ORDER NO. 13 269

ENTERED JUL 16 2013

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UF 4059(1)

In the Matter of IDAHO POWER COMPANY, Application for an Order Approving the Guaranty by Idaho Power of the One-Third Reclamation Obligation of Bridger Coal Company.	ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on July 16, 2013, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:

Becky L. Beier
Commission Secretary

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

ORDER NO. 13 269

ITEM NO. CA5

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: July 16, 2013

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

DATE: July 9, 2013

TO: Public Utility Commission

FROM: Matt Muldoon

THROUGH: Jason Eisdorfer, Maury Galbraith, and Marc Hellman

SUBJECT: IDAHO POWER COMPANY: (Docket No. UF 4059(1)) Requests authority to guarantee up to $100 million of Bridger Coal Company reclamation obligations.

STAFF RECOMMENDATION:

Staff recommends the Commission approve Idaho Power Company's (Idaho Power or Company) application subject to the following conditions and reporting requirements:[1]

1. Idaho Power's guarantee authority is limited to $100 million.
2. The Commission reserves the right to review for reasonableness all financial aspects of this arrangement in any subsequent rate proceeding.

DISCUSSION:

Idaho Power filed an application on June 14, 2013, pursuant to ORS Chapter 757, OAR 867-27-030, and OAR 860-27-035. The Company requests supplemental authority to increase Idaho Power's one-third guarantee of Bridger Coal Company's (Bridger Coal) reclamation obligations to a maximum of $100 million.

In 1969, Idaho Power and PacifiCorp entered into agreements for the ownership, construction and operation of the Jim Bridger power plant as well as certain leases covering coal deposits located near the Jim Bridger power plant. In 1974, PacifiCorp and Idaho Power decided to each create a subsidiary that would then enter into a joint venture that would own and operate the coal leases associated with the Jim Bridger power plant. Idaho Power created Idaho Energy Resources Co. ("IERCO") and

[1] The Company has told Staff that it agrees to Staff's proposed conditions and reporting requirements.

PacifiCorp created Pacific Minerals, Inc. ("PMI"), and both companies transferred their interest in the coal leases to their respective subsidiaries. The subsidiaries then entered into the joint venture Bridger Coal. Idaho Power states that IERCO is a regulated subsidiary in all retail jurisdictions, including Oregon. Since IERCO is treated as part of Idaho Power for rate making and other regulatory purposes, Idaho Power treats IERCO's obligation to perform reclamation work as if it were the obligation of Idaho Power itself.

Commission Order No. 91-1601, entered November 25, 1991, in Docket No. UF 4059, authorized Idaho Power to guarantee up to $60 million of Bridger Coal reclamation obligations. The State of Wyoming currently estimates Idaho Power's spot reclamation obligations at $73 million. $100 million is the Company's best current estimate of the highest likely size of reclamation obligation over the useful life of mining operations.

Wyoming mining reclamation obligations follow proportion of ownership.[2] Values stated herein are one-third of applicable totals, reflecting both the Company's one-third ownership of Bridger Coal and Idaho Power's one-third responsibility for reclamation efforts. Wyoming's Department of Environmental Quality (WY DEQ), Land Quality Division, Chapter 11 Coal Rules and Chapter 6 Non-Coal Rules define parent-company guarantee of subsidiary reclamation obligations in lieu of corporate surety bonds and letters of credit as a "Self-Bond".

Idaho Power's Self-Bond guarantee does provide for final post-salvage sealing of underground mines; however, most costs are associated with reclamation of land after surface pit mining operations conclude in a particular mine area. All of the Bridger Coal output is consumed at the Jim Bridger power plant. Please note though that this Self-Bond is for environmental restoration of mined land, not power plant environmental controls or disposal of ash.

Affiliated Interests

Order No. 91-1601, and the Company's current supplemental application in Docket No. UF 4059(1) recognize affiliated interest relationships between Idaho Power, IERCO, and Bridger Coal, as defined in ORS 757.015(6). These relationships have remained constant and unchanged since 1991 as depicted in Attachment A. These entities are described further in Order No. 91-1601 and in the Company's current application.

[2] Staff and Idaho Power held a phone workshop on June 20, 2013, to review numerous topics pertaining to the Company's ongoing operations, obligations, and financing at Bridger Coal. Information not addressed in the Company's application or in prior proceedings was provided by Idaho Power in this workshop.

Key Drivers for Increase

Idaho Power represents that inflation and expanded mining are the key drivers for the need to increase the size of the Company's reclamation guarantee. Staff agrees with this finding.

Bridger Coal Trust Account

Bridger Coal contributes to a separate Bridger Coal Trust (Trust) account so that there will be enough money to totally fund required reclamation work. The Bridger Coal contributions to the Trust are funded by a per ton surcharge on coal sold to the Jim Bridger power plant. In 1991, the Company projected that its long run return on Trust money would be 7 percent. The Company had an off-year in 2008, and has recently seen returns of 6 to 7 percent, given recent volatility. However, the Company represents that return on investments is not a key reason to increase the size of its reclamation guarantee.

PacifiCorp and Idaho Power set reclamation contributions per ton of coal periodically to match best available assessment of reclamation costs at that time. Reclamation cost projections are supported by both independent cost assessments by the WY DEQ, and by mining and geological consultants such as John T. Boyd Company.

