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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY TO IMPLEMENT POWER COST ADJUSTMENT ("PCA") RATES FOR ELECTRIC RATES FROM JUNE 1, 2010 THROUGH MAY 31, 2011.	)	**CASE NO. IPC-E-10-12** COMMENTS AND PROTEST OF THE INDUSTRIAL CUSTOMERS OF IDAHO POWER

Pursuant to Rule 203 of the Rules of Procedure of the Idaho Public Utilities Commission (the "Commission") and the Commission's Notice and Order served April 29, 2010, the Industrial Customers of Idaho Power ("ICIP") hereby file these comments and protest. For the reasons set forth below, ICIP renews its protest of Idaho Power Company's ("Idaho Power's" or the "Company's") request for recovery of affiliate-mined coal costs in its base level Net Power Supply Expenses ("NPSE") for 2010 in its Idaho jurisdiction. ICIP again respectfully requests that the Commission rule the Company has not met its burden of proving the prudency of its request for increased costs of surface-mined coal from the Company's affiliate Bridger Coal Company mine ("BCC") for its Jim Bridger Coal plant ("Bridger"). ICIP therefore requests the

Commission disallow recovery of all or a portion of those BCC surface coal costs that exceed the comparable market price. ICIP further protests the Company's request to only reduce the Power Cost Adjustment ("PCA") revenue by $87 million because that requested reduction allows the Company to perversely use the PCA's Load Growth Adjustment Rate mechanism ("LGAR") – which is designed to prevent double recovery in times of load growth – as a means of obtaining additional recovery similar to decoupling or a fixed cost adjustment at this period of load reduction. Thus, ICIP respectfully requests that the Commission also disallow recovery through the PCA of the $23.7 million associated with LGAR, or at a minimum that the Commission state that amount is subject to future reduction pending further review.

BACKGROUND

Idaho Power requests that the Commission issue an order finding the Company has met its burden of proving the prudency of a $24.8 million increase of net power supply costs to Bridger coal plant for inclusion in base rates, and approving the Company's requested calculation of the Schedule 55 PCA rates. *See Application*, at pp. 9, 11. The Commission typically "determines the normal or expected annual power supply costs for Idaho Power in a general rate case and incorporates recovery of those costs in base rates. Actual power supply costs that vary from the normal amount included in rates are captured each year through the Company's [PCA]." *See* Order No. 30722, at p. 19.

The Commission set the Company's currently authorized base level NPSE in the Company's 2008 general rate case. *See id.* at pp. 19-21. Pursuant to a settlement stipulation forgoing a general rate case in 2009, the Company filed its application in January 2010 to increase the base level NPSE for 2010 by $74.8 million (in the Idaho service territory) for inclusion in base rates beginning June 1, 2010, and for calculation of the 2010-2011 PCA. *Application*, Case No. IPC-E-10-01 (January 19, 2010). The Commission ultimately authorized an increase of approximately $63.7 million "as a working number for the Company's 2010-2011 PCA filing deferring final calculation of authorized NPSE to the PCA case." Order No. 31042, at p. 1. The Commission left unresolved in that 2010 NPSE case the issue of the prudency of a $24.8 million increase in costs to supply Bridger with coal from two mines – the Company's affiliate coal mine operated by BCC and the independently-owned Black Butte Mine. The Commission authorized inclusion of the increased coal costs as a working number for the PCA filing, but provided the opportunity for further investigation and assessment in the context of the PCA docket. *Id.* at p. 8.

The Company then filed its PCA application, wherein it calculated the 2010-2011 PCA utilizing the NPSE approved in the 2008 general rate case and yielded a PCA reduction of approximately $87 million. *Application*, Case No. IPC-E-10-12, at p. 4 (April 15, 2010). Pursuant to the sharing of the PCA reduction agreed to in the settlement stipulation approved in Order No. 30978 in Case No. IPC-E-09-30, the Company calculated a total base rate increase of approximately $88.7 million. *Id.* at p. 6. The Company has filed testimony of Tom Harvey regarding the Bridger coal costs. *See id.* at p. 9; Direct Testimony of Tom Harvey, Case No. IPC-E-10-12 (April 15, 2010) ("Harvey Testimony").

ARGUMENT

ICIP respectfully requests disallowance of the Company's recovery of certain costs associated with affiliate-mined Bridger coal and disallowance of all cost recovery associated with the LGAR.

