

BEFORE THE

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IDAHO PUBLIC UTILITIES COMMISSION

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)
TO ELECTRIC CUSTOMERS IN THE STATE)
OF IDAHO.)

CASE NO. IPC-E-08-10

DIRECT TESTIMONY OF JOHN NOBBS

IDAHO PUBLIC UTILITIES COMMISSION

OCTOBER 24, 2008

1 Q. Please state your name and business address for
2 the record.

3 A. My name is John Nobbs. My business address is 472
4 West Washington Street, Boise, Idaho.

5 Q. By whom are you employed and in what capacity?

6 A. I am employed by the Idaho Public Utilities
7 Commission (Commission) as an auditor in the Utilities
8 Division.

9 Q. What is your education, experience and background?

10 A. I received a Bachelor of Science degree in 1971
11 from Fresno State College, with thirty units in accounting.
12 In 2000, I received a Master of Science degree, with twelve
13 units in accounting and taxation. I completed the National
14 Association of Regulated Utility Commissioners' Annual
15 Regulatory Studies Program, in 2007.

16 I have worked on budgets, forecasts, inventory
17 accounting, cost accounting and on currency transactions. I
18 have drawn trial balances and developed financial statements
19 from those trial balances. I performed financial analysis.
20 I have worked as a Chief Accountant, Internal Auditor,
21 Assistant Controller and as a Controller. I was a Medicaid
22 auditor.

23 During the time I have worked at the Idaho Public
24 Utilities Commission, I have worked as an auditor in the
25 Utilities Division.

1 Q. What is the purpose of your testimony in this
2 case?

3 A. The purpose of my testimony is to explain the
4 results of auditing FERC Account 920, Administrative and
5 General Salaries; 921, Office Supplies and Expenses; 923,
6 Outside Services Expense; 924, Property Insurance Expense;
7 928, Regulatory Commission Expenses; and 930.200,
8 Miscellaneous Expenses.

9 Q. What did you find during your audit of FERC
10 Account 920?

11 A. Account 920 - Administrative and General Salaries,
12 contains entries for administrative salaries, employee
13 benefits, incentive pay and similar expenses. These charges
14 are recorded in subaccounts. For example, subaccount
15 920.001 contains entries for incentive pay.

16 Subaccount 920.350 contained four entries
17 identified as Executive Deferred Compensation for 2007,
18 totaling \$459,524. These charges are for contributions to
19 or other charges related to a Rabbi Trust.

20 Q. What is a Rabbi Trust?

21 A. A Rabbi Trust is a type of grantor trust,
22 receiving specific tax treatments under the Internal Revenue
23 Code.

24 According to the IRS website, this type of trust
25 is often used by businesses to provide "Golden Parachutes"

1 or other forms of deferred compensation to a limited group
2 of employees.

3 In tax terminology, deferred compensation is
4 income which is not recognized until a later date.
5 Typically, that date is after retirement. This is desirable
6 for the employee because income is generally subject to
7 lower tax rates then.

8 The Internal Revenue Service has a model trust
9 agreement and explanations on its website at www.irs.gov.
10 As explained there, generally, contributions to a grantor
11 trust which benefit another person are taxable to that
12 person when contributed under the tax doctrines of
13 "Constructive Receipt" or "Economic Benefit."

14 A Rabbi Trust has a "safe harbor", precluding
15 taxation at the time of contribution. If the terms of the
16 trust document meet the requirements of the model trust,
17 Section 1(d), the "Safe Harbor" will be recognized by the
18 Internal Revenue Service.

19 One effect of the "Safe Harbor" is to make
20 contributions to the trust available to satisfy the claims
21 of the donor's creditors if the donor becomes insolvent or
22 files for bankruptcy. These contributions, in the hands of
23 the trust, are called "corpus." Because creditors can
24 exercise a prior claim on trust corpus, the trust
25 beneficiaries bear a "substantial risk of forfeiture."

1 Simply put, contributions can be taken back until they are
2 given to the employee. According to Treasury Regulation
3 Section 1-451-2(a), this "risk of forfeiture" establishes
4 the "safe harbor", preventing contributions from being
5 income as if they were paid in the form of wages or salary.

