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**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE APPLICATION	)	
OF PACIFICORP DBA ROCKY MOUNTAIN	)	CASE NO. PAC-E-10-07
POWER FOR APPROVAL OF CHANGES TO	)	
ITS ELECTRIC SERVICE SCHEDULES	)	COMMUNITY ACTION
	)	PARTNERSHIP ASSOCIA-
	)	TION'S PETITION FOR
	)	CLARIFICATION/
	)	RECONSIDERATION
	)	

COMES NOW, the Community Action Partnership Association of Idaho ("CAPAI") and pursuant to Rule 325 or, in the alternative, Rule 331 of the Commission's Rules of Procedure, IDAPA 31.01.01.325/331, petitions for clarification/reconsideration of Order No 32196 issued in this case on February 28, 2011.

**I. INTRODUCTION**

During the course of this proceeding, an issue previously unknown to CAPAI arose through the rebuttal testimony of Rocky Mountain Power ("RMP" or "Company") witness Barbara Coughlin when she referred to the Company's Low-Income Conservation Education program ("conservation education") as a "one-time commitment," as opposed to an annual,

ongoing DSM program.<sup>1</sup> The program was established in RMP's last general rate case (PAC-E-08-07 - referred to herein as the "08-7 case") and approved by the Commission in Order No. 30783.<sup>2</sup> To CAPAI's knowledge, RMP had never publicly taken this position prior to Ms. Coughlin's rebuttal testimony. Thus, CAPAI did not anticipate this issue and had no opportunity under the case schedule in this proceeding to address it through testimony or the introduction of other evidence at hearing.

RMP's stance on this issue has effectively nullified the program, contradicts the position of Commission Staff in this proceeding, and makes compliance with a Settlement Stipulation and prior Commission Orders difficult if not impossible. Unless and until the Commission resolves this threshold issue and orders the parties to move forward, RMP's conservation education program is in stalemate.

## II. BACKGROUND

The factual and legal basis for this Petition is somewhat convoluted. Though the genesis for this Petition is the Settlement Stipulation executed by all parties to the 08-7 case, the fact that an issue exists, and the basis for that issue, can only be found in the record in this case. Consequently, CAPAI must cautiously assume that the twenty-one (21) day reconsideration deadline might apply to the Final Order issued in this proceeding, and this Petition, and proceeds on that basis.<sup>3</sup>

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<sup>1</sup> *Coughlin Reb. p. 23, ln. 15.*

<sup>2</sup> CAPAI requests that the Commission take "Official Notice" in considering this Petition of all matters allowed in Rule 263 of the Commission's Rules of Procedure (IDAPA 31.01.01.263), specifically including prior Orders, notices, matters of common knowledge and technical, financial and scientific facts, as well as data contained in periodic reports of regulated utilities.

<sup>3</sup> IDAPA 31.01.01.331(01).

**A. Case No. PAC-E-08-07: Order No. 30783**

The entirety of the terms and conditions of the conservation education program are contained in the 08-7 Settlement Agreement (Paragraph 8) filed on February 25, 2009 and approved in Order 30783 on April 16, 2009. The Stipulation provides:

8. The Parties agree that the demand-side management programs proposed by Rocky Mountain Power in Docket No. PAC-E-08-01 are prudent. Further, the Parties agree that a total of \$50,000 of demand-side management program funds will be made available to SouthEastern Idaho Community Action Agency and Eastern Idaho Community Action Partnership to be used to support conservation education as a component of Rocky Mountain Power's low income weatherization program, Schedule 21. Parties agree that it is the responsibility of the Community Action Partnership Association of Idaho to propose said education program to Rocky Mountain Power by May 1, 2009 and that the proposal will contain funding proportioning the \$50,000 between the two agencies, objectives and any savings estimates to assist in program evaluations and reporting requirements. The Parties agree that the low income weatherization program (Schedule 21) and the conservation education component of the program is in the public interest and is determined to be cost-effective even though the explicit quantification of benefits may not be possible, and furthermore, the Parties agree to support the justification and recovery of these costs through the demand-side management surcharge funding.

