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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER COMPANY'S REQUEST FOR ACCEPTANCE OF ITS REGULATORY PLAN REGARDING THE EARLY SHUTDOWN OF THE BOARDMAN POWER PLANT.	**CASE NO. IPC-E-11-18** **COMMENTS OF THE COMMISSION STAFF**

The Staff of the Idaho Public Utilities Commission comments as follows on Idaho Power Company's September 26, 2011 Request for Acceptance of its Regulatory Plan regarding the early shutdown of the Boardman Power Plant.

BACKGROUND

On September 26, 2011, Idaho Power Company ("Idaho Power; Company") requested that the Commission issue an Order: (1) accepting the Company's accounting and cost recovery plan for the early shutdown of the Boardman Power Plant; and (2) allowing the Company to establish a balancing account to track shutdown-related costs and benefits. The Company does not ask the Commission to approve rate recovery for future expenses associated with the Boardman shutdown at this time. Application at 1.

The Company describes Boardman as a single-generating unit, coal-fired power plant in north-central Oregon. The Company owns 10%, or 58.5 MW (net dependable capacity) of

Boardman, which entitles the Company to about 50 aMW. Application at 1. Portland General Electric ("PGE") owns 65% of Boardman and operates the plant. *Id.*[1]

The Company maintains Boardman is subject to the federal Clean Air Act, Oregon's Regional Haze Plan, and Oregon's Utility Mercury Rule. The Company says these laws and regulations require Boardman to be fitted with various emissions controls. *Id.* at 2-4. According to the Company, after analyzing each of the Boardman-related control technologies and associated deadlines required by the legal requirements (and a consent decree in a federal court case), PGE determined that closing Boardman in 2020 would strike "a good balance between the key risk drivers of natural gas and CO2 prices, while maintaining system reliability at a relatively low cost." *Id.* at 4-6 (*quoting* PGE 2009 IRP Addendum, p. 103). Under the 2020 closure plan, the owners of the plant would install new burners to reduce nitrogen oxide emissions by nearly 50% and use lower sulfur coal to reduce SO2 emissions by 50%.

The Company says PGE's decision to close Boardman in 2020 impacts the Company as part owner of the Boardman plant. *Id.* at 10. According to the Company, PGE's plan to close Boardman increases the Company's revenue requirements related to accelerated depreciation expense, additional plant investments related to pollution controls, and decommissioning costs. *Id.* at 16. The Company notes that PGE has initiated a proceeding at the Oregon Public Utility Commission (OPUC) that addresses similar concerns.

The Company proposes a three-step plan to respond to the proposed 2020 closure. *Id.* at 10. In sum, the Company will: (1) perform, in early 2012, a depreciation study and ask for new depreciation rates for all plant investment, including Boardman, to become effective June 1, 2012; (2) establish a balancing account to track closure-related incremental costs and benefits; and (3) ask the Commission, in early 2012, to authorize the Company to increase customer rates to recover Boardman decommissioning costs, with rates to take effect June 1, 2012 (coincident with the depreciation rate change). *Id.*

The Company states it can easily calculate the incremental depreciation expense for current investment based upon the current shutdown timeline. However, the Company does not yet know the specific level of investment in capital additions, actual decommissioning costs, and

[1] Bank of America Leasing and Power Resources Cooperative own the remaining 15% and 10%, respectively.

potential salvage proceeds. With the OPUC and EPA approving PGE's shutdown plan, the Company says it knows incremental cost impact will occur, but not precisely what the cost impact will be. The Company thus proposes creating a balancing account to allow the Company flexibility for the timing and recovery of the incremental revenue requirement. The Company asserts the balancing account will help the Company track, on a cumulative basis, the difference between revenues and expenses associated with the Boardman shutdown, and that this tracking will ensure that customers only pay for actual expenditures. *Id.*

The Company maintains under Accounting Standards Codification (ASC) 980-360-35, that when it abandons an operating asset, the Company must remove the asset's cost from plant in service, establish that cost as a regulatory asset, and recognize any disallowed amount as a loss. *Id.* The Company believes that PGE's decision to shutdown Boardman by December 31, 2020, is not an abandonment of Boardman; rather, it is a downward adjustment to Boardman's useful life. Adjustments to Boardman's useful life previously occurred in 2001 from an original end-of-life date of 2015 to 2020, and most recently in 2008 to an end-of-life date of 2030. If, however, the Company is not allowed to collect the Boardman plant-related balances by the end-of-life date of December 31, 2020, the Company could be required to account for the Boardman plant as an abandonment, which would also trigger impairment treatment under ASC 360. *Id.*

The Company states it has estimated its revenue requirement using a 2012 test year that includes impacts from: (a) the accelerated depreciation of Boardman accounts; and (b) increased decommissioning costs. *Id.* The Company based incremental depreciation expense on expected December 31, 2011 plant balances. It calculated decommissioning costs using the Company's 10% share of the costs that PGE found to be reasonable in the Black & Veatch (B&V) study. *Id.* at 14-15.

