Office of the Secretary
Service Date
November 16, 2010

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER COMPANY'S APPLICATION FOR AN ORDER DESIGNATING THE ENERGY EFFICIENCY RIDER FUNDS SPENT BY THE COMPANY DURING 2008-2009 AS PRUDENTLY INCURRED EXPENSES	)	**CASE NO. IPC-E-10-09**
	)	**ORDER NO. 32113**

PROCEDURAL BACKGROUND

On March 16, 2010, Idaho Power Company ("Idaho Power" or "Company") filed an Application with the Commission seeking an "Order designating Idaho Power's expenditures of $50,701,740 in Energy Efficiency Rider ("Rider") funds in 2008 and 2009 as prudently incurred expenses." *Application* at 1. Idaho Power does not believe that a technical hearing is necessary in this case and requests that its Application be processed under Modified Procedure. *Id.* at 8-9.

On June 25, 2010, the Commission issued a Notice of Application and Notice of Intervention Deadline. Subsequently, the Commission received Petitions to Intervene from the Industrial Customers of Idaho Power ("ICIP"), the Idaho Irrigation Pumpers Association, Inc. ("IIPA") and the Idaho Conservation League ("ICL"). The aforementioned parties were granted the right to intervene in this case.

All of the parties, including Staff, submitted written comments regarding Idaho Power's Application. The Commission also received several comments from individual Idaho Power customers. On September 23, 2010, Idaho Power submitted reply comments.

THE APPLICATION

Idaho Power states that it currently offers its Idaho customers "sixteen energy efficiency programs, three demand response programs, several educational initiatives, and offers savings to customers through market transformation efforts." *Id.* at 3. "[A]nnual energy savings from Idaho Power's energy efficiency activities increased by 62 percent from 2007 to 2009, posting 140 Gigawatt hour ("GWh") savings in 2008 and an additional 148 GWh savings in 2009." *Id.* The Company claims that its "[Demand-Side Management] DSM programs reduced load by 48 megawatts ("MW") in 2007, 61 MW in 2008, and 218 MW in 2009." *Id.*

Approximately $21 million was invested in DSM resources in 2008. Idaho Power included, as Attachment No. 1, a summary of program expenditures funded by the Rider in 2008 and 2009. *Id.* at 4. The Company invested $21 million in DSM programs in 2008, $18.8 million of which was from the Idaho Rider. *Id.* In 2009, Idaho Power spent $35 million on DSM-related activities, with $31.8 million being funded by the Idaho Rider. *Id.*

Idaho Power believes that the results of these programs demonstrate that they are a cost-effective resource for customers. *Id.* The Company states that nearly all of its energy efficiency programs produced savings at a benefit/cost ratio greater than 1.0 when evaluated at a total resource cost (TRC) perspective, a utility cost (UC) perspective and a participant cost (PC) perspective. *Id.* The lone exception was the Holiday Lighting program which, due mostly to its relatively small size and the incremental costs of LED bulbs, was not cost-effective from the total resource perspective. *Id.*

Idaho Power has provided its 2008, Attachment No. 2, and 2009, Attachment No. 3, DSM Annual Reports as support for its Application. Idaho Power filed its DSM 2008 Annual Report with the Commission on March 13, 2009, pursuant to Order No. 29419 issued in Case No. IPC-E-03-19 and in accordance with certain agreed-upon guidelines set forth in the Memorandum of Understanding for Prudency Determination of DSM Expenditures ("DSM MOU"), Supplement 2 to Attachment No. 3, filed with the Commission on January 25, 2010, as part of the Stipulation filed in Case No. IPC-E-09-09. *Id.* at 5. Idaho Power states further that the DSM 2009 Annual Report, Attachment No. 3, "is intended to satisfy the DSM reporting obligation set forth in Order No. 29419." *Id.* Pursuant to the DSM MOU, Idaho Power's DSM 2009 Annual Report includes the following:

a. A template building upon past DSM Annual Reports and expanding the main document to include two new supplements pertaining to cost-effectiveness and evaluation;

b. A detailed table of contents;

c. An introduction section;

d. A section on cost-effectiveness which describes the relationship between the Company's DSM Annual Report and the Northwest Power and Conservation Council's 6th Power Plan, data inputs, assumptions and sources;

e. An evaluation section;

f. A program-specific section with detailed information of all of the Company's programs and initiatives; and

g. A section titled "Other Programs and Activities" that do not produce actual savings but nevertheless support the Company's overall DSM agenda.

Id. at 5-7.

Idaho Power argues that its Application, including supplements, "provide a sufficient basis for the Commission to determine the prudency of these expenses" and "attempted to address Staff's expectations for cost-effectiveness tests, methods, and evaluations. . . ." *Id.* at 7.