*Settlement Stipulation Par. 8, pp. 3-4 [emphasis added].*

In approving the Stipulation, the Commission ruled:

CAPAI proposes that RMP fund an energy conservation education program specifically targeted to low-income customers. The two CAP agencies currently providing low-income service within RMP's service territory are SEICA and EICAP. The parties agreed to work collaboratively to arrive at a fair, just and reasonable allocation of funding (# of RMP customers in each of the respective CAP service areas, etc.) and CAPAI agreed to submit a low-income education program proposal to the Company by May 1. The program will fund personnel and materials to CAP agencies to provide conservation education to all RMP customers who apply for LIHEAP. Tr. pp. 95-98.

*Order No. 30783 at p. 7.*

The Commission found the entire Stipulation to be “fair, just and reasonable” without any additional discussion or analysis of conservation education.<sup>4</sup>

**B. The Case Below**

All matters relevant to conservation education and this Petition that occurred between the issuance of Order No. 30783 and the hearing in the present case are either discussed in the testimony of Staff witness Curtis Thaden, the rebuttal and cross-examination testimony of RMP witness Coughlin or are matters the Commission may take Official Notice of pursuant to Procedural Rule 263, IDAPA 31.01.01.263.<sup>5</sup> CAPAI refrains from introducing new evidence that falls outside of the foregoing classifications.

**1. Commission Staff Position**

Though Mr. Thaden expressed a number of technical concerns in his direct testimony about whether the CAP agencies were implementing the program quickly enough, whether to split the program into two separate components, one for each CAP agency involved, and other technical issues,<sup>6</sup> Mr. Thaden specifically described conservation education as a program that would receive annual funding testifying:

Q. What is the status of the Energy Conservation Education program that was approved by Commission Order No. 30783 in RMP’s previous rate case (PAC-E-08-01)?

A. As part of the rate case settlement (PAC-E-08-01), RMP agreed to support an Energy Conservation Education program in Idaho by providing \$50,000 in annual funding through its DSM tariff rider to SEICA and EICAP. As of October 1, 2010, the program has not yet been implemented.

*Testimony of Curtis Thaden, p. 24, lns. 8-16 [Emphasis added].*

Mr. Thaden concluded:

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<sup>4</sup> Order No. 30783 at p. 9.

<sup>5</sup> Mr. Thaden did not file rebuttal testimony. Staff witness Beverly Barker did, but did not address conservation education. CAPAI witness Teri Ottens did not address conservation education.

<sup>6</sup> Direct Testimony C. Thaden, pp. 24-26.

Staff recommends that while the annual funding amount should be maintained at its current level of \$50,000, the funding level should not be increased at this time. Furthermore, Staff recommends that RMP include this funding amount in its budget but that no further expenditures be made until a workshop is held and a decision made on how to best provide energy conservation education statewide.

*Id.* at p. 26, *Ins. 10-14* [emphasis added].

Regarding Mr. Thaden's technical concerns, he articulated Staff's position that it is important that decisions be made regarding whether conservation education programs should be implemented on a localized level, or within the framework of a larger design. He testified:

Approaching the program as two separate programs rather than one has the potential to increase the overall cost while reducing the effectiveness of the program. This situation raises the question of whether low income energy conservation education should be provided on a localized utility by utility, CAP by CAP basis. Staff recommends that the Commission direct Staff to hold a workshop with utilities and other interested parties to determine how best to provide energy conservation education targeted to low income customers throughout the state.

*Testimony of C. Thaden at p. 25, Ins. 12-25.*

Incidentally, RMP has not paid the CAP agencies the entire \$50,000 as of the date of this Petition. Furthermore, though CAPAI is quite willing to participate in any workshop or other proceeding Staff believes necessary to address Mr. Thaden's stated issues and proposals, such an undertaking is futile unless and until the Commission orders RMP to treat conservation education as an ongoing program. For reasons articulated below, this is a threshold issue that must be resolved first if Staff's issues and proposals are to have meaning and relevance.

## **2. RMP Position**

In her rebuttal testimony, RMP witness Coughlin seemingly agreed with all of Mr. Thaden's direct testimony, but characterized conservation education in a manner that CAPAI deems entirely contradictory:

Q. Does the Company agree with Mr. Thaden's recommendation regarding a workshop on providing energy conservation education to low-income households?

A. Yes. The Company believes it would be worthwhile for Commission staff to lead a workshop with attendees representing electric and gas utilities as well as staff from the local agencies that work with limited income households on a daily basis. It is important for gas suppliers to participate and provide funding for this effort as a large percentage of our residential customers' heating source is natural gas.

