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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
REQUEST FOR INTERVENOR
FUNDING**

The Building Contractors Association of Southwestern Idaho ("Building Contractors"), by and through its attorneys of record, Givens Pursley LLP, and pursuant to Idaho Code §61-617A and IDAPA 31.01.01.161 - 165, respectfully makes application to the Idaho Public Utilities Commission ("Commission") for intervenor funding in the above-captioned matter. This application is timely, as it is made within fourteen days of the date of filing of the last brief in this matter, which was October 27, 2009.

REQUEST FOR INTERVENOR FUNDING

1. A summary and itemized statements of the Building Contractors' legal and consultant expenses for which it seeks recovery is attached as Attachment A.

2. The Building Contractors' Developer's Council Subcommittee and staff were actively involved with legal counsel and Dr. Richard Slaughter in evaluating Idaho Power Company's ("Company") proposed changes to its line extension tariff, and the economic impacts those changes would have on both the Building Contractors' members and the public in southwest Idaho. Although this case involved only one set of tariffs, the factual and policy issues raised were complex and important. Originally this matter was deemed by the parties and the Commission as appropriate for decision on modified procedure upon submission of comments responding to the Company's application and direct testimony. Order 30719. As later became apparent, however, the technical and legal issues related to the Company's requested amendments, as they affected the Building Contractors' members and members' customers and the Company, ultimately warranted a technical hearing and additional briefing by the Company and Intervenors. Order 30883.

Consistently throughout this proceeding, Building Contractors sought findings and conclusions by the Commission that new customers were entitled to a level of per-customer Company investment in distribution facilities on a par with existing customers; which, based on calculated embedded costs, was approximately \$1,232 per customer. In comparison, although Staff computed the \$1,232 embedded cost amount, it did not oppose the per-transformer charge serving as the sole Company investment.

3. Because of his familiarity with Idaho Power's rate structure generally and its line extension tariff specifically, having testified before the Commission in Case No. IPC-E-95-18, Dr. Richard Slaughter was retained as the Building Contractors' consultant and expert witness in support of the Building Contractors' written comments and to provide testimony to and before the Commission. Dr. Slaughter's experience and testimony served to establish an historical and

factual foundation concerning the Company's existing Rule H Tariff, its embedded distribution costs, and the actual sources of increasing costs of service to the Company. His testimony also provided a counterbalancing critique of the Company's and Staff's assertions on these important issues.

Dr. Slaughter presented reasonable and factually supported opinions in rebuttal of the Company's assertion that line extensions costs to serve new customers were a source of upward pressure on rates that would be alleviated by approval of the Company's proposed tariff amendments. Dr. Slaughter also provided relevant testimony addressing the potential effects of the proposed tariff amendments on energy demand, use and achievability of the Commission's conservation goals, which are pertinent to the Commission's consideration of whether the tariff amendments would be adverse to the public interest. Beyond merely criticizing the proposed tariff, Dr. Slaughter offered reasonable alternatives for the Commission's consideration under alternative allowance/refund and strict allowance approaches.

Dr. Slaughter challenged the Staff's calculations of the Company's proposed investment in distribution facilities. He presented evidence indicating that the proposed investment to serve new residential customers—approved by Staff—falls far short of the Company's investment to serve existing residential customers for all but the smallest new developments. Dr. Slaughter also distinguished the difference between inflation and growth as they affect Company costs.

The Building Contractors' comments and testimony emphasized an issue of public policy affecting the general body of electric consumers—namely the extent to which growth does or ought to pay for itself through electric rates generally and through line extension charges specifically. Building Contractors urged the Commission to look beyond the phrase “growth should pay for itself,” to inquire into the real causes of increased costs, and to critically evaluate

the extent to which new customers are being asked to pay more than existing customers, and whether such a policy encourages existing customers to consume more energy rather than conserve it. No other party, including Staff, addressed these issues squarely.

The Commission's Order 30883 granting in part Building Contractors' request for reconsideration implicitly, if not explicitly, recognized that Building Contractors had identified important issues that warranted further testimony and briefing by the parties and consideration by the Commission.

Based on the foregoing, Building Contractors have materially contributed to this proceeding and the Commission's consideration of the merits of the Company's tariff amendment application.

4. The Building Contractors' expenses and costs incurred in this case, as summarized in Exhibit A, total \$60,965.25.¹ This includes \$40,017.50 for legal fees (166.3 hours), \$19,926.66 for consultant fees (113.12 hours) and \$1,021.09 in copy charges. Of this total, \$28,386.35 in legal expenses and costs and consultant expenses and costs were incurred in the initial proceedings, and the balance of \$32,578.90 have subsequently been incurred in connection with seeking and obtaining reconsideration, preparation of testimony, preparing for and participating in the technical hearing, and preparation of a post-hearing brief.

These expenses all were reasonable and necessary. They include expenses incurred to retrieve and review Commission files regarding the Company's last Rule H tariff revision case that had been moved to the State Archives. They also include time and expense reviewing comments, testimony and documents submitted by other parties, the drafting of Building Contractors' own testimony, comments, petitions and briefs, request for reconsideration,

¹ Building Contractors recognizes that Idaho Code § 61-617A limits the amount awardable as intervenor funding to \$25,000.

preparation for and participation in the October 20th technical hearing, and preparation of Building Contractors' post-hearing brief.

5. Building Contractors is a non-profit association that relies on voluntary membership and voluntary contributions to fund its operations and promote the interests of its member builders, contractors and developers. All of the Building Contractors' operations expenses, including building, employees, member mailings and participation in legal or administrative proceedings such as this case, are paid from these voluntary contributions.

The costs and expenses summarized in Attachment A have been a significant financial burden for Building Contractors. Currently, voluntary contributions have dropped significantly due to the struggling economy generally and the depressed local real estate sector specifically. Because of the reductions in Building Contractors' income, it recently has had to impose significant budget cuts and mandatory days off for its staff. Building Contractors continues to solicit member contributions to cover its general operating costs and the costs of its intervention and active participation in this proceeding.

The Commission has previously recognized Building Contractors as eligible for intervenor funding in Case No. IPC-E-95-18 (involving a Rule H Tariff amendment), where the Building Contractors incurred \$14,250.00 in legal fees and \$12,207.50 in consultant fees. There the Commission authorized intervenor funding in the maximum statutory amount of \$25,000 payable from rates charged to the class that it deemed was primarily benefitted—namely, lots within subdivisions that require line extensions. Case No. IPC-E-95-18, Order No. 26780 at 19 (a copy of Order 26780 as obtained from the Commission's online Orders Archive is attached as Attachment B).

Building Contractors submits that its appearance in this case was for the benefit of developers and owners of lots within subdivisions requiring line extensions, and that an appropriate mechanism exists to provide for the Company's recovery of an intervenor funding award to the Building Contractors, as has previously been implemented by the Company pursuant to the Commission's directive in Order 26780.

CONCLUSION

The expenses that Building Contractors have incurred are reasonable given its substantial effort and participation in this proceeding. These expenses were incurred to advance policies that benefit Building Contractors' members and the public at large. Building Contractors have materially contributed to the decision in this case and to the public debate about issues of population growth and energy costs and the appropriate allocation of those costs as between new customers and the Company's existing ratepayers. Its position differed materially from that of any other party and from the Staff's position, and raised issues of concern to the general body of ratepayers.

Participation in this case has been, and continues to be, a financial hardship for Building Contractors. Building Contractors respectfully request that the Commission exercise its discretion to accept and grant this request finding that Building Contractors is entitled to intervenor funding in the maximum amount permitted by law, to be paid from the class of customers primarily affected and benefitted—namely, lots within subdivisions that require line extensions. Inasmuch as Idaho Code §61-617A allows this cost to be a business expense in the Company's next rate case, Building Contractors respectfully submits that granting this request is not prejudicial to the Company.

DATED this 9th day of November, 2009.