The Company calculated cost-effectiveness from the utility and total resource perspectives at the program level across the life of the programs (2008 DSM Annual Report) and from the participant, utility and total resource perspectives at the program level (2009 DSM Annual Report), except for those programs with no customer costs. *Id.* at 7-8. Idaho Power states that in future DSM annual reports it will include the ratepayer impact cost-effective test. *Id.* at 8.

Idaho Power uses net-to-gross (NTG) adjustments for the 2009 Report and third-party evaluators when appropriate for the specific study or evaluation being planned. *Id.* In the future, "the Company plans to report the total cost of evaluating its programs and provide the names of primary outside evaluators and the titles of internal evaluators for each evaluation listed." *Id.*

STAFF COMMENTS

In its comments, Staff took the position that, at least in the near-term, the distribution of DSM costs and benefits will be necessarily disproportionate among customer classes. *Staff Comments* at 3. However, over the long-term Staff expects all utilities to pursue cost-effective DSM programs and achieve a more equitable distribution of costs and benefits among its various customer classes. *Id.* The Commission could further this goal through an adjustment of the level of funding for the various programs. *Id.*

Upon closer scrutiny of the Company's DSM expenditures, Staff noted several "questionable expenses charged to the DSM Rider Account." *Id.* at 4. These "questionable expenses" included miscellaneous personal items and meals. *Id.* Staff does not recommend disallowance of these costs because the total amount for these items is de minimis. *Id.*

Staff believes that Idaho Power's efforts in 2008 and 2009 toward its DSM programs were generally prudent and cost-effective. *Id.* at 7. Staff feels that the Company is on track to achieve all of the goals outlined in the 2009 MOU. *Id.* Therefore, Staff recommended that the Commission find that the energy efficiency expenditures of $18,880,276 in 2008 and $31,821,464 in 2009 were prudently incurred. *Id.*

Staff asserted that approximately $2.3 million in labor expenses were charged to the DSM Rider account in 2009. *Id.* Staff expressed concern that salary and wage increases for DSM positions within the Company are being automatically recovered through the Rider and are therefore bypassing the rate case process where such matters are typically addressed. *Id.*

Other issues raised by Staff include:

1. Separation of evaluation and implementation analysis of DSM programs to avoid the potential for conflicts of interest;

2. Better understanding and implementation of the NTG adjustment process so as to more accurately calculate the actual benefits of DSM programs;

3. Inconsistent record-keeping, particularly in Idaho Power's Customer Efficiency Program;

4. A small percentage, 3.5%, of program enrollees received incentive payments prior to the actual installation of program measures;

5. Continuing incentives for program measures that are at or below a 0.5 TRC ratio;

6. The decline in verification of installation. For example, in the Easy Upgrades program actual verification has declined from 6.6% in 2008 to 1.7% in 2009;

7. The need for more effective marketing of Idaho Power's DSM programs; and

8. Lack of clarity as to the Company's future plans to improve the evaluation of its DSM programs.

Id. at 5-7.

ICIP COMMENTS

ICIP generally supports Idaho Power's energy efficiency programs but argues that the Commission should order Idaho Power to abandon any program that does not meet a total

resource cost/benefit ratio of 1.25 or greater. *ICIP Comments* at 1. ICIP also encourages the Commission to order Idaho Power to abandon or modify the Holiday Lighting and A/C Cool Credit Programs. *Id.* Additionally, ICIP believes that the current Flex Peak program should be used "as a model for other programs which could be run with third party aggregators." *Id.* at 1-2. According to ICIP, the Commission should encourage the Company to establish criteria to determine when third-party evaluations should be utilized to assess its energy efficiency programs. *Id.* at 14-15.

ICIP states that cost-effectiveness should be the primary factor in reaching a prudency determination. *Id.* at 5. Imprudent expenses should be subject to refund. *Id.* However, ICIP does not argue for any specific disallowance of Rider funds spent in 2008 and 2009. *Id.*

ICIP favors the TRC test because it takes into account the costs borne by DSM program participants to comply with the requirements of a DSM program. *Id.* at 6. The Commission should require more than a "bare minimum of cost-effectiveness." *Id.* at 6-7. Setting the TRC ratio at 1.25 or greater would allow some cushion to account for modeling errors. *Id.* at 7. According to ICIP, both the Holiday Lighting and A/C Cool Credit programs should be abandoned because they fail to meet ICIP's proposed threshold for minimum cost-effectiveness. *Id.* at 8-11.

