

II. Idaho Code § 61-617A and IDAPA 31.01.01.162 Intervenor Requirements

The requirements for an application for intervenor funding provided by I.C. § 61-617A and IDAPA 31.01.01-162 are set forth below. In each, an award for intervenor funding to ICL is merited.

1. Itemized list of expenses

ICL incurred compensable costs and expenses in this procedure. Idaho Code empowers the Commission to award “legal fees, witness fees, and reproduction costs.” I.C. § 61-617A. Expenses incurred by ICL in this proceeding include time by Marie Callaway Kellner and Matthew Nykiel, attorneys for ICL¹, and Brad Heusinkveld, ICL Energy Associate. Broadly, ICL reviewed the Company’s application, petitioned for, and was granted intervention, reviewed relevant discovery, participated in settlement negotiations, prepared testimony in support of the proposed settlement, and attended public and technical hearings. ICL attended settlement conferences held at the Commission on September 18, October 4, and October 5, as well as various parties’ meetings between these dates. An account of expenses, time, and hourly rates is included in Exhibit A. IDAPA 31.01.01-162.01. ICL seeks recovery of these legal fees and costs. In all these efforts ICL focused on a limited number of issues relevant to our interests and aimed to use our time and the time of other parties efficiently. IDAPA 31.01.01-162.01.

2. Statement of Proposed Findings

ICL Intervened and actively participated in this docket to pursue our interest in energy conservation, efficiency programs, and long-term price stability. Specifically, ICL supported modifications to the Settlement and Stipulations regarding the Company’s rate design proposal, time of use rate design, and inclusion of various informal meetings and workshops. ICL signed the proposed

¹ Amended Notice of Parties; Notice of Substitution of Counsel by ICL (notifying and acknowledging substitution of counsel from Marie Callaway Kellner to Matthew Nykiel on October 9, 2023).

settlement and offered its support through direct testimony.² ICL also asks the Commission to grant this request for intervenor funding.

3. Statement Showing Costs

ICL requests \$6237.50 in intervenor funding. Exhibit A offers account of expenses. The hourly rates and time spent by ICL staff and attorneys are reasonable for a complex utility rate case. Attorney for ICL, Matthew Nykiel, has eight years of legal and policy experience in administrative and civil practice. His requested rate of \$150 is reasonable for a licensed attorney in this field. Marie Callaway Kellner has 12 years of legal and policy experience practicing in Idaho administrative procedures. Her requested rate of \$175 is also reasonable. ICL Energy Associate Brad Heusinkveld has one year experience in energy policy in addition to other education and experience in highly technical fields. His requested rate of \$125 is reasonable.

Idaho Power's general rate case is a wide ranging and highly complex matter. To effectively represent their interests, ICL reviewed the Company's application, supporting materials, and discovery before narrowing focus to a limited number of issues. ICL considered other aspects of this matter, but limited our scope of settlement positions and prioritized the most impactful issues to our interests. While parties' contributions to the settlement process remain confidential pursuant to Rule 272, ICL frequently deferred to positions and analysis of others on issues less relevant to our interests. We also relied on prior research and experience developed in similar dockets before the Commission to limit redoubling of efforts.

ICL approached settlement in good faith to arrive at a mutually agreeable settlement. The all-parties, all-issues settlement before the commission is remarkable considering the breadth and complexity of issues presented and the diversity of represented interests. Doubtless, agreement and compromise of parties and the Company saved substantial time relative to an avoided litigated process before the

² Heusinkveld, DI.

Commission. In settlement meetings and informally during negotiations, ICL frequently conferred with other parties to refine and align our positions towards an agreeable offer. Again, the exact positions of parties during negotiations remains confidential, but the compromises evident in the agreement materially differ from the Company's application while aligning with the public interest. For these reasons, ICL materially contributed to the settlement to the benefit of the public interest while conserving the resources of the Company, Staff, parties, and Commission.

Because the requested rates and costs are reasonable, time expended was prudent, and the scope of work and costs were judiciously limited, the Commission should find ICL requested costs a "reasonable amount." IDAPA 31.01.01.162.03.

4. Explanation of Costs Statement

The recovery of costs in this matter supports the work of ICL in pursuing energy policy in the public interest. ICL is a non-profit organization primarily funded through membership donations, private grants, and endowment fund revenue. ICL does not have a direct financial interest in the outcome of this case distinct from any other Idaho Power ratepayer.³ In this proceeding, we represent our members and Idaho Power ratepayers interested in energy conservation, a transition to clean energy, and an equitable energy regulatory process. While ICL budgets prudently for programmatic efforts, this complex matter demanded considerable time and attention for staff to provide "full and fair representation" before the Commission as stated in I.C. § 61-617A. Full participation in utility regulatory processes like the matter at hand requires dedicated and specialized professionals. Attention to the issues in this case exacted the kind of material and opportunity costs contemplated by the intervenor funding provisions of I.C. § 61-616A and IDAPA 31.01.01.162.

