

Comments of the Snake River Alliance
To the Interim Committee on Energy, Environment and Technology
On Proposed 2007 Idaho Energy Plan Revisions
Oct. 18, 2011

Members of the Interim Energy, Environment and Technology Committee:

On behalf of the Snake River Alliance, its members and Board, please accept the following comments for consideration as your Committee embarks on revisions to the 2007 Idaho Energy Plan. The Snake River Alliance (Alliance) works for responsible solutions to nuclear waste and a nuclear-free future. It seeks to strengthen Idaho's economy and communities through the implementation of renewable energy sources in Idaho and the promotion of energy efficiency and conservation. The Alliance has been involved in the Idaho Energy Plan since its inception in 2006, including participating in subcommittee and full committee meetings and as a member of the Siting Subcommittee. The Alliance also participates regularly on energy policy issues at the Legislature, before the Idaho Public Utilities Commission, and on various regulated electric utility planning and other groups.

The Alliance has provided the Committee with its recent review of the implementation status of the 2007 Energy Plan, "Idaho Energy Plan Review," which is also available at www.snakeriveralliance.org

References to action items and recommendations below (i.e., **E-2 or I-2**) reflect their designations in the 2007 Idaho Energy Plan. Our recommended additions or revisions to the Energy Plan are denoted with a check-mark. Also, since the Office of Energy Resources and the Idaho Strategic Energy Alliance have now submitted two drafts to the Committee, for the sake of clarity we will refer to them as ISEA Draft 1 (submitted in September) and ISEA Draft 2 (submitted on Oct. 13).

The Energy Plan Revision Process

We continue to be dismayed with the process through which the 2007 Idaho Energy Plan is being revised. The Alliance is mindful that the Legislature did not appropriate additional funds to complete a top-to-bottom revision of the state's Energy Plan. Nonetheless, we remain concerned that the Interim Committee's decision to task the Office of Energy Resources (OER) and its Idaho Strategic Energy Alliance (ISEA) with undertaking a review of the plan may have been misunderstood by a number of parties, as evidenced by the events of the past 30 days.

The Committee received a draft of the ISEA revisions in September (ISEA Draft 1), shortly before its Sept. 28 meeting in Boise. Then, on Sept. 28, the Committee was told that ISEA Draft 1, which has been widely distributed, was actually a work in progress that still needed to be "vetted" by the ISEA Board of Directors. Alliance Clean Energy Program Director Ken Miller, testifying on Sept. 28 at the invitation of the Committee, told the Committee that ISEA Draft 1 contained a number of forward-looking recommendations or action items, including a more frank discussion of climate change-related issues

than in the 2007 Plan, and that the ISEA did a commendable job in freshening the data contained in original Idaho Energy Plan.

Unfortunately, ISEA Draft 1 has since been heavily edited and, in our view, diluted and weakened, particularly in the area of providing tax and other financial incentives to promote and accelerate implementation of energy efficiency and renewable energy installations on homes and businesses in Idaho. ISEA Draft 1 states, on Page 21:

“To that end, this Energy Plan recommends consideration of implementing a variety of tax incentives, regulatory actions, and utility programs in a fiscally responsible manner. Tax incentives can include income tax incentives and/or sales and use tax exemptions for households and businesses that invest in renewable energy and energy-efficient technologies. ”

It is unclear to us how ISEA Draft 1 containing the above language made it to this Committee, **because at the ISEA Board’s Oct. 7 meeting at the Idaho Power Co. headquarters, ISEA Draft 1 was stripped of action items that recommended incentives in the form of tax credits and other measures.** In our testimony to the Committee on Sept. 28, we expressed a concern that this might occur and we urged the Committee to remain faithful to the spirit of the 2007 Idaho Energy Plan and retain appropriate incentives, which have proven effective in Idaho and elsewhere in translating energy policies into action. The Western Governor’s Association’s January 2008 “Policy Recommendations for Energy Efficient Buildings” report validates our position:

“In order to reform bad habits and reinforce the best energy-saving practices, offering more robust incentive packages is a sensible way to drive the market toward meeting energy efficiency goals. The possibility of future climate change regulation also offers a unique opportunity to send clear market signals to stimulate investments in energy efficiency.”

“The federal government, states, local jurisdictions and utilities should increase the number of incentive options available to consumers and builders who make energy-efficient choices.”

“States and the federal government can offer more robust tax incentive packages to drive the market toward energy efficiency and conservation.”

“State and local governments are encouraged to formulate incentive-based regulatory mechanisms that favor homeowners and builders who make energy-efficient choices.”