A. The Commission should disallow the excessively high affiliate surface coal costs.

1. Background on the Jim Bridger Plant's coal supply.

Idaho Power and PacifiCorp jointly own Bridger, and currently supply about one-third of Bridger's coal needs from a third-party, surface mining operation, the Black Butte Coal Mine. *ICIP Comments*, Case No. IPC-E-10-01, Exhibit 1, at p. 9.[1] The utilities have supplied the remainder of Bridger's needs with coal from the BCC mine. BCC coal includes both surface-mined and underground-mined coal. Idaho Power stated in discovery in the 2010 NPSE case that of the [redacted] tons of coal consumed at Bridger annually, [redacted] tons come from the Black Butte Mine. Idaho Power's White Paper, at p. 2.[2] The Company projects that the BCC surface coal deliveries will be [redacted] tons in 2010, and the underground BCC coal deliveries will be [redacted] tons in 2010, respectively. *Id.* Thus, in 2010, [redacted] of BCC coal will be BCC surface-mined coal.

Idaho Power's subsidiary, Idaho Energy Resources Company ("IERCO"), owns 33.33% of the BCC mine, with PacifiCorp's subsidiary, Pacific Minerals, Inc. *ICIP Comments*, Case No. IPC-E-10-01, Exhibit 1, at p. 6. BCC is therefore an affiliate of Idaho Power. *Id.* For rate making purposes, Idaho Power treats the mining costs at BCC like any other regulated expense

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1 ICIP attached to its comments in the 2010 NPSE case (Case No. IPC-E-10-01) many of the pertinent documents regarding the Bridger coal costs. Idaho Power likewise filed many additional relevant documents in the 2010 NPSE case, and Idaho Power has requested the Commission take administrative notice of its attachments. *See Application*, at p. 9. ICIP supports Idaho Power's request, and further respectfully requests the Commission take administrative notice of ICIP's comments and attachments in Case No. IPC-E-10-01.

2 Idaho Power's White Paper is a confidential document Idaho Power provided in response to Idaho Commission Staff's Production Request 4 in the Case No. IPC-E-10-01. Idaho Power included that White Paper as Attachment No. 1 of its Reply Comments in Case No. IPC-E-10-01.

for which it earns a rate of return. The "sales price" for the BCC coal used in the NPSE "includes an operating margin, equal to the overall rate of return authorized in general rate cases where IERCO/BCC operations are treated as part of the regulated activities of the Company." *ICIP Comments*, Case No. IPC-E-10-01, Exhibit 2. Idaho Power adjusts the sales price "periodically as updated BCC mining expense data becomes available." *ICIP Comments*, Case No. IPC-E-10-01, Exhibit 2. In contrast, Idaho Power earns no profit on purchases of coal from Black Butte Mine, and instead Idaho Power charges ratepayers the same cost it pays for the Black Butte surface coal.

So although there is little risk of true cross subsidization with this Bridger-BCC affiliate relationship, Idaho Power and PacifiCorp have been operating, and profiting off of, a captive mine for a long period of time rather than purchasing all coal on the open market at no profit. In this case in particular, Idaho Power's responses to ICIP's production requests 1(b) and 1(f) reveal that it will earn an average operating margin of [redacted] on each of the [redacted] tons of Idaho-allocated BCC coal it will mine for sale to Bridger in the 2010 NPSE test period. *See* ICIP Exhibit 1, at pp. 3-4.[3] And for the tons of coal from the surface BCC mine, which are now more costly, the profit per ton would be even higher. The total *profit* from the BCC mine in 2010 alone would be [redacted] But for each ton of coal Idaho Power purchases from Black Butte mine, Idaho Power earns no return; Idaho Power's profit from using that mine's coal is zero. Idaho Power therefore has embedded incentives to mine the most tons of coal as it can at the BCC mine.

ICIP therefore strongly disagrees with Idaho Power's assertions that there is no incentive

[3] For reference, ICIP has attached, as Exhibit 1, Idaho Power's confidential responses to ICIP's production request 1 in this PCA case.

to overcharge for BCC coal and no incentive to continue those affiliate operations to the fullest extent possible. ICIP does not reject the BCC-Bridger plant mine mouth coal supply operation as per se imprudent, but respectfully submits that the affiliate relationship and associated profits warrant close scrutiny of the BCC sales price ratepayers will pay. In sum, without market forces, the only outside force requiring the Company to keep costs down at the BCC mine is a thorough prudency review by the Commission.