³ ICL's office in Boise is metered as a Schedule 8 Small General Service On-Site Generation customer. Our office in Ketchum is Schedule 7 General Service customer.

ICL employs Brad Heusinkveld full time to pursue the organization's long running clean energy and decarbonization goals. His work continues ICL's decades-long presence before the Commission. Participation in matters before the Commission occupies a substantial portion of his portfolio. This work requires considerable specialized skills and awareness to provide effective, professional advocacy for our members and interests. Idaho PUC Rules of Procedure require a licensed attorney to represent organizations. IDAPA 31.01.01.043. Marie Callaway Kellner and Matthew Nykiel are both attorneys with considerable experience in state administrative procedures. By awarding full cost recovery here, the Commission will "encourage participation in all stages of proceedings before the commission so that all affected customers receive full and fair representation in those proceedings." I.C. § 61-617A.

5. Explanation of Differences

ICL materially differed from the position of the Commission Staff ("Staff") on the approval of the offered settlement. Among the many issues discussed in settlement meetings, ICL's focus centered on the rate design elements of this docket. The detailed positions of parties during negotiations remain confidential, but ICL generally differed from staff on the allocation of fixed and variable charges into customer charges. ICL submitted written comments and testimony outlining our general position on rate design in previous dockets before the Commission this year.⁴ In this docket, we opposed the Company's rate design plan to increase monthly customer charges to \$35 per month over three years. Our analysis of the Company's materials suggests the direct monthly charge to customers should be less than the \$10 per month in year one, and \$15 per month in year two offered in the settlement. We materially differed from the staff on this position until final the settlement, which represents a compromise between several parties and the Company. ICL also advocated for developing time of use bill protections in meetings with the Company. ICL's contributions and positions are reflected in the agreed upon proposed settlement. At other times, we supported the positions of other intervenor parties, sometimes in opposition to Staff's

⁴ Case No. AVU-E-23-01, McCloy, DI; Case No. PAC-E-22-15, ICL/NWEC Comments.

initial position, to arrive at an agreeable settlement. In a process of marked flexibility from Staff, the Company, and intervenor parties, our support for the settlement represents a compromise position reached through negotiation, though differences of position and perspective remain. Our advocacy, asserted in good faith pursuit of the public interest, was in direct and material difference between and Staff in this matter. IDAPA 31.01.01.162.05.

6. Statement of Recommendation

ICL recommends the Commission accept the proposed Settlement offered by the Company, Staff, and parties. Brad Heusinkveld supplied direct testimony on behalf of ICL in support of the settlement, outlining our sentiment that the settlement is in the public interest.⁵

7. Statement Showing Customer Class

ICL represent our members, many of whom are Idaho Power Residential Schedule 1 customers. Our interests in this docket primarily, but not exclusively focused on the general residential schedule.

⁵ Heusinkveld, DI.

Conclusion

An award of intervenor funds to ICL is merited in this case. Idaho Power is a public utility whose matters before the Commission are subject to recovery of intervenor funding. The foregoing sections demonstrate that ICL has met the individual requirements for an award of intervenor funding identified in I.C. § 61-617A and IDAPA 31.01.01.162. An award of funds furthers the purpose of I.C. § 61-617A to encourage full participation and representation of varied interests before the Commission.

WHEREFORE, ICL respectfully requests the Commission grant this application in the amount of \$6,237.50.

DATED: December 13, 2021

s/ Matthew A. Nykiel

Matthew A. Nykiel (ISB No. 10270)
Attorney for ICL

Exhibit A: Statement of Costs

Legal Expenses

Name	Rate (\$/hr)	Time (hrs)	Total	Description
M. Kellner	175	0.75	\$131.25	Drafting and review of intervention and substitution notices
M. Nykiel	150	5.5	\$825	Drafting and review of settlement documents and testimonies; review of settlement and stipulations; client conferences and communication

Staff Expenses

Name	Rate (\$/hr)	Time (hrs)	Total	Description
B. Heusinkveld	125	42.25	\$5281.25	Draft filings and testimonies; review of Company application; attend parties meetings and staff presentations; development of positions; discovery review; CCOS analysis and review; draft party position statement; attend settlement meetings and party conferences; draft testimony; review and signature of settlement and stipulations; attend public and technical hearings

Total Costs: \$6237.50

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of December 2023, I delivered true and correct copies of the foregoing APPLICATION FOR INTERVENOR FUNDING to the following persons via the method of service noted:

/s/ Matthew A. Nykiel

Matthew A. Nykiel (ISB No. 10270)
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