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Lisa D. Nordstrom  
Attorney II

October 9, 2007

Jean D. Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
P. O. Box 83720  
Boise, Idaho 83720-0074

Re: Case No. IPC-E-07-16  
*South Elmore Irrigation Company v. Idaho Power Company*

Dear Ms. Jewell:

Please find enclosed for filing an original and seven (7) copies of the Answer of Idaho Power Company in the above-referenced matter.

I would appreciate it if you would return a stamped copy of this transmittal letter in the enclosed self-addressed, stamped envelope.

Very truly yours,



Lisa D. Nordstrom

LDN:sh  
Enclosures

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Attorneys for Idaho Power Company

Street Address for Express Mail:

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Boise, Idaho 83702

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

SOUTH ELMORE IRRIGATION	)	
COMPANY,	)	CASE NO. IPC-E-07-16
	)	
Petitioner,	)	ANSWER OF IDAHO POWER
	)	COMPANY
IDAHO POWER COMPANY,	)	
	)	
Respondent.	)	
	)	

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COMES NOW Idaho Power Company ("Idaho Power" or the "Company") and, in accordance with IPUC R.P. 057, hereby submits this Answer to the Formal Complaint submitted on August 21, 2007 by South Elmore Irrigation Company ("South Elmore"), the Petitioner in the above-entitled matter. Idaho Power hereby denies all of the material allegations contained in South Elmore's Complaint except as specifically admitted by Idaho Power in this Answer. Pursuant to Idaho Public Utilities Commission

("IPUC") Rule of Procedure 057.02(a), any material allegation not specifically admitted in this Answer shall be considered by the Commission to be denied.

### **FACTUAL BACKGROUND**

South Elmore is one of Idaho Power's largest irrigation customers and, given its physical location and energy needs, has complex metering requirements. The billing error affected only one of 18 service points, known as the "Flying H" pumping station, on just one of South Elmore's summary bills.

The Flying H pumping station is located adjacent to the Snake River in a narrow, deep canyon and was first installed in 1975. To meet South Elmore's energy needs, the Flying H station uses two power transformers to provide power to the pumps that lift water from the Snake River up the steep ravine wall to irrigate fields located on the plains above. Because of the transformer configuration, two sets of current transformers (CTs) and a set of auxiliary CTs were required to meter the energy used at Flying H.

As part of the load research studies it conducts for each rate class, Idaho Power installs load profile meters to record the interval usage data of customers included in the load research samples. As part of the Company's normal load research sample update process, after a new irrigation sample was selected and implemented in 2002, a load profile meter was removed from South Elmore's Flying H pumping station and replaced with a non-load profile meter on November 13, 2002. On November 18, 2002, a Meter Technician ran a meter constant validation report on South Elmore's account in Idaho Power's Customer Information System (CIS). The Flying H station showed a billing constant (also known as a "meter multiplier" or "billing multiplier") of 12,000 and a

calculated constant of 6,000. The Meter Technician perceived this discrepancy to be an error and changed the billing constant to 6,000 without conducting a site visit or completing a verification order.

This differential between the billing constant and the calculated constant was in fact correct. Because the CIS was not designed to hold or calculate auxiliary CTs, it did not recognize the 2-to-1 ratio auxiliary CTs installed to tie the outputs of the two primary transformers together. The Flying H station is the only installation on Idaho Power's system that uses auxiliary transformers, which were necessitated by South Elmore's large energy needs and isolated location. At the end of the 2007 irrigation season, Idaho Power plans to replace the 2-to-1 ratio auxiliary CTs with 1-to-1 ratio auxiliary CTs to reduce the likelihood that a similar billing error could reoccur with the Flying H's complex metering package.

Following the changed billing constant, South Elmore received bills for only half of its usage at the Flying H pumping station from November 2002 to April 2007. Since 2002 South Elmore's energy use has varied from year to year due to a reduction in the number of acres being irrigated. Idaho Power did not discover the billing error until May 16, 2007, at which point the billing constant was corrected to 12,000. Due to the increased awareness and improved verification processes resulting from the Company's CT metering verification effort, Idaho Power uncovered the error during the scheduled May 2007 inspection of irrigation meters serving pumps larger than 500 horsepower.

