Office of the Secretary
Service Date
December 11, 2012

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR A DETERMINATION OF 2011 DEMAND-SIDE MANAGEMENT EXPENDITURES AS PRUDENTLY INCURRED	)))))))	**CASE NO. IPC-E-12-15** **ORDER NO. 32690**

Idaho Power Company petitioned the Commission to reconsider Order No. 32667. *See* Idaho Power's Petition for Reconsideration.[1] In that Order, the Commission finds that the Company prudently incurred $41,942,123.50 in 2011 demand-side management (DSM) expenses, including $34,923,738.50 in net Rider expenses and $7,018,385 in Custom Efficiency Program incentive expenses. *See* Order at 1 and 18. The Company now argues that the Commission should reconsider the Order and increase the amount of the prudency determination by $616,382, to $42,558,505.50. Petition at 5. The Company says this should occur because the Commission's Order erroneously: (1) includes a $526,781 accounting-related adjustment that was already reflected in last year's (2010) DSM prudency request (*see* Order at 6, fn.7); and (2) excludes $89,601 in Rider-funded, labor expense increases by deferring a finding on those increases until the Company provides evidence of reasonableness (*see* Order at 8-9).

Commission Staff and the Industrial Customers of Idaho Power (ICIP) filed timely answers to the Petition. Staff concurred with the Company that the Commission should grant reconsideration as to the $526,781 accounting-related adjustment, and ICIP took no position on that issue. Staff and ICIP disagreed with the Company about the labor-expense increases, and advocated the Commission deny reconsideration on that issue.

With this Order, we: (1) grant reconsideration as to the accounting-related adjustment; and (2) deny reconsideration as to the labor-expense issue.

[1] On November 14, 2012, Idaho Power filed an errata to its Petition to correct some of the figures set forth in the Petition. *See* Errata to Idaho Power Company's Petition for Reconsideration. The corrected numbers are reflected here.

DISCUSSION AND FINDINGS

1. The Accounting-related Adjustment

The Company's Petition asks us to reconsider the amount that the Order determined to be prudent and to increase that amount by $526,781. The Company explains that its *2010* prudency request reduced the requested amount to be deemed prudent by $526,781 to correct for the fact that the Company had inadvertently charged $526,781 to the Idaho Rider when it should have been charged to the Oregon Rider. Consequently, the Commission properly reflected this adjustment when it determined the prudence of the Company's 2010 expenditures. The Company's books did not reflect the adjustment—which corrected the 2010 error—until 2011. But that adjustment did not relate to 2011 expenditures. Thus, the 2012 Order should not have removed the adjustment amount from the 2011 expenditures that were deemed prudent. *See* Petition at 3.

In its answer, Staff agrees with Idaho Power that the Commission should reconsider its Order with respect to the $526,781 accounting-related adjustment. Staff says the Commission should revise its Order to "reflect that the accounting error adjustment did not reduce the DSM expenses that the Company prudently incurred in 2011, and to find that the actual, prudently incurred Rider expenses in 2011 were $35,450,519.50 with a 2011 Rider ending balance of $5,149,195.50." Staff Answer at 3-5.

ICIP takes no position on the accounting adjustment issue. ICIP Answer at 1, fn.1.

Commission Findings: We note that the Company did not request additional briefing or hearings on this matter. Based on our review of the existing record, including the Company's and Staff's agreement on this issue, we find it reasonable to grant the Company reconsideration as to the accounting-related adjustment. We further find that the $526,781 accounting-related adjustment did not reduce the prudently incurred 2011 DSM expenses. Consequently, we find that in 2011 the Company prudently incurred $42,468,904.50 in DSM expenses, including $35,450,519.50 in Rider expenses, and $7,018,385 in Custom Efficiency Program incentive expenses. The Rider ending balance as of December 31, 2011 is $5,149,195.50.

