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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for the Industrial Customers of Idaho Power

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE APPLICATION OF) IDAHO POWER COMPANY FOR) AUTHORITY TO INCREASE ITS RATES) AND ITS RATE BASE TO RECOVER ITS) INVESTMENT IN THE LANGLEY GULCH) POWER PLANT) _____)	Case No. IPC-E-12-14 COMMENTS OF THE INDUSTRIAL CUSTOMERS OF IDAHO POWER
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COMES NOW, the Industrial Customers of Idaho Power (“ICIP”) pursuant to that Notice of Modified Procedure and Order No. 32523 issued by the Idaho Public Utilities Commission (“IPUC” or “Commission”) and hereby lodges its comments on Idaho Power Company’s (“IPCo” or the “Company”) application to increase its rates and its rate base to recover its investment in the Langley Gulch Power Plant.

RECOMMENDATIONS

The ICIP recommends that Idaho Power be held to recover no more than the \$396,618,473 that was pre-approved by the Commission in Order No. 30892. In addition, the Company should be put on notice that all capital expenditures on the Langley Gulch plant that are beyond routine maintenance and operations costs will be disallowed going forward. Use of the new statute allowing for regulatory pre-approval of capital investment has proven to be a

failure -- as predicted by the ICIP in the certificate of public convenience and necessity (“CPCN”) docket.¹ As a result of its failed experiment in regulatory pre-approval in this case, the Commission should make clear to the utilities it regulates that future applications for regulatory pre-approval will be viewed with disfavor.

The addition of Langley Gulch in rates will have a dramatic impact on Idaho Power’s use of its resource stack. The Commission should consider whether it is prudent, given the new landscape of Langley, lost loads, anemic growth projections and stricter air emission/pollution control requirements, to continue ratepayer support for the Company’s aging coal fleet.

Finally, the ICIP is concerned that, although constrained by the regulatory pre-approval statute to include this new plant in rates, the Commission should not turn a blind eye to recent events that have dramatically changed the utility landscape.

REGULATORY PREAPPROVAL FAILURE

Idaho Power is the first, and only, utility the ICIP is aware of to ask the Commission to grant it a CPCN under the recently enacted regulatory approval statute.² In March of 2009, Idaho Power filed for a CPCN for the Langley Gulch Plant.³ At the conclusion of the hearing process, the Commission approved the CPCN along with pre-approval of the Company’s investment in the plant for rate base treatment in the amount of \$3.97 million. In September of 2009, the Commission issued its Order approving Idaho Power’s investment in Langley stating:

¹ IPC-E-09-03

² Idaho Code § 61-541, as added by 2009, Id. Leg. Sess. Laws Ch. 145.

³ IPC-E-09-03

IT IS FURTHER ORDERED that the Commission, pursuant to Idaho Code 61-541 provides Idaho Power with authorization and binding commitment to provide rate base treatment for the Company's capital investment in the Langley Gulch Power Plant and related facilities in the amount of \$396,618, 473 at such time as the plant is placed in commercial operation.⁴

The ICIP presented extensive testimony in the Langley Gulch docket documenting the dramatic impact the greatest economic downturn since the Great Depression was having on Idaho Power's loads and it questioned need for this plant at that time. The ICIP did not recommend that the CPCN be denied, only that it be delayed until the impacts of the severe economic downturn could be analyzed with more current data:

Because IPC has provided no compelling reason for the Commission to expedite its review of IPC's Langley Gulch Application in order to meet future loads in the 2012 timeframe, the Commission should consider Langley Gulch based on its forthcoming August 2009 load forecast as part of an integrated loads and resources analysis via IPC's 2009 IRP. The August 2009 load forecast should more reasonably reflect current, near, and possibly longer term economic conditions and resultant impacts of electricity demand.⁵

The ICIP urged the Commission to proceed with all deliberate caution:

My analysis indicates that even once the economic recovery is underway, it will take some years for personal income and employment to return to 2006-2007 levels. These levels will not be reached by the end of 2011 and, at the rates of increase forecast for that period (Q3 to Q4 of 2011) are unlikely. Early indications are that IPC's 2009 energy usage is off by about 5% from early 2008 levels.

There are other indications that components of IPC's projected loads will be delayed or may fail to materialize. For instance, the "Special Contract" load Hoku Scientific, Inc.(forecasted at 38 aMW / 43 MW peak in the June 2008 IRP Update), recently announced that [it] may not have enough money to complete its polysilicon plant in Idaho.⁶

⁴ Order No. 30892 at p. 46, Docket No. IPCE-09-03.