2. Idaho Power must meet its burden to prove that the increased costs associated with its affiliate mine are prudent by showing the affiliate price passed onto ratepayers is the lower of the Company's affiliate's sales price or the market price.

In the 2010 NPSE case, Idaho Power stated that, at least for purchases from its affiliate BCC, it must purchase the affiliate coal at the lower of cost or market. *See Idaho Power Reply Comments*, Case No. IPC-E-10-01, p. 13 (March 23, 2010) (quoting Order No. 30530, Revised Code of Conduct, at p. 2, ¶ 8(g)). The obvious policy reason for requiring this lower of cost or market analysis is to ensure – in light of Idaho Power's obvious incentive to mine its own coal – that ratepayers are not paying a higher cost for BCC-mined affiliate coal than ratepayers pay for market-priced coal supplied to Bridger. This policy creates an incentive for Idaho Power and PacifiCorp to properly manage their affiliate mine so as to keep the coal costs reasonable.

The Commission found that Idaho Power had not met its burden of proving this lower of market or cost test. The Commission stated: "We expect the Company in that [PCA] docket to support its proposed adjustment to the Bridger coal costs. We reject its contention that a *prima facie* case has been made for inclusion of same and accordingly do not shift the burden of proof on this issue to Staff or others." Order No. 31042, at p. 8. Idaho Power stated that if the Commission were to find any portion of the Bridger coal costs to be imprudent, 100% would be returned to customers, not the 95% typically refunded through the PCA. Order No. 31042, at p. 7; *see also* Order No. 30828, at p. 1 (discussing 5% limitation on PCA refunds to ratepayers). Thus, the Company has the burden of proving in this case that the BCC sales price passed onto ratepayers is equal to or less than the sales price of a market alternative, and if it fails to do so the Commission may disallow the difference from the 2010 NPSE.

3. The sales price of BCC surface-mined coal is far higher than the sales price of market coal from Black Butte.

Because of required changes in mining and accounting, the price of BCC surface-mined coal increased substantially at the conclusion of 2009. *See ICIP Comments*, Case No. IPC-E-10-01, Exhibit 1, at pp. 39-41. According to Idaho Power's discovery responses, the average cost of surface and underground BCC coal, not including Idaho Power's operating margin, or added profit, is [redacted] in 2010, and the average "sales price" including the operating margin is [redacted] per ton. *See* ICIP Exhibit 1, at p. 2 (providing response to request 1(b)). In contrast, Idaho Power will only pay [redacted] per ton for Black Butte coal (presumably including Black Butte's profit margin). *See ICIP Comments*, Case No. IPC-E-10-01, Exhibit 3, at p. 4. The higher cost of BCC coal is attributable to the surface-mined coal, which according to ICIP's calculation of data provided in discovery will average [redacted] per ton for the eleven months in which Idaho Power supplied a cost,[4] and will be as high as [redacted] per ton in one month. *See ICIP Comments*, Case No. IPC-E-10-01, Exhibit 3, at p. 2. And those costs Idaho Power provided for

[4] This average cost calculation excludes one month for which Idaho Power provided no cost data under the assumption that there will be no BCC surface coal deliveries in that month.

the surface-mined coal exclude Idaho Power's operating margin which it will charge ratepayers. So the average sales price of BCC surface-mined coal will easily exceed [redacted] per ton in 2010.[5]

In Oregon Public Utility Commission Docket UE 214, the Oregon Commission Staff calculated that replacing the BCC surface-mined coal with the coal from Black Butte surface mine for Oregon's 2010 energy cost update test year (April 2010 to March 2011) would result in a system-wide savings of about $15.6 million, only $723,110 of which is attributable to Oregon. *ICIP Comments*, Case No. IPC-E-10-01, Exhibit 1, at p. 12. Oregon Commission Staff proposed disallowing this amount in its testimony on the ground that the Black Butte coal sales price reflected the lower of the cost or market price when compared to BCC surface coal. *ICIP Comments*, Case No. IPC-E-10-01, Exhibit 1, at p. 16. In this Idaho case, ICIP likewise submits that the high cost of the surface-mined BCC coal at an average sales price passed onto ratepayers in excess of [redacted] per ton is far higher than the Black Butte market coal (which is also surface mined) at [redacted] per ton, and is therefore simply unjust. The difference in sales prices is at least [redacted] per ton for each of [redacted] tons of Idaho's allocation of BCC surface coal for the 2010 NPSE test year, for a total cost difference to Idaho ratepayers of at least $16 million.[6] Under the lower cost or market test, the Commission should reduce the preliminarily approved increase to NPSE by at least that amount.

