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IDAHO PUBLIC
UTILITIES COMMISSION

Attorney/Energy Advocate for Idaho Conservation League

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 SCHEDULE.	CASE NO. IPC-E-09-28 COMMENTS OF THE IDAHO CONSERVATION LEAGUE

COMES NOW Idaho Conservation League ("ICL"), pursuant to Rule 203 of the Rules of Procedure of the Idaho Public Utilities Commission (the "Commission") and the Commission's Notice of Modified Procedure served February 23rd, 2010, filing these comments on Idaho Power Company's ("Idaho Power") application to convert the Fixed Cost Adjustment ("FCA") from a pilot schedule to a permanent rate schedule. The Commission granted ICL's request to intervene in this Case by Order No. 30975 issued January 5, 2010.

INTRODUCTION

In this case, Idaho Power asks the Commission to authorize changing the FCA from a three-year pilot program to a permanent rate schedule. During the three-year FCA pilot program the PUC Staff, Idaho Power, and the Commission addressed some problems with the FCA mechanism. However, significant unresolved issues remain including: (1) how to accurately measure the reduction in energy use attributable to Idaho Power's efforts; (2) how to address the conflicting price signal sent to rate payers when their educed energy consumption results in a rate increase; (3) how to ensure Idaho Power uses consistent, verified, and auditable data in computing the FCA; and (4) whether to allocate the FCA to the Residential and Small General Service Classes together or separately. Assuming the Commission authorizes the FCA as a permanent rate schedule, several more issues arise including: (1) determining the impact of newly implemented usage based rate designs; (2) developing an effective, simple, and accurate incentive mechanism; and (3) continuing to ensure Idaho Power is aggressively pursuing all cost effective energy efficiency and DSM investments.

ICL believes the FCA is an important tool for aligning the interests of Idaho Power shareholders and ratepayers. ICL also believes the Commission should play an active role in continuing to refine the FCA mechanism. Because removing the financial disincentive to invest in energy efficiency and DSM is critical, ICL strongly encourages the Commission to approve the continuation of the FCA program as either an extended pilot program, or a permanent program. However, important and complex issues with the FCA and related programs remain unresolved, therefore ICL believes the Commission, Idaho Power, and the public would benefit from new docket to take a comprehensive look at the FCA mechanism, the annual FCA adjustment rates, and the related performance based incentive program.

HISTORY OF IDAHO POWER'S FIXED COST ADJUSTMENT MECHANISM

The Commission approved the FCA Pilot Program on March 12, 2007 in Order No. 30267, Case No. IPC-E-04-15. At that time, the Commission explained "promotion of cost-effective energy efficiency and demand-side management (DSM), we find, is an integral part of least-cost electric service." *Order No. 30267* at 13. The FCA "removes a Company-identified financial disincentive to energy efficiency and DSM investment" by reducing the dependence on stable kilowatt-hour sales to assure recovery of fixed costs. According to the Commission, decoupling fixed costs from energy sales should assure more stability in fixed costs recovery and result in Idaho Power being indifferent to reduced energy consumption and demand. The other half of this quid pro quo is a commitment by Idaho Power to "demonstrate an enhanced commitment to energy efficiency and DSM." *Id,* at 14.

To facilitate this quid pro quo, on March 12, 2007 the Commission issued Order No. 30268 in Case No. IPC-E-06-32 approving a Performance-Based Demand-Side Management Incentive Program. Because the FCA only removes the financial disincentive to invest in energy demand reduction, the Incentive Program was intended to provide a positive incentive to encourage investment by Idaho Power. Although they supported the program overall, the Idaho PUC Staff identified seven technical difficulties with the Incentive Program. During the pilot period, the PUC Staff and Idaho Power could not resolve these technical difficulties. On May 14 2009, the Commission ended the incentive program in Order No. 30806 issued in Case Number IPC-E-09-04 because devising and administering a reasonably objective performance-based incentive presented significant challenges during the pilot period. As part of this Order, the Commission declined to open a new docket to further develop an incentive mechanism, but encouraged Idaho Power, the Commission Staff, and other interested parties to continue discussions on this topic.

While ICL agrees the Incentive Program was flawed, ICL also believes that indifference to reduced energy consumption is an insufficient goal and the Commission should implement mechanisms that actually encourage investments in energy efficiency and DSM. Because devising an appropriate incentive mechanism proves to be complex, ICL believes the Commission should open a new docket to take a comprehensive look at both sides of the quid pro quo, providing fixed costs recovery stability through the FCA and incentivizing Idaho Power to make further commitments to energy efficiency and DSM.

The FCA pilot program includes annual rate adjustments that "true up" the difference between fixed cost recovery approved in the latest general rate case and actual fixed costs recovery during the year. Under the FCA mechanism, if actual sales are less than the forecast in the rate case, Idaho Power will under recover fixed costs and request a rate increase under the FCA for the following year. If actual sales exceed the forecast, then Idaho Power over recovers fixed costs and will reduce rates for the following year. The FCA applies only to two customer classes, Residential customers on Schedules 1, 4, and 5, and Small General Customers on Schedule 7.

