

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF IDAHO POWER COMPANY FOR)	CASE NO. IPC-E-11-19
AUTHORITY TO CONVERT SCHEDULE 54)	
– FIXED COST ADJUSTMENT – FROM A)	
PILOT SCHEDULE TO AN ONGOING)	ORDER NO. 32505
PERMANENT SCHEDULE)	

On October 19, 2011, Idaho Power Company filed an Application requesting a Commission Order authorizing the Company to convert its current Schedule 54 – Fixed Cost Adjustment (FCA) – from a pilot program to a permanent schedule. The Commission in Order No. 30267, Case No. IPC-E-04-15, approved implementation of a three-year FCA pilot program applicable to residential and small general service customers. In October 2009, the Company filed an application seeking to convert the pilot program to a permanent program. The Commission denied that request and instead extended the pilot program for an additional two-year period. Order No. 31063. The FCA pilot program is set to expire as of December 31, 2011.

The FCA removes recovery of a portion of the Company’s fixed costs from its energy sales. To accomplish this, the average number of customers in the residential and small general service classes is multiplied by a fixed-cost per customer rate (FCC), which is established in determining the Company’s revenue requirement in a general rate case. The product of the average number of customers and the FCC establishes the amount authorized for recovery as fixed costs. The amount allowed for fixed costs recovery is then compared to the amount of fixed costs actually recovered by Idaho Power during the FCA year. The fixed costs actually recovered are determined by the Company’s weather-normalized energy sales for each class multiplied by a fixed-cost per energy rate (FCE), which is also established in a general rate case. The FCA is adjusted each year to collect, or refund, the difference between the allowed fixed-cost recovery amount and the actual fixed costs recovered by Idaho Power during the year.

Idaho Power’s Application states that the purpose of the pilot program was to test the FCA mechanism to determine “its efficacy in removing the unintended rate design disincentive for the Company to aggressively pursue DSM programs.” Application, p. 5. The Company contends the first four years of the pilot program demonstrate that the FCA mechanism is working as intended – it operates to mitigate the adverse affects of energy efficiency programs

by ensuring that the fixed costs authorized by the Commission for recovery are being recovered through the FCA mechanism. *Id.* The Company proposes to make the program permanent for the residential and small general service customer classes, and proposes to true-up the FCA by combining the deferral balances of each class and implementing rates for each class that represent a uniform percent change. Idaho Power asserts that by combining the residential and small general service FCA balances and determining the rate adders based on an equal FCA rate adjustment for each class, the overall rate impact to customers in these classes is more representative of the total amount of the required fixed-cost recovery for each class. Application, pp. 5-6.

On November 2, 2011, the Commission issued a Notice of Application and Notice of Intervention Deadline regarding Idaho Power's Application. Petitions to Intervene were timely filed by the Idaho Conservation League; Micron Technology, Inc.; and the NW Energy Coalition, all of which were granted by the Commission in Order No. 32402. However, the parties held a scheduling meeting on January 27, 2012, and subsequently recommended the Commission proceed by Modified Procedure. The Commission accordingly issued a Notice of Modified Procedure on February 14, 2012, establishing a written comment period ending March 1, 2012, and a deadline of March 15, 2012, for filing reply comments. Order No. 32454.

THE WRITTEN COMMENTS

Written comments were filed by the Commission Staff, and the Idaho Conservation League (ICL), and reply comments were filed by Idaho Power, NW Energy Coalition, and ICL. All of the comments support the Company's Application to make the fixed-cost adjustment schedule a permanent schedule, but Staff recommended a modification to the FCA. More specifically, Staff recommended modifying the existing FCA to focus on lost fixed costs recovery resulting from Company DSM programs and its support of energy efficiency activities. Staff thus proposed that the FCA balance be equally shared between the customers and the Company, noting that the Company's DSM reports show that energy savings from DSM programs accounted only for between 24 and 43% of reduced consumption. Setting the FCA recovery at 50% for the Company leaves room for Idaho Power to recover lost fixed costs associated with non-DSM programs, as well as from its DSM programs. Staff recommended that the sharing band be symmetrical, that is, it would be applicable to both under- and over-recovery of fixed costs. Staff Comments, p. 10.

Staff's comments reiterate the initial purpose for the FCA, that is, "to remove the financial disincentives in the current rate design to encourage greater investment by the Company in energy efficiency activities." Staff Comments, p. 3. Staff quoted from Commission Orders stating the purpose of the FCA as removing financial disincentives in pursuing energy efficient programs. Staff stated it "has found no evidence that the Commission's main intent was to separate Idaho Power's revenues from its sales." Staff Comments, p. 3. Because the current FCA provides benefits to the Company that exceed removal of the DSM disincentive, Staff contends the modification it proposes to the current program is warranted.

