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IDAHO PUBLIC
UTILITIES COMMISSION

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Attorneys for the Industrial Customers of Idaho Power

BEFORE THE IDAHO

PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER COMPANY'S REQUEST TO INCREASE ITS RATES FOR ELECTRIC SERVICE TO RECOVER ITS 2010 PENSION CASH CONTRIBUTION	CASE NO. IPC-E-11-04 COMMENTS OF THE INDUSTRIAL CUSTOMERS OF IDAHO POWER

COMES NOW, the Industrial Customers of Idaho Power ("ICIP"), and pursuant to Idaho Public Utilities Commission's ("Commission's") Procedural Order No. 32215, hereby files these comments in the above-captioned matter. For the reasons set forth below, ICIP respectfully requests that the Commission take note of this pension fund rate increase for purposes of analyzing Idaho Power Company's ("Idaho Power's" or the "Company's") filing in the parallel case for approval of the Company's 2011 Retirement Benefits Plan (Case No. IPC-E-10-25), and requests the Commission condition the Company's recovery of its $60 million pension fund contribution on an extended amortization period of 5 years.

BACKGROUND

Idaho Power's pension fund has suffered in the recent downturn in the economy, and the Company has been forced to make contributions to the fund in order to keep it solvent.

According to the Commission Staff, "[t]he higher funding levels are attributable to poor market returns over the past several years, and to the aging workforce of Idaho Power and the increasing benefit payments made to retired employees." *Comments of the Commission Staff*, Case No. IPC-E-10-08, at p. 4. Last year, the Company requested authorization to recover in customer rates its 2010 cash contributions of $5,416,796, which constituted a 0.77% rate increase for each class of customers. *See* Order No. 31091, at p. 1. The Commission approved the request, but expressed concern regarding the obvious need for substantial future rate increases that will be necessary to keep the pension fund adequately funded. *Id.* at p. 3.

The Commission stated that "it is unreasonable for Idaho Power's customers to be solely responsible for large contributions to the Company's defined benefit pension plan." Order No. 31091, at p. 3. "Many employers in recent years have replaced their defined benefit plans with pension programs that place greater responsibility and investment risks on employees. Idaho Power must similarly consider changes to its retirement plan and *address shareholder and employee liabilities* in assignment of pension plan investment risk." *Id.* (emphasis added). The Commission stated that it "will not approve recovery of additional pension plan contributions from customers without evidence that Idaho Power has carefully reviewed alternatives to reduce the burden placed on customers." *Id.* Later in 2010, the Company made a $60 million cash contribution to its pension fund.

The Company then filed a request for approval of its 2011 Retirement Benefits Plan in Case No. IPC-E-10-25. The new proposed plan still did not eliminate the defined benefit pension plan even for new employees, and failed address any options that would eliminate the investment risk posed by a defined benefit pension plan or spread some of that risk from ratepayers to the Company's shareholders or employees. After Commission Staff and ICIP opposed the 2011 plan, the Company offered, at the Workshop on January 12, 2011, to provide additional information and analysis regarding the investment risk to which its customers are exposed. *See* Order No. 32169, at p. 2. Although that investigation is ongoing, the Commission stated the Company was not precluded from filing for recovery of the $60 million 2010 contribution to its pension fund before resolution on the request for approval of the 2011 Retirement Benefits Plan. *Id.* at p. 2.

Idaho Power's Application in this case requests an Order authorizing it to increase rates by 1.39 percent to recover an additional $11.7 million in each of the next three years ($35.1 million cumulatively) in order to recover the $60 million the Company contributed to the pension fund last year. Direct Testimony of Darrel Anderson, Case No. IPC-E-11-04, at p. 11. Specifically, the Company states, "Assuming a projected balance in the balancing account of $51,461,138, a three-year amortization would result in a request to collect $17,153,713 per year over the next three years." *Id.* That amount would be reduced by the amount of $5,416,796 currently being collected in rates, thus requiring an increase of $11,736,917 per year. *Id.* Idaho Power requests the rate increase be effective June 1, 2011, at the same time the Company's power cost adjustment ("PCA") will go into effect, and appears to have paired the filing with the PCA in order to offset the pension fund rate increase with the PCA rate decrease. *See id.*, at p. 11.

COMMENTS

A. The Commission should note that this case is but one of many upcoming pension fund cases which cumulatively will be equivalent to a one-time rate increase of approximately 20 percent, and the Commission should take this rate impact into account in the parallel proceeding regarding Idaho Power's 2011 Retirement Benefits Plan.

