(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 INCREASE ITS RATES AND CHARGES TO RECOVER DEMAND SIDE MANAGEMENT/ CONSERVATION EXPENDITURES. | )  )  )  )  )  ) | CASE NO. IPC-E-97-12  ORDER NO.  27660 |

SYNOPSIS

On November 26, 1997, the Idaho Power Company (Idaho Power; Company) filed an Application for authority to increase its rates to allow for the accelerated recovery of its outstanding Demand Side Management (DSM) expenditures.  By this Order, we authorize Idaho Power to increase its rates to reflect an amortization of 12 years with a carrying charge of 7.25%.  The resulting revenue requirement increase shall be allocated to all of the Company’s customer classes under the existing methodology and shall be recovered through a uniform percent increase to customers’ bills except for special contract customers who will pay a fixed fee. We deny from recovery, the Company’s investment in its Commercial Lighting Program incurred after the 1995 calendar year.  Idaho Power’s rates shall be reduced to reflect a decrease in the amount of its authorized annual DSM administration expense.  The first 6 months of amortization related to the Company’s 1994 DSM investment shall be reflected as if amortized through June, 1998.  Finally, we award intervenor funding to the Rate Fairness Group in the amount of $4911.37, the Idaho Irrigation Pumpers Association in the amount of $14,727.94 and the Idaho Citizens Coalition in the amount of $5360.68.

BACKGROUND

In its Application, Idaho Power states that as a result of Commission Order No. 25880 issued in Case No. IPC-E-94-5, the Company began amortizing $19,863,300 of deferred DSM program expenditures incurred prior to 1994 at a rate of $68,970 per month for 24 years.  The Company contends that a 24 year amortization period for that deferred investment is too long; it proposes to amortize the outstanding DSM investment ($17,449,400 for the Idaho jurisdiction as of December 31, 1997) over five years.  In addition, the Company wishes to begin amortizing all DSM expenditures made after 1993 over five years.  The Idaho jurisdictional amount of these expenditures (as of August 31,1997) was $16,239,800.  The Company wishes to also recover carrying charges on deferred DSM amounts and to recover for the income tax impacts on those carrying charges.

Idaho Power states that, based upon changing the amortization period for deferred DSM expenditures made prior to 1994 from 24 to 5 years, the Idaho jurisdictional revenue requirement to be recovered in this five year period is $13,311,200.  The Company states that the carrying charges for the Idaho jurisdictional revenue requirement associated with the deferral of DSM made after 1993 are $7,794,000.  The Company states that carrying charges during the years 1996 and 1997 have not been shown because of their treatment in the revenue sharing cases.  Idaho Power anticipates that revenue sharing for 1997 will exceed the carrying charges that will accrue on deferred DSM program expenditures in 1997.  If that is correct, Idaho Power states, the Company will request that the Commission offset DSM carrying charges in the 1997 revenue sharing proceeding in the same manner as it offset those costs against shared revenues in 1996.  To the extent that there is carrying charge recovery, there will be an income tax impact on the recovery of those carrying charges.  The income tax impact of the Idaho jurisdictional revenue requirement associated with the carrying charges on deferral of DSM, Idaho Power contended in its Application, was $5,003,700.

In summary, the Idaho jurisdictional balances purportedly associated with  pre-1994 deferred DSM expenditures is $13,311,200 and deferred DSM program expenditures made after 1993 is $16,239,800.  The Idaho jurisdictional revenue requirement associated with carrying charges on deferred DSM amounts is $7,794,000 and the Idaho requirement associated with income taxes on carrying charges is $5,003,700.  Idaho Power sought to recover the total amount of $42,348,700.

The Company proposes that the Commission treat the 5 year Idaho jurisdictional revenue requirement amount as two separate amounts to be allocated to customer classes by separate methods.  The Company recommends that the first amount, $13,311,200, which is the incremental revenue requirement associated with accelerating amortization of deferred DSM expenditures made prior to 1994, be allocated to customer classes using the same allocations used in Case No. IPC-E-94-5; the Company’s last general rate case.

Idaho Power recommends that the remainder of the revenue requirement, which includes deferred program expenditures made after 1993, including carrying charges and income taxes, be allocated to customer classes based upon the “ability of the customer class to participate” in DSM programs.

