

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 18, 2022**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____ N/A

DATE: October 10, 2022

TO: Public Utility Commission

FROM: Michael Dougherty and Melissa Nottingham

THROUGH: Bryan Conway **SIGNED**

SUBJECT: Idaho Power Company:
Docket No. UM 1631
Idaho Power Company's Petition for Temporary Waiver of the Amended
Portions of OAR Division 021.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve Idaho Power Company's (IPC or Company) request for partial waiver through December 31, 2022, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, of the amendments effective September 30, 2022, to the following administrative rules:

- OAR 860-021-0405(3) and (5)
- OAR 860-021-0410(6); and
- OAR 860-021-0415(6).

Staff recommends that the Commission approve Idaho Power Company's request for partial waiver through March 31, 2023, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, of the amendments effective September 30, 2022, to the following administrative rules:

- OAR 860-021-0126(3);
- OAR 860-021-0180;
- OAR 860-021-0200(2);
- OAR 860-021-0205(1);
- OAR 860-021-0215(6);
- OAR 860-021-0328(2);
- OAR 860-021-0330;

- OAR 860-021-0335(2);
- OAR 860-021-0408(2), (3)(a)(A), and (3)(b)(A); and
- OAR 860-021-0420.

DISCUSSION:

Issue:

Whether the Commission should approve IPC's request for a temporary, partial waiver of numerous OAR Chapter 860, Division 21 rules.

Applicable Laws:

The Commission recently amended multiple rules in OAR Chapter 860, Division 21. The Commission's decision to adopt these changes was memorialized in Order No. 22-353 in Docket No. AR 653, with the revised rules effective on September 30, 2022.

Per OAR 860-021-0005, the Commission may waive any of the rules in Division 21 for good cause upon written request or its own motion.

Analysis

Background

On March 8, 2020, Governor Brown declared a statewide state of emergency due to the public health threat posed by the novel infectious coronavirus, COVID-19.¹ Several extensions of that order were issued.² On March 17, 2022, Governor Brown issued Executive Order (EO) 22-03,³ which rescinded EO 20-03, EO 21-36,⁴ and EO 21-29.⁵

On September 24, 2020, the Commission authorized Staff, the affected investor-owned energy utilities, and stakeholders to execute a stipulation that was developed during the

¹ EO 20-03 (March 8, 2020), https://www.oregon.gov/gov/eo/eo_20-03.pdf.

² EO 20-24 (May 1, 2020); EO 20-30 (June 30, 2020); EO 20-38 (September 1, 2020); EO 20-67 (December 17, 2020), EO 21-05 (February 25, 2021), EO 21-10 (April 29, 2021), EO 21-15 (June 25, 2021), and EO 21-36 (December 21, 2022).

³ EO 22-03, https://www.oregon.gov/gov/eo/eo_22-03.pdf.

⁴ Extension of EO 20-03 that was issued December 21, 2022, https://www.oregon.gov/gov/eo/eo_21-36.pdf.

⁵ COVID-19 Vaccination Requirement for State Executive Branch, <https://www.oregon.gov/gov/eo/eo-21-29.pdf>.

Commission's Investigation into the Effects of the COVID-19 Pandemic on Utility Customers.

During the timeframe between September 24, 2020, and October 23, 2020, Parties refined the Energy Term Sheet and Stipulated Agreement's terms and conditions to assist customers and utilities during the current COVID-19 pandemic and the aftermath of the pandemic.

At its public meeting on November 3, 2020, the Commission approved the UM 2114 Stipulated Agreement. See Order No. 20-401, <https://apps.puc.state.or.us/orders/2020ords/20-401.pdf>.

At the Commission's December 16, 2021, UM 2114 Special Public Meeting, Commission Staff requested to open a rulemaking docket to begin an informal phase of reviewing OAR Chapter 860, Division 21 to strengthen customer protections concerning disconnections. The Commission issued Order No. 21-483 adopting Staff's recommendation and opening Docket No. AR 653.

On June 10, 2022, following an informal collaborative process between Staff, community advocates, and the investor-owned utilities, the Commission issued Order No. 22-214, approving Staff's recommendation to open the AR 653 rulemaking docket. AR 653 began the formal rulemaking process to consider permanent changes to Division 21 rules concerning protections to residential customers and low-income customers.

The Commission held two rulemaking hearings on July 21, 2022, and September 1, 2022, and requested several rounds of comments, concluding on September 7, 2022. Commission Order No. 22-353 was issued on September 29, 2022, adopting revisions to the existing Division 21 rules effective upon filing with Secretary of State (September 30, 2022).

Analysis

As stated by the Company, during the rulemaking process, IPC expressed concerns regarding its ability to immediately comply with certain proposed Division 21 rule changes given the scope of system configuration modifications required to administer such proposed rule changes and the limited time between when the proposed Division 21 rule changes were expected to be adopted and subsequently go into effect.⁶

⁶ Idaho Power Company's Petition for Temporary Waiver of the Amended Portions of OAR Division 021, Docket UM 1631 (September 30, 2022) page 4.

As such, IPC requests that the Commission issue an order authorizing the temporary waiver of the amendments to the following rules of Chapter 860, Division 21 adopted in Docket No. AR 653 and by Commission Order No. 22-353, and for such temporary waiver to remain in effect until December 31, 2022, in order to allow the Company to reconfigure its collections and noticing system:

- 860-021-0405(3) and (5), Notice of Pending Disconnection of Residential Electric or Gas Utility Service
- 860-021-0410(6), Emergency Medical Certificate for Residential Electric and Gas Service; and
- 860-021-0415(6), Time-Payment Arrangements for Residential Electric and Gas Service (Nonmedical Certificate Customers).