GIVENS PURSLEY LLP

By: 

Michael C. Creamer

*Attorneys for Intervenor The Building
Contractors Association of Southwestern Idaho*

ATTACHMENT A
SUMMARY OF EXPENSES INCURRED BY
BUILDING CONTRACTORS ASSOCIATION OF SOUTHWESTERN IDAHO
IN CASE NO. IPC-E-08-22

1	Legal Fees		
		Hours	
	Michael C. Creamer (Partner)	152.0	\$ 38,000.00
	Elizabeth M. Donick (Associate)	5.5	\$ 852.50
	Justin M. Fredin (Associate)	3.0	\$ 585.00
	Tami Kruger (Paralegal)	5.8	\$ 580.00
	Subtotals	166.3	\$ 40,017.50
	Costs:		
	Copies		\$ 1,021.09
	Total Work and Costs		\$ 41,038.59
2	Consultant Richard Slaughter	113.12	\$19,926.66

TOTAL FEES AND EXPENSES:

\$ 60,965.25

Building Contractors Association of Southwestern Idaho / Line Extension Tariff (10495 / 1)

Date	ID	Type	Hours	Rate	Amount	Description
2/9/2009	MCC	Fee	0.50	250.00	125.00	Meeting with J. Risch and J. Kunz.
2/10/2009	MCC	Fee	2.30	250.00	575.00	Review IPUC pleadings; research prior tariff proceedings and testimony; review and edit notice of substitution of counsel.
2/11/2009	MCC	Fee	4.40	250.00	1,100.00	Continued review of IPUC orders on prior IPCo tariff revisions; review staff and party testimony in prior proceedings; forward documents to J. Kunz; coordinate obtaining old files on line extensions from state archives; file notice of substitution of counsel.
2/11/2009	TLK	Fee	3.80	100.00	380.00	Conference with M. Creamer regarding files; travel to/from Idaho State Historical Society; review files; obtain copies of same; conference with M. Creamer; call to R. House (archivist).
2/12/2009	MCC	Fee	4.00	250.00	1,000.00	Review IPUC documents; prepare for and attend meeting with clients.
2/12/2009	TLK	Fee	1.60	100.00	160.00	Travel to/from Idaho Historical Society to review documents.
2/13/2009	MCC	Fee	0.70	250.00	175.00	Review and forward IPCo supplemental discovery responses; telephone call to Kroger counsel; telephone call to C. Ward.
2/17/2009	MCC	Fee	0.40	250.00	100.00	Initial review of discovery responses from IPCo/IPUC; correspondence with J. Kunz re same.
2/18/2009	MCC	Fee	1.50	250.00	375.00	Telephone conference with K. Sasser; telephone conference with C. Ward; telephone conference with J. Kunz; telephone conference with R. Slaughter; forward documents; telephone conference with R. Slaughter.
2/19/2009	MCC	Fee	2.40	250.00	600.00	Prepare for meeting and meet with R. Slaughter to outline issues/analysis to respond to IPCo tariff filing.
2/23/2009	MCC	Fee	0.30	250.00	75.00	Review IPUC/IPCo documents/discovery responses.
2/24/2009	MCC	Fee	0.80	250.00	200.00	Review economic reports; correspond with R. Slaughter; correspond with J. Kunz.
2/25/2009	MCC	Fee	1.10	250.00	275.00	Telephone conference with R. Slaughter; coordinate preparation of requests for production; further review of NAHB economic reports; review status of pending legislation.
2/27/2009	MCC	Fee	3.60	250.00	900.00	Telephone conference with R. Slaughter; draft requests for production; telephone conference with L. Nordstrom, attorney for IPCo; telephone conference with K. Sasser at IPUC; telephone conference with intervenor counsel; draft and file request for extension of time.
3/5/2009	MCC	Fee	0.40	250.00	100.00	Review IPUC website; office conference re large ag pumpin position on line extension tariff.
3/10/2009	MCC	Fee	0.50	250.00	125.00	Review ACHD comments; review staff decision memo; telephone conference with K. Sasser; draft correspondence to J. Kunz and R. Slaughter re: extension of comment period.
3/20/2009	MCC	Fee	0.50	250.00	125.00	Review and forward Idaho Power Company's response to Building Contractors Association's Request for Production of Documents.
3/31/2009	LMD	Fee	1.10	155.00	170.50	Research Idaho Power case regarding August 25th fires.
3/31/2009	MCC	Fee	0.40	250.00	100.00	Correspondence with R. Slaughter; coordinate research re: Idaho Power Company—Oregon Trail Fire.
4/2/2009	LMD	Fee	1.30	155.00	201.50	Continue researching Idaho Power case regarding August 25th fire.
4/2/2009	MCC	Fee	3.80	250.00	950.00	Telephone conference with R. Slaughter; review pleadings and discovery response.
4/3/2009	LMD	Fee	0.60	155.00	93.00	Meet with M. Creamer to discuss research results; continue researching Idaho Power case regarding August 25th fires.
4/3/2009	MCC	Fee	2.80	250.00	700.00	Meeting with R. Slaughter; review IPUC orders.
4/6/2009	LMD	Fee	2.50	155.00	387.50	Review tort claims files at the courthouse for claims regarding Idaho Power and August 25th fire; meet with M. Creamer to discuss; draft research summary.
4/6/2009	MCC	Fee	0.20	250.00	50.00	Telephone conference with R. Slaughter.
4/10/2009	MCC	Fee	1.10	250.00	275.00	Review and edit R. Slaughter testimony telephone conference with R. Slaughter; forward housing price-out information to R. Slaughter.
4/11/2009	MCC	Fee	6.00	250.00	1,500.00	Review and edit draft testimony.
4/13/2009	MCC	Fee	3.90	250.00	975.00	Telephone conference with R. Slaughter; review revised testimony; meeting with R. Slaughter; telephone conference with C. Ward; further review of Slaughter testimony.
4/14/2009	MCC	Fee	0.40	250.00	100.00	Review pleadings.
4/16/2009	MCC	Fee	2.70	250.00	675.00	Review and forward draft testimony; coordinate finalizing same.
4/17/2009	MCC	Fee	6.80	250.00	1,700.00	Review and finalize Slaughter testimony; draft comments supporting/transmitting same; review highway districts' comments.
4/20/2009	MCC	Fee	0.50	250.00	125.00	Review and forward IPA and Highway Districts' comments; review IPUC docket sheet.
4/21/2009	MCC	Fee	0.80	250.00	200.00	Review IPUC staff comments; telephone call to R. Slaughter.
4/26/2009	MCC	Fee	0.40	250.00	100.00	Telephone conference with R. Slaughter.
4/27/2009	MCC	Fee	0.40	250.00	100.00	Review and respond to correspondence re response to staff comments.
4/29/2009	MCC	Fee	0.90	250.00	225.00	Review and forward draft comments; telephone conference with R. Slaughter; begin drafting response.
4/30/2009	MCC	Fee	3.90	250.00	975.00	Review and edit draft comments; forward to C. Ward and R. Slaughter; telephone conference with R. Slaughter.
5/1/2009	MCC	Fee	0.80	250.00	200.00	Review IPCo reply comments and forward to client and to R. Slaughter.
5/11/2009	MCC	Fee	0.30	250.00	75.00	Review and respond to correspondence from J. Kunz; telephone call to K. Sasser at IPUC (twice).
5/19/2009	MCC	Fee	0.30	250.00	75.00	Telephone conference with R. Slaughter.
5/20/2009	MCC	Fee	0.40	250.00	100.00	Review R. Slaughter correspondence.
7/2/2009	MCC	Fee	0.50	250.00	125.00	Review order.
7/10/2009	MCC	Fee	4.00	250.00	1,000.00	Draft request for intervenor funding.
7/13/2009	MCC	Fee	1.10	250.00	275.00	Telephone conference with J. Kunz; telephone conference with L. Nordstrom at Idaho Power Co.; finalize and file request for intervenor funding; telephone conference with K. Sasser at IPUC re same.
7/14/2009	MCC	Fee	0.40	250.00	100.00	Telephone conference with R. Slaughter; correspond with J. Kunz.
7/15/2009	MCC	Fee	2.40	250.00	600.00	Prepare for and attend meeting with R. Slaughter; initial review of IPUC files re discrimination issue; locate Idaho Supreme Court decisions re same.
7/16/2009	MCC	Fee	6.60	250.00	1,650.00	Review line extension tariff docket; telephone conference with R. Slaughter; telephone conference with J. Kunz.
7/17/2009	MCC	Fee	1.50	250.00	375.00	Meeting with R. Slaughter; correspond with R. Slaughter and J. Kunz.
7/20/2009	MCC	Fee	5.80	250.00	1,450.00	Review Slaughter notes; telephone conference with R. Sterling; meeting with Building Contractors Association; telephone conference with C. Ward; begin draft of petition for reconsideration.
7/21/2009	MCC	Fee	6.50	250.00	1,625.00	Draft petition for reconsideration.
7/22/2009	MCC	Fee	6.20	250.00	1,550.00	Continue drafting petition for reconsideration; file same; review petitions for reconsideration filed by highway districts; telephone conference with M. Johnson, counsel for highway districts.
7/23/2009	MCC	Fee	0.20	250.00	50.00	Review and forward highway district petitions for reconsideration.
7/29/2009	MCC	Fee	0.50	250.00	125.00	Preliminary review of IPCo response to petition for reconsideration.
7/30/2009	MCC	Fee	0.20	250.00	50.00	Further review of IPCo response.

