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

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| IN THE MATTER OF THE IDAHO POWER COMPANY’S APPLICATION FOR AUTHOR­ITY TO IMPLEMENT A PUBLIC PURPOSES CHARGE TO FUND THE COM­PANY’S PAR­TICIPATION IN THE NORTHWEST ENERGY EFFICIENCY ALLIANCE. | )  )  )  )  )  )  ) | CASE NO. IPC-E-96-26  ORDER NO.  27200 |

On September 4, 1997, the Commission issued Order No. 27124 granting, in part, the Industrial Customers of Idaho Power’s (ICIP) Petition for Reconsideration of Order No. 27045, issued in this case on July 16, 1997, in which the Commission denied Idaho Power Company’s Application for the immediate implementation of a public purposes charge but approved the Company’s participation in the Northwest Energy Efficiency Alliance (NEEA) and authorized the Company to capitalize and defer  the recovery of its investment in NEEA until additional data regarding the prudence of the various NEEA programs is available.  The Commission also granted Idaho Power the opportunity to submit evidence regarding its cross-petition for reconsideration in which it contends that the Commission erred in its ruling that the Company should defer recovery of its NEEA investment rather than collecting from ratepayers on a pay as you go basis.

At the request of the ICIP’s Petition, the Commission provided an opportunity for the ICIP and all other interested parties to prefile direct testimony and exhibits setting forth their position in regard to Idaho Power’s NEEA involvement.  The ICIP, along with Idaho Power, have stipulated to the submittal of this case to the Commission for a decision without the need to conduct a hearing and cross-examine witnesses.  Set forth below is a summary of the testimonies filed in response to the Commission’s Order No. 27124.

The ICIP

The ICIP filed the testimony of Dr. Dennis Peseau, who urges the Commission to reject Idaho Power’s Application in its entirety on the basis that the Company’s proposal (1) has a complete lack of customer representation and accountability; (2) has no defined allocation of costs to programs, no similar budget nor any prediction of the cost/benefit analysis; (3) launches a new bureaucratic effort that is completely contradictory to the movement throughout the US toward competitive electric markets, and; (4) creates stranded costs for low-cost Idaho Power that can be avoided without harm to customers or shareholders.

Peseau argues that NEEA does not provide for customer representation because the board is composed of BPA and public power interests, investor-owned utilities and non utility parties but not customer class representatives.  He asserts that NEEA will be governed by political rather than economic or market goals and that programs and dollars will be spread around to make public interest groups happy based on the perceived clout or influence of such groups rather than based on a hard-nosed analysis of the economic impact or benefits of the proposal.

Peseau contends that NEEA lacks an organized plan.  Without budgets, cost estimates and estimated benefits, he contends that it is not prudent to allow Idaho Power to continue participating in the organization.

Peseau also argues that NEEA is inconsistent with merging competition and open access in the electric industry.  He states that efficiency in the allocation of appliances or other resources is never obtained through mechanisms independent of cost and profit considerations.

Finally, Peseau contends that NEEA creates stranded costs.  He recognizes that Governor Batt has already signed the NEEA memorandum of agreement but argues that the Governor’s signature does not mean that the Commission should grant any type of ratemaking recovery for Idaho Power.  He notes that in Attachment 2 to Idaho Power’s Application, one of the NEEA documents recognizes that the Commission cannot preapprove the alliance or its expenditures but simply acknowledge in principal the viability of the Alliance as a reasonable expenditure of utility funds.  This is the language that the Governor agreed to and Peseau argues that the Commission should not interpret this to mean that Idaho Power should be allowed to collect any of its NEEA investment from ratepayers.  Any funding should come from shareholders.

Commission Staff

Staff initially recommended allowing for the immediate recovery of NEEA expenditures.  Staff recognizes, that as a general rule, it is not in the public interest for regulated utilities to continue to capitalize and defer their investments in programs designed to increase the efficiency of the use of electricity at this time.  Staff notes, however, that there are three factors supporting the Commission’s decision to allow Idaho Power to capitalize and defer its costs associated with NEEA.  First, there are a relatively large number of customers and intervenors who questioned the cost-effectiveness of this proposal.  Second, unlike The Washington Water Power Company’s tariff rider to recover conservation costs, which was approved by the Commission, Idaho Power’s proposal did not include a provision for ongoing review of the prudence of its NEEA costs.  Third, while the Commission clearly understands the need to deal with conservation expenditures on a timely basis, it has indicated that it needs more time and information before it can assess the prudence of Idaho Power’s participation in NEEA.  Taken together, these factors argue for the deferral of Idaho Power’s NEEA costs until their prudence can be established, Staff contends.