During the rulemaking process, IPC noted that system enhancement would be required for the amendments related to disconnection notices. In a response to Staff's UM 2114 Information Request No. 53, the Company stated:

The Company estimates the implementation and testing of all necessary system changes will take approximately 160 to 320 labor hours, across 6 to 11 weeks, from project initiation to completion.⁷

IPC's expected completion date of systems reconfiguration of December 31, 2022, is consistent with the Information Request response.

Similarly, the Company requests that the temporary waiver of the amended portions of the following rules to remain in effect until March 31, 2023, in order to provide sufficient time for the Company to systematically implement the new requirements of these recently amended rules.⁸

- 860-021-0126(3), Late Payment Charge;
- 860-021-0180, Verification of Eligibility for Low-Income Residential Customer;
- 860-021-0200(2), Establishing Credit for Residential Utility Service;
- 860-021- 0205(1), Deposit Payment Arrangements for Residential Energy Utility Service;
- 860-021-0215(6), Refund of Deposits for Residential and Nonresidential Utility Service;
- 860-021-0328(2), Reconnection of Residential Energy Utility Service;

⁷ Idaho Power Company response to Staff Information Request No. 53, April 21, 2022.

⁸ Idaho Power Company's Petition for Temporary Waiver of the Amended Portions of OAR Division 021, page 1.

- 860-021-0330, Reconnection Fee for Utility Service;
- 860-021-0335(2), Refusal of Utility Service;
- 860-021-0408(2), (3)(a)(A), and (3)(b)(A), Disconnect Reporting Rule; and
- 860-021-0420, Field Visit Charge.

As previously mentioned, the temporary waiver request is being made to allow the Company sufficient time to update its systems so that the amendments included within the recent Commission-adopted rules can be systematically implemented and administered. The enhancements to the Company's systems include:

1. A low-income account flag that is triggered based on customers' eligibility (receipt of LIHEAP in the previous 12 months, etc.).
2. Automatically exclude flagged low-income accounts from late-payment charges or deposit requirements.
3. Automatically identify any accounts that are subsequently flagged as low-income and for which an existing deposit needs to be returned or applied against the account's balance.
4. Automatically waive qualifying reconnection and field visit charges for flagged low-income accounts.⁹

Additionally, in regard to the inclusion of small commercial customers within the Company's quarterly "Company-wide" and "Local service area" reports, the Company needs to update and test its automatic query to include the relevant small commercial customer data.¹⁰

As for interim actions to protect customers during IPC's requested waiver period, the Company will be voluntarily maintaining the following UM 2114, Stipulated Agreement protections to ***all residential customers***:

1. Waiving new deposit requirements associated with late or non-payment, arrearages or credit-related issues for new or existing residential customers.
2. Not applying service reconnection charges.
3. Not applying late payment fees.¹¹

⁹ IPC response to a Staff informal information request dated October 5, 2022.

¹⁰ Ibid.

¹¹ Ibid.

Conclusion

OAR 860-021-0005 states that the Commission may grant a waiver of any of the Division 21 rules for good cause shown. Staff believes that IPC has demonstrated good cause for temporary waivers of OAR 860-021-0405(3) and (5); 860-021-0410(6), and 860-021-0415(6) until December 31, 2022, as these rule changes require the Company to reconfigure its collections and noticing system.

Staff also believes that IPC demonstrated good cause throughout the rulemaking process for a temporary waiver of 860-021-0126(3); 860-021-0180; 860-021-0200(2); 860-021-0205(1); 860-021-0215(6); 860-021-0328(2); 860-021-0330; 860-021-0335(2); 860-021-0408(2), (3)(a)(A), and (3)(b)(A); and 860-021-0420 until March 31, 2023, in order to provide sufficient time for the Company to systematically implement the requirements of these recently amended rules. Additionally, IPC will voluntarily maintain critical customer protections stipulated in UM 2114.

As stated by IPC, should the Company's implementation of the necessary system enhancements occur more expeditiously than estimated, the Company will notify Commission Staff and begin complying with the amended rules.¹²

Staff recommends that the Commission approve IPC's petition for temporary waiver of the amended portions of OAR Division 021, but allow for earlier application of the amended rules upon written notice to the Commission.

PROPOSED COMMISSION MOTION:

Approve Idaho Power Company's request for partial waiver through December 31, 2022, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, of the amendments effective September 30, 2022, to the following administrative rules:

- OAR 860-021-0405(3) and (5)
- OAR 860-021-0410(6); and
- OAR 860-021-0415(6).

Approve Idaho Power Company's request for partial waiver through March 31, 2023, or upon written notice of intent to comply to the Commission's Consumer Services Section,

¹² Idaho Power Company's Petition for Temporary Waiver of the Amended Portions of OAR Division 021, page 4.

whichever occurs first, of the amendments effective September 30, 2022, to the following administrative rules:

- OAR 860-021-0126(3);
- OAR 860-021-0180;
- OAR 860-021-0200(2);
- OAR 860-021-0205(1);
- OAR 860-021-0215(6);
- OAR 860-021-0328(2);
- OAR 860-021-0330;
- OAR 860-021-0335(2);
- OAR 860-021-0408(2), (3)(a)(A), and (3)(b)(A); and
- OAR 860-021-0420.