Idaho Power recently made public the contributions it will need to make to its pension fund in the next several years. Although Idaho Power designated the estimates as protected in the ongoing case regarding approval of its 2011 Retirement Benefits Plan, the estimates are now public information filed with the Securities and Exchange Commission in the Company's 2010 Form 10-K. The Company stated, "Unless IDACORP and Idaho Power elect an alternative amortization schedule under the new legislation . . . , minimum required contributions to the defined benefit pension plan are estimated to be approximately $3 million in 2011, $46 million in 2012, $36 million in 2013, $32 million in 2014, and $31 million in 2015." *IDACORP 2010 Form 10-K*, p. 124 (Feb. 24, 2011), available online at http://www.idacorpinc.com/financials/secreps.cfm. Combined with the $60 million contributed in 2010 at issue in this case, that means the Company's contributions yet to be recovered in rates will be at least **$208 million by 2015**.

In this case, the Company states its base revenues are $810 million. Direct Testimony of Kelly Noe, Case No. IPC-E-11-04, Exhibit No. 1. A one-year increase in revenue requirement to accommodate the pension fund contributions would be approximately a 25% rate increase for that year ($208 million/ $810 million). Even with adjustments for growth in other revenues in the next several years, one can make a conservative estimate that the necessary pension fund contributions, if passed onto ratepayers, will result in the equivalent of a one-time rate increase of approximately 20 percent.

Idaho Power has stated that it believes that shareholders should not bear any market risk associated with its retirement benefits package. *See ICIP's Opening Comments*, Case No. IPC-E-10-25, at p. 11 (Dec. 14, 2010) (quoting Idaho Power's discovery response). Most recently, Idaho Power stated:

> Shareholders provide capital to construct plant to serve customers in exchange for the opportunity to earn a return on their investment over time. Customers provide funding for reasonable utility operations and maintenance expenses, including labor expenses like retirement benefits, through rates. Because shareholders have no opportunity to earn a return on pension contributions, it would be improper to assign pension costs and risk to them. Under the present regulatory model, risk should be assigned between employees and customers.
>
> *Idaho Power Company's Second Reply Comments*, Case No. IPC-E-10-25, pp. 10-11 (April 15, 2011).

There is no question that Idaho Power plans to pass onto ratepayers all of the $208 million in pension fund costs by increasing rates by approximately 20 percent from current levels.[1]

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[1] Idaho Power's Second Reply Comments in Case No. IPC-E-10-25 could be read to assert that the Commission may not disallow recovery of any expenses upon which shareholders have no opportunity to earn a return. To extent that is Idaho Power's position, ICIP disagrees. The Commission clearly has authority to disallow from inclusion in customer rates any expense which is not a *reasonable* expense. *See, e.g.,* Order No. 32196, at p. 20 (disallowing recovery of costs associated with Rocky Mountain Power's executive retirement plan on the ground that it was above and beyond those covered in more conventional retirement plans); Order No. 32224, at p. 14 (denying Rocky Mountain Power's request for recovery from Idaho ratepayers for a 3% wage increase for the utilities' employees).

This 20 percent rate increase will be necessary solely to keep Idaho Power's pension fund solvent for existing employees. At the same time, the Company seeks Commission pre-approval of its proposal to continue hiring new employees into a similar defined benefit pension plan in Case No. IPC-E-10-25. Although Case No. IPC-E-10-25 is a separate docket, the issues therein are inseparable from the rate increase in this case, and the Commission should note the obvious consequences on rates of Idaho Power's proposal for new employees.

B. The Commission should mitigate the rate impact to customers by extending the amortization period to 5 years.

The Company has proposed a 3-year amortization period to recover Idaho's share of the $60 million contribution. Direct Testimony of Darrel Anderson, Case No. IPC-E-11-04, at p. 11. The Company justifies this 3-year amortization period on the basis that the Commission approved a 3-year period in Rocky Mountain Power's recent general rate case. *Id.* (citing Case No. PAC-E-10-07).

But as discussed above, the Company will need to make much larger contributions in the coming years which will also increase rates. *See id.* at p. 12. These additional cash contributions to the benefit plan will average $30 million per year for the 2011-2015. *IDACORP 2010 Form 10-K*, p. 124, available online at http://www.idacorpinc.com/financials/ secreps.cfm. Large future contributions were not a factor in the Rocky Mountain Power case where the Commission approved of Idaho Power's proposed a 3-year approach. *See* Order No. 32196, at pp. 19-20.

