(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR AUTHORITY TO DISCONTINUE ITS INDUSTRIAL CONSER­VATION PROGRAM FOR SCHEDULE 19 CUSTOMERS AND SPECIAL CONTRACT CUSTOMERS. | )  )  )  )  )  )  ) | CASE NO.  IPC-E-96-22  ORDER NO.  26753 |

On November 1, 1996, the Idaho Power Company (Idaho Power; Company) filed an Application for authority to terminate its Partners in Industrial Efficiency (PIE) conservation program for its large industrial and non-industrial customers in Idaho taking service under Schedule 19 and for its special contract customers.

Idaho Power states that since the implementation of the PIE program, several large industrial and non-industrial customers have commented that programs of this type should be discontinued because they simply add to deferred costs and increase the cost of power over time.  Idaho Power further contends that in the Commission’s recent restructuring case (Case No. GNR-E-96-1) comments were received from various parties, including representatives from large industrial customers, to the effect that conservation programs benefitting large customers should be discontinued.  The Company believes that industrial customers are primarily interested in the lowest possible rates and that any costs included in those rates should be examined in light of events which are occurring on the national level.

The Company notes that its current PIE program involves the payment of grants to partially cover the costs of installing energy efficient equipment with recovery of the grant costs occurring over an extended period of time.  These payments, which have been deferred for future recovery, are classified as regulatory assets and, consequently, are included in the category of potentially stranded assets if deregulation of the generation function of regulated electric utilities were to occur, Idaho Power contends.  The Company further argues that changes are occurring in the marketplace that lessen the need for the PIE program.  Several of the technologies funded through PIE are now becoming commonly used by Idaho Power’s industrial customers including efficient lighting measures, variable speed drives and more efficient refrigeration technologies.

In light of comments from the Company’s large customers, and to avoid issues of further recovery of DSM expenditures, and based upon changing market conditions, Idaho Power argues that it is in the public interest for the Commission to allow the Company to discontinue the PIE program.  Idaho Power does not propose to offer a new conservation program in lieu of the PIE program nor does it intend to process new PIE proposals while this Application is being considered by the Commission, although the Company reserves the right to offer customized services to a particular customer both now and in the future.  Direct expenditures involved in providing those customized services, however, would be a cost of providing a service to that particular customer and would be recovered directly from that customer.

On November 14, 1996, the Commission issued a Notice of Modified Procedure soliciting comments in response to the Company’s Application.  Comments were submitted by the Commission Staff, Weight Watchers Food Company, the Industrial Customers of Idaho Power, the College of Southern Idaho, and the One Capitol Center.

Commission Staff

Staff agrees that as the market price of energy has declined, the overall economic justification for the PIE program has also diminished.  While Staff shares the Company’s concern about the potential for stranded investment and the cost effectiveness of the incentives provided under the program, Staff is also concerned about the loss of unquantified societal benefits that will occur when this program, and others like it, are terminated.  Staff does not offer any specific proposals, at this time, for dealing with the loss of programs such as PIE.

Staff is also concerned about the manner in which the Company proposes to handle the termination of this program.  The Company’s Application indicated that nine applications for participation in the program had been received but not approved.  Idaho Power indicated that it intended to “suspend processing” of these applications, effectively precluding these applicants from participation in the program.

Staff was contacted by one of the applicants, the Idaho State University (ISU), which had purportedly proceeded on the basis of verbal assurances that contract signing was imminent, and in a desire to complete the project before winter, ISU had purportedly incurred significant obligations.  Staff made an informal inquiry on behalf of ISU and was informed that Idaho Power had decided to suspend processing of all applications not executed as of November 1, 1996 and, that unless the Commission were to direct otherwise, the Company did not expect to fund ISU or the other eight projects pending at that time.  Staff has subsequently learned, however, that Idaho Power reviewed the communications between itself and ISU and confirmed that it had in fact given verbal, as well as written, authorization to proceed.  Consequently, the Company has decided to approve ISU’s application and to fund that project.  Staff has been assured by the Company, however, that none of the other eight pending projects were given authorization to proceed, nor had they incurred significant obligations for the work identified in their applications.  The Company does not intend to fund those projects.  Staff also expressed concern about the apparent lack of notice given to affected customers as evidenced by the comments received by One Capitol Center discussed below.

In addition, Idaho Power indicates that, with the exception of customized services offered to a particular customer, the Company does not intend to offer a program in replacement of PIE.  Staff acknowledges that with Company’s current resource position and the prevailing prices for alternate supplies it is difficult to economically justify any expenditures for near term, electrical energy savings.  Staff supports the Company’s desire for flexibility to provide demand side services in those instances in which such services may be appropriate.  Staff is concerned, however, that the lack of general terms and conditions applicable to all customers may lead to special treatment for some.  Staff believes that general guidelines could be developed with terms that are cost effective and which protect the Company from stranded investments.

