

Answer to Appeal
Idaho Power's Answer
To Appeal of
Order 32500

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

BONNIE MENTH AND VICKY DAVIS,)	
)	CASE NO. IPC-E-12-04
Complainants,)	
)	IDAHO POWER COMPANY'S
vs.)	ANSWER TO PETITIONS FOR
)	RECONSIDERATION
IDAHO POWER COMPANY,)	
)	
Respondent.)	
)	

Pursuant to the Idaho Public Utilities Commission's ("Commission") RP 331.05, Idaho Power Company ("Idaho Power" or "Company"), by and through its attorneys of record, hereby submits its Answer to the Petitions for Reconsideration filed by Vicky Davis on April 12, 2012 (captioned as an "Appeal of IPUC Final Order 32500") and by Bonnie Menth on April 17, 2012 (an electronically filed comment in which Ms. Menth wishes "to appeal my case IPC-E-12-04 and IPUC Order No. 32500").

I. BACKGROUND

On January 4, 2012, Vicky Davis and Bonnie Menth (referred to collectively as "Petitioners") filed formal complaints against Idaho Power in which they objected to the

A. **Petitioners Failed to Comply with Procedural Rule 331.**

When seeking reconsideration (or “appeal”) of any final Commission order, Procedural Rule 331 requires that petitioners “set forth specifically the ground or grounds why the petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted.” Neither Petitioner has met the standard for review set forth in Procedural Rule 331. Although Ms. Davis sets forth various reasons why she believes the Commission’s order is unlawful, she does not explain the nature and quantity of evidence to be offered if reconsideration is granted. Ms. Menth does neither, instead asserting a right to appeal because the Commission’s redaction of certain documents she received pursuant to a public records request constituted “an improper procedure.” Menth Petition at 1. Ms. Menth does not contend that receipt of the unredacted documents containing the names of other AMI complainants would evidence different or more compelling reasons than the redacted copies already in her possession.

Ms. Davis also requests that the Commission “open a new case for her complaint to be considered individually on the issues presented” – separate from the issues raised by Ms. Menth. Davis Petition at 1. Procedural Rule 331.03 requires the petition to state whether the petitioner requests reconsideration “by evidentiary hearing, written briefs, comments, or interrogatories.” Opening a new case in the reconsideration phase of the docket is not one of the Rule’s enumerated options and would undermine the efficiency of the Commission’s review.

has delegated authority to the Commission to regulate a wide array of utility activities, including the relationship between utilities and their retail customers by setting rates, charges and terms of service. I.C. §§ 61-501, 61-502, 61-507.

The Commission is empowered by Title 61, Chapter 5 of the Idaho Code with the authority to set customer rates and direct the utility to make reasonable investments supportive of those rate structures so long as the utility recovers the cost and earns a return on those investments. As evidenced by the 2012 Idaho Energy Plan and the \$47 million matching grant funded by the American Recovery and Reinvestment Act of 2009, AMI investments enjoy Congressional support at both the state and federal level. *2012 Idaho Energy Plan* at 119. While the Commission can prescribe the manner in which a utility operates pursuant to its legislative grant of authority, customers are free to choose whether or not to take service under the terms of service set by the Commission.

C. Constitutionality of AMI Installation.

Ms. Davis describes her complaint as “having called forth constitutional issues regarding the lawfulness of forced installation of a device that contains an open two-way communications system” that attaches her home to “the Smart Grid.” Davis Petition at 2. However, Ms. Davis does not describe with any specificity how the installation of AMI meters violates the state or federal Constitution. As explained on pages 8-9 of its Answer dated February 9, 2012, Idaho Power’s AMI meters collect whole-house energy usage data and communicate this information daily via its power line, which is not “open” to interaction with other meters or any appliance inside the home. There is no “electronic intrusion or invasion of privacy”; the new meters record energy consumption

voluntary DSM programs prior to Commission approval. See Case Nos. IPC-E-02-13 and IPC-E-04-47 (A/C Cool Credit), IPC-E-09-02 (FlexPeak Management), and IPC-E-04-03 and IPC-E-04-26 (Irrigation Peak Rewards).

The AC Cool Credit program, which reduces air conditioning load during peak summer hours, is the only DSM program currently offered to residential customers like Ms. Davis. This program is voluntary. Public input was requested by the Commission in Case Nos. IPC-E-02-13 and IPC-E-04-47 when it reviewed Idaho Power's requests to offer the program and fund the incentives through the Energy Efficiency Rider. Customers who requested to participate gave Idaho Power permission to install the equipment necessary to cycle their air conditioners. This "additional functionality" was added at the customers' option and required physical installation of equipment capable of communicating either through paging technology or through the substation control equipment via the power line. However, this additional communication equipment functions independent of the meter. Thus, there is no current basis in fact for Ms. Davis's claim. Ms. Davis's concern as to what devices may be installed at a future date is speculative and not ripe for Commission decision.

Ms. Davis argues that "the presence of a net metering device on the home of a residential customer could allow their property to be defined as being engaged in interstate commerce in electricity through systematic connection to the network, thereby allowing homes to improperly fall under the regulatory jurisdiction of the Idaho Public Utilities Commission." Davis Petition at 3. As discussed above, the Commission has jurisdiction over retail transactions between the electric utility and customers. I.C. §§ 61-501, 61-502, 61-503, and 61-507. The Federal Energy Regulatory Commission has

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of April 2012 I served a true and correct copy of the within and foregoing IDAHO POWER COMPANY'S ANSWER TO PETITIONS FOR RECONSIDERATION upon the following named parties by the method indicated below, and addressed to the following:

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