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IDAHO PUBLIC
UTILITIES COMMISSION

Attorney for the Idaho Conservation League

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE)
APPLICATION OF IDAHO POWER)
COMPANY FOR AUTHORITY TO)
IMPLEMENT RATES FOR ELECTRIC)
SERVICE TO INCLUDE CAPITALIZED)
CUSTOM EFFICIENCY INCENTIVE)
PAYMENTS.)

CASE NO. IPC-E-12-24

COMMENTS OF THE IDAHO
CONSERVATION LEAGUE

The Idaho Conservation League (ICL) urges the Commission to approve Idaho Power's request. ICL's goal in this proceeding is to create a fair, transparent mechanism to encourage pursuit of cost-effective demand side resources. This application represents the third time the Company has proposed a simple and fair mechanism to align the regulatory landscape with this Commission's directive to pursue all cost effective energy efficiency. Capitalizing the Custom Efficiency program incentive payments is one part of a set of regulatory mechanisms that properly align the utilities' financial incentives with the interests of ratepayers. After three opportunities, all stakeholders have had ample time to weigh in on this issue.¹ ICL's comments address the main objectives set forth in Idaho Power's Application. As described below, each of the objectives is in the public interest and the Commission should approve this application.

I. CUSTOM EFFICIENCY INCENTIVE PAYMENTS ARE PRUDENT AND USEFUL INVESTMENTS.

The premise underlying utility investments in customer end use efficiency is that reducing electric demands potentially benefits all ratepayers. As the Commission has stated before: "all

¹ See IPC-E-10-27 (originally proposing the mechanism); IPC-E-12-15 (re-proposing the mechanism as part of the DSM prudency review; and IPC-E-12-24 (the current case).

cost-effective DSM programs will delay the need to construct new, costly generating facilities. This delay in new investment and facilities will benefit all Idaho Power customers.”² This case involves one part of one demand side program -- the incentives paid under the Custom Efficiency program. In March of 2012, the Commission agreed that Idaho Power’s investments in the Custom Efficiency program during 2011 were prudent.³ Idaho Power’s 2011 DSM Report documents the program is cost effective for all ratepayers, including program participants and non-participating ratepayers.⁴ The majority of these prudent investments were incentives paid to customers after the project is completed and the energy savings are verified. And the verification process is robust, including both pre and post implementation data collection of actual energy savings.⁵ Because these incentives are tied to completed projects with verified energy savings, they are used and useful for providing electrical service to ratepayers. And because these investments are cost effective for all ratepayers, both program participants and non-participants, they are prudent investments.

II. CONSIDERING THE RECOVERY OF CUSTOM EFFICIENCY INCENTIVES OUTSIDE OF A GENERAL RATE CASE IS APPROPRIATE.

ICL agrees that recovery of Custom Efficiency payments concerns all ratepayers, but this does not mandate consideration within a general rate case. This Commission regularly considers issues of great importance and complexity outside of general rate cases. For instance, in 2010 the Commission considered and approved a Power Purchase Agreement for the Neal Hot Springs Geothermal plant, including making a prudence determination and deciding on a method to recover costs through rates.⁶ Likewise in 2011, the Commission approved recovery of \$60 million

² *Order No. 30560* at 5, IPC-E-08-03.

³ *Order No. 32667* at 11, IPC-E-12-15.

⁴ *Idaho Power 2011 Demand Side Management Report, Supplement 1* at 89, (showing a participant cost test ratio of 1.34, and ratepayer impact measure ratio of 1.86).

⁵ *See Direct Testimony of Darlene Nemnich* at 12, IPC-E-10-27.

⁶ *Order No. 31087*, IPC-E-09-34.

of pension payments via a three-year amortization period.⁷ In 2012 the Commission decided a suite of four separate cases that concerned all ratepayers including recovering expenses for Boardman decommissioning, amortizing transmission costs, depreciation expenses for meters, and new depreciation rates.⁸ And most tellingly, the Commission considered and approved the building, binding ratemaking treatment, and ultimate cost recovery of the \$400 million Langley Gulch plant outside of a general rate case.⁹ All of these examples include issues like prudence, appropriate carrying charges, recovery methods, amortization periods, and impacts to various rate classes. To decide these types of cases can be considered outside of a general rate case while the Custom Efficiency incentive recovery must be considered within a rate case is arbitrary.