The Commission approved the first FCA rate adjustment for 2008 through 2009 on May 30, 2008 in Order No. 30556 issued in Case No. IPC-E-08-04. During this first year adjustment, Residential customers increased their average energy use resulting in a FCA reduction of 1.17%. Meanwhile, Small General Service customers reduced their average energy use, resulting in an FCA increase of 7.3%. While the original FCA stipulation called for adjusting each customer class separately, the Staff recommended, and the Commission approved, spreading the FCA across both classes on a per kilowatt hour basis. Overall, the Idaho PUC staff endorsed Idaho Power's requested rate reduction, but the Staff strenuously questioned the fixed costs and cost of service models used by Idaho Power because they arose from stipulated settlement of the 2005 General Rate case. The PUC Staff also questioned whether the FCA actually resulted in increased investments in energy efficiency and DSM beyond what Idaho Power would have done anyway.

The Commission approved the second year FCA adjustment on May 29, 2009 in Order No. 30827 issued in Case No. IPC-E-09-06. During this second year, average energy consumption per customer fell during the year, resulting in a FCA increase of 0.42% for Residential and 10.29% for Small General Service customers. Like the prior year, the Commission approved the recommendation of the Staff and Idaho Power to spread the FCA increase across both customer classes on a per kilowatt-hour basis. Addressing a major concern expressed by the PUC Staff, the second year FCA adjustment used fixed costs per customers, fixed costs per energy, cost of service models from the General Rate Case No. IPC-E-07-08 completed in the interim.

Turning to the issue of the FCA's impact on Idaho Power's investment in energy efficiency and DSM, the Staff explained that "it is clear that during 2008, the Company greatly increased DSM expenditures an significantly enhanced its program offerings." *Comments of the PUC Staff in Case No IPC-E-09-06* at 4. After reviewing Idaho Power's 2008 DSM report, the Staff verified the Company's claimed expanded expenditures, program offerings and projected energy savings. However, the Staff continued to question whether the reduced energy consumption per customer is attributable to Idaho Power's investments spurred on by the disincentive removed by the FCA, or other factors. According to Staff calculations, only 23% of the reduced energy consumption measured during the year could be attributed to energy efficiency and DSM investments by Idaho Power, as opposed to other factors like weather or economic activity. *Id* at 4; *Order no. 30827* at 3 n. 1. Looking forward, the Staff also commented that newly approved tiered rates and rate increases could further lead to reduced energy consumption not fairly attributed to Idaho Power's efficiency and DSM investments.

On March 16 2010, Idaho Power applied for the third year of the FCA rate adjustments as Case No. IPC-E-10-07. In this third year, average use per customer declined again, resulting in a FCA increase of 1.57% for Residential Customers and 8.49% for Small General Service Customers. As in prior years, Idaho Power offered to spread the FCA impact across both customer classes equally resulting in an overall increase of 1.85%. To calculate the FCA Idaho Power used the fixed costs per customer and fixed costs per energy approved by the Commission in the latest general rate case IPC-E-08-10. As requested by the Staff in their comments regarding the second year FCA rates, for the third year FCA rates Idaho Power used the most current weather normalized test year, 2010 – 2011.

Turning to the impact of the FCA on energy efficiency and DSM investments, Idaho Power explains their portfolio of programs and measures increased energy savings by 7.6% and reduced peak demand by 28% for a total reduction of 148,256 megawatt hours in 2009. *Testimony of Scott D. Sparks* at 7, Case No. IPC-E-10-07. Idaho Power now offers 18 energy efficiency programs, including three added in the past year. Harkening back to the Staff comments in the second year FCA rate adjustment, Idaho Power also refers to "several new priced-based rate designs" intended to encourage efficient energy usage. *Id,* at 9. Although the exact effectiveness of the FCA program requires further exploration by the Staff, Commission, and other parties, this third year FCA adjustment application reveals a continuing expansion of Idaho Power's investments in energy efficiency and DSM. More directly on point in this case however, the third year FCA rate adjustment request reveals continuing disagreement about some particular details of the entire FCA mechanism.

IDAHO POWER'S APPLICATION TO MAKE THE FCA PERMANENT

The precise issue under consideration in this docket, IPC-E-09-28, is whether the Commission should authorize Idaho Power to change the FCA from a pilot program to a permanent rate schedule. In their application, Idaho power explains that during the pilot program they have increased their investments in energy efficiency and reported substantial reductions in total energy use and peak energy use.

In their application Idaho Power explains the "true up mechanism is working as intended" because the Company continues to recover its fixed costs despite variable energy sales. This addresses one half of the quid pro qou identified by the Commission in approving the FCA pilot Program in Order No. 30267, Case No. IPC-E-04-15.