8/3/2009	MCC	Fee	0.30	250.00	75.00	Correspond with client re reconsideration of IPUC order.
8/12/2009	MCC	Fee	0.50	250.00	125.00	Review IPUC case file on website to determine status of pending petitions; telephone conference with K. Sasser at IPUC; forward status update to clients.
8/19/2009	MCC	Fee	0.90	250.00	225.00	Review and forward IPUC order on reconsideration.
8/20/2009	MCC	Fee	0.40	250.00	100.00	Telephone conference with R. Slaughter; telephone call to C. Ward re IPUC reconsideration order.
8/21/2009	MCC	Fee	0.80	250.00	200.00	Correspond with R. Slaughter; begin outline of testimony and key points re "allowances" v. "investment"; telephone conference with S. Spear, counsel for ACHD re reconsideration; forward correspondence re same to J. Kunz.
8/24/2009	MCC	Fee	1.00	250.00	250.00	Telephone conference with R. Slaughter; telephone conference with C. Ward; telephone conference with J. Kunz; telephone conference with R. Slaughter.
8/28/2009	MCC	Fee	0.40	250.00	100.00	Correspond with R. Slaughter.
8/27/2009	MCC	Fee	1.50	250.00	375.00	Review draft Slaughter testimony; correspond with ACHD; meeting with R. Slaughter.
8/28/2009	MCC	Fee	0.10	250.00	25.00	Telephone conference with R. Slaughter; telephone conference with S. Spears at ACHD.
8/31/2009	MCC	Fee	5.50	250.00	1,375.00	Draft/edit R. Slaughter's testimony on rehearing; telephone conference with R. Slaughter.
9/1/2009	MCC	Fee	2.00	250.00	500.00	Review PUC orders; attend meeting with M. Wardle & counsel for Highway Districts; telephone conference with R. Slaughter.
9/2/2009	MCC	Fee	3.20	250.00	800.00	Telephone conference with R. Slaughter; revise and forward draft testimony on reconsideration to Dr. Slaughter and to clients.
9/3/2009	MCC	Fee	0.30	250.00	75.00	Coordinate further review and edits of testimony.
9/9/2009	MCC	Fee	0.30	250.00	75.00	Review and forward IPUC decision re request for intervenor funding.
9/10/2009	MCC	Fee	2.20	250.00	550.00	Coordinate preparation of R. Slaughter testimony.
9/11/2009	MCC	Fee	4.70	250.00	1,175.00	Finalize and file BCA testimony on reconsideration; initial review of ACHD briefing.
9/17/2009	MCC	Fee	0.20	250.00	50.00	Review and forward IPUC notice of oral argument and technical hearing.
9/18/2009	MCC	Fee	0.50	250.00	125.00	Coordinate hearing appearance/scheduling; telephone conference with L. Nordstrom; telephone conference with R. Slaughter.
9/22/2009	MCC	Fee	0.70	250.00	175.00	Review and forward IPCo brief responding to highway districts on reconsideration; forward same to clients and R. Slaughter for review.
9/28/2009	MCC	Fee	0.90	250.00	225.00	Review IPCo responsive testimony and forward to clients; review Slaughter testimony; email exchange with R. Slaughter re IPCo arguments.
10/6/2009	MCC	Fee	0.40	250.00	100.00	Telephone conference with S. Spears with ACHD; telephone conference with R. Slaughter; review ACHD motion to strike; forward motion to client and R. Slaughter.
10/7/2009	MCC	Fee	1.40	250.00	350.00	Review pleadings, testimony and order granting reconsideration in preparation for meeting with R. Slaughter to outline Slaughter direct testimony on reconsideration.
10/8/2009	MCC	Fee	0.10	250.00	25.00	Coordinate meeting with R. Slaughter.
10/9/2009	MCC	Fee	3.50	250.00	875.00	Continuing review of pleadings and testimony; meeting with R. Slaughter to prepare for Technical Hearing.
10/13/2009	JMF	Fee	3.00	195.00	585.00	Preparation for and attendance at oral argument; follow-up conversations with M. Creamer and Mike Wardle.
10/19/2009	MCC	Fee	9.00	250.00	2,250.00	Review pre-filed testimony and comments; prepare questioning for IPCo witnesses; prepare statement of position; telephone conference with R. Slaughter re testimony and re cross-examination.
10/20/2009	MCC	Fee	5.00	250.00	1,250.00	Prepare for and attend/participate in IPUC Technical Hearing on reconsideration re line extension allowances.
10/20/2009	TLK	Fee	0.40	100.00	40.00	Prepare documents for hearing.
10/23/2009	MCC	Fee	0.20	250.00	50.00	Coordinate with C. Bucy re draft transcript; review same; telephone conference with C. Bucy re pagination issues in draft transcript.
10/26/2009	MCC	Fee	4.90	250.00	1,225.00	Draft post-hearing brief; telephone conference with R. Slaughter re post-hearing briefing issues and argument.
10/27/2009	MCC	Fee	5.00	250.00	1,250.00	Finalize and file post-hearing brief with IPUC and serve on parties.
Total Fees			166.30		\$40,017.50	

Richard Slaughter Associates
907 Harrison Blvd
Boise, Idaho 83702

RSA, Inc.
208 850-1223
Fax 208 345-9633
email: richard@rsaboise.com
EIN: 82-0464626

Invoice

Mr. Joe Kunz
BCASWI
6206 N Discovery Way, Suite A
Boise, ID 83713

May 20, 2009

Time billed at \$175 per hour

Date	Item	Time	Fee
<u>IPC-E-08-22 (Rule H)</u>			
2/16/2009	Review filings and prior testimony	2:00	350.00
2/17/2009	Review IPCo proposal	1:12	210.00
2/17/2009	Meeting with BCASWI	1:15	218.75
2/18/2009	Company testimony	4:18	752.50
2/19/2009	Prepare for meeting M. Creamer/ meeting	2:48	490.00
2/19/2009	T. Jones, data on Dist. costs; R. Sterling	1:12	210.00
2/19/2009	IPCo workpapers	0:42	122.50
2/20/2009	Production requests	1:06	192.50
2/20/2009	Indexation of contribution to rate base	1:00	175.00
2/21/2009	Staff production requests	1:00	175.00
2/23/2009	Data for refund indexation; preliminary scoping of argument	2:00	350.00
2/25/2009	Meeting with Rick Sterling; plan production request	1:36	280.00
2/26/2009	Production request	1:24	245.00
2/27/2009	Conf. on production request, M. Creamer; edit request	0:48	140.00
2/27/2009	Info request, Joe Kunz	0:06	17.50
3/10/2009	ACHD Comments	0:18	52.50
3/11/2009	Line extension contracts	0:42	122.50
3/12/2009	Line extension contracts	0:48	140.00
3/17/2009	Draft comments	0:32	93.33
3/20/2009	IPCO Prod. Request response - staff	0:24	70.00
3/23/2009	IPCO Prod. request response - IBC	0:36	105.00
3/23/2009	Digitize IPCo spreadsheet	0:30	87.50
3/27/2009	Comments draft	0:42	122.50
3/30/2009	IPCo cost data	2:42	472.50
3/31/2009	Cost allocation IPC-E-08-10	1:54	332.50
3/31/2009	Consult on IPC-E-08-10; D. Reading	1:30	262.50
4/1/2009	Write comments	1:00	175.00
4/2/2009	Inflation section	0:18	52.50
4/3/2009	Conference w/ M. Creamer	2:57	516.25
4/4/2009	Draft testimony	0:35	102.08
4/6/2009	Testimony	4:34	799.17
4/10/2009	Testimony	2:30	437.50

