to-face meetings with representatives of the short-listed entities were held. *Id.*

Eventually, the Siemens proposal for Evander Andrews was selected as the preferred proposal by the RFP evaluation team following the meetings with the short-listed bidders. The selection of Siemens was due to its ranking based upon the price and non-price attributes set out in the Evaluation Manual developed for this RFP. Tr. at 59.

2. Staff. Staff witness Sterling described the RFP process and discussed the evaluation of the proposals in testimony. Tr. at 109-40. He determined that the evaluation team's scoring of the Siemens proposal was reasonable based upon what was known at the time the scoring was done. Tr. at 127. However, he expressed concern that the scoring of some of the non-price attributes were subjective and the facts supporting certain scores were changed after the scoring.[3] *Id.* For example, the "community and environmental" non-price attributes had six elements. Information pertaining to some of the sub-elements may have changed after scoring, and this new information may have affected the scoring. Tr. at 129. The scoring for this non-price attribute category represented most of the scoring difference between the preferred proposal and the second place bidder. The second place bidder's proposed plant was located closer to the Treasure Valley load center, and therefore, had significantly less transmission costs.

Although the RFP process was fair and the evaluation criteria used to evaluate bids was reasonable, Mr. Sterling recommended that the cost difference between the selected project (Siemens) and the second place bidder be deducted from the $22.8 million cost of transmission. Tr. at 163.

3. ICIP. Dr. Reading argued that Idaho Power did not choose the natural gas plant with the least cost. Tr. at 274. He stated that Evander Andrews is an inappropriate choice because it is significantly more expensive than the runner-up because of the transmission upgrades. *Id.*

Dr. Reading also echoed much of Commission Staff's concerns regarding the scoring of the proposals. He asserted that the difference in price between Evander Andrews and the

[3] The actual non-price attributes, their scoring values, and the actual scores are subject to a protective order as "trade secret" per Rule 67, IDAPA 31.01.01.067.

second place bidder was too great to allow the non-price factors to trump the price scores. Tr. at 276. Furthermore, he stated that the scoring methodology used by Idaho Power for the price factors, as well as the non-price factors, undercut the significant price difference between Evander Andrews (including transmission costs) and the second place proposal. Tr. at 284. He suggested that the points awarded to the top two projects essentially put them on equal ground, even though they were substantially different in price, and it was this fact that allowed the non-price factors to "swamp" the effect of the price difference, resulting in Evander Andrews being selected. Tr. at 286.

On rebuttal the Company submitted testimony containing more detail regarding the RFP evaluation team's consideration and scoring of the non-price attributes. Tr. at 309-337. Without discussing specific examples because of their confidential nature, the thrust of the discussion revolved around the Evander Andrews project receiving higher relative scores because of the value of certainty, and an assessment of lower risk associated with certain distinct non-price attributes. *Id.* Similarly, the testimony described how the second place project received lower relative scores based on an assessment of higher risk associated with certain sub-elements in the "community and environmental" non-price attributes. *Id.*

Commission Findings: We find that the Evander Andrews proposal is a reasonable response to meet the Company's present and future need for peak load power for several reasons. First, Evander Andrews was the winning project in the Company's RFP process – a process that was not perfect, but was adequate, fair, and used reasonable evaluation criteria. We find that the base price of approximately $49,999,000 for the 170 MW Evander Andrews project compares favorably to the $49 million cost of the 90 MW Danskin plant completed in 1991, and to the substantially similar $44.6 million, 162 MW Bennett Mountain project completed in 2005. We note that the top two proposals were very close with each utilizing the same Siemens-Westinghouse combustion turbine. Evaluating the top two proposals without the transmission costs, Evander Andrews would clearly be the winner with regard to both price factors and non-price factors. While we share Staff's and ICIP's concerns about the subjective nature of some of the non-price attributes and the issue of using updated information, we do not find that their concerns outweigh our conclusion that Evander Andrews is a reasonable means of meeting future loads. As Staff observed, other alternatives for meeting load were not viable.

