

CHRIS BURDIN  
DEPUTY ATTORNEY GENERAL  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074  
(208) 334-0314  
IDAHO BAR NO. 9810

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Street Address for Express Mail:  
11331 W CHINDEN BLVD, BLDG 8, SUITE 201-A  
BOISE, ID 83714

Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF IDAHO POWER )**  
**COMPANY’S APPLICATION FOR )** **CASE NO. IPC-E-21-17**  
**AUTHORITY TO INCREASE ITS RATES )**  
**FOR ELECTRIC SERVICE TO RECOVER )**  
**COSTS ASSOCIATED WITH THE JIM )** **REPLY COMMENTS OF**  
**BRIDGER POWER PLANT )** **THE COMMISSION STAFF**  
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**STAFF OF** the Idaho Public Utilities Commission, by and through its Attorney of record, Chris Burdin, Deputy Attorney General, submits the following comments.

**BACKGROUND**

The Jim Bridger Power Plant (“Bridger”) is located near Rock Springs, Wyoming and consists of four generating units. *Amended Application* at 3. PacifiCorp owns two-thirds of the facility and is its operator, while Idaho Power Company (“Company”) owns the other one-third. *Id.* The Company and PacifiCorp (“Co-Owners”) work jointly to make decisions regarding Bridger including required investments and the proposed retirement of Bridger. *Id.* Bridger is connected to the Borah West transmission path west of the Borah Substation near American Falls, Idaho. *Id.* The Company’s one-third share of energy flows west over this path. *Id.* The Idaho-Wyoming path (“Bridger West”) consists of three 345 kV transmission lines. *Id.* at 4. The Company owns 800 MW of the 2,400 MW east-to-

west capacity which feeds into the Borah West path when power is moving east to west from Bridger. *Id.*

### PROCEDURAL HISTORY

On June 3, 2021, the Company applied to the Commission for authorization to accelerate the depreciation schedule for Bridger to allow the plant to be fully depreciated and recovered by December 31, 2030. *Application* at 1.

Clean Energy Opportunities for Idaho, City of Boise City, Industrial Customers of Idaho Power, Idaho Conservation League, Micron Technology, and Sierra Club all intervened in this matter. Order Nos. 35094, 35102, and 35119.

On November 17, 2021, the Commission suspended the procedural schedule and discovery until the Company filed an update or requested to set the procedural schedule once more information was known, but no later than December 31, 2021. Order No. 35222. The Commission also suspended the effective date for 30 days and 5 months, or until May 31, 2022, unless the Commission issued an earlier order accepting, rejecting, or modifying the Company's Application. *Id.*

On December 30, 2021, the Company filed a letter ("Update") with the Commission stating that it filed its 2021 Integrated Resource Plan ("IRP") with a preferred portfolio that also identified the cessation of coal-fired generation in Bridger Units 1 and 2 in 2023 with a natural gas conversion of those units in 2024. *Update* at 1. The Company also stated that the Environmental Protection Agency ("EPA") had not yet formally acted on PacifiCorp's proposed alternative regional haze compliance plan for Bridger Units 1 and 2. *Id.* at 2. The current PacifiCorp plan would require emission controls by December 31, 2021, for Unit 2 and December 31, 2022, for Unit 1. *Id.* The Company stated that on December 27, 2021, Wyoming Governor Mark Gordon issued a temporary emergency suspension extending the compliance date of Unit 2 through April 30, 2022, to give more time for the EPA to act on the Wyoming State Implementation Plan ("SIP"). *Id.* The EPA remains in discussions with PacifiCorp regarding this issue. *Id.*

On February 16, 2022, the Company filed an Amended Application and requested the Commission issue an order authorizing the Company to: (1) accelerate the depreciation schedule for all coal-related Bridger investments to allow for full depreciation and recovery by December 31, 2030, (2) establish a balancing account, and the necessary regulatory

accounting, to track the incremental costs and benefits associated with the Company's cessation of participation in coal-fired operations at Bridger, and (3) adjust customer rates to recover the associated incremental annual levelized revenue requirement of \$27.13 million, which would result in an overall rate increase of 2.12 percent. *Id.* at 1.

