

✓ To A.P.
✓ Ken Act
sent 11/21/02

Dear Sir,

I am writing this note to let you know how much the 3 month electric extension of payment means to so many in North Idaho.

I worked at the food bank many years and saw how it helped poor families.

Please do not discontinue this service to the poor.

Thank you,

Marion Holland



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2002 NOV 21 AM 8:30
IDAHO PUBLIC
UTILITIES COMMISSION

To Adv. Ken Arke sent 11/21/02

6915 W. Brentwood Drive
Boise, ID 83709
November 18, 2002

Public Utilities Commission
Boise, ID

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IDAHO PUBLIC
UTILITIES COMMISSION

Dear PUC

As winter approaches, the thought of an increasing number of Idahoans without heat booms large.

Intermountain Gas, which understandably must turn a profit to remain solvent, should not be allowed to do so at the expense of low-income Idahoans. Also, these same people may not be able to understand the stipulations suggested by

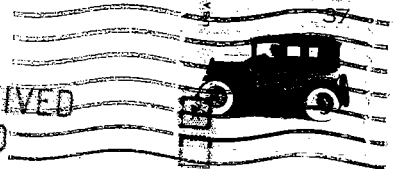
I.G. to ensure that homes aren't without heat this winter. As you deliberate the proposal offered by I.G., please keep in mind the effect your decision will make on Idaho's underprivileged.

Sincerely,
Mary Ellen Nourse
Boise, Idaho

Mary Ellen Nourse
6905 W. Brentwood Drive
Boise, ID 83709



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Public Utilities Commission
472 W. Washington
Boise, ID 83702

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1 Mem. Ask sent 11/21/02 ✓ To AV.

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION BY AVISTA UTILITIES, INTERMOUNTAIN GAS AND PACIFICORP TO IMPLEMENT A TWO-YEAR PILOT WINTER PROTECTION PROGRAM THAT ESTABLISHES MINIMUM MONTHLY PAYMENTS DURING THE WINTER MORATORIUM, AND A WAIVER OF WINTER MORATORIUM RULE 306, IDAPA 31.21.01.306.

) IDAHO PUBLIC
) UTILITIES COMMISSION
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) CASE NO. GNR-U-02-1
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AARP'S COMMENTS TO COMMISSION'S NOTICE OF APPLICATION

INTRODUCTION

AARP files these comments pursuant to the Commission's "Notice of Application and Notice of Modified Procedure" dated October 31, 2002. We applaud the Commission for giving interested parties an opportunity to comment on the proposed two-year pilot for the Winter Protection Program. As expressed herein, AARP has significant concerns with the utilities' filed Application in this docket. While AARP agrees with the concept that customers should pay what they can during the winter moratorium, we urge the Commission to deny the parties' request for adoption of the proposed changes to the program under a Modified Procedure. Instead, the Commission should initiate an evidentiary proceeding to create a record on which it can base a well informed decision. The Winter Protection Program provides a valuable safety net for our most vulnerable citizens and should not undergo the significant changes proposed in the Idaho utilities' Application without a more thorough evaluation.

AARP is the nation's leading organization for people age 50 and older. It serves their needs and interests through information, education, advocacy, and community services which are provided by a network of local chapters and experienced volunteers throughout the country. The association's membership includes workers and retirees. AARP has over 145,000 members in the state of Idaho. Rising utility rates are having an overwhelming impact on Idaho citizens, especially older persons – many of whom are living on low and fixed incomes.

Although older Americans consume approximately the same amount of energy as do younger people, they devote a higher percentage of total spending to residential energy.



This may be due to the fact that older Americans spend a greater proportion of income on home heating costs (even after adjusting for weather and home size). Low-income older families, in fact, spend an average of 13 percent of their income on residential energy. However, about one of every four low-income older households spends 19 percent or more of their entire income on home energy bills. Too often, these families are forced to choose between risking their health and comfort by cutting back on energy expenditures and reducing spending for other basic necessities.

Proposed Changes to the Winter Protection Program

Changes to the Winter Protection Program could have significant implications for residential consumers in Idaho, particularly given the fact that the Energy Information Administration forecasts significantly higher energy prices for the coming winter heating season. Because of the broad implications of the Rule, AARP strongly believes that any changes should be done through an evidentiary proceeding, rather than through the current approach advocated by the utilities. This rule is too important for the residential consumers of Idaho to leave to informal discussions. The utilities need to put forward evidence on why the Rule should be changed that can be questioned and debated prior to any Commission order changing the Rule.

In their proposed Application, the utilities propose significant changes to the current Winter Protection Program. Most notably, the utilities propose changing the eligibility criteria for the program and requiring the imposition of a minimum monthly payment in return for participation. The Application also lists the organizations that participated in a series of meetings that resulted in the proposals included therein. AARP was not a party to those discussions. As such, we offer the following responses to the questions to which the Commission has invited interested parties to comment:

1. Should customers generally pay what they can during the three moratorium months? For customers who do not pay during the moratorium, are there other approaches to mitigate the large account balances after the moratorium?

