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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE )

APPLICATION OF INTERMOUNTAIN)Case No. INT-G-98-3

GAS COMPANY FOR APPROVAL OF)

PROPOSED STANDARDS FOR)REPLY OF

COMPETITIVE PRACTICES)INTERMOUNTAIN GAS COMPANY

)

)

COMES NOW Intermountain Gas Company (“Intermountain”) and, pursuant to the Rules of the Idaho Public Utilities Commission (“Commission”), files this Reply to comments filed by the Commission Staff (“Staff”) and, separately, by Idaho Power Company (“IPC”).  Before addressing the individual points, Intermountain believes it would be beneficial to provide an overview of issues presented and positions asserted by the parties concerning them.

OVERVIEW

Intermountain was organized and continues to be operated to serve its customers, whose interests are paramount.   In reviewing the prudence of utility action in the past, and in support of that customer commitment, this Commission has consistently stressed each utility’s duty to manage its operations effectively to meet its customers’ needs.  Indeed, the Commission and its Staff have supported prudent, innovative management initiatives that address that goal.  A less thoughtful or perceptive regulator might have deprived Idaho’s natural gas customers of the benefits of early and continuous development of gas procurement and transportation opportunities through an independent marketing company.  But this Commission did not, and the Idaho economy as well as those customers are the beneficiaries of that record of progressive policies.  In point of fact, Intermountain’s arrangement with IGI Resources, Inc. (“Resources”) has realized past savings and secured future savings for Intermountain’s approximately 200,000 customers of at least $75 million, as further discussed on page 17 herein.

When gas deregulation was initiated at the federal level over a decade ago, Intermountain foresaw the need and unique opportunity for a free-standing gas marketing company that could assemble a regional market enhancing Intermountain’s ability to negotiate price and gaining access to transportation opportunities not typically available to a local distribution company.  Intermountain and its customers have been the beneficiaries of this strategy.  Intermountain has continued to adapt to the changing regulatory and competitive business environment by contractually outsourcing services to Resources under contracts and on terms that have been shared with and supported by the Commission and its Staff.  Services provided by Resources from inception have included such things as:  management of gas supply and pipeline capacity; daily nomination and scheduling of all supplies of natural gas including peaking, storage and seasonal supplies; avoidance of pipeline related penalties; development of off-system marketing programs to utilize Intermountain’s capacity, storage and supplies in the most efficient manner possible; a review of energy resource utilization to enhance utility revenues; development of pipelines, hubs, receipt points, electronic bulletin boards, delivery points and storage fields that pertain to Intermountain’s supplies under contract; and development of a revenue sharing mechanism to increase net revenue for Intermountain through utilization of its supplies and capacity.  From the beginning, Intermountain has been on the leading edge in outsourcing services for the benefit of its customers--years before other companies.  As frequently reported in the energy industry press, other companies are doing today for the first time what Intermountain and Resources did ten years ago.

As the importance of Resources’ services grew, the criteria by which management judged the sufficiency of that arrangement evolved into formal policy, and at least three years prior to the present proceeding, Intermountain and the Commission Staff conducted in-depth reviews of appropriate  standards for competitive practices in this setting.  Even though those discussions were still in progress, in 1996 Intermountain unilaterally and voluntarily adopted and has adhered to specific, stringent standards that deal with its obligations to its customers and support principles of prudent, ethical management respecting the aspects of its business relevant to the out-sourced supply and transportation services to which those arrangements relate.  Many of the Staff’s suggestions in 1996 and many of the ideas in the current Staff Comments have been accepted by Intermountain.

Intermountain has conducted its business scrupulously.  Fortunately, neither the Staff nor the Commission is statutorily charged with disrupting the utility’s established business relationship with Resources, a relationship that has substantially benefited Intermountain’s customers, in order to enhance the opportunities of a competitor.  The Commission, its Staff and Intermountain cannot be so easily distracted from their common purpose:  to assure the reliable delivery of quality service to the utility’s customers at just, reasonable and sufficient rates.   The proper focus must be upon utility customers, not the well-being of its competitors or its vendors’ competitors.

With the emphasis on Intermountain’s customers, the prudent course becomes easier to discern from the three alternatives expressed through the various comments.  Should Intermountain:

◆select a marketer on the basis of price pursuant to a competitive bidding process?

◆continue a successful business relationship with Resources that has served Intermountain’s customers well?

◆attempt to duplicate what Resources has already accomplished?

Intermountain has chosen the middle course and the prudence of requiring a change must necessarily take into account the wisdom of casting aside an existing arrangement that has proven to be and is beneficial to its customers.  To assess the prudence of Intermountain’s, the Commission’s, and Staff’s decisions that have led to the current arrangement, management poses the following questions:

◆Should the utility’s officers and directors continue to have the right and duty to manage its  business?

◆Should the utility’s management be encouraged to continue to develop innovative ways to serve customers?

◆Should an affiliate’s competitors be permitted to handicap the utility and its affiliate to enhance the competitors’ chances for success without regard for Intermountain’s customers?