Following the filing of Idaho Power’s Application, the Industrial Customers of Idaho Power (ICIP), Micron Technology, Inc. (Micron) and the Rate Fairness Group (RFG) filed motions to dismiss the Company’s Application on the basis that it constituted a general rate increase in violation of the rate moratorium agreed to by Idaho Power and adopted by this Commission in Order No. 26216 issued in Case No. IPC-E-95-11; it is inappropriate to grant the Application without considering other issues that would affect the Company’s earnings, and that the Idaho Legislature, rather than this Commission, should determine whether Idaho Power should be allowed accelerated recovery of its DSM investment.  On April 30, 1998, this Commission issued Order No. 27493 in this case denying all three motions to dismiss and the matter proceeded to hearing on May 26-27, 1998.  The following appearances were made at the hearing.

Idaho Power CompanyLarry D. Ripley, Esq.

Commission StaffBrad M. Purdy, Deputy

  Attorney General

Industrial Customers of Idaho PowerPeter J. Richardson, Esq.

Micron Technology, Inc.Allan R. Richey, Esq.

Rate Fairness GroupPaul L. Jauregui, Esq.

Idaho Irrigation Pumpers Association, Inc.Randall C.  Budge, Esq.

Idaho Citizens CoalitionAl Fothergill

U.S. Department of EnergyLawrence A. Gollomp, Esq.

FMC CorporationConley Ward, Esq.

FINDINGS

Amortization of DSM

The only party supporting Idaho Power’s proposed acceleration of its DSM recovery is the Commission Staff.  All others advocate that recovery remain at the current 24 years.  The arguments advanced by the various parties in opposition to Idaho Power’s proposal largely overlap.  Primarily, the parties contend that Idaho Power provides no justification for its selection of 5 years as an appropriate amortization period.  Certain parties contend that Idaho Power is attempting to avoid stranded investments on a piecemeal basis without netting all of the Company’s resources.  Micron argues that this is an issue that lies within the exclusive province of the Idaho Legislature.  Others, such as the ICIP, argue that the concept of “matching” revenues with expenses requires that amortization match the expected useful lives of the resources.  The ICC points out that most utility analysts predict that the transmission and distribution functions of electric utilities will remain regulated thus minimizing or negating the possibility that Idaho Power will not recover its DSM investments.  FMC contends that, in some respects, DSM is simply another form of a generating resource and there is no greater justification for accelerating the recovery of conservation resources than there is for accelerating the recovery of investment in a hydro or thermal facility.  FMC also notes that although DSM is expensive by today’s market standards (because of low gas prices and sophisticated gas generation technologies), it allowed Idaho Power to avoid the acquisition of relatively high cost hydro and thermal resources during the 1970's and 1980's.

In rebuttal, Idaho Power argues that other regulatory jurisdictions are trending toward a shorter amortization of DSM.  The Company also posits that shortening the recovery of  DSM better ensures that customers who received the benefits of the DSM measures will pay for them.  Idaho Power also notes that resource planning horizons have changed.  Utilities are no longer planning for the acquisition of base load generating plants so DSM is not simply another form of generation.  The Company further asserts that DSM is unlike generating assets owned by the utility.  In the event of market or regulatory changes, the Company can sell the latter in the market.  The benefits of the actual DSM measures, however, remain with those customers in whose facilities they were installed.

We find:

This Commission has expressed concern for some time regarding the amount of DSM deferral that Idaho Power has been accumulating.  This is evidenced by the three year limit we imposed on Idaho Power as of August, 1994 in Order No. 25880 to begin amortizing its DSM balances.  It is also evidenced by the fact that we specifically approved the provision in the rate moratorium allowing the Company to seek a modification to the manner in which it recovered its DSM expenditures.  We also find significant the changes that are sweeping through the electric industry and the unpredictability that has resulted.

We also agree with Idaho Power that conservation measures are different, in at least one important aspect, from other generating resources.  They are not owned by the Company as are base load generating plants.  Clearly, the Company is at somewhat greater risk with respect to DSM cost recovery in the event of market and regulatory changes.  We also find persuasive that by shortening the recovery period of DSM, it is more likely that those customers who reaped the benefit of cost effective resources, will pay for them.  In short, we find that a 24 year recovery period for Idaho Power’s DSM expenditures is too long.   Consequently, we find that it is reasonable to allow the Company to shorten the period in which it may recover its DSM.