The Company requested that its proposed rates take effect June 1, 2022. *Id.* The Company also requested that the Commission set a public comment deadline of April 29, 2022, a simultaneous reply comment deadline of May 13, 2022, and a Company reply deadline of May 18, 2022. *Id.* at 11.

### THE APPLICATION

The Company represented that it has made numerous investments into Bridger to ensure environmental compliance and routine maintenance and repairs are completed. *Id.* at 4. The Company requested a prudence determination on the incremental Bridger coal-related investments from January 1, 2012, through December 31, 2020.<sup>1</sup> *Id.* The Company represented that its investments for environmental compliance make up nearly 50 percent of the total Bridger investments made since January 1, 2012. *Id.* at 5. The Company also represented that it funded 15 investments greater than \$1 million for operational maintenance costs. *See Id.*

The Company represented that changing conditions have resulted in earlier than expected exit from participation in Bridger operations. *Id.* The Company's 2019 IRP proposed Bridger exits in 2022, 2026, 2028, and 2030.<sup>2</sup> *Id.* at 5-6. The Company's 2021 IRP<sup>3</sup> included the conversion of Bridger Units 1 and 2 from coal to natural gas by the summer of 2024 with a 2034 exit date, and the exit of coal-fired operations in Units 3 and 4 by year-end 2025 and 2028. *Id.* at 6. The Company claimed that the 2021 IRP indicates that an earlier exit from coal-fired generation at Bridger would be more economical. *Id.* The Company stated that a depreciable life of year-end 2030 for all Bridger Units is appropriate "as it [would] help minimize revenue requirement impacts to customers." *Id.* The Company estimated that it would exit coal-fired operations of Bridger completely by 2028. *Id.*

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<sup>1</sup> See Case No. IPC-E-11-08.

<sup>2</sup> See Case No. IPC-E-19-19.

<sup>3</sup> See Case No. IPC-E-21-43.

The Company estimated that Bridger would require incremental coal-related investments to maintain operations prior to the decommissioning of the facility. *Id.* However, because the specific timing and exact amounts of future investments are unknown, the Company proposed that the Commission establish a balancing account to allow flexibility for the recovery of the remaining Bridger investment revenue requirement. *Id.* at 6-7. The Company stated that under the balancing account approach,

the Company replaces the base rate revenue recovery associated with [the Company's] existing coal-related investment in Bridger with a levelized revenue requirement and tracks it in the Bridger balancing account, smoothing revenue requirement impacts associated with the exit of Bridger coal-fired operations and allowing for full recovery of Bridger coal-related costs near the time [the Company] ceases participation in coal-fired operations.

*Id.* at 7.

The Company represented that this approach aligns the cost recovery period with the Company's remaining participation in coal-fired operations more closely and ensures that Customers would "pay no more or no less than the actual coal-related O&M and capital coal-related costs of the Bridger plant beginning June 1, 2022." *Id.* The Company further believed that the balancing account approach would accelerate depreciation expenses related to its Bridger-related investments. *Id.* The Company proposed that the Commission track the coal-related investment return and associated depreciation expenses, as well as the decommissioning costs, through the balancing account. *Id.*

The Company requested an accounting order that allows the Company to make necessary accounting entries, including a regulatory asset account that would match Generally Accepted Accounting Principles ("GAAP") revenue recognition with actual monthly patterns of coal-related revenue requirement. *Id.* at 8. The Company stated that regulatory accounts would be required to adjust the financial statement impacts resulting from Bridger-related GAAP accounting and income tax results. *Id.*

The Company requested recovery of the coal-related levelized revenue requirement that includes costs of accelerating the depreciation of Bridger, the return associated with coal-related capital investments net of accumulated depreciation forecasted through the Company's participation in Bridger, interim decommissioning costs associated with Bridger, and O&M savings associated with non-fuel coal-related O&M reductions. *Id.* The

