CONFIDENTIAL MEMORANDUM

(Attorney Work Product)

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

FROM:BRAD PURDY

DATE:MAY 7, 1997

RE:CASE NO. IPC-E-96-22;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.

On February 28, 1997, the Commission issued Order No. 26818 granting the Industrial Customers of Idaho Power’s (ICIP) Petition for Reconsideration of Commission Order No. 26753 terminating Idaho Power Company’s (Idaho Power; Company) Partners in Industrial Efficiency (PIE) conservation program.  The Commission directed the parties to submit briefing on the following issues:

(1)Does the Commission’s decision whether to terminate Idaho Power’s PIE program necessitate a review of that utility’s stranded costs?

(2)If the PIE program is terminated, should the industrial class be insulated from responsibility for paying rates that help to fund other conservation programs?

(3)Is there an adequate factual basis in the record for supporting the termination of the PIE program?

Briefs were submitted by the ICIP, Idaho Power and the Commission Staff.

I.

Does the Commission’s decision whether to terminate Idaho Power’s PIE program necessitate a review of that utilities stranded costs?

ICIP

The ICIP notes that the Commission has never identified or defined the terms “stranded costs” or “stranded assets.”  Furthermore, the ICIP contends the Commission has never created a ratemaking category known as “potentially stranded assets.”  The ICIP argues that all of Idaho Power’s assets are potentially stranded.  The ICIP believes that there is nothing in the record of this proceeding that would permit the Commission to single out the PIE program as potentially stranded.  Indeed, the PIE program could turn out to be a below market resource, the ICIP asserts.

The ICIP objects to what it characterizes as a “piecemeal” or “ad hoc” approach to stranded asset identification.  Labeling the PIE program as a potentially stranded asset, the ICIP suggests, simply lends no support for its termination because that term is meaningless in distinguishing the PIE assets from any other Idaho Power asset.

The ICIP concludes that the only way the PIE program may be terminated on the basis that it is a stranded asset would be for the Commission to first define that term and then for the Commission to classify all of Idaho Power’s assets as either stranded or not stranded.

Idaho Power

Idaho Power asserts that it is not necessary to identify the dollar amount of potentially stranded assets at this time.  It is only necessary to recognize that ceasing the deferral of costs reduces the size of the regulatory asset, which in turn reduces the amount of any potential stranded costs.  The Company concludes that “an evidentiary proceeding on this issue is not required for the Commission to make this determination.”  Idaho Power notes that its Application in this proceeding only seeks to discontinue adding to the deferred amount at a time when the Company, interested parties and the Commission are confronted with the restructuring of the electric industry.  The exact computation of the stranded asset is not required at this time, the Company contends, only a recognition that there is a potential for the existence of stranded assets.

Commission Staff

Staff states that while there has been no definitive analysis conducted in this case concluding that Idaho Power will have energy production costs stranded on an average system basis in a deregulated market, nonetheless, such an analysis is unnecessary to the Commission’s decision whether to terminate the PIE program and is beyond the scope of this case.

The foregoing notwithstanding, Staff notes several concerns about stranded costs.  First, Staff believes the primary reason PIE program costs will be potentially stranded is because of the program’s cost recovery mechanism; not the cost itself.  In the PIE program, all program costs, except administrative, are capitalized and deferred for future recovery.  This requires a long-term commitment from the Company and its ratepayers for cost recovery.  In a deregulated market, however, the repayment commitment of ratepayers is threatened because ratepayers would no longer be captive.  The surest way to eliminate the stranded cost potential, Staff contends, is to eliminate the costs entirely by eliminating the conservation program.  Another alternative, however, would be to continue the program but to require future participants to repay any unamortized portion of the Company’s investment if they later leave the system.  Another way to eliminate the risk of stranded costs is by expensing the conservation program costs in the year they are incurred.  This has the consequence, however, of requiring today’s ratepayers to pay for the energy conservation benefits enjoyed by future ratepayers.  Despite this drawback, Staff recommends expensing costs if the decision to terminate PIE is reversed.

II.