Staff's primary concern with the current FCA, is that with the exception of weather, there is no recognition or identification of the source of the variations in customer energy consumption. Staff stated that from 2008 through 2010, the annual energy reduction attributable to non-DSM programs ranges from 24% to 43%. Staff Comments, p. 4. In 2009, the FCA filing indicated that approximately 42,000 MWh of the 54,000 MWh reduction in sales were due to non-DSM related factors. Staff Comments, p. 5. Staff stated it "has no evidence that DSM savings have contributed to any more than 43% of reduced consumption during the FCA timeframe." Staff Comments, p. 5. Staff contends the FCA should be modified to address lost fixed-revenue due to Company DSM programs while not excessively compensating the Company for non-DSM usage reduction. In addition, Staff believes the FCA mechanism should remain relatively straight-forward and not rely solely on the Company's DSM reports for calculating lost sales or reduced consumption. Staff Comments, p. 5.

Staff identified another problem with the current FCA design as failing to minimize cross-subsidies between customer classes. Staff stated that both it and the Company believe residential customers have been responsible for more fixed costs recovery than recent cost-of-service studies show is reasonable. Although this is appropriately a cost-of-service issue and should be addressed by the Company in its next rate case, Staff contends that the disproportionate amount of DSM rider revenue generated by the residential class shows that cross-class subsidies are not minimized under the FCA. Staff Comments, p. 6. Finally, Staff questioned whether the FCA has had a meaningful effect on Idaho Power's energy efficiency activities.

The Company in its Application did not address continuation of the discretionary 3% cap on FCA rate adjustments, and Staff recommended the Commission maintain the 3% cap on

FCA rate adjustments in the event that sales deviate significantly from the base year. In addition, Staff agreed with the Company's proposal to blend the residential and small commercial FCA deferral balances for collection and/or refund. Finally, Staff made a recommendation regarding identification of the FCA on customers' bills, specifically, that the FCA component be removed from the energy efficiency services line item and instead be combined with the Power Cost Adjustment (PCA) line on the Company's bills.

ICL filed written comments recommending the Commission approve the FCA as a permanent mechanism, as Idaho Power requests. In reply comments, ICL addressed Staff's recommendation that the FCA be shared equally between customers and Idaho Power. ICL stated that it agrees with some of Staff's proposals, specifically maintaining the 3% cap on FCA rate adjustments and combining the FCA with the Company's PCA on customer bills.

ICL addressed Staff's concern that the FCA captures all non-weather-related changes in energy consumption, not just changes resulting from DSM programs. ICL acknowledges this is true, but nonetheless urges the Commission to maintain the current structure "because it provides two additional benefits beyond removing the disincentive towards energy efficiency – mitigating risks and incenting cost controls." ICL Reply Comments, p. 2. ICL asserts that the current FCA benefits ratepayers by providing a powerful incentive for Idaho Power to control costs. The FCA helps fix revenue stream, and thus "severely restricts Idaho Power's ability to increase revenue by increasing sales." ICL Reply Comments, p. 3. Because the FCA reduces Idaho Power's risks, ICL suggests the Commission ensure ratepayers receive a benefit resulting from a strong FCA by reducing Idaho Power's capital ratio.

ICL contends other specific concerns Staff identified regarding the current FCA should be addressed by the Commission in other proceedings. For example, the Commission can review a potential difference between costs added by new customers in a cost-of-service study in the Company's next rate case. ICL Reply Comments, p. 5. To address Staff's concern that the residential class produces a disproportionate amount of DSM rider revenue, ICL suggests the solution is to expand residential programs, not weaken the current FCA and partially re-institute the disincentive towards energy savings in this customer class. ICL Reply Comments, p. 5. ICL contends Staff's proposal to share the FCA between customers and the Company limits the benefits created by the FCA.

The NW Energy Coalition in its written comments also addressed Staff's proposal to adjust the FCA mechanism. NW Energy Coalition appreciates Staff's intent to maintain a simple mechanism and avoid a lost margin recovery approach that relies heavily on savings calculations. The Energy Coalition agrees the FCA is not perfect, but states Staff has "recommended an unnecessary change in the mechanism that shifts the risks of sales changes back to both the utility and its customers." NW Energy Coalition Reply Comments, p. 3. Energy Coalition asserts that if the FCA recovery is set at 50%, the mechanism no longer eliminates the throughput incentive nor does it reduce customers' and utility risks from fluctuating sales. *Id.*

