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Attorney for Industrial Customers of Idaho Power

BEFORE THE  
PUBLIC UTILITY COMMISSION OF OREGON

IN THE MATTER OF IDAHO POWER )  
COMPANY APPLICATION FOR GENERAL ) CASE NO. UE-167  
RATE INCREASE IN THE COMPANY’S )  
OREGON ANNUAL REVENUES OF )  
\$4,418,908, OR 17.52 PERCENT OVERALL )  
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COMES NOW, The Oregon Industrial Customers of Idaho Power, hereinafter referred to as “OICIP,” and pursuant to the Order of Judge Smith in this matter, and pursuant to this Commission’s Rules of Procedure, Rule OAR 860-014-0090 and hereby lodges its reply brief and states as follows:

A.  
DANSKIN MUST NOT BE  
INCLUDED IN IDAHO POWER’S RATES

In arguing for the inclusion of Danskin in Idaho Power’s ratebase, Staff makes the following erroneous statement:

Idaho Power’s need for additional resources during the relevant time period was established by the Company’s June 2000 Integrated Resource Plan

(IRP), acknowledged by the Commission in Order No. 00748. The near term action plan in the IRP called for the acquisition of 250 MW of summer and 200 MW winter resource in the next two years.

Staff Opening Brief p. 22. Contrary to Staff's assertion, the Near-Term Action Plan in Idaho Power's IRP called for NO NEW RESOURCES TO BE CONSTRUCTED during the relevant time period. At page 61 of the 2000 IRP, Idaho Power makes it clear that it has no intention of constructing new resources during the relevant time period:

Purchasing energy and capacity from the Northwest market will continue to be the primary source of supply for Idaho Power's incremental resource needs during the 2000 to 2003 period. As can be seen in Figure 2 and Figure 4, summer energy deficiencies in 2003 grow to 250 MW under median water condition and 400 MW under a low water condition. Winter deficiencies remain smaller than summer deficiencies during this time period. Idaho Power expects that, for at least the next three years, adequate transmission capability will exist to allow sufficient purchases to be delivered to Idaho Power's system from the Pacific Northwest.

Idaho Power 2000 IRP, at page 61. (Acknowledged by the OPUC in Order No. 00-748)

In Order No. 00-748, the Commission specifically acknowledged Idaho Power Near-Term Action Plan as limiting acquisition of new resources to purchases for the relevant time period:

From the results of its IRP analysis, the Company proposes a two-year action plan that consists of the following specific items: (1) Purchase capacity and energy from the Northwest power market as needed to meet system load through 2003.

Order No. 00-748 at p. 6.

That Order was entered on November 21, 2000 - nine weeks later Idaho Power commenced construction of Danskin by placing the order for its turbines. (*See Said*, rebuttal testimony p. 22).<sup>1</sup> Immediately following the Commission's acknowledgement order, Idaho Power embarked on a risky and unnecessarily expensive deviation from the well reasoned plan set forth in its IRP.

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<sup>1</sup> Although the turbine order was placed only nine weeks after Order No. 00-748 was issued, the *decision* to place the order had to have been contemplated well before the order was actually made. Thus, Idaho Power must have disregarded its IRP within a few weeks of its acknowledgement by this Commission.

Although the IRP does call for the construction of a simple cycle combustion turbine with an expected on line date in the 2004 time frame, the Danskin Plant is not what was contemplated even for that time frame. The OICIP's Opening Brief details the many distinctions between the plant contemplated in the IRP and Danskin, so they do not need to be repeated here.

However, if Danskin is, as suggested by both the Staff and IPCo, the next generating resource identified in the 2000 IRP, then IPCo is in violation of the Commission's reporting requirements set forth in Order No. 00-748. Those reporting requirements were premised on Idaho Power's stated intention of conducting an RFP process. As this Commission observed in Order No. 00-748:

The IRP states that the Company plans to acquire the generation output of a resource equivalent to a 250 MW SCCT during the months of energy deficiency beginning in 2004. Therefore, the actual resource acquisition will be through the RFP, with the Company-built SCCT strategy serving as a benchmark to assist in the review and ranking of the RFP bid proposals.

Order No. 00-748 p. 5 – 6.

Finally, the Commission found (not acknowledged) that "IPCo should report on an ongoing basis to the OPUC regarding the status of its distributed resources investigation and RFP process." *Id.* at p. 9. Instead of providing periodic updates regarding its process, Idaho Power began construction on Danskin within weeks of being ordered to keep the Commission updated on its progress in developing an RFP for the purpose of selecting the lowest cost resources to the "ratepayers consistent with the long-run public interest." *Id.* at p. 8.

No RFP process was followed in the decision making process to construct Danskin. Rather, the Company decided that it was going to build it, and then only sought requests from those who would build it. *Tr.* 44-45. This is in direct contravention to the Company's IRP as

well as this Commission's expectations, expressed in Order No. 00-748 with respect to Idaho Power conducting an IRP to benchmark the cost of a Danskin-like plant.

Idaho Power complains, and Staff sympathizes, that Danskin was constructed during a time of remarkably high wholesale prices which in some way excuses adherence to prudent planning processes. The OICIP disagrees. The wholesale market price "aberration" began in the summer of 2000. In fact, the wholesale price spike in the summer of 2000 was the highest spike in the price shock event, with the exception of a very short period in December/January 2000/2001. Therefore, all in the industry knew that there was something wrong with the wholesale markets by the summer of 2000. Idaho Power was aware of that fact well before it decided to build Danskin. As the Commission observed:

Finally, the Company indicated that it is taking several actions to mitigate the potential impacts of higher than expected wholesale spot market prices. First, IPCo states that it will continue to use forward contracts as a means to hedge the risk of high wholesale spot market prices. In addition, the Company states that it has entered into a residential exchange program contract with BPA to obtain 120 MW of relatively low cost supply beginning in 2002. The Company is also working with its large industrial customers to develop a mechanism for acquiring additional resources in the form of load reductions.