Idaho Power Company

Idaho Power notes that unless the Commission provides the Company with a cost recovery mechanism it finds acceptable, it is not bound to the memorandum of agreement that it signed when it began participating in NEEA.  In fact, the Company has not paid any of its 1997 funding obligation to NEEA at this time.

Idaho Power objects to the ICIP’s contention that the Company’s shareholders and not its ratepayers should fund the Company’s involvement in NEEA.  Idaho Power intends to participate in NEEA with the understanding that this is consistent with the Commission’s expressed public policy that it should do so.  In fact, the Company contends that its shareholders receive no direct benefit from conservation programs including NEEA.

Idaho Power disputes the ICIP’s contention that NEEA should be a for-profit entity subject to the normal market forces and standards.  Idaho Power contends that market transformation efforts are, by definition, interventions in the market place in an effort to effect changes to what the market itself would provide if left untouched.  Such interventions are by their very nature not profitable.  They can and should be short-term and temporary, providing impetus for change which the market itself will ultimately sustain.

Idaho Power believes that the Commission erred in authorizing the deferral of NEEA expenditures as opposed to a pay as you go recovery.  The Company agrees with those who have questioned the wisdom of acquiring deferred assets in a changing environment.

Regarding Staff’s point that there is no procedure outlined in Idaho Power’s proposal for an ongoing review of its NEEA expenditures, Idaho Power notes that programs funded by NEEA will be regional in nature and are exactly the same programs that Water Power’s contributions will fund.  Consequently, the Company argues that there should be no reason for the Commission to have more than one ongoing review of the very same programs.  Second, the Company made no specific proposal because it recognized that the Commission always has the ability to set standards it deems necessary for review of the expenditure of ratepayer funds.  Finally, the very fact that Water Power has been permitted by the Commission to recover its NEEA expenditures on a pay-as-you-go basis is justification for allowing the same treatment for Idaho Power.

F I N D I N G S

The IPIC petitioned for reconsideration of Order No. 27045 on several grounds including that the manner in which the Commission conducted a prehearing conference in this case violated due process; that the Order granting Idaho Power the assurance that prudent DSM would ultimately be recovered from ratepayers violates the Idaho Power rate moratorium and; that the deferred accounting of Idaho Power’s NEEA expenditures is not in the public interest.  Order No. 27124 granted the IPIC’s petition regarding whether the deferral of Idaho Power’s NEEA expenditures is in the public interest.  The Order denied IPIC’S petition, however, on the basis that the Commission’s Order No. 27045 does not violate the rate moratorium imposed by the Commission in an earlier Order.

Moreover, in Order No. 27124, we specifically found that due process had not been violated by the manner in which the prehearing conference was conducted.  Nonetheless, we allowed the ICIP and all other interested parties the opportunity to file testimony and exhibits setting forth their position in response to Idaho Power’s Application in this case.  The ICIP stipulated to the submission of this matter to the Commission for final decision without the need for a formal hearing. Order No. 27124 was a final Order on Reconsideration with regard to those portions of the ICIP’s petition denied by the Order.  Pursuant to Rule 14 of the Idaho Appellate Rules as well as Idaho Code § 61-627, the ICIP had until October 16, 1997, by which to file an appeal of any portion of Order No. 27124 denying the petition.  The ICIP did not file such an Appeal.  The only issue remaining for resolution at this juncture, therefore, is whether allowing the deferral of Idaho Power’s NEEA expenditures is in the public interest.  See Order No. 27124 at p. 7.

This is purely an issue based on policy.  The ICIP does not specifically contend that Order No.27045 contains erroneous findings of fact or conclusions of law.  Rather, it simply suggests that the Commission erred in its conclusion that allowing Idaho Power to ultimately recover its prudent investment in NEEA from ratepayers is in the best interest of the Company’s ratepayers.  As we noted in Order No. 27045:

This Commission has been supportive of investments made by its regulated utilities in conservation programs so long as those programs are prudent for ratepayers.  Prudent conservation makes sense from both a societal and an economic perspective.  We believe that it is one of the responsibilities of this Commission to encourage and facilitate the investment by the utilities we regulate in such programs.

Id. at p. 5.

We went on to rule that because NEEA is a relatively young organization and the various programs it proposes to fund have not yet proven their cost-effectiveness, the Company’s ratepayers would be better served if we deferred recovery of NEEA investment until after the prudence of those expenditures could be determined.  Id.

