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IDAHO PUBLIC
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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR AUTHORITY TO CONVERT SCHEDULE 54 -FIXED COST ADJUSTMENT-FROM A PILOT SCHEDULE TO AN ONGOING PERMANENT PROGRAM.	**CASE NO. IPC-E-09-28** **COMMUNITY ACTION PARTNERSHIP ASSOCIA-TION OF IDAHO'S RESPONSE TO IDAHO POWER'S APPLICATION**

I. INTRODUCTION

COMES NOW the Community Action Partnership Association of Idaho ("CAPAI") and, pursuant to Rules 201 through 204 of the Commission's Rules of Procedure, IDAPA 31.01.01.201-204, and Commission Order No. 31010 issued in this proceeding on February 23, 2010, submits the following comments in response to Idaho Power Company's ("Idaho Power" or "Company"), Application in this docket to make permanent a pilot program decoupling the recovery of fixed costs from the Company's investment in Demand Side Management ("DSM") or energy efficiency measures.[1]

[1] Due to limited resources, CAPAI was unable to participate in the original application for approval of a pilot program and subsequent proceedings that have occurred since then, until now.

II. IDAHO POWER' POSITION

In a nutshell, the Company believes that the pilot program, approved by the Commission on March 12, 2007 in Order No. 30267, Case No. IPC-E-04-15, if made permanent, will remove the disincentive to the Company to invest in DSM due to lost sales revenue. Put another way, because the utility makes money by selling and distributing electrons, any investment it makes in programs that reduce customer demand for those electrons then, without some mechanism such as the proposed FCA in place, Idaho Power will experience decreased, unreimbursed revenue, <u>all other things being equal</u>.

Many would agree that issue can be somewhat complicated. The intent of these comments, therefore, is to analyze those complexities and differences of opinion, and to offer alternatives to the pilot FCA as it currently exists, as well as to respond directly to the Company's Application.

Obviously, the Company's Application and supporting testimony of Mr. Scott Sparks speak for themselves. For purpose of discussion, and to identify areas of disagreement, CAPAI offers the following, brief, summation of Idaho Power's proposal and supporting rationale. CAPAI in no way purports that these comments contain an exhaustive summation of Idaho Power's position on every issue.

Idaho Power posits that its FCA mechanism "quantifies the direct link between the energy consumed by customers and the revenue received from customers in order to remove the financial disincentive that exists when the Company invests in energy efficiency and demand-side-management…." *Testimony of Scott Sparks, p 3, ll. 6-10.* Thus, at the heart of Idaho Power's argument, is the belief that they are in fact capable of not only proving a "direct link" between reduced revenues and increased DSM investment, but they are also capable of quantifying the actual dollar amount of said direct link. Idaho Power also declares that it is not financially harmed by decreases in energy sales under the current pilot FCA's true-up mechanism, nor is it financially benefitted from increases in sales.

Idaho Power explains that only residential customers and small general service classes were initially chosen to participate in the pilot FCA project. *See, Test. Of Scott Sparks, p. 4.* Apparently, Idaho Power intends to continue proposing that only these two customer classes will continue to be included in the FCA mechanism.

Idaho Power contends that if there results a positive adjustment under the FCA, this would indicate the Company's allowed fixed cost recovery amount was greater than the fixed costs actually recovered through the energy rate for that class of customers. This, Idaho Power argues, would stem from the fact that the growth rate in weather-normalized energy was less than the growth rate in customers, i.e., the use per customer had decreased. The effect of that decrease would be that the Company had under-collected its fixed costs and, therefore, additional dollars need to be collected from the customer class in order to make the Company financially whole. *See, generally, Test. Of Scott Sparks, pp. 5-6.* Mr. Sparks notes that the FCA is regulated by the Commission through the imposition of an adjustment "cap," which currently is 3% as a rate mitigation tool.