STAFF ANALYSIS

Overview

The 585 MW coal-fired Boardman electricity generation plant, located in north-central Oregon is owned by four parties with PGE being the majority owner and operator with a 65 percent ownership stake and Idaho Power, being one of the smallest, having a 10 percent stake. Idaho Power currently depreciates Boardman using an end-of-life date of 2030.

To maintain future operation, the facility must comply with air quality requirements set by the State of Oregon and the federal government. Idaho Power wishes to receive future rate relief (using the proposed balancing account methodology) for the costs of complying with the: (1) mercury emission standards contained in Oregon's Utility Mercury Rule; and (2) EPA's utility Regional Haze (RH) and Best Available Retrofit Technology (BART) rules contained in the Federal Clean Air Act.

Oregon's Utility Mercury Rule required installation of controls by July 1, 2012. PGE decided to meet the requirements using activated carbon injection (ACI) instead of more expensive fabric filter equipment. PGE received approval from the Oregon Department of Environmental Quality (ODEQ) and installed the approved controls during the spring of 2011.

In 1999, the EPA adopted a Regional Haze rule for utilities as part of the Clean Air Act. The rule is intended to improve visibility over the next 60 years within certain national parks and wilderness areas labeled as "Class 1" areas. The EPA left it up to the states to develop strategies and make reasonable progress to reduce visibility impairment in these areas. As an older facility that fits the profile as a major contributor of emissions in Class I areas, Boardman was subject to a BART analysis and was evaluated to see if retrofitting with controls was feasible and cost effective. Besides cost and meeting federal emission requirements, part of the feasibility criteria considered the need to meet electricity demand in PGE and other Boardman owners' service areas. The plan that was ultimately approved by ODEQ and included in the State Implementation Plan (SIP) for RH BART and approved by the EPA is outlined below.

1. Plant will cease operation by December 31, 2020. This eliminates all "reasonable progress" requirements that would have been needed to satisfy RH BART, specifically investments in Nitrogen Oxide (NOx) controls to obtain 0.07 lb/mmBtu levels by 2018.
2. Low NOx Burners and Over-fire Air (LNB/MOFA) to control NOx to 0.23 lb/mmBtu levels. These controls have already been installed.
3. Dry Sorbent Injection (DSI) to control Sulfur Dioxide (SO2) to 0.40 lb/mmBtu levels by 2014 and 0.30 lb/mmBtu levels by 2018.

4. Activated Carbon Injection to control Mercury (Hg) to 0.6 lb/TBtu levels by July 2012 (already installed spring 2011). This control is for compliance with Oregon's Utility Mercury rule, although it was included in the SIP submitted and approved by the EPA.

Because Boardman will close early, Idaho Power expects to incur costs associated with the (1) accelerated depreciation of the plant, (2) new investments in pollution controls, and (3) costs required to decommission the plant. To illustrate the Company's methodology and to provide a rough estimate, Idaho Power provided an incremental revenue requirement impact estimate based on its share of costs as summarized in the table below.

Revenue Requirement Impact	Accelerated Depreciation Existing Plant	New Investment Pollution Controls	Net Decommissioning Costs (minus salvage)	Total
Total	$36,167,344	$11,716,126	$5,917,900	$53,801,370
Levelized (annual)	$4,147,050	$1,252,340	$499,363	$5,898,752

When the levelized total revenue requirement impact is netted against the estimated $4.3 million in Boardman-related revenue requirements currently in rate base, annual net revenue system impact to Idaho Power customers is estimated to be $1.6 million or a $1.5 million impact to Idaho customers using 95% Idaho jurisdictional allocation. This is approximately a 0.172% overall increase based on a current overall revenue requirement of $870.0 million.

Idaho Power requests that the Commission approve the use of a balancing account methodology that amortizes the incremental cost related to the Boardman shutdown evenly across the remaining life of the plant (2012-2020). The Company believes that handling the Boardman shutdown in this way will ensure that customers only pay for actual expenditures.

Regulatory Accounting and Cost Recovery Plan

Staff's analysis of Idaho Power's proposal addresses three primary questions. First, is there adequate evidence surrounding the Boardman closure to justify initiating proceedings for rate recovery? Second, if sufficient grounds exist to begin tracking costs, is the Company's proposed balancing account and levelized revenue requirement methodology for rate recovery reasonable? Third, are there any conditions or requirements that Staff recommends be included in the Company's proposed plan for rate recovery?

