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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 CONFIRMING USE OF)
THE CAPACITY DEFICIENCY)
PERIOD FOR THE INCREMENTAL)
COST, INTEGRATED RESOURCE)
PLAN, AVOIDED COST)
METHODOLOGY.)

CASE NO. IPC-E-14-22
IDAHO CONSERVATION LEAGUE
MOTION TO EXTEND THE
COMMENT PERIOD

The Idaho Conservation League (ICL) respectfully requests the Commission extend the comment period for Idaho Power’s proposed capacity deficiency period. On September 5, 2014, the Commission established a 25-day comment period that closes September 31, 2014. Because this case raises unique and complex issues, ICL requests the Commission extend the Comment deadline by 60 days.

The Commission may rule on this motion immediately. IDAPA 31.01.01.256. Rule 256 sets forth the procedure on motions. In this motion, ICL requests procedural relief to extend the comment period on fewer than 14 days notice. ICL requests immediate relief because the comment deadline is September 30, 2014. As described below, ICL has addressed this case on a reasonable timeline and the complex nature of this case supports extending the comment period. IDAPA 31.01.01.256.02.a. On September 29, ICL provided notice of this motion to each party by telephone. IDAPA 31.01.01.256.02.b. Because this motion request procedural relief, ICL has stated the facts to support this relief, and ICL provided actual notice to the parties the “Commission may act on such motion without waiting for responses of other parties.” IDAPA 31.01.01.256.03.

ICL has expeditiously addressed this docket, which raises complex technical issues. After reviewing the filings and making an initial assessment, ICL filed to intervene on September 15, 2014, just five business days after the Notice of Application. Then, within four days, ICL submitted discovery requests to Idaho Power on September 19, 2014. In both instances, ICL endeavored to secure the expert advice necessary to effectively and efficiently participate in this case. ICL submits this is a reasonable amount of time to ensure our ability to effectively participate in this proceeding.

This case raises significant and complex technical issues that are unique to using the Integrated Resource Plan methodology for avoided costs. This docket is unique from the consideration of Idaho Power's capacity position in regards to the Surrogate Avoided Resource methodology because each method computes avoided capacity values differently. Extending the comment deadline will enable ICL, other parties, and the public to understand these complexities and provide the Commission with a robust picture of the facts and implications of this docket.

Extending the comment period will benefit the Commission and the public by allowing adequate time to develop and review the facts of this case. It is axiomatic that the Commission's decision must rely on a record containing substantial and competent evidence. Idaho Power's Application contains no offer of proof, no affidavit, no prepared testimony or anything else upon which a finding of fact may be based. To be sure, the Application contains several allegations regarding the status of QF contracts. But those allegations are all unsupported by even an offer of proof. As the Idaho Supreme instructed:

[I]n regularly pursuing its authority the Commission must enter adequate findings of fact based upon competent and substantial evidence. *See Boise Water Corp. v. Idaho Public Utilities Commission*, 97 Idaho 832, 555 P.2d 163 (1976); *Hartwig v. Pugh*, 97 Idaho 236, 542 P.2d 70 (1975). Thus "(a)n order based upon a finding made without evidence ... or upon a finding made upon evidence which clearly does not support it ... is an arbitrary act against which courts afford relief." *Oregon Shortline Railroad v. Public Utilities Commission*, 47 Idaho 482, 484, 276 P. 970, 971 (1929). Without proper findings, review would be impossible,

and “(a)dmistrative expertise would ... be on its way to becoming ‘a monster which rules with no practical limits on its discretion’....” *Baltimore & Ohio Railroad v. Aberdeen & Rockford Railroad*, 393 U.S. 87, 92, 89 S.Ct. 280, 283, 21 L.Ed.2d 219 (1968).

Washington Water Power Co. v. Idaho Pub. Utilities Comm'n, 101 Idaho 567, 575, 617 P.2d 1242, 1250 (1980)

To create a factual record in this case, ICL submitted discovery request to Idaho Power on September 19, 2014. Idaho Power is not obligated to submit responses until October 10, 2014, or 10 days after the current comment deadline. ICL has received no indication Idaho Power will provide responses prior to the comment deadline. Once received, all parties require a reasonable amount of time to review the responses and develop testimony or comments based thereon. Extending the comment period to allow all parties sufficient time to review these discovery responses will benefit the Commission and the public by developing an adequate record.

Extending the comment deadline will not unfairly delay this proceeding. Although Idaho Power requested modified procedure, it did not assert that there is an emergency such that the parties only have a mere twenty five days to engage experts, prepare, file, serve and evaluate discovery and prepare an Answer. During the pendency of this docket Idaho Power and potential QF developers remain free to negotiate power purchase agreements. The Commission retains authority to review and approve or deny any contract submitted for approval. Further, this decision regarding Idaho Power’s capacity position is temporary, as the Company is currently developing the 2015 Integrated Resource Plan. It is almost certain the 2015 IRP will result in a new capacity deficiency date as the plan incorporates new forecasts for loads, natural gas prices, demand-side programs, and other factors. For these reasons, ICL submits the Commission should focus on finding the correct answer, not just a quick one.

Extending the comment deadline will benefit all parties, the Commission, and the public. No party requested the current twenty five day comment period. Extending the comment deadline will not unduly delay the proceeding or prejudice any party. This docket will not directly impact customers and the Commission has ample opportunity to review any future power purchase agreement that uses this IRP methodology. Most importantly, extending the comment period is necessary to develop the factual record that Idaho Power's Application lacks.

WHEREFORE, ICL requests the Commission extend the comment deadline by 60 days.

Respectfully submitted this 29th day of September 2014,


Benjamin J. Otto
Idaho Conservation League

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of September 2014, I delivered true and correct copies of the foregoing MOTION TO EXTEND THE COMMENT PERIOD to the following persons via the method of service noted:

Hand delivery:

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