ANSWER: Yes, customers should pay what they can during the moratorium months. However, the Application does not adequately explain how the 50% payment of the Level Pay Plan amount was derived. AARP believes that any review of the current program should include an arrearage forgiveness program, as a means to effectively mitigate account balances that will likely remain at the end of the moratorium period. A program that forgives arrearages over a two-year period, for example, so long as the customer continues to pay current bills and pays a portion of the arrearage is completely appropriate. Arrearage forgiveness and other low-income assistance programs have been shown to save the utilities money on costs such as fewer disputes and termination notices and proceedings, reduced delinquencies and the like.

2. Should participation in the pilot program be based solely on income eligibility (recognizing that medical extensions are still available)? If so, is the LIHEAP eligibility of 150% of the federal poverty level an appropriate income threshold?

ANSWER: Participation should not be based solely on income eligibility. While the 150% of the federal poverty level is an adequate threshold, AARP also supports opening the program to those customers who are also enrolled in other means-tested benefits such as Medicaid and TANF, which may have slightly different eligibility requirements. The purpose of the Winter Protection Program is to assist those most in need. Thus, customers who have demonstrated a need by their participation in other means-tested programs should be allowed to participate in the Winter Protection Program as well.

3. Is the recommended payment amount (50% of levelized payment) reasonable and adequate?

ANSWER: The Application presents no information upon which a determination can be made as to whether or not the recommended payment of 50% of levelized payment is reasonable. In the Application, the utilities offer an example in which a customer's average monthly payment during the moratorium could be \$90 per month. Conversely, in a letter filed by Intermountain Gas dated October 28, 2002, the company claims that the above example overstates the average monthly payment of its customers, which is expected to be approximately \$34. Given this discrepancy, the Commission should require the companies to submit more detailed information to clarify what the actual payment amounts are likely to be for customers of each utility.

4. If a customer is not eligible to participate in the proposed plan, are the existing level pay or special payment options sufficient to address the payment concerns of residential customers during the winter months?

ANSWER: Again, the Application does not provide any information upon which an accurate or well-informed answer to this question can be based.

5. Is a two-year pilot program too long or too short?

ANSWER: The answer to this question could best be determined after workshops and hearings are held to address the questions posed above.

6. Should the pilot project be restricted to only gas or electric or both types of utilities?

ANSWER: The Winter Protection Program should apply to both gas and electric utilities.

7. Should implementation of the pilot program be postponed until next (2003/2004) winter?

ANSWER: The Commission should delay implementation of the proposed pilot program. Given the concerns expressed herein, we urge the Commission to wait until adequate information can be gathered upon which a fair and effective pilot program can be based. That delay could take at least until next winter.

Conclusion

The Commission should move cautiously in modifying the Winter Protection Program. We must not put the welfare of thousands of Idaho citizens in jeopardy simply to weed out a few bad apples. The Commission should rely on evidence supplied by the parties in a contested case hearing. This evidence should not only review the changes sought by the utilities, but also examine the implementation of arrearage forgiveness and automatic enrollment programs for energy assistance plans. We look forward to working with the Commission to accomplish this task.

Dated: November 21, 2002

Respectfully submitted,

Clyde Dailey
State Director
AARP Idaho
3080 Gentry Way
Suite 100
Meridian, ID 83642-3599
(406) 457-4704

✓ T. A.V.
✓ Gen. Act sent 11/21/02

Amy Frazier
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IDAHO PUBLIC
UTILITIES COMMISSION

November 18, 2002

Idaho Public Utilities Commission
P.O. Box 83720
Boise, ID 83720-0074

Subject: GNR-U-02-1, Winter Moratorium Program proposed rule change

Dear Public Utilities Commission:

Pursuant to the solicitation for comments I hereby submit the following comments on the proposal to change the rules governing the "winter moratorium program".

The Governor of our state is an advocate for women, children and seniors - this proposed rule change would endanger the health, safety and well-being of these populations of the citizenry of this state.

As you are aware, Idaho State Code 61-501 authorizes the Public Utilities Commission to "supervise and regulate every public utility in the state". The Idaho Public Utilities Commission (PUC) is seeking comment on a proposal by some Idaho utilities to significantly alter commission rules regarding the "winter moratorium," the three-month period during which utilities are prohibited from disconnecting customers who fail to make payments.