Q. Does the Company support Mr. Thaden's recommendation related to the funding of low income energy conservation education.

A. Yes. We appreciate that Mr. Thaden recognizes that Rocky Mountain Power staff has worked with CAP AI staff in developing a program plan and goals in an effort to implement this project. Rocky Mountain Power made a one-time commitment of \$50,000 to fund low income energy conservation education in February 2009 through a Stipulation in Case No. PAC-E-08-07. Those funds have yet to be used by CAPAI for this effort.

*Testimony of B. Coughlin, p. 23 [emphasis added].*

During cross-examination, Ms. Coughlin confirmed the Company's stance that conservation education would not be funded more than once contrary to what CAPAI and Staff had believed:

Q. And in your rebuttal, you characterize the conservation education program as a one-time commitment –

A. Yes.

Q. – by Rocky Mountain. Is that correct?

A. Yes, that's correct.

Q. Am I to assume then that the Company does not intend to fund this on an ongoing annual basis?

A. The commitment right now is a one-time, and that's the only commitment that is out there.

*Tr. p. 1066, lns. 6-14.*

Though neither Ms. Coughlin nor RMP has yet defined precisely what the expression "one-time commitment" means, the definition seems to rely on the single word "total." Ms. Coughlin elaborated:

Q. And isn't it true that the low-income weatherization program is an ongoing annual program?

A. Yes, it is.

Q. Does it make sense for the Company to characterize it as a component of an ongoing program, yet only be a one-time commitment?

- A. It is a total of \$50,000 commitment.  
Q. Could a reasonable person construe that as a total annual \$50,000 commitment?  
A. It is a total \$50,000 commitment.

*Tr. pp. 1067-1068 [emphasis added].*

**3. Order No. 32196**

Though Order No. 32196 increased the amount of Low-Income Weatherization Assistance and raised the cap on the total funds invested by the Company on any given project from 75% of total eligible project costs to 85%, it did not resolve the conservation education issue, or Mr. Thaden's numerous proposals, including that a workshop be conducted to further define and refine that program. CAPAI greatly appreciates the Commission's rulings on and awareness of the importance of addressing the needs of RMP's low-income customers found in Order No. 32196. CAPAI fully understands that it carries the responsibility to competently administer the conservation education program and is not seeking a waiver of that obligation. What CAPAI seeks is an order on reconsideration or clarification removing the barrier RMP has constructed preventing CAPAI from taking on the challenge of competently administering the program in a manner consistent with the spirit and intent of the 08-7 Stipulation.

Along these lines, CAPAI concedes that the program was not implemented in as timely a manner as it could have been. This fact has been and is being aggressively remedied by CAPAI. Should the Commission find it necessary, CAPAI stands ready to fully explain why this occurred and what it has done to remedy the matter. As long as RMP stands firm on its refusal to even consider conservation education an ongoing program, however, there is no point to such explanations. The overriding fact is that regardless of whether Mr. Thaden's proposals are addressed and regardless of what has or has not transpired, RMP does not intend and never has intended to treat conservation education as anything but a one-time expenditure of funds, rendering Mr. Thaden's desire for an improved and defined program structure meaningless. Thus, CAPAI seeks an Order from this

Commission removing the barrier to implementation of the program that RMP has erected. CAPAI believes that once this is done, the technical matters raised by Mr. Thaden can be cooperatively addressed by all concerned and the program swiftly implemented. First, however, there must be a program to implement.

### III. ARGUMENT

#### A. Procedural Options

Procedural Rule 331<sup>7</sup> states:

#### **331. PETITIONS AND CROSS-PETITIONS FOR RECONSIDERATION**

**01. Petition for Reconsideration.** Within twenty-one (21) days after the service date of issuance of any final order, any person interested in a final order or any issue decided in a final order of the Commission may petition for reconsideration. Petitions for reconsideration must set forth specifically the ground or grounds why the petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted.

Rule 325<sup>8</sup> of the Commission's procedural rules seeking clarification states:

#### **325. CLARIFICATION OF ORDERS**

Any person may petition to clarify any order, whether interlocutory or final. Petitions from final orders do not suspend or toll the time to petition for reconsideration or appeal a final order. A petition for clarification may be combined with a petition for reconsideration or stated in the alternative as a petition for clarification and/or reconsideration. The Commission may clarify any order on its own motion.

