DECISION MEMORANDUM

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FROM:BRAD PURDY

DATE:DECEMBER 15, 1998

RE:CASE NO. IPC-E-98-12—IDAHO POWER’S APPLICATION FOR FUNDING AND RECOVERY OF EXPENDITURES RELATED TO NORTHWEST ENERGY EFFICIENCY ALLIANCE

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 (NWEC) and the Commission Staff.

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 notes that although Idaho Power proposes to offset its NEEA expenditures against the Company’s 1997 revenue sharing balance, it still amounts to a rate increase because that revenue sharing balance would otherwise be passed on to ratepayers.  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 argues that NEEA was approved by this Commission over the objections of “almost every customer class and almost every affected customer who cared to file comments.”  Consequently, the ICIP urges the Commission to closely scrutinize the NEEA expenditures and ensure that ratepayers’ dollars have been spent wisely for the benefit of Idaho’s ratepayers.  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 the expenditures were prudent.  The ICIP argues that Company witness Said’s testimony does not even relate to the issue of prudence.  Company witness Nemnich, the ICIP claims, offers only three pages of testimony with no justification for the NEEA expenditures.  The ICIP argues that Ms. Nemnich’s references to certain NEEA programs are vague and do not contain or reference any type of progress evaluation or estimate of energy savings or they relate to future programs that have not yet been implemented.

Regarding Ms. Gardner’s testimony, the ICIP contends that she fails to provide any supporting documentation for her energy savings estimates.  Furthermore, there is no statement of the source of her estimates or how they were compiled.  In addition, Ms. Gardner makes reference to future energy savings for which, the ICIP argues, ratepayers cannot legally be required to pay.

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, NEEA attacks the very rationale upon which the Commission’s decision to allow Idaho Power to join in a regional conservation effort was based.  Noting that the interim committee on electric restructuring of the Idaho Legislature recently proposed that no state legislative actions be taken at this time toward deregulation, there is no basis for Idaho Power’s involvement in NEEA the ICIP concludes.  The logic supporting this argument is 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 concludes that “if ever there was an application that demanded an evidentiary hearing this is it.”  At the same time, the ICIP posits that “unfortunately a hearing would probably be limited in what it could accomplish.  We fear that a hearing will only serve to prove that it is impossible to reach any conclusions about NEEA because it is impossible to make prudency findings about programs that are still being planned or just beginning to be implemented.”  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 failed to yet establish the prudence of its participation in NEEA.  As an example in support of its argument, 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, left to its own devices, would.  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 PowerCompany

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 notes that one dictionary offers the following definition of “prudence” which seems appropriate: “Skill and good judgment in the use of resources.”  Staff goes on to posit 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’s initial support for NEEA (in Case No. IPC-E-96-26) was contingent upon Idaho Power being both active and effective in NEEA and that the Company be responsible for continuing to evaluate the effectiveness of NEEA and withdrawing from it if it becomes clear that its customers will not benefit.  Staff now reasons that Idaho Power cannot satisfy this condition 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, 1997.  According to Staff, neither of these audits reflected any significant weaknesses in internal controls.  Nineteen Ninety-Seven was a startup year for NEEA; 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 effort 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 $850,000 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.

Commission Decision

1)  Does the Commission wish to grant the request of the ICIP and Micron and conduct an evidentiary hearing in this case?  If so, the following issues need not be resolved.

2)  If not, does the Commission believe that it has sufficient information to make a ruling on Idaho Power’s Application at this time?

3a)  If not, what additional information does the Commission desire?

3b)  If so, the following options have been proposed: (1) deny the recovery of all of Idaho Power’s investment in NEEA on the basis that it is imprudent and/or the request is premature; (2) grant Idaho Power its investment in NEEA through the end of 1997 and defer a decision on 1998 expenditures;

3c) authorize Idaho Power to recover all of its NEEA expenditures incurred to date for the years 1997 and 1998.

4)  In the event the Commission chooses to allow Idaho Power to recover some or all of its NEEA expenditures, does the Commission wish to allow the Company to offset that amount against its 1997 revenue sharing balance?

Brad Purdy

bp/M:IPC-E-98-12