

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION OF )**  
**IDAHO POWER COMPANY FOR AUTHORITY )** **CASE NO. IPC-E-98-12**  
**TO USE A PORTION OF THE 1997 REVENUE )**  
**SHARING BALANCE TO FUND IDAHO )**  
**POWER COMPANY'S 1997 AND 1998 )**  
**PAYMENTS TO THE NORTHWEST ENERGY )** **ORDER NO. 27877**  
**EFFICIENCY ALLIANCE. )**  

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**SYNOPSIS**

On October 13, 1998, the Idaho Power Company (Idaho Power; Company) filed an Application for an Order authorizing the Company to use a portion of its 1997 revenue sharing balance to fund the Company's 1997 and 1998 payments to the Northwest Energy Efficiency Alliance (NEEA). On November 16, 1998, the Commission issued a Notice of Modified Procedure soliciting comments in response to the Company's Application. Comments were submitted by the Industrial Customers of Idaho Power (ICIP), Micron Technology, Inc. (Micron), The Washington Water Power Company (Water Power), the Northwest Energy Coalition (NVEC) and the Commission Staff. By this Order, we authorize Idaho Power to recover its 1997 NEEA expenditures through an offset to the Company's 1997 revenue sharing balance. We defer judgment on Idaho Power's 1998 NEEA expenditures. The following is a summary of the comments submitted in response to the Company's Application.

**ICIP**

The ICIP opposes Idaho Power's Application in this case and opposes the Commission's use of Modified Procedure to resolve that Application. The ICIP argues that NEEA, through Idaho Power, has not provided sufficient justification for the expenditures Idaho Power now seeks to recover and, at a minimum, an evidentiary hearing must be conducted to resolve unanswered questions raised by the Application. The ICIP urges the Commission to closely scrutinize the NEEA expenditures and ensure that ratepayers' dollars have been wisely spent. Heightened scrutiny is required, the ICIP argues, because NEEA is not subject to Commission jurisdiction.

Regarding the Company's actual filing, the ICIP argues that Idaho Power has not satisfied its burden of proof that any of the 1997 and 1998 expenditures were prudent. The ICIP contends that the testimony and exhibits filed by Idaho Power in support of its Application either do not contain or reference any type of progress evaluation or estimate of energy savings, relate to future programs that have not yet been implemented or, if energy savings are estimated, there is no statement of the source of how they were compiled.

The ICIP also attacks Idaho Power's claim that NEEA has or will accomplish a market transformation toward greater energy efficiency. Specifically, the Company refers to Ms. Gardner's testimony relating to the WashWise Program which purports to target national legislation mandating certain efficiency standards meeting NEEA's specifications. As such, the ICIP argues, WashWise is "regulation transformation" not market transformation. The ICIP claims that NEEA itself notes that it still does not have a program that "does not rely on rebates to drive the market."

Finally, the ICIP argues that NEEA was created solely due to the possibility that the electric industry would be deregulated and Idaho Power would no longer be required by the Commission to invest in conservation resources. The ICIP now contends that deregulation of the industry is not immediately forthcoming and there is no justification for Idaho Power to participate in NEEA. The ICIP advocates that the Commission deny Idaho Power's Application as premature.

**Micron**

Micron opposes Idaho Power's request to recover its NEEA expenditures contending that such recovery is premature when the Company has yet failed to establish the prudence of its participation in NEEA. As an example, Micron refers to NEEA's Scientific Irrigation Scheduling (SIS) program which provides information and assistance to expand the permanent use of scientific irrigation scheduling enabling irrigators to supply the right amount of moisture to their crops at the right time. Micron notes that NEEA does not state whether SIS is targeted solely at pumpers or if gravity irrigators also participate. Moreover, it is not certain whether the program encourages drip irrigation or something else.

Another example pertains to NEEA's market evaluation reports. Micron contends that only eight such reports have been produced although NEEA has adopted 26 projects. Micron argues that until the remaining eighteen market evaluation reports are completed, no determination of the prudence of NEEA's expenditures should be made.

Micron concludes that the assertions of prudence by Idaho Power and NEEA are without substantiation or are based on incomplete information. Micron urges the Commission to conduct a hearing in this case.