Idaho Power was widely criticized in this case for purportedly failing to provide a tangible basis for its selection of a five year amortization period.  The fact is, the matter requires some degree of discretion.  This Commission, by virtue of the authority vested in it pursuant to Chapter 5, Title 61, of the Idaho Code, has the power and, indeed, the charge, to exercise that discretion.  In defense of its proposal, Idaho Power notes that it currently relies on a five year planning horizon for the acquisition of resources.  The Company also leans on the unpredictability of the regulatory world in which it operates as further justification for a dramatically shortened recovery.  Perhaps, we view the future regulatory paradigm from a different perspective, or with greater assuredness.  In any event, as the ICC posits, it is very likely that in five years’ time, there will still be regulation of at least some aspect of Idaho Power’s operations in this state.  We find, therefore, that a five year amortization is too short.

We find that reducing the established DSM recovery period by one half (to12 years) will considerably lessen the risk that the Company will not recover some portion of its expenditures while, at the same time, shift more cost responsibility on those customers who benefitted from the acquisition of DSM without unduly burdening ratepayers.  Thus, we believe that a 12 year amortization period is a just and reasonable compromise of all interests concerned.

Recovery of expenditures in Commercial Lighting Program

Staff proposes that all of the Company’s investment made after the 1995 calendar year in the Commercial Lighting Program (CLP) be disallowed.  Staff notes that unlike most of the Company’s other DSM programs, there was never a formal impact evaluation conducted for the CLP at any time during the course of the program to determine how many program participants would have made lighting improvements without the program or whether the improvements they did make were likely to persist for the assumed 12 year life.  Thus, there is no reasonable assurance that the expenditures being made by Idaho Power were resulting in energy savings and, if so, to what extent.  Staff argues, it was not possible to determine if the CLP was cost effective and, therefore, prudent for the Company to continue beyond the first two plus years.

Idaho Power argues, in rebuttal, that the Company conducted “site verifications” in which an unspecified number of CLP installations were examined to determine what the energy savings were and whether the measures and the program were proving to be economically cost-effective.

We find:

Idaho Code § 61-502 requires that before this Commission may change a utility’s rates, it must find the existing rate “unjust, unreasonable, discriminatory or preferential.”  Rates previously approved by the Commission must, therefore, be presumed to be fair unless and until the Commission, whether by its own action or the action of another party, has before it evidence to the contrary.  Consistent with Idaho Code § 61-502's mandate of reasonableness, the Idaho Supreme Court ruled long ago that before changing a public utility’s rates, the Commission must first find that existing rates are “unreasonable.”  See, Murray v. Public Utils. Comm’n, 27 Idaho 603, 150 P. 47 (1915).  Also, in Case No. U-1500-165, Order No. 22299, the Commission stated that “care must be taken to pay only for measurable conservation benefits and for those conservation benefits not otherwise available.” Order No. 22299 at p. 17.

In this case, Idaho Power filed an Application seeking to increase its rates on the basis that they are insufficient.  Because the Company is usually the only party in possession of the information necessary to determine whether a cost was prudently incurred, it carries an obligation to support its rate filings with information sufficient to establish that prudence. We find that Idaho Power has not shown that its CLP met these criteria.   In its Production Request No. 9, Staff requested “copies of any management, monitoring, or evaluation plans prepared or utilized for. . .the Commercial Lighting Efficiency Programs. . . .”  In response, Idaho Power stated:

The management and status reports for the programs are included in the Conservation Plans of Idaho Power that are published annually.  A copy of Conservation Plans for the years 1989 through 1997 has been provided.  The Company will soon release its 1998 Conservation Plan, and a copy will be provided.  References to the particular program years are set forth below.

. . .

(c) Commercial Lighting Program, 1993 through 1997 (Staff Exhibit No. 105)

In its production request No. 10, Staff requested “copies of any progress reports, program evaluations, impact assessments, performance summaries or similar documents prepared for. . .the Commercial Lighting Efficiency programs. . . .”  In response, Idaho Power stated:

In response to Requests 10(a), 10(b) and 10(c), all progress reports, program evaluations and impact assessments conducted by or for Idaho Power are included in the Plan or the Technical Appendices by program. . . .

