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Attorney for the Commission Staff

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF	)	
GLANBIA FOODS, INC. FOR APPROVAL	)	CASE NO. IPC-E-13-09
OF A LINE EXTENSION ALLOWANCE	)	
PURSUANT TO IDAHO POWER COMPANY'S	)	
RULE H.	)	COMMENTS OF THE
	)	COMMISSION STAFF
	)	
	)	

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**COMES NOW** the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Weldon B. Stutzman, Deputy Attorney General, and in response to Procedural Order No. 32803 on May 7, 2013, submits the following comments.

### BACKGROUND

On April 5, 2013, Glanbia Foods, Inc. (Glanbia) filed a Petition requesting that Idaho Power be directed to provide it an allowance under its Rule H tariff. Idaho Power's Rule H tariff sets forth terms for the Company to accommodate line extension requests that require improvements to electric service facilities. Glanbia's Petition asks the Commission to "issue its Order requiring Idaho Power to provide it with an allowance for its proposed line extension in the amount of \$2,318,000 or other such amount it determines is appropriately calculated pursuant to the Commission's methodology underlying Rule H." Glanbia Petition, p. 6. Glanbia also

contends that it should be compensated for the value of capacity that would be freed up at the substation currently used to provide service to Glanbia, which would no longer be necessary if a new substation is built to provide service. Glanbia also contends that it should be granted a vested interest in any facilities it funds that are made available for use by potential future customers. *Id.* at p. 3-4. Finally, Glanbia asks the Commission to require Idaho Power to (a) competitively bid the material and work on the upgrade, (b) provide audited records of the transaction, and (c) allow Glanbia to be included in the design, engineering, and selection of contractors. *Id.* at p. 4.

Idaho Power filed an answer on April 26, 2013. In its answer, Idaho Power maintains that it evaluated Glanbia's request in a fair manner, consistent with previous evaluations of customers with growing loads. The Company states that it properly followed its tariff, rules and regulations in assessing Glanbia's proposals. Idaho Power Answer at p. 6.

## STAFF REVIEW

### Applicability of Rule H

Glanbia is currently a Schedule 19 customer and intends to remain a Schedule 19 customer after the proposed new load is added. Under the terms of Schedule 19,

If additional **distribution** facilities are required to supply the desired service, those facilities provided for under Rule H will be provided under the terms and conditions of that rule. To the extent that additional facilities not provided for under Rule H, **including transmission and/or substation facilities**, are required to provide the requested service, special arrangements will be made in a separate agreement between the Customer and the Company. *See* Schedule 19, Availability. (emphasis added).

As stated above, Rule H clearly applies to Schedule 19 customers. However, the language in Schedule 19 restricts application of Rule H specifically to distribution facilities and directs that the addition of transmission and substation facilities will be made under special arrangements.

The language in Rule H appears consistent with the language in Schedule 19. Schedule 19 states,

This rule applies to requests for electric service under schedules 1, 3, 4, 5, 7, 9, 19, 24, 45, and 46 that require the installation, alteration, relocation, removal or attachment of Company-owned **distribution** facilities. ... **This rule does not apply to transmission or substation facilities**, or to requests for electric service that are of a speculative nature. (emphasis added).

In large part, this complaint centers on interpretation of Idaho Power's Rule H, and whether the principles underlying it apply in this circumstance. Idaho Power argues that Glanbia's request requires that the Company install only a new transmission line and a substation, both of which are expressly excluded from application of Rule H. Idaho Power refers to its Rule B wherein it states "Transmission Service is service taken at 44 kV or higher." Because Glanbia will be a Schedule 19 Primary Service (19P) customer, Idaho Power will provide service at between 12.5 kilovolts (kV) to 34.5 kV, but the new line constructed to serve Glanbia will be 138 kV – clearly transmission level voltage. Idaho Power concludes, therefore, that Glanbia's request does not properly belong under the provisions of Rule H because it does not apply to transmission or substation facilities. Idaho Power further concludes that because Rule H does not apply, Glanbia is not entitled to any allowance. Idaho Power Answer at p. 7.

Glanbia, on the other hand, notes that Rule H does not define the terms "transmission" and "substation," therefore there is no test for how a line extension must be configured in order to be deemed a transmission or distribution line extension. Glanbia Petition at p. 3. Glanbia points to the following FERC/NERC definition of a "Distribution Provider" that defines the distinction between transmission systems and distribution systems by function, not by size:

Provides and operates the "wires" between the transmission system and the end-use customer. For those end-use customers who are served at transmission voltages, the Transmission Owner also serves as the Distribution Provider. **Thus, the Distribution Provider is not defined by a specific voltage, but rather as performing the Distribution function at any voltage.**

*Glossary of Terms Used in NERC Reliability Standards*, February 11, 2013 at p. 23 (emphasis provided by Glanbia).