In conclusion, Staff supports the Company’s decision to terminate the program but recommends changes to the manner in which the program is terminated.  Staff proposes that the remaining eight customers who had submitted applications to the Company prior to November 1, 1996 (the filing date) be provided an opportunity to participate in the program.  Staff further asserts that the Company should provide the applicants with an additional 60 days to address any deficiencies that Idaho Power has identified or identifies upon review of those applications.  The applicant should then be provided with a reasonable time period, at least six months after a program agreement is executed, to complete the improvements identified in the applications.

In order to minimize the risk of stranded investments, Staff recommends that the contracts for all future participants, including ISU and the eight other pending applications, include language that requires reimbursement of the incentives provided by the Company if the customer chooses to obtain its electricity from another supplier in the future.  Such language should include a schedule in which the amount of the reimbursement required declines for each year that the customer continues to purchase its electricity from Idaho Power.

Additionally, Staff recommends that the Company be directed to develop and provide to the Commission the general terms and conditions that would apply to the “customized services” the Company might provide to its industrial customers.  This information should be submitted to the Commission within 90 days.  In addition, after review by the Commission, the Company should notify all customers eligible for the PIE program of the availability of these “customized services,” and the terms and conditions under which such services would be provided.

Weight Watchers Food Company

Weight Watchers operates a manufacturing facility in Pocatello and is one of the eight other pending applications under the PIE program referred to by Staff.  Weight Watchers states that it submitted an application to Idaho Power on August 30, 1996 for assistance through the PIE program and that it subsequently “invested much time and capital for pre-engineering” on the assumption that Idaho Power would assist in funding the project.  Weight Watchers requests that its application be honored by the Company.

Industrial Customers of Idaho Power (ICIP)

The ICIP echoes Idaho Power’s concern that uneconomic investments on the Company’s part will contribute to stranded costs and that such investments must cease in order to prepare the utility for competition in the future.  While the ICIP endorses the Company’s request to terminate the PIE program, it also takes exception with the Company on several points.

First, ICIP contends that Idaho Power has failed to offer any quantification of stranded costs nor any yardstick or methodology for measuring those costs.  Terminating the PIE program based on the assertion that its costs contribute to stranded investment, ICIP states, would be arbitrary.  ICIP further contends that while certain large industrial customers may advocate that conservation programs be implemented on a pay as you go basis, it contends that elimination of such a program should not be based on vague references to “comments” from Idaho Power’s large customers.  Along these lines, the ICIP urges the Commission to require Idaho Power to document its alleged stranded costs for examination by all parties.

Second, ICIP suggests that Idaho Power has singled out the PIE program elimination without reference to the Company’s other ongoing conservation programs.  ICIP suggests that the elimination of the industrial program without the concurrent elimination of the Company’s other programs means that the industrial class will be in the position of paying for conservation programs for the Company’s other classes without being able to directly benefit from those programs.  To remedy this perceived inequity, the ICIP suggests that one solution would be to simply to eliminate all Idaho Power conservation programs.  In the alternative, the Commission could establish a “wall” insulating industrial customers from responsibility for any future conservation costs.

Third, the ICIP recommends that should the Commission terminate the program, Idaho Power should be required to honor those commitments it has already made to certain industrial customers.  The ICIP contends that grandfathered status should be made available to those customers who have initiated the process (but have not yet filed an application) if they expended time and effort to prepare the data necessary for submission of an application.

Finally, the ICIP contends that it is necessary for the Commission to develop a record upon which it may discontinue Idaho Power’s conservation programs.  The ICIP suggests that the Company’s filing falls far short of such a record.

College of Southern Idaho (CSI)

CSI states that it installed a pump on its geothermal heating water system through the PIE program but that it has no objection to the termination of the program itself.  CSI supports some type of agreement that would help protect the Company from any new PIE contracts becoming stranded assets if deregulation should occur.  CSI suggests that if a customer with a new PIE contract should purchase energy from another supplier within five years, it would reasonable that a prorated amount of the contracted cost to Idaho Power be returned over a period of time.

CSI also suggests that it is inappropriate to discontinue the PIE program on the basis that “some” of Idaho Power’s large industrial customers support such a policy.  CSI also proposes that all customer proposals submitted to the Company under the PIE program previous to the effective date, or at least up to the filing date of the Company’s application, should be considered for imple­men­ta­tion since such customers may have planned, budgeted and incurred costs based on a program whose existence they were led to believe would continue.