Idaho Power’s responses to Staff’s Production Request Nos. 9 and 10 were dated April 15, 1998.  In the rebuttal testimony of Idaho Power witness Gregory Said, the Company stated:

In addition to the fact that it was relatively easy to determine that the Commercial Lighting Program was cost effective without conducting an in-depth evaluation, the Company did perform field evaluations to determine if the electricity savings in the Commercial Lighting Program had persisted over time.

Tr. Vol. V, p. 597.

Witness Said’s rebuttal testimony, filed May 20, 1998, 3 working days prior to the hearing, is apparently the first time during the course of this proceeding that Idaho Power identified any type of evaluation it performed on the CLP notwithstanding that Staff had clearly requested such information more than two months earlier.  We find that Idaho Power’s failure to accurately and fully respond to Staff’s production request rendered it impossible for Staff to conduct a prudence review of the Company’s CLP expenditures.  Moreover, the Company failed to produce as a witness to this proceeding any Idaho Power employee with first hand knowledge of the CLP.  The following is an excerpt of testimony given by Company witness Said live during the hearing:

Q.Where did you get your information that you utilized in preparing your testimony on the CLP, Mr. Said?  Did you get that from Ms. Nemnich?

A.Yes, I did.

Q.And Idaho Power did not call her as a, present her as a, witness to this proceeding in support of its application, did it?

A.No.

Tr. Vol. VI at p. 649.

Perhaps our concern with the CLP is best reflected in the following testimony of Mr. Said also given at the hearing:

Q.Okay.  Would you agree with my characterization of Ms. Nemnich’s testimony that she testified, her deposition testimony that she testified, that the Company had not performed an impact evaluation of the CLP?

A.I think that’s true and that’s consistent with her response in the data request.

Tr. Vol. VI, pp. 647-648.

In conclusion, Mr. Said testified:

Q.And that’s the extent of the evaluation that you did, that the Company did, of the CLP [referring to the “field” evaluations]?

A.Yes.  We were in the process of looking into discontinuance of the program and were of the opinion that if you were going to discontinue a program that it wasn’t reasonable to put a lot of time and effort into a written report whose sole purpose would be to propose modifications or discontinuance of the program.

Id. at p. 650.

Regarding the CLP, we find that Idaho Power failed to offer proof that the expenditures made by the Company were reasonable and, in fact, failed to conduct the impact evaluation that it said it was going to do in its 1995 Conservation Plan filed with this Commission.  Moreover, we find that actions taken by Idaho Power rendered it difficult if not impossible for Staff to conduct an independent review of the prudence of the Company’s CLP expenditures.  We cannot impose upon the Company a burden of proof that is unnecessarily onerous.  Neither can we countenance, however, Idaho Power’s apparent lack of concern for, and cooperation in, the efforts of Staff to fully analyze the prudence of this particular expenditure.  Consequently, we find that until Idaho Power demonstrates that its deferred expenditures in the CLP program after 1995 were prudently incurred, given that it failed to perform the impact evaluation that it had told the Commission it was planning, then those expenditures will be disallowed as proposed by Staff.

Carrying charge on outstanding DSM balances

Idaho Power proposes collecting a carrying charge on outstanding DSM balances at the rate of 9.199% which reflects the Company’s overall rate of return established in Order No. 25880.  Staff contends that this rate was appropriate to reflect the 24 year amortization period and the possible risks of not recovering the full amount.  Staff argues, however, that a shorter recovery period results in significantly less risk for Idaho Power.  Since the payment of the accumulated DSM costs would be reasonably assured due to the shorter repayment time frame, the DSM deferred asset should be considered more like a receivable from the ratepayers with a correspondingly lower risk.  Staff proposes using the Company’s medium term cost of debt as a carrying charge.  Rounded off, this equates to 7%.  Staff’s proposal is based upon the presumption that the Company’s request to recover DSM over 5 years is granted.  A different carrying charge might be appropriate if some other time period is ultimately adopted by the Commission.

The ICIP proposes that the Commission assume, for rate setting purposes, that current unamortized DSM balances be financed with 5 year bonds and that rate adjustments be calculated assuming that the interest rate on the bonds is set at current rates on 5 year corporate bonds and that the bonds are repaid in equal monthly payments over 60 months.

