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June 28, 2012

VIA ELECTRONIC FILING AND U.S. MAIL

PUC Filing Center
Public Utility Commission of Oregon
PO Box 2148
Salem, OR 97308-2148

Re: Docket No. UM ____ - Idaho Power Company Application for Waiver of OAR 860-021-0326(1)

Enclosed for filing in the above-referenced docket are an original and three copies of Idaho Power Company's Application for Waiver of OAR 860-021-0326(1).

Please contact this office with any questions.

Very truly yours,

Handwritten signature of Wendy McIndoo in cursive script.

Wendy McIndoo
Office Manager

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM _____

In the Matter of
IDAHO POWER COMPANY,
Application for Waiver of OAR 860-021-0326(1).

**IDAHO POWER COMPANY'S
APPLICATION FOR WAIVER OF OAR
860-021-0326(1)**

I. INTRODUCTION

Pursuant to OAR 860-001-0400(2) and OAR 860-021-0005 Idaho Power Company ("Idaho Power" or "Company") respectfully requests that the Public Utility Commission of Oregon ("Commission") waive certain requirements set forth in OAR 860-021-0326(1), which addresses the provision of disconnect notices to tenants. OAR 860-021-0005 allows the Commission to "waive any of the Division 021 rules for good cause shown." In this case, requiring compliance with the terms of OAR 860-021-0326(1) as recently interpreted by the Oregon Department of Justice ("DOJ") would be unduly burdensome, both administratively and financially, and would provide little additional protection for tenants. Therefore, Idaho Power is asking that the Commission require the Company to provide duplicate five-day disconnect notices to both the billing and service address only when the Company has reason to believe that the customer is not living at the service address because there is a landlord-tenant relationship between the customer and the occupant of the service address premises.

Communications regarding this Application should be addressed to:

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6 II. BACKGROUND

7 Beginning in late 2011 and continuing into early 2012, Commission Staff held a
8 series of workshops to address low income bill assistance issues. During those
9 workshops, participants also raised concerns related to the adequacy of disconnect
10 notices provided to tenants pursuant to OAR 860-021-0326(1). During the workshops, it
11 became apparent that parties were interpreting the requirements of OAR 860-021-0326(1)
12 differently. OAR 860-021-0326(1) provides:

13 When an energy utility's records show that a residential
14 billing address is different from the service address, the
15 utility must provide a duplicate of the five-day disconnect
16 notice required under OAR 860-021-0405(6) for gas and
17 electric service to the occupants of the premises in the
18 manner described in 860-021-0405(6) unless the utility has
19 reason to believe that the service address is occupied by the
20 customer. This requirement is satisfied by serving a notice
21 addressed to "Tenants" in the same manner provided for in
22 860-021-0405. The notice to occupants need not include the
23 dollar amount owing.

24 The specific point of contention was whether a utility was required to provide the duplicate
25 five-day disconnect notice if the utility had no reason to believe that the customer was not
26 living at the service address. Idaho Power had understood the rule to require Idaho Power
to send duplicate notices only if the Company had reason to believe that the reason the
billing and service addresses were different was because there was a landlord-tenant
relationship and the tenant was not the customer of record.

After the workshops concluded, Staff sought additional guidance from the DOJ
regarding its interpretation of the rule's requirements. In a March 5, 2012, interoffice

1 correspondence that summarized the low income assistance workshops,¹ Staff noted that
2 DOJ concluded that the rule places the burden on the utility to know whether the customer
3 is living at the service address and absent such information, the utility is required to send
4 duplicate five-day notices to both the billing address and the service address.

5 On April 3, 2012, Staff asked Idaho Power via email to provide information
6 demonstrating that Idaho Power was in compliance with the requirements of OAR 860-
7 021-0326(1), as clarified by DOJ's opinion. On April 30, 2012, Idaho Power responded to
8 Staff's request with a letter stating that it is not Idaho Power's current practice to send
9 duplicate five-day notices to both the billing and service addresses because such
10 accounts are generally customer-occupied and not indicative of a landlord-tenant
11 relationship in Idaho Power's Oregon service area which is predominantly rural. The letter
12 then described Idaho Power's current practices and provided the Company's rationale for
13 not sending duplicate notices.

14 In response to Idaho Power's letter, Staff directed Idaho Power to apply for a waiver
15 of OAR 860-021-0326(1) as provided for in OAR 860-021-005. This filing is made
16 pursuant to the direction provided by Staff.