As we told the Committee in our Sept. 28 testimony, we are mindful of the state’s ongoing budget challenges, and the Committee has been told by OER and the Idaho Public Utilities Commission (PUC) in their joint Dec. 11, 2009 report to the Legislature that budget constraints were partly to blame for the lack of progress in implementing many of the 2007 Plan’s recommendations. Nonetheless, we believe that removing incentive-based recommendations based on current economic conditions would be short-sighted and would severely compromise the 2007 Plan. **We urge the Committee to reject all ISEA recommendations that tax and other incentives be removed from the plan in favor of language that instead “encourages” certain actions by utilities and state entities. Based on our experience with the**

implementation of the 2007 Plan, simply “encouraging” action to put our Energy Plan into action has proven woefully ineffective.

Equally concerning was that the heavy editing of ISEA Draft 1 on Oct. 7 was done by a group of eight to nine ISEA Board members (some participated by phone for various periods of time) and included in that group were representatives of *four* electric utilities: Idaho Power, Avista, Rocky Mountain Power, and Idaho Falls Power. ***The lack of stakeholder diversity on the ISEA Board and the disproportionate representation of utility interests on the key ISEA decision-making body has been a persistent concern among those of us who have observed the Energy Plan revision process throughout this year.*** And while the Committee has been assured more than once that Board members approached the process in a posture that was not directly representative of their respective entities, the approach to the draft revisions at the Oct. 7 meeting was one in which some board members appeared to aggressively represent their employers and organizations. Consequently, the action items and related policy recommendations contained in ISEA Draft 2 that has been forwarded to this Committee appear to reflect the interests of the utility sector rather than those of the broader universe of energy stakeholders. Certainly, the important classes of residential and small business sectors are not being represented in any decision-making capacity in this process, although the fingerprints of Idaho’s utilities are evident in the ISEA Draft 2 that was submitted to the Committee on Oct. 13.

A draft energy plan such as ISEA Draft 2 that was presented to the Committee on Oct. 13 and that contains action items that were screened and edited by Idaho’s utilities is dubious, to say the least. While the public has for the most part been excluded from this process, Idahoans will soon learn how ISEA Draft 2 was developed. And when that happens, we believe ISEA Draft 2 will be correctly viewed by the public with suspicion as a plan that was vetted by Idaho’s utilities but not by the public. And that, we believe, will significantly set back this Committee’s review and update of the 2007 Idaho Energy Plan.

We would have liked to be able to direct the Committee to the minutes of the Oct. 7 ISEA meeting at which ISEA Draft 2 was refined, but evidently there will be none, according to a notice posted on the ISEA’s website:

Minutes were not taken at the October 7, 2011 Board Meeting

This was a working session for the Board rather than a routine meeting. The meeting was completely devoted to reviewing the ISEA proposed updates to the 2012 Idaho Energy Plan. The Plan and any associated updates/modifications will be made available by the Idaho Legislative Council’s Interim Committee on Energy, Environment and Technology (IC) at some point after they receive the final draft version from the ISEA, at which time public comment will be accepted by the IC through their own public involvement processes.

In our assessment, the Oct. 7 ISEA Board meeting was much more than a “working session” inasmuch as the Board took it upon itself to conduct significant decision-making business that, if the Legislature were to adopt ISEA Draft 2, would have long-lasting implications for state energy planning and policies. Also, our reading of the Office of Attorney General’s “Idaho Open Meeting Law Manual” dated July 2009

suggests that the failure to take and publish minutes of the Oct. 7 meeting might not conform to Idaho code. Specifically, the Manual on Page 5 cites Idaho Code 67-2344, “Written minutes of meetings.”

- (1) The governing body of a public agency shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:
 - (a) All member of the governing body present;
 - (b) All motions, resolutions, orders or ordinances proposed and their disposition;
 - (c) The results of all votes, and upon the request of a member, the vote of each member, by name”

It is difficult for us to see any conditions under which the ISEA Board’s failure to memorialize through minutes the decisions made at its Oct. 7 meeting does not conflict with Idaho Code 67-2344 and its requirement that a state “public agency” such as the ISEA maintain adequate records and minutes of its meetings. The public is entitled to know that Idaho regulated utilities proposed changes to ISEA Draft 1 that were adopted and included in ISEA Draft 2.

Moreover, we remain deeply concerned that much of the excellent work products of the various ISEA task forces – notably but not exclusively that of the energy efficiency task force – did not survive the difficult trip upstream in the ISEA structure to find a place in the action items and policy recommendations settled on by the Board on Oct. 7. The task forces were populated by scores of dedicated and expert participants from multiple energy sectors; we would have hoped their recommendations and work products were better reflected in what would become ISEA Draft 2.