This proposal would alter PUC Rule number 306, which currently states:

**306. TERMINATION OF RESIDENTIAL GAS AND ELECTRIC SERVICE-
- WINTER PAYMENT PLAN (Rule 306).**

01. Restrictions on Termination of Service to Households with Children, Elderly, or Infirm. Except as provided in Rule 303, no gas or electric utility may terminate service or threaten to terminate service during the months of December through February to any residential customer who declares that he or she is unable to pay in full for utility service and whose household includes children, elderly or infirm persons. (7-1-93)

02. Definitions for This Rule. For purposes of this rule: (7-1-93)

a. "Children" are defined as persons 18 years of age or younger, but customers who are emancipated minors are not children under this rule. (7-1-93)

b. "Elderly" are defined as persons 62 years of age or older. (7-1-93)

c. "Infirm" are defined as persons whose physical health or safety would be seriously impaired by termination of utility service. (7-1-93)

03. Opportunity to Participate in Winter Payment Plan. Any residential customer who declares that he or she is unable to pay in full for utility service and whose household includes children, elderly or infirm persons must be offered the opportunity to establish a Winter Payment Plan. However, no customer may be required to establish such a plan. Except as provided in Rule 303, no gas or electric utility may terminate service during the months of November through March to any customer who establishes a Winter Payment Plan before November 1. A customer may establish a Winter Payment Plan after November 1, but the extended protection from termination of service offered under such a plan will not begin until the date the plan is established. Failure of a participating customer to make payments as required will result in cancellation of the plan and elimination of the extended protection from termination of service offered under the plan. The customer may use any source of funds to satisfy the payment requirements of Winter Payment Plan. (7-1-93)

04. Amount of Payments Under Winter Payment Plan. Monthly payments under a Winter Payment Plan are equal to one-half (1/2) of the Level Pay Plan amount for that customer. The Level Payment Plan amount must be calculated according to Rule 313.06. (7-1-93)

05. Payment Arrangements Following Winter Payment Plan. If a customer who received the protection of this rule has an outstanding balance owed to the utility, the customer must either pay this balance or negotiate a new payment arrangement: (7-1-93)

a. On or after March 1, if the customer has not established a Winter Payment Plan, or

b. On or after April 1, if the customer has established a Winter Payment plan. Failure of a customer to pay or make payment arrangements on or after these dates may result in termination of service. (7-1-93)

06. Successive Participation in Winter Payment Plan. A customer who participates in a Winter Payment Plan one year must be allowed to participate in succeeding years if the customer has honored the payment arrangements and the balance owing as of November 1 does not exceed \$75 or the customer's utility bill for the previous 30 days, whichever is greater. However, the utility is not required to connect or reconnect the service of a customer or applicant who does not currently have utility service and owes an unpaid, undisputed bill to the utility. (7-1-93)

07. Unoccupied Residences, Etc. Nothing in this rule prevents a gas or electric utility from terminating service to unoccupied residences or residences where the occupants have failed or refused to apply for utility service. Nothing in this rule requires the utility to connect service for a customer who owes money on an existing account or from a previous account when that customer moves to a new residence that does not currently have service. (7-1-93)

[Adopted, G.O. 177; amended, G.O. 177A; amended, G.O. 208.]

Cross-Reference: Rules 005, 300, 302, 303, 304, 305, 307, 308, 309, 310, 311, 312, 313.

The PUC has been granted great power in regards to changes in rules governing service by public utilities. Caution must be taken in adopting changes, as consumers have the PUC as the only regulatory entity over public utilities. Consumers have no choice in selecting utility service – we are provided with a single source for electric, gas and telephone service. The proposed rule change affecting electric and gas service during the winter moratorium time frame must not be allowed by the PUC. To do so in this manner would be nothing less than a clear-cut example of **unbridled authority** by the utilities and the Public Utilities Commission.

The PUC rules, authorized by the Public Utilities Law, Chapters 1 through 7, Idaho Code, and the specific legal authority of Sections 61-301, 61-302, 61-303, 61-315, 61-503, 61-507, and 61-520, Idaho Code, provide

...a set of fair, just, reasonable, and non-discriminatory rules to address recurring areas of disagreement between utilities and customers with regard to deposits, guarantees, billing, application for service, denial of service, termination of service, and complaints to utilities. *Idaho PUC Rule 001 (emphasis added)*

Idaho Code addresses the determination of rules and regulations:

61-507. DETERMINATION OF RULES AND REGULATIONS. The commission shall prescribe rules and regulations for the performance of any service or the furnishings of any commodity of the character furnished or supplied by any public utility, and, on proper demand and tender of rates, such public utility shall furnish such commodity or render such service within the time and upon the conditions provided in such rules. *(emphasis added)*

Idaho Code also address the utility service by a public utility as follows:

61-302. MAINTENANCE OF ADEQUATE SERVICE. Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable.

61-303. RULES AND REGULATIONS JUST AND REASONABLE. All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable.