◆Should the Commission mandate change from the current relationship between Intermountain and Resources which has served Intermountain’s customers exceptionally well?

◆Does a proven record of cutting edge innovation, supply and transportation reliability and significant cost savings for Intermountain’s customers evidence prudent management judgment and justify continued support of Intermountain’s management?

The proposals would require Intermountain to pursue one of two alternative, substantially dissimilar courses it has so far rejected:  (i)  to bring certain services in-house; or (ii) to determine who would provide those services through a competitive bidding process.  They are mutually exclusive proposals.  Intermountain could not in good faith request bids, then reject them all and take the work in-house.  The proposals must be motivated by different considerations.  Taking services in-house could be seen as increasing the utility’s control over how those services are delivered, whereas competitive bidding is a process focused on price considerations, but would do nothing to enhance the utility’s control over the service provider.  Intermountain submits that the course it has chosen addresses both of these concerns.  Resources’ services have been uniformly excellent and have generated substantial savings for utility customers.

The first proposal--mandatory competitive bidding--would relieve management of both discretion and responsibility.  If the Commission adopts such a rule, management could not be criticized for the failure of a service provider selected pursuant to the Commission’s rule, though the Commission might be criticized for depriving management of the power to run the utility.

As we look more closely at the competitive bidding proposal, it must be recognized that a great deal of private business is done without it.  Not even governmental entities are required to use competitive bidding for all situations.  Competitive bidding does not lend itself to every commercial setting, particularly where a proven record of reliability and innovation are at least as important to a utility’s customers as price.

Resources’ record of reliability for Intermountain’s customers is unblemished in ordinary as well as extraordinary circumstances.  In 1989, when the “Arctic Express” gripped the country and customers were without natural gas in several states, Intermountain’s customers received the gas they contracted for because of work done by Resources.   Companies like Iowa Beef, Ore-Ida and Carnation were not then being served by Resources outside Idaho, but when their marketers and local utilities in other states failed to deliver, they turned to Resources who procured the gas they needed.  More recently, a report in “Gas Daily” (July 15, 1998, page 3) underscored that reliability can be brought into question under warmer than normal circumstances, quoting an American Gas Association representative who pointed out that “. . . despite a winter 8.1% warmer than normal, and 4% warmer than the 1996-97 winter season, seven (out of 23) LDCs reported that ‘marketers or other suppliers were not able [to] deliver volumes of natural gas on behalf of customers at some time during the winter’. . . .”  (Emphasis added.)  Intermountain’s customers were not among those who were disappointed by failures to deliver their gas.  Thanks to Resources, Intermountain’s customers received their gas.  It should be noted that later in the summer of 1997, even Intermountain was curtailed as much as 25 percent by Northwest Pipeline; nonetheless, Intermountain’s customers received their gas, again thanks to Resources.  Reliability is not only important when the Arctic Express arrives, but every day of every year.

In addition to its reliability, Resources is known for its innovation.  For example, the Staff in Case No. INT-G-98-4 complimented Intermountain’s unique hedging program that has materially contributed to price stability for its customers.  The Commission had the foresight to support this program four years ago which was initiated and implemented by Resources.  Commissions in other jurisdictions are now urging their companies to implement similar programs.   While other utilities have been coming to this decision, the price stability made possible by Intermountain’s hedge program has also  generated significant savings.  For example, two years ago this program saved Intermountain’s customers four million dollars and it saved nearly two million dollars for Intermountain’s customers last year.  Such savings in commodity and transportation expenses now and in the future have benefited Intermountain’s customers and are attributable in great measure to the company, Commission, and Staff working to facilitate the excellent services provided by Resources.

As another example of innovation, Resources pioneered an effort on the Northwest system to use segmentation of pipeline capacity almost four years ago to achieve lower priced, firm transportation for Intermountain’s customers.  Segmentation has saved and is saving millions of dollars for Intermountain’s customers.

Even years after Intermountain and Resources have implemented cost savings for Intermountain’s customers, other utilities are only beginning the process.  The “Inside FERC” Gas Market Report for July 10, 1998 at page 4, reports that South Jersey Gas Company and New Jersey Natural Gas this month announced “in the first deal of its kind” that they will form an alliance to release smaller capacity contracts on their respective pipelines.  The two utilities will then pass the profits earned on their releases to their customers and shareholders.  Intermountain with Resources is far ahead of this “first deal of its kind.”  A more recent example is the city of Richmond, Virginia, contract, which only now is following the same course that Intermountain and Resources did years ago.  With this Commission’s assistance, Intermountain and Resources have led rather than followed industry trends for the customers’ benefit.  Mandatory competitive bidding is not a way to select a partner to match this record of achievement.

The other proposal (taking services in-house) also raises serious objections.  To require Intermountain to bring services now furnished by Resources in-house ignores the cost to duplicate the knowledge and experience of the Resources team, if such duplication would be possible.  Intermountain has the right to bring these services back into the utility without a rule change, but in its judgment that would not be prudent.