Company totaled these costs to \$27,127,333. The Company submitted the following table to present the differences between each component as quantified in the Company’s initial request and the amounts that reflected Bridger’s investment levelized revenue requirement:

	<b>June 2021 Request</b>	<b>February 2022 Amended Request</b>	<b>% Change</b>
<b>Plant Investment</b>	<b>\$73,470,945</b>	<b>\$52,121,340</b>	<b>(29.1)</b>
<b>Interim Decomm. Costs</b>	<b>\$59,318</b>	<b>\$64,449</b>	<b>8.6</b>
<b>O&amp;M Savings</b>	<b>(\$5,736,719)</b>	<b>(\$4,391,349)</b>	<b>(23.5)</b>
<b>Levelized Rev. Req.</b>	<b>\$67,793,544</b>	<b>\$47,794,440</b>	<b>(29.5)</b>
<b>Rev. Req. in Rates</b>	<b>(\$36,96,815)</b>	<b>(\$20,667,107)</b>	<b>(44.1)</b>
<b>Net Change</b>	<b>\$30,825,729</b>	<b>\$27,127,333</b>	<b>(12.0)</b>

The Company proposed to allocate the increase related to Bridger’s balancing account using the jurisdictional separating study method. *Id.* at 9. The Company requested that the incremental revenue requirement increase of \$27.13 million be recovered from all customer classes through a uniform percentage increase to all base rate components except the service charge. *Id.*

### **COMMENTS**

On April 14, 2022, Clean Energy Opportunities for Idaho (“CEO”) filed comments. On April 27, 2022, Staff, City of Boise, Industrial Customers of Idaho Power (“ICIP”), Micron Technology, Idaho Conservation League (“ICL”), and Sierra Club filed comments.

#### **A. CEO**

CEO’s comments took issue with the Selective Catalytic Reduction (“SCR”) system, noting that it was controversial, the process has been less than open, and that return on and return of capital with respect to the SCR system should be reviewed.

#### **B. City of Boise**

City of Boise’s comments mentioned that the requested increase is significant, prudence determination is critical to the case and, if rate making treatment is approved, the Company should begin closure dates with PacifiCorp. City of Boise stated they would support the Company requesting securitization to lower the rate impact on customers for the early closure of Bridger.

### **C. ICIP**

ICIP's comments stated that the Company's Application asked for a large increase on top of other large increases. ICIP stated that the Company should be looking to securitization to mitigate the costs of the early closure of Bridger. ICIP further stated that the Company's financials support securitization.

### **D. Micron**

Micron Technology stated its interest in the fuel mix the Company uses and reserved the right for further comments.

### **E. ICL/Sierra Club**

ICL and Sierra Club filed joint comments. They request the Commission deny the Company recovery of costs prior to a firm commitment date for closing Bridger. They stated that they believe the installation of the SCR was imprudent, and that the Company should pursue securitization in order to recover any prudently incurred costs in Bridger.

## **STAFF REPLY COMMENTS**

### **1. Securitization**

Several intervenors commented that they supported securitization of the closure costs and accelerated depreciation of Bridger. The City of Boise voiced support for the Company pursuing securitization. ICIP reasoned that securitization for those costs and the significant Power Cost Adjustment in Case No. IPC-E-22-11 would be a potentially viable ratemaking tool to mitigate rate impacts. ICIP also believed that the Company's financials were favorable to securitization and the Commission should initiate exploration of securitization as an option.

The joint comments submitted by the ICL and Sierra Club provided additional details of the option to securitize, stating that securitization of Bridger could offer \$63.7 million in savings over somewhat more traditional rate making treatment. ICL and Sierra Club believed there may be additional savings because those calculations are based on a 3.54% interest rate on the bonds, and the Company might be able to get more favorable interest rates. ICL and Sierra Club stated that the Company would need to get a firm timeline and cost for exiting Bridger before pursuing securitization. ICL and Sierra Club also submitted that the Company should explain why it has not considered securitization.