⁵ Mitchell Direct Testimony IPC-E-09-03, p 6.

⁶ *Id.*, p. 5.

No one is prescient; however, it simply was not prudent to move forward with this plant at the depth of the economic downturn with no reason to believe it would be short lived. All of the risk of that imprudent decision was placed on the shoulders of the ratepayers when the 2009 Commission utilized its new authority to reach into the future to bind this 2012 Commission to placing into rate base almost \$400 million with no opportunity to apportion risk between the shareholder and the ratepayer.

Since the Langley Gulch order was issued, Idaho Power's total general business loads have declined by 810,000 MWh or by 5.6 percent.⁷ Langley Gulch was approved on the assumption of robust load growth over these last three years. Idaho Power had no incentive to actively and continuously assess the prudence and timing of this plant because it was virtually guaranteed rate base treatment of the pre-approved investment.

The story is compelling. This 2012 Commission should make it clear that it will look with great disfavor on triggering subsequent CPCN pre-approval. In its annual report to the Governor, the Commission should provide a full report on the flaws with the new Idaho Code Section and make appropriate "recommendations, as it may deem of value to the people of the state."⁸

LIMIT RECOVERY OF FUTURE LANGLEY CAPITAL EXPENDITURES

Idaho Power has taken full advantage of its ability to secure regulatory pre-approval of its investment in Langley Gulch. The public interest calls for the shareholders to assume the risk of future capital investments in this plant. The grant of a pre-approved rate base amount should be

⁷Compare IDACORP, Inc., 10-K 2011, p. 8 with IDACORP, Inc. 10-K 2009, p. 7.

⁸ Idaho Code § 61-214, providing for annual reports to the Governor.

a two way street; with the ratepayers on the hook for the pre-approved amount and the shareholders on the hook for excess expenditure. The Commission should rate base no more than the \$396,618,473 that it authorized in Order No. 30892.

Should the Commission not hold Idaho Power to its pre-approved amount, then at a minimum it should deny any amounts above the pre-approved amount until the next general rate case or appropriate proceeding to determine the prudence and reason for the Company's expenditures above the pre-approved level.

SINGLE ISSUE RATE CASE
OR
*"YOU CAN'T JUST VIEW THE RATE IMPACT IN ISOLATION"*⁹

The Commission is well aware that rates are not set in a vacuum. Authorizing Idaho Power to rate base this large investment without exploring how it fits into the radically different world we find today from what it looked like back in 2009 is not prudent. For example, Dr. Reading prepared the attached table (Ex. 1) showing the operation of the Company resource stack with and without Langley Gulch. The data in the table held all variables constant but for an update to natural gas prices. As can be seen, the addition of Langley Gulch has dramatically changed Idaho Power resource stack.

Langley Gulch's addition to the resource stack, updated only for natural gas prices, causes a dramatic decrease in the output of Idaho Power's coal plants. In total, the output from the Company's three coal plants (Bridger, Boardman and Valmy) is expected to decrease by over seventy percent! The Valmy plant's output will drop by ninety seven percent, making it virtually useless in providing service to Idaho Power's ratepayers. Clearly, whether or not Valmy should remain in rates going forward is a question that needs to be addressed. However; the

⁹ Order No. 30892 at p. 31, quoting Ric Gale, Idaho Power Policy Witness

implications of adding Langley Gulch go well beyond just the ongoing prudence of that one plant.

Remarkably, given the current expected natural gas prices, Langley will be Idaho Power's least expensive unit, on a variable cost basis. For now, it appears that gas prices have stabilized at almost record low prices. The savings to the ratepayers of displacing, once cheap but now, by comparison, higher cost coal plants needs to be recognized and quantified.

Idaho Power's seven percent rate increase request is contrary to what the Commission clearly expected when it granted pre-approval for Langley Gulch's costs into rate base. Although the Commission never specifically addressed the question of the retail rate impact of approval of Langley Gulch, it apparently believed it did not need to. The Commission's understanding of the retail rate impact of approval of Langley Gulch was obviously informed by Mr. Gale's testimony that such impact could possibly be "nothing at all." At page 31 of the Order, the Commission stated:

When questioned at hearing as to the rate impact if Langley Gulch was approved, Mr. Gale, the Company's policy witness responded as follows:

...if you just simply lay that rate base and depreciation and such onto our current rates, you get a number close to...six or seven percent. If you play it forward into 2012 and escalate the revenue and evaluate it against other alternatives, its diminished, I think, close to three or four percent, and then in comparison to alternatives, maybe nothing at all, because you can't just view the rate impact in isolation. There's going to be a set of costs under which you're operating at that point in time.