We find that the arguments advanced by the ICIP through the testimony and exhibits of Dr. Peseau are essentially a reiteration of those contained in the ICIP’s comments filed in this case on March 24, 1997.  Consequently, the ICIP has not presented any new evidence addressing the issue of whether Idaho Power’s involvement in NEEA, and subsequent recovery of its investment from ratepayers, is in the public interest.  In Order No. 27045, we noted that:

NEEA is based on the belief that by transforming markets, it is possible to achieve improvements in the efficiency of electricity use without the need for long-term utility incentives.  NEEA’s role in achieving greater efficiencies in the use of electricity has been advanced by the Comprehensive Review of the Northwest Energy System after a year-long public debate regarding the future of energy markets in the northwest.

Id. at p. 5.

We are still of the opinion that NEEA has the potential to achieve its stated goals and to provide cost effective conservation to electric users throughout the region.  Moreover, as noted in the testimony of the ICIP’s witness Dr. Peseau, Idaho’s Governor Batt signed the Memorandum of Agreement between a collaboration of interests including the governors of Idaho, Oregon, Washington and Montana indicating the Northwest’s support for the concept of a regional conservation effort.  Dr. Pesseau notes that the agreement signed by the Governor did not specify if and how Idaho Power would recover its NEEA investment.  Such matters are clearly within the exclusive province of this Commission.

Moreover, we find the ICIP’s argument that NEEA should be organized as a for-profit enterprise to be unconvincing.  As Idaho Power notes, this is inconsistent with the very concept of market transformation.  We agree with Governor Batt that a regional conservation effort is desirable for the citizens of Idaho and find that Order No. 27045 encouraging the Company’s participation in NEEA is reasonable and is hereby affirmed.  Because the Order did not allow immediate recovery of NEEA expenditures, the Company’s ratepayers are protected and will be assured that the Company’s investment in NEEA will be recovered from ratepayers only if it can be declared prudent.  In this regard, we will consider all of NEEA’s various projects as a whole rather than make a cost recovery determination on a project-by-project basis.

Regarding Idaho Power’s Cross-Petition, it would be premature for this Commission to authorize the Company to recover its NEEA investments on a pay-as-you-go basis until NEEA and its various programs have demonstrated their prudence.   In Order No.27045, we stated:

Although we deny current recovery of Idaho Power’s NEEA expenditures at this time, we believe it would be timely and appropriate to review the Company’s existing deferred DSM investment to determine whether the manner and timing of recovery is reasonable given the recent movement toward competition in the electric industry.  We encourage the Company to initiate a proceeding that would permit a comprehensive review of its existing DSM investment and recovery.  We believe that such a review would be consistent with the settlement agreement approved by the Commission in Order No.26216.

Id.  at p.6.

We find that Idaho Power’s interests have been adequately addressed.  Once more data concerning NEEA is available, the Company is free to once again approach this Commission with a proposal for the recovery of NEEA expenditures.  In the meantime, the Company is free to make a proposal regarding the recovery of outstanding DSM investment.

O R D E R

IT IS HEREBY ORDERED that the Petition for Reconsideration of the Industrial Customers of Idaho Power of Order No. 27045, to the extent not already ruled upon by this Commission, is denied as set forth above.

IT IS FURTHER ORDERED that Idaho Power Company’s Cross-Petition of Order No. 27045 is denied.

THIS IS A FINAL ORDER ON RECONSIDERATION.  Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No.  may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules.  See Idaho Code § 61-627.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of October 1997.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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DISSENT

I hereby respectfully dissent from the majority’s decision in this case.  After considering the positions of the parties advanced at both the prehearing conference and in subsequent testimony, I still have strong concerns regarding whether Idaho Power’s investment in NEEA will provide measurable benefits to the Company’s Idaho ratepayers.  By contrast, however, I am not convinced that such benefits will not occur.  Because of the lack of data presented to the Commission during the course of this proceeding, however, I believe that such a determination cannot be made at this time.  Consequently, I feel that it is not reasonable to encourage Idaho Power to participate in NEEA and defer the recovery of any expenditures when it may very well turn out that investment in that organization is not prudent.  By the same token, without any detailed cost benefit analysis of the effects that NEEA will have on Idaho Power’s ratepayers, I could not in good conscience grant the Company’s request to recover its NEEA expenditures on a pay-as-you-go basis or otherwise offer Idaho Power any type of assurance that it would ultimately collect those expenditures from its ratepayers.

In short, I believe that unless the Company can provide this Commission with a more detailed analysis of the estimated benefits of its NEEA expenditures to its Idaho ratepayers, the Commission should grant the ICIP’s Petition and deny Idaho Power’s Cross-Petition as well as its Application in this case without prejudice to the right of the Company to refile when it has more detailed information regarding NEEA that would enable this Commission to make a well informed decision.

DATED at Boise, Idaho this day of October 1997.

Dennis Hansen, Commissioner

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

October 29, 1997