Idaho Power addressed Staff's recommendation to modify the FCA in its reply comments. The Company contends that if Staff's recommendation to modify the FCA is adopted, "the regulatory framework that paved the way for Idaho Power's aggressive and successful pursuit of the cost-effective energy efficiency will be compromised." Idaho Power Reply Comments, p. 7. The Company does not dispute that some of the load reduction it experienced between 2008 and 2011 can be attributed to the economic downturn, but the Company contends that during the same period the Company was more aggressive on energy efficiency activities "than ever before." Idaho Power Reply Comments, p. 8. Idaho Power argues that Staff's proposal to allow the Company to keep only 50% of any amount in excess of its authorized fixed-cost revenues for the residential and small commercial customer classes, "turns the very purpose of the FCA mechanism on its head by providing Idaho Power with the unintended incentive to increase its energy sales as it would be allowed to keep 50% of any revenues in excess of its authorized fixed-cost revenues." Idaho Power Reply Comments, p. 10.

Idaho Power agrees with Staff's proposal to maintain the 3% cap on FCA adjustments, and to recover or refund the FCA deferral balance equally between the residential and small commercial customer classes. Idaho Power does not oppose moving the FCA adjustment on the Company's bill from the energy efficiency services line to the Company's PCA line item on customer bills.

COMMISSION DISCUSSION

On the record in this case, the Commission has determined to approve Idaho Power's Schedule 54, Fixed Cost Adjustment, as a permanent program. All of the written comments support removing the pilot designation and implementing the FCA as a permanent schedule for the residential and small general service customers. The written comments agree the FCA has

removed a disincentive inherent in Idaho Power's pursuit of energy efficiency programs by separating recovery of some fixed costs from energy sales. On this record, the Commission approves the FCA as a permanent program.

The commenters also agree, however, that the FCA as structured is imperfect. There is no dispute that the FCA does not isolate or identify changes in cost recovery associated solely with the Company's energy efficiency programs. Instead, it responds to all changes in load reduction in the residential and small general service customer classes. To that extent, the FCA acts as a decoupling mechanism beyond the primary objective of the FCA – to remove a disincentive to aggressively pursue energy efficiency programs. To address that and other potential limitations with the FCA, Staff recommended a 50/50 sharing of the FCA results between customers and the Company. Staff acknowledged that its proposal also is imperfect, but it has the advantage of keeping the FCA mechanism relatively simple.

Although the Commission approves implementation of the FCA as a permanent schedule, we also find that the limitations in the FCA as structured, as identified by Staff and the other parties, warrant further discussion by the parties and review by the Commission. Staff's sharing proposal may have merit, but there is not a sufficient record to support a finding that a sharing of 50/50 between the Company and customers is the correct ratio. Staff and the Company, and other parties that choose to participate, are directed to continue discussing possible adjustments to the FCA. Idaho Power is directed to file within six months a proposal to adjust the FCA to address the capture of changes in load not related to energy efficiency programs.

The Commission finds it is appropriate to implement Idaho Power's Schedule 54, Fixed Cost Adjustment, as a permanent program for the residential and small general service customers. The program will retain the 3% cap on FCA adjustments, and the FCA deferral balance will be recovered or refunded equally between the residential and small commercial customer classes. The Commission approves moving the FCA adjustment on the Company's bill from the energy efficiency services line to the Company's PCA line item on customer bills. The Company will not be required to file the separate annual report specifying ways in which it increased its investment in energy efficiency and DSM as a result of the FCA mechanism. Issues related to the Company's acquisition of energy efficiency and DSM are comprehensively reported in the Company's annual DSM reports filed with the Commission. The Company will

continue reporting the monthly FCA balance as it has under the pilot and will continue to file annual applications seeking approval of FCA true-up balances.

APPLICATIONS FOR INTERVENOR FUNDING

On March 21, 2012, ICL filed an application requesting an award for intervenor funding in the amount of \$10,000 (\$3,000 expert witness fees, \$7,000 attorney fees). ICL identified differences between its and Staff's case as (1) ICL opposed Staff's recommendation to introduce a 50/50 sharing component; (2) ICL proposed a finding that the FCA is a risk mitigation tool and proposed a method to share this benefit with ratepayers; (3) ICL proposed a method to motivate Idaho Power to "fully pursue their [sic] enhanced commitment towards non-programmatic energy efficiency efforts." ICL Application, p. 3.

The NW Energy Coalition filed an Application for Intervenor funding on March 26, 2012. The Energy Coalition stated its written comments "demonstrate that the Coalition's recommendation is different than the proposed finding of Commission Staff," and raise "concerns about the approach recommended by Staff as undermining the fundamental intent of the FCA mechanism." NW Energy Coalition Application, p. 2. The Coalition requests an award of \$700.85.