The "sideways" manner in which the issue was raised in this case has created somewhat of a procedural conundrum. Normally, it might be more appropriate to seek clarification of Order No. 30783 issued in the 08-7 case. On the other hand, the issue was raised, framed, and put on the record exclusively in this case. It would seem more expeditious, therefore, for the Commission to avail itself of the record below, take Official Notice of all relevant matters in the 08-7 case, and issue an order here without requiring the additional effort and cost to all concerned through the initiation of a

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<sup>7</sup> IDAPA, 31.01.01.331.

<sup>8</sup> IDAPA, 31.01.01.325.

new docket, or reopening of a closed docket, and a repetition of the efforts already made in this one to put the issue before the Commission.

Along these lines, CAPAI questions the “sideways” manner in which RMP brought this issue to the Commission’s and parties’ attention resulting in an unnecessary expenditure of very limited resources by the very party that RMP contractually committed to working with in this manner in a collaborative fashion. In addition RMP’s procedural tack undermines all of the effort taken by CAPAI and Staff in the 08-7 case. The intent of the 08-7 Stipulation was to provide the necessary education to the Company’s low-income customers to assist them in managing their consumption. RMP’s apparent attitude toward conservation education is that it is an obligation to be minimalized or avoided altogether. This attitude has resulted in a considerable waste of precious resources by CAPAI and Staff who relied in good faith on the belief that conservation education was truly an integral component of Low-Income Weatherization as the Stipulation states. RMP has allowed those parties to suffer under a false impression.

**B. RMP’s Interpretation of the Stipulation is Factually and Logically Untenable**

**1. The word “Total”**

RMP’s entire rationale for its position on conservation education seems to be the presence of the word “total” in the second sentence of Paragraph 8 of the Stipulation. RMP’s position, by logical extension, is that the word “total” applies both to the amount of funding and the life of the program. Put another way, “total” means everything. Whatever surface level appeal this argument holds quickly dissolves when scrutinized and placed into proper context.

The Stipulation’s second sentence states that a total of \$50,000 of DSM funds “will be made available to SouthEastern Idaho Community Action Agency and Eastern Idaho Community Action Partnership.” The Stipulation subsequently provides that CAPAI would submit a proposal by May

1 [2009] that would, among other things, set forth an allocation of the \$50,000 between the two CAP agencies.

The word “total” as it appears in the Stipulation simply refers to the maximum amount of funding that will be paid to the two CAP Agencies to implement conservation education. Because the allocation of the total would not be determined until after a final Order had been issued in the case, and because RMP would be required to file related tariffs and/or schedules with the Commission to reflect its investment in conservation education and the effect it might have on customers’ rates, it was necessary to include a total funding amount in the Stipulation for the Commission’s consideration. It has no relation, however, to the life of the program itself. Had that been RMP’s intent, it should have insisted upon verbiage in the Stipulation making that clear.

## 2. Additional Contextual Information

The issue of allocating total conservation funds between more than one CAP agency was placed before the Commission in Case No. IPC-E-08-10 when the Commission granted CAPAI’s proposal to establish, for the first time, a similar conservation education program for Idaho Power which has five CAP agencies operating in its Idaho service territory. CAPAI proposed funding a total of \$125,000 to be allocated equally between the agencies.<sup>9</sup> In Final Order No. 30722, the Commission ruled: “[t]hus, the Commission directs Idaho Power to fund each of the Community Action Partnership (CAP) agencies located throughout its service territory in the amount of \$25 000 annually - for a total amount of \$125,000 annually.”<sup>10</sup>

On reconsideration/clarification, Idaho Power proposed allocating the total amount of funding between the five CAP agencies based on their relative customer population base.

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<sup>9</sup> See, Order No. 30722

<sup>10</sup> *Id.* at p. 46 [emphasis added].

CAPAI Answered the Petition agreeing to this proposal. The Commission accepted this agreement in Final Order No. 30740.

The Idaho Power and RMP 2008 general rate cases overlapped in time though the Idaho Power case was slightly ahead in its schedule. This is relevant to this Petition because it provides the context in which the parties executed the RMP 08-7 Settlement Stipulation, and in which the Commission approved it. Both cases involved implementation for the first time of low-income conservation education programs for the two utilities. Both cases involved the need to designate a total amount of funding and allocation of that total between the CAP agencies involved.