Changes in rates and service are addressed in Idaho Code as follows:

61-307. SCHEDULES -- CHANGE IN RATE AND SERVICE. Unless the commission otherwise orders, no change shall be made by any public utility in any rate, fare, toll, rental, charge or classification, or in any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification or service, or in any privilege or facility except after thirty (30) days' notice to the commission and to the public as herein provided. Such notice shall be given by filing with the commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect. The commission, for good cause shown, may allow changes without requiring the thirty (30) days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect, and the manner in which they shall be filed and published. When any change is proposed in any rate, fare, toll, rental, charge or classification, or in any form of contract or agreement or in any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification or service, or in any privilege or facility, attention shall be directed to such change on the schedule filed with the commission by some character to be designated by the commission, immediately preceding or following the item.

By a complete accident, I happened to find PUC web page posting of the PUC's press release of October 31, 2002 soliciting public comment on the rule change. The PUC press release follows:

IDAHO PUBLIC UTILITIES COMMISSION

Case No. GNR-U-02-1, Order No. 29145

For Immediate Release / October 31, 2002

Contact: Gene Fadness (208) 334-0339

Utilities propose pilot winter moratorium program

BOISE – The Idaho Public Utilities Commission is seeking comment on a proposal by some Idaho utilities to significantly alter commission rules regarding the “winter moratorium,” the three-month period during which utilities are prohibited from disconnecting customers who fail to make payments.

Enacted in 1979, the moratorium does not excuse customers from paying their bills, but it postpones disconnection for failure to pay bills. Utilities cannot disconnect customers who declare they are unable to pay and have 1) children under 18, 2) people over 62 or 3) “infirm” persons living in the household. The moratorium begins Dec. 1 and ends Feb. 28.

The utilities filing the application – Avista Utilities, Intermountain Gas and PacifiCorp – are proposing a two-year pilot program to begin Dec. 1. The program would require customers who say they are unable to pay their entire bill to pay at least a minimum amount, such as one-half of what they would pay under a level-pay plan.

The proposal, which was crafted after several meetings with state Department of Health and Welfare officials and representatives of community action agencies, also recommends that an eligibility requirement be required to participate in the moratorium. The utilities propose that participants must meet the income eligibility requirements for receiving energy assistance benefits under the Low-Income Heating Energy Assistance Program (LIHEAP). To qualify for LIHEAP, participants must earn no more than 150 percent of federal poverty guidelines. For those families with three in a household, the maximum monthly income would be \$1,878. For a family of five, the maximum monthly income would be \$2,648.

Utilities expressed concern that customers who don’t make any payments during the three-month moratorium usually face large bills on March 1 or disconnection of service when the moratorium ends. According to the utilities’ application, the pilot program would aid customers in establishing a pattern of consistent monthly customer payments and allow participants to avoid disconnection or be required to pay the entire past-due balance before service is reconnected. Under the proposal, those who do not pay their bills and refuse to participate in the moratorium could be disconnected during the moratorium, unless they can prove a serious illness or medical emergency.

The commission voted 2-1 this week to solicit public comment on the proposal. The commission also ordered the three participating utilities to issue press releases informing customers of the proposed changes and how they can comment to the commission.

Commissioner Dennis Hansen dissented from the majority, saying the proposed Dec. 1 start date of the moratorium is too soon to allow sufficient public comment. "In addition, I believe that given the current economic conditions in Idaho, where many have lost their employment to layoffs or company closures, now is not the appropriate time to change a long-established program that is intended to protect the public health and safety," Hansen said. It would be better to take comment on how to structure the program through workshops and hearings, he said. "Rushing to implement this program will cause a lot of people to suffer this winter."

The order issued by the commission does not discount public hearings if comments or protests persuade the commission that all the issues cannot be adequately addressed through written comments.

The commission is seeking comment specifically on these issues:

- Should customers generally pay what they can during the moratorium? For those who do not pay, are there other approaches to mitigate the large balances after the moratorium ends?
- Should participation be based solely on income eligibility? If so, is the LIHEAP standard of 150 percent of federal poverty level appropriate?
- Is the recommended payment amount (50 percent of level pay) reasonable? For example, a customer with a monthly level-pay bill of \$150 would have to pay \$75.
- If a customer is not eligible, are the existing level-pay or other special payments options

sufficient to address payment concerns during winter months?

- Is a two-year pilot program too long or too short?
- Should the pilot project be restricted to either gas or electric utilities or should it apply to both?
- Should implementation of the pilot program be postponed until next year instead of the Dec. 1 start date the utilities propose?

I applaud Chairman Hansen's recognition of the lack of sufficient time for public comment and of the current economic problems for our state.

I had not heard or read of the proposal in news media coverage. I did not receive notice by any of my utility suppliers until just this past week, when I found a notice in my Intermountain Gas statement on November 15, 2002 – **just 6 days before the end of the comment period!** There is no doubt that the general public is uninformed of the proposed rule change, much less the fact that the comment period ends November 21, 2002. **This is hardly an adequate (or even a legitimate) time frame for comment on a rule change that could be harmful to many consumers. The utilities have not given sufficient notice!**

After my initial discovery of the press release, I submitted a formal request for information on involvement by the Idaho Department of Health and Welfare in this rulemaking process. As you are aware, the preceding press release states:

The proposal, which was crafted after several meetings with state Department of Health and Welfare officials and representatives of community action agencies, also recommends that an eligibility requirement be required to participate in the moratorium.