4/13/2009 Testimony edits/addition; meet w/ Creamer	3:48	665.00
4/14/2009 Edits; call to IPUC	2:12	385.00
4/15/2009 Edits and draft final to GP	3:24	595.00
4/16/2009 Proof testimony and exhibits	2:18	402.50
4/17/2009 Final changes, Mike Creamer	1:00	175.00
4/24/2009 Staff comments	1:36	280.00
4/26/2009 Review staff again for errors; call M. Creamer	0:36	105.00
4/27/2009 Draft response to staff	4:18	752.50
4/30/2009 Revisions to comments; conference with M. Creamer	0:48	140.00
5/19/2009 IPCo reply comments	0:06	17.50
5/19/2009 Review IPCo reply comments	0:25	72.92
5/20/2009 Email on IPCo comments	0:30	n/c
Total	65:30	<u>\$11,462.50</u>
Please remit		\$11,462.50

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Boise, Idaho 83702

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EIN: 82-0464626

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Mr. Joe Kunz
BCASWI
6206 N Discovery Way, Suite A
Boise, ID 83713

August 20, 2009

Time billed at \$175 per hour

Date	Item	Time	Fee
<u>IPC-E-08-22 (Rule H)</u>			
7/15/2009	Review data for appeal	0:30	\$87.50
7/16/2009	Decision specific review; M. Creamer	2:32	\$443.33
7/17/2009	M. Creamer; draft technical issues	3:48	\$665.00
7/21/2009	Review appeal petition	3:30	\$612.50
7/22/2009	Review of petition and charts; telephone meetings Mike Creamer	1:20	\$233.33
	Total	11:40	<u>\$2,041.66</u>
	Please remit		\$2,041.66

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RSA, Inc.

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Mr. Joe Kunz
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6206 N Discovery Way, Suite A
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October 27, 2009

Time billed at \$175 per hour

Date	Item	Time	Fee
<u>IPC-E-08-22 (Rule H)</u>			
8/20/2009	Review Commission order	0:45	\$131.25
8/24/2009	Begin draft of testimony	2:00	\$350.00
8/25/2009	Write testimony	4:06	\$717.50
8/26/2009	Review and edit	2:06	\$367.50
8/27/2009	Meeting; M. Creamer	1:12	\$210.00
8/31/2009	Testimony questions, Creamer	0:36	\$105.00
9/1/2009	start Creamer changes	0:12	\$35.00
9/2/2009	Creamer review; edits; IPCo FERC data	3:00	\$525.00
9/4/2009	Creamer comments on testimony; revisions	1:48	\$315.00
9/10/2009	Creamer revisions for filing	1:42	\$297.50
9/11/2009	Conference and final review for filing	0:36	\$105.00
9/28/2009	Said review	0:54	\$157.50
10/9/2009	Prepare for conf., conf. w/ M. Creamer	4:12	\$735.00
10/13/2009	PUC Hearing on road agencies	2:45	\$481.25
10/19/2009	Prepare for hearing	4:06	\$717.50
10/20/2009	PUC Hearing	4:00	\$700.00
10/26/2009	Creamer telephone; Notes for final briefing	1:30	\$262.50
10/27/2009	Review Creamer brief; conference	1:12	\$210.00
	Total	36:42	<u>\$6,422.50</u>
	Please remit		\$6,422.50

ATTACHMENT B

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR
APPROVAL OF NEW TARIFF PROVISIONS RELATING TO NEW SERVICE
ATTACHMENTS AND DISTRIBUTION LINE INSTALLMENTS OR ALTERATIONS.**

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CASE NO. IPC-E-95-18

ORDER NO. 26780

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[Footer A:

ORDER NO. 26780 -i-]

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR APPROVAL OF NEW TARIFF PROVISIONS RELATING TO NEW SERVICE ATTACHMENTS AND DISTRIBUTION LINE INSTALLMENTS OR ALTERATIONS.

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CASE NO. IPC-E-95-18

ORDER NO. 26780

INTRODUCTION

Idaho Power Company filed an Application for approval of modifications to its Tariff No. 101, Rule H, providing for charges for the construction of distribution line installations or alterations. Idaho Power proposes to shift more of the cost of new service attachments and distribution line installations or alterations from the system revenue requirement to new customers requesting the construction. The Commission held several hearings in this matter in Boise and Pocatello, Idaho, as well as post hearing briefing. In this Order we conclude that Idaho Power's

Application is not precluded by the Supreme Court decision in *Boise Water, infra*. We grant Idaho Power's Application for modification to its Rule H Tariff. Specifically, we approve the change from average unit cost to work order costs, approve a slight change to the allowances, modify the refund policy, approve changes to the engineering charge and overhead fees and address other miscellaneous provisions of the tariff. We further grant the Building Contractor's motion for intervenor funding.

I. PROCEDURAL HISTORY

On December 8, 1995, Idaho Power filed an Application for approval of modifications to its Tariff No. 101, Rule H. Idaho Power proposes to shift more of the cost of new service attachments and distribution line installations or alterations from the system revenue requirement to the new customer or customers creating the expenditures by requiring contributions for new service attachments and/or distribution line installations or alterations. On January 3, 1996, the Commission issued a Notice of Application and Notice of Workshop.

At the request of the applicant, Commission Staff conducted several workshops with representatives of Idaho Power and members of the public to discuss the Application and alternative proposals. Workshops were held on January 23, February 15, and March 19, 1996 in Boise, Idaho and on March 26, 1996 in Pocatello, Idaho.

The following parties were designated as intervenors to this case: Idaho Building Contractors Association (Building Contractors) represented by Dean J. Miller, Esq.; American Heritage, Inc. represented by Douglas Balfour, Esq.; Life Style Homes and Building Contractors of Southeast Idaho represented by Darris Ellis; Mountain Park Estates represented by Cynthia Ellis; and Industrial Customers of Idaho Power represented by Peter Richardson, Esq. The petitioner, Idaho Power, was represented by Larry Ripley, Esq. and the Commission Staff was represented by Susan E. Hamlin, Esq.

On February 12, 1996, the Building Contractors filed a Motion with the Commission to dismiss the Application filed by Idaho Power. The Building Contractors argued that the Application was a collateral attack upon and was precluded by Commission Order No. 26216. Among other things, Order No. 26216 authorized a rate moratorium and provided that base rates could not be changed prior to January 1, 2000, subject to certain exceptions. On March 5, 1996, the Commission conducted an oral argument on the Motion. The Commission issued Order No. 26364 on March 13, 1996, denying the Building Contractors' Motion to Dismiss on the grounds that the proposed line extension fees are not base rates, and therefore, the proposed changes to the line extension tariff are not precluded by Order No. 26216.

On April 4, 1996, the Commission issued Notice of Scheduling and Notice of Hearings. Due to a substantial revision in the original Application, the Commission conducted bifurcated technical hearings. During the first hearing on June 25, 1996, Idaho Power presented its revised position in the form of testimony, and Intervenors and Staff had an opportunity to cross-examine the Company's witnesses. During the second hearing held on August 6, Staff and Building Contractors presented testimony and all parties had an opportunity to present rebuttal testimony. The Commission also conducted public hearings on this matter on July 11, 1996 in Pocatello, Idaho, and on August 6, 1996 in Boise, Idaho.

On July 19, 1996, the Commission issued Order No. 26522 scheduling post hearing briefings in this case. All parties of record were invited to file post hearing briefings addressing the issue raised by the Supreme Court decision in *Building Contractors Association v. IPUC and Boise Water Corporation*, 128 Idaho 534, 916 P.2d 1259 (1996). Post hearing briefs were due September 5, 1996, and responsive briefs were due September 12, 1996. Idaho Power, the Commission Staff and the Building Contractors filed post hearing briefs addressing the issue raised by the Commission.

On September 12, 1996, the Building Contractors filed a Petition for Intervenor Funding. On September 26, 1996, Idaho Power filed a response to the Building Contractors' Petition.

