

DONALD L. HOWELL, II
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0312
IDAHO BAR NO. 3366

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IDAHO PUBLIC
UTILITIES COMMISSION

Street Address for Express Mail:
472 W. WASHINGTON
BOISE, IDAHO 83702-5918

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
IDAHO POWER COMPANY TO AMEND)	CASE NO. IPC-E-10-28
ACCOUNTING ORDER NO. 30940)	
AUTHORIZING THE DEFERRAL OF)	
TRANSMISSION COSTS ASSOCIATED WITH)	COMMENTS OF THE
FERC DOCKET NO. ER06 - 787.)	COMMISSION STAFF
)	

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of Record, Donald L. Howell II, Deputy Attorney General, and submits the following comments in response to Order No. 32110 issued on November 10, 2010.

BACKGROUND

On October 13, 2010, Idaho Power Company filed the present Application to change the beginning of a three-year amortization period set out in accounting Order No. 30940 (Case No. IPC-E-09-21) from January 1, 2011 to January 1, 2012. In Order No. 30940 issued October 30, 2009, the Commission authorized the Company to record and defer its unrecovered transmission-related costs that were disallowed in a transmission rate case before the Federal Energy Regulatory Commission (FERC) in Docket No. ER06-787. In the present Application, the Company also requests that the Commission approve the deferral amounts as adjusted in the Application.

The FERC Proceeding

In March 2006, Idaho Power filed an application with FERC requesting an increase in its transmission rates subject to FERC's jurisdiction. In its filing, the Company proposed to revise its Open Access Transmission Tariffs (OATT) from "stated" rates to "formula" based rates. Formula rates would be updated annually based upon Idaho Power's total cost to own, operate and maintain its transmission facilities for its transmission customers. *Order on Initial Decision*, 126 FERC ¶ 61,044 (Jan. 15, 2009). The "formula" rate methodology would use financial data reported annually in the Company's FERC Form 1.

In the FERC proceeding, the parties were able to settle most of the issues but they were unable to resolve the proper ratemaking treatment of three "Legacy Agreements." *Id.* at ¶ 11. Starting in the 1960s, Idaho Power entered into three long-term transmission service contracts, commonly referred to as the "Legacy Agreements," with PacifiCorp to provide transmission service from the Jim Bridger power plant in western Wyoming. Idaho Power and PacifiCorp jointly own the Bridger facility. Both companies built and now operate transmission lines from Bridger to their respective service territories. Under the terms of the Legacy Agreements, PacifiCorp was charged "use of facility fees" to use Idaho Power's transmission facilities until 2025. *Id.* at ¶¶ 3-9; Order No. 30940 at 2.

The FERC Administrative Law Judge (ALJ) initially determined and FERC subsequently affirmed that the Idaho Power charges to PacifiCorp under the Legacy Agreements were significantly lower than the OATT rates Idaho Power proposed to charge other customers for similar transmission services. This rate "disparity" between the lower rates in the old Legacy Agreements and the higher OATT rates has grown over time. ¶ at 127. The ALJ found in his initial order that it was unreasonable for Idaho Power to recover its transmission costs from other third-party transmission customers while the Legacy Agreements contain rates for PacifiCorp that are now considered below cost. Because its revenue recovery "was locked in" by the long-term Legacy Agreements, FERC found that Idaho Power must bear the under-recovery of transmission costs on its own. *Id.* ¶ 129; Order No. 30940 at 2.

In response to FERC's initial decision, Idaho Power took three actions. First, the Company filed a Petition for Rehearing with FERC. FERC subsequently granted the rehearing so it could consider the matter in greater detail. Docket No. ER06-787-006. Second, Idaho Power filed an application with FERC to amend portions of two Legacy Agreements which were subject to change or re-negotiation. FERC Docket No. ER09-1335-000. Third, on July 20, 2009, Idaho

Power filed an application for an accounting order requesting that this Commission authorize the deferral of unrecovered transmission costs that were denied in FERC Docket No. ER06-787. In July 2009 the unrecovered transmission costs were approximately \$8.084 million for the period March 2008 through May 31, 2010. The Company noted in its prior application that if it is successful in recovering its transmission costs on rehearing at FERC or by amending its Legacy Agreements, then the Company “will reduce the deferral” balance that it may seek to subsequently recover from Idaho Power customers. *Id.*

The Commission’s Prior Accounting Order

The only comments filed in response to the Company’s July 2009 request for an accounting order from this Commission were filed by the Staff. The Staff noted that the FERC decision has the effect of reducing the transmission revenue credited to Idaho customers in Idaho Power rate cases. “With the FERC reconsideration and Legacy Agreement actions incomplete, Staff believe[d at that time] that deferral accounting for these unrecovered transmission revenues is appropriate through May 2010 as requested by Idaho Power. The question whether the deferred amounts should be recovered from Idaho ratepayers is a matter that should be reserved for a future proceeding.” Order No. 30940 at 4.

