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IDAHO PUBLIC
UTILITIES COMMISSION

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 lost sales resulting 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.

Essentially, the Company posits 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. Without some mechanism such as the proposed Fixed Cost Adjustment (FCA) in place, Idaho Power contends that it will experience decreased, unreimbursed revenue, all other things being equal.

Many would argue that this issue can be complicated and, in many instances, existing decoupling programs have either failed and been discontinued, have had significant consumer protection mechanisms installed, or are still being studied. The intent of these comments, therefore, is to set forth CAPAI's position regarding those complexities and differences of opinion, as well as what it perceives to be unanswered conundrums and to explain why a deferral of permanent approval of the FCA is warranted. Finally, CAPAI will offer alternatives to the pilot FCA as it currently exists, as well as to respond directly to the Company's Application.

II. IDAHO POWER'S POSITION

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, however, CAPAI offers the following, summation of Idaho Power's proposal and supporting rationale. CAPAI's perception is just that, and in no way is represented to be an exhaustive summation of Idaho Power's Application.

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, it seems that the heart of Idaho Power's argument is the assertion or inference that the Company is in fact capable of not only proving a direct causal link between reduced sales and increased DSM investment, but is also capable of quantifying the actual dollar amount of said direct link. Idaho Power declares that it is not financially harmed by decreases in energy sales under the current pilot FCA's true-up mechanism, nor does it financially benefit from increases in sales.

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.* Idaho Power intends to continue proposing this arrangement.

The Company 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," on the annual amount of the FCA.

The Company asserts that the implementation of the FCA has affected Idaho Power's efforts toward promoting energy efficiency and DSM activities. Support for this contention 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 also points to an increase in DSM investments, and reduced residential and small general service sales 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 direct and exclusive result of a Company-sponsored DSM program. CAPAI contends that there are numerous other variables that can profoundly affect relative energy consumption and, thus, revenues 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 (e.g., membership in the Northwest Energy Efficiency Alliance "NEEA"), and; 4) Other Programs and Activities (research, development, education and program marketing).[2] In addition, Idaho Power refers to its involvement in pursuing more energy efficient building codes.[3]

The Company also notes the efficiency measures incorporated into its own buildings and/or facilities. Mr. Sparks testified that the FCA pilot program did "aid" in making the

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[2] CAPAI does not detect, 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.[2]

[3] CAPAI notes that regardless of the degree of the Company's involvement in the progressive alteration of building codes, the energy savings benefits associated with this type of policy and legal change are largely unavailable to owners of existing homes which are far more difficult and expensive to effectively weatherize after they have been constructed.

Company indifferent to choices between DSM and supply-side resources. *Test. Of Scott Sparks, p. 12.*

As support, the Company states that two years of audited data show that the "true-ups" are working to ensure fair treatment of all concerned. It is unclear to CAPAI if the Company has attempted to account for non-DSM investments in its analysis of the cost-effectiveness and fairness of the FCA program.

Finally, the Company proposes that it no longer be required to report to the Commission, annually, certain information regarding the efficacy of the FCA which it currently must do.

III. CAPAI'S POSITION

A. INITIAL SUMMARY

CAPAI obviously supports the acquisition of cost-effective resources in general. In fact, all other things being equal, CAPAI would much rather that Idaho Power invest in energy efficiency, DSM, or resources that are renewable and, of course, to continue its commendable efforts to work with CAPAI on low-income specific issues. Though CAPAI has considerable concerns about the Company's FCA, it does not yet advocate for a complete rejection of the very concept. There must be, however, a balancing of interests of shareholders and customers. CAPAI, therefore, advocates for a more thorough process whereby all stakeholders can attempt to work out their differences with the Company through a good faith, collaborative process.

CAPAI believes that the submission of written comments by a limited number of entities through modified procedure, based on a limited amount of data collected during highly extraordinary times is insufficient to reach final resolution on such a weighty issue and respectfully questions whether the Company's Application is being needlessly rushed.

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 raising rates for low-income and low-energy users, and does not guarantee investment in needed efficiency improvements.

Finally, CAPAI proposes, 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 in this proceeding are taken into consideration and, possibly, incorporated into any final or continued pilot FCA that the Commission is potentially inclined to approve.

To summarize, CAPAI proposes that Idaho Power's Application to make the FCA permanent, as it is currently structured, be denied. CAPAI suggests that the matter remain under modified procedure, or some other procedural arrangement discussed below, with the possibility of conducting public workshops to resolve the many issues raised by those who have and/or will, comment in this case.

