

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Idaho Power Company

Docket No. ER06-787-003

ORDER CONDITIONALLY ACCEPTING TARIFF SHEETS SUBJECT TO REFUND
AND SETTING ISSUES FOR HEARING

(Issued February 28, 2007)

1. On September 28, 2006, Idaho Power Company (Idaho Power) submitted revisions to its Open Access Transmission Tariff (OATT), in compliance with Ordering Paragraph (D) of the Commission's Order issued May 31, 2006.¹ In this regard Idaho Power revised its OATT to provide for an informational filing with protocols for information exchange and provide Idaho Power's customers the ability to review and challenge the inputs to the rate formula. Idaho Power requests that the revised tariff sheets be accepted effective on June 1, 2006.²
2. The Commission will conditionally accept the revised tariff sheets, effective June 1, 2006, subject to refund, and subject to the hearing and settlement judge procedures. The issues raised by Idaho Power's filing are currently subject to hearing procedures in the underlying dockets. Accordingly, the Commission will set the merits of the proposed informational filing protocols for hearing and settlement judge procedures in the ongoing proceedings in Idaho Power Docket No. ER06-787-000.

¹*Idaho Power Company*, 115 FERC ¶ 61,281 (2006) (May 31, 2006 Order).

² Substitute First Revised Sheet No. 140 and Original Sheet Nos. 140.01-140.03 under FERC Electric Tariff, First Revised Volume No. 5.

Background

3. Idaho Power states that it is a wholly-owned subsidiary of IDACORP, Inc. and is principally engaged in providing integrated retail electric utility service in southern Idaho and eastern Oregon.

4. On March 24, 2006, Idaho Power filed in Docket No. ER06-787-000, revisions to its OATT proposing a rate increase under section 205 of the Federal Power Act (FPA),³ implementing new formula rates for its point-to-point transmission services and network integration transmission service provided to jurisdictional customers under its OATT, in lieu of traditional cost of service rates. Idaho Power stated that its currently effective rates were a result of the Commission-approved settlement of its 1996 rate proceeding in Docket No. ER96-350-000.

5. The May 31, 2006 Order required Idaho Power, among other things, to revise its OATT to provide for an informational filing. Specifically, the May 31, 2006 Order stated that the informational filing should provide protocols for information exchange and provide Idaho Power's customers the ability to review and challenge the inputs to the rate formula, and to provide inputs to the formula including supporting work papers.⁴

Notice of Filings and Responsive Pleadings

6. Notice of Idaho Power's filing was issued October 4, 2006 and published in the *Federal Register*, 71 Fed. Reg. 59768 (2006), with comments, interventions, and protests due on or before October 11, 2006. On October 16, 2006, the Bonneville Power Administration, A&B Irrigation District, Burley Irrigation District, Falls Irrigation District, Black Canyon Irrigation District, Owyhee Irrigation District, PNGC Power, Raft River Rural Electric Cooperative, Inc., Public Power Council, and the Idaho Energy Authority, (collectively, the Intervenors) filed a protest and motion to reject Idaho Power's compliance filing. On October 31, 2006, Idaho Power filed an answer to the Intervenors' protests. On November 15, 2006, the Intervenors filed a reply and clarification to Idaho Power's answer to the Intervenors protest and motion to reject Idaho Power's compliance filing.

³ 16 U.S.C § 824d (2000).

⁴ May 31, 2006 Order at P 29.

A. Intervenor's Protest

7. In their protest, Intervenor request that the Commission either reject Idaho Power's compliance filing and adopt the Intervenor's proposed protocols and procedures,⁵ or in the alternative set the terms of the compliance filing for hearing.
8. Intervenor state that Idaho Power's filing fails to comply with both the May 31, 2006 Order and the intent of the Commission to protect customers from being placed at a disadvantage, with respect to both access to information and procedural fairness in the implementation of Idaho Power's proposed formula rates.
9. Intervenor state the Commission has used formula rates for public utilities for years as long as the formula is sufficiently clear that all parties can determine what costs go into the rate and how it will be calculated. Intervenor add that the transmission customers under an OATT that contains a formula rate must be protected from the automatic pass-through of costs that are unjust, unreasonable, unduly discriminatory or preferential. And more specifically, as the inputs to a formula rate in the rate determination process, it is crucial that the customers and the Commission are equipped with sufficient knowledge to insure that the result is not in violation of the FPA. Intervenor acknowledge that customers may always file a section 206 complaint under the FPA, but the customers must bear the burden of proof.
10. Intervenor add that the information that Idaho Power has proposed to provide to interested parties is not adequate and insufficient to document the details of the sources and derivations of all formula rate data inputs. Intervenor state that Idaho Power's proposed protocols for providing information exchange and transparency do not provide a process where interested parties may seek more detailed or clarifying information to allow for a full vetting of the formula rate data inputs to be sure that the costs being passed through the annual formula rates are correct. Intervenor identify various accounts (*e.g.*, accumulated deferred income taxes, prepayments, general and intangible plant, monthly balance for rate base items, and transmission revenues) that they claim need to be reconciled to insure that the formula rates are applied correctly. Intervenor state the Idaho Power's proposed protocol should be rejected in favor of their more comprehensive proposal.
11. Intervenor claim that the Commission should require that Idaho Power's protocols be revised to ensure that the customers will be able to discern whether changes

