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Attorney for the Commission Staff

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER	)	
COMPANY'S REQUEST TO TRANSFER TITLE	)	CASE NO. IPC-E-16-07
OF MOBILE HOME METER PEDESTALS <sup>1</sup>	)	
	)	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, Daphne Huang, Deputy Attorney General, submits the following comments.

### BACKGROUND

On April 12, 2016, Idaho Power Company ("Idaho Power" or "Company") asked the Commission to approve its transfer of 18 meter pedestals in the Mobile Manor mobile home park, pursuant to *Idaho Code* § 61-328.

Before March 31, 1981, Idaho Power installed, owned, and maintained mobile home pedestals<sup>2</sup> 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

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<sup>1</sup> The caption has been corrected to reflect that the Company seeks approval to transfer mobile home meter pedestals, but not all the pedestals in Mobile Manor.

<sup>2</sup> Pedestals are comparable to meter bases attached to buildings, but are customer-owned. Application at 2.

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.*

Idaho Power entered into a Transfer of Title Agreement,<sup>3</sup> to transfer, convey and assign 18 meter pedestals owned by Idaho Power in Mobile Manor mobile home park in Bannock County, Idaho, to Kathleen C. Parrish. 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, the property owners 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.” *Id.* at 3.

## STAFF ANALYSIS

The Commission has authority and jurisdiction to supervise and regulate every public utility in Idaho. *Idaho Code* § 61-501. Specifically, the Commission has the power to investigate a contract of an Idaho utility. *Idaho Code* § 61-503. Idaho Power’s Application seeks approval of its Agreement with Ms. Parrish, under *Idaho Code* § 61-328. Application at 1. However, the Commission has recently determined that Section 61-328 does not apply to transactions such as the transfer of assets here.

In 2015, Idaho Power asked the Commission to approve a sale of its assets used solely by the Federal Bureau of Investigation (FBI), to the FBI. In its Order on Reconsideration in that matter, the Commission determined, “*Idaho Code* §§ 61-327 and 61-328 do not apply where the [utility’s property being sold] is not already used to serve the public or a portion thereof.” Order No. 33514 at 9. The Commission observed that “the public or a portion thereof” does not contemplate situations in which utilities services are offered “to one person or corporation under a contract.” *Id.*, citing *Humbird Lumber Co. v. Idaho PUC*, 39 Idaho 505, 511, 228 P. 271, 273 (1924). The facts in the FBI case are similar to those here, where Idaho Power seeks to transfer

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<sup>3</sup> Idaho Power has submitted a copy of the Agreement as an attachment to its Application.

its meter pedestals not used to serve the public or a portion thereof, to one person under a contract.

In the FBI case, the Commission determined that the factors set forth in Section 61-328, although they do not strictly apply, have proven effective for “protecting the public interest and ensuring that ratepayers will not be harmed” by such transaction. Order No. 33514 at 9, *citing* Order Nos. 32624, 29864, 25241. The Commission therefore found it appropriate to consider Section 61-328(3) “as guidance when evaluating a utility’s proposal to transfer assets that historically have been devoted to serving only a single customer.” Order No. 33514 at 9. Accordingly, Staff has applied Section 61-328 as guidance here, to evaluate whether the public interest is protected, and whether ratepayers are harmed.

Section 61-328 sets forth the following considerations: that (a) the transaction is consistent with the public interest, (b) the cost of and rates for supplying service will not be increased by reason of the transaction, and (c) the applicant acquiring the property has the bona fide intent and financial ability to own and maintain the property in the public service. The third factor does not apply because the property is not and would not be maintained in the public service, upon the transfer to Ms. Parrish. *See* Order No. 33514; Application at 3. Staff’s review considers the first two factors from Section 61-328.

#### 1. Consistent with the public interest

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 Ms. Parrish the owner of these lots will own these pedestals as do other mobile home owners who established service after 1981. Application at 3. Staff notes the Commission has found that utilities are free to contract, and the Commission has no authority to infringe on utilities’ right to contract unless doing so is contrary to the public interest. Order No. 33514 at 7, *citing Afton Energy v. Idaho Power Co.*, 111 Idaho 925, 928, 729 P.2d 400, 403 (1986). Upon Staff’s review of the Application and additional information provided by the Company, Staff has no basis to conclude Idaho Power’s Agreement with Ms. Parrish is contrary to the public interest.

Also, Idaho Power intends to upgrade the 18 meter pedestals before transferring title, at no cost to Ms. Parrish. Application at 2-3. The Company states, “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.* “[B]ecause the transaction reduces Idaho Power’s costs of maintenance, the Company’s expenses will decrease in the long term.” *Id.*

Staff has reviewed the Operation and Maintenance (O&M) expenses associated with the meter pedestals installed prior to March 31, 1981, including the 18 meter pedestals at issue here. In 1993, the Company spent \$41,000 a year to maintain its 8,949 meter pedestals. By 2012, some components were no longer available, so replacement parts had to be fabricated to maintain the equipment. The Company estimates the cost to upgrade each meter pedestal is \$1,700, while the actual value of the meter pedestal being transferred is about \$454.45.

Although there is a cost to Idaho Power to upgrade the meter pedestals, the Company would no longer be responsible for any future operating or maintenance expenses. Staff believes the upgrades are necessary to ensure Ms. Parrish is able to maintain the equipment after taking ownership of the meter pedestals, and is reasonable and appropriate to avoid the future cost — to Idaho Power and its customers — of replacing the meter pedestals. Upon Staff’s review, and in accordance with Order No. 33514, Staff believes the Agreement here is consistent with the public interest.

## 2. No increase to cost and rates

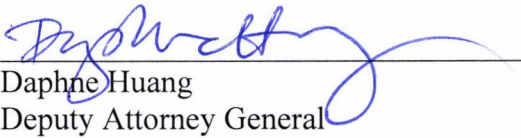
The Company’s proposed accounting treatment will retire the existing pedestals in plant-in-service of \$1,850 by reducing the plant and reducing accumulated depreciation. This is typical accounting treatment when plant is retired. The upgrades (approximately \$1,700 per unit or \$31,000) will also be removed from plant in service and accumulated depreciation. These rate base amounts net to zero and therefore do not affect current rates charged to other customers.

Companies are required to periodically submit depreciation studies to the Commission for review and approval. Retiring plant before and after its estimated life (which is used to calculate depreciation expense) is part of the evaluation to determine if depreciation rates should be revised going forward. When the plant is not fully depreciated, the group depreciation rate for all pedestals will increase slightly over the average remaining life of the group due to the early retirements. The amounts in this case would not materially impact depreciation expense rates proposed as a result of the Company’s depreciation studies. The annual depreciation expense no longer incurred due to the proposed transfer is less than \$50 and does not impact rates charged to other customers.

## RECOMMENDATION

Staff believes the agreement between Idaho Power and Ms. Parrish is appropriate on consideration of the relevant factors in *Idaho Code* § 61-328. Staff thus recommends that the Commission approve the transfer of the 18 meter pedestals as proposed by the Company.

Respectfully submitted this 6<sup>th</sup> day of June 2016.

  
Daphne Huang  
Deputy Attorney General

Technical Staff: Rick Keller  
Patricia Harms

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 6<sup>TH</sup> DAY OF JUNE 2016, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF** IN CASE NO. IPC-E-16-07, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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