Purchasing services from Resources affords the utility’s customers benefits in two ways that Intermountain could not by itself secure.  The utility does not have the customer base to command the commodity prices that Resources has been able to negotiate.  Similarly, Resources has customers in the Northwest and elsewhere that permit it to take advantage of transportation opportunities that simply are not available to the utility acting alone.  Transportation is a regional issue transcending Idaho’s borders.  A marketer with many other customers has an advantage over in-house management of transportation.  On a stand-alone basis, Intermountain’s load factor is lower and therefore capacity and commodity costs would be more expensive if managed in-house.

Based on independent determinations made by many other regional users, Resources has been chosen over other competitors on the basis of both price and service.  To mention just a few of the regional customers who have selected Resources are Longview Fiber, Boise Cascade, Simplot, Amalgamated Sugar Company, and ConAgra and the list goes on.  In fact, Resources represents more companies on the Northwest system than any other marketer.

Answering the questions, previously posed, Intermountain strongly believes:

◆The officers and directors of the utility should continue to have the right and duty to manage the utility’s business.

◆The management of the utility must continue to have the right opportunity to prudently develop new benefits for the utility’s customers.

◆Competitors must not be allowed to handicap the relationship between the utility and its affiliate to enhance the competitors’ chances for success at the expense of Intermountain’s customers.

◆The Commission should not mandate change in the current relationship between Intermountain and Resources which is serving Intermountain’s customers exceptionally well.

◆Resources’ proven record of cutting edge innovation, supply and transportation reliability and significant cost savings for Intermountain’s customers should be allowed to continue.

Based on these factors, Intermountain is reluctant to endorse any radical changes in these fundamentals at this time.  We appreciate the Commission’s consideration of suggestions from the other parties, some of which have improved Intermountain’s original proposals.

STAFF COMMENTS

Intermountain will address the comments of the Staff in the same order as they appear in the Staff filing.

1.Company proposal:

2.5If Intermountain offers its gas marketing affiliate or a customer of its gas marketing affiliate a discount, rebate, or fee waiver for transportation services, balancing, meter fees, or installation, storage service, standby service, or any other service, it shall contemporaneously apply the same discount, rebate, or fee waiver to all substantially identical non-affiliated suppliers or customers.

Staff comment:

Intermountain provides services at rates published in its tariff.  It may not, for any party, provide discounts, rebates, or fee waivers without permission of the Commission.  This provision should be reworded as follows:

Intermountain will not offer its gas marketing affiliate or a customer of its gas marketing affiliate a discount, rebate, or fee waiver for transportation services, balancing, meter installation, storage service, standby service, or any other service.

Company Reply:

Unfortunately, the revised wording proposed by the Staff does not address all of the issues included within Intermountain’s original proposal.  For example, there may be discretion pursuant to Intermountain’s tariffs or through a special contract to apply different rates or fees and Section 2.5 seeks to address that issue.  Nonetheless, Section 2.5 should substitute the words “rate or terms of service as applied by contract or tariff” for the words “discount, rebate or fee waiver.”

2.Company proposal:

2.6An Intermountain employee or gas marketing affiliate employee may not indicate to any customer, supplier, or third party that any advantage may accrue to that customer, supplier, or third party in the use of the gas marketing affiliate by virtue of the gas marketing affiliate’s corporate relationship with Intermountain.

Staff comment:

Staff would strike “or gas marketing affiliate employee.”  The IGC tariff applies to the regulated utility, not to an unregulated affiliate.  The action of employees of an unregulated affiliate are beyond the authority of this Commission.

Staff would also strike “by virtue of the gas marketing affiliate’s corporate relationship with Intermountain.”  IGC employees should not recommend Resources over any other supplier for any reason.

Company Reply:

The first proposed Staff change is acceptable to Intermountain.  With regard to the second Staff proposal, Intermountain should be allowed to answer questions about or comment upon any marketer’s interaction with Intermountain.  The goal of the rules should be to serve customers, which, Intermountain submits, cannot be achieved by withholding relevant information in its possession.

3.Company proposal:

3.1IGI Resources, Inc. (“Resources”), a gas marketing affiliate, may continue to provide natural gas procurement, related transportation, and storage services to Intermountain.  Specifically, Resources may negotiate supply contracts with producers on behalf of Intermountain and provide, inter alia, certain load-balancing, dispatching, and nominating services.  As part of the nominating services, Resources will absorb any penalties incurred.

Staff comment:

The wording of this provision and the following provisions under Section 3, Supply, Transportation, and Storage, strongly implies that Resources will always be IGC’s gas supply and transportation agent.  This is in conflict with provision 2.1 that states “Intermountain’s solicitation of proposals for the purchasing of the utility’s natural gas supply or transportation, or both, shall be on a nonpreferential and nondiscriminatory basis.”