Second, upgrading the transmission line between Mountain Home and Boise will improve the overall reliability of the transmission system and be available at times when Evander is not running. We recognize that there is a substantial transmission cost associated with Evander Andrews (estimated at $22.8 million) that is not present in the proposal from the second place bidder. However, a significant amount of the transmission cost is offset by the lower plant cost of Evander. Third, the uncertainties of other supply alternatives and the non-price attributes associated with the second place proposal outweigh the additional transmission costs.

Finally, the Industrial Customers' argument that there are other, cheaper alternatives to meet the Company's peak load does not offer the same level of reliability and effectiveness that a fully dispatchable resource like Evander Andrews can provide. In other words, many of the alternatives identified by ICIP are either somewhat or completely outside of the control of the Company, are speculative at best, and/or are unlikely to provide the type of dispatchable resource needed to meet the future load deficiencies. Denying a Certificate for the new plant and solely relying upon these alternatives to meet peak load demand is risky, unreasonable, and not in the public interest.

Our approval of the Evander Andrews Plant should not be viewed as condoning the lack of detailed transmission costs in this case. Idaho Power should have provided a more detailed and rationally explained estimate of the transmission cost involved with integrating Evander Andrews into the Company's system. While we understand that the Company is bound by the FERC standards of conduct,[4] we find it unacceptable for Idaho Power to bring a case before this Commission, seeking authorization to construct a costly generating resource, without more detailed and firmer transmission costs. This is especially true in this case.

The Company explained that the request for transmission costs from its transmission unit could not be made until a site was selected. Tr. at 412. This excuse does not satisfactorily explain why the transmission costs are only estimates. Company witness Said testified that cost estimates for any interconnection customer can be obtained within either 90 or 120 days from the Company's transmission unit. On cross-examination the Company disclosed for the first time that the transmission cost information should be available sometime in January 2007. Tr. at 411. Evander Andrews was selected as the winner of the RFP process on November 22, 2005. Tr. at

[4] FERC standards require that Idaho Power's transmission business and employees be totally separated from that part of the utility that serves native load customers.

59. The Company filed the Application in this case with the Commission on April 14, 2006. The cost information should have been available when the Company filed its Application in April. We direct the Company that in all future cases it shall complete the proper transmission integration studies and submit the transmission integration cost estimates together with its request for a Certificate.

We continue to find that programs or procedures that reduce critical peak hourly demand have great value to both ratepayers and the Company. Idaho Power must diligently and vigorously pursue all available, cost effective DSM, conservation, and pricing options that could potentially displace or defer the need for additional future peaking generation. We are particularly interested in the "virtual peaking plant" program being conducted by Portland General Electric (PGE) and described by Dr. Reading in his testimony. Tr. at 241-48. We direct Idaho Power to investigate and submit a report for the implementation of a "virtual peaking plant" program based upon the use of existing emergency generator resources in the Company's service territory. This report shall be filed no later than June 1, 2007.

C. Ratebasing the Capital Costs

1. Idaho Power. Consistent with prior Commission Orders, Idaho Power provided a "Commitment Estimate" for the capital costs of the Evander Andrews Plant. The Company proposes a Commitment Estimate of $60 million for the project. Application at 5. The Commitment Estimate is a good faith estimate of the project's total capital cost based upon a negotiated Agreement for Engineering, Procurement and Construction with Siemens Power Generation, in the amount of $49,999,000. The difference between the base price and the Commitment Estimate represents certain additional costs the Company knows it will incur but cannot quantify with precision at this time, such as sales taxes, allowances for funds used during construction (AFUDC), cost of Idaho Power oversight of the project, and the cost of capitalized start-up fuel. Application at 4-5.

The Company proposes to procure and install the project for the Commitment Estimate of $60 million. Application at 5. The Commitment Estimate would be subject to adjustment for documented legally required equipment changes (e.g., requirements to comply with new air quality laws) and for escalations in assumed forecasts such as inflation. *Id.* The Company states that it will absorb the extra cost, should the final capital cost of the project exceed the Commitment Estimate.