One Capitol Center/Simplot(OCC)

OCC states that on September 20, 1996 it filed an application with Idaho Power for participation in the PIE program.  OCC states that it is concerned regarding how the Company intends to proceed with respect to its application and recommends that the Company be required to honor those PIE applications that were submitted prior to November 1, 1996.  OCC states that it has been working with Idaho Power in a good faith effort for several years and that Idaho Power representatives recently offered the assurance that the Company’s customers would be given a minimum of 30 days advanced notice to submit their applications and that the Company would process those applications according to the terms of the existing program.

The OCC notes that in terminating its Good Sense program and the Manufactured Home program, Idaho Power honored those projects in process and gave notice of the program’s termination to customers and manufacturers prior to any cut off date.  OCC believes that it is reasonable for participants in the PIE program to expect similar procedures.  OCC contends that “to change direction in mid-stream with pending PIE applications would represent a breach of confidence and commitment on Idaho Power’s part.”

Idaho Power Response

On December 17, 1996, Idaho Power filed a Response to the comments submitted by the various parties.  First, Idaho Power asserts that an evidentiary proceeding is not required before discontinuing the PIE program.  In response to the ICIP’s call for a clarification of the concept of stranded costs, the Company notes that investments made in the PIE program are capitalized and amortized over a 24-year period and are clearly included in the category of “potentially stranded costs” if deregulation of electric industry were to occur.  Furthermore, the Company notes that the concept of stranded costs was addressed in the Commission’s generic electric restructuring case (Case No. GNR-E-96-1).  Idaho Power contends that it is “not necessary to identify the dollar amount of potentially stranded assets at this time.”

Idaho Power challenges the ICIP’s assertion that industrial customers have been treated discriminatorily because their conservation program is being eliminated while others continue in existence.  Idaho Power notes that it recently discontinued the Good Cents program which provided conservation funding for residential customers.  Idaho Power states that with the exception of the Manufactured Home Acquisition program, which is winding down, there is no current ongoing residential program managed by the Company involving the deferral of expenditures.  Idaho Power notes that the PIE program, since its implementation, has provided selective treatment to Idaho Power’s industrial customers.  The Company contends that to now argue that discontinuance of that very program is somehow selective or discriminatory is neither logical nor accurate.

Idaho Power concedes that the issue of whether to afford grandfathered status to certain customers under the PIE program is more difficult to resolve.  The Company states that its decision to suspend processing PIE proposals was not an easy one to make.  Contrary to the Staff’s assertions that nine applications for participation in the PIE program have been received but not approved, Idaho Power notes that it is simply aware of nine customers that were in the various stages of the PIE application process.  These stages, in fact, range from formal applications having been filed to the Company being aware that customers were giving consideration to filing an application.  Idaho Power states that on the date of its filing, it had four applications pending including that of Idaho State University which the Company has agreed to process.

Idaho Power believes that there must be some finality to the termination of the PIE program and that the ICIP’s suggestion that any customers who had “initiated the process” but not yet filed an application be grandfathered is unreasonable.  Idaho Power argues that a bright line is required so that the Company will not be subjected to the claim, as well as potential litigation, regarding whether a proposed project is entitled to some undefined grandfathered status.

Regarding the three pending applications, other than ISU’s, Idaho Power notes that the total funding requested is $339,332.  The Company believes that Staff’s proposal that these customers be required to pay the unamortized balance of the Company’s investment if they leave the system provides “some protection.”  Idaho Power states that customers should also be required to agree through their PIE contracts to remain customers of the Company for at least five years.

Regarding the application of One Capitol Center, Idaho Power notes that while the application was signed and dated September 17, 1996, it is based upon an analysis dated September of 1993.  Idaho Power argues that the analysis submitted by OCC is antiquated and the Company should be entitled to reject the application.  If not rejected, the Company will be required to retain consultants to determine whether OCC’s proposed project meets program requirements.  The Company contends that the other two applications (Weight Watchers and College of Southern Idaho) present the same problem although the information contained in those applications is more current.  The Company states that analyses will have to be performed to determine whether the proposed projects meet PIE requirements.

Regarding Staff’s recommendation that the Company develop and submit guidelines for a customized services offering, Idaho Power contends that such a requirement is not feasible.  The Company contends that a customized program, by its very nature, is unique to the particular customer.  In any event, the Company states that, except for unique situations, it will not participate in a utility-specific DSM program until the future of the electric industry is more clear.  The Company will be filing for approval of its participation in the Northwest Energy Efficiency Alliance Conservation Program and funding for that program.