Relying on Resources to manage Intermountain’s existing gas supply contracts and to negotiate future contracts may or may not be the most economical means of securing and managing gas supply and transportation services.  In 1990, when discussions between Staff and the Company concerning the relationship between IGC and Resources first began, Resources had few if any competitors in this area.  Today, there are a number of companies providing the same or similar services as those provided by Resources.  The best way to ensure that IGC customers are paying a reasonable price for the services currently provided by Resources, a nonregulated entity, would be to require IGC to obtain these services through a competitive bidding process.  Resources should not be precluded from participating in such a process, but should be given no advantage over other bidders.  Alternatively, IGC could provide these services internally.

Management of IGC’s contract for transportation on WGP-W is currently performed by Resources.  Gas suppliers with customers transporting under IGC’s T-1 and T-2 tariff schedules, must notify the Company of their scheduled deliveries, including receipt and delivery points.  Competitive suppliers complained in the past that they were required to provide this competitively sensitive information to their competitor, Resources.  Although they now provide it to IGC who combines the information before passing it on to Resources, they fear that because they have so few customers on the IGC system that combining the information does not truly protect this sensitive information about their customers.  Because of the potential for compromising confidential information received by IGC and because pipeline transportation could be used as a bottleneck to frustrate competition, management of the WGP-W contract should be provided by IGC itself and should not be delegated to any marketer as long as IGC transportation customers are using it.

Provision 3.1 should be replaced with the following:

3.1.a.Intermountain will offer through an open competitive bidding process, the opportunity for all market participants including it’s affiliates, the opportunity to provide gas supply services to the company.

3.1.b.Intermountain will independently manage its interstate pipeline contract.

Company Reply:

Intermountain disagrees with the interpretation given by the Staff to Intermountain’s proposed wording.  Section 3.1 does not imply that Resources will always be Intermountain’s gas supply and transportation agent.  The use of the word “may” is permissive not mandatory and is, therefore, not in conflict with Section 2.1.

Intermountain is committed to making prudent arrangements for the benefit of its customers.  In holding utility management to this responsibility, the Commission has historically given Intermountain and other utilities the prerogative to manage their respective businesses.  It has recognized and observed the distinction between regulating and managing.

The Staff believes that the best way to ensure that Intermountain’s customers are paying a reasonable price is to require Intermountain to obtain services through a competitive bidding process.  If this were true, then all companies should be using a competitive bidding process for every service and good they purchase.  More to the point, the logical extension of the Staff’s proposal is to require the utility (and all other regulated utilities) to submit all goods and services to a competitive bidding process.  However, competitive bidding does not lend itself to selecting the most reliable, responsive, innovative or best provider of services.  It focuses principally on price.  Intermountain believes that the current negotiated process provides its customers with the best results.

There is a more fundamental question that should be addressed relating to the Staff proposals for competitive bidding or for bringing the services in-house and that is if something is working well, why try to fix it?  The complexities of operations on Northwest Pipeline are very significant.  Problems arise daily in the transportation of gas.  Having a marketing agent with expertise and flexibility (based on the large number of other loads on the system) is invaluable.  The cost must be reasonable, but not always the lowest.  The more important consideration for many customers is reliability in the delivery of natural gas.

When the original contract was entered with Resources, Intermountain was careful to compare it to other options available and Resources offered the best alternative.  The performance by Resources has been commendable over the years and fully in compliance with the terms of its agreement.

By way of example, when the “Arctic Express” was blowing through the country in 1989 and customers were without natural gas in several states, Intermountain’s customers received the gas they contracted for because of experience and services provided by Resources and the transportation options it had secured through its position in the market.  Customers in other states such as Iowa Beef, Ore-Ida and Carnation had gas procured for them by Resources when their then-existing marketer or local utility was unable to deliver gas supplies.  A report in “Gas Daily” (July 15, 1998) points out how important reliable gas supply is.  On page 3, the newspaper quoted the American Gas Association as saying that “. . . despite a winter 8.1% warmer than normal, and 4% warmer than the 1996-97 winter season, seven (out of 23) LDCs reported that ‘marketers or other suppliers were not able [to] deliver volumes of natural gas on behalf of customers at some time during the winter’. . . .”  Reliability is not only important when the Arctic Express arrives.  It is important every day of every year.

Second, Resources is an Idaho company with local employees that knows Intermountain’s system.  Resources is immediately accountable to Intermountain if something isn’t going right.

Third, an objective evaluation of the work performed by Resources was provided by the Staff in Case No. INT-G-98-4 which complimented Intermountain’s unique hedging program.  The Commission had the foresight to approve this procedure which was initiated and implemented by Resources.  Over a two-year period, Intermountain’s customers have saved more than six million dollars and the benefits of the program may continue indefinitely into the future.

Intermountain’s prices today compared with ten years ago are more than six million dollars lower.  These lower prices are attributable in great measure to the excellent services provided by Resources.  Price stability is important for Intermountain’s customers.

As a further example, Resources pioneered an effort on the Northwest system to use segmentation of pipeline capacity almost four years ago to achieve lower priced, firm transportation for Intermountain’s customers.  Segmentation has already saved Intermountain’s customers more than seven and one-half million dollars and as a result of contracts currently in place, there will be a savings of more than thirty-seven million dollars over the life of those contracts.

