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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Intervenors The Building Contractors
Association of Southwestern Idaho

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE
APPLICATION OF IDAHO POWER
COMPANY FOR AUTHORITY TO
MODIFY ITS RULE H LINE EXTENSION
TARIFF RELATED TO NEW SERVICE
ATTACHMENTS AND DISTRIBUTION
LINE INSTALLATIONS**

CASE NO. IPC-E-08-22

**BUILDING CONTRACTORS
ASSOCIATION OF
SOUTHWESTERN IDAHO'S POST-
HEARING BRIEF**

The Building Contractors Association of Southwestern Idaho ("Building Contractors"), by and through its attorneys of record, Givens Pursley LLP, and pursuant to the Commission's direction at the conclusion of its technical hearing, submits this Post-Hearing Brief in the above-captioned matter.

This proceeding was initiated by Idaho Power Company ("Idaho Power" or "Company") based on its premise that growth is not paying for itself, and that "reducing allowances and refunds [for line extensions to serve new customers] will relieve one area of upward pressure on rates and will take a step toward growth paying for itself." Said Direct Testimony, Tr., p. 6, ll. 20-22. The implication of this statement is that the Company actually is incurring costs to extend service to new customers that cannot be recovered through its existing rate structure. In

other words, the line extension/distribution component of the Company's rate base is not being satisfied by the revenues generated by new customers, and hence, *line extensions are a source of upward pressure on rates.*

This premise is wholly unsupported by facts. The Company has provided no information whatsoever to demonstrate that its current rates do not produce a return to the Company sufficient to recover its current investments in distribution facilities.¹ Indeed, the Company agrees that, provided its per-customer investment in line extensions is limited to an amount equal to its embedded costs in distribution facilities, there is no "upward pressure on rates" attributable to line extensions serving new customers because the Company's current rates are "sufficient to recover the costs of the new facilities."²

So, reducing the Company's overall allowances for new residential customers to a level well below its embedded costs for distribution as proposed does not "relieve one area of upward pressure on rates," because under the current tariff, which contemplates a Company allowance that approximates the Company's embedded costs,³ there is no upward pressure from that component to be relieved.

¹ See Transcript, p. 107, l. 22 – p. 108, l. 2:

Q. By Mr. Creamer: Has the Company submitted any documentation in this proceeding showing the extent to which line extension costs themselves are the source of additional expense?

A: By Mr. Said: No, and it's not my contention that that's the sole driver of rate increases.

² See Transcript, p. 108, ll. 20–25; p. 121, ll. 1–8:

Q. By Mr. Creamer: And if the Company absorbs costs for new distribution facilities that are equal to or less than the costs for existing customers, that upward pressure [on rates] is eliminated, isn't it?

A. By Mr. Said: For that component.

Q. By Mr. Creamer: To the extent that the Company's investment in distribution facilities to serve new customers does not exceed its current embedded costs for distribution facilities, then the Company's current rates are sufficient to recover the costs of the new facilities; do you agree with that?

A. By Mr. Said: For that particular element of rates.

³ See Richard Slaughter Reconsideration Testimony, p. 243, l. 21 to p. 244, l. 3: From Staff Attachment 9, page 2 of 4, it is clear that under "Current Rule H" approved by Order 26780, the developer's "Net Cost" plus the \$800 per lot refund almost exactly equals the 'Work Order Cost per lot,' which in turn are almost exactly equal to the average embedded cost of \$1,232 computed by Staff."

The Company repeatedly has emphasized, however, that its current and anticipated costs for new generation and transmission facilities are not being recovered under existing rates. It is apparent that the increased new customer charges for the Company's distribution system being proposed by the Company, and the resulting amounts earned by the Company on the new distribution in excess of embedded costs, will go to pay other Company costs for generation and transmission.

Q. By Mr. Creamer: In your response on reconsideration, you stated that the Company's position that because of the substantial investments that are to be made in generation and transmission assets, the Company thinks it's reasonable for the Commission now to adjust its policy concerning the level of Company investment in line extensions; correct?