#### NWEC

The NWEC formerly the Northwest Conservation Act Coalition, filed comments with the cooperation of the Natural Resources Defense Counsel (NRDC) urging the Commission to approve Idaho Power's request to recover expenditures it has made for its participation in NEEA. The NWEC states that it is a coalition of 80 organizations in Idaho, Washington, Oregon, Montana and British Columbia. Its members range from environmental, consumer and civic organizations to energy efficiency businesses and utilities. In Idaho, its members include the Idaho Citizens Network, Idaho Rural Council, Idaho Conservation League, Idaho Consumer Affairs, Idaho Rivers United, Idaho Wildlife Federation, League of Women Voters, Southeastern Idaho Community Action Agency and the Golden Eagle Audubon Society. The NRDC is a nonprofit environmental organization with 1700 members residing in Idaho.

The NWEC and NRDC argue that Idaho Power has presented a strong case for cost recovery. They contend that NEEA's investments have begun to transform rural and small urban markets in a manner that emphasizes energy efficiency more than the market would, if left to its own devices. The NWEC and NRDC contend that Idaho consumers are seeing direct benefits from the availability of new technologies and energy efficient investments due to leveraging from NEEA. The NWEC and NRDC contend that because markets generally cut across state and utility boundaries, it is important to leverage local and state efforts with a comprehensive approach at the regional level. They contend that NEEA is a collaborative initiative that will help move markets so that (1) manufacturers are producing only the most energy efficient products, (2) builders and developers are using efficient products and designs and (3) consumers are realizing the value of investments in energy efficiency in the consumer choices they make. They note that NEEA is now over two years old and contend that it has demonstrated a track record of professionalism, high standards and prudent deployment of organizational resources with an emphasis on quality control.

## **Washington Water Power Company**

Water Power supports Idaho Power's Application in this case. Water Power itself is an active participant in the management and funding of NEEA as well as being a major beneficiary of NEEA's regional market transformation ventures and infrastructure support.

Water Power's support of NEEA is based on the purported superior cost effectiveness of a broad regional collaboration in effecting market transformation programs which promise to be one of the more effective tools at delivering valuable energy efficiency services to the region and to Water Power's customers. Water Power contends that the continued availability of a regional organization such as NEEA assists in bringing a full portfolio of energy efficiency services to the Company's customers and to the citizens of Idaho.

### **Commission Staff**

Staff states that it conducted an analysis of Idaho Power's Application and supporting documents and traveled to Portland, Oregon to make on-site inquiries of NEEA staff. For purposes of Idaho Power's NEEA involvement, Staff proposes that "prudence" be defined as "skill and good judgment in the use of resources." Staff further posits that a prudence standard as used in the context of utility regulation would generally require a utility to make decisions based on information available at the time the decision is made. That decision would not later be criticized if conditions had changed or if reasonably made estimates proved to be inaccurate. The utility should, however, be expected to be aware of changing conditions and to take corrective actions to mitigate negative impacts on its customers if, at some point, its original decision appeared to be wrong.

With respect to Idaho Power's participation in NEEA, Staff contends, prudence would require at a minimum that the Company's decision to participate was based on realistic expectations that NEEA's market transformation programs would be cost effective for its customers and that Idaho Power would monitor program results to ensure that they are in fact cost effective. Staff further reasons that the Company should also be expected to ensure that the benefits provided by NEEA participation are achieved at a reasonable cost. In this regard, Staff believes that although Idaho Power has appointed a very capable representative to serve on NEEA's Board of Directors, little evidence of additional research or proactive, independent participation has been presented in the Company's filing or observed by Staff during the course of its analysis. Staff contends that Idaho Power has not made any independent verification of NEEA's project evaluations. Staff argues

that Idaho Power has a fiduciary responsibility to ensure that appropriate value is being received from contributions to NEEA to justify recovering those contributions from ratepayers. Staff reasons that Idaho Power cannot satisfy this responsibility if it simply relies on NEEA's staff to evaluate cost effectiveness.

Staff notes that the funding commitment clause of the NEEA Memorandum of Agreement provides that whenever a project adopted by NEEA includes delivery of local services, utilities will be given the first option to perform that function within their service territories. Staff notes that Idaho Power has not yet exercised this option. Staff believes that if the Company is successful in acquiring some local delivery of NEEA projects, greater utility ownership of projects will result providing greater benefits for the Company's customers.

Staff states that, since its inception, NEEA has had two independent financial audits; one at the end of 1997 and another for the year ended December 31, 1998. According to Staff, neither of these audits reflected any significant weaknesses in internal controls. NEEA's first year of operation, 1997, was a startup year; only 14% of its expected total three year budget was received and not all of that was spent. Thus, Staff concludes that 1997 probably does not accurately reflect NEEA's evolving project management skills and resource utilization. Therefore, Staff reasons, allowing full recovery by Idaho Power of funds advanced through 1998 might be premature.