⁵ See Intervenor's proposed tariff sheet revisions shown in Attachments A and B to their protest.

to one of these fundamental predicates of the formula is impacting the formula rate calculation. Intervenor claim that Idaho Power would only allow interested parties to comment on the information it elects to provide and would not allow further inquiries into the source of the formula inputs or the reasons behind significant changes to specific accounts and costs. Intervenor state that this does not meet the requirements of the Commission's summary disposition of this issue requiring that Idaho Power's customers have the ability to review and challenge the inputs to the formula.⁶

12. Intervenor also state that Idaho Power has requested that the formula rate annual adjustment become effective each year on June 1, which was the requested effective date for the first year of the formula rates. Intervenor note that the process for reviewing the annual update would not even begin until June 1, when Idaho Power would make the input background material available to interested parties. Intervenor claim that if the June 1 date is maintained, any changes that may occur due to customer reviews and formal challenges would result in subsequent customer rebilling and unnecessary administrative burden on customers. Intervenor also state that due to state law, irrigation districts are not permitted to adjust their operation and maintenance (O&M) budget or their annual O&M assessments during the middle of the irrigation season. Intervenor state that the June 1 date would be a particular problem for the irrigation districts, but changing the annual adjustment date to October 1 would resolve these problems.

13. Intervenor claim that Idaho Power's compliance filing does not provide the customer protections required by the Commission and request that the Commission reject Idaho Power's compliance filing and adopt the Intervenor's proposed protocols and procedures, or in the alternative set the terms of the compliance filing for hearing.

B. Idaho Power's Answer

14. In its answer, Idaho Power claims that it complied with the Commission's May 31, 2006 Order. Idaho Power states that its filing provides all formula rate inputs to the formula rates, including supporting work papers, and details protocols for information exchange. Idaho Power adds that its compliance filing provides customers with the ability to review and challenge the inputs to the formula.

15. Idaho Power also notes that Intervenor identify what they characterize as certain "fundamental predicates" for a formula rate, including: (1) Commission policy; (2) the structure of the Commission's Form No. 1; (3) the Uniform System of Accounts; and (4) Idaho Power's accounting policies, practices and procedures. Idaho Power argues

⁶ May 31, 2006 Order at P 29.

that the Intervenor's fundamental predicates provision amounts to a request for rehearing and should be rejected and the request to delay the annual rate change date should also be rejected as being beyond the scope of the compliance filing. Idaho Power states its compliance filing should not be set for hearing.

C. Intervenor's Reply to and Clarification of Idaho Power's Answer

16. In its reply, the Intervenor's argue they are not belatedly seeking rehearing and that Idaho Power overstated Commission precedent regarding formula rate approvals. Intervenor's also dispute Idaho Power's claim that: (1) requested work papers are not relevant to Idaho Power's proposed formula rate; (2) its proposal for an annual information exchange complies with the May 31, 2006 Order; and (3) its contention that the burden of proof should fall on the customer for challenges to formula inputs and application of the inputs in the informational filing. Intervenor's also add that Idaho Power mischaracterizes the Intervenor's proposal regarding treatment of fundamental predicates.

Discussion

A. Procedural Matters

17. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority. We will accept the answers of Idaho Power and the Intervenor's because they have provided information that assisted us in our decision-making process.

B. Commission Determination

18. The Commission will set the issues raised by the instant filing for hearing and settlement judge procedures in the ongoing proceedings in Docket No. ER06-787-000 and, accordingly, rejects Idaho Power's request that these matters not be set for hearing. Additionally, the Commission will conditionally accept the revised tariff sheets, effective June 1, 2006, subject to refund, subject to the outcome of the hearing and settlement judge procedures.

19. Idaho Power's proposed informational filing protocols, which the Commission required Idaho Power to file for the first time in its May 31, 2006 Order, raised new issues and disputes of material fact (including what information is necessary in the

protocols; in what format should this information be submitted, and how should such information be used) that would be more appropriately addressed in the ongoing hearing and settlement judge procedures that are currently ongoing in Docket No. ER06-787-000.

The Commission orders:

(A) The revised tariff sheets are accepted, effective June 1, 2006, subject to refund, and subject to the outcome of hearing and settlement judge proceedings in Docket ER06-787-000, as discussed in the body of this order.

(B) As discussed in the body of this order, the issues raised by the instant filing are set for hearing and settlement judge procedures in the ongoing proceedings in Idaho Power Docket No. ER06-787-000.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.