If the PIE program is terminated, should the industrial class be insulated from responsibility for paying rates that help to fund other conservation programs?

ICIP

The ICIP argues that the PIE program is one of Idaho Power’s most cost effective conservation programs.  The ICIP notes that Idaho Power supports the termination of PIE on the basis that the industrial customers are more interested in securing lower rates than they are in investing in potentially stranded assets.  The ICIP contends, however, that forcing the industrial class to pay for non-industrial conservation, while terminating industrial conservation programs, defeats Idaho Power’s stated goal and is not beneficial to the industrial class as a whole.  The ICIP contends that if the Commission’s intent is to cease creating regulatory assets that are assigned to the industrial class, then the Commission should do so by insulating the industrial class from such assets that are specifically designed to benefit other classes of customers.  The ICIP concludes that it is “patent discrimination” to terminate the PIE program without also either terminating all other conservation programs or, at a minimum, insulating the industrial class from responsibility for those programs.

Idaho Power

Initially, Idaho Power notes that Schedule 19 and special contract customers can continue to participate in the commercial lighting program which the Company has not yet proposed to terminate.  With termination of the PIE program, Idaho Power notes, Schedule 19 customers will be on the same footing as Schedule 9 and Schedule 7 customers insofar as lighting retrofit projects are concerned.  Idaho Power concludes that “no discrimination will exist under any theory the industrial customers attempt to conjure up.”  Idaho Power notes that many of the Schedule 19 customers participated in the lighting retrofits under the PIE program due to the fact that the incentive payments in that program were larger.  Thus, Idaho Power contends, using the industrial customers’ logic, the industrial customers that participated in PIE actually did so to the disadvantage to the Schedule 7 and Schedule 9 Idaho Power customers.

Commission Staff

Staff states that DSM program costs have always been shared by all customer classes regardless of which specific customer class a particular program is intended to serve.  In terms of resource procurement, Staff believes, the acquisition of demand side resources has been viewed no differently than the acquisition of supply side resources, assuming comparable costs.  Consequently, the acquisition of DSM has been assumed to benefit all customers.  Staff believes this assumption is still valid.

III.

Is there an adequate factual basis in the record for supporting the termination of the PIE program?

ICIP

The ICIP argues that there is nothing in the record supporting the termination of the PIE program.  There is nothing in the record, the ICIP further asserts, supporting a finding that the PIE program contributes to stranded costs or that the PIE program is not cost-effective.  Moreover, the ICIP states, nothing in the record supports a finding that the PIE program has served out its useful life or that it has saturated the market or is no longer is used and useful.

Idaho Power

Idaho Power contends that an evidentiary proceeding is not required in this case.  One simply need to review the prayer of relief set forth in the Petition for Reconsideration filed by the ICIP to conclude that the Petition should be rejected: (1) the industrial customers currently have a conservation program that they may participate in, (2) the expenditures for past conservation PIE programs were very advantageous to the Schedule 19 customers, and (3) any determination as to how the prior expenditures of conservation programs will be funded, if different that the current 24-year deferral period, does not have to be determined at the time a particular conservation program is discontinued.

Commission Staff

Staff believes the record is adequate.  The key issue in this case, Staff argues, is whether investments made in the PIE program will be recoverable in the future.  Staff notes that the Commission’s Order terminating PIE simply acknowledges the risk that PIE program costs may not be recovered if deregulation occurs.  Staff believes that recognition of this general and obvious risk can certainly be made based on the record in this case.  The Commission never specifically found that PIE program costs will, in fact, become stranded as the ICIP implies in its Petition.  Staff believes that the ICIP is making the questionable argument that the record does not support a finding which the Commission never actually made.

Staff also points out that as the Commission considers whether to implement a public purposes charge to fund Idaho Power’s participation in a regional conservation effort, it is critical, in terms of timing, that decisions regarding Idaho Power’s existing, DSM programs be made as soon possible.

Commission Decision

How does the Commission wish to rule on the ICIP’s Petition for Reconsideration?

Brad Purdy

vld/M:IPC-E-96-22.bp3