The reply to my request for information is as follows:

Dear Ms. Frazier,
Unfortunately, I was not able to find any information that you had requested. The only information the Idaho Department of Health and Welfare has is a copy of the proposed text. The Department has not set up any meetings, or had any correspondences or made any reports to this proposed rule change. The Idaho Public Utilities Commission should have

all this information since they are the agency handling this change. Their phone number is 334-0300.

If you have any other questions, please feel free to let me know.

Sincerely,

Angela Fink
Administrative Procedures Section
Idaho Department of Health and Welfare

The preceding reply leads me to no other conclusion than that the public has been **deceived** in this process!

Health and Welfare was not involved, as the press release states! It is a misrepresentation of the truth!

Upon calling the Ada County Community Action Agency to discuss the energy assistance program, the proposed rule-making process and the affects to the currently-protected population, the manager told me that the "representatives of community action agencies" mentioned in the PUC press release are nothing more than members of an "association" – these are not people who deal with the energy assistance program and its implementation on a day to day basis. Once again, the public has been **deceived**.

The public had no say in this process – the proposed rule has already been written! The only chance that consumers have to participate in the implementation of the rule is almost gone. **This is not only immoral and unethical, but it smacks of malfeasance of office, criminal conspiracy, and outright fraud!**

One has only to look to the case of UNITED STATES v. GUEST, 383 U.S. 745 (1966). For criminal conspiracy in violation of 18 U.S.C. 241 (1964 ed.). That section provides in relevant part:

"If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same;

.....

"They shall be fined not more than \$5,000 or imprisoned not more than ten years, or both."

The PUC and the utilities, working together, have come to a foregone conclusion. This solicitation for comments is nothing but a formality. **There is no due process! This is a case of unbridled authority. This is an "in-house deal"**

where the health, safety and well-being of the public has been ignored. The rulemaking process in itself is flawed.

LAKEWOOD v. PLAIN DEALER PUBLISHING CO., 486 U.S. 750 (1988)

We hold those portions of the Lakewood ordinance giving the mayor unfettered discretion to deny a permit application and unbounded authority to condition the permit on any additional terms he deems "necessary and reasonable," to be unconstitutional.

Surely the Commission cannot find that this comment period (or the process of the proposal to change this rule) is reasonable! It is the Commission's duty to ensure that adequate provisions are available to protect the public's health, safety and well-being.

This process will result in a violation of basic civil liberties, and liability for such is not protected by corporate or governmental employment.

PACKARD v. BANTON, 264 U.S. 140 (1924)

Moreover, a distinction must be observed between the regulation of an activity which may be engaged in as a matter of right and one carried on by government sufferance or permission. In the latter case the power to exclude altogether generally includes the lesser power to condition and may justify a degree of regulation not admissible in the former. Also See *Davis v. Massachusetts*, 167 U.S. 43, 17 Sup. Ct. 731.

HAFER v. MELO, 502 U.S. 21 (1991)

We hold that state officials, sued in their individual capacities, are "persons" within the meaning of 1983. The Eleventh Amendment does not bar such suits, **nor are state officers absolutely immune from personal liability under 1983 solely by virtue of the "official" nature of their acts. (emphasis added)**

Our state is in one of its worst economic crises ever. Many of our state's citizens have lost their employment due to layoffs or company closures, many are "under-employed" – highly skilled and educated workers have been forced to find jobs that are only part-time or that are lower-paying (try going from a middle class wage to working for minimum wage!). Unemployment figures in many of our state's counties are as high as 14%. The unemployment rate in the urban areas of this state has risen one-half percent since just last year. *And last year was not rosy for this state either.* (Figures obtained from Idaho Dept. of Labor on November 18, 2002).

Utility prices have risen; the price of gasoline, groceries, and other necessities of life are continuing to rise – and wages are lower. This is not the time to change the moratorium – the moratorium is designed to protect public health and safety. It is designed to allow for the necessities of heat and electric power in the coldest parts of the year – in a time of year when jobs may be scarce in the construction industries (or other businesses that cannot operate at full capacity during harsh weather).

Our economy is in such a state that people are having a hard time feeding their families - and we have the holiday season coming along. The stress of financial difficulties almost always tears at the family. Domestic violence and child abuse rates rise, marriages crumble and the family unit can become broken.

This is an unprecedented time of corporate fraud, of bonuses paid to corporate officers and of lower wages, underemployment or unemployment. One has only to look to such public cases as Enron for examples of this. **One has only to look at Idaho Power's recent bond passage (and public repayment of this bond) to understand the "bottom line" of utilities.**

All of the issues involving this proposal cannot be addressed in written comments. There is not sufficient time. The public is not aware that the process is happening. Public hearings should be held – with sufficient notice to the general public (the utility users and the very population who will be affected) as to the place and time of the hearings. The utilities should once again send out notices – giving sufficient notice as to the hearings. I would even suggest that the notices not be in fine print – perhaps the utilities should be made to make an ACTUAL EFFORT to inform the public!