Furthermore, the Commission has stated that a longer amortization period may be appropriate when the Company makes a contribution larger than the minimum funding requirements under federal law. *See* Order No. 31003, at pp. 10-11. Specifically, the Commission adopted the following criteria for the Company's currently authorized rate recovery mechanism for its pension fund contributions:

> 1. The regulatory asset account previously authorized for the deferral of cash contributions will be considered a balancing account for the purpose of tracking the difference between cumulative cash contributions to the pension plan and amounts recovered in rates; and
>
> 2. The timing of the amortization of the deferred cash contributions as well as the amounts will be matched to the collection of those costs in rates; and
>
> 3. The amounts contributed in excess of the ERISA minimum, while potentially subject to longer amortization, will not be disallowed solely because they are made sooner than they are legally required to be paid; and
>
> 4. The unamortized balance of deferred cash contributions will earn a carrying charge at the Commission-approved interest rate for deposit.
>
> *Id.*

In this case, Company's minimum required contribution in 2010 was $5.8 million, but the Company contributed $60 million. *See* Direct Testimony of Darrel Anderson, Case No. IPC-E-11-04, at pp. 7-9. The Company states that contributing only the minimum required under federal law would have left the pension fund with less than 80 percent funding, and "[t]his would have triggered certain plan restrictions, notice requirements to participants, and limitations on future funding alternatives." *Id.* at p. 8. Under the circumstances, this minimal justification for the overfunding in 2010 does not relieve the need to mitigate the rate impact with a longer amortization period.

Given Idaho Power's known, future pension funding rate requests, ICIP recommends a 5-year amortization period rather than the 3 years proposed by the Company. This would lower the rate increase from the $11.7 million annually over the next 3 years to $4.9 million per year, or a 0.61% annual rate increase. ICIP has used data from Exhibit No. 2 of the Direct Testimony of Darrel Anderson to provide a table as Attachment 1 to these Comments that demonstrates ICIP's recommended rate recovery.

CONCLUSION

ICIP respectfully requests that the Commission take note of this pension fund rate increase for purposes of analyzing Idaho Power Company's filing in the parallel case for approval of the Company's 2011 Retirement Benefits Plan, and requests the Commission condition the Company's recovery of its $60 million pension fund contribution on an extended amortization period of 5 years.

DATED this 20th day of April, 2011.

RICHARDSON AND O'LEARY, PLLC

By:__________________________
Peter J. Richardson
Gregory M. Adams
Attorneys for the Industrial
Customers of Idaho Power

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of April, 2011, I caused a true and correct copy of the foregoing **COMMENTS** and **ATTACHMENT NO. 1** to be served by the method indicated below, and addressed to the following:

Jean Jewell Idaho Public Utilities Commission 472 West Washington Street (83702) Post Office Box 83720 Boise, Idaho 83720-0074	( ) U.S. Mail, Postage Prepaid (x) Hand Delivered ( ) Overnight Mail ( ) Facsimile ( ) Electronic Mail
Lisa Nordstrom Donovan Walker Idaho Power Company PO Box 70 Boise, Idaho 83707	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile (x) Electronic Mail
Gregory W. Said Tim Tatum Idaho Power Company PO Box 70 Boise, ID 83707	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile (x) Electronic Mail

Signed Nina M Curtis

Nina M. Curtis

BEFORE THE

IDAHO PUBLIC UTILITIES

COMMISSION

CASE NO. IPC-E-11-04

INDUSTRIAL CUSTOMERS OF

IDAHO POWER

ATTACHMENT NO. 1

2010 PENSION FUND
CONTRIBUTION RECOVERY
OVER 5-YEAR PERIOD

APRIL 20, 2011

Idaho Power Company
Idaho Jurisdictional Pension Cost Recovery
Idaho Balancing Account 182327
Expected May 31, 2011 Balance

2010 contribution	$60,000,000
2010 subsidiary allocation	-53,506
Allocable contribution	59,946,494
2010 Idaho labor allocation	94.26%
2010 contribution - Idaho portion	56,505,566
Current Idaho recovery	-5,416,796
Unrecovered portion	51,088,770
Carrying charges	372,368
May 31, 2011 Balance	51,461,138
Amortization period	5 years
Simple amortization	10,292,228
Less current Idaho recovery	-5,416,796
Incremental amortization	$4,875,432
Current Revenues	$798,701,130
Overall Rate Increase	0.61%

source: Direct Testimony of Darrel Anderson,
IPC-E-11-04, Exhibit 2.