Staff echoes the concerns with respect to securitization mentioned in the joint comments of ICL and Sierra Club. Staff believes that securitization could be an effective tool to keep the Company whole from the closure costs of Bridger, while mitigating the rate impacts to customers. However, at this point Staff believes there are too many uncertainties involving the cost and date of the Bridger closure to allow securitization to be a viable option. Staff believes that to conduct an analysis of the benefits of securitization, the date and costs of closure must be known. As Staff previously mentioned in its Comments filed on April 27, 2022, Bridger Units 1 and 2 could be shut down at the end of this year, or they could last until 2030 or beyond. Without a confirmed closure date, future operating and capital costs remain uncertain. At this time, there is no agreement for one Bridger partner to exit the plant before the other; therefore, any exit costs that could be incurred by the Company by leaving early are unknown. Staff believes that without any firm closure date, all decommissioning costs will be estimates and have a potential error of up to 30%.

However, Staff notes that its recommendation to establish a balancing account to track the closure costs and accelerated depreciation of Bridger does not preclude a future filing where securitization may be considered once the necessary information is known.

## **2. Prudence and Recovery of Bridger Units 3 and 4**

Staff continues to support its original recommendations and conclusions regarding the overall prudence of investments in Bridger during the period from January 1, 2012, through December 31, 2020, as reflected in Staff's Comments submitted on April 27, 2022. However, regarding the investments in SCR technology in Units 3 and 4, Staff expands its comments of the analysis it conducted by providing the Commission with additional considerations and a timeline of events important to the case, especially as it pertains to the Commission's decision to grant a Certificate of Convenience and Necessity ("CPCN") in Order No. 32929.

Before the Company can begin recovery of a capital investment, the Commission provides two types of prudence determinations: decisional prudence and operational prudence. Decisional prudence of an investment is based on need, while operational prudence is based on whether the Company implemented the investment in a least cost manner. Both prudence determinations need to be authorized by the Commission before recovery of the investments can begin. These can occur simultaneously after the project

investments have been implemented or in two stages as in the case of Bridger SCR investments. By authorizing a CPCN through Order No. 32929, the Commission provided the Company with decisional prudence and an authorization to proceed. Because decisional prudence was already authorized, Staff's primary focus in this case was to evaluate operational prudence and how cost-effectively the Company and owner-operator, PacifiCorp, implemented the project, which came under the projected budget for both units.

Staff was aware of the Commission's concern regarding the risky nature of large SCR investments in an aging coal plant and the caveats that were included with its authorization of the CPCN. One caveat was to provide quarterly reports. The Commission stated:

We admonish the Company to stay abreast of potential future environmental regulations that could negatively impact its investment in the Bridger upgrade. To that end, we direct the Company, as a condition of its CPCN (Idaho Code § 61-528), to submit quarterly reports updating the Commission on any changes to environmental policy or regulations as the Bridger upgrades are installed and placed in service.

Order No 32929 at 11. The Commission also required the Company to continuously evaluate the project economically, but again, within the scope of changing environmental impacts.

Additional future environmental regulations are likely. It is not inconceivable that, during the installation of the SCRs, a tipping point could be reached making them uneconomic. It is in the best interest of the customers, the Company, and the Company's shareholders for Idaho Power to be continuously analyzing the impact of changing environmental regulations on its upgrade project. As the project moves toward completion over the next several years, we direct Idaho Power to return to the Commission if viable alternatives to the Bridger Units 3 and 4 upgrades become available.

*Id.*

After the fact determination of decisional prudence is usually complex and requires judgement of competing facts. Staff utilized its judgement in its recommendation by carefully examining the language used in the Commission's Order and by using criteria of what was known at the time that a determination was made. As stated by the Commission

"The commission cannot speculate . . . upon the future availability of [a resource], but must confine its determinations to facts susceptible of demonstration within reasonable limits." Applications of Intermountain Gas



Co.,77 Idaho 188, 199 289, 933, 940 (1955). Short-term reliability concerns make the issuance of a CPCN the prudent decision at this point in time.

