

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF IDAHO POWER COMPANY FOR A)	CASE NO. IPC-E-09-09
PRUDENCY DETERMINATION OF)	
ENERGY EFFICIENCY RIDER FUNDS)	ORDER NO. 31039
SPENT IN 2002-2007)	

In its 2008 rate case, Case No. IPC-E-08-10, Idaho Power requested that the Commission find that its 2002-2007 expenditures on demand-side management (DSM) programs, funded by an Energy Efficiency Rider, were prudently incurred. Total Rider expenditures during the period were approximately \$29 million. The Commission deferred a determination regarding the prudence of the expenditures until the Company provided additional information to evaluate the programs' effectiveness. In February 2009, Idaho Power and Staff filed a Stipulation in that case establishing the prudence of a portion of the Rider funds the Company spent during the five-year period. The Stipulation addressed \$14.3 million the Company spent on specific DSM programs as well as payments Idaho Power paid for membership in the Northwest Energy Efficiency Alliance. Order No. 30740 p.1. The Commission subsequently issued an Order finding that "the Stipulation identifying approximately \$18.3 million in energy efficiency expenditures for 2002-2007 as prudent to be just, reasonable, and in the public interest." Order No. 30740 p. 2. The Stipulation approved by the Commission also required the Company to file a pleading with the Commission seeking a prudence determination for the balance of Rider funds spent during 2002-2007. On April 1, 2009, Idaho Power filed an Application requesting the Commission find the remaining \$14,657,971 in 2002-2007 Energy Efficiency Rider expenditures to be prudently incurred expenses.

Following the filing of the Company's Application, Staff and Idaho Power continued to discuss ways to evaluate the effectiveness of the Company's demand-side management (DSM) programs. On October 5, 2009, Staff hosted a DSM evaluation meeting, including a consultant retained by the Commission, to discuss appropriate levels of objective and transparent evaluation of DSM programs. As a result of the informal workshop and follow-up discussions, Idaho Power and Staff agreed to terms for an annual, comprehensive utility DSM report, as set forth in a Memorandum of Understanding (MOU). The MOU provides terms for Idaho Power to manage, plan, evaluate, and report its DSM activities to the Commission. In addition, Staff and the Company signed a Stipulation agreeing that the remaining balance of Rider funds spent during 2002-2007 (\$14,657,971) were prudent expenditures and should be approved for ratemaking purposes. The Memorandum of

Understanding providing terms for reporting and evaluating DSM expenditures and programs is attached to the Stipulation.

On January 25, 2010, Idaho Power filed a Motion to Approve Stipulation requesting that the Commission confirm that the \$14,657,971 in Energy Efficiency Rider expenditures the Company made between 2002-2007 were prudent. In addition, the Company asked the Commission to provide feedback regarding the DSM reporting and evaluation terms discussed in the Memorandum of Understanding. On February 8, 2010, the Commission issued a Notice of Application and Notice of Idaho Power's Motion to Approve Stipulation, and Notice of Modified Procedure to process the Application. Order No. 31000. The Commission's Notice did not establish a period for the filing of reply comments and, after Staff and the Industrial Customers of Idaho Power filed comments, Idaho Power filed a Motion to request an opportunity to file reply comments. The Commission granted the Motion, and extended the comment period to March 19, 2010.

The comments filed by the Industrial Customers address the two distinct aspects of Idaho Power's Motion, that is, the Company's request for approval of the Stipulation establishing the prudence of the Rider fund expenditures, and the Company's request for feedback on the terms of the MOU. The substantive portion of the Stipulation addresses only the prudence of the \$14,657,971 remaining from the balance of Rider funds spent during 2002-2007. Specifically, the Stipulation states that Staff agrees that the remaining Rider fund balance "were prudent expenditures and should be approved for ratemaking purposes." Stipulation, p. 3. The Stipulation does state that Staff and Idaho Power agreed to terms for a more comprehensive annual DSM report and the Memorandum of Understanding is attached to the Stipulation. The Stipulation does not indicate, however, that the parties will seek approval of the MOU.

In its comments, the Industrial Customers stated it "will not challenge Staff's finding of prudence as to Idaho Power's expenditure of the remaining \$14.6 million spent from 2002 to 2007." Industrial Customers Comments, pp. 4-5. However, believing the case "now includes a request for Commission approval of the Memorandum of Understanding that will address future prudence reviews," the Industrial Customers stated its opposition to Commission approval of the MOU.

The Industrial Customers' concern about the Memorandum of Understanding prompted reply comments from Idaho Power and Staff. Staff explicitly stated that it does not request that the Commission approve the MOU. Staff Reply Comments, p. 2. The Company in its reply comments noted that the MOU "explicitly and purposefully does not bind the Commission or other parties to its principles in any regard." Idaho Power Reply Comments, p. 3. The Company stated it would be

pleased if the Commission stated its approval of the MOU's guidelines, but acknowledged "that this may be more than the Commission can offer at the present." *Id.*

Based on the pleadings filed in this case, including the Stipulation, it is clear that the only determination for the Commission is regarding the prudence of \$14,657,971 in Energy Efficiency Rider expenditures that Idaho Power made between 2002 and 2007. None of the parties dispute the prudence of those expenditures, and the Stipulation filed by the Company and Staff explicitly states that the \$14,657,971 remaining balance of Rider funds spent during 2002-2007 were prudent expenditures and should be approved for ratemaking purposes. On this record, the Commission finds that the \$14.6 million of expenditures the Company made between 2002 and 2007 using Energy Efficiency Rider funds for DSM programs were prudent and are hereby approved for ratemaking purposes. Because the 2002-2007 DSM expenditures were made using tariff rider funds, however, a determination that the expenditures were prudent will not affect customer rates.

The Industrial Customers recognize that "even if a utility implements Staff's prudence guidelines and evaluation framework in the Memorandum of Understanding, the utility will still need Commission approval of the expenditures in a formal filing, such as a general rate case." Industrial Customers Comments, p. 7. The Industrial Customers and other interested parties will have an opportunity in those proceedings to analyze and challenge the DSM evaluation at issue, regardless whether the utility has evaluated and reported its programs consistent with the terms of the MOU. Accordingly, we decline to discuss the terms of the MOU, other than to recognize that the MOU has potential in evaluating and reporting Idaho Power's DSM programs. The Commission's future review of particular DSM programs should be assisted, but will not be replaced by, Idaho Power's compliance with the terms of the MOU.

ORDER

IT IS HEREBY ORDERED that the Commission finds that \$14,657,971 in Energy Efficiency Rider expenditures that Idaho Power made between 2002 and 2007 were prudent and are approved for ratemaking purposes.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. 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 14th
day of April 2010.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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