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[5] In fact, assuming the same ratio of cost to sales price provided in discovery for total BCC coal supplies, *see* ICIP Exhibit 1, at p. 2, ICIP calculates the average sales price of BCC surface coal will be [redacted] per ton in 2010. ICIP notes that this price is not only in excess of Black Butte coal, but is also far in excess of the cost of Powder River Basin coal even with the huge transportation costs required for that coal. *See* Harvey Testimony, at p. 12.

[6] Idaho's allocation of total BCC coal is [redacted] tons for the 2010 NPSE test period, *See* ICIP Exhibit 1, at pp. 2-3, and surface coal is [redacted] of the total BCC coal for 2010 – equaling [redacted] tons.

4. The Company has not met its burden of proving the prudency of its request for increased costs for coal supplied to the Jim Bridger Plant from its affiliate mining company.

ICIP disagrees with Idaho Power's justifications for charging ratepayers $16 million higher for its affiliate surface coal than the market price for that amount of coal. Idaho Power primarily defends its highly priced, surface-mined BCC coal on the grounds that Idaho Power calculates the "decremental cost" of BCC surface coal to be lower than the cost of the currently available Black Butte coal. Idaho Power also asserts generally that Black Butte coal is either an unavailable replacement or of an unsuitable quality given the required coal quality and coal blending metrics required by Bridger, and thus, according to Idaho Power, could not be used to replace BCC surface coal. But ICIP submits that Idaho Power has not met its burden of proving the extremely high sales price of BCC surface coal is lower than the sales price of market coal, or is otherwise reasonable.

a. Idaho Power's decremental cost analysis unjustifiably compares the sales price of Black Butte coal to the cost of mining at BCC without including Idaho Power's operating margin or profit on its BCC coal and unjustifiably uses costs from a different mine plan from that utilized in the 2010 NPSE filing.

Idaho Power attempted to calculate the decremental cost of BCC coal – the amount Idaho Power would save by not mining BCC surface coal and therefore the amount Idaho Power could use to purchase replacement coal on the market. *See* Harvey Testimony, at p. 9; *see also Idaho Power Reply Comments*, Case No. IPC-E-10-01, Attachment 3, at pp. 8-10 (containing reply testimony of Tom Harvey filed in Oregon, which contains a more detailed explanation of the decremental cost analysis); *See* ICIP Exhibit 1, at pp. 2 -3 (indicating in response to request 1(d) that Idaho Power relies on the very same decremental cost analysis in the Idaho case as that prepared for the Oregon case even though the test periods are different). Idaho Power asserts that "[i]f the surface mine were shut down, which is the logical implication of ICIP's proposed adjustment in IPC-E-10-01, many of the shared costs would not be avoided but would need to be reallocated to the cost of the underground coal."[7] Harvey Testimony, at p. 6. Idaho Power estimates that foregoing mining BCC surface coal would free up only [redacted] per ton to purchase replacement coal. *Id.* at p. 10. Idaho Power argues that is not enough to cover the sales price of Black Butte coal, so there is no cheaper market alternative to which the Commission may compare the BCC surface-mined coal.

But Idaho Power's decremental cost analysis fails to substantiate Idaho Power's assertions for two main reasons. First, Idaho Power's decremental cost calculation for BCC used a "[redacted]," but the actual ratepayer "[redacted]." *See* ICIP Exhibit 1, at p. 2. The ratepayer price is higher because it "[redacted]." *Id.* So Idaho Power's decremental cost analysis miscalculates the amount that ratepayers would save if Idaho Power stopped mining BCC surface coal by using a starting point that is [redacted] per ton [redacted] than it should be. The decremental cost analysis and the lower cost or market analysis cannot exclude Idaho Power's profit margin. Second, Idaho Power's decremental cost calculation is "based upon its most currently available mine plan. The current mine plan projects BCC costs to be [redacted] per ton for April

[7] As ICIP clarifies in these comments, ICIP does not assert Idaho Power should forego mining BCC surface coal. ICIP lacks sufficient information and expertise to determine whether continued mining of surface coal is appropriate. Rather, ICIP maintains that the sales price ratepayers pay for surface-mined BCC coal should not be vastly higher than the sales price of similar, nearby surface-mined coal sold on the market.

