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2009 AUG 21 PM 2: 35

IDAHO PUBLIC
UTILITIES COMMISSION

21 August

Ms. Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702

RE: IPC-E-09-03

Dear Ms. Jewell:

We are enclosing an original and seven (7) copies of the **MOTION TO COMPEL OF THE INDUSTRIAL CUSTOMERS OF IDAHO POWER** in the above case.

An additional copy is enclosed for you to stamp for our records.

Sincerely,

Nina Curtis
Richardson & O'Leary PLLC

encl.

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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for the Industrial Customers of Idaho Power

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE)
APPLICATION OF IDAHO POWER) **CASE NO. IPC-E-09-03**
COMPANY FOR A CERTIFICATE OF) **MOTION TO COMPEL**
PUBLIC CONVENIENCE AND)
NECESSITY FOR THE LANGLEY)
GULCH POWER PLANT)

On August 6, 2009, the Industrial Customers of Idaho Power (“ICIP”) served discovery on Idaho Power that were related to the updated economic forecast the Company promised to file with the Commission in August prior to the Commission’s deliberations in this docket. Idaho Power objected for two reasons:

First; Idaho Power argued that the ICIP’s discovery is untimely. That objection is misplaced because the facts upon which the discovery is premised were not known, or knowable, until an Idaho Power witness volunteered on the stand at hearing that the Company would file an updated economic forecast. The ICIP asked for information to assist it, and the other parties, in fully understanding the basis for the expected updated economic forecast. Therefore, the discovery is timely in light of the fact that Idaho Power had notified the Commission at the hearing of its intent to file additional information (evidence) after the hearings process had concluded. Furthermore, the Commission’s Staff filed post hearing discovery to which the

Company did not object, thereby establishing a precedent for other parties to do the same.

Failure to permit the ICIP's discovery to stand would be prejudicial to the interests of the ICIP in this process specifically, and in fact would undermine the process generally. The ICIP would be harmed specifically because it is a full party to this matter, and the substantive interests of the ICIP members cannot be adequately represented without the information requested. The process generally is harmed because failure to allow discovery when discovery is so manifestly warranted, as the Commission itself made clear during the July hearings, guarantees that the Commission and parties will not have the best available evidence before it when the Commission must make a decision on this case of first impression.

Idaho Power's second objection is based on its argument that it no longer intends to update its economic forecasts to aid the Commission in its deliberations in this docket. This revelation is directly contrary to what the company promised the Commission. For example, Mr. Gale testified as follows relating to the company's intention with regard to updating its economic forecasts:

The tension is the timing of information that can preclude that from happening. One of the key pieces of information as I detect the Commissioner questions is what's this August load forecast going to show and what is the resource balance resulting from it, and I would represent to you if it's the Commission's desire that we would provide that to you during the process of your deliberations, to the other parties as well, so it would be at least one additional piece of information when you're trying to make a decision on 2012 or not and I that that's the implication it has.

Tr. 1208

Anticipating that this new load information provided during August would be vetted and debated and debated and so forth, I understand that. The load forecast is an important foundation in our integrated resource plan. The load and resource balance is an important foundation in our load and resource planning. All we can do in this instance is offer the information.

Tr. 1208

Mr. Gale was then asked by Commissioner Smith if the Commission could expect to receive “this load and resource data in August”. Tr. 1231. To which Mr. Gale replied, “We have – some of the folks involved in the forecast were involved in the hearing, so we would expedite it.” Tr. 1231.

Given the above exchange, the ICIP were reasonably expecting to see Idaho Power update its economic forecasts in order for this Commission to have as current and as complete information as possible while making its decision on whether to ratebase this large and costly investment. Incredibly, in light of the above, and as the foundation for its objection to the ICIP’s request, Idaho Power claims that an updated economic forecast is not needed for the Commission to render a decision in this docket:

As can be seen from the foregoing, in the normal course of business, the Company would not file the annual load forecast with the Commission outside of the regular IRP process and it is not the intention of the Company to deviate from its regular practice this year. The 2009 annual load forecast is not a part of the record in this case, is not needed for the Commission to render its decision in this case, and the Commission should not require the Company to respond to these production requests.

Idaho Power Objection at p. 3.

It is difficult to understand how the 2009 annual load forecast is irrelevant to the Commission’s deliberations about the future need for new resources. According to Idaho Power, the 2009 annual forecast will be distributed “in the near future” -- meaning that its constituent parts must be fully or nearly fully assembled. Furthermore, Idaho Power is mislabeling and misunderstanding the ICIP’s request. Mr. Gale promised Commissioner Smith to provide the “August load forecast” that would show the resulting “resource balance”. He did not specifically tag the “2009 annual load forecast” nor did the ICIP specifically ask about the “2009 annual load forecast.” All the ICIP sought was information about the forecast promised by Mr. Gale, however it turns out to be labeled. Since the company no longer intends to update its forecast,

the urgency in delaying a decision is underscored, especially given the fact that the company is poised to release its 2009 forecast shortly after the Commission's final order is issued.

For the foregoing reasons the ICIP respectfully request this Commission issue its order compelling Idaho Power to (a) provide the promised updated forecast and (b) respond to the ICIP's discovery related to that forecast.

DATED this 21st day of August, 2009:

RICHARDSON & O'LEARY PLLC

By: 
Peter J. Richardson, ISB #3195
Attorneys THE INDUSTRIAL
CUSTOMERS OF IDAHO POWER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of August, 2009, a true and correct copy of the within and foregoing MOTION TO COMPEL BY THE INDUSTRIAL CUSTOMERS OF IDAHO POWER was served by electronic mail and hand delivery to:

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