

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: September 25, 2012

REGULAR  X  CONSENT \_\_\_\_\_ EFFECTIVE DATE  October 20, 2011

DATE: August 22, 2012

TO: Public Utility Commission

FROM: Judy Johnson *JJ*

THROUGH: Jason Eisdorfer and Maury Galbraith *ME*

SUBJECT: IDAHO POWER COMPANY: (Docket No. UM 1621) Authorizes deferral of costs associated with Intervenor Funding Grants.

**STAFF RECOMMENDATION:**

Staff recommends the Commission approve Idaho Power Company's (Idaho Power or Company) request, filed pursuant to ORS 757.259(3), to defer costs related to intervenor funding grants starting retrospectively back to October 20, 2011.

Staff further recommends that the Commission deny Idaho Power's request for a waiver of the 12-month deferral authorization limitation found in OAR 860-027-0300(2) which, if granted would allow the Company's deferral authorization to be valid for the period from October 20, 2011 through December 31, 2015 rather than from October 20, 2011 through August 1, 2013.

**DISCUSSION:**

Background and Description of Expense

On July 30, 2012, Idaho Power filed a request for authorization to defer its intervenor funding costs incurred since October 19, 2011 and to waive OAR 860-027-0300(2) to allow the deferral authorization to be valid for the period from October 20, 2011 through December 31, 2015. Idaho Power's two requests arise from its Intervenor Funding Agreement (Agreement) with the Citizens' Utility Board (CUB), which was executed pursuant to ORS 757.072 and approved in Commission Order No. 10-396.

The Agreement sets forth the amounts to be contributed by Idaho Power, the procedures for budget submittals by Intervenor, and the payment of grants. For Idaho

Power the agreement authorizes the utility to account for the grants in two separate funds:

- 1) CUB Fund of \$30,000;
- 2) Issue Fund of \$30,000.

Estimated Deferrals in Authorization Period

Since October 19, 2011, Idaho Power has paid CUB \$65,985 under the Agreement. In addition, the Company anticipates that going forward the maximum amount deferred during each year period will be \$60,000 – consisting of \$30,000 for the CUB Fund and \$30,000 for the Issue Fund, pursuant to Section 4.2 of the Agreement.

Proposed Accounting:

The proposed deferrals would be recorded in separate subaccounts of FERC account 182.3 (Other Regulatory Assets).

Information Related to Future Amortization

- Earnings review – An earnings review is not applicable to this deferral.
- Prudence Review – For amortization, the prudence review should be limited to verification of the accounting methodology used to determine the final amortization balance.
- Sharing – Sharing is not applicable to this deferral.
- Rate Spread/Design – The Agreement required the costs of each fund be allocated to the appropriate customer classes. CUB funds are generated from residential rates. The Commission allocates requested amounts from the Issue Fund to align the costs of advocacy with the intended beneficiaries of the advocacy.
- Three Percent Test (ORS 757.259(6)) – The three percent test measures the annual overall average effect on customer rates resulting from deferral amortizations. The three percent test limits (exceptions at ORS 757.259(7) and (8)) the aggregated deferral amortizations during a 12-month period to no more than three percent of the utility's gross revenues for the preceding year. The three percent test is not applicable to this deferral.

Description of Company's Application and Waiver Request

The Company states that this type of deferral request is made under ORS 757.259(3) and is not subject to the requirement set forth in ORS 757.259(4) that amounts may be deferred only from the date of the deferral application. The Company requests that the Commission authorize the deferral of all costs incurred under the Agreement since October 19, 2011. The Company further requests pursuant to OAR 860-027-0000(2) that the Commission waive OAR 860-027-0300(2)'s limitation that authorization to use a deferred account expires 12 months from the date the deferral begins.

OAR 860-027-0000(2) authorizes the Commission to waive the requirements of any rule in Division 027 for good cause shown. In this case, the Company requests a waiver of the requirement in OAR 860-027-0300(2) that "[a]ny authorization to use a deferral account shall expire 12 months from the date the deferral is authorized to begin" so that the authorization to use a deferral account will remain effective through December 31, 2015 (the expiration date of the Agreement). The Company's application provides three reasons in support of its waiver request.