The Commitment estimate does not include the approximately $22.8 million estimated cost of constructing transmission and substation facilities required to interconnect the project with the Company's transmission system. Application at 5. The Company states that the studies needed to define the transmission costs have not been completed, but the Transmission Unit has provided a preliminary upper limit estimate of $22.8 million to upgrade the transmission system from Mountain Home to the Treasure Valley load center. *Id.*

2. Staff. Staff witness Sterling testified that the Commitment Estimate is reasonable. Tr. at 152. He observed that the Commitment Estimate for the Bennett Mountain Plant, a nearly identical plant completed in 1995, was $54 million, excluding transmission. *Id.* Due to an abundance of turbines available on the market, he indicated that the Evander Andrews Plant cost reflects excellent prices by standards of the past several years. *Id.* However, Staff was not willing to recommend the full $60 million for future inclusion in rate base. *Id.* Mr. Sterling did recommend that the $49,999,000 Idaho Power-Siemens contract price (a known amount), except for possible change orders, was acceptable because it will not change once Idaho Power takes ownership of the plant and it was established through a competitive bidding process. Tr. at 152-53. He recommended that the remaining $10,001,000 of the Commitment Estimate over the contract price be subject to audit by Commission Staff prior to being considered for inclusion in the Company's rate base. Tr. at 153.

Mr. Sterling also recommended that the Company be required to develop a commitment estimate for the cost of constructing the transmission and substation facilities necessary for the Evander Andrews Plant. Tr. at 163. This should be required because transmission costs represent about 27.5 % of the entire project cost, and the plant is inextricably linked to the transmission, i.e., the plant could not meet load without the necessary transmission upgrade to bring the power to the Treasure Valley load center. Tr. at 154-56. Because of Evander Andrews' higher transmission cost, Mr. Sterling recommended that the Company's transmission cost Commitment Estimate be reduced by the additional cost of the Evander Andrews proposal over the second place proposal. Tr. at 163.

3. ICIP. The Industrial Customers recommended that if the Commission were to grant a Certificate, it should not allow Idaho Power to collect the full costs of the plant that include significant, unnecessary, and excessive construction and transmission costs. Tr. at 289. Similar to Staff, Dr. Reading recommended that the Commission exclude the difference in price

between the Evander Andrews project and the cost of the second place proposal. Tr. at 290. Alternatively, he recommended a disallowance of the costs of the transmission associated with the Evander Andrews project because the Company essentially voluntarily incurred those costs to locate the plant in Mountain Home where the power would have to be wheeled a significant distance to the load center. *Id.* Lastly, Dr. Reading suggested that the Commission could choose to disallow the difference in costs between a 170 MW plant, like Evander Andrews, and an 88 MW plant, which is what was called for in the 2004 IRP. *Id.*

Commission Findings: We find that in the ordinary course of events, Idaho Power may anticipate ratebasing $49,999,000 – the amount of the Siemens contract. The reasonable and prudent actual costs incurred above that figure, up to the Commitment Estimate of $60 million, cannot be quantified with precision at this time and will be reviewed in a subsequent proceeding. We specifically reserve our approval of costs in excess of the contract price until after the project is constructed and an audit of such costs is completed. As the Commission has previously stated,

> When the Commission authorizes construction of new generation, it has not as a matter of law authorized the utility to recover from ratepayers whatever costs are invested in the new generation under all circumstances whatsoever. The regulatory compact is not so one-sided.
>
> The Commission's authorization to construct new generation is a practical document, not one with only a single legal consequence. It informs the company, its ratepayers and its investors that, in the ordinary course of events, prudently incurred costs of construction of bringing the authorized plant on line will later be recognized in the company's revenue requirement. But prudence has more aspects than management of the construction. A certificate does not guarantee a utility recovery when it ignores or defies the laws of economics by continuing to invest in plants no longer necessary or prudent because demand has fallen from projections. A certificate does not guarantee recovery when investment is no longer prudent because costs have escalated beyond reasonable expectation. A certificate does not guarantee recovery when investment is no longer prudent because the percentage of the company's capital tied up in the project is unreasonable. A certificate does not guarantee recovery when investment is no longer prudent because technology has changed. A certificate does not guarantee recovery when management, operation or construction of a project is beyond the utility's control and under the direction of others.