In rebuttal, Idaho Power contends that absent the front-end recovery securitized by an actual bond issue, the hypothetical elimination of the common equity and the preferred components of the overall cost of capital is inappropriate as proposed by Staff and the ICIP.  The Company states that it does not apportion its rate base and assign different capital costs to the portions.  Idaho Power states that the DSM deferred balance was financed or funded by the existing capital structure of the Company and would be financed with short term debt only if the DSM balance was securitized.

We find:

Idaho Power witness Gale conceded that “[v]iewed in isolation there is a minimal risk reduction related to the shortening of the amortization period. . . .”  This understates the reduction in risk that Idaho Power apparently perceives it will enjoy as a result of a faster recovery period.

Mr. Gale further testified that “Idaho Power’s overall rate of return has been traditionally set in the context of a general rate case where all the factors impacting risk can be examined.”  The Company advocates against singling out the interest on deferred DSM balances without a full assessment of all factors impacting the Company’s risk.  This precise logic was in fact used by other parties in this case who suggest that it is inappropriate to accelerate the recovery of DSM without netting it against all of Idaho Power’s resources.  We have already found that circumstances unique to DSM and to Idaho Power warrant a different treatment of the Company’s investment in DSM.  By the same token, we find that it would be consistent and reasonable for us to consider the reduction in risk attributable to a shorter DSM recovery period in selecting a carrying charge.  Because we have decided to allow the Company to shorten DSM recovery to 12 years, we find that a carrying charge of 7.25% based on utility bond rates would be appropriate.

Level of future DSM expense

Staff and other parties recommend that the amount of annual DSM expense embedded in rates should be reduced to reflect the fact that Idaho Power has terminated all but one of its DSM programs (Agriculture Choices-Currently being considered for termination) and, therefore, the Company should experience significantly reduced costs in administering DSM as a whole.  Staff proposes reducing the amount of DSM expense embedded in Idaho Power’s rates in Idaho for future recovery from $1,060,909 to $212,534, which constitutes the average level of 1996 and 1997 actual recorded expenses.

Idaho Power contends that actual DSM expenditures will remain higher than Staff and other parties suggest due to commitments made to the Low Income Weatherization Assistance program (LIWA) but concedes that there will be a “slight” reduction in administrative DSM related costs.  The Company counters that administrative costs it actually booked do not reflect on going or actual costs experienced by Idaho Power, including costs relating to the Company’s involvement in the Northwest Energy Efficiency Alliance (NEEA) and the Agricultural Choices program.  Adopting Staff’s recommendation, Idaho Power asserts, will lock in unreasonably low expense levels into future years.

The Company concedes that its organizational structure makes it difficult to measure the on going DSM administrative costs because both corporate and field personnel were and are involved in these activities.  Consequently, Idaho Power proposes that its future DSM administrative expense be decreased by the annual salaries of the four individuals who left the Company and who spent the majority of their time working on DSM programs.  This would result in a $337,362 reduction to the annual DSM expense level.

We find:

The amount of annual DSM expense embedded in rates must be reduced to reflect reductions that all parties, including the Company, acknowledge.  The appropriate amount of the reduction is disputed.  We find that the appropriate treatment must use the Company’s actual booked costs in lieu of speculative amounts that cannot be quantified.  Merely eliminating the expense related to four employees is not sufficient to recognize the complete termination of nearly all DSM programs.  We find that Staff’s proposed expense level of $212,534 reasonably represents the cost of on-going programs and is the only amount for which there is solid evidence.  If, in the future, the Company actually experiences significantly higher DSM expenditures, we would certainly entertain a filing to revisit the matter.

Gross-up for interest on taxes

Idaho Power grossed up the full carrying charge amount in its DSM revenue requirement.  Staff proposes that only the equity portion from the Company’s capital structure should be grossed up.  The Company agrees in concept but argues that the actual ratio would be 60% for total equity (a weighted ratio).  Idaho Power grossed up the full carrying charge in the DSM balance deferred, the prospective carrying charges and all adjustments for revenue sharing.  Staff grossed up the carrying charge in the DSM balance deferred and the accrued interest in the revenue sharing adjustments.  Staff argues that the prospective interest should not be grossed up.

We find:

Staff’s rationale and methodology is reasonable.  Idaho Power agreed in concept that the equity portion is the amount that would be grossed up but that the appropriate ratio is the weighted ratio of 60%.  No party objected to the use of the 60% ratio.  Therefore, we adopt this ratio to determine the gross up for taxes.  The deferred amounts should be grossed up for taxes, however, we can not accept grossing up the prospective interest amount.

