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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-08-22
AUTHORITY TO MODIFY ITS RULE H)
LINE EXTENSION TARIFF RELATED TO) IDAHO POWER COMPANY'S
NEW SERVICE ATTACHMENTS AND) AMENDED MOTION TO ACCEPT
DISTRIBUTION LINE INSTALLATIONS.) CONFORMING RULE H SECTION
) 10 TARIFF
)
_____)

Idaho Power Company ("Idaho Power" or "Company"), in accordance with RP 056 and Idaho Code §§ 61-624 and -629, hereby amends its Motion to Accept Conforming Rule H Section 10 Tariff filed on July 14, 2011, requesting that the Idaho Public Utilities Commission ("Commission") issue an order approving Section 10 of the Rule H line extension tariff, conforming it to Idaho Supreme Court ("Court") Opinion No. 56 issued in *Ada County Highway Dist. v. Idaho Public Utilities Com'n*, 151 Idaho 1, 253 P.3d 675, on May 25, 2011 ("Opinion"). Idaho Power incorporates the July 14, 2011, Motion by reference and amends it as follows to reflect subsequent discussions with the Ada County Highway District ("ACHD"):

Section 10, Paragraph 1. As depicted in Attachment Nos. 1 (the revised tariff language Idaho Power submits for Commission approval) and 2 (a comparison between Section 10 language filed with Idaho Power's July 14, 2011, Motion and that proposed in this Amended Motion), ACHD recommended, and Idaho Power agreed, to modify the first paragraph of Section 10 to reference provisions of Idaho Code § 40-210 more generally.

Section 10, Paragraph 2. As set forth in Attachment No. 2, ACHD recommended, and Idaho Power agreed, to more clearly reflect the Public Road Agency's role in determining that facilities located in public road rights-of-way must be relocated or removed when they incommode the public use.

Section 10, Paragraph 3. ACHD and Idaho Power agreed to clarifications of the first sentence of the third paragraph concerning the Company's efforts to recover all or a portion of the Relocation or removal costs associated with a request from a Private Beneficiary. These clarifications are specifically identified in Attachment No. 2. However, ACHD does not support the last sentence proposed by Idaho Power which states:

If the Private Beneficiaries dispute the Company's calculation of the Private Beneficiaries' cost responsibility, either the Company or the affected Private Beneficiaries may initiate a proceeding to have the Commission establish the reasonableness of the Company's calculation of the Relocation or removal cost responsibility as between the Company and the Private Beneficiaries.

Idaho Power believes this language is necessary for the following reasons:

1. While page 10 of the Court's Opinion acknowledges that "The IPUC has the authority to determine the costs that Company can charge a private person who

requests service from the Company,”¹ the Opinion does not address the respective rights and responsibilities of the Commission, the private party, and the Company when the private party requests a relocation of utility facilities located in a public road right-of-way;

2. Private parties often question the Company’s tariff authority to require payment of costs incurred to relocate distribution facilities located in public rights-of-way, particularly if the relocation was required by a Public Road Agency. This sentence makes clear that Private Beneficiaries requesting utility relocation services bear responsibility for paying relocation costs associated with their projects;

3. The proposed language also notifies parties that the Commission, acting in its ratemaking capacity, may determine the reasonableness of the Company’s charges for providing this service if there is concern that Idaho Power (over which the Commission has jurisdiction) has calculated its costs incorrectly; and

4. The requested language describes the requirement for a party to exhaust its administrative remedies available before the Commission.

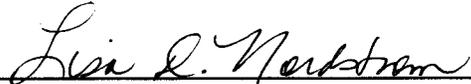
CONCLUSION

For the reasons cited herein, Idaho Power respectfully submits that the proposed amended Rule H Section 10 tariff enclosed as Attachment No. 1 conforms to and is consistent with the Idaho Supreme Court’s Opinion issued in *Ada County Highway Dist. v. Idaho Public Utilities Com’n*. The Company hereby requests that the Commission approve the Company’s proposed Section 10 of the Rule H line extension tariff and any additional procedure the Commission deems appropriate. Counsel for ACHD has

¹ *Ada County Highway Dist. v. Idaho Public Utilities Com’n*, 151 Idaho 1, ___, 253 P.3d 675, 682 (2011).

indicated to Idaho Power that it will file an answer to this Amended Motion within fourteen (14) days as provided in Procedural Rule 57.03. IDAPA 31.01.01.57.03.

DATED at Boise, Idaho, this 11th day of January 2012.



LISA D. NORDSTROM
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 11th day of January 2012 I served a true and correct copy of IDAHO POWER COMPANY'S AMENDED MOTION TO ACCEPT CONFORMING RULE H SECTION 10 TARIFF upon the following named parties by the method indicated below, and addressed to the following:

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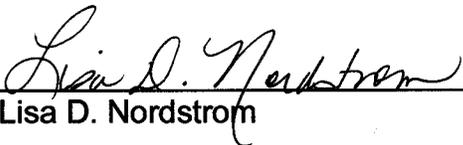
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Lisa D. Nordstrom

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-08-22
IDAHO POWER COMPANY

ATTACHMENT NO. 1
REVISED TARIFF LANGUAGE

RULE H
NEW SERVICE ATTACHMENTS
AND DISTRIBUTION LINE
INSTALLATIONS OR
ALTERATIONS
(Continued)

10. Relocations in Public Road Rights-of-Way

The Company often locates its distribution facilities within state and local public road rights-of-way under authority of Idaho Code § 62-705 (for locations outside Idaho city limits) and the Company's city franchise agreements (for locations within Idaho city limits). When the Company is notified of a road improvement project pursuant to Idaho Code § 40-210, the Company will meet with the Public Road Agency as provided in Idaho Code § 40-210.