2010 through March 2011." *Idaho Power Reply Comments*, Case No. IPC-E-10-01, Attachment 3, at p. 8. Here too, the decremental cost analysis should consider the amount ratepayers will pay for BCC coal, which unless Idaho Power intends to update its filing will be [redacted] than that used in the decremental cost analysis.

Reversing the combined effect of these two errors in the decremental cost calculation would result in a decremental cost for BCC surface coal that is substantially higher than that contained Idaho Power's testimony. Idaho Power's analysis of the April 2010 to March 2011 test period prepared for the Oregon case therefore does little to justify the extremely high sales price of BCC surface coal for Idaho ratepayers in the 2010 NPSE case with a different test period.

b. Idaho Power's White Paper demonstrates that there is at least some available market replacement coal, and even if there were none available Idaho Power must still demonstrate that its sales price for its affiliate coal is equivalent to a market price.

Idaho Power's own white paper indicates that at least some additional Black Butte coal appears to be available. Idaho Power admits that as of communications [redacted]. Idaho Power's White Paper, at p. 8. Even with transportation costs of approximately [redacted] per ton included, that price is far lower than the BCC surface-mine coal sales price of over [redacted] per ton in 2010. It is also likely less than the decremental cost of BCC surface coal under Idaho Power's own methodology if Idaho Power had included its operating margin and the old mine plan that it will use to charge ratepayers. Due to quality constraints, Idaho Power asserts that [redacted] *Id.* (emphasis added).

But Idaho Power's White Paper does not explain why Idaho Power and PacifiCorp would forego the opportunity to secure access to this additional [redacted] tons per year of low-cost Black Butte coal to at least replace some of the very costly [redacted] tons they plan to sell to themselves from their BCC surface mine. Nor does it explain why Idaho Power and PacifiCorp waited until February 2010 after this issue was raised in the Oregon energy cost update case (Docket No. UE 214) to inquire as to additional supplies from Black Butte. And nothing that Idaho Power has filed affirmatively states that Bridger could not operate effectively within its required coal blending metrics if Idaho Power and PacifiCorp had purchased this available Black Butte coal and used its BCC surface coal for the remainder of Bridger's needs.

More importantly, however, Idaho Power's assertions that Black Butte coal is not available to completely supplant the BCC surface coal, or could not meet the blending metrics at Bridger misses the point. Idaho Power takes the position that there is no available market alternative, so there is no is no market price to which the Commission may peg the sales price of BCC surface coal. Under this rationale, Idaho Power can charge ratepayers any amount for the BCC surface coal on the ground that there is no market comparison for it. Idaho Power's assertions overlook the basic policy behind the lower of cost or market test, which is to require that the prices passed onto ratepayers -- whether from affiliate or market transactions – are reasonable. An affiliate price [redacted] is simply not reasonable. Black Butte is a surface mine, and Idaho Power has provided insufficient explanation why the nearby Black Butte surface mine is not subject to the same cost considerations as the BCC surface mine. Because nearby Black Butte surface coal is so much less expensive than BCC surface coal, it is unreasonable to allow Idaho Power to charge ratepayers so much more than a comparison market price for its affiliate coal.

In sum, Idaho Power's comments in the NPSE case, its White Paper, its discovery responses, and its testimony in this PCA case have raised more questions than they have answered. The Company has not established a case that the entirety of the $16 million cost difference to Idaho ratepayers between affiliate surface-mined coal and the market equivalent surface-mined coal from Black Butte is reasonable. Thus, ICIP respectfully requests that the Commission disallow this cost difference for surface-mined BCC coal from the base level NPSE.