The Company asserts that the implementation of the FCA has affected Idaho Power's efforts toward promoting energy efficiency and DSM activities. Idaho Power's support for this statement is reflected in Mr. Sparks' declaration that the Company has "actively pursued new opportunities to promote energy efficiency and demand-side management since the inception of the pilot FCA." *Test. Of Scott Sparks, p. 7.* Mr. Sparks finishes with the conclusion that "by removing the financial disincentive to invest in DSM programs, the FCA has provided the

Company an opportunity to enhance and expand its portfolio of cost effective DSM resources. *Id,*

The Company points to an increase in DSM investments, and reduced residential and small general service revenues in recent years, as proof that removing the financial disincentive discussed above is the simple fix to prompting Idaho Power to invest in cost-effective DSM. The Table on page 8 of Mr. Sparks' testimony demonstrates that with increased investment in DSM has come varying degrees of energy consumption reduction. This Table seems to assume that every single kilowatt of energy saved was the result of a DSM measure or program, and nothing else. Even if the data is weather-normalized, there are numerous other variables that profoundly affect relative energy consumption on an annual basis, as will be discussed later.

Idaho Power states that it utilizes four types of programs to promote energy and demand savings: 1) Demand Response (continue to pursue unnamed existing programs and pursue new, unidentified, cost-effective programs; 2) Energy Efficiency; 3) market transformation (membership in the Northwest Energy Efficiency Alliance "NEEA"), and; 4) Other Programs and Activities (research, development, education and program marketing). There doesn't seem to be, in this particular Table, any specific amount of energy consumption reduction identified for each of the four, foregoing types of DSM that has been achieved as a direct and exclusive result.

In addition, Idaho Power refers to its involvement in pursuing more energy efficient building codes. Regardless of the degree of credit that Idaho Power can legitimately take for changes in building codes, this type of DSM is largely unavailable to owners of older homes which are far more difficult and expensive to effectively weatherize after the fact.

The Company also points out the efficiency measures incorporated into its own buildings/facilities. Mr. Sparks testified that the FCA pilot program did "aid" in making the Company indifferent to choices between DSM and supply-side resources. *Test. Of Scott Sparks, p. 12*

The Company emphasizes the rationale for its proposal to make the FCA pilot program permanent by noting that two years of audited data show that the "true-ups" are working to ensure fair treatment of all concerned. The Company does not attempt to account for non-DSM investments in its analysis of the cost-effectiveness and fairness of the FCA program on either a pilot or permanent basis.

Finally, the Company proposes that it no longer be required to document each year specific ways it had increased its investment in energy efficiency and DSM as a direct result of the FCA mechanism and the effect on energy consumption as a result of said increased DSM investment.

III. CAPAI'S POSITION

A. SUMMARY

CAPAI most definitely supports the acquisition of cost-effective resources in general. In fact, all other things being equal, CAPAI would much rather have Idaho Power invest in energy efficiency, DSM, or resources that are renewable.

CAPAI believes that because decoupling presents complex issues, when such programs are poorly executed and particularly if implemented without meaningful consumer protections, decoupling unduly shifts risk to consumers, raises prices during periods of declining sales, disproportionately raises rates for low-income and low-energy users, and does not guarantee investment in needed efficiency improvements.

Finally, CAPAI proposes that, for the time being, the FCA be continued on a pilot program basis until additional data are available and/or the many suggestions contained in the comments filed by other interested persons ("commentors") in this proceeding are taken into consideration and, possibly, incorporated into any final or continued pilot FCA that the Commission might approve.

To summarize, CAPAI proposes that Idaho Power's Application to make the FCA, as it is currently structured, permanent and be denied. CAPAI suggests that the matter remain under modified procedure with the possibility of conducting public workshops to resolve the many issues raised by the commentors in this case.

B. OBJECTIVES OF LEGITIMATE DECOUPLING MECHANISMS

In fairness, most, if not all, mechanisms that legitimately enhance the availability and feasibility of obtaining cost-effective DSM-type resources, should be given serious consideration. Their implementation, however, should achieve the following overall objectives as <u>conditions</u> <u>prerequisite</u> to the implementation or continuation as an FCA program.

Specifically, the mechanism in question must be: 1) fundamentally fair; 2) transparent; 3) it must be periodically proven by the utility that the implementation and continuation of all DSM programs were the direct and exclusive cause of actual energy consumption decreases claimed by the utility, and to what extent; 5) that there be a *quid pro quo* back to customers for the shifting of risk from shareholders to ratepayers due to the fact that the uncertainty of future revenues for the Company will be replaced with uncertain rates for customers, and; 6) other objectives further described herein. These comments will offer but a brief overview of the means by which to achieve the objectives articulated above.