We will discuss our position on the Energy Plan’s incentive provisions in more detail elsewhere in these comments. Our concern here – as it has been since this process began – is that the public and stakeholder interests have been marginalized while important policy recommendations were discussed, processed and passed on to the Legislature in the form of ISEA Draft 2. ***Furthermore, the timing of the ISEA’s delivery of Draft 2 to the Committee, five working days before the Committee’s Oct. 20 meeting, completely short-circuits public input and poses the risk of an unsatisfactory plan that lacks the support of energy consumers and others who are most affected by the Plan and its policy recommendations.***

We appreciate the efforts by this Committee to try to provide the public with adequate opportunities to review and comment on revisions to the Energy Plan. But time and other events beyond the Committee’s control have conspired to severely limit public participation in this process. Like most who will comment to the Committee, we submit these comments without the benefit of having adequate time to review the final ISEA work product, or ISEA Draft 2.

In addition, despite the Committee’s apparent support of soliciting public review and comment on this important matter, we are concerned that the public has not been adequately informed of the opportunity to do so. Not until Oct. 13 did a notice appear on the Legislature’s website advising the

public of a comment opportunity or how to submit comments and to whom. This is not the fault of the Legislative Services Office: It didn't receive ISEA Draft 2 until Oct. 13 and it posted the comment opportunity as soon as it received that. Unless someone was at the Committee's Sept. 28 meeting, there was no way for members of the public to be aware that this process is occurring and that the Committee is interested in hearing from the public and stakeholders about the Energy Plan revisions. ***So far as we can tell, the Snake River Alliance's news release of Oct. 13 (attached) and the posting on the Legislature's website are the only attempts by anybody to notify the public of this critical comment opportunity.***

- ✓ In light of the above and the late arrival of ISEA Draft 2, we recommend that the Committee extend its proposed Oct. 21 public comment deadline and that it establish a mechanism to solicit and review public comments on the Energy Plan revisions.

As it stands, the public may have an opportunity to provide input on what they would like to see in a revised plan. But if ISEA Draft 2 is accorded any more weight than public comment, it is inappropriate to provide the public less than a week to absorb the 150-page ISEA product and respond to it in a thoughtful fashion.

Energy Priorities and Plan Organization

The 2007 Idaho Energy Plan is unambiguous in the energy priorities that Idaho should adopt in meeting its future energy needs. Just as in the Northwest Power and Conservation Council's Sixth Power Plan, Idaho's Energy Plan's first priority is appropriately energy efficiency and conservation, followed by clean renewable energy and finally thermal resources such as natural gas. ISEA Draft 1 (sent to the Committee in advance of the utility-vetted ISEA Draft 2) agreed:

3. *Establish conservation, energy efficiency and demand response as the highest-priority electricity resource for Idaho.*

In addition, ISEA Draft 1 states on Page 22 (emphasis ours):

*"The Committee finds that energy conservation and energy efficiency measures provide the greatest economic and environmental benefits for Idaho (and enhanced economic competitiveness for our businesses) **and should be Idaho's highest-priority energy endeavor resource** and thus it is a major focus of the 2012 Idaho Energy Plan. The Committee believes that increasing investments in energy conservation is in order to reduce Idaho's dependence on out-of-state energy sources. To this end, the Plan recommends a variety of tax incentives as well as encouraging Idaho utilities and the Idaho PUC to pursue cost-effective energy efficiency measures to their full extent. "*

ISEA Draft 1 states further on Page 68 (emphasis ours):

"First, the Committee finds that energy conservation and energy efficiency measures provide the greatest economic and environmental benefits for Idaho (and enhanced economic

competitiveness for our businesses) and **should be Idaho's highest-priority energy endeavor resource**; however, there are many barriers that currently prevent this "resource" from being utilized to its full potential. Second, the Committee finds that continued increased support investments in economically attractive local renewable energy resources such as wind energy, geothermal energy, low-head hydro and biomass (biofuels and biopower) fuels could also provide economic benefits, particularly in rural areas of the state, while representing an environmentally-friendly source of energy."

Unfortunately, at its Oct. 7 meeting, the ISEA Board first considered changing "highest priority" to "high priority" and ultimately set energy efficiency as "a priority," evidently not distinguished from other "priority" energy resources. There was no justification given for demoting energy efficiency's rank as the highest priority resource, and the original language from ISEA should be restored.