*Id.*

For these reasons, Staff has provided a list of items it considered as part of its analysis to develop its recommendation and a timeline of the facts related to the evaluation of SCR investments prior to the projects' completion.

### **Considerations**

1. Once an owner issues a Limited Notice to Proceed ("LNTP"), the owner of the project must provide payment for the work that is specified if the contractor performs the work according to the agreement.

2. It is assumed that the Engineer, Procurement, and Construction ("EPC") Contract contained early termination provisions. However, this right does not come without its cost. Termination is very rarely not contentious and frequently results in significant disputes given the consequences for contractors. The cost payable to a contractor on termination will vary, but these can include:

- a. Recovery for the value of work done at the date of termination.
- b. Any other costs or liabilities reasonably incurred in the expectation of completing the work which can range from paying unpaid overhead and profit on the remainder of the work to costs properly incurred in anticipation of completing the work and de-mobilization.

3. The only economic analysis comparing alternatives to the installation of SCRs that are valid are those that are evaluated within Idaho Power's system. Any economic evaluation that occurs within any other utility system is not relevant.

4. According to the Company's "tipping point" analysis requested by Staff, a 52% decrease in the Company's natural gas forecast used in its Aurora analysis would need to occur to make the Company's next best alternative more economical. *See* M. Louis, Di, Case No. IPC-E-13-16, pp. 13-16. EIA Henry Hub Natural Gas price forecasts published in 2014 and 2015 did not show reductions in natural gas prices approaching that level of reduction.

## Timeline of Events

2011

### January

- PacifiCorp, in conjunction with the Wyoming Department of Environmental Quality, agreed to install SCRs on Units 3 and 4 as part of Regional Haze Federal Implementation Plan.

2012

### August

- PacifiCorp filed a CPCN with the Wyoming Commission for the SCRs.
- PacifiCorp filed a voluntary request for approval of the SCRs with the Utah Commission.

2013

### February

- Science Applications International Corporation study is completed.

### April

- PacifiCorp issued an internal memo recommending the awarding of an EPC Contract to Babcock and Wilcox Power Generation Group and the Perry Group.

### May

- EPA approved and disapproved portions of the Wyoming Regional Haze SIP.
- Wyoming Commission approved CPCN for SCRs in docket No. 200000-418 (Record No. 13314).
- Utah Commission issued its final order approving SCRs (Docket No. 12-035-92).
- A LNTP contract was signed with the successful EPC bidder on May 31, 2013. *See Application, Case No. IPC-E-13-16, p. 4.*

### June

- Idaho Power filed for a CPCN with the Idaho Commission seeking authorization for investment in SCR controls.

### November

- The EPA indicated it will sign a notice of final rulemaking on November 21, 2013, making emission reduction requirements at Jim Bridger Units 3 and 4 federally enforceable. If the environmental upgrades are not installed within the time frame given by the state of Wyoming or the EPA, Idaho Power would be forced to stop generating from these units. *See Application, Case No. IPC-E-13-16, p. 4.*

### December

- A provision in the LNTP states that December 1, 2013, which is defined as the full notice to proceed (FNTP) Date, is the deadline by which the FNTP must be issued in order for the EPC contractor to attain the project completion

guarantee dates without requiring a contract change. *See* Application, Case No. IPC-E-13-16, p. 10.

- Idaho Commission issued order in Case No. IPC-E-13-16 (Order No. 32929) approving Idaho Power's application for a CPCN for the SCRs at Units 3 and 4.
- Idaho Power gave PacifiCorp formal notice to support the issuance of a FNTP with the SCR project.

2014

January

- EPA issued final approval for the Wyoming strategy to install SCRs at Units 3 and 4 in 2015 and 2016 respectively, and for Units 1 and 2 in 2021 and 2022, respectively.

2015

June

- Idaho Power's 2015 Integrated Resource Plan is published with an updated SCR study in Appendix C.

December

- EPA Compliance deadline for Unit 3 SCR.
- Construction on Bridger Unit 3 SCR completed.