First, the 12 month limitation in OAR 860-027-0300(2) is based upon the statutory limitation set forth in ORS 757.259(4) and ORS 757.259(4) does not apply to deferrals under ORS 757.259(3). Therefore, the Company states, there is no statutory impediment to a waiver of OAR 860-027-0300(2) and such a waiver is fully consistent with the statutory framework for deferrals.

Second, Section 7.8 of the Agreement clearly provides that the "Commission shall allow Idaho Power to recover in rates all amounts paid for Intervenor Funding Grants under this Agreement." The Company also states that the annual amounts paid under the Agreement will likely be the same so there is no need to annually review the estimated amounts that will be deferred each year.

Third, the Company believes that granting this waiver will result in administrative efficiencies for both Idaho Power and the Commission.

Staff Analysis:

Staff's counsel agrees with Idaho Power's conclusion that the Commission may authorize deferral of costs related to intervenor funding grants under ORS 757.259(3) starting prior to the date of the deferral application. However, the "retrospective" aspect of deferrals is restricted to deferrals approved under ORS 757.259(3) only (i.e. intervenor funding grants). Staff has reviewed and considered the Company's application in this regard and finds no reason why it should not be approved. Accordingly, Staff recommends the Commission approve the Company's request for

authorization to defer its intervenor funding costs under the Agreement incurred since October 20, 2011.

However, Staff does not support the Company's request for a waiver of OAR 860-027-0300(2) (which provides that an authorization to use a deferred account expires 12 months from the date the deferral begins) for the period from October 20, 2011 through December 31, 2015. Instead, Staff recommends the Commission grant the waiver request only for the period from October 20, 2011 through August 1, 2013.

Based on advice of its legal counsel, Staff agrees there is no statutory impediment to the Commission granting a waiver, should it choose to do so, of OAR 860-27-0300(2) for deferrals related to intervenor funding costs. Staff further agrees that Section 7.8 of the Agreement contains the statement provided by Idaho Power. However, Staff disagrees with Idaho Power's assertions that there is no need to annually review the estimated amounts and that granting the waiver request will result in administrative efficiencies for the Commission.

Staff processes numerous deferred accounting applications each year. From this experience, staff has found that review utilities' deferral applications is one of the best tools for Staff to keep track of the regulated utilities' activities. This tool would be lost for Idaho Power if its request were granted. Further, it would be difficult and time consuming to remember to check on Idaho Power's Intervenor Funding status each year if it was not required to file every 12 months. Finally, with shifting staff duties, this particular deferral situation may be inadvertently overlooked.

In summary, staff processes numerous deferral applications each year and it is important that staff be able to access each deferral by each company. If Idaho Power is granted this waiver, it will make staff's job of accessing each deferral more difficult.

Staff will propose two alternative motions for the Commission to act on. The first is staff's preferred result and the second is the Company's preference.

#### **PROPOSED COMMISSION MOTION:**

##### Staff's Preferred Motion

Idaho Power Company's request to defer costs related to intervenor funding grants starting retrospectively back to October 20, 2011 be approved.

Idaho Power's request for a waiver of the 12-month deferral authorization limitation found in OAR 860-027-0300(2) to allow the Company's deferral authorization to be valid for the period from October 20, 2011 through December 31, 2015 be denied.

A modified version of Idaho Power's request for a waiver of the 12-month limitation provision in OAR 860-027-0300(2) to allow the deferral authorization to be valid for the period from October 20, 2011 through August 1, 2013 be granted.

or

Idaho Power Company's Preferred Motion

Idaho Power Company's request to record and defer intervenor funding grants beginning October 20, 2011 be approved.

Idaho Power's request for a waiver of the 12-month deferral authorization limitation found in OAR 860-027-0300(2) to allow the Company's deferral authorization to be valid for the period from October 20, 2011 through December 31, 2015 be approved.