In issuing its Accounting Order, the Commission found it reasonable to grant the Company’s request for an Accounting Order conditioned with Staff’s recommendations. We authorize the deferral of the unrecovered transmission-related revenues through May 31, 2010, as requested by the Company. . . . We find that an amortization period of three (3) years is reasonable and that the amortization period should begin on January 1, 2011.

. . . the Commission specifically reserves the right to determine in a future proceeding whether Idaho Power may appropriately recover the deferred amounts from Idaho customers. Granting the requested Accounting Order will allow Idaho Power to pursue its two other recovery options at FERC (rehearing and amending portions of the Legacy Agreements) while deferring transmission-related costs/revenues.

Order No. 30940 at 6 (emphasis added).

THE CURRENT APPLICATION

In its current Application, Idaho Power states that it has amended two of the Legacy Agreements with PacifiCorp. Idaho Power terminated one of the Legacy Agreements (the

Restated Transmission Service Agreement – RSTA) and replaced the old contract rate with its higher OATT rate in a new RSTA contract effective June 13, 2009. Idaho Power asserts that this change decreased the estimated deferral balance by approximately \$2.81 million. Application at ¶ 4; Atch. 2. In another Legacy Agreement (the Interconnection and Transmission Service Agreement – ITSA), Idaho Power increased the old legacy rates to higher OATT point-to-point service rates on August 19, 2009. Idaho Power reports that the amendment to the ITSA contract decreases the deferral by approximately \$2.918 million. Application at ¶ 5; Atch. 3.¹

Idaho Power also reports in its current Application that it found errors in the calculation of its OATT formula rate for the 2006, 2007 and 2008 test years. “The errors in the OATT formula rate overstated the Company’s calculation of additional revenues received as a result of the termination of the RTSA as well as the calculation of additional of ITSA revenues. . . .” Application at ¶ 7. The Company also noted that it is in the process of issuing refunds for the OATT errors. In addition, the errors in the OATT rates also caused the Company to miscalculate the original deferral calculation. *Id.* at ¶ 8. The “net change of the deferral based on the actual OATT rates in effect is a \$360,055 reduction.” *Id.*

The Company calculates that the current deferral balance is \$2,064,469. Below is a summary of the proposed changes to the deferral balance.

DEFERRAL ITEM	DEFERRAL AMOUNT
Initial Deferral Estimate	\$ 8,084,251
New RTSA Deferral Change	(2,810,178)
New ITSA Deferral Change	(2,918,448)
RTSA Revenue Correction	38,361
ITSA Revenue Correction	30,538
OATT Deferral Correction	(360,055)
Total Current Deferral	\$ 2,064,469

Source: Application at 5

The Application states that “Idaho Power respectfully requests authorization of the deferral amount of \$2,064,469 of unrecovered transmission revenues.” *Id.* at ¶ 9.

¹ In July 2010, FERC approved the parties’ settlement that included the rate changes in the ITSA and RTSA contracts. FERC Docket No. ER09-1335.

The Company also requests that the beginning of the three-year amortization period shift from January 1, 2011 to January 1, 2012. The Company maintains that prior to receiving the Commission's accounting Order No. 30940, Idaho Power began settlement discussions "and entered into a stipulation committing that it would not file a general revenue requirement case which would result in a general rate adjustment to become effective prior to January 1, 2012." *Id.* at ¶ 10. The Company is requesting a postponement in the beginning of the amortization period "[b]ecause the Stipulation does not allow the Company to recover the deferred transmission costs now. . . ." *Id.*

STAFF ANALYSIS

Staff acknowledges the efforts of Idaho Power to re-negotiate two of the old Legacy Agreements to minimize the revenue shortfalls. This process was anticipated and expected by the Commission when it authorized deferred accounting in Order No. 30940, Case No. IPC-E-09-21. These actions result in a significant reduction of the deferral amount. Staff has reviewed and verified these deferral amounts.

Idaho Power also requests a postponement in the beginning amortization date from January 1, 2011 to January 1, 2012. The Company's rationale for seeking the delay was because Order No. 30940 was issued after the negotiations leading to the rate stability Stipulation in Case No. IPC-E-09-30 were underway. The Stipulation generally restricts Idaho Power from increasing its rates during a "moratorium" period ending January 1, 2012, Case IPC-E-09-30, Exh. 1 at ¶ 5.1. The Company argues that beginning the amortization period in January 2011 will prevent the Company from recovering one year of the three-year deferral amounts.