Idaho Power contacted South Elmore in June of 2007 to explain and apologize for the billing error. As explained in the June 11, 2007 letter attached to South Elmore's Complaint, the total dollar amount of the rebilling for energy use that was not billed

between the three-year period 05/26/2004 through 04/26/2007 is \$916,702.24. If all of the billings over the four-year period during which the error occurred had been corrected, the total dollar amount of the rebilling would have been approximately \$1,344,000.

Idaho Power has offered to work with South Elmore on a payment plan that extends the payment period beyond the thirty-six (36) months within the parameters set by UCRR 204.03. It is Idaho Power's hope that spreading the amount owed over a longer time period would help minimize South Elmore's hardship in paying the rebilled amount.

### **RESPONSE TO ALLEGATIONS**

Except as specifically admitted by Idaho Power in this Answer, Idaho Power Company hereby denies all of the material allegations contained in South Elmore's Complaint filed with the Commission on August 21, 2007. The numbers listed in the following paragraphs correspond to numbering used by South Elmore in its Formal Complaint.

#### **I.**

Idaho Power admits the allegations contained in Paragraphs 2, 5, 6, 7, 8, 10, 11, 12, 14, 15, 16, and 18 of the Complaint.

#### **II.**

Idaho Power admits that an incorrect billing constant was inadvertently entered into the Company's billing system in 2002 that resulted in Idaho Power inaccurately billing South Elmore for only half of its actual usage at the Flying H pumping station. However, Idaho Power denies the allegation in Paragraph 13 that it lacks authority to

issue a corrected billing to South Elmore for the months of May 2004 through April 2007.

The Company's billing practices are governed by the Commission and its Rules, specifically Utility Customer Relations Rules 204 and 313 (IDAPA 31.21.01.204 and - .313), which the Commission promulgated pursuant to the legislative authority vested in it by *Idaho Code* § 61-507. These rules encompass more than meter failures and malfunctions, requiring that the utility also prepare a corrected billing for bills that were inaccurately prepared. South Elmore's actual energy usage is known, and the inaccuracy in its billing was the result of Idaho Power's application of the wrong billing multiplier. Thus, Idaho Power's issuance of a corrected billing for the three (3) years prior to the error's discovery are in keeping with these Rules and established Commission practice. See Order Nos. 28212, 28298 and 30431 (finding utilities properly rebilled customers for the maximum three-year period after use of an incorrect billing multiplier was discovered).

### III.

Idaho Power admits the allegation in Paragraph 17 insofar as *Idaho Code* § 61-642 concerning overcharges does not authorize Idaho Power to back bill South Elmore for three (3) years of undercharged usage. However, Idaho Power denies asserting in its June 11<sup>th</sup> letter to the Complainant that the Company relied on *Idaho Code* § 61-642 for its rebilling authority. A careful reading of the letter indicates that the Company did not mention the *Idaho Code* at all, referring generally to its tariffs and Commission rules as requiring it to prepare corrected billings in these types of instances. Idaho Power

continues to believe that its tariffs and the Commission rules form the basis of its rebilling authority.

The Company presumes this allegation refers to Utility Customer Relations Rule (UCRR) 204's cross-reference to *Idaho Code* § 61-642, which was recently argued by Jerrene Phillips (the complainant in Case No. IPC-E-07-1) as providing inadequate authority for the Commission to promulgate rules allowing for a three-year back billing period. As it argued in that docket, Idaho Power disagrees with this assertion.

In *Idaho Code* § 61-501, the Idaho Legislature empowered the Commission "to supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the provisions" of the public utilities law. To that end, the Utility Customer Relations Rules (IDAPA 3121.01 et seq.) were adopted under the general legal authority of the Public Utilities Law, Chapters 1 through 7 of the *Idaho Code*, and the specific legal authority of *Idaho Code* Sections 61-301, 61-302, 61-303, 61-315, 61-503, 61-507, and 61-520. See UCRR 0.

No Idaho statute needs to specifically address the underbilling of customers because the Idaho Legislature purposely authorized the Commission to prescribe rules and regulations to govern public utilities that perform a service or furnish a commodity. *Idaho Code* § 61-507. Under authority established by the Legislature, the Commission conducted a rulemaking to effectively legislate a back bill requirement/limitation while fulfilling its statutory mandates. Commission rules promulgated within the authority conferred by law, and in accordance with the Administrative Procedure Act (APA), have the full force and effect of law and must be regarded as such. South Elmore makes no explanation of how UCRR 204 is contrary to the "spirit and intent" of the Public Utilities

Laws described in Idaho Code § 61-501 or otherwise outside the Commission's substantive rulemaking authority over the actions of Idaho's regulated utilities.