Applications for intervenor funding are filed pursuant to *Idaho Code* § 61-617A and the Commission's Rules of Procedure 161-165, IDAPA 31.01.01.161-.165. Section 61-617A states that the Commission may order a regulated utility "to pay all or a portion of the costs of one (1) or more parties for *legal fees, witness fees and reproduction costs.*" *Idaho Code* § 61-617A(2) (italics added). The statute requires that the Commission base its determination to award fees on (a) a finding that the participation of the intervenor materially contributed to the decision rendered by the Commission, (b) a finding that the costs of intervention are reasonable in amount and would be a significant financial hardship for intervenor, (c) the recommendation of the intervenor differed materially from the testimony and exhibits of the Commission Staff, and (d) the testimony and participation of the intervenor addressed issues of concern to the general body of users or consumers. *Idaho Code* § 61-617A(2). Commission Rule of Procedure 165 states the Commission may order an award for intervenor funding pursuant to Section 61-617A, and mirrors the findings required for an award in paragraph 2 of that section. As does the statute, Commission Rule 162 identifies an award for legal fees, witness fees, or reproduction fees.

Intervenors filing for a cost award in cases that proceed by Modified Procedure have difficulty in meeting the statutory requirements for an award, and the Commission in the past has denied intervenor funding in cases processed by Modified Procedure. For example, in Case No. IPC-E-08-23, the Commission denied intervenor funding in a case concluded after informal workshop meetings and telephone calls. Order No. 30771, p. 2. The Commission stated that the informal nature of the proceeding resulted in a record that prevented the Commission from making the necessary findings to award intervenor funding. Because the case proceeded informally without hearings, Commission Staff did not file testimony or exhibits. The Commission noted that that made it difficult for the intervenor to satisfy Rule of Procedure 165 that requires the Commission to find that the recommendations of the intervenor differed materially “from the testimony and exhibits of the Commission Staff.” Order No. 30771, p. 3 *citing* IDAPA 31.01.01.165.01.d. In addition, *Idaho Code* § 61-617A limits an award of intervenor funding to “legal fees, witness fees, and reproduction costs.” Because Modified Procedure normally concludes without an evidentiary hearing, there are no witnesses, and may be no legal fees, to support an award of intervenor funding for those costs.

Although cases processed by Modified Procedure present difficulties in satisfying statutory requirements to award intervenor funding, the Commission finds that the circumstances of this case and the participation of these intervenors support a modest award for intervenor funding. First, we recognize the importance of the Legislature’s statement of policy in *Idaho Code* § 61-617A(1) “to encourage participation at all stages of all proceedings before the commission so that all affected customers receive full and fair representation in those proceedings.” Second, the record does support a finding that the comments filed by these intervenors “materially contributed to the Commission’s decision” and “differed materially from the testimony and exhibits of the Commission Staff,” both necessary findings for an intervenor funding award. The Commission cannot find, however, in regard to ICL’s request, that it is reasonable in amount. A case concluded by written comments filed in a Modified Procedure, following one meeting of the parties, should not reasonably result in a request for funding of \$10,000. In sharp contrast is NW Energy Coalition’s request for \$700. The Commission finds an award of intervenor funding in the amount of \$700 for each ICL and NW Energy Coalition is appropriate.

O R D E R

IT IS HEREBY ORDERED that (1) Idaho Power's Schedule 54, Fixed Cost Adjustment, is approved as a permanent program for the residential and small general service customers; (2) the program will retain the 3% cap on FCA adjustments; (3) the FCA deferral balance will be recovered or refunded equally between the residential and small commercial customer classes; and (4) the FCA will be identified on customer bills as part of the Company's annual PCA line item adjustment.

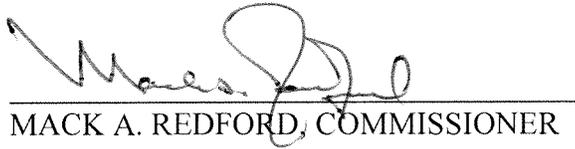
IT IS FURTHER ORDERED that Idaho Power is directed to file within six months a proposal to adjust the FCA to address the capture of changes in load not related to energy efficiency programs.

IT IS FURTHER ORDERED that ICL and NW Energy Coalition are each awarded intervenor funding in the amount of \$700.

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.

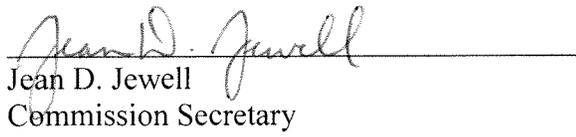
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 30th
day of March 2012.


PAUL KJELLANDER, PRESIDENT


MACK A. REDFORD, COMMISSIONER


MARSHA H. SMITH, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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