- ✓ The 2012 Idaho Energy Plan must recognize energy efficiency as the "highest priority" resource for the state in meeting its future energy needs.
- ✓ Retain ISEA Draft 1 language in Electricity/Resources/Policies No. 4: "Encourage the development of customer-owned and community-owned renewable energy and combined heat and power facilities." There was discussion at the Oct. 7 ISEA meeting that the term "cost-effective" should be added to this policy item, but we object on the grounds that modifying this policy would eliminate from consideration some renewable energy investments that may not meet a "cost-effective" standard but are nonetheless worthwhile based on other considerations. "Cost-effective" should not be the sole criteria by which such developments are "encouraged."

Energy efficiency and conservation, along with demand-response and other "demand-side management" (DSM) initiatives are deservedly the backbone resource available for Idaho. This is not a matter of semantics: Reducing energy efficiency from the Plan's "highest priority" resource to "a priority" at the behest of the ISEA's utility representatives and without public review is a dramatic and indefensible deviation from the 2007 Energy Plan *that was overwhelmingly approved by the Idaho Legislature*. At 3.5 cents to 6 or 7 cents per kilowatt hour, energy efficiency and other DSM measures are the single most important factor in keeping electric utility bills as low as they are and sparing Idaho consumers even higher energy bills than they are already struggling with. They can also be implemented quickly and they provide utilities with the flexibility they need in managing their overall energy needs.

Renewable energy resources blend well and complement DSM programs. The suite of renewable energy resources in Idaho, including small hydro, biomass, wind, solar, geothermal, and to a degree co-generation, are abundant and developable on a relatively short timetable. Utilities are rapidly reducing the integration issues presented by variable and other renewable resources. In the event DSM and renewables cannot fill Idaho utility needs, conventional resources, usually thermal, are the backup. Inasmuch as new coal plants will not be built in the near future, natural gas is the most likely fuel source for any new supply-side resources needed by Idaho utilities.

- ✓ This sequence of energy priorities made the 2007 Idaho Energy Plan credible and the intervening five years have not changed the way the priorities line up. We strongly urge the Committee to acknowledge the efficiency-first policies that were overwhelmingly adopted by the Idaho Legislature in 2007 and memorialize these priorities once again in the 2012 Idaho Energy Plan.

With regard to the Plan's organization, we believe the format used in the 2007 Plan is logical and sound in that it presents Idaho's energy picture, challenges and opportunities and then provides policy-level recommendations and then action items to carry out those policies. We also congratulate the ISEA for updating the data and technological opportunities and other factors in its Draft 1, as the updates make the 2007 Plan once again relevant in today's rapidly changing energy world.

- ✓ As we did in our Sept. 28 testimony, we urge the Committee to retain this format and review the 44 recommended action items to determine which ones can be removed from the plan and, as discussed below, which ones can be added as new action items. For reasons outlined above, this should be the job of the Interim Committee and not the ISEA. In our view, the ISEA's assignment was to update the 2007 Idaho Energy Plan, not send it in entirely new directions, which is what seemed to have occurred in the hasty, four-hour editing session on Oct. 7 that changed ISEA Draft 1 into ISEA Draft 2.

Retaining measurable action items and benchmarks in the 2012 Energy Plan is important to judge the progress with which the Plan is being implemented. The Plan will be reviewed by future Legislatures, and decisions can be made as to where the Plan's policies and intent were accomplished and where progress remains to be made. We are not suggesting a list of action items that can be "checked off," but rather meaningful measures that will help assess the state's efforts to move forward on sound energy policy.

Energy Efficiency

As mentioned above, energy efficiency is the resource of first choice not only in the 2007 Idaho Energy Plan and the Power Council's Sixth Power Plan, but also in almost every state or local energy planning or strategy document. We remind the Committee that ISEA Draft 1 recommendations included this passage on Page 47:

"The Power Council's most recent estimate, published in the Sixth Northwest Electric Power and Conservation Plan, suggests that achievable potential conservation is 4,000 to 6,000 average megawatts. Of that, approximately 2,500 average megawatts will require new initiatives, programs, market transformation efforts or progress toward adoption in codes and standards. Idaho accounts for approximately 15 percent of regional electricity load, so a simple allocation suggests that there are approximately 375 to 600 aMW of conservation in Idaho that could be acquired over the next 20 years. The Power Council reiterates that improved efficiency of electricity use is by far the lowest-cost and lowest-risk resource available to the region."