2016

December

- Compliance deadline for Unit 4 SCR.
- Construction on Bridger Unit 4 SCR completed.

**Respectfully** submitted this 13<sup>th</sup> day of May 2022.



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Chris Burdin  
Deputy Attorney General

Technical Staff: Joe Terry  
Rick Keller

i:umisc/comments/ipce21.17cbjt reply comments

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 13<sup>TH</sup> DAY OF MAY 2022, SERVED THE FOREGOING **REPLY COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-21-17, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

LISA NORDSTROM  
IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707-0070  
E-MAIL: [lnordstrom@idahopower.com](mailto:lnordstrom@idahopower.com)  
[dockets@idahopower.com](mailto:dockets@idahopower.com)

MATT LARKIN  
IDAHO POWER COMPANY  
PO BOX 70  
BOISE ID 83707-0070  
E-MAIL: [mlarkin@idahopower.com](mailto:mlarkin@idahopower.com)

PETER J RICHARDSON  
RICHARDSON ADAMS PLLC  
515 N 27<sup>TH</sup> STREET  
BOISE ID 83702  
E-MAIL: [peter@richardsonadams.com](mailto:peter@richardsonadams.com)

DR DON READING  
6070 HILL ROAD  
BOISE ID 83703  
E-MAIL: [dreading@mindspring.com](mailto:dreading@mindspring.com)

BENJAMIN J OTTO  
ID CONSERVATION LEAGUE  
710 N 6<sup>TH</sup> ST  
BOISE ID 83702  
E-MAIL: [botto@idahoconservation.org](mailto:botto@idahoconservation.org)

ED JEWELL  
DEPUTY CITY ATTORNEY  
BOISE CITY ATTORNEYS OFF  
PO BOX 500  
BOISE ID 83701-0500  
E-MAIL: [BoiseCityAttorney@cityofboise.org](mailto:BoiseCityAttorney@cityofboise.org)  
[ejewell@cityofboise.org](mailto:ejewell@cityofboise.org)

ROSE MONAHAN  
ANA BOYD  
SIERRA CLUB  
2101 WBSTER ST STE 1300  
OAKLAND CA 94612  
E-MAIL: [rose.monahan@sierraclub.org](mailto:rose.monahan@sierraclub.org)  
[ana.boyd@sierraclub.org](mailto:ana.boyd@sierraclub.org)

MICHAEL HECKLER  
COURTNEY WHITE  
CLEAN ENERGY OPPORTUNITIES FOR  
IDAHO  
3778 PLANTATION DR, SUITE 102  
BOISE ID 83703  
E-MAIL:  
[mike@cleanenergyopportunities.com](mailto:mike@cleanenergyopportunities.com)  
[courtney@cleanenergyopportunities.com](mailto:courtney@cleanenergyopportunities.com)

KELSEY JAE  
LAW FOR CONSCIOUS LEADERSHIP  
920 N CLOVER DR  
BOISE ID 83703  
E-MAIL: [kelsey@kelseyjae.com](mailto:kelsey@kelseyjae.com)

JIM SWIER  
MICRON TECHNOLOGY INC  
800 SOUTH FEDERAL WAY  
BOISE ID 83707  
E-MAIL: [jswier@micron.com](mailto:jswier@micron.com)

AUSTIN RUESCHHOFF  
THORVALD A NELSON  
AUSTIN W JENSEN  
HOLLAND & HART LLP  
555 17<sup>TH</sup> ST STE 3200  
DENVER CO 80202  
E-MAIL: [darueschhoff@hollandhart.com](mailto:darueschhoff@hollandhart.com)  
[tnelson@hollandhart.com](mailto:tnelson@hollandhart.com)  
[awjensen@hollandhart.com](mailto:awjensen@hollandhart.com)  
[aclee@hollandhart.com](mailto:aclee@hollandhart.com)  
[glgarganoamari@hollandhart.com](mailto:glgarganoamari@hollandhart.com)

  
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SECRETARY