Glanbia also notes that the line that would be built to serve the plant would be a dead end line serving a single customer. *Id.* at p. 5. Glanbia's position apparently is that because the line serves a distribution function, the principles of Rule H should apply, even though Rule H may technically exclude transmission and substations.

### **Staff Position on the Applicability of Rule H**

First, Staff believes it is clear that Rule H applies to Schedule 19 customers. Second, Staff believes it is clear that Rule H does not apply to transmission or substation facilities. Staff believes that while Idaho Power is correct that the line needed to serve Glanbia does not meet its

voltage-based definition of transmission, Glanbia is nevertheless correct that the line does serve a distribution function.

However, Staff disagrees with Idaho Power's conclusion that because Rule H does not apply to transmission or substation facilities, no allowance must be provided. Nowhere is it stated in either Rule H or Schedule 19 that no allowance must be provided for transmission or substation facilities.<sup>1</sup> In fact, to the contrary, the language in Schedule 19 clearly states that if these facilities are required to provide service, special arrangements will be made in a separate agreement between the customer and the Company. Exactly what those special arrangements shall be, however, is not specified.

Staff believes that appropriate special arrangements should be based on the same principles underlying Rule H. One of those principles is that all new customers should be provided an allowance to offset the cost of new facilities required to serve them because a portion of each customer's retail rate is already intended to cover the embedded cost of certain facilities. In other words, no customer should pay twice for the facilities needed to serve them — once through rates and once through upfront charges paid at the time a line extension is made. If Glanbia were not provided an allowance, it would not only be paying through rates for distribution and terminal facilities it does not require or use, it would also be paying the full upfront costs for the transmission line and substation that it does need.

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<sup>1</sup> As background, cost recovery for distribution plant differs somewhat from generation and transmission plant. The capital cost of installing new generation and transmission plant has always generally been recovered through rates paid by all customers. Hook-up fees, impact fees, or other charges at the time a new customer begins taking service have never been charged for the purpose of recovering the costs of building new generation and transmission facilities. In fact, in accordance with prior decisions of the Idaho Supreme Court, such fees cannot be charged for new plant that cannot be attributed specifically to serving new customers.

In the case of distribution plant, however, it is possible to associate specific facilities with specific customers who use them. For example, meters are physically attached to customers' buildings, service lines run directly to each customer's premises, and transformers serve a specific customer or group of customers. Even most distribution lines can be associated with serving specific subdivisions, businesses along a street or specific neighborhoods. Because of this, the costs of new distribution plant have, throughout most of Idaho Power's history, been recovered in two ways — partially through upfront capital contributions from new customers, and partially through electric rates charged to all customers. Upfront charges are either based on estimates prepared by Idaho Power for each line extension job (work order costs), or are specified in the Rule H tariff for standard tasks or materials. The portion collected through electric rates represents the investment in new facilities made by Idaho Power. It is often referred to as an "allowance." Staff Comments in Case No. IPC-E-08-22, pp. 2-3.

## Allowance

In Idaho Power's most recent line extension case, Case No. IPC-E-08-22, embedded net plant for distribution plant and terminal facilities were computed by Staff for each customer class. These values were also referred to as the "allowable investment" by customer class because they represented the amount of investment Idaho Power could expect to recover over time through the rates paid by customers. Proposed allowances, in turn, were based on the embedded net plant and terminal facilities (allowable investment).<sup>2</sup> Because the total embedded net plant was coincidentally reasonably close to the value of terminal facilities, Staff proposed allowances equal to the cost of standard overhead terminal facilities for Schedules 1, 9, and 24. Allowances for Schedule 7 were proposed as a percentage of the cost of standard terminal facilities. Allowances for Schedule 19 were proposed to be made on a case-by-case basis primarily because each Schedule 19 customer is unique in terms of the terminal and other facilities needed to provide service, in part due to the different voltage levels at which they take service.

Idaho Power proposed allowances as specific dollar amounts. Those dollar amounts, however, were equal to the cost of standard overhead terminal facilities. Idaho Power's proposed allowances were not based on an analysis of embedded costs, but seemed instead to be based simply on policy. Therefore, although Staff's and Idaho Power's rationale differed greatly, their proposed allowances were effectively very similar.