Customers generally do, and should be urged to, pay what they can during the moratorium. I understand that during the moratorium the utilities must wait for a time of up to three months to collect on past due accounts. These utilities, however, are not losing their entire income, as the balances must be paid at the end of the moratorium. Only those with children, elderly or infirm persons in the household *even qualify* for the moratorium's protection.

I find it hard to believe that the 11,000 charged off accounts mentioned in the Intermountain Gas Company's notice of the proposal that I received are all due to the moratorium.

Again, there is no option for public utility service for users. There is no reasonable alternative to the fundamental utility services needed during the harshest months of the year. In a way, the adoption of the proposed rule will could be construed as a case of equitable estoppel. One cannot install a wood stove, generally, without conforming to local standards and ordinances. Will a local governmental entity allow large amounts of fuel for generators on a

residential premises? Are you thus leaving the only alternative of a potential violation of local standards and ordinances?

Additionally, if someone is unable to afford their gas bill, are they realistically going to be able to afford the purchase of a wood stove, alternative fuel heating source (i.e. fuel oil) or electric heaters? Once these are installed, the consideration of firewood, fuel oil, etc. must also be calculated into the equation of the up-front costs of an alternative to public utility service.

One also must consider that gas furnaces are basically useless if the electricity is not on to their household. Electricity must be a protected moratorium service, as well as gas. Can someone realistically put a generator outside his or her home to power their furnace blower or electric heater? As stated, local ordinances and standards can come into play here as well.

It is a sad experience at the time of the year when the moratorium ends. Public utilities worried about their "bottom line" and become "blood thirsty" for immediate payment. Yes, responsibility must be advocated for the user, but it must also be so for the supplier. Yes, large balances occur as a result, but once again, no one gets a free ride – the bill must be paid either way.

One must only look to the recent Idaho Supreme Court case of Orthman, et al v. Idaho Power Company to understand utility practices – and the reason for the legislative authorization given to the PUC – authorization to protect consumers and to regulate utilities. Idaho Power Company, in the circumstances leading to the injuries of the Plaintiff, was negligent in their collection practices.

Even though Idaho Power could not terminate service during the winter moratorium, it sent the Orthmans three termination notices during this period. Idaho Power representatives never specifically advised the Orthmans of the winter moratorium period, relying instead on a "Consumer Information" sheet sent to all customers in September to fulfill its notification requirements.

This is a common practice. It's an obvious assumption that the utilities despise the moratorium, and will do anything to eliminate it. Further, in the Orthman case,

On April 22, Armstrong went to the Orthmans' residence to disconnect the power. When he arrived, Nancy [Orthman] told him that she had paid \$400 on the account. Armstrong telephoned Hartruff and requested that she talk with Nancy. Nancy asked Hartruff if she could make payment arrangements, insisting that she could pay the bill that day or on the following day. Hartruff told Nancy that the bill had to be paid in full at that time and she did not have the authority to make a payment arrangement.

She did not inform Nancy about the company's standard payment arrangements. (Emphasis and last name added).

This was an interesting case; the Plaintiff was severely injured trying to reconnect his service (he lost both of his legs, as well as the use of his arms and hands). He violated the law by trying to turn his service back on so the case might be dismissed as irrelevant to this comment, however, Idaho Power was found to be just as negligent as he was. It is a prime example of failure on the utility's part to give the consumer all of the information and tools available to make satisfactory arrangements.

As the Intermountain Gas notice states regarding the 11,000 charge-offs in 2002, only 5% are eligible for energy assistance. Why is this? Because energy assistance eligibility requirements do not take into account many factors. The 150% poverty level does not take into account those who are struggling to catch up with their mortgage payment, trying to afford the rising cost of groceries, gas for their vehicles and other necessities. This is a horrible time for this change because of the economic situation our nation and state currently face. There is no warning, there are no reasonable, prudent or customary alternatives for consumers who are facing hard times, try as they may. New approaches should indeed be taken to mitigate the large balances after the moratorium ends, but the "pilot program" should not be allowed right now.

One must contemplate the entire idea of a "pilot program". It would seem to be yet another foregone conclusion that this will become formally accepted as a permanent change at the end of the trial run suggested – as the utilities will report back to the PUC of the "success" of the program – meaning the protection of their "bottom line".