5. Idaho Power's most recent mine plan used in its decremental cost analysis indicates that BCC costs will be [redacted] than those filed, and [redacted]

As noted above, the average costs for mining all surface and underground BCC coal – Idaho Power's Idaho share of which is [redacted] tons for the 2010 test period – have [redacted] since the time of initial preparation of the filing of the 2010 NPSE case. *See, e.g., Idaho Power Reply Comments*, Case No. IPC-E-10-01, Attachment 3, at p. 8 (noting for the April 2010 to March 2011 test period the difference is [redacted] per ton). Idaho Power stated in discovery that the Company's standard practice is to include the most currently available information at the time each filing is prepared. It used the [redacted] mine plan for the 2010 NPSE filing in January 2010, and used an updated mine plan in its decremental cost analysis and its filing for this 2010-2011 PCA case. From Idaho Power's discovery responses on the issue, however, it is not possible to determine precisely how much [redacted] the current mine plan projects BCC coal to cost during the 2010 NPSE test year. *See* ICIP Exhibit 1, at pp. 2-4.

ICIP respectfully submits that, whatever Idaho Power's standard policy may be, the Commission should, at a minimum, require the Company [redacted]

[redacted] This case is different from one where Idaho Power's typical policy may apply because the Commission rejected Idaho Power's request for full-blown approval of the coal costs in the 2010 NPSE filing. The Commission required the Company to file additional testimony to substantiate the NPSE costs in this PCA docket. By the time of the application in this PCA docket and the additional testimony attempting to properly establish the Company's case, the new coal costs from the new BCC mine plan were available. Additionally, as a matter of simple fairness, the Commission should not allow Idaho Power to use its new mine plan to justify use of its high-priced coal in its decremental cost analysis, but ignore the [redacted] in the new mine plan when determining coal costs ratepayers will pay. The Commission should reject any assertion that Idaho Power will make up for the cost difference in the new mine plan in future PCA filings because [redacted] 95% of those [redacted] costs.

B. The Commission should disallow the cost recovery associated with the Load Growth Adjustment Rate from this PCA filing.

Idaho Power is proposing to operate the LGAR mechanism as never before in this PCA case. ICIP respectfully requests that the Commission disallow the $23.7 million in cost recovery requested in the LGAR. At a minimum, ICIP requests that the Commission expressly state that any recovery authorized is subject to future reduction pending resolution of the workshops directed by the Commission in PacifiCorp's energy cost update. *See* Order No. 31033, at p. 12. ICIP joins in the comments of the Idaho Irrigation Pumpers Association ("IIPA"), and respectfully submits these additional comments on LGAR.

1. The PCA and LGAR Background

In 1981, the Commission approved setting power supply costs based on normalized conditions from multiple hydro years. *See* Case No. U-1006-185. Ensuing severe droughts caused the Company to file for rate surcharges. The Commission found this method of dealing with volatile hydro conditions to be undesirable, and developed the PCA. The Commission ultimately determined "that the current system of normalizing power supply costs and granting Idaho Power a surcharge during drought years is defective because it is unpredictable and ratepayers do not receive any rate reduction during high water years." Order No. 24806, at pp. 4-5. The PCA "addresses this concern and will produce consumer benefit in the form of lower rates during years of favorable stream flows." *Id.* at p. 5. Thus, the PCA's purpose was to create a system where both Idaho Power and its customers would share in the costs and benefits of changes in power supply costs, caused primarily by variations in stream flows, that occur between general rate filings. Nevertheless, in approving the PCA, the Commission stated that it continued "to believe that normalization is a valuable ratemaking methodology for other types of expenses and revenues. Nothing in this Order should be construed to the contrary." *Id.*

The Commission implemented LGAR to prevent the Company from double-recovering certain costs under the PCA. *Id.* at p. 20. The load growth adjustment factor is used to adjust for power supply costs that the Company has already recovered from customers through rates. Although new loads add to Idaho Power's power supply costs over and above those established through rate case normalization procedures, these new loads pay Idaho Power's rates for the power they receive. Allowing the Company to automatically recover in the PCA the full costs of serving new load would therefore result in an over-recovery by the Company. *See id.* (stating "Idaho Power's proposed PCA allows it to double recover fuel costs associated with load growth which, essentially, offsets the cost of constructing additional plant"). In other words, if the PCA were not adjusted to take into account the revenues the Company receives from new customers or increased load, the Company would again receive them automatically in the PCA as higher power supply costs. "All parties agree that the principal purpose of PCA load growth adjustment rate is to eliminate the potential for double recovery of power supply expenses. Idaho Power believes this should the sole purpose of the load growth adjustment." Rebuttal Testimony of Gregory Said, Idaho Power Company, IPC-E-06-08, at p. 27 (October 20, 2006).

