

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY TO APPROVE ITS 2016 SERVICE AGREEMENT WITH THE DEPARTMENT OF ENERGY))))))	CASE NO. IPC-E-16-18 ORDER NO. 33621
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On August 15, 2016, Idaho Power Company filed an Application seeking approval of a new special services Agreement with the United States Department of Energy (DOE) for service at the Idaho National Laboratory (INL). The current Agreement, approved in Order No. 32354, was set to expire on September 14, 2016, and a new Agreement was to become effective on September 15, 2016. The Commission issued a Notice of Application and Notice of Modified Procedure inviting public comment, and extending the current Agreement's term until this matter is resolved. Order No. 33579. Staff timely filed the only written comments, and Idaho Power filed a reply. The Commission now approves the Company's Application.

"Idaho Power has supplied electric service to the DOE and its predecessors since 1950 and currently serves the DOE under a special contract in accordance with the rates and charges set out in Electric Service Rate Schedule 30 and its successor schedules." Application at 2. The Commission approved Idaho Power's current special services Agreement with DOE in 2011. Order No. 32354. The current Agreement has a five-year term expiring September 14, 2016. Application at 2. Idaho Power began researching issues for negotiating a new agreement with DOE in July 2015. *Id.* The Company and DOE successfully negotiated the terms and conditions of its new special services Agreement, signed by the contracting parties on August 15 and 11, 2016, respectively, and attached to the Company's Application. Attachment 1.

2016 AGREEMENT

According to Idaho Power, the Company's 2016 Agreement with DOE includes the following terms:

Term. The Agreement begins September 15, 2016, and ends September 14, 2021, subject to the Commission's approval. Application at 4.

Services Provided by the Company. The Company agrees to provide the DOE up to 55,000 kilowatts (kW) monthly for the operation of facilities at the INL. The DOE may request additional power requirements subject to terms specified in the 2016 Agreement. *Id.* at 3.

Contract Charges to be Paid to the Company. Under the 2016 Agreement, the DOE will pay Idaho Power the monthly rate charges set forth in Schedule 30 for firm retail service of electric power and energy to the DOE at the INL site. *Id.* at 4.

Equipment at Antelope Facilities. For the Company to provide service to INL, it must use DOE-owned equipment located at the Antelope substation. The Antelope substation is jointly owned by PacifiCorp and Idaho Power, but operated by PacifiCorp. Under the Agreement, Idaho Power will maintain the DOE-owned equipment and coordinate access to such equipment with PacifiCorp. *Id.* at 3.

Idaho Power, DOE, and PacifiCorp have negotiated but not yet executed an agreement to transfer title of the DOE-owned equipment at the Antelope substation to Idaho Power and PacifiCorp. Idaho Power is in the process of determining whether PacifiCorp or Idaho Power will separately or jointly take title of the equipment. Under the 2016 Agreement, DOE will be notified of the utilities' decision by no later than March 31, 2017. Upon transfer of title, Idaho Power will charge DOE to maintain the equipment through a facility service charge. *Id.* at 3-4.

STAFF COMMENTS

Staff observed that the proposed Agreement involves the yet-to-be executed agreement "to transfer title of the DOE-owned Antelope substation equipment to Idaho Power and PacifiCorp," and stated that Staff will review the agreement if and when the transfer takes place. Comments at 2. Staff noted that "previous agreements and the proposed 2016 Agreement require the Company to maintain equipment owned by another entity." *Id.* Staff expressed that, until the pending title transfer occurs, any liability arising from the Company's maintenance and operation of the DOE-owned equipment "should be at the Company's risk and not . . . borne by ratepayers." *Id.* Given the expectation that any such liability would not be borne by ratepayers, Staff believes the 2016 Agreement is reasonable, and thus recommended approval.

COMPANY REPLY

The Company filed a reply expressing that Staff appears to recommend that Commission approval of the Agreement include a caveat – that liability from the Company's maintenance or operation of DOE-owned equipment should not be borne by ratepayers. The Company stated that such a provision would restrict the 2016 Agreement "more than any of the previous Commission-approved special contracts between the Company and the DOE, which

contained the same maintenance provisions.” Reply at 3. The Company noted, “Any liability that may arise due to operation of the equipment is governed by contractual arrangements between PacifiCorp and DOE, and will not fall to Idaho Power’s other customers.” *Id.* According to the Company, the 2016 Agreement incorporates a Limitation of Liability section providing “Idaho Power and its customers more protection from potential liability exposure than past agreements.” *Id.* at 4. The Company asserted that this additional section incorporates “language consistent with prudent energy contract procedures and market standards that was subsequently approved by the Commission in Order No. 33071.” *Id.* Thus, the Company asked that the Commission approve its Agreement with DOE, “without any caveats regarding liability.” *Id.* at 5.

DISCUSSION AND FINDINGS

The Commission has reviewed the Application and record in this case, including the proposed Agreement, Staff comments, and the Company’s reply. We find that the Company’s proposed Agreement with DOE is largely the same as its current Agreement, which we approved in 2011. Order No. 32354. Based on the record, we find it appropriate to approve the Company’s proposed 2016 Agreement with DOE.

As to Staff’s concern about ratepayer liability, we are satisfied that there are sufficient safeguards for ratepayers in the law, and specifically in the Agreement, that we need not include a caveat in our approval.

ORDER

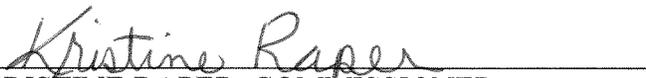
IT IS HEREBY ORDERED that Idaho Power’s Application to approve its Agreement for electric service with the Department of Energy is granted, effective on the service date of this Order.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. 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 13th day of October 2016.



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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