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July 6, 2020

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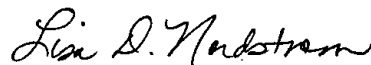
Re: Docket No. UM 1612(2)
Idaho Power Company's Application for Extended Waiver of OAR 860-
021-0326(1)

Attention Filing Center:

Enclosed for filing in Docket No. UM 1612(2) is an electronic copy of Idaho Power Company's Application for Extended Waiver of OAR 860-021-0326(1).

If you have any questions regarding this filing, please contact Regulatory Analyst Christina Zwainz at (208) 388-6106 or czwainz@idahopower.com.

Sincerely,



Lisa D. Nordstrom

LDN:cmz
Attachment

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1612 (2)

In the Matter of)	
)	
IDAHO POWER COMPANY,)	IDAHO POWER COMPANY'S
)	APPLICATION FOR EXTENDED
Application for Waiver of OAR 860-021-)	WAIVER OF OAR 860-021-0326(1)
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”) extend the waiver previously approved in Order No. 17-303 of certain requirements set forth in OAR 860-021-0326(1)’s requirement for duplicate disconnect notice to tenant when the billing address differs from the service address. OAR 860-021-0005 allows the Commission to “waive any of the Division 021 rules for good cause shown.” The existing waiver of this rule approved in Order No. 17-303 remains in effect until August 8, 2020, or until OAR 860-021-0326(1) is amended, whichever comes first. The rule has not been amended to date.

In this case, requiring compliance with the terms of OAR 860-021-0326(1) as 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.

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10 **II. BACKGROUND**

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

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

27 The specific point of contention was whether a utility was required to provide the duplicate
28 five-day disconnect notice if the utility had no reason to believe that the customer was not
29 living at the service address. Idaho Power had understood the rule to require Idaho Power to
30 send duplicate notices only if the Company had reason to believe that the reason the billing

1 and service addresses were different was because there was a landlord-tenant relationship
2 and the tenant was not the customer of record.

3 After the workshops concluded, Staff sought additional guidance from the DOJ
4 regarding its interpretation of the rule's requirements. In a March 5, 2012, interoffice
5 correspondence that summarized the low income assistance workshops,¹ Staff noted that
6 the DOJ concluded the rule places the burden on the utility to know whether the customer is
7 living at the service address; absent such information, the utility is required to send duplicate
8 five-day notices to both the billing address and the service address.

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

18 In response to Idaho Power's letter, Staff directed Idaho Power to apply for a waiver
19 of OAR 860-021-0326(1) as provided for in OAR 860-021-005. The Company filed its initial
20 request for waiver in Docket No. UM 1612 on June 28, 2012. On June 24, 2014, the
21 Commission issued Order No. 14-234 approving the requested waiver, which would remain
22 in effect until June 24, 2017, or until OAR 860-021-0326(1) is amended, whichever comes
23 first. Most recently, on July 24, 2017, the Commission issued Order No. 17-303 approving
24

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

1 the requested waiver, which remains in effect until August 8, 2020, or until OAR 860-021-
2 0326(1) is amended, whichever comes first. The rule has not been amended to date. For
3 the reasons discussed below, Idaho Power requests the Commission extend the existing
4 waiver until proceedings to amend the rule have concluded.

5 III. DISCUSSION

6 A. For Idaho Power, it is Not Necessarily Reasonable to Assume that Different 7 Service and Billing Addresses Mean There is a Tenant Living at the Service 8 Address.

9 OAR 860-021-0326 is intended to provide notice to tenants of an impending
10 disconnection when the tenants' rent includes a charge for utilities that the landlord has
11 not paid.² When the Commission adopted OAR 860-021-0326, it did so specifically because
12 the Commission observed that a "difference between a billing address and a service
13 address indicates that someone other than the occupant is responsible for paying the utility
14 bill."³ However, for Idaho Power, this assumption is not necessarily correct.

15 Idaho Power's Oregon service area is primarily rural in nature and it is not
16 uncommon for a customer to have a different billing and service address. In fact, out of
17 13,911 residential contracts in Idaho Power's Oregon service area, 4,199, or 30 percent,
18 have a billing address that differs from the service address. And for the majority of Idaho
19 Power's Oregon customers that have a different billing and service address, the billing
20 address is a post office box.⁴ The use of a post office box as a billing address is not
21 necessarily indicative that someone other than the occupant is responsible for paying the
22 utility bill—it is indicative that the customer does not receive mail at his or her home.

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

26 ³ Order No. 90-1105 at 40.

⁴ Of the 4,199 contracts with different billing and service addresses, 2,126 or 51 percent, use
a post office box as the billing address.

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

7 Given the overall nature of Idaho Power’s Oregon service area and the Company’s
8 experience working with its customers, the Company believes that the relatively high
9 number of customers with different service and billing addresses is not indicative of a
10 landlord-tenant relationship; rather, it is due to necessity or preference on the part of
11 customers. Therefore, the Commission’s assumption underlying the duplicate notice
12 requirement is not necessarily applicable to Idaho Power.