Order No. 23520 at 19.

With the quotation above in mind, we recognize that the costs of transmission interconnection and/or upgrade are not included in the Company's Commitment Estimate. We expect the Company to advise the Commission regarding the transmission integration cost estimate that is forthcoming from its transmission unit some time in January 2007. We expect this cost information to be within a reasonable range of the $22,550,000 transmission estimate used by the RFP evaluation committee, and preferably lower. Although the transmission upgrade will primarily be used and dedicated to the output of the Evander Andrews Plant during peak load, the increased capacity will be available for use during the remaining off-peak periods. Even though the Company was unable to quantify a specific benefit to the transmission upgrade other than generally increasing the reliability of the transmission system, we find this to be a substantial benefit. The reasonable and prudent actual costs incurred for the transmission integration/upgrade will be considered and reviewed in a subsequent proceeding.

We find the Industrial Customers' argument to deny the cost differential between the 170 MW plant as compared to an 88 MW plant called out in the 2004 IRP to be unpersuasive. We find the economies of scale of the new plant and forecasts of future need to meet peak load demand reasonably support the decision to construct the 170 MW plant. Because we reserve the approval of the transmission costs, we also decline to adopt Staff's transmission adjustment.

D. Miscellaneous Issues

1. Fuel Costs. As part of its Application, Idaho Power requested that fuel costs, fuel storage, and fuel transportation for the plant be included for recovery in the Company's PCA mechanism. Application at 6.

Staff agreed that reasonable fuel expenses should be approved for recovery in the Company's PCA, prior to full review of normal operational costs in a general revenue requirement case. Tr. at 142-43, 163. Staff witness Sterling stated that this is consistent with the treatment of fuel costs for both the Bennett Mountain and Danskin Power Plants. Tr at 143. He testified that Idaho Power has an Energy Risk Management Policy and that it has gas-hedging guidelines for the Danskin and Bennett Mountain Plants. Tr. at 143-44. He recommended that the Company develop its fuel procurement strategy for both natural gas and transportation capacity as well as expanded hedging guidelines and risk management strategies for all three plants located near Mountain Home. Tr. at 144.

Commission Findings: We find it reasonable to allow the Company to recover its fuel cost through the PCA mechanism. In Order No. 28799 we allowed recovery of fuel costs for the Danskin Plant and in Order No. 29410 we allowed recovery of the fuel costs for the Bennett Mountain Plant in the Company's annual PCA rates. We find similar treatment here is reasonable. We expect the Company to utilize hedging guidelines and risk management strategy to mitigate the volatility of fuel prices, as it does for both Bennett Mountain and Danskin. We shall review the Company's hedging and risk management strategy when it seeks recovery of fuel costs in the PCA proceedings.

2. "Panel" Testimony. The Commission admitted the "joint" rebuttal testimony proffered by Idaho Power for its witnesses, Mr. Said and Mr. Youngblood. The Company's prefiled rebuttal testimony does not disclose which witness was asked or which witness answered each question. *See* Tr. at 305-62. If the Commission allowed both witnesses to jointly testify, the parties agreed that the witnesses would limit themselves by having only one witness answer the questions on cross-examination, and that they would not confer with each other prior to answering, except to determine who would answer.

Staff objected to the procedure, but did agree that if the Commission were to allow both witnesses on the stand at the same time, that they be limited to only one witness answering on cross-examination. Tr. at 39. Although not objecting to the procedure, ICIP asserted that panel testimony was problematic and suggested that in the future the Commission require parties to seek leave in advance of filing panel testimony. Tr. at 40.