Participation in moratorium relief should not be based solely on income eligibility. Cold weather is cold weather, no matter the income. If this is a requirement, however, the LIHEAP standard of 150 percent of federal poverty level is nowhere near appropriate. There are several reasons why it is not a sufficient requirement, including:

- The energy assistance guidelines do not count child support amounts paid out (although they do credit payments received).
- In the case of those who are self-employed, (for the entrepreneurs who are the heart and soul of this nation), only gross income is counted. No expenses can be deducted. Therefore, if one has high outgoing expenses – such as office supplies, equipment expenses, or other normal costs associated with business practices – with a very small actual monthly income from a business, that person will be disqualified. Alternatively, there is the option of using last year's profit and loss tax statements to

figure the monthly income, but this is a terrible economic time for our state – businesses are failing everywhere.

The recommended payment amount (50 percent of level pay) is perhaps reasonable to request, however, no one should have services disconnected simply because they cannot afford this. Once again, rising utility costs have hurt consumers. Bond repayment has hurt consumers. The economy is not rosy by any standard. Fixed incomes have not risen with utility prices. Unemployment is rising. Underemployment cannot even be measured on a practical basis.

Who would determine eligibility? The utility? The local Community Action Agency? How much paperwork is required of a person or persons? Or would a verbal statement be sufficient? Who would they submit it to and what is the timeframe for submission to avoid disconnection? Our Community Action Agencies are overwhelmed right now; how would they cope with increased paperwork or staff time to accommodate the utilities? In my research, no one has answered these questions. The consensus is that the public agencies are already overwhelmed to the point that they cannot fathom the increased need for assistance. They cannot spare the staff time to do this sort of requirement at this time. The Community Action Agencies have a lower budget this year - assistance for those limited few eligible for assistance will not even be adequate to handle their bills.

If a customer is not eligible, are the existing level-pay or other special payments options sufficient to address payment concerns during winter months? This is the question posed in the PUC press release. Cold weather is cold weather. If they are options, fine. **But it is clear that the proposed rule is already written with the “options” being mandatory.** Once again, no one gets a free ride. The customer’s bill must be paid in March (in full) anyway. The moratorium should stay intact. There is no doubt that the proposed “pilot program” will be instituted as a permanent program. We are in the middle of an economic crisis and the payment options listed are not sufficient or reasonable to those who are trying to avoid the reality of moving from a middle class income to a lower income. There are necessities such as rent (or house payment), food, basic clothing for the family, gas for vehicles to traverse to and from work, and on and on.

We also have the question as to who actually pays for charge-off’s: ratepayers or stockholders? Is this a misrepresentation being used by the utilities in their arguments? A business is a business, and there is inevitable economic risk. In the case of this rule change, however, it must be made abundantly clear that all the current moratorium does is to limit termination of service during the harshest months of the year: December, January and February – and only for those consumers with children, elderly or infirm residents living in the home. The bill

must be paid at the end of the moratorium, one way or another. Again, this is a time of economic crisis, not only in our nation, but especially for the residents of our great state. The PUC must take this into account when considering this change. **And the PUC must require that the petitioning utilities provide for sufficient notice to the affected public – this has not been provided.**

To continue on the subject of the charge-off numbers provided by Intermountain Gas, and the relationship between the moratorium and charge-offs, a good reading of the *FSC's Law & Economic Insights*, January/February 2002 edition is recommended. The subject of the newsletter is a study concerning payment patterns during Iowa's winter moratorium, which is similar to Idaho's winter moratorium. Fisher Sheehan & Colton, Public Finance and General Economics (FSC) completed a study examining whether Iowa utility customers protected by that state's moratorium changed their payment patterns or not during the moratorium timeframe. The Iowa Moratorium lasts from November 1 to April 1 of each year. The study, released in February of 2002, was based on 38 months of data.

From the inception of the Iowa winter shutoff moratorium, arguments have been raised that the blanket prohibition on the termination of service during the winter season would result in customers deciding to stop making payments toward their home utility bills. In the absence of the potential use of service termination as a collection tool, the argument goes, customers will stop paying their bills in order to, in effect, take a "loan" from the utility throughout the moratorium period.

A closer examination of the Iowa data, however, reveals that this conclusion as to increased payment trouble during the winter moratorium months is in error.

The study's conclusion? That the winter utility shutoff moratorium does not result in a "substantive change in payment practices." The study also notes that that state's "moratorium has been implemented without creating nonpayment problems for Iowa's utilities."

A similar study completed by the Bureau of Consumer Services (BCS) of the Pennsylvania Public Utilities Commission found that there is a relationship between their winter moratorium and amounts of arrears. It's simple: that although the utilities put forward the argument that they can't control past due amounts,

... if the assertion that winter termination restraints invite nonpayment were correct, then non-heating arrearages should show the same seasonal pattern of variations as do heating arrearages. That they do not casts substantial doubt on the assertion that PUC winter termination restraints

✓ Attached
sent to Al -
commented
previously

FAX TRANSMISSION

SICOG/AREA V AGENCY ON AGING

P.O. Box 6079

Pocatello, Idaho 83205-6079

208-233-4032 ext. 40

Fax: 208-233-5332

To: Idaho Public Utilities Commission **Date:** November 21, 2002
Fax #: 208-334-3762 **Pages:** 1
From: Pam Loveland-Schmidt
Case Management Supervisor
cc: Lance Elroy, Intermountain Gas Company
Mike Huntington, Intermountain Gas Company
Subject: Utilities Pilot Winter Moratorium Program
Dear Mr. Gene Fadness:


I wrote to you on 11/07/02 stating my concerns about the removal of the moratorium. I have spoke to Mr. Lance Elroy, Intermountain Gas-Pocatello and Mr. Mike Huntington, Intermountain Gas-Boise since that time and they have informed me that the moratorium is not being removed, it is being revised and will not affect those elderly clients that I was and still concerned about losing their heat in the winter.