Resources has negotiated other contract discounts for the benefit of Intermountain’s customers which during the various contract periods will save more than thirty-two million dollars.  As the result of efforts by Resources capacity releases have also saved almost two million dollars.

While Intermountain might conceivably bring management of its interstate pipeline contract in-house, it would be very expensive to duplicate the expertise that Resources has.  Intermountain has the option to bring the services it outsources in-house without a rule change; however, there is no reason to currently believe that mandating Intermountain to provide the services can be done less expensively or more reliably than Resources.

Resources has been chosen by many other regional users over other competitors because it is offering very good service.  To mention just a few of the other regional customers who have chosen Resources:  Longview Fiber, Boise Cascade, Simplot, Amalgamated Sugar Company, and ConAgra.  In fact, Resources represents more companies on the Northwest system than any other marketer.

With regard to the final issue relating to the confidentiality of competitive supplier information, as noted by the Staff, Intermountain has taken steps to protect trade secrets and information given to it in confidence and will do so as warranted in the future.

4.Company proposal:

3.2Intermountain will maintain a position of Gas Supply Officer.  The Gas Supply Officer will be an employee of Intermountain, and not the gas marketing affiliate, and will be charged with directing the gas marketing affiliate in any negotiation for the purchase and/or transportation and storage of natural gas for Intermountain’s account.  This Officer shall be responsible for obtaining reliable, secure, diverse, and economical gas supply, transportation, and storage services for the utility.

Staff comment:

For reasons stated above, the second sentence of this provision should be changed to read:  The Gas Supply Officer will be charged with directing any negotiation for the purchase and/or transportation and storage of natural gas.

Company Reply:

While the Staff’s proposed change to eliminate any misunderstanding that Resources will always be Intermountain’s agent is acceptable, the words “its agent, if any, in” should be inserted in the Staff’s proposed revision before the word “any.”  Intermountain should have the option of using an agent to negotiate for it under Intermountain’s general direction.

5.Company proposal:

3.3To better facilitate the regulatory review of Intermountain’s gas procurement, the Gas Supply Officer will direct the gas marketing affiliate to separately negotiate all contracts for Intermountain’s sales service.

Staff comment:

For the reasons stated above, this provision should be changed to read:  . . . the Gas Supply Officer will ensure that all procurement of gas supplies will be accomplished through separately negotiated contracts for Intermountain’s sales service and not in association with a gas marketing affiliate or other marketing entities.

Company Reply:

The first part of the proposed Staff change is acceptable to Intermountain; however, the wording Staff proposes after “sales” limits the utility’s options, potentially to the detriment of its customers.  Accordingly, the Company submits this sentence should read in full as follows:  “To better facilitate . . . , the Gas Supply Officer will ensure that all procurement of gas suppliers will be accomplished through separately negotiated contracts for Intermountain’s sales.”

6.Company proposal:

3.4When core market demand goes down, Intermountain’s weighted average cost of gas (“WACOG”) can go up unless the utility finds a method for releasing gas in excess to that day’s needs.  In order to help Intermountain meet its minimum take requirements under its contracts and to help Intermountain lower its WACOG, Resources will use all reasonable efforts to sell the gas excess to Intermountain’s daily needs whenever it can find a willing purchaser at a market clearing price.

Staff comment:

The second sentence in this provision should be reworded to remove the reference to Resources.  Staff suggests:  . . . all reasonable efforts will be made to sell gas excess to Intermountain’s daily needs whenever a willing purchaser can be found at a market clearing price.

Company Reply:

The proposed Staff change is acceptable to Intermountain with the understanding that Intermountain may cause agents or employees to effectuate this goal.

7.Company proposal:

3.5FERC Order No. 636 shifts the responsibility for mitigation of transportation and storage capacity costs from the interstate pipeline to the local distribution company.  During periods when this capacity is excess to Intermountain’s customer needs, Resources will use all reasonable efforts to sell this capacity to other markets.

Staff comment:

For reasons stated above the reference to “Resources” should be changed to “Intermountain.”

Company Reply:

The proposed Staff change is acceptable to Intermountain with the understanding that Intermountain may cause agents or employees to effectuate this goal.

8.Company proposal:

3.6Effective May 1, 1990, Intermountain and Resources entered into an administrative service agreement which continues in effect as amended and as concurred with by the Staff, in which Resources, inter alia, is compensated for services contemplated in paragraphs 3, 4, and 5 above.

Staff comment:

Staff fails to see the purpose of this provision and recommends it be deleted.

Company Reply:

The proposed Staff change is acceptable to Intermountain.

9.Company proposal:

4.2Intermountain may not provide business leads to its gas marketing affiliate and shall refrain from giving the appearance that Intermountain speaks on behalf of its gas marketing affiliate.  If a customer requests information about gas marketers from Intermountain, it shall provide a list of at least three marketers known by it to be operating in or adjacent to it[s] service territory, but may not promote any marketer over another.

Staff comment:

This is a good provision, however, questions may arise concerning why a specific marketer was not included on the list.  Staff suggests that the Company include all marketers who specifically ask to be included on a list.

