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IDAHO PUBLIC  
UTILITIES COMMISSION

BEFORE THE  
IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF )	
IDAHO POWER COMPANY FOR )	CASE NO. IPC-E-12-24
AUTHORITY TO IMPLEMENT RATES FOR )	COMMENTS OF THE INDUSTRIAL
ELECTRIC SERVICE TO INCLUDE )	CUSTOMERS OF IDAHO POWER
CAPITALIZED CUSTOM EFFICIENCY )	
INCENTIVE PAYMENTS )	
_____ )	

COMES NOW, the Industrial Customers of Idaho Power ("ICIP") and pursuant to that Notice of Application and Notice of Modified Procedure issued by the Idaho Public Utilities Commission ("Commission") on November 20, 2012 and pursuant to this Commission's Rules of Procedure, Rule 203 IDAPA 31.01.01.203 hereby provides its written comments.

I. INTRODUCTION

The ICIP has been actively participating in the various energy efficiency and demand side management dockets before the Commission for many years. Idaho Power now seeks to include in base rate over seven million dollars of expenditures from its Custom Efficiency Programs for its commercial and industrial customers. Unlike most of its other energy efficiency and demand side management programs, the Custom Efficiency Programs have been verified by

third party evaluators as being cost effective. That said, the ICIP is concerned that the proper forum for consideration of inclusion of these funds in rates is via a general rate case. As discussed below, the ICIP renews its concern regarding Idaho Power's continued management of its conservation and energy efficiency programs, also known as Demand Side Management or "DSM". Whether such programs should be implemented by a third party provider and not by the utility with its inalienable incentives to build new supply side resources at the expense of conservation and demand side alternatives is a topic that should be thoroughly vetted. Should the Commission choose to include custom efficiency expenses in base rates, the ICIP believes the amortization period for each measure should align with the expected useful life of said measure(s).

## II. AVERCH-JOHNSON EFFECT

Idaho Power offers two reasons for allowing it to amortize the accumulated custom efficiency balance over a short four-year period and to allow it to earn its full rate of return on unamortized balances. Both reasons implicate what is known in the utility industry as the Averch-Johnson effect, and both point to the need to launch an investigation into whether Idaho Power's conservation and energy efficiency programs should be managed by a third party conservation provider.

Idaho Power argues for a return on its investment in DSM because:

The primary objective of the Company's request is to establish a ratemaking methodology that places investment in this demand-side resource ("DSR") on equal footing with investment in supply-side resources from a business evaluation perspective.

Larkin p. 2. In other words, Idaho Power's management will not view DSM investment as favorably as it does supply side investment unless the Commission makes such investment

artificially and unnecessarily rich for the company and artificially and unnecessarily expensive for the ratepayer.

The overarching utility-incentive structure accepted by most utility economists is the Averch-Johnson effect. See Harvy Averch and Leland Johnson, "Behavior of the Firm Under Regulatory Constraint," *American Economic Review*, Vol. LII (December 1962). That well-accepted principle holds that utilities will seek to fulfill their fiduciary duty to shareholders to maximize returns by pursuing capital investments, so long as the authorized rate of return on those investments exceeds the cost of capital. Some economists have applied the Averch-Johnson effect to decoupling mechanisms and concluded that even revenue decoupling mechanisms cannot overcome the overarching incentive for capital investments resulting in less than effective utility promotion of DSM programs. See Steven Kihm, "When Revenue Decoupling will Work . . .and When it Won't," *The Electricity Journal*, Vol. 22, Issue 8 (October 2009). Utilities profit from selling electricity and from building capital resources to sell electricity. They have significant economic incentive – and even a fiduciary duty – to pursue capital investments supported by higher electricity use.

Given that economic reality and the substantial amounts of money involved, ICIP continues to assert that the Commission investigate a system whereby Idaho Power's DSM programs are operated by a third party that does not share Idaho Power's incentive for DSM programs to be unsuccessful in reducing electricity sales. Idaho Power ratepayers could continue to fund such programs, only without having to pay returns on such investments in order to properly align management's "business evaluation perspective." The Commission should use the opportunity presented in this docket to open an investigation into whether Idaho Power's DSM programs should be placed into the hands of an entity that does not demand unnecessary

and unwarranted returns in order to bring the correct “business evaluation perspective” to the task of energy efficiency and conservation.