The method of calculation of the LGAR has undergone significant changes over the past few years. In 2008, when the parties settled Idaho Power's general rate case (Case No. IPC-E-07-08), the Commission approved the Stipulation in that case, and stated:

> The Parties agree to make a good faith effort to develop a mechanism to adjust or replace the current Load Growth Adjustment Rate (LGAR) to address costs of serving load growth between rate cases. As an interim resolution, the LGAR for PCA year 2008 (April 2008 - March 2009) will be $62.79 per MWh applied to one-half of the load growth occurring during each month within the PCA year.

Stipulation, IPC-E-07-08, at p. 4, (Jan. 23, 2008). This approach deviated from prior method of using the Company's full marginal cost to determine the LGAR, applying it to one-half the load or essentially one-half full marginal cost.

The next change in the methodology moved the calculation of the LGAR to include three different components – a return component, an expense component, and a revenue component of the production-related rate base. The Commission's order approving the stipulation implementing that change stated:

> The current LGAR is calculated by multiplying the marginal cost of serving new load by one-half of the difference between current load and the load established in the Company's last rate case (Case

> No. IPC- 07-08). The current rate is effectively $31.39 per MWh. The proposed new methodology recognizes that the Company incurs additional power supply costs to serve new load between rate cases and has no opportunity to collect those costs. By using three components - a return component, an expense component, and a revenue component of the production-related rate base - the new calculation recognizes the generation related revenue that is collected from new load through rates. The proposed LGAR using the Stipulation's formula is $28.14 per MWh.

Order No. 30715, at p. 2.

2. The Commission should not allow the Load Growth Adjustment Rate to work as a second decoupling mechanism during this time of declining loads.

Although the load growth adjustment was obviously established to deal with double recovery in rates as the power system experienced load growth, Idaho Power is now experiencing load declines due to worst economic downturn since the Great Depression and increased conservation efforts. The use of a *load growth* mechanism in the face of *declining loads* is counterintuitive and yields unintended consequences.

In the recent PacifiCorp power cost adjustment case (Case No. PAC-E-10-01), the Commission recognized that a load growth adjustment in the face of declining loads can lead to over recovery by a utility. The Commission stated that operation of the load growth adjustment mechanism "reveals an unintended consequence in periods of declining retail load." Order No. 31033, at p. 12. It "appears to operate much the same as a decoupling mechanism reimbursing the Company for lost revenue for reductions in customer usage (sales)." *Id.* Specifically regarding PacifiCorp's filing, "[s]eventy-five percent of the ECAM deferral in this case is related to declining load. The [LGAR] adds power supply costs to make up for the generation portion of lost sales." *Id.* It thus "looks less like a power cost adjustment and more like a vehicle to restore lost revenue due to decreases in customer usage. We find the result that is presented by use of an ECAM containing an LGAR during periods of declining load growth is a problem that may also occur in the Power Cost Adjustment (PCA) mechanisms of Idaho Power and Avista." *Id.* This creates "benefits differently than [the Commission] anticipated." *Id.*

In short, "[f]or the [load growth adjustment mechanism] to act as a decoupling mechanism was unintended." *Id.* The Commission concluded that if PacifiCorp "desires a decoupling mechanism it should request and justify one in a separate filing." *Id.* The Commission therefore directed the Commission Staff to conduct workshops to investigate the issue for the three utilities. *Id.*

The same decoupling effect recognized by the Commission in the PacifiCorp case is in play in this case. Except here, Idaho Power already has a decoupling mechanism that applies to about 60% of its loads. *See* Order No. 30267 (approving the fixed cost adjustment ("FCA") for the commercial and residential classes); Order No. 31063 (renewing the FCA mechanism); *see also* Direct Testimony of Steven Weiss, Idaho Power Company, Case No. IPC-E -06-08, at p. 2 (discussing the interaction of the FCA and the PCA). The Company acknowledged in its discovery response to IIPA production request no. 2 that "[t]he 2010 PCA is the first filing where the *annual* load growth adjustment reflected negative *annual* growth." (emphasis in original). In other words, although the LGAR has logically been used to recognize declining loads within individual months of test year with an overall increase in load, it has never been used to increase rates in the same manner as decoupling. So, in this case for the first time ever, Idaho Power proposes to charge ratepayers *twice for lost revenue* for the same load reduction.

