

DECISION MEMORANDUM

**TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
LEGAL
WORKING FILE**

FROM: MATT ELAM

DATE: MAY 3, 2010

**SUBJECT: IDAHO POWER'S PETITION TO AMEND THE AGREEMENT WITH
ENERNOC. CASE NO. IPC-E-09-2.**

On February 26, 2010, the Company filed a Petition requesting the Commission approve an Amendment to the February 23, 2009 Agreement between Idaho Power and EnerNOC, Inc. ("EnerNOC") under which Idaho Power provides a commercial demand response program for its commercial and industrial customers.

THE PETITION

In Order No. 30805 issued on May 15, 2009, the Commission approved the EnerNOC Agreement and authorized the Company to implement the voluntary demand response program for its commercial industrial customers.

The demand response program is called the "FlexPeak Program," it is a voluntary program targeted to Idaho Power's industrial and large commercial customers that are capable of reducing their electrical energy loads for short periods during summer peak days. The FlexPeak Program objective is to reduce the demand on Idaho Power's system during peak times through customers' voluntary electrical use reduction. EnerNOC is responsible for developing and implementing all marketing plans, securing all participants, installing and maintaining all equipment behind Idaho Power's meter to reduce demand, tracking participation, and reporting results to Idaho Power. Idaho Power initiates demand response events by notifying EnerNOC, who then supplies the requested load reduction to the Idaho Power system.

In this Petition, the Company has requested four Amendments to the original language of the Agreement with EnerNOC. The proposed Amendments include, primarily:

- 1) Clarifying the conditions under which Idaho Power shall be charged “energy payments” during demand reduction events;
- 2) Adjusting the calculation of the “Day-of-Load Adjustment”;
- 3) Decreasing the penalty EnerNOC incurs for failing to commit to a demand reduction; and
- 4) The addition of a non-solicitation clause.

STAFF REVIEW

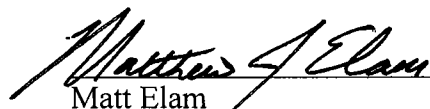
Staff reviewed the Company’s Petition to amend the Agreement with EnerNOC, and given it is a new program, Staff understands why there are changes following the first season of implementation. Staff notes the third Amendment, initiated because the original contract significantly inflates a capacity penalty EnerNOC must pay for falling short of its nominated reduction to Idaho Power. However, Staff recognizes that these are two sophisticated parties whose intent of the penalties was not achieved in the original Agreement. Aside from reviewing the changes outlined in the Company’s Petition, Staff also noticed that in the original agreement, by not adjusting the Facility Baseline Usage downward when calculating the “Day-of Load Adjustment,” program savings might be slightly overstated. According to the Company’s preliminary evaluation, program results have exceeded original expectations. However, when the Company completes a full program impact evaluation in 2011, Staff will review the results of the Program. Therefore, this recommendation should not be interpreted as a judgment of prudence that may or may not have been demonstrated by the Company in designing the program or determining savings.

STAFF RECOMMENDATION

Staff has reviewed the Company’s proposal and recommends that the Petition to amend the Agreement with EnerNOC be approved.

COMMISSION DECISION

Does the Commission wish to approve the Petition to amend the Agreement with EnerNOC?


Matt Elam

i:udmemos/ipce09.2 EnerNOC amendment