Staff observes that an operational audit has recently been performed by Price Waterhouse-Coopers (PWC). A PWC report is due on or after December 15, 1998, and an independent financial audit for 1998 is scheduled for May 1999 and should become available shortly thereafter. The NEEA Memorandum of Agreement provides that "the Alliance will monitor and evaluate, to track progress toward market transformation, each project approved by the Board of Directors, including tracking market changes that have occurred, documenting energy savings, and assessing appropriate exit strategies." In addition, NEEA states that it will conduct a review at the end of five years to evaluate the effectiveness of the Alliance's overall market transformation efforts.

Staff concludes that it is far too early to judge whether NEEA's projects, in total, are cost effective and whether the geographic distribution of benefits is such that the projects are cost effective for Idaho Power's ratepayers. Staff believes that, region wide, the overall benefit/cost ratio will likely be greater than 1.0. Data available from witness Margie Gardner's Exhibits 13 and 14 indicate, however, that the distribution of energy savings is currently lagging in Idaho and probably

within all of Idaho Power's service territory. These same exhibits show that Idaho's energy savings are projected to catch up in later years but whether that in fact occurs may depend, in part, on the actions and effectiveness of Idaho Power's representatives on the NEEA Board.

Staff distinguishes the regional market transformation efforts of NEEA from historic DSM programs. The latter were rebate programs targeting specific consumption and whose benefits did not extend beyond the life of the energy savings "paid for." NEEA is different, Staff opines, in that it seeks to permanently transform markets through the programs it undertakes. In the short term, therefore, its programs may not compare favorably if subjected to the same analysis as the historical DSM programs. Staff believes that such a comparison is unfair because the long term objective of NEEA is to change the market so that the sales of efficient products and processes will continue after the incentives are discontinued. This continuation will occur, Staff reasons, because of changes in government efficiency standards or permanent price reductions or the increased availability of energy efficient products. Staff acknowledges that this longer term approach is inherently riskier than historic DSM programs but the potential long-term benefits are greater.

In conclusion, Staff recommends that industrial, commercial and residential representatives be included on NEEA's Board of Directors. Staff contends that although additional data regarding NEEA's overall operations and its various programs has become available since the Company's Application in the original NEEA case was denied, there is still insufficient information for the Staff to determine whether Idaho Power's participation in NEEA through the end of 1998 has been a prudent use of resources. Staff is convinced, however, that the Company's participation through the end of 1997 was reasonable and prudent. This is because, not only is more audited information available for 1997 than for 1998, but 1997 was a startup year with smaller costs and relatively less cause for concern about first year cost effectiveness and the geographical distribution of benefits.

Staff recommends, therefore, that Idaho Power be allowed to recover its \$811,750 payments to NEEA for calendar year 1997 plus carrying charges and that this recovery be deducted from revenue sharing funds as requested by the Company. Staff recommends that the Commission defer judgment on 1998 expenditures until more evidence relating to prudence is available.

## **Idaho Power Response**

Idaho Power characterizes the issues to be resolved by the Commission as: (1) should this proceeding remain on Modified Procedure?; and (2) should Idaho Power's Application for funding of its Idaho jurisdictional share of NEEA for 1997 and 1998 and conditional approval for 1999 be granted?

### Modified Procedure

Idaho Power argues that although Micron and ICIP request a hearing, neither contend that they will present any evidence but will use the proceeding only to test the prudence of particular NEEA projects that have been funded. The Company believes that the concerns of Micron and the ICIP can be addressed without an evidentiary proceeding.