Proposed adjustment to reflect 1998 amortization of 1994 DSM deferrals

Staff proposes that the first six months of amortization of Idaho Power’s 1994 DSM expenditures be reflected for January through June 1998, reducing the DSM balance because the Company should have begun amortizing those expenditures, at the latest, by January, 1998 as per Order No. 25880.

We find:

In Case No. IPC-E-94-5, Order No. 25880, Idaho Power was directed to begin amortizing its DSM balances no later than 3 years from the date of deferral.  In that Order, we stated:

We are also concerned with the length of time that DSM program expenses were allowed to accumulate prior to the filing of this rate case, resulting in accrued expenses in excess of $20 million.  We decline to adopt Staff’s proposal to order immediate amortization of DSM costs.  We find it reasonable to require that commencement of amortization begin after no more than three years.  In the future, IPCo must begin amortization of accumulated DSM costs after a three year period.

Order No. 25880 at p. 18.

Based on the foregoing, Staff argues that the 1994 deferred DSM balances would begin to be amortized January 1998.  Because it is now mid-year, Staff proposes reflecting 6 months of that amortization by reducing the balance remaining.   Idaho Power argues because it filed its case in late November of 1997, prior to the end of the third year following deferral of 1994 expenditures, it complied with the intent of the Commission’s Order.

We agree with Staff.  When we issued Order No. 25880, we were clearly concerned with the level of deferred DSM that Idaho Power had accrued and desired that the Company make some type of filing to begin recovery of those balances over time.  We find the fact that Idaho Power filed its Application in this case in late 1997, slightly before the end of the three year limit, does not satisfy the spirit and intent of Order No. 25880.  The Company has sufficient experience with proceedings before this Commission to know that a filing of this complexity and magnitude could not be processed and finally resolved prior to the end of the three year limit.  During the hearing in this case, Idaho Power could offer no reason why it could not or did not file this case sooner.  Given the concern we have repeatedly expressed, at least as long ago as 1995, regarding the need to begin amortizing Idaho Power’s DSM, we find that our previous Order requiring amortization to begin should remain in effect.  We find, therefore, that it is reasonable to reflect the first six months of amortization of the Company’s 1994 deferred balances as a reduction to the balance remaining for recovery.

Allocation of revenue requirement

Idaho Power proposes that its pre-1994 DSM balances be allocated on the basis of system load factor.  All post-1993 balances are proposed to be allocated on the basis of a class’s “ability to participate” in DSM.  Idaho Power’s stated rationale for changing the allocation methodology for post-1993 expenditures is that “DSM is currently viewed from the perspective of the direct benefits” received.

The parties to this proceeding were split on the issue of revenue allocation.  The Irrigators object to allocation on the basis of ability to participate noting that there has never been an equal ability to participate on the part of all customers in a given class and it is impossible to determine those who could or could not participate.  The Irrigators point out that cost effective DSM has benefitted all of Idaho Power’s customers and should continue to be allocated as it always has.  Moreover, the Irrigators argue that the DSM programs they were qualified to participate in were limited because of their late implementation.  Under Idaho Power’s allocation methodology, the Irrigators will pay for DSM programs when they could not participate in the programs and now will pay more for post-1993 DSM because they can participate in those programs.  The ICC argues that there is absolutely no support for changing the allocation methodology.  According to the ICC, Idaho Power’s proposal places the bulk of cost responsibility on residential and irrigation customers and relatively little on larger, industrial customers.  The ICC characterizes this as “retroactively changing the rules of the game.”

Staff argues that DSM was a cost effective surrogate for generating resources when implemented and there is simply no reason to allocate it in a different manner.  Staff also notes that while participating customers may have benefitted more from the actual DSM measures, they often had to pay up front costs and assume the risk that the conservation measures would produce the expected savings.  In lieu of Idaho Power’s proposal, Staff suggests that customers’ total electricity bills be increased by a uniform percentage.  Staff notes that this methodology offers the benefit of simplicity and will not unreasonably distort class revenue responsibility.

The RFG opposes the “ability to participate” allocation noting that not all customers within a class could even qualify for a DSM program supposedly designed for that class.  For instance, the Company’s Manufactured Home Acquisition Program would be allocated to all residential customers.  Only those customers who purchased a manufactured home, however, could have participated in that program.