On September 30, 1996, Idaho Power filed a Motion to reopen the record for receipt of an Affidavit to correct an error the Company had discovered in the proposed line extension allowance for three phase service to Schedule 7, Schedule 9 and Schedule 24 customers. On October 3, 1996, Staff responded to Idaho Power Company's Motion to Reopen the Record and indicated that it agreed with augmentation of the record by the affidavit filed by the Company. No other parties filed a response to Idaho Power Company's Motion.

II. IDAHO POWER'S PROPOSAL

Idaho Power's Application for approval of modifications to its Tariff No. 101, Rule H, proposes to increase the percentage of the cost of new service attachments and distribution line installations or alterations paid by the new customer(s) requesting the construction. The Company's revisions to its line extension policy affect only new distribution facilities serving new customers. The Company suggests that the costs of facilities built specifically for the benefit of specific customers should be the responsibility of those customers and should not be passed along to other customers in the system revenue requirement. *Tr. at 6*. The Company also

proposes that transmission, substation, and generation costs be viewed as system-related rather than customer-specific. *Tr. at 7.* The Company's proposed changes to its Rule H tariff, therefore, addresses only new distribution facilities required to serve only the new customer.

The Company summarizes the major changes to the Rule H tariff as follows:

1. Provide allowances for terminal facilities, but not line extensions.
2. Use work order cost estimates rather than average unit costs.
3. Create separate charges for service attachments (not refundable), line installations (refundable), and vested interests (refundable).
4. Create miscellaneous, nonrefundable charges.
5. Revise the line installation methodology for subdivisions.
6. Create a new refund methodology.

Tr. at 7-8.

The Company asserts that it filed its application for approval of these new tariff charges (hereafter "line extension charges") because "the anticipated revenues from the new customer are not sufficient to cover the costs of new distribution facilities." *Tr. at 6, lines 13-15.* Idaho Power explains that when it absorbs costs associated with constructing new distribution facilities, the end result is upward pressure on all customers' rates through an increased overall revenue requirement. The Company posits that the current construction allowances allow too much of the cost of new distribution facilities to be shifted to other customers who do not utilize the facilities that generated those costs. *Tr. at 6.*

The fees that the Company has proposed to increase are directly attributed to specific customers. Under the Company's proposal, the difference between the average cost of new distribution facilities that is now being recovered through rates and the total costs of bringing distribution service to new development will be paid by those requesting the extension of facilities. Idaho Power argues that this will keep all customers on a level playing field, because everyone pays the average rate base embedded in rates. To the extent that the costs of newer installations exceed the average cost included in rates, that additional cost is paid by the customer who requested it.

Commission Staff

Staff agrees that the Company's investment in facilities for each new customer should be equal to the embedded costs of the same facilities used to calculate rates, and those costs in excess of embedded costs should be borne by the customers requesting service through a one-time capital

contribution. Staff recommends that the costs of new terminal facilities and line extensions needed to serve new customers be paid by the customers who cause those costs to be incurred. Staff proposes that the Company reduce its share of the investment in new distribution and terminal facilities to recover actual customer connection costs not currently recovered through rates, thereby relieving the upward pressure on rates caused by the current line extension policy. *Tr. at 276.*

Building Contractors

The Building Contractors oppose any changes to the Rule H tariff. The Building Contractors argue that there is no rationale for the proposed changes in Rule H other than an implied assertion that customers with existing service should be protected from inflation relative to customers with new service. They argue that the proposed rule in conjunction with the regulation may result in Idaho Power being able to collect revenues on assets for which the Company bore no investment risk, and that the proposed rule change would have a significant negative effective on developers in the short-term and on taxpayers in the long-term with little offsetting benefit. *Tr. at 187-189.* Building Contractors also claim that the proposed changes will result in double billing of customers and increased prices for new home construction. Essentially the contractors oppose the Application as a whole, as well as the change to the allowance recommendation and the average unit costs.

No other party filed direct testimony with the Commission.

Public Testimony

Many realtors and contractors testified during the public hearings in Pocatello and Boise. They expressed concerns that the changes could impact new home prices. They generally believe that if changes to Rule H are approved, many buyers will be edged out of the market.

Mr. Bill Goodnight testified as a ratepayer during the June 25 hearing. He supports the changes to the tariff. He argues that the general body of ratepayers should not pay for these increased costs.

The public policy issues raised by the Application and the parties are addressed in the following sections.

III. IMPACT OF SUPREME COURT DECISION ON APPLICATION

On March 5, 1996, the Idaho Supreme Court issued its opinion in *Building Contractors Association v. IPUC and Boise Water Corp.*, 128 Idaho 534, 916 P.2d 1259 (1996), (*Boise Water*) relating to whether the Commission's decision to increase United Water's (formerly

Boise Water) hookup fees to reflect higher cost marginal resources was discriminatory to new customers who must pay the higher fee. The Court invalidated increased fees that recovered a portion of new plant cost from new customers stating that “[t]o the extent the fee increase disproportionately allocates new plant facility costs solely to Boise Water customers connecting new service from July 25, 1994, forward, the increase unlawfully discriminates against the new customers.” *Boise Water*, 916 P.2d at 1260.

On July 19, 1996, the Commission issued Order No. 26522 inviting parties to this case to explain by brief whether or to what extent Idaho Power’s proposed charges for new service attachment and distribution line installation are affected by the Supreme Court’s ruling in *Boise Water*.

The statutory framework within which the Commission is authorized to set rates is found in Title 61, Chapters 3 and 5 of the Idaho Code. *Idaho Code* § 61-502 provides, in pertinent part:

Determination of rates.—Whenever the commission, after a hearing...shall find that the rates,...[or] charges or classifications, ...collected by any public utility for any service or product or commodity,...are unjust, unreasonable, discriminatory or preferential, or in any wise in violation of any provision of law, or that such rates,...[or] charges or classifications are insufficient, the commission shall determine the just, reasonable or sufficient rates,... [or] charges, classifications, rules, regulations, practices or contracts to be thereafter observed and in force and shall fix the same by order as hereafter provided,

Idaho Code § 61-503 provides:

Power to investigate and fix rates and regulations.—The commission shall have power, upon a hearing,...to investigate a single rate,...charge, [or] classification,...of any public utility, and to establish new rates,...charges, [or] classifications,...in lieu thereof.

Finally, *Idaho Code* § 61-315 provides:

Discrimination and preference prohibited.—No public utility shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or

in any other respect, either as between localities or as between classes of service. The commission shall have the power to determine any question of fact arising under this section.

The Supreme Court explained in *Idaho State Homebuilders v. Washington Water Power*, 107 Idaho 415, 690 P.2d 530 (1984), that not all differences in rates and charges between different classes of customers is unlawful discrimination. The Court explained:

Not all differences in a utility's rates and charges as between different classes of customers constitute unlawful discrimination or preference under the strictures of *Idaho Code* § 61-315. A reasonable classification of utility customers may justify the setting of different rates and charges for the different classes of customers. *Utah Idaho Sugar Company v. Intermountain Gas*, 100 Idaho 368, 597 P.2d 1058 (1979). Any such difference (discrimination) in a utility's rates and charges must be justified by a corresponding classification of customers that is based upon factors such as cost of service, quantity of electricity used, differences in conditions of service, or the time, nature and pattern of the use. *Utah Idaho Sugar Company v. Intermountain Gas, supra*. We have found justification for rate discrimination as between customers within a schedule and as between customers in different schedules. *Grindstone Butte Mutual Canal Company v. Idaho Public Utilities Commission*, 102 Idaho 175, 627 P.2d 804 (1981); *Utah Idaho Sugar Company v. Intermountain Gas Company, supra*.

Homebuilders, 107 Idaho at 420.

These factors, cost of service, quantity of electricity used, differences in conditions of service, or the time, nature and pattern of use, are guidelines the Supreme Court has set for the Commission to use to evaluate whether there is a reasonable justification for setting different rates and charges for different classes of customers. Thus, the issue in this case becomes whether the increased charges associated with the Rule H line extension policy unreasonably discriminate against new customers.