The Staff opposes moving the starting date of the amortization period. The filing in Case No. IPC-E-09-21 was made on July 20, 2009. The Company's initial deferral request in July 2009 included a three-year amortization period beginning June 1, 2010. Application IPC-E-09-21 at ¶ 10. The deferral Accounting Order No. 30940 was issued on October 30, 2009.

The Stipulation on rate stability in Case No. IPC-E-09-30 was signed by Idaho Power on November 6, 2009. Despite the rate moratorium, the Stipulation recognizes several exceptions to the moratorium. However, there is no exception for recovery of the deferral amounts from Case No. IPC-E-09-21 (Exh. 1 at ¶ 5.2). Staff maintains the Company must have been fully aware of its deferral request in IPC-E-09-21 while it was negotiating the Stipulation.

The following sequence of events illustrates that the Company did not avail itself of opportunities to modify the amortization period.

<u>Date</u>	<u>Event</u>
July 20, 2009	Company files amortization request in IPC-E-09-21
September 3, 2009	Parties first meet to discuss issues in IPC-E-09-30 including rate stability
October 30, 2009	Order No. 30940 issued with January 1, 2011 beginning amortization date in IPC-E-09-21
November 6, 2009	Rate Stability Stipulation in IPC-E-09-30 signed by Idaho Power
January 13, 2010	Commission approved Stipulation in Order No. 30978

The Company did not seek reconsideration of the January 2011 start date in Order No. 30940. Moreover, Order No. 30940 was issued before the Company signed the Stipulation.

The Commission in Order No. 30940 states: "Finally, the Commission specifically reserves the right to determine in a future proceeding whether Idaho Power may appropriately recover the deferred amounts from Idaho customers. Granting the requested Accounting Order will allow Idaho Power to pursue its two other recovery options at FERC (rehearing and amending portions of the Legacy Agreements) while deferring transmission-related costs/revenues." Staff notes that the revenue changes subject to deferral are for previous years and up through May 2010. The transmission revenue estimates were reflected in prior Idaho rate cases for corresponding test years and proforma periods. Rather than requiring the Company to present a detailed analysis to distinguish retroactive dates compared to going-forward periods (along with any other analysis to determine recoverability), Staff proposes the Commission simply maintain the original amortization period beginning January 1, 2011. Staff believes this provides a sharing of the risks and cost recovery between the Company and its customers for changes made by FERC when Idaho Power made its FERC filing to change OATT rates.

In summary, Staff has reviewed the updated deferral amounts. These updates are accepted by Staff as accurate based on the current information available. Staff recommends acceptance of these amounts for amortization conditional upon not changing the beginning amortization date. If

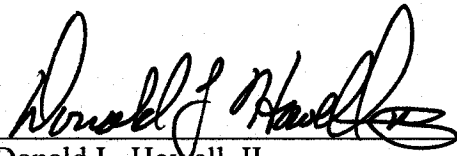
the beginning amortization date is delayed to January 1, 2012, Staff recommends all adjustments related to periods prior to July 20, 2009 be disallowed from the deferral amount to be recovered from Idaho customers.

STAFF RECOMMENDATION

Staff recommends the Commission deny the Company's request to postpone the start of the amortization period and maintain January 1, 2011 as the beginning amortization date as previously ordered in Order No. 30940.

Staff recommends the deferral amount of \$2,064,469 be accepted for amortization if the beginning amortization date of January 1, 2011 is maintained.

Respectfully submitted this 1st day of December 2010.


Donald L. Howell, II
Deputy Attorney General

Technical Staff: Terri Carlock

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 1ST DAY OF DECEMBER 2010, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-10-28, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

DONOVAN E WALKER
LISA D NORDSTROM
IDAHO POWER COMPANY
PO BOX 70

BOISE ID 83707-0070

E-MAIL: dwalker@idahopower.com
lnordstrom@idahopower.com

COURTNEY WAITES
GREGORY W SAID
MICHAEL J YOUNGBLOOD
IDAHO POWER COMPANY
PO BOX 70

BOISE ID 83707-0070

E-MAIL: cwaites@idahopower.com
gsaid@idahopower.com
myoungblood@idahopower.com

PETER J RICHARDSON
GREGORY M ADAMS
RICHARDSON & O'LEARY
PO BOX 7218

BOISE ID 83702

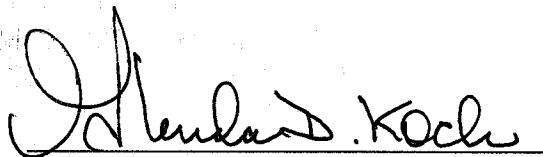
E-MAIL: peter@richardsonandoleary.com
greg@richardsonandoleary.com

DR DON READING

6070 HILL RD

BOISE ID 83703

E-MAIL: dreading@mindspring.com


SECRETARY

CERTIFICATE OF SERVICE