Gale, Tr. p. 220.¹⁰

Idaho Power's policy witness' testimony that the rate impact of putting Langley Gulch into rate base would be close to "three or four percent" or even "nothing at all" was compelling enough

¹⁰ Order No. 30892 at p. 31, emphasis provided.

for the Commission to quote it at length in the order. Surely it means something that the Commission believed the rate impact would be as low as “nothing” when it granted Idaho Power its CPCN. Surely it means something today, as the Commission is asked to approve putting this plant in rate base. The Commission should do as Ric Gale’s quoted testimony recommended – and that is “play it forward into 2012 and escalate the revenue and evaluate it against other alternatives.” Ric Gale further testified that the Commission would have to recognize that, “There’s going to be a set of costs under which you’re operating at that point in time.” Clearly the Commission did not anticipate, nor did it approve Langley Gulch, on the assumption that it would be faced with a single issue rate case and a retail rate increase of seven percent.

CONCLUSION

While the ICIP is resigned to the inevitable fact of inclusion of the full \$396,618473 in Idaho Power’s rate base, the lessons learned should be noted:

Pre-approval of risky investments is a bad idea for the ratepayer as it destroys all incentive for the utility to maintain constant vigilance as to the prudence of the pre-approved project. The Commission should take advantage of its obligation to file an annual report with the Governor to so inform that office of this significant defect in Idaho Code 61-541.

The single issue nature of Idaho Power’s application flies in the face of the fact that the Commission clearly contemplated a complete review of the impact on rates of this new plant, because as the Commission quoted from Idaho Power’s policy witness, “you can’t just view the rate impact in isolation.”

The quid pro quo for what is essentially a guaranteed rate base treatment of Langley Gulch is for the company to absorb any additional capital costs associated with this plant.

The monumental change in the way Idaho Power's resource stack will now operate presents serious challenges to the Company if it wants to continue throwing good money at coal plants that don't run and are more expensive than Idaho Power's new base load plant. The Commission should immediately open an investigation into the myriad of issues associated with this new reality.

Dated this 30th of May, 2012

RICHARDSON AND O'LEARY, PLLC

A handwritten signature in cursive script, appearing to read "P. J. Richardson", written over a horizontal line.

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Table 1							
IPCO POWER SUPPLY COSTS NORMALIZED LOADS OVER WATER YEAR CONDITIONS							
	A		B		C		Percent Change in Plant Output [C-A]
	For 2010 - 81 Water Years		For 2011 - 83 Water Years		For 2010 - 81 Water Years		
	Wright Ex. 1 01	IPC-E 10-	Wright Ex 17 11-08	IPC-E-	IIPA 2nd Production Request, Response #8		
Source	Annual	\$/KWh	Annual	\$/KWh	Annual	\$/KWh	
Hydro	8,662,424		8,647,019		8,662,424		0.0%
Bridger							
Energy (MWh)	5,020,433		4,717,994		1,707,209		-66.0%
Cost (\$ x 1000)	106,909	\$21.29	104,548	\$22.16	37,713	\$22.09	
Boardman							
Energy (MWh)	370,863		342,485		276,793		-25.4%
Cost (\$ x 1000)	6,703	\$18.08	6,186	\$18.06	5,072	\$18.32	
Valmy							
Energy (MWh)	1,775,681		1,046,901		56,796		-96.8%
Cost (\$ x 1000)	54,047	\$30.44	35,430	\$33.84	1,876	\$33.03	
Langley Gulch							
Energy (MWh)					1,924,778		
Cost (\$ x 1000)					34,718	\$18.04	
Danskin							
Energy (MWh)	30,396		6,718		94,994		212.5%
Total Cost	5,392	\$177.38	5,398	\$803.44	6,006	\$63.22	
Bennett Mountain							
Energy (MWh)	11,912		480		40,194		237.4%
Total Cost	661	\$55.45	24	\$50.57	999	\$24.85	
Purchase (excl CSPP)							
Energy (MWh)	1,123,705		1,333,072		2,293,842		104.1%
Total Cost	66,444		61,916		72,935		
Surplus Sales							
Energy (MWh)	2,750,581		1,968,845		967,458		-64.8%
Revenue Inc. Trans	94,803		63,661		18,404		



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of May, 2012, a true and correct copy of the within and foregoing COMMENTS OF THE INDUSTRIAL CUSTOMERS OF IDAHO POWER TO IDAHO POWER COMPANY IN CASE NO.IPC-E-12-14 was served in the manner shown to:

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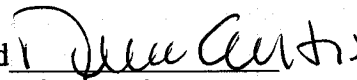
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