Commission Findings: We do not approve of the procedure utilized by the Company in this case to present prefiled testimony. The testimony was not "panel" testimony, but was rather two people jointly sponsoring the same testimony. Panel testimony would consist of a "panel" of witnesses, who under oath would be asked the same question, and each would be given the opportunity to give his or her own answer.

The testimony here was presented in such a way that it is impossible to determine or differentiate which question was directed to which person, and which person was answering which question. A basic principle of evidentiary proceedings is that witnesses may only testify to what is within their personal knowledge. Even though the Commission, as a fact finding administrative agency, is not bound by the strict rules of evidence, its findings must be supported by substantial and competent evidence, and it cannot make a finding based upon hearsay.

Citizens Utilities Co. v. Shoshone Natural Gas Co., 82 Idaho 208, 213-214, 351 P.2d 487, 489-90 (1960).

It is highly unusual for two witnesses to take the stand together and determine on their own who was responsible for the answer submitted on direct, and who will be responsible to answer cross-examination questions. Parties should put forth the witnesses who have the requisite subject matter knowledge to sponsor and stand behind their prefiled testimony without the assistance of others. Prefiled direct testimony should not be proffered to the Commission if it is constructed in such a way that it requires two people to jointly vouch for it. Prefiled testimony should be submitted by one witness and not be jointly submitted as was done in this instance. IDAPA 31.01.01.231. In those rare cases where panel testimony is to be offered, we expect parties wishing to submit such testimony to seek leave in advance of filing. We direct Idaho Power, as well as other utilities, to follow this procedure in the future.

CONCLUSIONS OF LAW

Idaho Power is an electric corporation subject to the regulatory jurisdiction of the Commission. The Commission has jurisdiction over this matter pursuant to *Idaho Code* §§ 61-526 and 61-528.

We find that the future public convenience and necessity requires the construction of the Evander Andrews Power Plant to be located at the existing Evander Andrews Power Complex near Mountain Home, Idaho.

We further find that in the ordinary course of events Idaho Power may recover the base price of the plant in the amount of $49,999,000. *See* Order No. 29422. Additional capital costs up to the Commitment Estimate of $60 million and necessary transmission costs will be subject to further review in a subsequent case once the plant is constructed and the transmission system upgraded.

ORDER

IT IS HEREBY ORDERED that Idaho Power Company's Application seeking a Certificate of Public Convenience and Necessity to build the Evander Andrews Power Plant is approved. Certificate No. 465 will be issued to Idaho Power.

IT IS FURTHER ORDERED that in the ordinary course of events Idaho Power may recover the base price of the Evander Andrews Power Plant in the amount of $49,999,000. Plant costs in excess of $49,999,000 will be reviewed in a subsequent case after the plant has been

constructed. Capital costs (excluding transmission interconnection and legally required equipment changes) in excess of the Commitment Estimate cap of $60 million will not be eligible for inclusion in the Company's rate base. Transmission costs to upgrade the system between Mountain Home and the Treasure Valley are subject to future review once the upgrade has been constructed.

IT IS FURTHER ORDERED that Idaho Power provide the Commission with the transmission cost estimate due in January 2007. Any future Application for a generation certificate that requires transmission to effectively serve load shall include detailed transmission information and costs.

IT IS FURTHER ORDERED that Idaho Power provide Staff with periodic percentage of completion and cost expenditure reports during the construction of the power plant.

IT IS FURTHER ORDERED that the Company's reasonable and prudent fuel costs for the Evander Andrews Power Plant may be recovered through the annual PCA mechanism.

IT IS FURTHER ORDERED that Idaho Power shall investigate and develop a proposal for the implementation of a "virtual peaking plant" program based upon the use of customers' emergency generator resources located throughout the Company's service area. This proposal shall be submitted to the Commission for its review no later than June 1, 2007.

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 with regard to any matter decided in 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 15th day of December 2006.

PAUL KJELLANDER, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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