Commission Staff

Staff believes that the proposed line extension charges in this case do not unlawfully discriminate against new customers. Staff points out that unlike the hookup fees at issue in *Boise Water*, Idaho Power's proposed line extension charges are designated to recover quantifiable costs related to identifiable plant used to serve only those customers who pay the charges. Therefore, in Staff's opinion, the charges do not unlawfully discriminate against new customers and the holding of *Boise Water* is inapplicable.

Idaho Power

Idaho Power's position is similar to the Staff's position in that the Idaho Supreme Court has recognized the difference between investment required to serve new customers and investment required for the system. Idaho Power points out that the Idaho Supreme Court has ruled that a system investment should be borne by all the system's customers, i.e., a new generation source, a

new water treatment plant like in *Boise Water*. On the other hand, if the new investment is solely to provide service to new customers, then the Commission is authorized to require that the new customers bear the cost of that new investment. Relying on *Idaho State Homebuilders v. Washington Water Power, Id.*, Idaho Power states that the Court clearly made a distinction between system investment, as was the investment in *Boise Water*, and distribution investment as was the case in *Washington Water Power*. Idaho Power further alleges that in the present proceeding before the Commission Idaho Power's proposed charge is for new investment required for extended distribution facilities. Therefore, Idaho Power argues that the Commission may lawfully authorize such a charge.

Building Contractors

The Building Contractors argue that *Boise Water* stood for the premise that there should be no discrimination between old and new customers. The Building Contractors allege that the Court prohibited a pricing scheme that assigns costs to new customers in the absence of clear proof that new customers are the cause of higher costs. The Building Contractors conclude that the charges in Idaho Power's Application are prohibited by *Boise Water* and the Commission should reject the Proposed Rule H.

Discussion

We find that the hookup fees that were at issue in *Boise Water* are fundamentally different from the line extension charges in this case. In *Boise Water*, the Court struck down increases in hookup fees because they "disproportionately allocate new plant facility costs" to new customers. *Boise Water*, 916 P.2d at 1260. The facts associated with the hookup fees in *Boise Water*, however, are significantly different from the facts of this case. In *Boise Water* the utility constructed a water treatment plant at a cost of \$16 million pursuant to the federal Safe Drinking Water Act. Boise Water Company subsequently applied to the Commission to increase its rates and its hookup fees for new customers to offset the cost of the water treatment plant. In order to minimize future general rate increases, Boise Water proposed increasing its hookup fees to reflect the higher marginal cost of its backbone resources.

In Order No. 25640, issued July 19, 1994, the Commission approved a 29.59% general rate increase and increased the hookup fees for residential customers to \$1,200, an average of the cost per customer of a well and a water treatment plant. The Commission reasoned that, because the cost of supply for a new service connection varied greatly depending on whether the water supply came from a well or a water treatment plant, it was reasonable to use an average of the two costs, plus an amount for storage and pumping water. The Commission reasoned that its decision would help protect existing ratepayers from the costs associated with growth and "ensure that growth pays for itself." Order No. 25640 at 31.

On appeal, the Supreme Court addressed the issue of whether in allocating the increased cost of new supply to new customers via increased hookup fees, the Commission regularly pursued its

authority to set nondiscriminatory rates as required by *Idaho Code* §§ 61-301, 61-315, -502, and -503. The Court held that the hookup fees approved by the Commission unlawfully discriminated against Boise Water's new customers. The Court explained:

Like the facts in *Homebuilders*, the pattern, nature, and time of Boise Water customers' usage did not change on July 25, 1994, nor did the conditions of service. *Id.* at 421, 690 P.2d at 356. Similarly, the quantity of water used by Boise Water's individual customers before July 25, 1994, does not differ from the quantity used by individual customers added to the system after that date. *Id.* Thus, as in *Homebuilders*, the focus of this case is whether the cost of service differs between the two classes.

The cost of servicing all Boise Water customers has increased, due in part to passage of the Safe Drinking Water Act, limitations on the availability of water, and inflationary factors. While it is true that the cost of service has increased, the cost has increased proportionately for each Boise Water customer. There is no difference in the cost of service between customers who connected to Boise Water's system before July 25, 1994, and those who have connected or will connect to the system from that date forward. Each new customer that has come into the system at any time has contributed to the need for new facilities. No particular group of customers should bear the burden of additional expense occasioned by changes in federal law that impose new water quality standards. To the extent that the new hookup fees are based on an allocation of the incremental cost of new plant construction required by growth and by the Safe Drinking Act solely to new customers, the fees unlawfully discriminate between old and new customers in violation of section 61-315 of the Idaho Code.

Boise Water, 916 P.2d at 1268.

The Court went on to explain that the increased hookup fees to Boise Water customers contained an incremental or marginal capital investment cost of new plant construction. The Court noted that the Building Contractors Association (also a party to this proceeding), "concede that hookup fees may be charged and need to be increased incrementally from time to time to reflect such factors as inflation." *Id.*, 916 P.2d at 1267. This is another factual distinction between *Boise Water* and this case. As Staff explains in direct testimony, it believes that the increased charges associated with the Rule H line extension policy are caused by many factors, including inflation.

Because of the nature of Boise Water's system, it is not possible to determine whether any customer, new or old, is or will be served by a well or a water treatment plant. This is the foundation for the Court's ruling in *Boise Water* and a critically distinguishing factor between *Boise Water* and this case. Idaho Power's proposed line extension charges are imposed only on those customers who will be served by the related facilities. Those facilities will provide service only to those customers who paid for them. As the Company indicates, transmission, substation

and generation costs are viewed as system-related rather than customer-specific, and those costs were not included as part of the proposed increased line extension charge.

Most important, the Supreme Court in *Boise Water* identified a significant factual distinction between *Boise Water* and the case at hand. "The Court ruled that the fees at issue here are not those charged to offset the actual per-customer cost of physically connecting to Boise Water's distribution system." *Id.* 1916 P.2d at 1260 (fn. 1.) Indeed, the *Homebuilders'* Court specifically ruled that costs incurred to serve a specific customer or group of customers, such as line extension costs, may be recovered solely from those customers.

The Court held:

The instant case presents no factors such as when a nonrecurring charge is imposed upon new customers because the service they require demands an extension of existing distribution or communication lines and a charge is imposed to offset the cost of the utility's capital investment.

107 Idaho at 421, (emphasis added).

Commission Findings

Based on the above discussion, we find that the charges at issue in this case do not unlawfully discriminate against new customers, that the line extension fee is inherently different from the hookup fees in *Boise Water*. We therefore find that the holding of *Boise Water* does not prohibit a change in the rates at issue here.

IV. ISSUES RAISED BY APPLICATION

A. Motion to Reopen the Record

On September 30, 1996, Idaho Power filed a Motion to Reopen the Record for the limited purpose of receiving the Affidavit of Gregory W. Said. The Motion was filed due to an error the Company had discovered in the proposed line extension allowance for three phase service to Schedule 7 (small general service) customers, Schedule 9 (large general service) customers and Schedule 24 (irrigation service) customers. The Company indicated that the error resulted in the proposed allowance being significantly understated. The Company also indicated that the proposed allowance for Schedule 1 (residential customers) was not affected by the error.

On October 3, 1996, Staff responded to Idaho Power's Motion to Reopen the Proceedings. Staff indicated that it agreed with augmentation of the record by the affidavit filed by the Company. Staff recommended that if the Commission approves this change, that the Company should be directed to file corrected tariffs consistent with this change. No other parties filed a response to Idaho Power Company's Motion.

We find that parties were given proper notice to the Motion and that no party will be denied due process by the receipt of the affidavit. We therefore grant Idaho Power's Motion to Reopen the Record for the limited purpose of receiving the Affidavit of Gregory W. Said.

B. Average Unit Costs v. Work Order Costs

The average unit cost method now used for determining the costs of line extensions is based on average installed costs for various elements of line extensions. The actual installed cost of each individual line extension can be either higher or lower than the estimated cost as determined by the average unit cost method. The term "work order costs" refers to an adjusted work order cost, or a work order from which those items for which the customer would not be charged have been removed. Adjusted work order costs refer to work order costs less terminal facilities and less any work included as part of the work order not done specifically for the customer, i.e., Company or system betterment. *Tr. at 382.* The use of average unit costs was intended to simplify and expedite the process of making cost estimates for new line extensions.