### Idaho Power's Request for Funding of its NEEA Participation

Idaho Power argues that it is not requesting a rate increase. Idaho Power states that if the entire NEEA funding amount attributable to the Idaho jurisdiction (\$2,432,085.75) for the years 1997 and 1998 is refunded to the Company's retail customers, the refund per customer would be a credit of approximately \$3.12 for the residential customer consuming 1200 kilowatt hours per month for one year and the one-time lump sum credit to Micron would be approximately \$53,771. If the Company receives funding for 1997 and the 1998 NEEA payment is deferred, the amount of the refund would be a credit of approximately \$2.16 per residential customer for one year and the one-time lump sum to Micron would be approximately \$35,848. Idaho Power characterizes the amount of the refund as "very small" and a "one time event." Conversely, the Company argues, the carrying charges it incurs if the NEEA principle payments for the years 1997 and 1998 are not funded at this time will be in excess of \$26,000 per month. If the 1997 NEEA payment is funded and only the 1998 NEEA is deferred, the carrying costs are in excess of \$17,500 per month. These monthly amounts remain constant so long as revenue sharing amounts are used to fund the carrying charges. Once revenue sharing funds are not available, the monthly carrying charges balance will increase at a faster rate due to compounding. Idaho Power argues that ratepayers are better off if the full balance is paid and carrying charges are avoided.

Regarding the prudence of Idaho Power's participation in NEEA, the Company concurs with the definition of that term as applied by Staff in its comments. Idaho Power emphasizes that this definition has been utilized by the Commission in other cases and the Commission has ruled that

prudence is determined at the time the expenditure is made rather than in hind sight based on facts not in existence at the time. Idaho Power concludes that the testimonies and exhibits of NEEA witness Gardner and Company witness Nemnich "clearly demonstrate" that the NEEA payments were prudent at the time they were made. The Company objects to Staff's proposal to defer a decision on the Company's 1998 NEEA payments on the basis that such an approach necessarily relies on a hind sight prudence test. The Company argues that if NEEA is a prudent endeavor, then the Company is justified in participating at this time and should not later be subject to hind sight scrutiny based on facts not known or in existence now.

Referring to the testimonies and exhibits of witnesses Gardner and Nemnich, Idaho Power argues that the evidence establishes that the Company's participation in NEEA for 1997 and 1998 was prudent. First, Idaho Power contends, the selection of NEEA projects is consistent with the mission of the organization; to accomplish cost effective energy efficiency through market transformation. Second, Idaho Power contends that the implementation of projects is closely monitored through evaluation reports conducted by independent third parties to ensure program efficiency. Third, NEEA is committed to documentation of project results in an open, public forum. Fourth, Idaho Power asserts that NEEA has established an operational environment that can continue to build on its successes.

Idaho Power objects to Staff's proposal that the Company conduct its own investigations and feasibility studies concerning the NEEA projects. The Company argues that this would be a duplication of effort and would defeat the purpose of the Company's participation in NEEA. Moreover, the Company asserts that it has no funds available for such a review.

Regarding the Company's proposal to utilize 1998 revenue sharing funds if available to fund the 1999 NEEA contributions, Idaho Power states that its participation in NEEA will be reviewed after the Commission has issued its Order in this case. If the Commission desires additional information in the year 1999 the Company will provide it, but a preliminary ruling by the Commission that 1998 revenue sharing funds can be utilized for 1999 NEEA payment would go far in providing the Company with the assurance that if it continues participation in NEEA it will be able to recover its investment.

In conclusion, Idaho Power submits that its Application can be processed under Modified Procedure and that it is in the interest of all parties that the Commission allow the funding of the

1997 and 1998 Idaho allocated share of NEEA payments (in the amount of \$2,432,085.75) out of the Company's 1997 revenue sharing funds. Idaho Power also seeks conditional approval of the use of 1998 revenue sharing funds for funding of the 1999 NEEA payment.

### FINDINGS

We hereby authorize the recovery by Idaho Power of its investment in NEEA made during the calendar year, 1997, in the amount of \$811,750, which represents the allocable share of the Company's Idaho jurisdiction. In Order No. 27045, issued on July 16, 1997, in Case No. IPC-E-96-26, we noted that:

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.

The 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.

*Order No. 27045 at p. 5.* We went on to rule that it would be premature to offer Idaho Power the absolute assurance that it would recover its investment in NEEA until the Commission had evidence regarding the prudence of that investment.

Contrary to the assertions of the ICIP, restructuring of the electric industry is not a condition precedent to Idaho Power's involvement in NEEA and our approval of rate recovery. Regardless of whether the electric industry is ultimately restructured in Idaho, we still believe that a regional approach to conservation is a desirable goal. In fact, our decision to allow Idaho Power to terminate all of its historical DSM programs was made with the implicit understanding that the Company would participate in a regional conservation effort.