17 III. DISCUSSION

18 A. For Idaho Power it is Not Necessarily Reasonable to Assume that Different 19 Service and Billing Addresses Mean there is a Tenant Living at the Service Address.

20 OAR 860-021-0326 is intended to provide notice to tenants of an impending
21 disconnection when the tenants' rent includes a charge for utilities that the landlord has
22 not paid.² When the Commission adopted OAR 860-021-0326, it did so specifically
23

24 ¹ This correspondence was provided to the Commission and distributed by Staff to the parties that
25 had participated in the workshops.

26 ² *Re Amendment of Administrative Rules Relating to Residential Utility Service (OAR 860, Division
21), Docket AR 193, Order No. 90-1105 at 39 (July 20, 1990).*

1 because the Commission observed that a “difference between a billing address and a
2 service address indicates that someone other than the occupant is responsible for paying
3 the utility bill.”³ However, for Idaho Power this assumption is not necessarily correct.

4 Idaho Power’s Oregon service area is primarily rural in nature and it is not
5 uncommon for a customer to have a different billing and service address. In fact, out of
6 13,310 residential customers in Idaho Power’s Oregon service area, approximately 3,500,
7 or 26 percent, have a billing address that differs from the service address. And for the
8 majority of Idaho Power’s Oregon customers that have a different billing and service
9 address the billing address is a post office box.⁴ The use of a post office box as a billing
10 address is not necessarily indicative that someone other than the occupant is responsible
11 for paying the utility bill—it is indicative that the customer does not receive mail at his or
12 her home.

13 Moreover, one reason Idaho Power’s Oregon customers have different billing and
14 service addresses is because there are some areas in Idaho Power’s Oregon service area
15 where the United States Postal Service does not provide delivery service. Indeed, in the
16 towns of Durkee, Bridgeport, Hereford, and Arock there is very limited local delivery
17 service.⁵ Thus, for these customers, the use of a different billing address is a result of the
18 lack of postal delivery service not the fact that there is a landlord-tenant relationship.

19 Given the overall nature of Idaho Power’s Oregon service area and the Company’s
20 experience working with its customers, the Company believes that the relatively high
21 number of customers with different service and billing addresses is not indicative of a
22 landlord-tenant relationship; rather, it is due to necessity or preference on the part of

23

24 ³ Order No. 90-1105 at 40.

25 ⁴ Of the 3,500 customers with different billing and service addresses, 1,797, or 51 percent, use a
post office box as the billing address.

26 ⁵ The Company has 213 customers living in these towns.

1 customers. Therefore, the Commission's assumption underlying the duplicate notice
2 requirement is not necessarily applicable to Idaho Power.

3 **B. The Provision of Duplicate Five-Day Notices to the Billing and Service Address**
4 **Would be Unduly Burdensome.**

5 When the service and billing address differ, OAR 860-021-0326(1) requires Idaho
6 Power to "provide a duplicate of the five-day disconnect notice . . . to the occupants of the
7 premises. . ." Idaho Power understands that this requires Idaho Power to mail a duplicate
8 five-day notice to the service address.⁶ Because of the large volume of five-day notices
9 sent by Idaho Power and the limitations of the Company's current billing system, the costs
10 of sending duplicate notices is substantial.

11 In the last four years, 2008 through 2011, Idaho Power sent out an average of 735
12 five-day notices each month for an annual number of over 8,800 in Oregon. In 2011
13 alone, Idaho Power sent 9,439, five-day notices to Oregon customers, or 787 notices per
14 month. Assuming that 26 percent of these notices were sent to customers with different
15 billing and service addresses, every month Idaho Power sends approximately 205 five-day
16 notices to customers with different billing and service addresses. This means that if Idaho
17 Power were subject to the requirements of OAR 860-021-0326(1), the Company would be
18 required to provide nearly 2,500 duplicate notices annually.

19 _____
20 ⁶ OAR 860-021-0326(1) states that the duplicate notice requirement "is satisfied by serving a notice
21 addressed to 'Tenants' in the same manner provided for in 860-021-0405." The rules are not
22 entirely clear whether mailing a duplicate notice to the service address satisfies the requirements of
23 OAR 860-021-0405. OAR 860-021-0405(6) describes the requirement that a utility provide written
24 notice at least five business days before disconnecting residential service. However, the actual
25 service requirements for a notice under OAR 860-021-0405(6) are set forth in OAR 860-021-
26 0405(8). Under OAR 860-021-0405(8) the utility must serve the five-day notice either in person or
by mailing the notice to the customer's last known address. It is unclear whether simply mailing the
duplicate notice to the service address satisfies the requirements of the OAR 860-021-0405(8)
because that address is not the customer's last known address—the *customer's* last known
address is the billing address. Therefore, compliance with OAR 860-021-0326(1) may require
Idaho Power to personally serve the five-day notice at the premises where service is provided. If
this is the case, the costs to do so will be prohibitive.

