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UTILITIES COMMISSION

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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT)	
APPLICATION OF IDAHO FALLS POWER)	CASE NO. PAC-E-05-7
AND PACIFICORP FOR APPROVAL OF AN)	
ELECTRIC CONSUMER ALLOCATION)	
AGREEMENT.)	COMMENTS OF THE
)	COMMISSION STAFF
)	

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Kira Dale Pfisterer, Deputy Attorney General, in response to Order No. 29822, the Notice of Application and Notice of Modified Procedure in Case No. PAC-E-05-7 issued on July 15, 2005, and submits the following comments.

BACKGROUND

On June 20, 2005, Idaho Falls Power and PacifiCorp dba Utah Power & Light Company (PacifiCorp) filed a Joint Application seeking the Commission's approval of an electric consumer allocation agreement between the parties (Agreement) dated May 27, 2005. The Agreement is submitted for the Commission's review pursuant to the provisions of the Electric Supplier Stabilization Act (ESSA). *Idaho Code* § 61-332 *et seq.*

On July 15, 2004, the Commission decided to process the Application under Modified Procedure with a 21-day comment period. Order No. 29822. Comments were initially due on August 5, 2005. On July 29, 2005, Staff filed a Motion to Extend the Comment Period established in Order No. 29822. The Commission granted this Motion at a decision meeting on August 1, 2005. Due to the extension, comments are now due August 15, 2005.

STAFF REVIEW

Idaho Falls Power is the electric department of the City of Idaho Falls, a municipal corporation duly organized under the laws of the State of Idaho. Idaho Falls Power serves over 22,000 electric consumers, primarily within the municipal boundaries of the City. However, Idaho Falls Power also provides electric service to some consumers outside the municipal boundaries of the City. PacifiCorp is a public utility providing electric service to over 50,000 consumers in eastern Idaho, including the area immediately surrounding Idaho Falls. However, PacifiCorp provides electric service to some consumers within the municipal boundaries of the City.

In this Agreement, Idaho Falls Power and PacifiCorp propose to define their service areas and provide for circumstances under which an existing customer may seek to change suppliers. Under the Agreement, Idaho Falls Power will continue to serve existing customers outside the City and PacifiCorp will continue to serve existing customers within the City. However, PacifiCorp will not provide electric service to a new service entrance within the municipal boundaries of the City, and the City will not provide electric service to a new service entrance outside its municipal boundaries.

The Agreement also addresses potential requests from customers desiring to change electric service providers pursuant to the Agreement. Specifically, in the event the City annexes property owned by a PacifiCorp customer, the City may provide electric service to such a customer provided that (1) the customer makes a written request to the City for electric service; and (2) the City pays PacifiCorp just compensation as determined under the Agreement. Pursuant to the Agreement, in order to provide just compensation, the acquiring utility shall: (1) pay the other utility an amount equal to 167% of the exchanging customer's total electric bills from the previous 12 months; and (2) purchase all poles, wires, cross arms, insulators, guys, and other facilities provided that these facilities are no longer needed by the other utility and are necessary to provide service. *See Idaho Code § 61-333B.* If this standard for just compensation

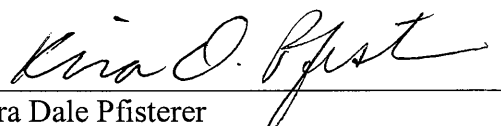
cannot be reasonably applied, the parties agree to negotiate in good faith to determine other just compensation.

The ESSA allows electric suppliers to contract with one another for the purpose of allocating territories, consumers, and future consumers; however, all such contracts must be filed with the Commission for approval. *Idaho Code* § 61-333. The Commission shall approve such contracts only upon finding that the allocation or transfer is consistent with the purposes of the ESSA. The purposes of the ESSA are: (1) promote harmony among and between electric suppliers; (2) prohibit the "pirating" of consumers; (3) discourage the duplication of electric facilities; (4) actively supervise the conduct of electric suppliers; and (5) stabilize the territories and consumers served with electricity by such electric suppliers. *Idaho Code* § 61-332(2). Pursuant to the ESSA, the Commission has authority to approve or reject a contract between a municipality and a public utility. However, the Commission has jurisdiction only over the public utility in such a proceeding. *Idaho Code* § 61-333.

STAFF RECOMMENDATION

Staff is concerned that the Agreement, as submitted, could lead to possible duplication of services, which is contrary to the purposes of the ESSA. For this reason, Staff cannot support the Agreement as filed and contacted counsel for PacifiCorp and Idaho Falls Power to express its concerns. Counsel for each of the parties agreed to submit an amended Agreement to address Staff's concerns. Because the Commission has not yet received the amended Agreement, Staff files these comments. Staff does not support the Agreement as filed and reserves the right to comment on an amended agreement.

Respectfully submitted this ^{19th} day of August 2005.


Kira Dale Pfisterer
Deputy Attorney General

Technical Staff: Keith Hessing

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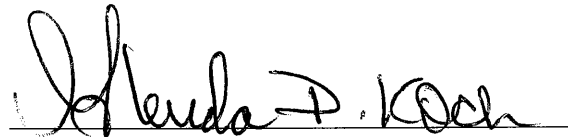
CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 19TH DAY OF AUGUST 2005, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. PAC-E-05-07, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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