In approving the Washington Water Power Co. (WWP) Direct Access Delivery Service, an electric open access pilot program, the Commission established a Certificate registry of suppliers that had provided the necessary information to participate in the program.  (Case No. WWP-E-96-2)  Providers are required to provide the following:

•Name, address and form of Business

•Certified copy of Articles of Incorporation

•Evidence of FERC registration and qualification (if required)

Staff recommends the Commission establish a similar registry for competitive gas suppliers.  If such a registry is established, the second sentence of the provision should read:  If a customer requests information about gas marketers from Intermountain, it shall provide a list of all marketers who specifically ask to be included on the list or refer the customer to the Commission.

Company Reply:

The proposal by the Staff to provide a list of all marketers who specifically ask Intermountain in writing on an annual basis to be included on the lists is acceptable.  The balance of the proposed requirements would be unnecessary and burdensome.

10.Company proposal:

4.3The utility will put in place internal procedures assuring that a customer electing to obtain gas supply or pipeline capacity from other than its gas marketing affiliate may do so without disclosure of the customer’s receipt and delivery points for their gas supply and/or pipeline capacity.

Staff comment:

As with the provisions under Section 3, this provision assumes that IGC’s affiliate will be managing the utility’s gas supply and interstate pipeline transportation contract.  Staff believes that the marketing affiliate should not manage the NWP contract and if competitive bids are solicited for gas supply services, may or may not be managing the utility’s gas supply.  Also, in addition to receipt and delivery points, usage should not be required to be divulged to the competitor of a customer’s supplier or marketer.

Staff suggests the following language:  Intermountain will put in place internal procedures assuring that a customer electing to obtain gas supply or pipeline capacity from other than the utility may do so without disclosure to parties other than the utility of the customer’s usage, receipt or delivery points for their gas supply and/or pipeline capacity.

Company Reply:

As previously discussed, there is no assumption in this section that Resources will always be managing supply or transportation for Intermountain.  Furthermore, Intermountain does not agree with the wording proposed by the Staff.  Intermountain needs to provide its agent, whoever it might be, with certain information regarding receipt and delivery points.  Even if a marketer is aware of such information, it does not provide any information that would be competitively advantageous.  Finally, the referenced information must be given to the interstate pipelines.

11.Company proposal:

5.1The gas marketing affiliate shall essentially be a stand-alone entity with respect to Intermountain, but may receive corporate level support.

Staff comment:

Staff would strike the word “essentially” and make it clear that IGC and Resources operate from physically separate locations.  Also, any corporate-level support from the utility should be provided subject to contract and at fully-allocated cost.

This provision should read:  The gas marketing affiliate shall be a stand-alone entity with respect to Intermountain and operate at a separate location, but may receive corporate-level support at the utility’s full embedded cost of providing such service.

Company Reply:

The Staff proposal is acceptable to Intermountain.

12.Company proposal:

5.2A shared employee shall record time in a manner consistent with good regulatory accounting practices.

Staff comment:

This is a good provision; however certain restrictions should be placed on the use of shared employees and officers and the transfer of employees between the utility and its marketing affiliate.  The following language should be added:

The use of an Intermountain employee by the gas marketing affiliate (or transfer of an Intermountain employee to the marketing affiliate) or the use of a gas marketing affiliate employee by Intermountain (or transfer of a gas marketing affiliate employee) is not allowed if it may result in the sharing or exposure of market sensitive information, or if it may result in an unfair competitive advantage for either party.  An individual may be an officer of both Intermountain and a gas marketing affiliate provided that the common officer not obtain or use knowledge of market-sensitive information for more than one of the entities.

Company Reply:

The Staff proposal goes too far.  An employee could leave Intermountain and go to work for any number of marketers.  Second, to the extent legally permissive and fair, restrictions relating to the protection of sensitive legally privileged information should be required in all cases.  With regard to the second sentence, it is impossible for an officer not to obtain information as distinguished from using it.  Third, the Staff wording goes too far in restricting benefits the utility might “receive” from having the joint officer relationship.  This should be encouraged, not prohibited. Fourth, Idaho corporate law already prevents an officer from using information that would harm either corporation.  Finally, the proposal appears to be focused on protecting competitors rather than on protecting Intermountain’s customers.

13.Company proposal:

5.5If Intermountain has discretion under its tariffs to provide services at discounted rates, the utility shall maintain complete and accurate records of all written service requests, service refusals, and service transactions arising under those tariffs.

Staff comment:

Whether or not Intermountain is given discretion to provide services at discounted rates, it should keep complete and accurate records as laid out in this provision.

Provision 5.5 should read:  Intermountain shall maintain complete and accurate records of all written service requests, service refusals, and service transactions arising under its tariffs.

Company Reply:

Intermountain does not keep records relating to all requests, refusals and transactions.  Such a requirement would be burdensome and expensive.  Instead, Intermountain would suggest the following wording:  Intermountain shall maintain complete and accurate records of all written service requests, written service refusals, and written service transactions arising under its tariffs for a period of twelve months.  This would give the Commission an opportunity to audit this information if the Commission felt such an audit was warranted.