With regard to the ICIP and Micron's criticisms of specific NEEA programs as not being beneficial to Idaho customers, we note that no regional effort is going to be perfectly tailored to any one state or customer base. Consequently, when we first approved Idaho Power's involvement in NEEA, we stated that when determining whether NEEA is a prudent endeavor, we would "consider

all of its various projects as a whole rather than make a cost recovery determination on a project-by-project basis.” *Order No. 27045 at p. 6.*

Based on the information presented to us during the course of this proceeding, we find that it was prudent for Idaho Power to fund the Company’s first year investment in NEEA. As noted in Order No. 27045, NEEA is a start-up organization. Its goal is market transformation, which, by its nature, distinguishes it from the traditional DSM programs historically implemented by Idaho Power with the encouragement and approval of this Commission. Consequently, while we have and will continue to judge Idaho Power’s investment in NEEA based on the standard of “prudence,” we are applying that standard to a conservation effort that is distinguishable in nature from historical programs and is not capable of the same type or rigor of the cost-effectiveness analyses applied to those latter programs.

Because 1997 was NEEA’s start-up year, we believe that it is not appropriate to attempt to apply any type of cost-effectiveness standard to the Company’s involvement in that organization for that year. Regarding the ICIP and Micron’s request for a hearing, we find that it would serve no useful purpose in our analysis. Again, it is the nature of a market transformation effort that funds are invested to educate consumers to desired concepts and to stimulate a non-existent or undeveloped market to provide products and/or services not previously available. Such efforts sometimes fail to satisfy traditional cost-effectiveness tests. They can be, nonetheless, inherently worthwhile for ratepayers in the long term. In the case of NEEA, there is the expectation that through incentives and the establishment of governmental standards, certain energy efficient products, services and consumer education will become available and, ultimately, result in improved energy efficiency. As Staff notes, the results of such efforts often occur over an extended period of time making market transformation programs somewhat difficult to judge using traditional cost-effectiveness standards. Consequently, we hereby authorize the Company to recover its 1997 NEEA expenditures from ratepayers.

While we have recognized, and offer Idaho Power the assurance, that we do not intend to apply the same rigorous cost-effectiveness standards to the Company’s involvement in a start-up, market transformation organization such as NEEA, as we have applied to historical DSM programs, we do expect the Company, nonetheless, to establish that it has been prudent in participating in NEEA through representation of the Company’s member of the Alliance’s Board of Directors and

ensuring that, on the whole, the Company's Idaho ratepayers will benefit through Idaho Power's participation in NEEA through more efficient use of energy resources. We expect Idaho Power to be proactive in its role as a participating member of NEEA in this regard.

With respect to the Company's 1998 expenditures, however, we will defer judgment until more information is available; specifically, the 1998 audit report conducted by PWC. In the meantime, we find that Idaho Power has not presented sufficient evidence regarding the prudence of the Company's participation in NEEA for 1998. We will leave it to the Company's discretion to determine when it believes it has sufficient evidence of prudence to file for rate recovery of the Company's 1998 NEEA expenditures before this Commission.

In the meantime, we find that it is reasonable to allow Idaho Power to hold in reserve, whatever balance remains in the Company's 1997 revenue sharing funds until a final determination is made regarding the Company's 1998 NEEA involvement. Similarly, Idaho Power is authorized to hold in reserve sufficient monies from the Company's 1998 revenue sharing balance, if such funds are available, as necessary to offset the Company's 1999 NEEA expenditures. This reserve shall not accrue interest in light of the fact that the interest due to ratepayers for such a reserve account would be equally offset by the interest payable to the Company for its deferred NEEA expenditures. Moreover, we are not determining at this time whether Idaho Power will ultimately be allowed to offset either its 1998 or 1999 NEEA expenditures against the reserve accounts. As stated earlier, such a determination will be made only after the Company has presented sufficient evidence of prudence.

#### **ORDER**

IT IS HEREBY ORDERED that Idaho Power is allowed to recover the Company's 1997 investment in NEEA in the amount of \$811,750 through an offset to the Company's 1997 revenue sharing balance. Idaho Power is further allowed to hold in reserve, the balance of 1997 revenue sharing funds and 1998 revenue sharing funds sufficient in amount to offset the Company's 1998 and 1999 NEEA expenditures.

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-98-12 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-98-12 . 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 *21st* day of January 1999.

  
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DENNIS S. HANSEN, PRESIDENT

  
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RALPH NELSON, COMMISSIONER

  
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MARSHA H. SMITH, COMMISSIONER

ATTEST:

  
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Myrna J. Walters  
Commission Secretary

bp/O:IPC-E-98-12