The Commission accepted Idaho Power's proposed allowances stating,

By updating line installation charges and increasing the allowances, the appropriate amount of contribution will be provided by new customers requesting these services. These changes relieve one area of upward pressure on rates. Moreover, the Company's proposal is impartial to customer class, minimizes subsidization of terminal facilities costs, and carries the added benefit of administrative simplicity. Idaho Power shall make an annual filing, no later than January 1 of each year, updating allowance amounts for single- and three-phase service to reflect current costs for "standard" terminal facilities.

Order No. 30853 p. 11.

Because the Commission's Order adopts Idaho Power's proposed allowances and specifically refers to annual updates of the costs of standard terminal facilities, Staff's believes its own rationale is also supported — that what is important is that the value of terminal facilities be provided as an allowance, not that the actual terminal facilities required by each customer

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<sup>2</sup> Terminal facilities consist of a transformer, meter, and a service drop.

specifically be provided as an allowance or that an allowance, if granted, only be applied toward the cost of distribution and terminal facilities. It makes sense that allowances be based on the value of facilities, rather than the assets themselves, because the allowance is based on the embedded investment for customers in a class.

In its Answer to Glanbia's Petition, Idaho Power states "Glanbia's proposed allowance as calculated in Exhibit B to the Petition represents a re-packaging of a computation Staff presented in initial comments in Case No. IPC-E-08-22, which was not adopted by the Commission in either its initial Order No. 30853 or its Reconsideration Order No. 30955." Idaho Power's statement implies that the Commission accepted Idaho Power's proposed allowances and rejected Staff's, and more specifically, that the Commission rejected Staff's computations based on embedded costs. Despite the lack of specific language in either Order, Staff believes that the Commission's decision on allowances was supported by both Idaho Power's and Staff's positions. Idaho Power's and Staff's proposed allowances were similar and both supported the Commission's decision. Staff believes the Commission fully supported its embedded cost approach, but chose to adopt the allowances in the form proposed by Idaho Power. The Commission clearly did not reject Staff's computations of allowable investment.

The allowable investment computed by Staff for Schedule 19 was \$122 per kW. *See* Staff Comments in Case No. IPC-E-08-22, Attachment 2. Of this amount, \$109 per kW was calculated to represent the embedded cost of distribution plant and \$12 per kW was calculated to represent the embedded cost of terminal facilities. Again, these amounts represent the level of investment for these facilities that is built into rates. Put differently, all Schedule 19 customers, including Glanbia, are paying these amounts through rates whether these facilities are actually required to provide service or not. In cases where the customer has no distribution facilities, such as Glanbia's case, Staff believes it is fair and reasonable that the allowable investment be applied to whatever facilities are needed to provide service whether they are terminal facilities, distribution facilities or transmission facilities. Consequently, Staff believes that Glanbia should be entitled to an allowance of \$122 per kW that can be applied to the cost of terminal facilities and transmission facilities.

### **Application of the Proposed Allowance to Incremental Load**

Glanbia argues that an allowance, if ordered by the Commission, be applied to the full load planned by Glanbia. Glanbia therefore requests a total allowance amount of \$122 per kW times 19,000 kW, or \$2,318,000.

Staff disagrees. Staff believes that Glanbia should only be entitled to an allowance for its incremental load, or in this case, seven MW. Staff does not believe an allowance should be applied to Glanbia's full load because 10 of Glanbia's 19 MW could theoretically continue to be served by existing facilities, and the requirement for new facilities is triggered by only seven MW of new load. Allowances under Rule H are restricted to new service attachments and distribution line installations, and Staff believes that the same restriction should apply here. Moreover, a portion of the rates Glanbia will be paying with its new, higher load is intended to cover the cost of new facilities. That portion of the new, increased revenue from Glanbia is intended to match the allowance only for new, incremental facilities. Applying the incremental load of seven MW to the allowance amount of \$122 per kW results in a total proposed allowance amount of \$854,000.

### **Vested Interest and Company Betterment**

Glanbia contends that many of the facilities that will be added to serve its expanded load will be available for use by potential future Idaho Power customers; consequently, it believes it should be entitled to hold a vested interest in those facilities. A vested interest entitles a customer to receive refunds in the future from subsequent new customers who utilize the same facilities so that the costs of the facilities are equitably shared by all customers receiving benefits.