ICIP cites Idaho Power's contract with EnerNOC to manage its Flex Peak program. ICIP believes that EnerNOC's profit incentive and its track record of achieving meaningful demand peak reductions as support for its assertion that the Flex Peak program should be used as a model for other DSM programs. *Id.* at 11-12. ICIP believes that a "third-party aggregator" like EnerNOC should be used to operate and manage a distributed generation program. *Id.* at 12-13. ICIP attached a letter from the Sierra Club to the California Public Utilities Commission expressing support for a distributed generation program in that state. *Id.* at 14; Attachment 1.

ICL COMMENTS

ICL commented on several issues that are outside the scope of the specific issue presented in this case. However, the organization did provide some relevant commentary regarding the prudency of Idaho Power's 2008 and 2009 DSM expenditures.

ICL believes that Idaho Power has made a "good-faith effort" toward compliance with "the guidelines and expectations outlined in the (2009) MOU for Prudency Determination

of DSM expenditures." *ICL Comments* at 5. ICL agrees with Staff's assertion that the use of a NTG ratio of 100% is unlikely to yield an accurate view of cost-effectiveness. *Id.* at 1.

ICL emphasized that DSM expenditures for programs aimed toward the industrial and irrigation classes are greater than the revenues generated by those programs. *Id.* at 2-3. Thus, ICL has concerns regarding the potential for cross-subsidization between the industrial class, irrigation class and other classes. *Id.* at 2. ICL wonders if it might be more prudent for the Commission to shift the cost of irrigation DSM programs into the yearly PCA mechanism. *Id.* at 3.

IIPA COMMENTS

IIPA believes that the 2009 MOU regarding DSM expenditures probably came too late to allow Idaho Power to perform a rigorous analysis of its 2009 DSM programs. *IIPA Comments* at 2. Not surprisingly, IIPA also believes that the Peak Rewards Program should be considered Idaho Power's most cost-effective DSM program. *Id.* at 3. IIPA states that it is more interested in eliminating or modifying DSM programs that are not cost-effective than disallowing specific costs that may be deemed imprudent. *Id.* at 4.

PUBLIC COMMENTS

Staff outlined the public comments received by the Commission regarding Idaho Power's Application. *Staff Comments* at 5. Staff noted that the Commission received comments from at least 13 Idaho Power customers with 9 of those customers expressing opposition to the DSM surcharge and/or to Idaho Power being the administrator of those funds. *Id.* Only two customers supported the Company's DSM programs. *Id.* Two other customer comments were singled out as more relevant to electricity rate levels and rate design than to the DSM programs. *Id.* In addition, since 2008 at least 29 other customers have inquired about Idaho Power's DSM programs and the surcharge to fund them. *Id.*

IDAHO POWER REPLY COMMENTS

Idaho Power addressed the class cross-subsidization issue presented by Staff and ICL. *Idaho Power Reply Comments* at 2. The Company emphasized that it views its DSM programs from a "system resource perspective" and seeks to provide opportunities for program participation to all of its customer classes. *Id.* Idaho Power stated that it has followed the Commission's direction and focused on implementing programs that will decrease the need for the addition of supply-side resources. *Id.* at 3.

Idaho Power objected to Staff's characterization of certain One Card purchases. *Id.* The Company stated that Staff neglected to mention that these One Card purchases were associated with "reasonable program advancement and outreach opportunities, not personal employee use." *Id.*

Next, Idaho Power pointed out that it did not use a NTG adjustment for its Customer Efficiency program because a third-party evaluator to conduct such an adjustment was not available. *Id.* at 5. Instead, the Company undertook a "sensitivity analysis" wherein 70 percent of the program participants were deemed "free-riders." *Id.* Notwithstanding this 30 percent NTG adjustment, "the program was shown to . . . be cost-effective." *Id.*

Third, Idaho Power believes that ICIP's request that the Commission abandon any DSM program that fails to achieve at least a 1.25 TRC ratio would be counterproductive. *Id.* Nevertheless, if the Commission is inclined to assess ICIP's proposal in greater detail then the Company asks that a separate case be opened in order to allow Idaho Power to respond in greater detail. *Id.*

Idaho Power states that it has discontinued payments for mini-lights after its analysis showed that this specific measure caused the Holiday Lighting program to move from an overall cost-effective program to not cost-effective. *Id.* at 5-6. Similarly, the Company is in the process of a third-party evaluation of its Easy Upgrades program. *Id.* The Company states that it has identified 10 of the 143 program measures in the Easy Upgrades that appeared "not to be cost-effective." *Id.* at 6. Idaho Power assures the Commission that any measures which are "found not to be cost-effective . . . will be removed from the program measures." *Id.* at 7. Finally, Idaho Power revealed that it is in the process of developing more "robust" data storage and verification measures for its DSM programs. *Id.* at 7-8.