6 A second effect could occur if IDACORP contributed
7 its own stock to assist Idaho Power Company with its
8 deferred compensation plan. If all corpus was not
9 distributed, the remainder could revert to IDACORP even
10 though the expenses representing the the contributions were
11 originally recorded by Idaho Power Company.

12 Q. What is the position of Staff on this type of
13 deferred compensation and related expenses?

14 A. Staff believes that charges for contributions to
15 Rabbi Trusts and related expenses should not be included in
16 rates; these expenses should be borne by stockholders.
17 Staff also believes that the Commission should direct Idaho
18 Power Company to record charges for trust contributions,
19 administrator's fees, accounting fees and other expenses
20 related to this type of non-qualified deferred compensation,
21 in a specific account for below-the-line expenses.

22 Q. Why does Staff believe below-the-line treatment is
23 appropriate?

24 A. First, a Rabbi Trust is a form of non-qualified
25 deferred compensation similar to a golden parachute. The

1 benefits of the trust accrue to the top officers of the
2 Company but do not benefit customers. This plan is not
3 available to all employees. It is a benefit available only
4 to a limited group of highly compensated employees.

5 Second, specific terms in the trust document
6 create a "Safe Harbor"; this gives creditors a prior claim
7 upon trust corpus. Since creditors can exercise this prior
8 claim upon corpus, contribution alone does not immediately
9 transfer ownership or monetary values to beneficiaries in
10 exchange for employee services. In contrast, payment of
11 salaries or wages would transfer ownership of cash from the
12 Company to the employee.

13 Third, employees do not recognize income when
14 contributions are made.

15 Fourth, employees recognize income only if trust
16 assets are available after satisfying prior claims, and if
17 they are distributed.

18 Fifth, it should be recognized that if IDACORP
19 contributed its own stock to the trust, trust corpus may be
20 available to creditors of both IDACORP and Idaho Power
21 Company. Also, in the future previous contributions which
22 remain undistributed could revert to IDACORP, even though
23 Idaho Power Company recorded the expense.

24 Staff recommends these charges totaling \$459,524,
25 shown in Exhibit No. 108, be removed from 2007 base year

1 expenses and revenue requirement.

2 Q. What did you find during your audit of Account
3 921?

4 A. Account 921 - Office Supplies and Expenses, is
5 used to record office supplies, travel, and similar
6 expenses. This account contains numerous entries from
7 Accounts Payable One Card (P-card) transactions as most
8 expense accounts do. Staff witness Vaughn will discuss
9 these in her testimony.

10 Q. What did you find in your examination of Account
11 923?

12 A. Account 923 - Outside Services Expense, contained
13 many entries for P-card charges, which Staff witness Vaughn
14 will address in her testimony.

15 This account also contained charges for legal
16 services with descriptions suggesting these services may be
17 for stockholder services or for the parent company of Idaho
18 Power Company (IDACORP) or for the non-qualified deferred
19 compensation plan. Staff witness Leckie will discuss these
20 in his testimony.

21 I also found three entries totaling \$36,375 for
22 Architects' Services, which should have been capitalized
23 rather than expensed. None of these were included in
24 adjustments shown in Smith Exhibit No. 30, page 9, for
25 Account 923. Staff recommends this \$36,375 be removed from

1 2007 base year expenses and revenue requirement, subject to
2 a small adjustment for depreciation. See Exhibit No. 109.

3 Q. What did you find during your examination of FERC
4 Account 924?

5 A. Account 924 - Property Insurance Expenses,
6 contains many entries whose descriptions are incomplete or
7 cryptic. However, Staff was able to satisfy itself by
8 testing and other audit methods. Staff believes that the
9 amount claimed is a reasonable representation of broker's
10 fees, insurance premiums and other insurance related
11 expenses for the base year 2007.

12 Q. What did you find in your audit of Account 928?

13 A. Account 928 - Regulatory Commission Expenses
14 contains fees for regulatory licenses and assessments, legal
15 fees for cases before regulatory commissions and similar
16 expenses. These expenses are classified and recorded in
17 subaccounts such as 928.101, 928.102, etc.

18 During my audit of subaccount 928.101 - FERC Order
19 No. 472, I found two accruals recorded in 2007 containing
20 out-of-period charges totaling \$163,901. Each accrual
21 covered a one-year period.