Under Rule H, "Vested Interest" is defined as "the right to a refund that an Applicant or Additional Applicant holds in a specific section of distribution facilities when Additional Applicants attach to that section of distribution facilities." Idaho Power maintains that because Glanbia's request would not require the construction of any distribution facilities, it would not qualify for any Vested Interest under the provisions of Rule H.

Staff believes it would be fair and reasonable in this instance to grant Glanbia a five-year vested interest in the new transmission line that would be constructed. Glanbia's load is such that it requires a new line be built at transmission, rather than distribution, voltage. Nevertheless, the new transmission line would serve the same function as if it were a distribution line. Staff does not believe Glanbia should forfeit its right to a vested interest simply because it happens to be a customer with a large load. Realistically however, it seems unlikely that any new customers large

enough to take service at transmission-level voltage would emerge in the five year vested interest refund period, especially in such a rural area.

Glanbia also contends that it should be given credit for Company Betterment because the existing substation that serves Glanbia will no longer be used for that purpose and capacity would thus be freed-up to be used to serve other customers. Idaho Power maintains that no Company Betterment should be granted because there is no indication for additional capacity needs in that substation in the near term and because the Company would not benefit from any operation and maintenance efficiencies. Idaho Power believes it would not be in the best interests of its customers to pay for capacity it does not need.

Staff acknowledges that additional substation capacity may be freed up, but does not believe any Company Betterment should be granted to Glanbia. Staff believes the intent of Company Betterment is primarily to permit the utility to oversize new facilities in reasonable anticipation of near term use by future customers, and to achieve efficiencies by constructing new facilities in more reasonable capacity increments. Staff does not believe that the freeing up of substation capacity in this instance will likely lead to any customer benefits in the near future.

### **Competitive Bidding**

Glanbia's Petition asks the Commission to require Idaho Power to competitively bid the material and work, provide audited records to Glanbia, and allow Glanbia to be included in the selection of a contractor. Idaho Power proposes that the Commission deny Glanbia's requests, and argues that because it is responsible for owning, operating, and maintaining the facilities, it is appropriate that Idaho Power design, engineer, and select contractors for the facilities.

In its Answer, Idaho Power states that it solicited non-binding proposals from four contractors for the engineering, procurement and construction of the project. Idaho Power reports that it received responses from all four contractors, with bids ranging from 34 percent to 75 percent higher than Idaho Power's own estimate of \$8.3 million. The Company included a summary of those non-binding estimates with its Answer. Idaho Power offers to perform a true-up of actual costs and commits to refund amounts to Glanbia or collect amounts from Glanbia where the estimated payment is over or under actual costs. Idaho Power also offers to provide a detailed cost report showing all charges to the work order(s) involved in completing the work to install the necessary facilities for Glanbia. Finally, Idaho Power presents Glanbia with the option of hiring its own contractor to build the necessary facilities and subsequently owning and



maintaining them, and pledges to work with Glanbia to interconnect those facilities to Idaho Power's system.

Staff believes Idaho Power has made a good faith effort to ensure that the facilities, if constructed, will be at the lowest cost to Glanbia. Idaho Power has solicited bids, shared the results, and committed to reconcile actual costs with bid estimates. Staff agrees with Idaho Power, that because the Company is responsible for owning, operating, and maintaining the facilities, it should be permitted to design, engineer, and select contractors for the facilities. If Glanbia chooses, it can build, own, and maintain the facilities itself.

### **STAFF RECOMMENDATIONS**


Staff recommends the Commission grant Glanbia an allowance of \$122 per kW and that this amount be applied only to Glanbia's incremental load of seven MW, resulting in an allowance of \$854,000.

Staff further recommends that Glanbia be entitled to receive vested interest refunds if future new customers directly connect within five years to the new line that would be constructed to serve Glanbia.

Staff also recommends that Glanbia not be entitled to receive credit for Company Betterment as a consequence of freeing up previously used capacity of the substation currently used to serve Glanbia.

Finally, Staff recommends that Idaho Power be permitted to design, engineer, and select contractors for construction of the facilities. In the alternative, Glanbia can choose to build, own, and maintain the facilities itself.

Respectfully submitted this 5<sup>th</sup> day of June 2013.

  
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Deputy Attorney General

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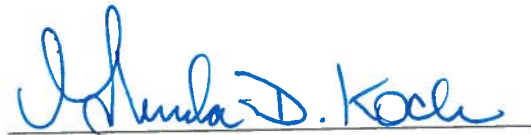
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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 5<sup>TH</sup> DAY OF JUNE 2013, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-13-09, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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