This case is the third direct, and fourth overall, opportunity for stakeholders to review and engage on this issue. Idaho Power first proposed to capitalize the Custom Efficiency payments in IPC-E-10-27.¹⁰ Several parties intervened including ICL and other conservation partners, the Community Action Partnership Association of Idaho, the Idaho Irrigation Pumpers Association (IIPA), and the Industrial Customers of Idaho Power (ICIP). That case resulted in a stipulation agreed to by most parties, except for ICIP, including agreements about the appropriate carrying charge and amortization period.¹¹ ICIP opposed the part of the stipulation regarding custom efficiency incentives for two reasons – the length of the amortization period, and because it left open how costs will be allocated to customers.¹² Now, in this case, the Company includes a specific proposal for collecting costs – through the energy rate.¹³ As ICL

⁷ Order No. 32248, IPC-E-11-04.

⁸ Order No. 32549 at 1 n. 1, IPC-E-12-09 (noting the four concurrent cases).

⁹ Order No. 30892, IPC-E-09-03; Order No. 32585, IPC-E-12-14.

¹⁰ Order No. 32217, IPC-E-10-27.

¹¹ *Id.* IIPA, while a party, did not participate in the negotiations, but did not oppose the stipulation.

¹² See *Direct Testimony of Don Reading*, at 20 – 22, IPC-E-10-27 (filed on March 4, 2011).

¹³ See *Direct Testimony of Mathew Larkin*, at 23 – 25.

explains in section V below, this proposal is reasonable and provides at least as much information as the cases cited above that decided cost allocation outside of a general rate case.

Stakeholders had a second opportunity to address the issue of capitalizing Custom Efficiency payments in Idaho Power's 2011 general rate case.¹⁴ While Idaho Power only proposed to account for Custom Efficiency as a regulatory asset, and deferred resolving the collection of these costs until a future case, the import and ramifications of this decision were clear, deciding the issue of cost recovery was inevitable. The issue played out in the context of adjusting the energy efficiency rider, but no party opposed capitalizing the incentive payments.¹⁵ Moreover, the parties to the case agreed to remove the Fixed Cost Adjustment (FCA) from the general rate case and consider it in a stand-alone case.¹⁶ The FCA is arguably more far reaching, complex, and impactful to ratepayers than the Custom Efficiency incentive scheme under consideration here.

Stakeholders had a third opportunity when Idaho Power requested a prudence determination of the 2011 DSM expenses. As part of that case, the Company included a cost recovery mechanism for Custom Efficiency payments that mirrored the original proposal in IPC-E-10-27.¹⁷ Again, all stakeholders had ample opportunity to review the proposal and engage on the issue. Only the Staff objected to the Custom Efficiency proposal and alleged the issue could be "more thoroughly vetted by all parties . . . in a general rate case."¹⁸ But Staff does not explain why the carrying charge and amortization period for Custom Efficiency recovery must be addressed in a rate case, while they support vetting the same issues for other investments outside of rate cases.

This case presents the third direct, and fourth overall, opportunity to vet Idaho Power's proposal. All stakeholders have had ample opportunity to review and engage on the issue. The

¹⁴ IPC-E-11-08.

¹⁵ *Order No 32426* at 16-21, IPC-E-11-08.

¹⁶ *Id* at 5.

¹⁷ *Order No. 32667*, IPC-E-12-15.

¹⁸ *Staff Comments* at 5, IPC-E-12-15.

Commission regularly considers proposals that require decisions about including items in base rates, setting appropriate carrying charges, determining appropriate amortization periods, and approving rate impacts outside of general rate cases. The Company's proposal includes a specific mechanism to allocate costs to ratepayers. And the Commission has already deemed the costs proposed to be collected as prudently incurred expenses. Finally, addressing this issue in a stand-alone case is more appropriate than having the issue lost in the mix of a complex general rate case. Like the recent decision to remove the Fixed Cost Adjustment from Idaho Power's general rate case,¹⁹ it is appropriate to consider the recovery of Custom Efficiency incentives in this stand-alone case.

III. THE COMPANY'S FULL RATE OF RETURN IS THE APPROPRIATE CARRYING CHARGE.

"The Commission has consistently stated that cost-effective DSM programs are in the public interest and has admonished electric utilities operating in the State of Idaho to develop and implement DSM programs in order to promote energy efficiency."²⁰ It is only fair that along with this admonishment comes a regulatory regime that provides equivalent support between supply side and demand side resources. To do otherwise means the Commission intends to rely on the stick of command and control regulation for demand side resources and the carrot of economic regulation for supply side resources. ICL urges the Commission to unleash the power of economic regulation on demand side resources, tempered by the standards of used and usefulness and prudence. Allowing Idaho Power to collect the current rate of return on prudent demand side resources that are completed and paid for by shareholder dollars is fair, just, reasonable, and in the public interest.