If a Public Road Agency determines that the Company's facilities incommode the public use of any road, highway, or street, the Public Road Agency can require the company to relocate or remove the facilities. If a Public Road Agency determines that the Company's facilities must be relocated or removed because they incommode the public use of the road, highway, or street, the Company will relocate its distribution facilities from or within the public road rights-of-way and the Company will bear the costs of such relocation.

If the Company determines that one or more Private Beneficiaries has, directly or indirectly through a Public Road Agency, requested that the Company's facilities be relocated or removed for the benefit of the Private Beneficiaries, the Company will use reasonable efforts to recover that portion of the total Relocation or removal costs attributable to the request from the Private Beneficiaries. If the Private Beneficiaries dispute the Company's calculation of the Private Beneficiaries' cost responsibility, either the Company or the affected Private Beneficiaries may initiate a proceeding to have the Commission establish the reasonableness of the Company's calculation of the Relocation or removal cost responsibility as between the Company and the Private Beneficiaries.

11. Existing Agreements

This rule shall not cancel existing agreements, including refund provisions, between the Company and previous Applicants, or Additional Applicants. All Applications will be governed and administered under the rule or schedule in effect at the time the Application was received and dated by the Company.

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION
CASE NO. IPC-E-08-22
IDAHO POWER COMPANY

ATTACHMENT NO. 2
COMPARED TARIFFS

RULE H
NEW SERVICE ATTACHMENTS
AND DISTRIBUTION LINE
INSTALLATIONS OR
ALTERATIONS
 (Continued)

10. Relocations in Public Road Rights-of-Way

The Company often locates its distribution facilities within state and local public road rights-of-way under authority of Idaho Code § 62-705 (for locations outside Idaho city limits) and the Company's city franchise agreements (for locations within Idaho city limits). When the Company is notified of a road improvement project pursuant to Idaho Code § 40-210, the Company will meet with the Public Road Agency to review plans, understand the goals, objectives, and funding sources for the proposed project, provide and discuss recommendations to reasonably eliminate or minimize relocation costs, limit the disruption of utility services, eliminate or reduce the need for present or future utility facility relocation, and provide reasonable schedules to enable coordination of the highway project construction and utility facility relocation as may be necessary, as provided in Idaho Code § 40-210.

If the Company's facilities must be relocated If a Public Road Agency determines that the Company's facilities incommode the public use of any road, highway, or street, the Public Road Agency can require the company to relocate or remove the facilities. If a Public Road Agency determines that the Company's facilities must be relocated or removed because they incommode the public use of the road, highway, or street, the Company will relocate its distribution facilities from or within the public road rights-of-way and the Company will bear the costs of such relocation.

If, however, during the process provided in Idaho Code § 40-210, the Company determines that one or more Private Beneficiaries has, directly or indirectly through a Public Road Agency, requested that the Company's facilities be relocated or removed for the benefit of the Private Beneficiaries, the Company shall will use reasonable efforts to recover that portion of the total Relocation Costs associated with such or removal costs attributable to the request from the Private Beneficiaries. If there is a the Private Beneficiaries dispute, the Company's calculation of the Private Beneficiaries' cost responsibility, either the Company or the affected Private Beneficiaries may initiate a proceeding to have the Commission establish the reasonableness of the Company's calculation of the Relocation or removal cost responsibility as between the Company and the Private Beneficiaries.

121. Existing Agreements

This rule shall not cancel existing agreements, including refund provisions, between the Company and previous Applicants, or Additional Applicants. All Applications will be governed and administered under the rule or schedule in effect at the time the Application was received and dated by the Company.

At the request of a Public Road Agency, the Company will relocate its distribution facilities from or within the public road rights-of-way. The Relocation may be for the benefit of the general public, or in some cases, be a benefit to one or more Private Beneficiaries. Nothing in this Section bars a Local Improvement District (LID) from voluntarily paying the Company for Relocations.

~~The Company's cost of Relocations from or within the public road rights-of-way shall be allocated as follows:~~

~~a. Road Improvements Funded by the Public Road Agency – When the Relocation of distribution facilities is requested by the Public Road Agency to make roadway improvements or other public improvements, the Company will bear the cost of the Relocation.~~

~~b. Road Improvements Partially Funded by the Public Road Agency – When the Public Road Agency requires the Relocation of distribution facilities for the benefit of itself (or a LID) and a Private Beneficiary, the Company will bear the Relocation costs equal to the percentage of the Relocation costs allocated to the Public Road Agency or LID. The Private Beneficiary will pay the Company for the Relocation costs equal to the percentage of the road improvement costs allocated to the Private Beneficiary.~~

~~c. Road Improvements not Funded by the Public Road Agency – When the Relocation of distribution facilities in the public road rights-of-way is solely for a Private Beneficiary, the Private Beneficiary will pay the Company for the cost of the Relocation.~~

~~d. Prior Right of Occupancy – When the Company and the Public Road Agency have entered into an agreement regarding a Prior Right of Occupancy, the costs of Relocation in such designated area will be borne by the Public Road Agency, or as directed in the agreement.~~

~~All payments from Private Beneficiaries to the Company under this Section shall be based on the Company's Work Order Cost.~~

~~This Section shall not apply to Relocations within the public road rights-of-way of Public Road Agencies which have adopted legally binding guidelines for the allocation of utility relocation costs between the Company and other parties that are substantially similar to the rules set out~~

LEGEND:

Black – original approved language – Effective December 1, 2009

Red – language proposed in July 14, 2011, motion

Blue – language as amended and proposed in this filing