B. OBJECTIVES OF LEGITIMATE DECOUPLING MECHANISMS

In fairness, theoretically all mechanisms that legitimately enhance the availability and feasibility of obtaining cost-effective DSM resources, should be given serious consideration. Their implementation, however, should achieve the following overall objectives as conditions prerequisite to the implementation or continuation of an FCA program.

Specifically, the FCA 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) there should be a *quid pro quo* 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.

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

The bullet points of CAPAI's concerns, proposals and rationale include:

1) Regulators and policymakers should 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 consider whether initial, 'baseline revenues' be 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, 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) Concerning bullet point No. 3, CAPAI believes there are serious practical and perceived problems with permanently approving the existing FCA at this time. Naturally, Idaho Power does not operate under a truly capitalistic economic regime. Over roughly the past 15 years, the Company has been authorized to implement numerous programs and mechanisms that stabilize and enhance the predictability of revenue. The Company's PCA, the FCA, the recent approval to allow the Company to accelerate use of its deferred investment tax credit when needed to stabilize earnings, and numerous other examples are proof of this.

CAPAI is concerned whether concurrent with these regulatory changes the Company's rate of return has been adequately adjusted to account for the changing regulatory regime and reduction in shareholder risk. Admittedly, the benefit of a financially healthy utility must be weighed against the constant upward pressure on customer rates; a difficult but necessary task.

There are few legal monopolistic industries in this nation and, as pointed out, when conditions exist that jeopardize Idaho Power's return on investment for its shareholders, those shareholders have occasionally been immunized by regulatory mechanisms. Where risk is removed from shareholders, it is obviously shifted to ratepayers. CAPAI questions why, during arguably one of the worst economic times in more than a half century, the primary mandate should be to protect the Company's shareholders. All other sectors of the economy, most of all low-income customers, are suffering tremendously without similar protections as those afforded by the FCA to shareholders.

This leads to a perception problem for customers and, arguably, is self-contradictory to DSM programs such as the Company's Low-Income Weatherization Program (LIWA). For example, there remains a significant backlog of eligible candidates for weatherization under the cost-effective LIWA who have not received DSM benefits due to inadequate funding.

Regardless of the technicality of the FCA's structure, low-income customers who receive assistance under LIWA, must then pay for those benefits because they caused reduced consumption.

As anathema as it might be to a truly capitalistic enterprise, one could argue that a regulated monopoly has a public obligation to implement cost-effective DSM, regardless of the fact that it causes a reduction in revenues. Again, however, CAPAI believes that an FCA constructed with adequate safeguards could potentially be justified.

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. This would include an increase in LIWA funding to begin eliminating the backlog referred to.

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 many customers.

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 issues. Second, as 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 there should be energy conservation targets set to ensure that Idaho Power will aggressively pursue all cost effective DSM resource opportunities.

10) As at least one interested person has pointed out so far, an analysis of whether it is fair 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) 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, or there might be no conservation program available to them, due to inadequate funding, or they use very little electricity in the first place, places an unfair burden upon them.

13) 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 those who have commented on the Company's Application, particularly due to the fact that the past two years have been extraordinary in terms of high unemployment, reduced housing starts and customer growth, and the general financial struggle that, in particular, low-income customers face.

14) It simply cannot be overstated that Idaho Power has made critical assumptions and reached conclusions based on what seems to be relatively little empirical data supporting the conclusion 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.

15) Respectfully, it should be addressed whether 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.

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

17) 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?

Additionally, it is still unclear why only residential and small commercial customers are subject to the FCA and not all of the Company's other customer classes. It seems intuitive that these classes also benefit from DSM targeted specifically for them. They also benefit from avoided generation and new transmission that effective DSM supposedly provides.

18) Because a decoupling proposal should be accompanied by a plan for evaluating its efficacy, the Company's request to reduce or eliminate reporting requirements should be denied. CAPAI 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 has 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. As one interested person noted in comments, the Company's efforts have received widespread recognition. That is why CAPAI, in spite of the extent of critique contained herein, does not oppose decoupling out right, or even termination of the existing pilot program at this time. CAPAI does object to permanent approval, pending review of the data it considers to be absent from the Application and until the philosophical and technical questions posed herein have at been more fully worked through with greater scrutiny and, if it seems justified, to create a superior program that protects the interests of shareholders and customers alike.

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, apparently, other interested persons 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 9th day of April, 2010.

Brad M. Purdy