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Attorney for Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-08-10
AUTHORITY TO INCREASE ITS RATES)
AND CHARGES FOR ELECTRIC SERVICE) COMMISSION STAFF'S
TO ELECTRIC CUSTOMERS IN THE) ANSWER TO IDAHO POWER'S
STATE OF IDAHO.) PETITION FOR RECONSIDERATION**

The Commission issued its final Order No. 30722 in this case on January 30, 2009, and Idaho Power Company filed a Petition for Reconsideration on February 19, 2009. Staff files this Answer to Idaho Power's Petition for Reconsideration addressing only one subject area raised by the Company in its Petition. By not addressing the other issues raised in Idaho Power's Petition, Staff is not agreeing with or acquiescing in the Company's argument on those other points, and thus does not in any way waive its opportunity to participate in additional evidentiary hearings or to file legal argument.

The issue Staff addresses in this Answer to Idaho Power's Petition for Reconsideration is the Company's argument that "removal of purchasing card (P-Card) expenses from base rates is unreasonable, erroneous, not supported by substantial and competent evidence in the record, and not in conformity [with] the applicable law." Idaho Power Petition for Reconsideration, p. 17. The Commission in Order No. 30722 removed \$884,787 from the Company's revenue requirement as an adjustment to 2007 P-Card purchases totaling more than \$11.2 million. The Company argues in its Petition that this adjustment is not supported by substantial, competent evidence because Staff's auditing methodology to support it "does not

conform to any standard or accepted auditing practice, and the ultimate recommended reduction is based upon nothing more than an arbitrary amount chosen subjectively by Staff.” Idaho Power Petition for Reconsideration, p. 17.

Idaho Power asks that the Commission on reconsideration reverse its decision to reduce its revenue requirement by \$884,787 in disallowed P-Card purchases. Alternatively, the Company suggests that additional evidence be taken, and proposes an independent auditing specialist examine Staff’s auditing approach and methodology, and if found to be deficient, to recommend a sound auditing methodology. The Commission should deny reconsideration of this adjustment, or approve the Company’s alternative proposal to hear additional evidence on P-Card expenses and consider disallowing a greater amount of the \$11.2 million in P-Card purchases.

Idaho Power in its Petition primarily criticizes Staff’s audit of P-Card expenses. For example, the Company asserts that a Staff witness made a 50% reduction in restaurant expenditures “based only upon her personal belief that the Company is too permissive in what it considers business related expenses, and that the restaurant expenses are too high.” Idaho Power Petition for Reconsideration, p. 18 *citing* Tr. at 1322-23. Idaho Power criticized Staff’s recommended reduction in cell phone expenses as being based on “unverified assumptions concerning the number of employees that have cell phones.” The Company recognizes that Staff’s audit of P-Card expenses was extensive, it nonetheless asserts that Staff did no investigation into the actual charges in the accounts to justify or support random deductions ultimately adopted by the Commission. Idaho Power Petition for Reconsideration, p. 19. The Company pointed out that the P-Card cell phone charges include many legitimate business charges, such as communication charges for remote stream flow monitoring equipment, remote equipment monitoring snow levels, communication service for dams, remote metering equipment, and after-hour and on-call support for the call center. Idaho Power Petition for Reconsideration, p. 19 *citing* Tr. at 2327-28. The Company argues that “these valid expenses may have been uncovered if Staff had followed accepted auditing practices and examined the underlying data.” *Id.* Regarding deductions for restaurant expenses, the Company argues that “Staff’s workpapers do not provide an adequate basis to conclude that the meal expenses were neither reasonable nor necessary.” Idaho Power Petition for Reconsideration, p. 20. The Company concludes its argument on P-Card purchases by stating that evidence supports a

finding “that it has adequate oversight controls in place for P-Card purchases in order to ensure they have a *legitimate business purpose* and are neither excessive nor unreasonable.” Idaho Power Petition for Reconsideration, pp. 20-21 (italics added) *citing* Tr. at 2314-36.

The Company criticizes Staff’s audit both in testimony and in its Petition for Reconsideration, but Idaho Power’s criticism of Staff’s audit methodology is misplaced. Rather, the Company disagrees with the standard used to determine whether significant amounts of employee purchases should be paid by ratepayers.

It is clear that Staff believed that employee purchases should be necessary or beneficial to customers to justify compensation for them by Idaho Power customers. The Commission noted in Order No. 30722 that Staff believed these expenditures must be considered necessary, reasonable and prudent in providing service to customers to be recoverable in rates. Order No. 30722, p. 25 *citing* Tr. at 2321. This is evident throughout Staff’s testimony. For example, Staff recommended disallowance of restaurant expenses because they “were neither a reasonable nor *necessary* expense for a regulated utility.” Tr. p. 1323. Staff testified it does not believe it is “*necessary* for customers to provide food for meetings, to pay for a restaurant meal for two Company employees, or to entertain a contractor when the Company is not competing for business with another supplier of power.” *Id.* Staff acknowledged that miscellaneous expenses for things like bottled water, coffee and newspapers generally are allowed for business purposes, but removed them from ratemaking “since they do not directly *benefit the customer.*” Tr. p. 1326.