2. The Labor-expense Increases

In its Petition, Idaho Power asks us to reconsider our decision to defer our determination about the prudence of $89,601 in Rider-funded labor-expense increases until the Company can provide further evidence of reasonableness. The Company argues that our

decision was improper because it retroactively applies a new standard of review for such expense increases. *Id.* at 4. The Company says it "evaluated all ... Rider-funded expenditures by incorporating them into the three cost-effectiveness tests" in accordance with the DSM Memorandum of Understanding (MOU) filed in Case No. IPC-E-09-09 and prior prudency determinations. The Company stresses that the labor expenses "have proven to be cost-effective." Petition at 3-4. The Company says it will work with Staff using the new standard prospectively, but that the "focus of this proceeding should be on the prudence determination of previously incurred expenditures using historically utilized standards." *Id.*

In its answer, Staff disagrees with the Company about labor expenses and argues that the Commission should deny the Petition on that issue. Staff notes that the Commission's Order did not dispute that the Company's DSM programs were cost-effective, but instead found that the Company had not carried its burden of proving that the salary expense levels included in the calculation are reasonable. Staff supports the Commission's decision to defer its findings about the labor expense increases, and to have the Company work with Staff to identify information needed to determine the labor expense prudency in this case and in the future. Staff Answer at 5.

ICIP also disagrees with the Company about labor expenses and says the Commission should deny reconsideration on that issue. ICIP raises four arguments.

First, ICIP says Idaho law requires the Commission to ensure that Idaho Power's rates are just and reasonable, Idaho Power bears the burden of proof, and Idaho Power failed to carry its burden. Thus, "the Commission had no choice but to deny a prudency determination for the wage increase." ICIP Answer at 3.

Second, ICIP says Idaho Power's reliance on the DSM MOU is misplaced. When the DSM MOU was presented to the Commission in Case No. IPC-E-09-09, the Commission declined to discuss it other than to recognize that "[t]he Commission's future review of particular DSM programs should be assisted, but will not be replaced by, Idaho Power's compliance with the terms of the MOU." *Id.* (*citing* Order No. 31039 at 3). The Commission specifically acknowledged ICIP's observation that "even if a utility implements Staff's prudency guidelines and evaluation framework in the [MOU], the utility will still need Commission approval of the expenditures in a formal filing, such as a general rate case." *Id.*

Third, ICIP says the Commission has not engaged in retroactive ratemaking to Idaho Power's detriment. *Id.* No prior Order deemed Idaho Power's 2011 wage increases to be

reasonable and recoverable in rates. If anything, the Commission has engaged in retroactive ratemaking in Idaho Power's favor because although the Commission has found that Idaho Power failed to carry its burden of proof, the Commission is allowing the Company to demonstrate the prudence of this past expenditure in some unspecified future proceeding. ICIP claims it and others will be prejudiced if the Company can re-litigate the reasonableness of expenses in its rates after failing to demonstrate prudence. *Id.* at 4.[2]

Fourth, ICIP characterizes Idaho Power's request to approve the labor-expense increases as a request for a single-issue rate case. ICIP objects to single-issue rate cases. It agrees with Staff "that Idaho Power should not side-step the scrutiny of a general rate case through the limited review available in dockets such as the annual DSM filing." *Id.* at 4.

Commission Findings: As we stated in Order No. 32667, the Company has the burden of proving that the increase in labor-related expenses is reasonable. The record lacked sufficient evidence from which we could determine whether the increase in the Company's labor-related expenses was reasonable when compared to the benefits those expenses achieve. Accordingly, we declined to decide the reasonableness of the Company's labor-related expense increase until it provides evidence from which we may better assess the reasonableness of those expenses. We reaffirm that decision here and deny the Petition for Reconsideration on this issue.

ORDER

IT IS HEREBY ORDERED that Idaho Power's Petition for Reconsideration is granted in part, and denied in part. The Petition is granted as to the accounting-related adjustment. For 2011, we approve $42,468,904.50 in DSM expenses, including $35,450,519.50 in Rider expenses and $7,018,385 in Custom Efficiency Program incentive expenses, as the Company's actual, prudently incurred expenses. The Rider ending balance as of December 31, 2011 is $5,149,195.50. The Company's Petition is denied in all other respects.

THIS IS A FINAL ORDER ON RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this case may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

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[2] While ICIP explains that it believes the Commission's decision to defer its prudency findings is "if anything ... retroactive ratemaking to Idaho Power's favor," ICIP does not ask the Commission to reconsider that decision; rather, ICIP "respectfully requests that the Commission deny reconsideration of the Commission's determination related to Idaho Power's labor expense increase." *Id.* at 4-5.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 11th day of December 2012.

PAUL KJELLANDER, PRESIDENT

MACK A. REDFORD, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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