

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UE 195**

In the Matter of

Application of the IDAHO POWER COMPANY for authority to Implement a Power Cost Adjustment Mechanism for Electric Service to Customers in the State of Oregon

STAFF'S RESPONSE TO IDAHO POWER COMPANY'S MOTION FOR CLARIFICATION

INTRODUCTION

Idaho Power Company's Motion for Clarification presents three issues: (1) whether the power cost adjustment mechanism (PCAM) approved in Order No. 08-238 is subject to the deferral statute, ORS 757.259; (2) assuming that the Commission finds that the PCAM is subject to ORS 757.259, whether the Company's tariff filing may serve as a deferred accounting application¹; and (3) whether the Motion for Clarification should be treated as a deferred accounting application.

Idaho Power's PCAM includes two components: (1) an automatic adjustment clause that resets each June 1 the rate to recover forecasted power costs; and (2) a true-up of the Company's power cost expenses for each calendar year. As discussed below, the PCAM true-up allows the Company to transfer past costs to future ratepayers and is subject to the ORS 757.259. Staff does not believe that the Company's tariff filing should be treated as a substitute for a deferred accounting application. Staff, however, does not oppose the Company's request that the Commission treat its Motion for Clarification as a deferred accounting application.

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¹ The second question is presented because not all of the period covered by the recently-approved PCAM will be covered by an application to defer power cost deviations for later amortization in rates.

1 **I. The PCAM is subject to the deferred accounting statute**

2 Idaho Power argues that the Commission uses historical information in general rate cases
3 to set costs and suggests that the use of historical power costs in the PCAM is similar.

4 Accordingly, the Company argues that the PCAM does not involve a transfer of past costs to
5 future ratepayers and is not retroactive ratemaking. *See Idaho Power Company’s Motion for*
6 *Clarification at 7-8. The record belies the Company’s argument. The UE 195 Stipulation states*
7 *that the PCAM’s true-up “calculate[s] the deviation between the actual net power supply*
8 *expenses incurred for the preceding January through December period and the net power supply*
9 *expenses recovered through the Combined Rate for the same period.” See Order 08-238,*
10 *Appendix A at 7. The true-up amount is then subject to a deadband and an earnings test. Thus,*
11 *the PCAM is not merely using historical costs to set future rates. Rather, the PCAM allows the*
12 *Company to perform a true-up of its historical costs and collect them, subject to a deadband and*
13 *an earnings test. That is retroactive ratemaking and is subject to ORS 757.259.*

14 Idaho Power argues that because the PCAM mechanism is authorized under the
15 prospective ratemaking provisions of ORS 757.210, the deferral requirements of ORS 757.259
16 do not apply. Staff disagrees. While ORS 757.210(1)(b) allows for prospective changes in rates,
17 it does not actually give the Commission authority to make retroactive adjustments to rates. The
18 Legislature concluded that it had to provide the Commission with such authority when it passed
19 ORS 757.259. Thus, the retroactive true-up component of Idaho Power’s PCAM must be subject
20 to the provisions of ORS 757.259.

21 **II. The tariff is not a substitute for a deferred accounting application**

22 Assuming that the PCAM is subject to ORS 757.259, Idaho Power requests that the
23 Commission treat its tariff filing as an application for deferred accounting for actual net power
24 supply expenses. Idaho Power argues that the Commission has liberally construed pleadings in
25 the past² and that such treatment is appropriate here because the annual power cost update

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² In Docket UE 177, Order No. 08-002 at 1 the Commission construed a motion to modify an order as a petition to amend an order.

1 (APCU) and PCAM is a different regulatory mechanism than deferred accounting. Idaho Power
2 Company's Motion for Clarification at 11. The Company's argument is unpersuasive.

3 The Commission's decision in Order No. 08-002 to construe a motion to modify an
4 order as a petition to amend an order does not support the Company's request that the
5 Commission treat its tariff filing as a deferred accounting application. If such a construction
6 were adopted here, utilities could argue that they have filed a deferred accounting application as
7 long as they have filed tariffs. Such a construction would not provide notice to the Commission
8 or other stakeholders that a deferred accounting application has been filed or meet the other
9 filing requirements of OAR 860-027-0300(3). Idaho Power certainly had an opportunity to file a
10 deferred accounting application to preserve its rights, but failed to so do. Staff respectfully
11 suggests that the Commission not construe the tariff filing to be a deferred accounting
12 application in order to relieve the Company of the consequences of that oversight.

13 **III. Request to treat motion as a deferred accounting application**

14 Idaho Power, in the alternative, requests that the Commission accept its Motion for
15 Clarification as an application for deferred accounting. In conjunction with that request, the
16 Company provided the Commission with information about its application pursuant to OAR 860-
17 027-0300(3). Staff does not oppose the Company's request that its motion be treated as a
18 deferred accounting application.

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1 **CONCLUSION**

2 For the reasons discussed above, the Commission should find that the PCAM is subject to
3 ORS 757.259 and refuse to treat the Company's tariff filing as a deferred accounting application.
4 Staff does not oppose the Company's request that the Commission treat its motion as a deferred
5 accounting application.

6 DATED this 14th day of August 2008.

7 Respectfully submitted,

8 **HARDY MYERS**
9 Attorney General

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13 Of Attorneys for Staff of the Public Utility
14 Commission of Oregon
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1 **CERTIFICATE OF SERVICE**

2 I certify that on August 14, 2008, I served the foregoing STAFF RESPONSE upon all
3 parties of record in this proceeding by delivering a copy by electronic mail and by mailing a
4 copy by postage prepaid first class mail or by hand delivery/shuttle mail to the parties accepting
5 paper service.

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