Order No. 00-748, p. 8.

As far as the OICIP understands, only one industrial customer in Idaho participated in any load reduction program offered by Idaho Power in response to the energy crisis. Nevertheless, the point is that Idaho Power had other options, was aware of those options and yet chose to saddle the ratepayers with a plant that almost never runs and will be a burden to rates for decades to come.

B.  
DISTRIBUTED GENERATION

While Idaho Power is silent on the question of distributed generation in its Opening Brief, the Commission Staff make the following observation:

Staff expects that Idaho Power should be continually evaluating dispatchable standby generation programs and that it will make a filing to implement such programs as it deems reasonable.

Staff Opening Brief, p. 20. Staff relies on that expectation to support its conclusion that the Commission not specify any formal requirements for Idaho Power regarding distributed generation. Instead, the Staff recommends that the Commission simply acknowledge the mutual interest of distributed generation and acknowledge its support of such programs.

In light of the cost of the Danskin plant and the limited hours it is expected to run (ten hours a year), it appears to the OICIP that a more proactive response is warranted. This need is underscored by one of the findings in Staff's most recent report on distributed generation and the utility's lack of incentive to actually pursue such projects:

The utilities' revenues are based on how much power they sell and move over their wires, and they lose sales when customers develop generation on site. Utilities also do not earn a return on non-utility resources or make profits on them through operational efficiencies.

Lisa Schwartz, *Distributed Generation in Oregon: Overview, Regulatory Barriers and Recommendations* (February 2005), cited in Staff Opening Brief at p. 19. In that report Ms. Schwartz talks specifically about "Dispatchable Customer Standby Generation" (see p. 15, *Id.*) which is the solution the OICIP is asking this Commission to have Idaho Power actively explore. As described by Ms. Schwartz:

PGE, for example, relies on dispatchable standby generation to help meet its capacity requirements. The company has 17 MW of dispatchable customer

standby generation in place...The program is available to customers with generators 1 MW or larger that agree to allow the company to use them up to 400 hours per year. Participants include high technology, medical and telecommunications industries.

*Id. at 15.* The program described by Ms. Schwartz in her report is precisely what the OICIP would like to see implemented by Idaho Power. While the OICIP appreciates Staff's cautious approach, it is hoped that, in light of the disincentives outlined by Ms. Schwartz, a more proactive direction can be given by the Commission than a mere acknowledgement that there is a "mutual interest" in distributed generation.

C.  
TIME OF USE RATES ARE  
WASTED ON THE INDUSTRIAL CLASS  
IN OREGON

Idaho Power's industrial class of customers in Oregon has stated, through their participation in this docket, that they cannot take advantage of time of use rates to lower their consumption, and hence cost, of electricity. Sending a price signal that no one can hear or heed is a useless exercise. Dr. Reading testified that the industrial customers are not going to change their method of doing business to capture time of use rate benefits because they are flat rate consumers and because their industrial processes do not allow for such variations in operations. Food processing and cement milling are twenty-four hour a day operations. Hospitals, likewise, are unable to alter their schedules to accommodate an electric rate schedule. Reading Sur-Reb. p. 10.

Both Staff and Idaho Power assert that time-of-use rates offer an incentive to change consumption patterns. However, a financial incentive is not effective if it cannot be taken advantage of. There is no evidence in this case that time-of-use rates are effective. Certainly the evidence is murky, at best, as to how effective they have been in Idaho. No party has presented

objective evidence as to the effectiveness (or lack thereof) of time-of-use rates. The only party to discuss the end user impact of time-of-use rates in this case is the OICIP. The evidence presented by the OICIP is that time of use rates are NOT effective and therefore they should not be imposed for just the sake of imposing them.

Respectfully submitted.

DATED this 27th day of June, 2005.

Richardson & O'Leary, LLP

By \_\_\_\_\_  
Peter J. Richardson  
Attorney for the Oregon Industrial  
Customers  
of Idaho Power

## CERTIFICATE OF SERVICE

I hereby certify that on the 27<sup>th</sup> day of June, 2005, the REPLY BRIEF OF THE OREGON INDUSTRIAL CUSTOMERS OF IDAHO POWER was sent to the following parties as shown:

Rates & Regulatory Affairs	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid
Portland General Electric	<input type="checkbox"/> Hand Delivered
121 SW Salmon Street, 1WTC07072	<input type="checkbox"/> Overnight Mail
Portland OR 97204	<input type="checkbox"/> Facsimile
pge.opuc.filings@pgn.com	<input checked="" type="checkbox"/> Electronic Mail

Lowrey R Brown – <b>CONFIDENTIAL</b>	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid
Citizens' Utility Board of Oregon	<input type="checkbox"/> Hand Delivered
610 SW Broadway Ste 308	<input type="checkbox"/> Overnight Mail
Portland OR 97205	<input type="checkbox"/> Facsimile
lowrey@oregoncub.org	<input checked="" type="checkbox"/> Electronic Mail

John R Gale	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid
Idaho Power Company	<input type="checkbox"/> Hand Delivered
PO Box 70	<input type="checkbox"/> Overnight Mail
Boise ID 83707-0070	<input type="checkbox"/> Facsimile
rgale@idahopower.com	<input checked="" type="checkbox"/> Electronic Mail

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Department of Justice	<input type="checkbox"/> Hand Delivered
Regulated Utility & Business Section	<input type="checkbox"/> Overnight Mail
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