During the three-year pilot program the annual FCA rate adjustments have been applied to both Residential and Small general Service customers equally on a per kilowatt hour basis. In their original application to implement to pilot program, Idaho Power intended to calculate and implement the FCA to these customer classes separately. In their application to make the FCA permanent Idaho Power again intends to allocate the FAC to each customer class separately because this "will provide a distribution methodology that is more representative of the actual fixed costs recovered by each customer class." *Testimony of Scott D. Sparks* at 16, Case No. IPC-E-09-28.

Finally, Idaho Power requests the Commission no longer require specific documentation regarding their investments in energy efficiency and DSM. According to Idaho Power, these reports are unnecessary because their commitment "is now evident." Idaho Power will continue monthly reporting of the FCA balance and will file annual rate adjustments to "true up" their fixed costs recovery.

IDAHO CONSERVATION LEAGUE'S COMMENTS ON THE APPLICATION

ICL wholeheartedly aggress with the Commission's statement in the original order approving the FCA pilot program that "promotion of cost-effective energy efficiency and demand-side management (DSM), we find, is an integral part of least-cost electric service." *Order No. 30267* at 13. Because traditional ratemaking ties the utility's recovery of their fixed costs to the amount of energy sales, the utility has no incentive to invest in programs that reduce energy sales. The FCA, by decoupling fixed cost recovery from energy sales, represents one half of changing this incentive structure towards achieving the Commission's goal of promoting cost-effective energy efficiency. Essentially, the FCA levels the playing field by making the utility indifferent to reduction in energy consumption.

While it seems that all parties agree the FCA is a good mechanism to promote cost effective investments in energy efficiency and DSM, there remain some significant disagreement about particular details of the mechanism including: (1) how to accurately measure the reduction in energy use attributable to Idaho Power's efforts; (2) how to address the conflicting price signal sent to rate payers when their educed energy consumption results in a rate increase; (3) how to ensure Idaho Power uses consistent, verified, and auditable data in computing the FCA; and (4) whether to allocate the FCA to the Residential and Small General Service Classes together or separately.

ICL believes the best way to continue encouraging investment in energy efficiency and DSM is to continue the FCA while convening a workshop to comprehensively address these issues along with developing an appropriate and fair incentive to spur even greater investments. Because the Commission has recognized promoting cost effective investments in efficiency is an important part of providing least cost service, and the Staff has recognized that the FCA mechanism has to some degree spurred investments that Idaho Power would not have otherwise made, ICL believes the worst outcome in this case would be for the Commission to end the FCA program entirely.

If the Commission should decide a workshop is not appropriate, ICL requests that the Commission take the following actions on Idaho Power's application:

First, approve continuing the FCA mechanism as at least an extended pilot program. This will allow additional time to further refine and improve this important mechanism.

Second, resolve whether to allocate the FCA across both customer classes or apply it to them separately. By allocating the FCA to both customer classes, Residential customers are asked to cover the forgone fixed cost recovery attributable to the Small General Service customers. As an example of the confusing nature of the issue, in this case Idaho Power is requesting to allocate the FCA to customer classes separately, meanwhile in the third year FCA rate adjustment application filed March 16, 2010, Case No. IPC-E-10-07, Idaho Power continues to combine the classes in developing the FCA rate. ICL believes this issue requires further development through additional briefing and a hearing to fully resolve this issue.

Third, the Commission should deny Idaho Power's request to not submit annual reports on their energy efficiency and DSM investments. In fact, ICL believes the Commission should do just the opposite and require a more detailed and precise report. Specifically ICL believes the Commission should require Idaho power to submit the data the Staff requested in this case, the monthly actual kilowatt-hour savings attributed specifically to the residential and small general service customers. Also these annual reports should make every reasonable effort to determine the amount of reduced energy consumption attributable to Idaho Power's investments as opposed to other factors such as weather or economic activity.

CONCLUSION

During the three-year pilot program, the FCA has largely functioned as intended. While specific issues regarding certain components of the mechanism require further development and resolution, ICL believes the FCA continues to be an important effective tool for encouraging cost effective investments in energy efficiency and DSM. ICL urges the commission to either extend the pilot period for the FCA mechanism or approve Idaho power's request to make the program permanent. ICL believes the worst outcome of this case would be for the Commission to eliminate the FCA mechanism entirely. Finally, to continue the development of the FCA mechanism and the good results it has spurred thus far, ICL urges the Commission to convene a formal workshop to address the FCA, develop an appropriate incentive mechanism, and determine a reporting and verification method the Staff and the public can trust. ICL looks forward to working with all concerned parties to continue refining the financial incentives to ensure vigorous investment in all cost effective energy efficiency and DSM options.

Respectfully submitted this 23rd day of March 2010,

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CERTIFICATE OF SERVICE

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I hereby certify that on this 23rd day of March, 2010 true and correct copies of the foregoing COMMENTS OF IDAHO CONSERVATION LEAGUE were delivered to the following persons via the method of service noted:

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