22 The first accrual consisted of twelve entries
23 totaling \$392,956. These twelve entries covered the period
24 October 1, 2006 through September 30, 2007. Out of period
25 accruals included the three months of October, November and

1 December of 2006. If equal charges for each month were
2 accrued, charges for these three months would be \$98,239.

3 The second accrual, totaling \$87,549, consisted of
4 four entries. This total covered the period October 1, 2007
5 through September 30, 2008. Charges for the nine out-of-
6 period months of January 2008 through September 2008 using
7 equal accruals would be \$65,662.

8 This subaccount was examined for entries to remove
9 these out-of-period charges. None were found and no entry
10 was found with a dollar amount large enough to remove such
11 charges. Smith Exhibit No. 29, pages 6 and 8 and
12 Schwendiman Exhibit No. 41, page 6, both refer to Account
13 928, or subaccount 928.101. Neither exhibit shows an
14 equivalent adjustment. The sum of these two adjustments for
15 out-of-period charges reduces total expenses and revenue
16 requirement for the 2007 base year by \$163,901 as seen in
17 Exhibit No. 110.

18 Q. What did you find during your examination of
19 Account 930.200?

20 A. Account 930.200 - Miscellaneous Expenses contains
21 expenses not properly classified in other accounts.

22 During my examination I found numerous charges,
23 which were paid via Company P-card. Staff witness Vaughn
24 will provide testimony on P-card charges.

25 I also found entries for Directors' Fees and

1 related expenses or entries which appear to be shareholder
2 expenses. Staff witness Leckie will cover these in his
3 testimony.

4 In addition, there were entries described in Smith
5 testimony, Exhibit No. 30, pages 2 and 3. These exhibit
6 pages identified certain charges by specific account number
7 and removed them from expenses for the 2007 base year,
8 complying with previous Commission Orders.

9 Lastly, I found entries described as being for a
10 travel alarm clock and for candy. These expenditures appear
11 to be personal, a contribution or frivolous. Also, four
12 entries described as donations to Caldwell Economic
13 Development, Eastern Oregon Visitors, the Idaho Economic
14 Development Association and the Pocatello Men's Basketball
15 League were found. These donations were not listed among
16 the contributions removed by Idaho Power Company, as shown
17 on pages 2 and 3 of Smith Exhibit No. 30. Staff was unable
18 to identify adjustments to Account 928.200 that removed
19 these amounts from the year-end balance and none could be
20 identified as P-card entries. Staff recommends the amounts
21 for the contributions, alarm clock and candy reduce 2007
22 base year expenses by a total of \$7,150 as seen in Exhibit
23 No. 111.

24 Exhibit No. 112 summarizes the total recommended
25 adjustments for my testimony. All adjustments reduce 2007

1 base year expenses and revenue requirement by a total of
2 \$666,950.

3 Q. Does this conclude your direct testimony in this
4 proceeding?

5 A. Yes, it does.
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Idaho Power Company
Audit Adjustments Account 920.350
Base Year 2007

Eff Date	Unit	Source Description	Amount
3/31/2007	IPC	EDC QUARTERLY ENTRY	161,739
6/30/2007	IPC	EDC QUARTERLY ENTRY	216,973
10/31/2007	IPC	Executive Deferred Comp	88,810
12/31/2007	IPC	Executive Deferred Comp	(7,997)
		Total	<u>\$459,524</u>

Exhibit No. 108
Case No. IPC-E-08-10
J. Nobbs, Staff
10/24/08

Idaho Power Company
Audit Adjustments Account 923
Base Year 2007

Date	Vendor	Source Description	Amount
6/30/2007		ZGA ARCHITECTS & PLANNERS	6,290
6/30/2007		ZGA ARCHITECTS & PLANNERS	16,025
11/30/2007	ZGAARPL	CHQ MASTER PLAN	14,060
		Total	<u>36,375</u>