Idaho Power

The Company has proposed eliminating the average unit cost method and using actual work order costs to determine line extension costs. It believes work order costs more accurately assign specific costs to specific customers. The Company claims that it has streamlined the cost estimating process and that it can do detailed work order costs in an efficient manner. The Company claims that the difference in time required to prepare estimates using either method would not be as significant, and therefore, there is no need for both methods. *Tr. at 9.* The Company also notes that under the average unit cost method, customers may either under pay or over pay for their line extensions.

Commission Staff

The Staff supports the proposed change from an average unit cost method to a work order cost method and notes that the current average method often results in inaccurate estimates for individual line extensions. *Tr. at 297.* Staff does recommend, however, that some procedure be implemented to ensure that periodic checks are done between adjusted work order costs and reconciled work order costs so that the Commission can have the assurance that what is booked by the Company, is in fact, close to what is paid by the customer. Adjusted work order costs are cost estimates prior to construction. Reconciled work order costs are post construction costs booked by the Company. Staff proposes that the Company charge adjusted work order costs. *Tr. at 271.*

Building Contractors

The Building Contractors oppose the change from an average unit cost method to work order cost method. The Building Contractors assert that the work order costs usually exceed the average unit costs by a substantial margin. *Tr. at 190.*

Commissions Findings

In the past we have permitted the Company to use average unit costs because it seemed to simplify and expedite the cost estimating process. We recognize that in some circumstances averaging may be the only or best method for calculating costs. However, in this case the

Company believes it can prepare work order estimates specific to each customer just as expeditiously. The Building Contractors claim that work order costs usually exceed average unit costs. Our review of the record indicates that this is not supported by the record nor the audit of Idaho Power conducted by Staff in 1994. *See Case No. IPC-E-94-5.* We find that using work order costs rather than average unit costs is an effective means of treating customers individually and fairly, and insuring that one customer does not pay too much for a service while another pays too little. We also conclude that changing to a work order cost method will provide an incentive for more economical building practices. Subdivisions with below average costs for electrical facilities will now pay only their costs and subdivisions with above average costs will not be subsidized. We find that using adjusted work order costs rather than average unit costs is fair, just and reasonable. We also find that a periodic audit of the work order costs will be an effective way to insure that booked amounts reflect customer payments.

Although no party presented a proposal for allowing a developer to hire his own contractor or requiring the utility to solicit bids, several public witnesses testified that they thought this would be an efficient way to control costs. We encourage the Company to consider these options. We believe there may merit in the suggestions of the witnesses. We direct the Company to report to us within six months of the date of this Order its analysis of these concerns and the feasibility of allowing developers to hire independent contractors or requiring the Company to solicit bids for this type of construction.

C. Allowances

Idaho Power and Staff are in agreement with regard to the allowances proposed in this case. The proposed allowances are as follows:

1. Residential (Schedule 1)

100% of cost of terminal facilities

No allowance toward cost of line extension

2. Subdivisions

Same as individual residential except developer pays in advance for transformers and receives a refund as each new customer is connected in an amount equal to each lot's share of the transformer costs for the subdivision.

3. Small Commercial (Schedule 7)

Single Phase: 100% of cost of terminal facilities

Three Phase: 80% of terminal facilities

4. Large Commercial (Schedule 9)

Single Phase: \$926

Three Phase: 80% of terminal facilities

5. Irrigation (Schedule 24)

Single Phase: \$926

Three Phase: 100% of terminal facilities

6. Industrial (Schedule 19)

Determine allowances on a case-by-case basis

The Building Contractors oppose any changes to the current allowances for Schedule 1 customers. The Building Contractors explain that the “Commission policy for the past 60 years has been to allow some portion of line extension costs to be recovered in general rates.” Building Contractors Brief at 7. It claims that the allowance changes in the proposed Rule H shift full responsibility for those costs to new customers.

Commission Findings

All parties in this case seem to agree that the cost of serving new customers is increasing. There is debate, however, about the exact causes of the increasing cost and whether the cost burden should be borne by all customers through a rate increase or by new customers through higher line extension charges. We do not believe it is necessary to determine the exact cause of higher costs, but we do believe it is important to address the issues raised as a result.

In the case of distribution plant, it is easy to identify the purpose for its construction. Furthermore, we believe it is the obligation of the Commission to provide a reasonable and fair method of recovering these increased costs. We find that new customers are entitled to have the Company provide a level of investment equal to that made to serve existing customers in the same class. Recovery of those costs in excess of embedded costs must also be provided for and the impact on the rates of existing customers is an important part of our consideration. We also recognize that requiring the payment of all costs above embedded investment from new customers could have severe economic effects.

Under the proposed Rule H, the recommended allowances are calculated based on the total embedded cost of distribution facilities. The total embedded cost is made up of two components

— one portion for terminal facilities, and one portion for line extensions. To the extent that any allowance is ordered, some portion of distribution cost will continue to be recovered through rates. Whether the allowance is applied in exact proportions toward the terminal facilities component, the line extension component, or both, is not critical. The amount of the allowance is critical, however. We find it is reasonable to apply the allowance in a manner so as to pay the cost of terminal facilities first, and apply any remaining amount of the allowance to the line extension portion of the costs.

We find that the current allowances should be reduced somewhat to prevent an unreasonable portion of the line extension costs from being shifted to base rates. The allowances we adopt are shown in Attachment 1 to this Order. We find that they are fair, just and reasonable and represent a reasonable allocation of line extension costs.

D. Refund Policy

Idaho Power's current refund method, sometimes referred to as the proportional method, includes provisions that allow customers who request a line extension to their property to collect a refund as other customers hook up to the same line. Refunds are computed using a method that allocates costs based on the length of shared line and the ratio of each customer's load. Original applicants and subsequent additional applicants are eligible to receive refunds for five years from the date the first customer is connected. Idaho Power claims that this current system is burdensome and administratively difficult to track. Thus, Idaho Power proposes to change the policy to a first-in first-out method. Using this method, the existing shared load and length ratio formula would be retained, but vested interest refunds would be made first to the longest standing vested interest holder until that interest is fully paid, before a refund is paid to any subsequent applicant.

Staff proposes to retain the current policy of vested interest refunds. Staff claims the current policy is fairer to customers than the Company's proposed first-in first-out method, and that the current policy is not as burdensome as the Company claims. Staff does recommend, however, that the refund period be extended to 10 years for platted, undeveloped subdivisions to alleviate complaints from original applicants who become saddled with the entire cost burden when subsequent applicants "wait out" the five-year refund period. Staff also recommends instituting a minimum refund amount to relieve the Company of administrative difficulties.

The Building Contractors did not take a position on this policy.

Commission Findings

The Commission recognizes the merits in the positions put forth by both the Company and Staff. We believe the proportional method is fair, but sympathize with the Company's concerns

regarding the method's administrative complexity. Similar arguments have been made in another docket, UPL-E-96-4, which is also currently before the Commission.

We are not prepared to completely abandon the proportional method in favor of the Company's proposed first-in, first-out method; however, neither are we comfortable ordering that the current method be retained if it cannot easily be administered. Consequently, we order that a new method be implemented, that will capture the advantages of the current and the proposed methods and balance the competing objectives of fairness and administrative complexity. First, a five-year refund period is reasonable and should be retained, except in the cases of platted, undeveloped subdivisions where we order a 10-year refund period. Second, we order that the first five customers sharing a common segment of a line extension shall be responsible for the cost of the line. By limiting cost responsibility to five customers and limiting the refund period to five years, we believe much of the current administrative difficulty will be relieved. In order to preserve fairness, we order that length and load ratios continue to be used in determining each customer's cost responsibility. Finally, to further eliminate incentives for additional customers to wait to connect, the cost responsibility will shift from the first applicant to each successive applicant until each of the first five customers has an equal minimum cost responsibility. The cost responsibility shall be 100% for the first customer and decrease by 20% for each successive customer. Vested interest payments made to the Company by each successive applicant shall, in turn, be refunded by the Company to the most recent previous applicant. Thus, for example, the second customer shall pay 80% of the cost of the shared facilities; that amount shall be refunded to the first customer. The third customer shall pay 60% of the cost of the shared facilities; that amount shall be refunded to the second customer. The fourth customer shall pay 40%, to be refunded to the third customer. Finally, the fifth customer shall pay 20%, to be refunded to the fourth customer.