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

15 When the service and billing address differ, OAR 860-021-0326(1) requires Idaho
16 Power to “provide a duplicate of the five-day disconnect notice . . . to the occupants of the
17 premises” Idaho Power understands that this requires Idaho Power to mail a duplicate
18 five-day notice to the service address.⁶ However, given that a fair portion of its Oregon

19 ⁵ The Company has 240 customers living in these towns.

20 ⁶ OAR 860-021-0326(1) states that the duplicate notice requirement “is satisfied by serving a
21 notice 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 860-021-0405(8).
26 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 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 customers with different addresses do not have mail delivery to the service location, mailing
2 a duplicate notice is wasteful from a cost perspective and creates a negative environmental
3 cost because the notices will be returned as undeliverable.

4 If the Company were required to personally deliver five-day notices to these
5 customers who lack postal delivery service—who are often located hours away from the
6 nearest Idaho Power office—the Company’s costs and the environmental impact to provide
7 duplicate notices would increase significantly. This may also be the case whenever the
8 billing address is a post office box because the customer may not receive at-home mail
9 delivery even if it is otherwise available.

10 Between January 1, 2017 and December 31, 2019, Idaho Power has sent out an
11 average of 601 five-day notices each month for an annual number of over 7,200 in Oregon.
12 Assuming that 30 percent of these notices were sent to customers with different billing and
13 service addresses, every month Idaho Power sends approximately 180 five-day notices to
14 customers with different billing and service addresses. This means that if Idaho Power were
15 subject to the requirements of OAR 860-021-0326(1), the Company would be required to
16 provide nearly 2,160 duplicate notices annually.

17 **C. Changes to Idaho Power’s Customer Information System**

18 In Order No. 17-303, Staff suggested Idaho Power consider making changes to its
19 customer information system and implement customer service representative (“CSR”)
20 training when there is a difference between billing address and the service address. In
21 response to this request, Idaho Power implemented a change to its customer information
22 system in January 2019. When a customer sets up or makes changes to their account with
23 a CSR and the customer’s mailing address does not match the service address, the CSR
24 will inquire as to whether the premise will be tenant-occupied. The CSR will then update the
25 customer information system. Customers that are starting service online are also asked this
26 question and the customer information system is updated accordingly.

1 **D. Idaho Power Has Other Measures in Place to Protect Tenants.**

2 While the Company does not currently send duplicate notices, it has numerous other
3 processes in place to address disconnect issues related to landlord-tenant relationships.
4 The Company believes these additional processes, discussed below, mitigate the risk that a
5 tenant is unreasonably disconnected due to a landlord's nonpayment.

6 Idaho Power currently offers landlords a Continuous Service Agreement program,
7 which makes it easier for landlords to have the service at the property put into the tenant's
8 name while occupied. The service then automatically reverts to the landlord's name when
9 the tenant requests to discontinue service. In addition, landlords are notified if service is
10 scheduled for an involuntary disconnection to allow the landlord the opportunity to transfer
11 service into his or her name to ensure continued service. To protect the tenant's privacy,
12 landlords are not provided with the reason for the scheduled service disconnect. This
13 program has encouraged the landlords in Idaho Power's service area to not leave service in
14 their name while the property is being occupied by a tenant, significantly reducing the
15 potential for a landlord to be paying for a tenant's electricity.

16 In the case where the Company has knowledge of a master-metered account for a
17 multi-family dwelling or mobile home park, Idaho Power follows the provisions of OAR 860-
18 021-0326(2) and posts information regarding the impending disconnection in a conspicuous
19 place at the property and provides information on alternatives available to the occupants,
20 including the option to have service placed in the tenant's name. Because of these
21 practices, there is very little chance for a tenant to have service disconnected if a landlord
22 becomes delinquent.

23 In addition, Idaho Power's current reconnect procedures mitigate the risk of a
24 tenant's electricity being turned off for more than a few hours should Idaho Power not be
25 aware the delinquent service is in the landlord's name. Prior to disconnecting service, Idaho
26 Power's personnel knock on the door to inform the occupant of the impending service

1 disconnection. If the occupant is present, the occupant can request service be put into his or
2 her name. If the occupant is not present and service is disconnected, the individual can
3 contact Idaho Power's customer service center 24 hours a day, every day of the year to
4 request service be reconnected in his or her name. It is Idaho Power's practice to reconnect
5 service on the same day the request is made, minimizing the inconvenience to the tenant.

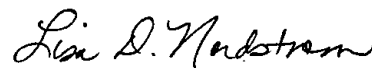
6 Idaho Power has reviewed the complaints from the Company's Oregon residential
7 customers since 2008 and has not identified any complaints from a tenant whose power was
8 disconnected because the landlord was delinquent. Additionally, since the implementation of
9 changes to the information system, the Company has not disconnected any Oregon
10 customers that have been identified as tenant-occupied for nonpayment. The lack of
11 pertinent complaints and disconnections supports Idaho Power's belief that this landlord-
12 tenant situation is not an issue within the Company's Oregon service area.

13 **IV. CONCLUSION**

14 Until this matter can be more fully resolved, Idaho Power respectfully requests that
15 the Commission extend its waiver of the requirement in OAR 860-021-0326(1) that Idaho
16 Power provide duplicate five-day notices whenever a customer's billing and service address
17 differ.

18 Respectfully submitted this 6th day of July 2020.

19 **IDAHO POWER COMPANY**

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