Subject to Amortization or Depreciation

Exhibit No. 109
Case No. IPC-E-08-10
J. Nobbs, Staff
10/24/08

Idaho Power Company
 Audit Adjustments Account 928.101
 CYE 2007

Set	Date	Source Description	Amount
1	1/31/2007	ACCRUE FERC FEES	29,518
	1/31/2007	ACCRUE FERC FEES	(858)
	2/28/2007	ACCRUE FERC FEES	29,518
	3/31/2007	ACCRUE FERC FEES	29,518
	4/30/2007	ACCRUE FERC FEES	29,518
	5/31/2007	ACCRUE FERC FEES	35,941
	5/31/2007	FERC ACCRUAL CATCH UP	44,959
	6/30/2007	ACCRUE FERC FEE CATCH UP	38,309
	6/30/2007	ACCRUE FERC FEES	35,941
	7/31/2007	ACCRUE FERC FEES	40,197
	8/31/2007	ACCRUE FERC FEES - AUGUST	40,197
9/30/2007	ACCRUE FERC FEES - SEPT	40,198	
Total accrued in 2007 for the period October 1, 2006 thru September 30, 2007			<u>392,956</u>
2	10/31/2007	ACCRUE FERC FEES - OCT	40,197
	11/30/2007	ACCRUE FERC FEES - NOV	29,183
	11/30/2007	ADJ OCT ACCRUAL	(11,014)
	12/31/2007	ACCRUE FERC FEES - DEC	29,183
	Total accrued in 2007 for the period October 1, 2007 thru September 30, 2008		
Audit Adjustment			
Set 1	12/31/2007	3 months in 2006	3/12 X 392,956
Set 2	12/31/2007	9 months in 2008	9/12 X \$87,549
Total			<u>163,901</u>

Idaho Power Company
 Audit Adjustments Account 930.200
 Base Year 2007

Date	Source Description	Amount	
3/31/2007	IDAHO ECONOMIC DEVELOPMENT ASS	200	
3/31/2007	IDAHO ECONOMIC DEVELOPMENT ASS	200	
3/31/2007	IDAHO ECONOMIC DEVELOPMENT ASS	200	
3/31/2007	IDAHO ECONOMIC DEVELOPMENT ASS	200	
3/31/2007	IDAHO ECONOMIC DEVELOPMENT ASS	200	1,000
10/31/2007	TRAVEL ALARM CLOCK,N	(131)	
10/31/2007	TRAVEL ALARM CLOCK,N	18	
10/31/2007	TRAVEL ALARM CLOCK,N	571	457
11/30/2007	CALDWELL ECONOMIC DEVELOPMENT	2,500	
11/30/2007	EASTERN OREGON VISITOR'S ASSOC	1,125	
11/30/2007	POCATELLO MEN'S BASKETBALL LEA	350	3,975
12/31/2007	BUTTER TOFFEE	141	
12/31/2007	BUTTER TOFFEE	141	
12/31/2007	BUTTER TOFFEE	225	
12/31/2007	BUTTER TOFFEE	253	
12/31/2007	BUTTER TOFFEE	282	
12/31/2007	BUTTER TOFFEE	310	
12/31/2007	BUTTER TOFFEE	366	1,718
	Total	<u><u>\$7,150</u></u>	

Exhibit No. 111
 Case No. IPC-E-08-10
 J. Nobbs, Staff
 10/24/08

IDAHO POWER COMPANY
SUMMARY OF AUDIT ADJUSTMENTS
BASE YEAR 2007

Exh No.	Acct No.	Adjustment Description	Amount
108	920.350	Non Qualified Deferred Compensation	459,524
109	923	Architects Services	36,375
110	928.101	Out-of-period Accruals	163,901
111	930.200	Contributions, etc.	7,150
		Total	<u><u>\$666,950</u></u>

Exhibit No. 112
Case No. IPC-E-08-10
J. Nobbs, Staff
10/24/08

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 24TH DAY OF OCTOBER 2008, SERVED THE FOREGOING **DIRECT TESTIMONY OF JOHN NOBBS**, IN CASE NO. IPC-E-08-10, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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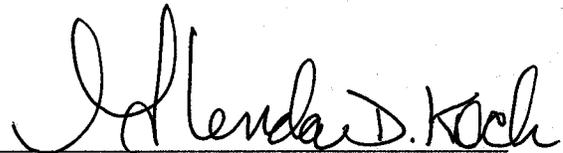
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