

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF

FROM: DAPHNE HUANG
DEPUTY ATTORNEY GENERAL

DATE: APRIL 29, 2016

SUBJECT: MATTER IN PROGRESS: IDAHO POWER'S APPLICATION FOR AUTHORITY TO TRANSFER TITLE OF MOBILE MANOR MOBILE HOME PARK METER PEDESTALS, CASE NO. IPC-E-16-07

On April 12, 2016, Idaho Power Company asked the Commission to approve its transfer of 18 meter pedestals in the Mobile Manor mobile home park to Mobile Manor, pursuant to *Idaho Code* § 61-328 and Rule 52. On April 14, the Industrial Customers of Idaho Power (ICIP) filed a Petition to Intervene in the case under Rule 71, which Idaho Power timely opposed per Rule 75. The Commission considered the Petition and granted ICIP intervention. Order No. 33512. The parties conferred about how to process the matter and agreed about some, but not all aspects of a schedule under Modified Procedure.

BACKGROUND

Before March 31, 1981, Idaho Power installed, owned, and maintained mobile home pedestals¹ as part of facilities for electric service to most mobile homes. Application at 1. After March 31, 1981, new mobile homes have been served by pedestals owned and maintained by customers per Idaho Power's Rule H, Section (2)(g). *Id.* at 2. Any pedestals still owned by Idaho Power predate 1981 and their replacement parts are no longer manufactured, but must be made by Idaho Power. *Id.* To avoid the expense of maintaining and repairing these pedestals, "and to promote consistency of ownership among customers, Idaho Power seeks to transfer title of Company-owned pedestals to the customer whenever possible." *Id.*

¹ Pedestals are comparable to meter bases attached to buildings, but are customer-owned. Application at 2.

THE AGREEMENT

Idaho Power entered into a Transfer of Title Agreement,² to transfer, convey and assign 18 meter pedestals occupying mobile home spaces in Mobile Manor mobile home park in Bannock County, Idaho. Agreement at 1-2. The Agreement provides that Idaho Power will update the pedestals if and when the Commission approves the Agreement, but that the Company “does not warrant the upgrades or the Pedestals to any degree.” *Id.* at 3. Rather, Mobile Manor agrees to accept the pedestals “AS IS” and “WITH ALL FAULTS.” *Id.* (capitalization original). Idaho Power does not “warrant the upgrades or the pedestals to any degree.” Application at 2. “No money was or will be exchanged as a result of the transaction.” Application at 3.

THE APPLICATION

Idaho Power’s Application seeks approval of its proposed Transfer of Title Agreement with Mobile Manor. The Commission has authority to approve or reject the proposed Agreement under *Idaho Code* § 61-328. That provision’s requirements include that the Company show the proposed transaction is consistent with the public interest, and that the cost and rates for supplying service will not be increased because of the transaction. *Idaho Code* § 61-328(3). Application at 2-3.

Idaho Power asserts that it satisfies all the statutory requirements. *Id.* The Company contends the transaction is “consistent with the public interest because it allows Idaho Power to treat similarly-situated customers in a like manner” by ensuring Mobile Manor’s mobile home owners own their pedestals just as other mobile home owners who established service after 1981. *Id.* at 3. Also, “The up-front costs of updating the pedestals will be more than offset by the elimination of long-term maintenance and repair costs of continued utility ownership.” *Id.* “Over time, because the transaction reduces Idaho Power’s costs of maintenance, the Company’s expenses will decrease in the long term.” *Id.*

PARTIES’ RECOMMENDATIONS ABOUT PROCESS

The parties conferred about how to process the matter and agreed that a comment deadline of June 6, 2016, under Modified Procedure, would be appropriate. The parties also agreed to a deadline of June 17, 2016, for Idaho Power to reply, if necessary. The parties did not reach clear consensus on two remaining issues.

² Idaho Power has submitted a copy of the Agreement as an attachment to its Application.

1. ICIP Response to Staff Comments. ICIP indicated it would like to “reserve the opportunity to reply” to Staff comments at the same time as Idaho Power. ICIP requested that “a reply comment opportunity be equally available to all parties who believe reply comments would be helpful to the Commission in its deliberations.”

Because Idaho Power has the burden of proof, the Company stated that it would like a week to file any response to ICIP’s response.

Staff does not oppose ICIP responding to Staff comments. However, Staff observes that the Commission’s rules concerning Modified Procedure do not contemplate a response to Staff comments other than the Applicant’s reply. Staff therefore recommends that deadlines for such responses not be incorporated into a Notice of Modified Procedure at the outset of this or future cases. Staff proposes that, if ICIP wishes to respond to Staff’s comments, ICIP should request such opportunity at that time. Staff agrees that Idaho Power has the burden of proof and should therefore have the opportunity to respond to ICIP’s response, if the Commission grants ICIP’s request.

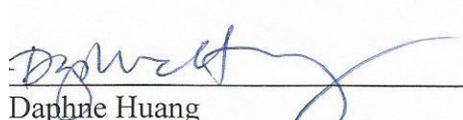
2. Public Hearing. In its Application, Idaho Power noted *Idaho Code* § 61-328(2) provides that the Commission “shall conduct a public hearing on the application.” Idaho Power believes that a hearing is not necessary to consider the transaction here. Application at 4. However, the Company stated that if “the Commission determines that a technical hearing is required, the Company stands ready to present testimony and support the Application in such hearing.” *Id.* at 4.

Staff agrees that Modified Procedure is sufficient to adequately create a record on which the Commission can decide the Application. Staff believes a public hearing is not necessary to decide the issues before the Commission, and that it would be appropriate to give notice that a public technical hearing will be conducted upon any request made on or before the date of Idaho Power’s final filing. In the event no such request is made, a public hearing could be waived in the interest of “judicial economy” – in other words, to save unneeded and wasteful expense.

ICIP’s position was that it “defer[s] to the Commission’s reading of the statute as to whether a hearing is needed.” ICIP added that it, “defer[s] to the Commission on the question of the necessity for a hearing only to the extent the Commission complies with all of the statutory requirements for electric utility asset transfers.”

COMMISSION DECISION

1. Does the Commission wish to issue a Notice of Application and Notice of Modified Procedure with a deadline of June 6, 2016 for comments, and a deadline of June 17 for the Company's reply, if any?
2. Regarding a response by ICIP to Staff comments, does the Commission wish to:
 - a. set a deadline of June 17, 2016, for ICIP to respond to Staff comments, and June 24 for Idaho Power's response thereto? or
 - b. indicate that, if ICIP believes it necessary to respond to Staff comments, ICIP may file a motion to do so after Staff's comments are filed?
3. Regarding a public hearing, does the Commission wish to:
 - a. set a deadline of June 17, 2016 (or the date of Idaho Power's last filing) for requests for a public technical hearing, and indicate that such hearing is otherwise waived in the interest of avoiding unnecessary, wasteful expense? or
 - b. set a hearing?



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