1 Idaho Power reasonably estimates that the mailing and processing costs associated
2 with providing duplicate notices in these instances would more than double the cost
3 associated with the provision of five-day notices. This is due not only to the increased
4 postage, material, and handling charges, but also because Idaho Power's current billing
5 system does not have the functionality to mail two notices to the same customer.
6 Therefore, these mailings would have to be prepared manually.

7 Moreover, because some areas of Idaho Power's service area in Oregon lack postal
8 delivery service, the Company would be required to personally deliver five day notices to
9 these customers, who are often located hours away from the nearest Idaho Power office—
10 further increasing Idaho Power's costs to provide duplicate notices. This may also be the
11 case whenever the billing address is a post office box because the customer may not
12 receive at-home mail delivery even if it is otherwise available.

13 **C. Idaho Power Has Other Measures in Place to Protect Tenants.**

14 While the Company does not currently send duplicate notices, it has numerous other
15 processes in place to address disconnect issues related to landlord-tenant relationships.
16 The Company believes that these additional processes, discussed below, mitigate the risk
17 that a tenant is unreasonably disconnected due to a landlord's nonpayment. In fact, it
18 should be noted that only about 9 percent of those receiving the five-day notice are
19 actually disconnected for nonpayment.

20 Idaho Power currently offers landlords a Continuous Service Agreement (CSA)
21 program which makes it easier for landlords to have the service at the property put into the
22 tenant's name while occupied. The service then automatically reverts back to the
23 landlord's name when the tenant requests to discontinue service. In addition, landlords
24 are notified if service is scheduled for an involuntary disconnection to allow the landlord
25 the opportunity to transfer service into his or her name to ensure continued service. To
26 protect the tenant's privacy, landlords are not provided with the reason for the scheduled

1 service disconnect. This program has encouraged the landlords in Idaho Power's service
2 area to not leave service in their name while the property is being occupied by a tenant,
3 significantly reducing the potential for a landlord to be paying for a tenant's electricity.

4 In the case where the Company has knowledge of a master-metered account for a
5 multi-family dwelling or mobile home park, Idaho Power follows the provisions of OAR
6 860-021-0326(2) and posts information regarding the impending disconnection in a
7 conspicuous place at the property and provides information on alternatives available to the
8 occupants, including the option to have service placed in the tenant's name. Because of
9 these practices, there is very little chance for a tenant to have service disconnected if a
10 landlord becomes delinquent.

11 In addition, Idaho Power's current reconnect procedures mitigate the risk of a
12 tenant's electricity being turned off for more than a few hours should Idaho Power not be
13 aware the delinquent service is in the landlord's name. Prior to disconnecting service,
14 Idaho Power's personnel knock on the door to inform the occupant of the impending
15 service disconnection. If the occupant is present, the occupant can request service be put
16 into his or her name. If the occupant is not present and service is disconnected, the
17 individual can contact Idaho Power's customer service center 24 hours a day, every day of
18 the year to request service be reconnected in their name. It is Idaho Power's practice to
19 reconnect service on the same day the request is made, minimizing the inconvenience to
20 the tenant.

21 Idaho Power has reviewed the complaints from the Company's Oregon residential
22 customers over the past five years and has not identified any complaints from a tenant
23 whose power was disconnected because the landlord was delinquent. This lack of
24 pertinent complaints supports Idaho Power's belief that this landlord-tenant situation is not
25 an issue within the Company's Oregon service area.

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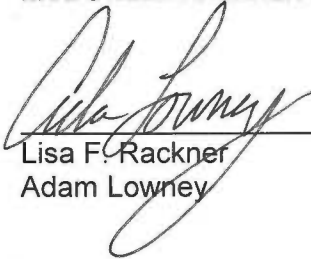
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IV. CONCLUSION

Idaho Power respectfully requests that the Commission waive the requirement in OAR 860-021-0326(1) that Idaho Power provide duplicate five-day notices whenever a customer's billing and service address differ.

Respectfully submitted this 28th day of June, 2012.

MCDOWELL RACKNER & GIBSON PC



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