

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 756

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PUBLIC UTILITIES; AMENDING CHAPTER 3, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-335, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING NEW LARGE LOADS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 3, Title 61, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 61-335, Idaho Code, and to read as follows:

61-335. NEW LARGE LOADS -- RATEPAYER PROTECTION AND COST RESPONSIBILITY. (1) As used in this section:

(a) "Commission" means the Idaho public utilities commission.

(b) "Consumer" has the same meaning as provided in section 61-332A, Idaho Code.

(c) "Cumulative power requirement" means the maximum contracted demand, expressed in megawatts.

(d) "Electric service" has the same meaning as provided in section 61-332A, Idaho Code.

(e) "Electric service agreement" or "agreement" means a written contract between a public utility and a new large load consumer that specifies terms of electric service, including but not limited to power requirements, rates, minimum billing requirements, collateral requirements, contract exit fee, stranded cost recovery provisions, and conditions for capacity adjustments, and that is consistent with this section and rules of the commission.

(f) "Electric supplier" has the same meaning as provided in section 61-332A, Idaho Code.

(g) (i) "New large load" means any electric power requirement that:

1. Is expected to reach or actually reaches a cumulative power requirement of twenty (20) megawatts or more within five (5) years of the initial start date for a new service entrance; or

2. Is expected to increase or actually increases the cumulative power requirement by twenty (20) megawatts or more within five (5) years of the requested start date for the increase for an existing service entrance.

(ii) An increase in the electric power requirement of an existing service entrance whose cumulative power requirement exceeded fifty (50) megawatts as of January 1, 2000, shall not be considered a new large load.

1 (h) "New service entrance" has the same meaning as provided in section  
2 61-332A, Idaho Code.

3 (i) "No-harm test" means an evaluation conducted by the commission to  
4 determine the impact a new large load will have on the rates of existing  
5 consumers.

6 (j) "No rate increase" means no increase in the rates, charges, or to-  
7 tal bill for any existing class of consumers, measured in nominal terms,  
8 relative to the rates, charges, or total bill that would prevail absent  
9 the new large load.

10 (k) "Public utility" has the same meaning as provided in section  
11 61-332A, Idaho Code.

12 (l) "Service entrance" has the same meaning as provided in section  
13 61-332A, Idaho Code.

14 (2) A new large load does not change its status as such by means of arti-  
15 fice, including by splitting its load among more than one (1) electric sup-  
16 plier or by adding additional connections, meters, or service entrances to  
17 serve an otherwise single entity or enterprise.

18 (3) A public utility shall not provide electric service to a new large  
19 load or acquire resources to serve a new large load unless the commission ap-  
20 proves an electric service agreement for the new large load that has no rate  
21 increase, is just and reasonable pursuant to sections 61-301 and 61-502,  
22 Idaho Code, and complies with this section.

23 (4) Prior to approving a new or amended electric service agreement for  
24 any new large load, the commission shall conduct a no-harm test to determine  
25 whether service to the new large load may increase rates for existing con-  
26 sumers.

27 (a) The no-harm test shall compare the utility's long-term revenue re-  
28 quirement with and without the new large load and shall include, at min-  
29 imum, consideration of the following:

30 (i) All incremental costs and risks associated with serving the  
31 new large load, including but not limited to:

32 1. All new and existing resources required to serve the new  
33 large load;

34 2. Reliability impacts;

35 3. Financial and operating risk, including impacts to  
36 credit ratings, cost of equity, cost of capital, and expo-  
37 sure to fuel and market price risk; and

38 4. Opportunity costs incurred to serve the new large load;

39 (ii) Scenario analysis addressing contract and operating risks  
40 that may materially affect the revenue requirement; and

41 (iii) Any other factors the commission determines reasonably nec-  
42 essary to ensure that service to the new large load does not in-  
43 crease rates for existing consumers.

44 (b) The commission shall establish a process to ensure a consistent  
45 methodology for applying and required inputs for the no-harm test,  
46 which shall allow a public utility to develop energy service agreements  
47 for new large loads that can reasonably be expected to comply with the  
48 no-harm test.

49 (c) The applicant for new large load service shall reimburse the com-  
50 mission for all costs of conducting the no-harm test.

1 (d) The public utility shall provide all data the commission determines  
2 necessary to complete the no-harm test.

3 (e) If the commission finds, based on the no-harm test, that service to  
4 the new large load may increase rates for existing consumers, the com-  
5 mission shall condition approval of the electric service agreement for  
6 the new large load on the inclusion of rates, incremental cost-recov-  
7 ery riders, minimum monthly bills, contract-capacity charges, or other  
8 commission-approved mechanisms that ensure no rate increase to exist-  
9 ing consumers occurs from servicing the new large load.

10 (5) At least every three (3) years from the agreement's effective date,  
11 the commission shall conduct a new no-harm test for the new large load in each  
12 general rate case filed by the public utility to compare the prior no-harm  
13 test's forecasted costs with the actual costs incurred to serve the new large  
14 load.

15 (a) A new no-harm test shall not be required within twelve (12) months  
16 of a prior no-harm test being completed.

17 (b) The new large load consumer shall reimburse the commission for all  
18 costs of conducting the new no-harm test.

19 (c) If the new no-harm test indicates that the new large load has harmed  
20 or would harm existing consumers, the commission shall require adjust-  
21 ments to the electric service agreement to remove potential for further  
22 harm.

23 (6) The electric service agreement shall include a commission-approved  
24 exit fee structure to ensure that an exit does not result in a rate increase  
25 to existing consumers.

26 (7) Any electric service agreement for a new large load shall require  
27 the new large load to furnish financial security, in a form and amount ap-  
28 proved by the commission, to ensure recovery of costs incurred by the public  
29 utility in reliance on the new large load's contracted power requirement.

30 (a) Such security shall protect against stranded investment if the con-  
31 tracted power requirement is not achieved.

32 (b) Acceptable forms of security include cash deposits, irrevocable  
33 letters of credit, third-party guarantees, or other instruments au-  
34 thorized by the commission. Cash deposits shall accrue interest at a  
35 rate approved by the commission and shall be refunded in accordance with  
36 standard financial practices upon fulfillment of contractual obliga-  
37 tions.

38 (c) In approving financial security instruments, the commission shall  
39 consider the creditworthiness of the new large load or its parent  
40 company or affiliate or the third-party entity providing financial se-  
41 curity, the duration and amount of the security, and the potential for  
42 stranded investment.

43 (d) A new large load may request a reduction in its contracted power  
44 requirement during the term of the electric service agreement, and the  
45 commission may adjust the financial security required of the new large  
46 load, subject to conditions approved by the commission.

47 (8) If a new large load does not achieve its contracted power require-  
48 ment within a commission-approved ramp schedule, the commission may require  
49 modification of rates or security to avoid cost shifts to existing con-  
50 sumers.

1           (9) The commission may promulgate rules, subject to legislative ap-  
2           proval, to implement the provisions of this section.

3           SECTION 2. An emergency existing therefor, which emergency is hereby  
4           declared to exist, this act shall be in full force and effect on and after  
5           July 1, 2026.