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IDAHO PUBLIC
UTILITIES COMMISSION

BARTON L. KLINE
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December 31, 2009

VIA HAND DELIVERY

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
P.O. Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-09-30
*IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY
FOR AN ACCOUNTING ORDER TO AMORTIZE ADDITIONAL
ACCUMULATED DEFERRAL INCOME TAX CREDITS AND AN ORDER
APPROVING A RATE CASE MORATORIUM*

Dear Ms. Jewell:

Enclosed please find for filing an original and seven (7) copies of Idaho Power Company's Response to Comments of Idaho Conservation League in the above matter.

Very truly yours,

Barton L. Kline

BLK:csb
Enclosures

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UTILITIES COMMISSION

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF IDAHO POWER COMPANY FOR)	CASE NO. IPC-E-09-30
AN ACCOUNTING ORDER TO AMORTIZE)	
ADDITIONAL ACCUMULATED DEFERRAL)	IDAHO POWER COMPANY'S
INCOME TAX CREDITS)	RESPONSE TO COMMENTS OF
AND)	IDAHO CONSERVATION LEAGUE
AN ORDER APPROVING A RATE CASE)	
MORATORIUM.)	
)	

On December 22, 2009, the Idaho Conservation League ("ICL") filed comments with the Commission regarding Idaho Power Company's ("Idaho Power" or "Company") Application in this case. ICL notes in its comments that it does not object to the substance of the settlement. In fact, ICL acknowledges that the settlement reached in this case may be in the best interest of Idaho Power's customers. (ICL comments, p. 3.) Instead, ICL's comments express concern relating to the process that led to the settlement in this case. ICL finds the process that led to the settlement to be

“troublesome.” (ICL comments, p. 2.) To be clear, ICL is not alleging that the process followed did not provide procedural due process. ICL’s concerns are focused on the need for the public to be informed whenever settlement discussions are being contemplated.

Because ICL acknowledges that the settlement may be in the best interest of customers and does not indicate that the settlement raises issues of procedural due process, Idaho Power’s initial response was to refrain from submitting a response. However, there are two areas of ICL’s comments that may leave the wrong impression with the Commission and therefore require some clarification.

1. The Public Was Not Excluded from the Settlement Process.

Idaho Power would be the first to admit that the process leading up to the settlement was unusual. What started out as a limited discussion on a mechanism to provide earnings stability moved, at the request of Idaho Power’s customers and Commission Staff, into a rate moratorium and full settlement of the general rate case that Idaho Power was on the brink of filing. ICL’s comments indicate that the “public” was somehow left out of the settlement process. Idaho Power does not believe that is a fair representation of what occurred. As noted in the testimony on file in this proceeding, the first meeting was initiated by Idaho Power and was intended to discuss a very limited topic, i.e., the use of accelerated investment tax credits to provide earning stability. (Testimony of Randy Lobb, pp. 8-9.) Idaho Power invited all of the parties that had intervened as parties in its last general rate case to that meeting. During and after that meeting, the Company was advised that there were other entities that might be interested in participating in the discussions. In response to that information, after the

first meeting, Idaho Power met with the parties that had been identified as being interested and provided an individual briefing on the issues being discussed in the meetings. ICL was one of the parties that participated in such an individual meeting with Idaho Power and ICL actively participated in subsequent settlement discussions.

When the Commission considers the identity of the Parties that signed the Stipulation and participated in the settlement discussion, it is clear that these entities represent the full spectrum of Idaho Power's customer groups. There is not one group of current customers that did not actively participate in the settlement process. As a result, the Commission should not be concerned that the "public" was not adequately represented throughout the entire settlement discussion process.

The second reason that Idaho Power believes that ICL's concerns with a potential lack of prior notice to the public may be overstated arises out of the fact that it is the *Commission*, not the parties to a settlement, that decides if a settlement is in the public interest. Simply because a settlement proposal has been negotiated does not change Idaho Power's rates. Only the Commission changes Idaho Power's rates *if* it believes the settlement is in the public interest. The Commission's process for notifying the public that a settlement proposal has been submitted to the Commission provides a full and adequate opportunity for the public to comment on the settlement and to provide the Commission with their opinions as to the merits or demerits of the settlement.

2. Additional Procedural Rules Are Not Needed.

On page 2 of its comments, ICL discusses the Commission's current Rules of Procedure governing settlements and concludes that the current Rules are ambiguous when applied to the admittedly unique circumstances that led to this settlement. ICL

concludes that because of this ambiguity, the Commission must provide "guidance" (ICL comments, p. 3.) ICL's comments do not indicate if the guidance should be in the form of new Rules of Practice and Procedure or if something less formal is acceptable. Idaho Power certainly has no objection to including interested parties in settlement discussions. However, Idaho Power believes the Commission should proceed with caution before adding another layer of procedure and formality to the settlement process. New rules that delay the process and make it more cumbersome could have the perverse effect of reducing the likelihood that successful settlements can be negotiated. It is not desirable to sacrifice a very good process in order to have a perfect process that deters settlements.

Idaho Power also recommends that the Commission carefully consider whether it is prudent to expend valuable resources developing new rules of practice and procedure to address a situation that is very unusual and, frankly, is unlikely to occur again. As the Commission can see from the testimony already filed in this proceeding, this settlement is the creative product of a unique convergence of a number of events, i.e., large potential PCA refunds, recent rate case decisions, etc. Such a unique convergence is not likely to occur again.

In summary, Idaho Power certainly appreciates ICL's desire to ensure that all interested parties have an opportunity to have their unique perspectives considered in settlement discussions. However, the Company believes that in light of the unusual circumstances in this case, no changes to the Commission's Rules of Practice and Procedure are necessary to ensure that due process is provided to the public.

DATED this 31st day of December 2009.

A handwritten signature in black ink, appearing to read "B. Kline", written over a horizontal line.

BARTON L. KLINE
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of December 2009 I served a true and correct copy of the foregoing IDAHO POWER COMPANY'S RESPONSE TO COMMENTS OF IDAHO CONSERVATION LEAGUE upon the following named parties by the method indicated below, and addressed to the following:

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