Specifically, the Company's current PCA application includes an increase of $23.7 million in rates from the LGAR adjustment based on actual loads being 5.94% (889,235 MWh) lower than normalized loads. *See Application*, at Exhibit 1, line 13. In addition, the Company has filed for the recovery of $6.3 million through decoupling in Case No. IPC-E-10-07 from the residential and commercial classes. This means the Company has applied for rate recovery of over $30 million due to declining loads. The combination of these two applications amounts to 3.4 cents per kWh in rate recovery for each kWh of load decline -- based on the 889,235 MWh lower than normalized loads found in the PCA.

Although this double recovery will only occur for the residential and commercial classes, the Commission has not authorized any decoupling recovery for the other classes, including the industrial class. ICIP is opposed to decoupling and respectfully requests that the Commission not allow the Company to implement this decoupling effect of LGAR without providing ICIP the opportunity to fully present its views on decoupling.

ICIP therefore recommends the Commission deny the LGAR adjustment of $23.7 million in the current PCA application. And at the very least, the Commission should expressly state that any recovery from LGAR is subject to further reduction pending resolution of a further investigation of the issue.

CONCLUSION

ICIP respectfully requests the Commission disallow from inclusion in the 2010 NPSE all or some portion of the BCC surface-mined coal costs that exceed the comparable market rate for surface-mined coal by over $16 million. ICIP further protests the Company's request to only reduce the PCA revenue by $87 million because that reduction still allows the Company to earn an unintended recovery of $23.7 million from the Load Growth Adjustment Rate mechanism at this time of declining loads. ICIP respectfully requests disallowance of recovery of that $23.7

million amount, or at a minimum that Commission state that amount is subject to future reduction pending further review.

Respectfully submitted this 18th day of May 2010.

RICHARDSON & O'LEARY, PLLC

Gregory M. Adams
Attorney for the Industrial Customers of Idaho Power

PUBLIC UTILITIES COMMISSION

OF IDAHO

CASE NO. IPC-E-10-12

COMMENTS AND PROTEST OF

INUDSTRIAL CUSTOMERS OF IDAHO POWER

REDACTED EXHIBIT 1

RESPONSE OF IDAHO POWER COMPANY TO ICIP

PRODUCTION REQUEST NO. 1 IN CASE NO. IPC-E-10-12

MAY 18, 2010

REQUEST NO. 1: In the Company's reply comments on pages 7-8 in Case No. IPC-E-10-01, the Company states that it used its "most currently available mine plan" for the Company's decremental cost analysis. Please also refer to page 8, lines 11-12, of Tom Harvey's confidential reply testimony filed in Oregon PUC Docket No. UE 214, which is Attachment No. 3 in Idaho Power's reply comments in IPC-E-10-01, and which describes the decremental cost analysis in more detail.

(a) What was the cost per ton of BCC coal used in the decremental cost analysis?

(b) What is the cost per ton of BCC coal included in the Company's calculation of 2010 NPSE filed in its application in Case No. IPC-E-10-01?

(c) If the answers to (a) and (b) are different costs per ton for BCC coal, please explain why.

(d) If the answers to (a) and (b) are different, please also explain how the decremental cost analysis could provide a useful comparison when its base input of cost per ton of BCC coal is different from the filed costs in the NPSE case.

(e) If the cost per ton in (a) is lower than the cost per ton in (b), please also explain how the NPSE that the Company proposes to recover in base rates starting June 1, 2010 is fair, just and reasonable when the most currently available mine plan calls for lower BCC coal costs per ton.

(f) Please provide the product of the difference from the costs per ton in (a) and (b) (which is available at page 8, line 12 of Harvey's reply testimony) multiplied by Idaho's allocation of the total tons of BCC coal the Company plans to mine during the 2010 NPSE test year.

(g) Please explain why, even assuming continued mining of BCC surface coal is prudent, the 2010 NPSE should not be reduced by the amount in (f).

REDACTED

This exhibit allegedly contains trade secrets or confidential material and is separately filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of May, 2010, a true and correct copy of the within and foregoing COMMENTS AND PROTEST OF THE INDUSTRIAL CUSTOMERS OF IDAHO POWER, was served in the manner shown to:

Ms. Jean Jewell Commission Secretary Idaho Public Utilities Commission P O Box 83720 Boise, ID 83720-0074	X Hand Delivery __ U.S. Mail, postage pre-paid __ Facsimile __ Electronic Mail
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Nina Curtis

Nina Curtis
Administrative Assistant