As the Company argued in Case No. IPC-E-07-1, Idaho Power believes the cross-reference to Idaho Code § 61-642 is meant to demonstrate the symmetrical nature of UCRR 204.02 and the statute. The cross-reference denotes the reciprocal time limits on customers to file complaints against utilities (*Idaho Code* § 61-642) and for utilities to seek payment from customers (UCRR 204.02). Thus, the cross-reference to Idaho Code § 61-642 does not limit the Commission's authority on this matter, but rather informs and explains it. The Commission itself stated on page 5 of Order No. 30431:

[t]he rule's reference to statute is not a statement of authority, is not inconsistent with either the Commission's authority to promulgate that particular rule, or with the terms of the statute and rule itself, and does not render Rule 204 void and invalid.

Consequently, Idaho Code § 61-642 has no effect on the outcome of this Complaint given the facts of this case.

#### IV.

With regard to Paragraphs 19-21, Idaho Power denies them in whole or in part. While the Company agrees that electric utility customers should largely be able to expect that the utility will accurately measure and bill for electric usage, errors cannot be completely eliminated in any business that is not fully automated. Although the Company aspires to perfection, portions of Idaho Power's billing system (including the physical changing of meters and the input of billing constant data into the billing system) remain subject to human error. It is unreasonable to expect that errors will never occur



or that customers should be fully excused in these instances from paying for energy known to have been actually consumed, thus receiving a windfall at the expense of other customers.

Idaho Power works diligently to minimize its number of billing errors and has a greater than 99% billing accuracy rate<sup>1</sup> on the approximately 479,000 bills it generates each month. Although South Elmore alleges that electric suppliers have little incentive to establish reasonable procedures to guarantee that its meters are properly calibrated or that its bills are computed accurately, Idaho Power disagrees. Given the frustration errors cause customers, the negative impact errors have on the Company's image, and the significant employee resources required to correct them, Idaho Power has significant incentive to minimize errors – including the approximately \$427,000 it was unable to collect from South Elmore for energy consumed beyond the three-year rebill period. To that end, Idaho Power implemented new checklists and revised procedures for its meter technicians earlier this year to reduce the opportunity for errors to occur. In fact, it was due to the increased awareness and improved verification processes resulting from the Company's self-imposed CT metering verification effort that the South Elmore billing error was discovered.

#### V.

Idaho Power neither admits nor denies Paragraphs 1, 3, 4 and 9 of the Complaint as these assertions concern South Elmore's business operations and management structure.

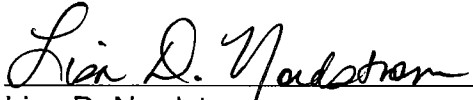
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<sup>1</sup> Idaho Power's bill accuracy rate is better than 99% for 2006 and year-to-date in 2007. The Company did not separately track billing errors prior to 2006.

## CONCLUSION

Idaho Power respectfully requests that South Elmore's Complaint be dismissed and that, pursuant to the provisions of the Commission's Utility Customer Relations Rules 204.03 and 313, South Elmore be ordered to pay Idaho Power Company \$916,702.24 for electrical service received for the three-year period between May 26, 2004 and April 26, 2007.

RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of October 2007.

  
\_\_\_\_\_  
Lisa D. Nordstrom

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of October 2007, I served a true and correct copy of the within and foregoing Answer of Idaho Power Company upon the following party by the methods indicated below and addressed to the following:

Donovan Walker  
Deputy Attorney General  
Idaho Public Utilities Commission  
P.O. Box 83720  
Boise, ID 83720-0074

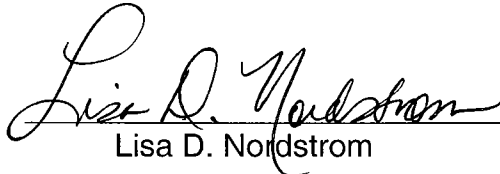
☒ Hand Delivered  
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\_\_\_\_\_  
Lisa D. Nordstrom