A. By Mr. Said: Correct.

Q. And to require more investment from the new customers for those line extension facilities than in the past?

A. That's correct.

Q. As a result, then, the new customers as they pay these costs for the line extension for the distribution facilities, that helps offset pressure on existing customers' rates from generation and transmission and other sources; isn't that correct?

A. Well, its all customers from that point forward in time, yes.

See Transcript, p. 288, l. 9 – p. 289, l. 2.

The result will be that to become an "existing customer," the "new" customer must pay up front for line extension costs and thereafter pay, in addition, residential rates that include a portion which already provides the Company full recovery for the specific costs of those facilities

Although the proposed increased line extension charge to a new customer (manifested through a reduced Company investment) would be identifiable to distribution facilities that serve that new customer, the inclusion of embedded distribution costs in existing rates that the new customer also would be required to pay would provide net benefits for the Company that inevitably would go to reduce the *existing* customers' share of distribution, generation and

transmission costs (i.e., costs that clearly are not specifically identifiable to the new customer). The Company's proposed tariff revision, then, is simply a means to make the new customer pay an upfront cost (ostensibly for the ability to become a new customer) that inevitably will defray some of the costs that otherwise would be charged to existing customers for new generation and transmission. *That* is what the Idaho Supreme Court found objectionable in *Idaho State Homebuilders v. Washington Water Power*, 107 Idaho 415, 690 P.2d 350 (1984), and *Boise Water Corp. v. Public Utilities Comm'n*, 128 Idaho 534, 916 P.2d 1259 (1996).

The Company concedes the lack of facts suggesting any differences between new and existing residential customers with respect to their costs of service, electrical consumption or time, and nature or pattern of use of electricity. Said Testimony, Transcript, p. 124, l. 8 – p. 125, l. 10. The Company proposes to reduce its investment in facilities to serve new customers because they are new, and because this reduced investment will help the Company offset pressure on rates for its existing customers created by the need for new generation and transmission. *See* Transcript, p. 288, l. 9 – p. 289, l. 2.

At least in 1995, when the Company sought to reduce its line extension allowances, it was willing to provide an allowance at least equal to its embedded costs of facilities already included in rates because, as the Company represented to the Commission, it would ensure that “new customers are treated the same as existing customers in terms of the rates that they pay.” Said Testimony, Transcript, p. 292, ll. 8-16, quoting from his Rebuttal Testimony submitted in Case No. IPC-E-95-18, marked for identification as Exhibit 206.

The Company's position now is that so long as the new customer pays the same rates as existing customers after he or she has paid the proposed increased line extension charges and ceased being an “applicant,” there is equal treatment as among customers because they then are

all simply “existing customers.” Another Company argument appears to be that the proposed tariff is proper because it, at least, treats all new *applicants* the same “in terms of their contribution to become a customer.” Transcript, p. 389, ll. 11-18. The same argument could have been made in the *Boise Water Corp.* case—once the applicants for new service paid the increased hook-up charge, they too became “existing customers” subject to the same rates as other existing customers. But that did not change the fact that Boise Water’s proposed increased contribution to become a customer bore no real relationship to the cost to interconnect, but rather was calculated to offset other costs attributable to all customers, i.e., water treatment.

Even Staff appears to support a continuing level of Company investment in line extensions, as reflected through allowances that can be recovered through existing rates. On pages 3 and 5 of its Comments, Staff indicates that Company investment should at least equal the average embedded cost per customer:

Staff believes that the goal in setting allowance and refund amounts for distribution line extensions should be to eliminate the impact on existing electric rates. More specifically, Staff believes the line extension rules should provide a new customer allowance (Company investment) that can be supported by electric rates paid by that customer over time. . . .

Staff’s position apparently is that the Company should continue to provide a per-residential customer investment for connections and line extensions equivalent to an amount that will be supported by the revenue stream embedded in the Company’s current rates. Staff Comments at p. 4. If so, Building Contractors agrees.