C. SPECIFIC CONDITIONS ENSURING THE FAIR TREATMENT OF COMPANY CUSTOMERS UNDER AN FCA

In the interests of brevity, CAPAI will briefly list below the most important concerns it has regarding the FCA proposal and conditions prerequisite that CAPAI thinks should be imposed in the Final Order should the Commission decide to reject an FCA for Idaho Power as at least one commentor to this case has proposed. Another commentor has proposed establishing a new docket and/or maintaining the current proceeding while conducting workshop(s) in an attempt to resolve differences among the parties.

Though CAPAI does not wish to unduly delay the processing of this case, it does believe that there are ample issues of importance that warrant further discussion and analysis to assist the Commission in reaching its decision. In fact, there is such an ample number of issues that CAPAI believes need resolution, that it will simply list some as bullet points, and go into greater detail on those it deems to be of greater importance. The presence herein of numerous rhetorical questions is one indication that there is insufficient data available to the Commission and commentators to make a fully-informed decision, or to take a position, in this case:

1) Regulators and policymakers could consider alternate means to promote energy conservation, such as a banded incentive/penalty structure with specific utility energy efficiency targets.

2) In promoting increased levels of utility investment in energy efficiency through any means, regulators and policymakers should ensure that initial, 'baseline revenues' are set in a fair and equitable manner in the course of a general rate case, while isolating the effects of utility-sponsored energy efficiency, protecting customers from the volatility and variability associated with frequent true-ups and adjustments, and protecting customers from avoidable price increases.

3) Any approved decoupling mechanism should not reward the utility unduly for reductions in consumption resulting from conditions the utility did not sponsor or create, including consumption reductions stemming from customer initiated savings, weather conditions (unless adequately weather-normalized), reductions in consumption resulting from Advanced Metering Infrastructure, recent economic downturns and resultant high unemployment, adoption of public sector initiatives such as building codes and appliance efficiency standards where such changes would have occurred regardless of utility support or involvement, etc.

4) If approving a decoupling mechanism, regulators and policymakers should consider ways to protect consumers from unnecessary rate increases, such as:

- Adjustments to compensate ratepayers for the risk shifted to them, such as a lower rate of return or lower equity capitalization.

- A rate cap, or more stringent cap if one already exists, such that utility earnings from the added decoupling revenues cannot exceed the approved rate of return.

5) Any decoupling mechanism must be accompanied by a significant increase in the utility's energy efficiency programs, which should be designed and evaluated in collaboration with affected stakeholders.

6) To receive decoupling revenues, utilities should achieve specific, significant steps in their conservation savings targets designed and evaluated also in collaboration with affected stakeholders.

7) A straight-fixed, variable rate design which shifts volumetric charges to the fixed portion of utility bills and unduly penalizes low-usage customers, should not be used to accomplish rate decoupling.

8) CAPAI is concerned that the FCA is yet another varying rate change designed solely for the purpose of stabilizing utility revenues with no commensurate benefit to customers. One need only recall the periodic drought surcharges and subsequent adoption of a Power Cost Adjustment mechanism in the 1990s, and the considerable number of occasions where the utility has sought and obtained such rate stability assurance for any number of things, the latest being Case No. IPC-E-09-30 involving the use of and interplay between the Company's return on equity and accelerated write-off of deferred investment tax credit. There have been numerous other changes to rates tacked on to the annual PCA, some short-lived, others not.

CAPAI raises this issue for several reasons. First, it is confusing to some customers who cannot understand the increasingly frequent changes to their rates for what are, at times, single-item matters. Second, these utility requests often seem to follow on the heels of a period of revenue instability and, consequently, often result in an immediate increase. Finally, as already noted, there has been no *quid pro quo* offered to ratepayers for a benefit granted to the utility. Adjusting return on investment or capital structure is one way to recognize the shifting of risk from shareholders to ratepayers. CAPAI very respectfully submits that it might be time to visit this issue in detail and assure ratepayers that they are being treated fairly.