Supplemental Comments of Commission Staff

On December 18, 1996, the Commission Staff filed supplemental comments.  Staff states that Idaho Power’s response comments contained new information and/or raised new issues.  First, Staff states that its original recommendation to discontinue the PIE program (with grandfathered status offered to those customers who have already applied) was premised on the assumption that by offering “customized” services, the Company still considered DSM a viable resource for its large industrial customers.  Based on Idaho Power’s response, this is clearly not the case.  Response of Idaho Power at pp.  10-11.  Staff is uncomfortable with a complete abandonment of DSM for large industrial customers particularly in light of the current movement in the Pacific Northwest for a regional implementation of DSM.

Staff further notes that in Idaho Power’s response, the Company indicates that it intends to come before the Commission seeking recovery through some as of yet unidentified mechanism of DSM investment.  Staff points out that it has long encouraged the Company to consider alternative forms of recovery for DSM including the use of a surcharge.  Staff argues that it would be premature to abandon large industrial DSM until the Company’s recovery proposal has been received and reviewed.

F I N D I N G S

We hereby approve Idaho Power’s Application to terminate the PIE program.  This Commission supports  investment in conservation and renewable-based resources.  The social value of such programs, while difficult to quantify, is undeniable.  The electric industry is, however, in the midst of fundamental change.  Idaho’s regulated electric utilities will face the challenges of at least partial deregulation and competing in a more open market with other providers including utilities and independent power producers.  Funding for the furtherance of social objectives such as DSM programs must be reexamined and structured in a competitively neutral manner.  There is no doubt that, as a society, we must continue to invest in those energy resources that have the least impact on the environment as well as on ratepayers’ pocketbooks.  The problem of determining how to promote investment in socially desirable activities such as DSM programs is becoming increasingly complicated and is currently under examination throughout the nation.  In particular, the Northwest Energy Efficiency Alliance is studying how the region’s electric suppliers can and should make energy efficiency an integral part of the market as the industry is restructured.

In the meantime, we find that Idaho Power has shown good cause for us to allow the termination of the PIE program.  While it questions the existence and/or magnitude of Idaho Power’s supposed stranded costs, and though it seeks special consideration for select customers within its group, we consider it significant that the ICIP supports the Company’s efforts to terminate the PIE program.  Because Idaho Power does not have in place a tariff surcharge similar to that approved for The Washington Water Power Company, Idaho Power faces some degree of risk that any investment it makes in DSM programs will not be recovered, if partial or full deregulation occurs and some of the Company’s industrial customers leave the system.  We agree with the Company that this is not an opportune time for it to be creating regulatory assets of this nature.  Consequently, and given the fact that the very customers that the PIE program was designed to benefit support its termination, we find that it is reasonable to allow Idaho Power to terminate the PIE program.

In reaching our decision to terminate the PIE program, we are mindful of the fact that there may be industrial and/or special contract customers who have expended resources in preparing a PIE application on the assumption that the program would continue to be offered.  As an accommodation to those customers, we find that it would be reasonable to require Idaho Power to accept and process, in the normal course, all applications for PIE funding received within two weeks of this Order.  This would allow those customers who are on the cusp of filing an Application to do so, but would provide the Company with a reasonable cutoff date for its program.  We find that it would be reasonable for Idaho Power to include in any PIE contracts the requirement that in the event the customer leaves Idaho Power’s system before the PIE expenditure is amortized, the customer is required to refund to the Company all of the unamortized portion of the funding provided by Idaho Power to that customer under the PIE program.  We do not find that it would be reasonable, as proposed by the Company, to require the customer to contractually obligate itself to remain a customer of Idaho Power for any length of time.  Furthermore, we do not agree with the Staff’s proposal to require the Company to specify any customized services it might make available to its industrial customers in the future.  Such offerings must, by their very nature, be customer-specific and any attempt to define them at this juncture would be premature.

Finally, we wish to add that by this Order, we are not reversing the Commission’s historical commitment to the value of conservation.  We are simply recognizing that the manner in which it is implemented is changing in light of the restructuring of the electric industry.

O R D E R

IT IS HEREBY ORDERED that the Application of Idaho Power Company to terminate its Partners in Industrial Efficiency Program is hereby approved subject to the terms and conditions set forth in this Order.

THIS IS A FINAL ORDER.  Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No.  IPC-E-96-22 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No.  IPC-E-96-22.  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                  day of January 1997.

                                                                                                                                      RALPH NELSON, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

January 13, 1997