Intermountain Gas in the past has worked very well with the Area Agency on Aging to assist the elderly in Southeast Idaho when they are having difficulty paying their gas bill. Mr. Elroy and Mr. Huntington have agreed to have their staff contact the Area Agency on Aging if they suspect the person not paying their bill is a person over the age of 60 and having difficulty paying their bill. Mr. Huntington personally assured me that Intermountain Gas will continue their commitment to assist the elderly.

If the Area Agency on Aging did not have a good working relationship with Intermountain Gas, I would be very concerned about the revision of the Moratorium, but at this time I feel that Intermountain Gas is committed to the protection of the elderly.

I would like to see the Utilities Commission consider inviting the Area Agency on Aging to be part of the committee that determines whether the Utilities Pilot Winter Moratorium will continue and to assist with the feed back once the Pilot Program begins. Thank you for your time, if you have any questions, please feel free to call me.

Sincerely,



Pam Loveland-Schmidt

Case Management Supervisor

✓ To A.V.
✓ Ben Beck
sent 11/21/02

Honorable Commissioners I Feel that any Change in
The winter moratorium This year is wrong. It Does
Not Give the Helping ~~Agencies~~ Agencies Time to
LARN How to ~~use~~ use the Pilot Program as Proposed
by certain utilities. I also feel That what the
Utilities are also Doing with this proposed pilot
Program is adding more work for the state
and local public Help ~~Agencies~~ Agencies. I feel
The Best Course of Action is NO ACTION leave
The winter moratorium in place

Sencerly Timothy J Shurtz
411 South Main #
Firth Idaho
~~83236~~ 83236

Jean These are peopel signed Their opposiation
To the ~~new~~ Proposed changes in the winter moratorium at
The Shelly Senior Citizen Center Thank Tim Shurtz
Open comments letter to IPUC : Nov 13 2002:

Honorable commissioners we the undersigned feel that the "winter moratorium"
prohibiting the disconnection of service from December 1 through February 28 has
served the people well. We oppose any changes to this program as proposed by certain
utilities in IPUC Case No. GNR-U-02-1, Order No. 29145.

Dorothy Snarr
Jane R. Thoresen
Colleen Easton
Ila Aders
Leland Estev
Julia Gullbransen
Zelma S. Polara
Mellie V. Bate
Margaret Vest
Alice Clark
Irene Leaf
Dolores Maerbi
Marie Mathewson
Orville H. Mathewson

Open comments letter to IPUC 13 December 2002:

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Evelyn M. Likes
Carlene S. Rust
Spilene Carly
Charlotte Morrison
Dorothy Green
Katherine Cox
Echie Young
Elda Calwood
Bariss Wells
Margian Hillman
Gene Johnson
Mary Crafts

Open comments letter to IPUC NOV 13 . . : 2002:

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Petecole

LINDA B

Antonia Meppen

Lucille Sant

Cecil L. Sant

Joseph Snyder

Judith M. Bride

m Reeler

Sue Brown

Marion Cook

Loretta Parmer

Beth Willey

Open comments letter to IPUC Nov. 13, 2002:

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Arthur P. Long
John W. Pether

Nelda Rae Miller

Marjorie Jenkins

Gila Kohler

Carl Coleman

Alberta Coleman

Freda Leihan

Olga Adalson

Frances Harker

John P. Harker

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Lorene Thompson

Janeal Swanson

Mary Ann Surl

Hazel C. Elder

Jean Gentillon

Leslie D. Bachstrom

Blanche Styhl

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David J. O'Quinn

Loran O'Kingsford

Lola Kingsford

Deto Harada

Yuki Harada

Clara Humphries

Dorothy Katter

Rose Nelson

Open comments letter to IPUC : NOV+3 : 2002:

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Winnona Young

Lay Sizemore

Blair McKellar

Blair McKellar

Donald A. Hoggan

Joan Hoggan

Don E. Howard

Ramona Howard

Lyla Koller

Verde Koller

Verde Carpenter

Ernest Humphreys

Mary Morris

Open comments letter to IPUC NOV-13 2002:

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Barrett D. Smith
Emmie Beechfield
Eva Gallup
Medora Webster
Laura C. Sewerby
Virginia Croft