COMMISSION FINDINGS AND DECISION

The Commission has thoroughly reviewed Idaho Power's Application, including the Company's 2009 DSM Report, supplements and reply comments, seeking a Commission Order declaring that the Energy Efficiency Rider funds spent by the Company during the calendar years of 2008 and 2009 were prudently incurred. The Commission has also reviewed the comments submitted by Commission Staff, ICIP, IIPA, ICL (collectively referred to as "the parties") and individual ratepayers.

The Commission finds that Idaho Power has acted prudently in the administration of its DSM programs and its 2008 and 2009 Rider expenditures are therefore approved for ratemaking purposes. The Commission notes that the parties are generally supportive of Idaho Power's recent DSM efforts. As noted above, Idaho Power agreed to certain DSM principles and goals which were memorialized in the 2009 MOU. *See* Stipulation, Atch. 1, Case No. IPC-E-09-09. Although the Commission is not bound by the specific terms of the MOU, we are encouraged by the Staff's assertion that Idaho Power appears to be on track to achieve all of the goals set forth in the MOU. We also note the Company's general movement toward enhanced clarity and transparency in the selection and management of its DSM programs.

Nevertheless, the Commission acknowledges the specific concerns expressed by the parties regarding Idaho Power's Application. Their concerns include, but are not limited to: the establishment of an appropriate total resource cost (TRC) ratio; the cost-effectiveness of the A/C Cool Credit and Holiday Lighting programs; the third-party implementation and evaluation of Idaho Power's DSM programs; and the potential for cross-subsidization by separate customer classes of the costs of certain DSM programs.

The Commission has consistently stated that cost-effective DSM programs are in the public interest and has admonished electric utilities operating in the State of Idaho to develop and implement DSM programs in order to promote energy efficiency. *See* Order Nos. 29784, 29952. The Commission notes that Idaho Power's 2009 DSM Annual Report revealed that all of Idaho Power's DSM programs are cost-effective from a utility-cost and participant-cost perspective. Additionally, the Report revealed that some of the Company's DSM programs offer a proportionally larger benefit to ratepayers than others. However, the Commission finds it unnecessary to compel the Company to abandon any of its existing DSM programs provided the benefits derived from any single DSM program outweigh its costs. The Commission explicitly rejects the use of a 1.25 ratio, proposed by ICIP, as an absolute standard for evaluating Idaho Power's DSM programs. The Commission will continue to evaluate individual DSM programs on a case-by-case basis.

Staff and ICL both noted the risk, under Idaho Power's current DSM regime, that certain classes of customers may be required to subsidize DSM programs which disproportionately benefit other customer classes. An exact "matching" of the costs and benefits for an individual DSM program is a worthy, albeit unrealistic, goal. There will always be some

level of cross-subsidization of DSM programs occurring amongst and between a utility's various customer classes. Some portion of the revenues derived from a particular class of customers will inevitably be utilized to pay for a DSM program which offers a disproportionate benefit to another class of customers. So long as the Commission is satisfied that Idaho Power is making reasonable efforts to minimize the potential for cross-subsidization, we will not order the Company to discontinue DSM programs that are cost-effective and offer significant economic and conservation benefits to ratepayers as a group.

Additionally, the parties have argued that Idaho Power's DSM programs should be subject to more effective third-party evaluation. The Company continues to improve in this area. In its reply comments, Idaho Power points out that it is employing third-party evaluators where available and continues to develop more "robust" data storage and verification measures for its DSM programs. The Commission exhorts Idaho Power to continue on this path toward improvement. Idaho Power should seek to employ independent evaluators for all of its DSM programs and take affirmative steps toward achieving measurable improvements in its documentation, verification and record-keeping processes for these programs.

After duly deliberating in this matter and taking into account all of the foregoing concerns expressed by the parties regarding Idaho Power's Application, the Commission finds that Idaho Power's 2008 and 2009 Rider fund expenditures were prudently incurred. The Commission finds no compelling reason to disallow any of the Company's specific expenditures or discontinue any of its existing DSM programs.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, and the issues presented in Case No. IPC-E-10-09 pursuant to the authority granted under Title 61 of the Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq.

ORDER

IT IS HEREBY ORDERED that the $50,701,740 in Energy Efficiency Rider expenditures spent by Idaho Power during the calendar years of 2008 and 2009 are deemed prudently incurred 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 16th day of November 2010.

JIM D. KEMPTON, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

MACK A. REDFORD, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

O:IPC-E-10-09_np3