14.Company proposal:

5.6The Intermountain employee shall refrain from revealing market sensitive information that would result in an unfair competitive advantage for its gas marketing affiliate.

Staff comment:

Intermountain should refrain from revealing any market sensitive information.  If it reveals such information to any gas supplier, it should contemporaneously disclose the same information it to [sic] all other suppliers or potential suppliers on its system.

Company Reply:

After reviewing the Staff’s comments, Intermountain has reconsidered the intent and purpose of the original proposal.  Intermountain should only be requested to refrain from revealing trade secrets and confidential customer information when it does not have the customer’s consent.  The Staff’s remedy would not necessarily be in the customer’s best interest.  If market-sensitive information is improperly disclosed, it should be dealt with on a case-by-case basis.  Protection of Intermountain’s customers, not competitors, should be the principal goal.  Finally, Intermountain is concerned that one of the unintended consequences of the Staff’s proposal could be multiple lawsuits.

15.Staff proposal:

2.7Intermountain will not give preference to its gas marketing affiliate in the scheduling and allocation of capacity at city gate stations.

Company Reply:

The proposed Staff change is acceptable to Intermountain if the terms “receipt points” are substituted for the phrase “city gate stations.”

16.Staff proposal:

3.6Intermountain will not give its marketing affiliate any form of preference over non-affiliated suppliers with respect to assignment, release, or other transfer of excess interstate pipeline or storage capacity, or gas supplies.

Company Reply:

The proposal rule would eliminate Intermountain’s ability to negotiate assignments or other transfers that will benefit Intermountain’s customers.  There is no current mechanism on the Northwest Pipeline system to post storage capacity or gas supplies.  Intermountain agrees with the Staff that it should not assign, release or otherwise transfer excess interstate pipeline or storage capacity, or gas supplies if such action would disadvantage Intermountain’s customers.

17.Staff proposal:

6.Complaint Procedure

6.1If any competitive gas supplier or customer believes Intermountain has violated these standards of competitive practices, that competitor or supplier may file a complaint in writing with Intermountain.  Intermountain will respond to the complaint in writing within 20 business days after receipt of the complaint.  Within 15 days after the response, Intermountain will meet with the complaining party to resolve any remaining issues.

6.2Intermountain will maintain a log of all new, resolved and pending complaints and make the log available to the Idaho Public Utilities Commission upon request.

6.3If Intermountain and the complaining party do not resolve any such remaining issue, it may within 60 days be referred by either party to the Commission.

Company Reply:

The Staff concept is generally good.  However, we would suggest the following revisions:

6.1If any competitive gas supplier or customer is adversely affected and believes Intermountain has violated these standards of competitive practices, that competitor or supplier may file a complaint in writing with Intermountain.  Intermountain will respond to the complaint in writing within 20 business days after receipt of the complaint.  Within 15 days after the response, Intermountain will confer with the complaining party to attempt to resolve any remaining issues, if any.

6.2Intermountain will maintain a log of all such new, resolved and pending complaints and make the log available to the Idaho Public Utilities Commission upon request.

6.3If Intermountain and the complaining party are not able to resolve any such remaining issue, it may within 60 days be referred to the Commission to the extent that the Commission has jurisdiction.

IPC COMMENTS

The following Replies are provided in response to the IPC comments:

1.IPC comment:

Resources, as agent for IGC, controls IGC’s interstate assets including contractual rights to interstate pipeline transportation capacity and gas storage capacity.  The full cost of these assets are included in IGC’s rates, and Resources is responsible for maximizing the value of these assets not required for IGC system supply (“excess capacity”).  To the extent that Resources receives value for excess capacity, IGC’s customers benefit through the PGA mechanism, as such value is flowed through to the customers.

To promote customer benefit, reduce the appearance of impropriety, and assist the Commission in its oversight duty, all use of IGC’s interstate assets, except those used for IGC’s system supply requirements, should be posted by IGC on an electronic bulletin board (EBB) or website that the FERC requires interstate pipelines to maintain for such purposes.

Company Reply:

IPC is incorrect in asserting that Resources has “control”--Resources merely manages under the control of Intermountain.  Intermountain already maintains the records required by IPC for review by the Commission which the Commission Staff does review on a regular basis.  Maintaining a website would be very expensive and would only be intended to benefit marketers competing with Intermountain, not Intermountain’s customers.

2.IPC comment:

Section 2 should be rewritten to require IGC to deal with all market participants in an equal manner.  As written, the provisions contained in Section 2 contain the same fundamental flaw.  The term “substantially identical” is vague and unclear as to its terms and may allow IGC to give preferential treatment to an affiliate.  The term, “substantially identical” allows IGC the ability to look at two market participants, and based on an unclear subjective interpretation provide a discount, waive fees, require special meters, or benefit one market participant over another.  All market participants should be able to receive the same array of services and discounts provided by IGC, the distribution company, to any other customer.  The Commission should not allow IGC to differentiate those marketers that are not “substantially identical” from its own affiliates.