Procedurally, Idaho Power Final Order 30722 was issued on January 30, 2008 while the RMP Settlement Stipulation was filed on February 5, 2008. Though the Idaho Power Petition for Reconsideration was not filed until after the RMP Settlement Stipulation was filed, CAPAI was certainly aware that there would be a total amount of funding agreed upon first, followed by a decision how to allocate that total between agencies when it executed the RMP Settlement Stipulation. Thus, the fact that a “total” of \$50,000 was designated in Paragraph 8 of the RMP Stipulation followed by a provision on how that total will be allocated between CAP Agencies simply made good sense to CAPAI. RMP was well aware when the Stipulation was filed that ongoing programs had already been approved and/or implemented for AVISTA<sup>11</sup> and Idaho Power. Again, if RMP intended to never again fund this program, it should have made this quite clear. Its silence should not now become its advantage.

### **3. Other Terms and Conditions of the Stipulation**

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<sup>11</sup> Case No. AVU-E-08-01, Order No. 30647 (Sept. 30, 2008).

Not only does nothing in the Settlement Stipulation limit RMP's conservation education program to a "one-time commitment," but numerous other aspects of the Stipulation contradict RMP's interpretation.

First, conservation education is referred to in the Stipulation as a "program," (not a one-time expenditure) designed to "support" a "component" of another ongoing DSM program, the Company's Low-Income Weatherization program. Second, the conservation education program was expected to involve energy "savings estimates to assist in program evaluations and reporting requirements." Third, it was agreed by the parties that RMP's investment in the program "is in the public interest and is deemed to be cost-effective." Fourth and finally, the parties agreed that they would "support the justification and recovery" of these costs through the demand-side management surcharge funding like any other ongoing DSM program.

It makes no sense to argue that conservation education was intended by RMP to be a one-time commitment considering that the parties agreed to inclusion of all the foregoing provisions regarding prudence, savings, evaluations, ongoing program effectiveness, reporting, and recovery of investment through the DSM surcharge, which collects monies for a pool of other ongoing DSM programs on an annual basis, to characterize conservation education as a "component" of the Company's long-standing low-income weatherization program or to even call conservation a "program" at all if it was intended to be a one-time expenditure. These are all provisions that are or can be applicable to ongoing DSM programs, not one-time expenditures.

### **C. RMP Seeks Special Status for its Program**

Overlaying all of the foregoing with the fact that Idaho Power and AVISTA<sup>12</sup> had in place similar if not identical ongoing conservation education programs in effect or approved when the Stipulation language above was filed with the Commission makes it even more

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<sup>12</sup> Order No. 30647, Case No. AVU-E-08-01 (Sept. 30, 2008).

unreasonable to construe RMP's conservation education program as a one-time commitment.<sup>13</sup>

It is not equitable to either Idaho Power or AVISTA to allow RMP to walk away from a commitment to a DSM program that those other utilities have accepted as part of their ongoing portfolio. More importantly, it is not fair to RMP's low-income customers to whom the Company has the greatest of obligation to live true to its word.

**D. Legal Principles of Equity Prohibits RMP From Taking Its Stated Position**

While the parties to the settlement stipulation are prohibited from revealing the substance of settlement negotiations, CAPAI witness Teri Ottens made it clear in testimony supporting the 08-7 Stipulation that CAPAI believed it had negotiated for an ongoing program similar to other utilities. Ms. Ottens testified:

Q. What else did Rocky Mountain Power agree to in its Stipulation of particular interest to CAPAI and the Company's general body of ratepayers?

A. Following in the wake of AVISTA's proposal to fund a low-income specific conservation education program, and subsequently ordered by the Commission in Idaho Power's recent rate case (IPC-E-08-10), Rocky Mountain Power agreed to fund a total of \$50,000.00 for the two CAP agencies operating in Rocky Mountain's certificated area. This is relatively equivalent to the funding levels of AVISTA and Idaho Power.

*Testimony T. Ottens p. 5 [emphasis added].*

Ms. Ottens' testimony left no doubt that, like Staff, CAPAI intended for RMP's conservation education program to be ongoing similar to the programs of Idaho Power and AVISTA. Had RMP perceived the program differently, it had an affirmative obligation to make this fact explicitly clear to the other parties and the Commission.