Relative to the first question, Staff reviewed contracts between Idaho Power and PGE regarding construction, ownership, and operation of Boardman. Staff believes that Idaho Power must bear certain expenses that result from the operation of Boardman in compliance with local, state, and federal law. Specific to this case, this would include expenses needed to end Boardman operation and decommission the plant based on the Company's 10 percent ownership in the facility. In addition, Staff reviewed: (1) records in administrative proceedings between PGE and the ODEQ to determine compliance requirements to meet federal Regional Haze rules and Oregon's Utility Mercury rule; (2) documents from litigation that resulted in a consent decree between PGE, the Sierra Club, and other interested parties regarding the Boardman closure (U.S. District Court for the District of Oregon; Civil Case No.: 3:08-cv-01136-HA); and (3) testimony and information requests supplied by the Company in this case. Given legal rulings relevant to this case and due to Idaho Power's ownership stake in Boardman, Staff believes Idaho Power must comply with ODEQ's SIP and the consent decree made in the U.S. District Court of Oregon. Staff thus believes there is adequate evidence to justify a tracking mechanism for costs tied to closing Boardman, although details on the extent and nature of these costs will be further reviewed in future proceedings.

Regarding the rate recovery method, Staff agrees with the Company's proposal to levelize incremental revenue requirements across the remaining life of the plant for rate recovery purposes, and to use a balancing account to track expenditures. According to Company-estimated incremental revenue requirements, shutdown and compliance costs throughout the remaining life of the plant are predicted to be highly variable. There are heavily front-loaded depreciation costs from emission control investments and from accelerated depreciation of the existing plant, in addition to sizable decommissioning costs associated with plant closure in 2020. Staff believes the 2020 decommissioning date should be used to accelerate depreciation over Boardman's remaining plant life. Levelizing all of these costs across the plant's remaining eight-year life will provide customers with greater rate stability. In addition, Staff believes that the Company's method ensures a higher probability of matching the number of customers that benefit from operating Boardman to its remaining cost.

Staff analyzed payment stream options to collect the full cost of Boardman investment, and estimated net decommissioning costs by the decommission date of year-end 2020. The total dollar amount to be paid by customers is less using the fully levelized recovery method proposed. Staff notes that using a balancing account with regularly occurring true-up in rates provides the Company with a guaranteed recovery on both Boardman's costs, and the overall rate of return on the plant-in-service associated with Boardman. In general, rates are set so the Company *has the opportunity* to earn the overall rate of return on its investment; in this case, the Company *will be guaranteed* to earn its overall rate of return on the Boardman investment. However, given that Idaho Power lacks direct control over expenses due to their minority stake, Staff believes the benefits of using the proposed method including rate stability and cost/benefit matching, outweighs the explicit guarantee on investment.

Staff realizes that rates will not be set as a result of this case. However, Idaho Power says that if the Commission accepts its proposal, this spring it will request inclusion of accelerated Boardman recovery using the approved methodology. The proposed balancing account and proposed levelized recovery, if approved, will reduce Idaho Power's risk of recovery. To reflect the lower risk, Staff proposes a lower return on equity (ROE) be used to calculate the levelized payments for Boardman recovery. When the Company updates the information in Exhibit Nos. 1 and 2 for the request seeking rate recovery, Staff proposes the reduced risk be reflected in its filing. Staff believes an appropriate return to utilize is the 9.5% ROE adopted as the Accumulated Deferred Investment Tax Credit (ADITC) trigger in Order No. 32424, Case No. IPC-E-11-22. Staff also believes that the ROE to calculate the levelized Boardman recovery amount should be adjusted in each rate case using the same methodology adopted to calculate the ADITC trigger where the new "threshold would be 95% of the newly established ROE". *Id.* at 4.

The Company proposes to set up a balancing account to eventually capture costs and benefits associated with Boardman. Initially, the Company plans to book costs and benefits that occur beginning January 1, 2012. Staff understands that when the Company files for recovery of Boardman expenditures associated with plant closure, the Company will move additional costs associated with Boardman into the balancing account, including costs and benefits currently captured in base rates.

Staff agrees with the Company's proposal to use a balancing account to track the costs and benefits associated with the early shutdown of Boardman. Staff also agrees with the Company's proposal to levelize incremental costs to calculate the revenue requirement for Boardman with the ROE limitation. Staff believes a yearly review of the amounts booked into the Balancing Account will be sufficient and recommends the Company file an annual report of the review with the Commission. This report will assist Staff in following changes and help ensure that costs are appropriate and prudent. Staff recommends that the Company provide a sample of this report in its filing for Boardman accelerated rate recovery. Staff also recommends that the revenue requirement associated with Boardman be adjusted as needed for major changes after regular reviews.

STAFF RECOMMENDATIONS

Staff recommends that the Commission approve the Company's regulatory accounting and cost recovery plan for the early shutdown of Boardman and the establishment of a balancing account to track incremental cost and benefits associated with the Boardman shutdown.

Staff also recommends that a 9.5% ROE be used to calculate the initial levelized Boardman recovery amount.

Staff further recommends that the Company file annual reports detailing costs booked to the Boardman account. Finally, Staff recommends that as part of the request to include accelerated Boardman costs in rates, the Company file a sample report and describe the type of information the Company will submit to the Commission.

Respectfully submitted this 13th day of January 2012.

Karl T. Klein
Deputy Attorney General

Technical Staff: Kathy Stockton
Mike Louis

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 13TH DAY OF JANUARY 2012, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF,** IN CASE NO. IPC-E-11-18, BY E-MAILING AND MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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