Per the Trust Agreement, oversight of the Trust assets is delegated to an Investment Committee. The Investment Committee consists of two members from PacifiCorp and two members from Idaho Power. With the aid of a professional independent consulting firm, the Investment Committee establishes asset allocation policies designed to align the investment of Trust assets with the expected cash flows into and out of the Trust over time. As the Trust is a long-term financing vehicle, in any one year cash inflows into the Trust need not match outflows for ongoing reclamation activities.[3] The Investment Committee selects, with the aid of a professional independent consultant, registered investment advisors and other investment vehicles to implement the asset allocation policies established for Trust assets.

Asset allocation targets change as reclamation cash flow projections are modified in response to changes in mining operations. The Trust currently holds approximately 50 percent U.S. Equities, 10 percent international equities, and 40 percent fixed income securities. In contrast with the Trust, which is funded to meet Bridger Coal's estimated mining reclamation expenditures over the projected life of the Bridger Coal mine, the WY DEQ's reclamation obligation is based on a "snapshot" estimate of current reclamation costs if mining operations were terminated today.

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3 At its height, Bridger Coal's open pit operations were about 17 miles long. Reclamation activities are ongoing in areas where coal mining is exhausted. About 4,000 of 10,500 acres of mining disturbed land have been restored to date.

Nature of Obligation

The Company's guarantee is separate and independent from PacifiCorp's similar reclamation obligations. Idaho Power represents that it is responsible for only one-third of reclamation activity and costs corresponding to one-third ownership of Bridger Coal.

Idaho Power cannot assign its reclamation responsibilities to a third party; nor does WY DEQ have a history of accepting mitigation projects in lieu of required reclamation. However, were the Company to reduce its stake in Bridger Coal, the Company expects that a like proportion of future reclamation responsibility would follow the sale of ownership.

WY DEQ's three-phase reclamation certification offers very high certainty that completed restoration is a final and permanent solution. This durable understanding of what constitutes final completed restoration makes ongoing reclamation more cost-effective than deferring all possible restoration work into the future.

Alternatives Evaluated by Idaho Power

The Company represents that continued self-guarantee of reclamation saves approximately $249,000 in avoided annual financing fees in comparison to alternatives considered, including: insurance, performance surety bonds, first mortgage bonds, letters of credit, and reimbursement agreements supporting unsecured letters of credit.

Unlike Oregon, WY DEQ Land Quality Division accepts a parent company's guarantee of ongoing and future environmental restoration by its subsidiaries provided the parent has sufficient resources and a history of meeting like obligations. Absence of financing spreads and fees causes the Company's Self-Bond to be a lower cost option than alternate ways to satisfy WY DEQ's requirements.

Idaho Power's guarantee of ongoing and final reclamation allows the Company to manage reclamation drainage contouring to meet WY DEQ standards. The Self-Bond lets Idaho Power time ongoing reclamation of depleted mine areas to better control restoration costs. However, the Company's Self-Bond does not prevent the Company from using contractors when it is cost effective to do so.

CONCLUSION:

The financial context and affiliated interest relationships are the same as in 1991. Idaho Power's requested enlargement of its one-third guarantee of Bridger Coal reclamation cannot be readily avoided and is consistent with utility purposes.

Intergenerational Equity: Idaho Power ongoing restoration activity, appropriately sized Self-Bond, and the Trust help insure that current ratepayers benefiting from current Bridger Coal mining and Jim Bridger power plant output leave no large underfunded restoration obligation for a future generation of ratepayers.

Least Cost: Staff and the Company have identified no lower cost or more effective alternative to the Company's continued Self-Bond. The higher requested guarantee now represents approximately $249,000 savings per year over the next best environmental guarantee alternatives.

Least Risk: The continued Self-Bond minimizes financial risk associated with alternative restoration guarantees such as letters of credit or surety bonds. Letter of credit fronting fees have increased approximately 700 percent since 2008. U.S. Treasury rates for 10- and 30-year maturities have increased a full percent in less than two months. The Self-Bond avoids volatility in fees, benchmarks, and spreads over benchmarks by entirely avoiding such financing costs.

Self management of reclamation also gives the Company the ability to schedule reclamation in high hydro periods during reduced thermal generation plant output and corresponding mining activity. This timing controls simultaneous demand for and cost of heavy mining equipment and associated labor.

No Harm: A larger cap on Idaho Power's guarantee for its share of Bridger Coal reclamation will do no harm, and can be expected to benefit ratepayers through continued control of cost and risk.

Method Is Not Transferrable: Idaho Power's low cost and low risk approach described herein outperforms alternatives in Wyoming. But this approach will not work in Oregon or in other states that do not accept a Self-Bond to guarantee environmental restoration. In addition, WY DEQ's three-phase reclamation certification offers high certainty that all restoration required is completed. This finality merits ongoing restoration. The Company has reviewed this memo and has no objections.

PROPOSED COMMISSION MOTION:

The Company's application for authority to guarantee up to $100 million of Bridger Coal Company reclamation obligations be approved subject to Staff's recommended conditions 1-2.

Idaho Power UF 4059 (1) PM Memo

Attachment A

Reclamation Responsibility Follows Ownership