Micron argues in favor of the ability to participate methodology but argues that it was not able to participate in any post-1993 DSM, including the Partners in Industrial Efficiency program and should not be allocated any costs for that time period.

FMC argues that none of Idaho Power’s post 1993 DSM programs were cost effective and, thus, the ability to participate is the only meaningful method of allocation.

We find:

In Case No. IPC-E-94-5, we chose to allocate the recovery of DSM to all of Idaho Power’s customer classes using the DSM allocation methodology adopted in the last rate case.  Our rationale for doing so was that the acquisition of cost effective DSM benefitted all of the Company’s customers because it allowed the Company to avoid the construction or acquisition of more expensive resources.  We find that the original logic upon which we selected an allocation methodology for DSM remains sound.  No party to this proceeding offered persuasive arguments in favor of abandoning our chosen method of allocation.  To the extent that Idaho Power’s DSM constituted a cost effective acquisition of resources when implemented, then the rationale for allocation of the cost of those resources remains unchanged.

Idaho Power’s premise that those who benefit from DSM should pay for it has conceptual merit.  Indeed, that is the very logic that led us to allocate DSM along with other system resource costs.  The flaw in Idaho Power’s “ability to participate” allocation, however, is one of a practical nature.  In fact, we find that the term “ability to participate” is somewhat misleading.  As the Company’s witness readily agreed, the fact that a given DSM program might have been targeted for a given customer class does not mean that every member of that class truly had the ability to participate in the program.  For instance, although the Manufactured Home Acquisition program was designed for customers who were served under the residential class schedule, that program was available, as a practical matter, to only a small percentage of the residential class customers.  Furthermore, there was also considerable debate over whether and to what extent Micron could or did participate in the PIE program.  Adoption of the Company’s proposed allocation would require this Commission to make findings regarding the nature of Micron’s business operations and the interplay and business relationship between Micron Technology and Micron Electronics.  Similar difficulties exist in determining the extent of FMC’s ability to participate in DSM programs.

We find that such speculative analysis is needless considering that DSM represents a system resource and should be allocated as such.  We view Staff’s “uniform percent” class allocation proposal as a much simpler alternative to the Company’s proposal, but note that the Staff offered no compelling reason to deviate from the previously approved allocation method.  We also find that spreading DSM costs uniformly across all customer classes as proposed by Staff would improperly allocate DSM costs and unreasonably alter the class revenue responsibility established in the last rate case.

We commend the Company for its effort to craft an allocation that it believed falls somewhere in the middle of the various parties’ interests.  Nonetheless, for the foregoing reasons, Idaho Power is directed to allocate the revenue requirement increase resulting from this Order to all customer classes on the basis of system load factor, as previously required by Order No. 25880.

Rate design

Idaho Power proposes that the revenue requirement increase allocated to each customer class be recovered using a uniform percentage increase.  For its special contract customers, however, the Company proposes a flat monthly fee designed to recover that allocation.

Staff disagrees with Idaho Power’s proposal of a flat monthly fee for all special contract customers except for FMC.  For those three other special contract customers, Staff proposes a uniform percentage increase based on monthly bills as proposed by Idaho Power for its other customer classes.  For FMC, Staff proposes a different rate design.  Staff notes that under FMC’s recently approved contract with Idaho Power, the second block of FMC’s consumption is tied to market conditions and is lower.  To ensure that FMC pays its allocable share of the DSM revenue requirement increase, Staff proposes that the revenue requirement allocation be recovered through a fixed fee based upon a uniform percentage increase of normalized revenues received from FMC in 1996.

We find:

As noted above, we have chosen to allocate the increased revenue requirement based on the existing allocation method adopted in Case No. IPC-E-94-5 (Idaho Power’s last general rate case).  The Company is directed to collect the revenue requirement of each non-special contract class by applying the uniform percentage increase to all rate components within that class.  For special contract customers, the Company’s proposal of a fixed fee is accepted.  The resulting rate increases applicable for each customer class, including the special contract customers, are shown in Attachment “A” to this Order.