What is particularly inequitable about RMP's position is that, in addition to the fact that RMP is interpreting the Stipulation in a patently unreasonable manner under all of the

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<sup>13</sup> See, Order Nos. 30722 issued 1/30/2009: Case No. IPC-E-08-10 (Order No. 30754 issued 3/19/09 on reconsideration) for Idaho Power's conservation education program and; Order No. 30647 issued 9/30/08, Case AVU-E-08-01, for AVISTA's conservation education program.

circumstances, the Company lost any credible basis it might have had for claiming that it only committed to a one-time expenditure by knowingly allowing CAPAI, Staff, and perhaps the Commission, to suffer under a false impression.

Under the legal principles of, among others, “laches” and “estoppel,” RMP is prohibited from knowingly allowing another party to act in good faith reliance on a false impression, particularly when said act results in damage to the other party and advantage to RMP. CAPAI is prepared to fully brief these legal issues should the Commission desire.

#### **E. Practical Considerations**

##### **1. A One-Time Conservation Education Program is Impractical**

Ms. Ottens explained the importance of low-income conservation in the 08-7 case as follows:

Q. Do you believe that this low-income energy efficiency education program is in the public interest and, if so, why?

A. Energy efficiency is one of the most cost effective and long term methods to reduce overall energy costs for both individual households and nationally. The effort can be stymied, however, by a lack of knowledge, especially among a segment of population that often can only concentrate on basic survival needs. An education program provided by counselors that the low-income are already reaching out to through the LIHEAP program can provide essential education on effective, low cost ways to achieve a reduction in their energy bill when it is needed most.

*Testimony of T. Ottens, p. 6 [emphasis added].*

Ms. Ottens notes that it is essential that there be education available to customers already engaged in the LIHEAP process on how to reduce their energy consumption. New eligible customers in need of education will continue to flow through the system and there will always be new innovations in energy conservation to provide them. Performing education of any kind only once simply does not make sense when the recipients of that education, and the education itself, are constantly changing.

## 2. Testimonies of Mr. Thaden and Ms. Coughlin in the Case Below

Though CAPAI takes exception to certain of the inferences created by the testimony of Mr. Thaden, it agrees that certain measures were needed, and have been taken, to ensure that the money allocated to conservation education is properly and timely invested. Again, CAPAI willingly agrees to cooperate with Staff in any reasonable procedure that results in a productive and cost-effective conservation education program. Engaging in such efforts under a cloud of uncertainty the program will even be in place a year from now, however, makes all of this difficult, if not pointless.

Ms. Coughlin's rebuttal testimony gives the impression that RMP agrees with everything Mr. Thaden proposed for conservation education. In reality, the Company's staunch position that this program will only be funded one-time is actually a complete rebuke of Mr. Thaden's proposals. The program is dead in the water unless the Commission orders RMP to treat the program as part of its ongoing DSM efforts.

## IV. CONCLUSION

RMP has effectively shut the conservation education program down in violation of the Settlement Agreement in the 08-7 case. The entire record framing this issue, however, is contained only in this case. Staff has made a number of proposals regarding conservation education. Those proposals are meaningless so long as RMP maintains its position. CAPAI appreciates the Commission's recognition of low-income issues in Order No. 32196. CAPAI also acknowledges that it must address Staff's concerns regarding conservation education and the responsibilities it carries to competently administer the program and be answerable to the Commission should it fail to carry out those responsibilities. All that CAPAI seeks by way of this Petition is a reconsideration or clarification of Order No. 32196 removing the impasse that RMP has created and giving CAPAI the opportunity to competently administer the program.

DATED, this <sup>th</sup> 11 day of March, 2011.

  
Brad M. Purdy

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that on the 11<sup>th</sup> day of March, 2011, I served a copy of the foregoing document on the following by email and U.S. mail, first class postage.

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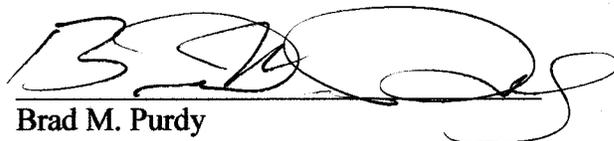
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DATED, this <sup>th</sup> 11 day of March, 2011.



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