DECISION MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

MYRNA WALTERS

TONYA CLARK

DON HOWELL

STEPHANIE MILLER

BILL EASTLAKE

KEITH HESSING

KENT SCHNEIDER

MADONNA FAUNCE

RICK STERLING

DAVID SCOTT

WORKING FILE

FROM:BRAD PURDY

DATE:AUGUST 24, 1998

RE:CASE NOS. IPC-E-98-2, UPL-E-98-1, AND WWP-E-98-1

COMMERCIAL UTILITY CUSTOMERS’ PETITION FOR INTERVENOR FUNDING IN THE UNBUNDLING CASES

On August 6, 1998, the Commercial Utility Customers (CUC) filed Petitions for Intervenor Funding in the three unbundling cases currently pending before the Commission (IPC-E-98-2, UPL-E-98-1, and WWP-E-98-1).  The CUC participated in all three cases.  In the Idaho Power case, the CUC states that it incurred the following costs and fees:

|  |  |
| --- | --- |
| Legal Fees (Ronald L. Williams—23 hours @ $125/hr.)  Expert Fees (Dr. David Eberle—50.5 hours @ $90/hr.)  Mailing and Reproduction Costs  Total | $2,875.00   4,545.00      263.46  $7,683.46 |

In the Utah Power case, the CUC claims the following costs:

|  |  |
| --- | --- |
| Legal Fees (Ronald L. Williams—23 hours @ $125/hr.)  Expert Fees (Dr. David Eberle—48.5 hours @ $90/hr.)  Mailing and Reproduction Costs  Total | $2,875.00  4,365.00     263.46  $7,503.46 |

Finally, the CUC claims the following costs for the Water Power case:

|  |  |
| --- | --- |
| Legal Fees (Ronald L. Williams—23 hours @ $125/hr.)  Expert Fees (Dr. David Eberle—36.2 hours @ $90/hr.)  Mailing and Reproduction Costs  Total | $2,875.00  3,258.00     263.46  $6,396.46 |

According to the CUC’s attorney, there is no overlap in terms of the fees and expenses incurred in the three cases.  With respect to Mr. William’s legal fees, he split the total number of hours worked equally among the three cases contending that his work in the cases was of a more “general” nature.  The CUC’s expert witness, David Eberle, however, allocated his hours worked to specific cases.  Apparently, the mailing and reproduction costs were also split equally among the three cases.

In its Petition, the CUC notes that it made a number of recommendations in the direct testimonies filed in the three cases that were not made by the Commission Staff.  Specifically, the CUC recommended that the Commission more closely examine the three utilities’ labor allocation methodology.  The CUC also recommended that the Commission require the three utilities to identify more public purpose costs than contained in the unbundling reports submitted to the Commission.  The CUC recommended that the Commission study and better understand the potential for cost cross-subsidies between existing class rates.  The CUC recommended that a new  unbundled cost account for non-generation universal service support be created.  Finally, the CUC notes that it needs additional information to enable it to compare unbundled costs to existing utility rates.

The CUC states that the time spent by its attorney and expert witness in preparing the CUC’s case is reasonable considering the complexity of utility cost unbundling.  The CUC further contends that the hourly rates of its attorney and expert are at or below market rates.

The CUC alleges that the costs incurred by it in participating in the three unbundling cases constitute a significant financial hardship for its organization.  The CUC members have purportedly been able to raise $24,000 from the four associations comprising the CUC in order to participate in Commission-related energy matters.  The CUC states that all four associations are limited in their ability to collect voluntary dues or special assessments from member companies.  The CUC states that because of its limited budget, it was unable to participate in Idaho Power’s recent DSM case.

Finally, the CUC contends that the position taken by it in these three unbundling cases address issues of concern to the general body of ratepayers.  No objections were filed to the CUC’s Petitions in the Idaho Power and Water Power cases.  On August 24, PacifiCorp filed a response to the CUC’s Petition in that case.  Pursuant to Rule 164 of the Commission’s Rules of Procedure (IDAPA 31.01.01.164), motions in opposition to a Petition for intervenor funding must be filed within 14 days from the date the petition was filed.  The deadline for responding to the CUC’s Petition was August 20.

In any event, PacifiCorp’s response is not an outright objection to the CUC’s Petition although, arguably, its tone suggests that it is.  PacifiCorp simply refers to several facts regarding the nature of the CUC’s participation in the underlying case and the costs and fees for which it seeks funding.  PacifiCorp also notes that the CUC’s attorney simply divided the total number of hours he worked on the three unbundling cases in thirds.

Staff Analysis

Rule 164 of the Commission’s Rules of Procedure (IDAPA 31.01.01.164) provides that Petitions for intervenor funding must be made “no later than fourteen (14) days after the last evidentiary hearing in a proceeding or the deadline for submitting briefs, proposed orders, or statements of position, whichever is last.”  The CUC filed its three petitions fourteen days after the consolidated prehearing conference conducted in the three unbundling cases.  During that conference, the parties were asked to provide statements of position regarding all issues of substance and procedure in the unbundling cases.  Consequently, Staff believes that the CUC’s Petition for Intervenor Funding is timely.  Staff further notes that the three Petitions satisfy all of the other procedural requirements contained in the Commission’s Rules of Procedure pertaining to intervenor funding (Rules 161-165).  Pursuant to Rule 164, motions in opposition to intervenor funding must be filed within fourteen days after the request for intervenor funding is filed.

Pursuant to Rule 165, the Commission must now determine whether (a) the CUC’s presentation materially contributed to the Commission’s decision in this case; (b) the costs of intervention awarded are reasonable in amount; and (c) the costs of intervention were a significant hardship for the CUC; (d) the recommendations of the CUC differed materially from the testimony and exhibits of the Commission Staff, and; (e) the CUC addressed issues of concern to the general body of the users or consumers.

Commission Decision

How does the Commission wish to rule on the CUC’s three Petitions for Intervenor Funding?

Brad Purdy

vld/M:IPC-E-98-2.bp