Staff distinctly testified that it did not find any employee abuse of the P-Card system, that is, Staff did not uncover purchases made outside the Company’s policy. Tr. p. 1330. Apart from any question of violating the Company’s P-Card policy, however, Staff’s goal by its audit was “to determine whether those expenditures are appropriately the responsibility of Idaho Power’s customers.” Tr. p. 1317. Staff explained that its audit “allowed Staff to evaluate Company policies that govern P-Card expenditures and to determine whether the expenditures were made for prudent and reasonable business purposes *that directly benefit the customer.*” Tr. p. 1318 (italics added). This is the appropriate standard for including costs in customer rates. In past Orders, the Commission has disallowed costs such as service club dues and membership fees because they do not provide “any kind of direct benefit to ratepayers.” Order No. 14859, p. 25. Corporate image advertising and membership dues have been disallowed in customer rates

because “these activities do not benefit or educate ratepayers.” Order No. 20244, p. 9. *See also* Order No. 18235, pp. 17-18 (membership fees and dues disallowed because benefit to ratepayers not proven); Order No. 15880, pp. 6-7 (portion of Idaho Power’s membership fees disallowed because benefit to customers not apparent); Order No. 14495, p. 35 (Idaho Power’s charitable contribution expenses denied “unless the Company can show that such expenses were incurred solely on behalf of its ratepayers”).

It is evident from the transcript and its Petition for Reconsideration that Idaho Power uses a different standard to allow P-Card purchases by employees. The Company testified it uses its oversight controls to determine that purchases “have a legitimate business purpose.” Tr. p. 2324. Thus, although the Company criticizes Staff’s “necessary, reasonable and prudent” standard as being too subjective, it uses an even more subjective standard. Tr. p. 2321. The Company does not define “legitimate business purpose,” but it is clear that it has a broad scope. For example, the Company justifies expenses for gifts and awards as providing benefits to employees “to foster a positive working environment, good morale, and, although indirect, assist in attracting and retaining quality employees.” Tr. pp. 2330-31. The Company allows P-Card purchases for service award celebrations to recognize employees for their time and contributions to the Company. The Company allows P-Card purchases for social events such as Christmas parties and picnics, because “these events promote employee morale as well as develop positive working relationships and environments.” Tr. p. 2332. The Company’s P-Card policy allows purchases for expenses “incurred in support of employee community involvement which enhances employee morale and benefits the local communities that comprise Idaho Power’s service territory.” Tr. pp. 2333-34.

Clearly, Idaho Power’s standard for allowable employee P-Card purchases differs from the standard applied by the Commission to evaluate employee purchases for customer reimbursement. So long as the Company identifies “a legitimate business purpose,” the purchase is allowed under its P-Card policy. In contrast, the Commission has consistently held that these employee purchases must provide a direct benefit to customers or be necessary to providing service to customers in order to be included in rates.

The burden of proof is on Idaho Power to establish the necessity, reasonableness and prudence of expenses to include in customer rates. The Company offered no evidence to establish its P-Card purchases met this standard, and Staff thus could have recommended

disallowance of the entire \$11.2 million in employee purchases. Staff did not make that recommendation, however, because clearly some P-Card purchases do meet the appropriate standard for recovery in rates.

It was not possible for Staff to examine each individual P-Card purchase to determine whether or not it met a reasonable, necessary and prudent standard or simply met the Company's broader business purpose standard. For things like restaurant purchases, that sort of audit would entail questioning individual employees as to the purpose of the business lunch, whether business was actually conducted during the meeting, and whether the meeting could have taken place somewhere else thus avoiding the restaurant charge. Due to the limited time allowed for the rate case and the huge volume of individual P-Card purchases, Staff identified a representative amount of charges that were clearly not necessary or directly related to providing service to customers. Staff does not dispute that the amounts recommended for disallowance met the Company's broader "business purpose" standard, but removed them from compensation by ratepayers as not being necessary or beneficial to customers.

The Commission in Order No. 30722 noted that the significant total amount of P-Card purchases "by itself suggests the Company's policy for authorizing business purchases by employees may be too lenient." Order No. 30722, p. 26. By approving Staff's "relatively modest adjustment to the 2007 P-Card purchase expenses," the Commission implicitly approved the necessary, reasonable and prudent standard for evaluating employee expenditures for recovery in rates. Order No. 30722, p. 26. The Commission noted the Company's broader policy for P-Card purchases, especially in regard to gifts and awards and charitable donations. These benefits identified by the Company – beneficial to fostering a positive working environment and good morale, recognizing an employee for his contributions to the Company, and support of employee community involvement – were not adequate to win Commission approval for recovery in rates. Order No. 30722, p. 26.

Staff made a reasonable effort to identify a modest representative amount of employee P-Card purchases that should be removed for compensation by ratepayers. The Commission should deny reconsideration on this issue, and leave alone the disallowance of \$884,787 from more than \$11.2 million in P-Card purchases. If the Commission determines to grant reconsideration on the P-Card issue, the Commission should grant the Company's alternative request that additional evidence be taken. The burden of proof falls on Idaho Power

to demonstrate that (1) its P-Card policy is reasonable and prudent, and (2) that all P-Card purchases are necessary, reasonable and prudent to justify recovery in rates. A hearing can be held to examine each of the P-Card purchases, requiring the Company to put on evidence to establish that it was a necessary expense or provided a direct benefit to customers. If the Company fails to meet this burden of proof, the Commission should disallow each of the employee P-Card purchases up to and including the full amount of \$11.2 million.

Respectfully submitted this 26th day of February 2009.



Weldon B. Stutzman
Deputy Attorney General

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 26th DAY OF FEBRUARY 2009, SERVED THE FOREGOING **COMMISSION STAFF'S ANSWER TO IDAHO POWER'S PETITION FOR RECONSIDERATION**, IN CASE NO. IPC-E-08-10, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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