Using a residential customer revenue stream that is embedded in the Company’s current sales rate structure, Staff calculated the Company investment that can be supported by current rates without applying either upward or downward pressure on the Company’s rate structure (i.e., “revenue neutral”) to be \$1,232.44.

The Company objected to Staff's "revenue neutral" computation methodology, but it proffered no number of its own. The most Mr. Said offered regarding the Company's investment in line extension as compared to its actual embedded costs was that "currently it's probably greater than embedded cost."

The issue of risk and how it should be allocated as between the Company, its ratepayers and real estate developers is an appropriate one to be considered in this case. Changing economic conditions have highlighted this. There are, however, ways to acknowledge and assign risk components in the line extension tariff, particularly by providing a portion of the Company allowance as a refund to the developer when new customers in subdivisions take service. Dr. Slaughter's Testimony on Reconsideration suggested that an allowance equal to the Company's embedded distribution cost be given as a credit against the total design cost. This approach, if given as an upfront allowance, does place more risk on the Company, but it was proposed in the context of the Building Contractors' interpretation of the limited scope of reconsideration granted by the Commission (i.e., that "allowances" but not "refunds" were to be addressed). Building Contractors agree with Staff Comments, however, to the effect that an "allowance" is simply the portion of Idaho Power's line extension costs collected through electric rates representing the investment in new facilities. Building Contractors believe the allowance can be realized in whole or in part through refunds to reduce Company risk that residential lots in subdivisions may not be developed. Mr. Said agreed that providing the allowance as a refund reduces the investment risk of the Company.

CONCLUSION

The Company's application in this proceeding is based on an entirely unsupported assertion that by amending the tariff as requested, the Commission will relieve an area of upward

pressure on rates. For this to be true, it would have to be shown that the Company's line extension costs are not being recovered under its existing rates, which the Company must admit, has not been shown. Upward pressure on rates is driven by existing and anticipated generation and transmission costs. The Company admittedly wishes to address these costs by charging new customers more for line extensions regardless of its ability to fully recover, or over-recover, any allowance for line extensions that does not exceed its embedded costs.

Here, without any supporting facts showing new customers' line extension costs are driving rate increases or that new customers are different than existing customers in the cost of service, amount of energy consumed, or the time, nature or pattern of their use, the Company seeks to change a sound, longstanding Commission policy that, heretofore, has furthered the rules concerning treatment of new versus existing utility customers established by decisions of the Idaho Supreme Court. Without presenting supporting facts and with a faulty premise, Idaho Power proposes changes to its line extension tariff that would have significant negative economic impacts on real estate development, on the cost of new homes and on the people who buy them. Provided the Company's allowances are maintained at a level equal to its embedded costs as under the current tariff, the Commission is assured that it *has* addressed the potential that line extension costs would become an area of upward pressure on rates.

There are numerous mechanisms that can be employed to address the generation and transmission components of the Company's costs that admittedly are affecting rates. Reducing Company allowances and charging new customers a higher "contribution to become a customer" is not an appropriate means to that end.

For the foregoing reasons, Building Contractors respectfully request that the Company's proposal to establish a uniform \$1,780 terminal facilities allowance for new residential service be

denied and that the Commission rescind Order 30853 in that regard. Building Contractors further request that a \$1,233 per residential customer allowance be established and maintained unless and until facts are presented in a future proceeding establishing a new embedded cost number warranting an adjustment to such allowance. In residential subdivisions, that portion of the \$1,233 allowance in excess of the Company's investment in terminal facilities serving the subdivision could be provided as a refund to the developer to reduce risk to the Company that lots will not be occupied and served.

Respectfully submitted this 27th day of October, 2009.

GIVENS PURSLEY, LLP

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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of October, 2009, a true and correct copy of the foregoing was served upon the following individual(s) by the means indicated:

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