### III. AMORTIZATION PERIOD

Should the Commission choose to allow Idaho Power to amortize the Custom Efficiency Program balance, the amortization period should coincide with the expected lives of the measures installed pursuant to that program. Idaho Power offers no reasonable rationale for a four-year amortization period of the value of this regulatory asset. This is particularly true if its goal is to “place... investment in this demand-side resource (“DSR”) on equal footing with investment in supply-side resources...” Supply-side resources are amortized over the expected useful life of the resource at issue. Selection of a four-year amortization period is arbitrary and wholly unrelated to the nature of the asset or its useful life.

The ICIP provided extensive testimony on this topic in the last DSM case where Idaho Power asked to capitalize the Custom Efficiency Program costs. In Case No. IPC-E-10-27, Dr. Reading testified that:

However, the Company’s proposal and the slightly modified proposal in the settlement stipulation will not place this program on par with supply side assets.

**Q. Could you explain why the proposed method of rate-basing the Custom Efficiency incentive payments will not place that program on par with supply side assets?**

A. The vast majority of supply side resources have lives. Utilities’ customers are, for example, paying the capital costs of a natural gas fired plant over its expected 35-year life. It is basic tenet of ratemaking that the life of the rate-based asset should match the depreciation schedule or amortization period used to calculate rates.

However, the proposal to rate base the Custom Efficiency incentive payments intentionally accelerates the recovery of the capital costs of the equipment purchased. Many of the Custom Efficiency incentive payments go to physical equipment, electric

motors for example, that have fairly long service lives. If the Company truly believes these demand side resources should be treated the same as supply side resources, then a four-year amortization period is far too short, and so too is the seven-year period in the stipulation.

**Q. Is there precedent supporting such a short amortization period?**

A. I am only aware of one precedent, but it required a longer amortization period. Before the Company funded its demand side programs through the EE Rider, it was authorized to capitalize its expenditures on demand side resources. In Case No. IPC-E-97-12, the Company proposed a five-year amortization for its rate-based conservation expenditures, which was also supported by Staff. Other parties, including the ICIP, advocated for a recovery period of twenty-four years, to more closely match the actual life of the asset. In addition to reasoning that the expenditures were for items not owned by the Company, the Commission notably stated, on page 4, of Order No. 27660, "We also find significant changes that are sweeping through the electric industry and the unpredictability that has resulted." At that time, the deregulation craze was sweeping through the electric industry, and the potential for stranded assets the utility would never recover through rates was a concern, thus providing additional justification for accelerating recovery of the demand side assets.

Regulatory stability and predictability are much more certain today than in 1998. There is no reason, given today's regulatory certainty, that the amortization period should be any less than in 1998.

Reading, DI pp. 20-22

Dr. Reading's testimony still is compelling. The Company has offered no sustainable justification for its proposal to either ratebase the Custom Efficiency expenditures or if ratebased, to justify an accelerated amortization period.

#### IV RATE OF RETURN

Should the Commission choose to allow Idaho Power to amortize the customer efficiency balance, the decision as to proper carrying costs should be made in the Company's next general rate case – and not in the vacuum of a single issue line item docket such as this. Waiting until the next general rate case is consistent with Staff's recommendation in the prudence review docket where the Commission ruled that:

Based on our review of the record and the agreement of Staff and the Company, we find that the Company prudently incurred \$7,018,385 in Custom Efficiency Program incentive expenses. But we believe the interest rate to be applied to the balance – and ultimately included in rates – concerns all customers and should be thoroughly reviewed and determined in a rate case. We thus find it reasonable to defer deciding the interest rate to be applied to the Customer Efficiency Program regulatory asset account, and the resulting interest amount, until the Company seeks to recover the deferral balance in a general rate proceeding.

Order No. 32667. The Commission made that finding less than three months ago. Nothing has changed since the Commission made that finding on October 22, 2012. The Commission ordered Idaho Power to wait until the next general rate case for a determination as to the interest rate on the deferral balance – and that is what the Company should be required to do. Idaho Power has offered no compelling reason (indeed has offered no reason) why the Commission decision to wait until the next general rate case for an interest rate determination should be overturned.

## V CONCLUSION

For all the foregoing reasons, the Commission should defer selection of an interest rate on the unamortized balance of the Custom Efficiency Programs until Idaho Power's next general rate case; select an amortization period that more closely aligns with the useful lives of the assets installed under those programs; and open an investigation into the mechanics of how Idaho Power might divest itself of management and supervision of its energy efficiency and demand side management programs.

DATED this 22<sup>nd</sup> day of January 2013.

Richardson & O'Leary, LLP

By 

Peter J. Richardson  
Industrial Customers of Idaho Power

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22nd day of January 2013, a true and correct copy of the within and foregoing COMMENTS OF THE INDUSTRIAL CUSTOMERS OF IDAHO POWER was served by U.S. Postal Service and electronic delivery to:

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