We find that this method adequately addresses the concerns of the Company and the Staff and is fair and reasonable for customers. We direct Commission Staff to work with the Company to implement this new refund system.

E. Engineering Charge & General Overheads

Under the existing Rule H tariff, engineering costs are incorporated in the overhead charged on each work order. The Company currently charges 17% in overhead fees that include construction engineering and supervision, construction injuries and insurance and construction accounting. *Tr. at 308.* Under the new proposal, Idaho Power would itemize engineering charges. *Tr. at 50.* Commission Staff raised the issue of how much the general overhead rate should be reduced if engineering is charged separately. Idaho Power contends that it wants to separate engineering charges from general overhead costs; however, it does not want to specify the percentage of amount charge. The Company argues that it needs to be able to adjust the engineering charge periodically as circumstances change. *Tr. at 394, lines 1-6.* Idaho Power has acknowledged that because the engineering fee has been separated out, that the general overhead rate should be reduced. *Tr. at 392.* Staff has recommended that the overhead charge should be specific in the tariff and has recommended a general overhead rate of 1.5%. Staff's Exhibit 114.

The Building Contractors did not take a position on this issue.

Commission's Findings

Both Staff and the Company are in agreement that there should be a reduction in the general overhead rate if engineering costs are charged separately. We agree with Staff that both the rate for engineering work and the general overhead rate should be known by customers, and specified in the tariff. We find Staff's recommendation for a 1.5% general overhead rate to be fair, just and reasonable.

F. Omitted Sections and Service Attachment Charge

The Commission Staff recommended inclusion of certain provisions in the proposed Rule H that are in the current tariff but were excluded in the Company's proposal. These sections relate to fire protection facilities, local improvement districts and interest on construction payments. The Company agrees that these sections should be included in the revised Rule H and incorporated in the tariffs.

Staff also recommended a single charge for the service attachment charge and noted a difference of \$5 between the base charge assessed for underground service installation where the customer supplies the trench conduit and backfill and the Company supplied underground service installation. Staff recommended eliminating the difference by moving both base charges to the lower charge. The Company agrees with the establishment of a single-base charge, however, proposes that the base charge that the Company has proposed be averaged, resulting in the base charge of \$32.50 for underground service from underground lines and \$252 for underground service from overhead lines regardless of who supplies the trench and backfill. *Tr. at 378*. Staff also suggested that the tariff be reworded in order to make it easier to understand and administer.

The Building Contractors did not take a position on this issue.

Commission's Findings

We adopt Staff's and Idaho Power's recommendation for the inclusion of the omitted section in the proposed Rule H and find that these sections should be included in the tariff filings. We also agree with the Company and Staff's recommendation of a single-base charge for the service attachment charge. We find that a base charge for underground service of \$30 and a base charge for overhead service at \$255 to be fair, just and reasonable. We also find the tariff should be reworded as suggested by Staff.

V. INTERVENOR FUNDING

On September 12, 1996, the Building Contractors filed Petition for Intervenor Funding pursuant to Rule 161-170 of the Commission's Rules of Procedure, IDAPA 31.01.01.161-170.

Idaho Code § 61-617A and Rule 162 of the Commission's Rules of Procedure provide the framework for awards of intervenor funding. Section 61-617A provides that the Commission shall rely upon the following considerations in awarding funding to a given intervenor: (1) whether the intervenor materially contributed to the decision rendered by the Commission; (2) whether the alleged costs of intervention are reasonable in amount and would be a significant financial hardship for the intervenor to incur; (3) whether the recommendation made by the intervenor differed materially from the testimony and exhibits of the Commission Staff; and (4) whether the testimony and participation of the intervenor addressed issues of concern to the general body of users or consumers.

The statute further provides that the total award for all intervening parties combined shall not exceed \$25,000 in any proceeding.

Rule 162 of the Commission's Rules of Procedure provides the procedural requirements with which an application for intervenor funding must comply. The application must contain: (1) an itemized list of expenses broken down into categories; (2) a statement of the intervenor's proposed finding or recommendation; (3) a statement showing that the costs the intervenor wishes to recover are reasonable; (4) a statement explaining why the costs constitute a significant financial hardship for the intervenor; (5) a statement showing how the intervenor's proposed finding or recommendation differed materially from the testimony and exhibits of the Commission Staff; (6) a statement showing how the intervenor's recommendation or position addressed issues of concern to the general body of utility users or customers; and (7) a statement showing the class of customer on whose behalf the intervenor appeared.

Finally, Rule 165 provides that the Commission must find that the intervenor's presentation materially contributed to the Commission's decision.

The Building Contractors allege that its position was materially different from the Commission's Staff. It claims that it addressed issues concerning a general body of ratepayers and lead to a more in depth and rigorous examination of certain issues. The Building Contractors claimed the following fees and costs were incurred in this proceeding:

Legal fees: 114 hours at \$125 per hour \$14,250.00

Consultant fees: 128.5 hours at \$95 per hour \$12,207.50

Photocopies, travel to Pocatello and miscellaneous \$ 220.00

Total \$26,677.50

On September 26, 1996, Idaho Power filed a response to the Building Contractors' Petition for Intervenor Funding stating that the Petition should have more detailed itemization, but nevertheless, recommending approval of the request and recovery from the class that primarily benefitted; i.e., lots within subdivisions that require line extensions. Idaho Power recommends collecting a subdivision lot charge of \$11.00 per lot for one year.

Commission Findings

The Building Contractors' Petition meets the procedural requirements set forth in *Idaho Code* § 61-617A and Rules 161-170 of the Commission's Rules of Procedure. The Building Contractors made a sufficient showing of financial hardship, took a position that differed materially from the Commission Staff and raised issues of concern to the general body of ratepayers.

The Building Contractors contributed materially to our final decision in this case. Therefore, we find that the amount of intervenor funding requested by the Building Contractors is reasonable and hereby award the amount of \$25,000. Idaho Power is required to pay the Building Contractors this amount within twenty-eight (28) days from the service date of this Order. We adopt Idaho Power's proposal to collect a subdivision lot charge of \$11 per lot to be effective as of the date of this Order, to reimburse the Company for the intervenor funding award, pursuant to Rule 165 of the Commission's Rules of Procedure. This incremental addition to subdivision lot charge shall be removed after being in effect for one year.

VI. ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

Idaho Power is a public utility pursuant to *Idaho Code* §§ 61-119 and 61-129. The Commission has jurisdiction over this matter pursuant to Title 61 of the *Idaho Code*. The Commission grants Idaho Power's motion to reopen the record for receipt of an affidavit. The Commission also grants Idaho Power's Application for revisions to its Rule H tariff with modifications to the tariff as set forth above.

ORDER

IT IS HEREBY ORDERED that Idaho Power's Motion to Reopen the Record for the limited purpose of receiving the Affidavit of Gregory W. Said is granted.

IT IS FURTHER ORDERED that Idaho Power's Application for approval of new tariff provisions relating to new service attachment and distribution line installations or alterations is approved with modifications as enumerated above and as shown on Attachment 1.

IT IS FURTHER ORDERED that Idaho Power shall file revised tariffs consistent with this Order.

IT IS FURTHER ORDERED that the Petition for Intervenor Funding filed by the Building Contractors is hereby granted in the amount of \$25,000. Idaho Power is directed to pay these amounts within twenty-eight (28) days from the service date of this Order and to assess a subdivision lot charge of \$11 per lot effective for a period of one year.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. IPC-E-95-18 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. IPC-E-95-18. Within seven (7) days after any person has petitioned for

reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this _____ day of February 1997.

RALPH NELSON, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:IPC-E-95-18.sh3

Descriptive Name: O.N. 26780 - Line Extension

Creation Date: 11/22/1996 2:32:16 PM

Revision Date: 1/1/1601 12:00:00 AM

Author: SHamlin

Typist: BSORREL

Filename: E:\Common\UT_ORD\26795.ORD\26780.wp

dtSearch 6.03 (6079)

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of November, 2009, a true and correct copy of the foregoing was served upon the following individual(s) by the means indicated:

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