¹⁹ *Order No. 32426* at 5, IPC-E-11-08.

²⁰ *Order No. 32113* at 8, IPC-E-10-09.

The Custom Efficiency incentive payments are distinct from other demand side programs, because shareholders, not ratepayers, make the initial investment. In *Citizens Utilities Co., v. Idaho Public Utilities Commission*, the Idaho Supreme Court stated “it is the duty of the Commission . . . to allow the utility furnishing the service to make a just and reasonable profit or return on its investment.”²¹ The Court emphasized the term “its investment” to distinguished between shareholder investments, which are properly included in rate base, and other sources of capital.²² By accounting for Custom Efficiency payments as a regulatory asset, these costs are no longer collected through the Energy Efficiency Rider. Instead, these costs are paid out of Idaho Power’s own capital, which is akin to supply side resources. And, once paid out for completed projects, and deemed prudent investments by the Commission, it is only fair to allow for the same rate of return as other used and useful, prudent investments.

The Commission has previously endorsed this view. In Order No. 22299, the Commission concurred, “that conservation investments should be capitalized in a manner equivalent to the capitalization of generating resources.”²³ Following this “Conservation Order” the Commission approved a series of incentive programs, funded by shareholder dollars, to incent energy savings.²⁴ When the utilities, asked for recovery assurances, the Commission deferred this decision until after a report documenting the cost effectiveness of these programs.²⁵ In essence, this is the same situation as Idaho Power requests today for the Custom Efficiency program – recovery of the return of, and return on, prudently incurred expenses for demand side resources. In the words of the Commission: “Surely the utility is as fully entitled to profit from

²¹ 579 P.2d 110, 115-116 (1978).

²² *Id.*, (removing from rate base payments from the State of Idaho for relocating a power line).

²³ Order No. 22299, U-1500-165; Order No. 22758, GNR-E-89-2.

²⁴ See Order No. 22737, PPL-E-89-4 (referring to “several companies’ respective tariffs concerning building incentives.”)

²⁵ *Id.*

this growing function as, in another time, from the sale of incandescent lamps.”²⁶ As before, the question is not whether the investment is supply side or demand side, the question is whether the investment is prudent and useful for providing electrical service.

This type of mechanism is also the simplest and fairest means to use economic regulation to encourage utility investment in demand side resources. A recent report by the American Council for an Energy-Efficient Economy *Carrots for Utilities: Providing Financial Returns for Utility Investments in Energy Efficiency* analyzed incentives in 18 states.²⁷ The report divides incentive mechanisms into three categories: shared benefits, performance targets, and rate of return. Both “shared benefit” and “performance target” type mechanisms provide payments to the Company after meeting certain energy savings levels. These types of mechanisms require additional complex and controversial steps after determining if the utility investment was prudent. For shared benefits, regulators must determine the appropriate sharing split between shareholders and consumers. For performance targets, regulators must establish targets, measure attainment, and determine a fair reward for shareholders. In both instance the Commission has little to no objective guidance in making these complicated determinations. By contrast, allowing for the rate of return on prudent investments is much simpler. The Commission need only combine two determinations that are already preformed – the appropriate rate of return from a rate case, and the prudence of DSM spending in annual reviews. This is a simple and relatively transparent method to provide a similar economic incentive for demand side and supply side resources.

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²⁶ Order No. 22758, GNR-E-89-2.

²⁷ See ACEEE, *Carrots for Utilities: Providing Financial Returns for Utility Investments in Energy Efficiency*, Report No. U111 (January 2011). Available free at: <http://www.aceee.org/research-report/u111> (accessed January 21, 2013).