In addition, IGC should only process nominations and request for transportation on an individual basis rather than a “pooled” basis, unless a costless pooled service is available to all nonaffiliated marketing participants.  IGC should be required to process all requests for transportation and gas-related service in the same manner, rather than those, that by their own subjective review, are “substantially identical.”

Company Reply:

The term “substantially identical” was used to avoid a hard line approach where the circumstances were not exactly “identical.”  This wording was proposed to afford Intermountain flexibility to avoid the appearance of favoring one competitor over another if stricter language were used.  Unique circumstances such as credit worthiness, load factors, prepaid costs, etc., dictate tariff applications and special contract terms.  A complaint procedure is available if Intermountain’s actions are in violation of Commission statutes or rules.  See, e.g., 61-315.  IPC’s attempt to hobble Intermountain to the disadvantage of Intermountain’s customers should not be encouraged.  Finally, pooled service is already available and Intermountain has agreed to pool with other marketers.

3.Company proposal:

4.1Without the written consent of the customer, Intermountain may not disclose to its gas marketing affiliate or any other market participant any non-public information which it received from any of the following:

•A customer or gas supplier

•A potential customer or gas supplier

•An agent of a customer or gas supplier or potential customer or supplier

•A marketer or other supply entity seeking to supply gas to customer or potential customer that is located in the utility’s service territory.

IPC comment:

The beginning of the lead sentence should be changed to read:  “Without the prior affirmative written consent of the customer . . .”  Inclusion of the word “affirmative” eliminates a default mechanism of consent, such that customers are deemed to have consented to the release of such information unless they state otherwise.  In addition, the following should be added to the end of paragraph 4.1:  “Intermountain shall not solicit the release of non-public information and data exclusively for its own affiliate.”

Company Reply:

The words “prior affirmative” do not appear to add anything to the original proposal.  Rule 5.6 already adequately addresses the second issue raised by IPC and the complaint process is an alternative process for resolution of disagreements.

4.Company proposal:

4.2Intermountain may not provide business leads to its gas marketing affiliate and shall refrain from giving the appearance that Intermountain speaks on behalf of its gas marketing affiliate.  If a customer requests information about gas marketers from Intermountain, it shall provide a list of at least three marketers known by it to be operating in or adjacent to its service territory, but may not promote any marketer over another.

IPC comment:

If a customer requests information about gas marketers from IGC, it should provide a list of all providers of gas supply services.  The list should include all gas supply service providers who request to be on the list, including IGC’s gas marketing affiliate.

Company Reply:

IPC’s idea is acceptable to Intermountain to the extent outlined in Intermountain’s response to a similar Staff proposal, supra.

5.Company proposal:

5.4Intermountain shall keep sufficient records to document all written offers of, bids for, requests for, and sales of natural gas supplies, capacity, or both, including the evaluation criteria for acceptance and rejection.  Intermountain shall keep or cause to be kept documentation, so that the utility’s activities can be audited.

IPC comment:

IGC, when providing discounts, rebates, or other waiver of any charge associated with gas transportation to Resources, or other affiliates, should within 24 hours of the time at which such discount service was provided, file a public notice with the Commission and other interested parties (that request a copy of the notice), which notice should include the following information:

•the rate charged and the maximum rate

•the term of the discounted transportation

•receipt and delivery points

•justification for the discount

•procedures by which a nonaffiliated entity may request a comparable offer

The providing of such information should be required regardless of whether or not the discounted transportation is used to serve a customer in IGC’s service territory.

Company Reply:

Intermountain’s practices, contracts and tariffs are already subject to audit by the Commission on a regular basis.  Intermountain already brings any change in rates or services to the attention of its customers.  Intermountain should have no obligation to provide special notice to gas marketers when a customer receives a different contract, rate or service.  Intermountain’s responsibility is to its customers, not to the various competitors.

CONCLUSION

Based on the foregoing comments, Intermountain requests that its proposals be adopted as originally submitted except to the extent that this Reply has agreed to amendments.

Respectfully submitted this \_\_\_\_\_ day of August, 1998.

Morgan W. Richards, Jr.Russell Worthan

Moffatt, Thomas, Barrett, RockIntermountain Gas Company

& Fields, Chtd.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the \_\_\_\_\_ day of August, 1998, I caused a true and correct copy of the foregoing REPLY OF INTERMOUNTAIN GAS COMPANY to be served by the method indicated below, and addressed to the following:

Scott Woodbury

Deputy Attorney General

Idaho Public Utilities Commission

Post Office Box 83720

472 West Washington

Boise, Idaho 83720-0074

() U.S. Mail, Postage Prepaid

() Hand Delivered

() Overnight Mail

() Facsimile

Patrick Harrington

Idaho Power Company

Post Office Box 70

1221 West Idaho Street

Boise, Idaho 83707

Fax:  (208) 388-6936

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() Hand Delivered

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Morgan W. Richards, Jr.