Intervenor funding

Intervenor funding requests were submitted by the RFG ($12,084.92), the ICC ($5,360.68) and the Irrigators ($15,174.89). We find that each of the three intervenors seeking funding contributed materially to the Commission’s final decision in this case and that the positions taken by them differed sufficiently from those taken by the Commission Staff to warrant the award of intervenor funding to all three applicants.  We further find that the requests of all three applicants otherwise satisfy all of the procedural and substantive requirements set forth in the Idaho Code § 61-617A and Rules 161 through 165 of the Commission Rules of Procedure, IDAPA 31.01.01.  We do note, however, that the Application of the Irrigators fails to itemize the hourly fees and number of hours worked of its attorney and consultant.  Such information is necessary for us to determine whether the costs incurred and amount of funding sought is “reasonable in amount” as required by Idaho Code § 61-617A and Commission Rule 165.  Without such itemization, future requests by the Irrigators will not be approved.

Initially, we believe it is justifiable to award the entire $25,000 available, in total, to the participants to this proceeding pursuant to Idaho Code § 61-617A.  First, we award the ICC’s entire request of $5,360.68.  For the Irrigators, we award costs in the amount of $1,276.49, consultant fees in the amount of $8,850 and attorney’s fees in the amount of $4,601.45 for a total award of $14,727.94.  Regarding the request of the RFG, we award costs in the amount of $320.92.  We limit our award of attorney’s fees, however, to $4,601.45 for a total award of $4,911.37.  The $4,601.45 awarded to each of the attorneys for the RFG and the Irrigators was calculated by splitting in half the remaining amount of intervenor funds available after satisfying the ICC’s entire request and costs and consulting fees for the RFG and the Irrigators.

Prepayment of DSM allocation

Staff proposes that because special contract customers each are a class of one for whom we  have allocated a fixed amount, they should be given the option of prepaying their allocation to avoid carrying charges.  No party opposed Staff’s proposal.

We find:

It is reasonable to allow special contract customers the option of prepayment.  We note that this will in no way affect the amount of recovery assessed or otherwise prejudice the Company’s other customer classes.

Timing of recovery

Our decision in this case results in an annual revenue requirement increase to Idaho Power in the amount of $3,054,672.  Staff witness Carlock proposes that any revenue requirement increase approved by this Commission be deferred from recovery by offsetting it against the Company’s 1997 revenue sharing adjustment.  Staff proposes, therefore, to use the sharing amount to cover the additional monthly revenue requirement until it is exhausted.  Staff further proposes that the actual increase for DSM reflected on customer bills coincide with the 1999 PCA change and 1998 revenue sharing review on May 15, 1999 or when those rates are to be effective.  Idaho Power, on rebuttal, recalculated the 1997 earnings sharing to reflect the adjustment proposed by Staff in the gross up for taxes.  The recalculated amount is $5,353,405.

We find:

No party objected to Staff’s proposal which we hereby adopt.  The Company is directed to utilize the 1997 earnings sharing amount to offset the DSM revenue requirement until the 1999 PCA rate change is effective.  Since the annual DSM revenue requirement is less than the 1997 revenue sharing adjustment, the unused balance shall accrue interest at the 6% interest rate established for payments on customer deposits.  Any offsets to the remaining balance will be evaluated and the true up determined coincident with the 1998 revenue sharing review.  The disposition of any remaining balance associated with the 1997 earnings sharing will be determined in the 1998 earnings sharing review.

O R D E R

IT IS HEREBY ORDERED that the application of Idaho Power Company for accelerated amortization of its outstanding DSM investment is approved subject to the terms and conditions set forth in the body of this Order.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order.  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 July 1998.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

  Commissioner Nelson Dissented                                    RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

O:IPC-E-97-12.bp7

DISSENT OF

COMMISSIONER RALPH NELSON

CASE NO. IPC-E-97-12

While I agree with my colleagues on the major thrust of this order, there are two points on which I cannot agree.

The first is the carrying charge for the DSM balance.  While a shorter amortization period will reduce risk to the Company slightly, it is not risk free.  I would allow the return that was approved in Idaho Power’s last rate case.

The second point which I do not agree is the decision to disallow some amortization because the Company’s case was not filed timely.  The case was filed in time to comply with my understanding of the Commission’s intent in Order No. 25880, when we said that Idaho Power Company couldn’t accumulate DSM costs for more than three years without applying for recovery of those costs, or they would have to begin amortization without recovery in rates.  In this instance, they applied for recovery within the three years.

Ralph Nelson, Commissioner

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

July 31, 1998