9) CAPAI also submits that, as somewhat already stated, there should be energy conservation targets set, or by some other means, to ensure that Idaho Power will aggressively pursue all cost effective DSM resource opportunities.

10) As at least one commentor has pointed out so far, an analysis of whether to consolidate residential and small general service for FCA purposes, is warranted.

11) IPCO should be required to continually, and periodically prove that increased investment, or static investment in DSM has reduced energy consumption and to what extent.

12) CAPAI also wonders what effect, if any, approval of an FCA would have on the legitimacy of the Company's tendency to file for, and often receive, increases to its basic monthly charge.

13) Because of their income levels, low-income customers will pay a relatively higher surcharge under the FCA in years wherein a surcharge is approved. This, coupled with the fact that low-income customers often do not have the means to reduce their energy consumption, no conservation program is available to them, or they use very little electricity in the first place, creates a prejudicial effect against those customers.

14) In this case, Idaho Power is relying on only two full years' of data regarding the legitimacy, or lack thereof, of the FCA. CAPAI questions whether this is sufficient for the Commission to be able to address the many issues raised by the commentors to this case.

15) It simply cannot be overstated that Idaho Power has made critical assumptions and reached conclusions based on relatively little empirical data and more on the assumption that electricity consumption reductions over the past 2-3 years are the sole and exclusive result of the implementation of the FCA. Again, there is no shortage of factors that interplay with consumption over recent years.

16) Should the Commission, as a condition of approving the FCA, ensure that it has exhausted rate design changes, such as adjusting Idaho Power's tiered rate structure, to ameliorate the financial impact that the proposed FCA will have on low-income customers with little or no ability to further reduce their energy consumption?

17) If Idaho Power is contending that revenue stability will enhance the Company's standings with rating agencies which, in turn, will benefit customers, should empirical studies be conducted to attempt a quantification of such a benefit?

18) Assuming approval of the Company's Application, should Idaho Power's FCA be continued indefinitely, renewed annually, or something else? If it is automatically renewed, or there is simply no end-date to the program, should there be periodic cost of service studies conducted to reveal the efficacy of the decoupling proposal.

19) A decoupling proposal should be accompanied by a plan for evaluating its efficacy through, among other things, a defined set of reporting requirements. As noted above, Idaho Power proposes to reduce the nature and depth of its FCA reporting to the Commission. CAPAI opposes this, and proposes engaging in the following studies with resulting reports on a periodic basis:

1) Revenue Comparison: How would revenues under traditional regulation have differed from those collected under the decoupling regime? All possible causes of decreased revenues, aside from increased investment in DSM, should be taken into account in making this analysis.

2) Bill Comparisons: How have average bills differed from those under traditional regulation?

3) Energy Efficiency: Is the Company meeting its energy efficiency savings goals? What proof exists, if any, that energy efficiency achievement been enhanced under the decoupling mechanism?

4) Service Quality: Is the Company meeting its service quality targets? Has quality declined?

5) Risk: Has the decoupling regime stabilized revenues as expected and, if so, how has this affected the utility's overall risk profile?

IV. CONCLUSION

For all of the reasons stated herein, CAPAI opposes Idaho Power's Application to make the FCA program permanent, at this time. CAPAI recognizes the legitimate desire for the Company to want to have as much predictability as possible in terms of revenue flow and cost recovery, as well as the fact that an FCA program might sit well with rating agencies. CAPAI objects to permanent approval at this time, however, pending review of the data is considers to be absent from the Application and until the philosophical and technical questions posed herein have at least been responded to by the Company. This is why CAPAI does not propose an outright rejection of the very concept of an FCA; just an opportunity to examine the current proposal with greater scrutiny and data.

By leaving the docket open for the time being, this will allow all involved to voice their concerns and review additional data that very well could ameliorate certain concerns that exist, and/or open the door to possible settlement in the form of making modifications to the proposal, whether through a workshop or some other scenario

Finally, CAPAI opposes, for the time being, the Company's proposal to reduce the reporting requirements it has been operating under with the pilot FCA. What CAPAI, and likely other commentors desire most right now, is additional information, not less. CAPAI is willing to work cooperatively with Idaho Power in this and every other regard.

DATED, this 25th day of March, 2010.

Brad M. Purdy