IV. THE APPROPRIATE AMORTIZATION PERIOD FOR DEMAND SIDE RESOURCES IS NOT THE SAME AS SUPPLY SIDE RESOURCES.

ICL agrees with Idaho Power's basic point that the amortization period should reflect the fact that Custom Efficiency incentives are not backed up by physical assets.²⁸ Amortization is a method to move investments off the Company's books over some period. This benefits ratepayers by spreading the cost of the investment over multiple years to prevent rate shock while attracting investment capital to fund necessary utility infrastructure. But these benefits are tempered by ratepayer's interest in paying off the amortized asset to avoid further interest payments. Amortization benefits the utility by assuring an eventual return of shareholders dollars, although tempered by the risk of actually recovering these investments. Combined with the allowed rate of return, establishing a fair amortization period must balance these interests.

ICL's goal in this proceeding is to create a fair, transparent mechanism to encourage pursuit of all cost-effective demand side resources. We believe this is the same goal as all other stakeholders. Determining the appropriate amortization period for Custom Efficiency payments is but one part of this issue. ICL does not have a specific proposal for the appropriate period. Instead, we urge the Commission to adopt a reasonable period that reflects the competing interests of ratepayers in avoiding rate shock while avoiding endless interest payments, against the utility interest in managing the risk of recovering the unamortized portion of prudent investments.

V. RECOVERING CUSTOM EFFICIENCY PAYMENTS THROUGH ENERGY CHARGES IS REASONABLE.

As the Commission has recognized repeatedly, energy efficiency programs deliver two benefits – reducing power costs immediately and deferring or avoiding new electrical plant over the long term. All ratepayers realize the long-term benefits of energy efficiency when the utility does not build new plant and that cost does not appear in a rate case or other proceeding. In

²⁸ See *Larkin* at 17 – 21.

other words, ratepayers benefit by never having to pay for new plant. But the short-term benefit of reducing power costs is very different. Today, all ratepayers do pay for current power costs. And mostly this contribution comes from the energy component of retail rates. The Custom Efficiency program, by reducing power costs, reduces the pressure on the energy component of retail rates. Therefore, it is logical to collect the cost of this program through this part of rates.

Collecting the Custom Efficiency incentives through the energy charge results in large users paying a greater share of the cost than low energy users. This is fair since large users are the primary driver of power costs, they should also be the primary contributor to programs that reduce power costs. Moreover, the Company proposal shows a greater increase for the largest customers – schedule 9, 19, and special contracts. These also are the only customers who qualify for incentive payments under the Custom Efficiency program. If these customers are eligible for benefits, they should bear a higher portion of the costs of the program.

VI. RECOVERING CUSTOM EFFICIENCY INCENTIVES THROUGH ANNUAL FILINGS IS REASONABLE.

ICL supports Idaho Power's proposal to make annual filings to update the Custom Efficiency regulatory asset account. This support hinges on Idaho Power only including incentive payments deemed prudent by the Commission as part of the demand side program review.²⁹ Ensuring the prudence of investments prior to cost recovery is an important protection for ratepayers. Annual filings also match the timing of these investments being used and useful for providing electrical service. Finally, by deciding Custom Efficiency recovery at the same time as the Power Cost and Fixed Cost Adjustments the Company and stakeholders can use the same sales forecast. Because ratepayers are protected by the prudence and used and useful standards, annual recovery is fair, just, reasonable, and in the public interest.

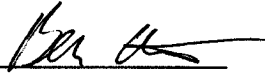
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²⁹ See *Direct Testimony of Larkin* at 26.

VII. CONCLUSION.

This application represents the third time the Company has proposed a simple and fair mechanism to help align the regulatory landscape with this Commission's directive to pursue all cost effective energy efficiency. Instead of only admonishing the Company towards this pursuit, ICL urges the Commission to align the economic incentives for Idaho Power with the interest of ratepayers. Allowing the Company to collect the full rate of return for prudent, useful investments in providing electric service is not a new concept. And the Commission has taken the position in the past that "that conservation investments should be capitalized in a manner equivalent to the capitalization of generating resources."³⁰ Ratepayers are protected by the Commission authority to review the prudence of Custom Efficiency incentives prior to any collections through rates. In short, the proposal is a fair, simple, and relatively transparent mechanism that aligns utility and ratepayer interests, while ensuring customers are protected.

Respectfully submitted this 22nd day of January 2013,


Benjamin J. Otto
Idaho Conservation League

³⁰ Order No. 22299, U-1500-165; Order No. 22758, GNR-E-89-2.

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of January 2013, I delivered true and correct copies of the foregoing COMMENTS OF THE IDAHO CONSERVATION LEAGUE to the following persons via the method of service noted:

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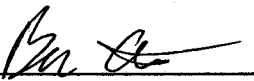
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