Then, at Page 81 of ISEA Draft 1:

“The Northwest Power and Conservation Council produces estimates of the amount of conservation that can be acquired cost-effectively in the four-state Pacific Northwest region. The Power Council’s Sixth Northwest Power Plan concluded the entire region could meet 85% of future load growth through cost-effective efficiency over the next 20 years. This is double the amount in the Fifth Power Plan and is attributed to better technology, falling costs, and new program designs. The Council noted that “failure to achieve the conservation included in the plan will increase the cost of, and risks to, the power system . . .” and hinder other states efforts to meet their carbon reduction goals. The Power Council’s most recent estimate suggests that approximately 5,900 aMW of conservation are achievable in the four state region between 2010-2030. Current electric utility integrated resource plans published by Idaho’s investor owned utilities comprise approximately 350 aMW over a similar period of time.”

It is indisputable that energy efficiency is the resource priority of choice for Idaho’s utilities, something that must continue to be reflected in the 2012 Energy Plan. We urge the Committee to consider the following comments on energy efficiency policies.

- ✓ Conservation or efficiency targets and energy efficiency standards should be established as approved by the Legislature in the 2007 Plan in recommendations **E-2 and E-4**. Some of the 2007 Energy Plan’s most important recommendations deal with whether and how Idaho should mandate or promote efficiency through a variety of standards, targets and incentives. While we are aware of the desire to avoid mandates in favor of letting the market steer policies, the efficiency targets envisioned in the 2007 Plan were far from onerous. In fact, the Plan recommended setting reasonable efficiency targets and then providing “appropriate shareholder incentives for investor-owned utilities that achieve the conservation targets established by the PUC.” Such incentives would reward utilities and their shareholders for reaching the targets. As evidence that utilities are open to the idea, Idaho Power and other stakeholders held a series of workshops to explore what such an incentive-based system might look like.
- ✓ Idaho should join the regional and national trend in which appliance efficiency standards for such things as industrial equipment but also consumer items such as appliances and televisions are adopted to continue to transform the U.S. appliance markets to one that places a premium on energy efficient appliances and devices. Some of these market transformation processes are already under way.
- ✓ Idaho and its utility regulators should consider reviewing the standards by which energy efficiency measures are deemed “cost effective” for purposes of a utility’s ability to recover the costs of such programs from customers through rates (**Recommendations E-1 and E-2**). While the state does employ well-regarded measurements to determine the “cost effective” nature of such efficiency programs, we believe some energy efficiency measures (such as a program to

gradually replace aging and inefficient residential air-conditioners) might not pass the “cost effective” test today but would in fact deliver long-term benefits that warrant their consideration in future efficiency program offerings.

- ✓ Idaho utilities should be more aggressive in pursuing service territory-specific market transformation programs, including but not limited to those programs funded through their respective and existing demand-side management (DSM) efficiency riders and those programs funded in partnership with the Northwest Energy Efficiency Alliance (NEEA).
- ✓ Idaho regulators and electric utilities should more aggressively explore new “rate design” techniques as part of future utility rate cases. Such rate mechanisms may include expanded tiered rate pricing to send stronger price signals to utility customers and encourage more energy conservation. In addition, as Idaho’s regulated electric utilities complete deployment of their Advanced Metering Infrastructure (AMI, or “smart meters”), the PUC should initiate proceedings necessary to identify issues associated with “time of day” pricing. Some of these programs have been on hold until the utilities have fully deployed their new meters, so the time has come to be more proactive in exploring new rate design methodologies. In doing so, careful attention must be given to possible (and often unintended) impacts on lower-income utility customers. In many cases, these customers are least-able to afford some energy efficiency measures, and in some cases, these customers do not own their homes and as a result depend on landlords to implement needed improvements.
- ✓ With regard to whether non-regulated electric utilities such as those owned by municipal governments or cooperatives “should annually report to the Energy Division their estimates of cost-effective conservation and energy efficiency expenditures, and their estimated savings in electrical energy and peak capacity during the lifetime of the measures implemented,” recommendation E-7 should be revisited so the state can establish a more transparent energy efficiency reporting system for these non-regulated utilities. The Energy Division became the Office of Energy Resources subsequent to the Energy Plan’s adoption, but the office is still a logical place for reporting by non-regulated utilities that are not overseen by the PUC. The Legislature could and should address this issue through statute if necessary. To the extent the public utility sector is compiling and reporting such information, it should be reported to the public by the Office of Energy Resources as recommended in this action item.

These efficiency measures – and the need to retain energy efficiency as the “highest priority” resource in the 2012 Energy Plan – are all the more important given the argument made by ISEA in Draft 1 on Page 47:

“Thus, increased investment in conservation not only reduces total energy expenditures but shifts a portion of the remaining expenditures from imported fuel to locally-provided goods and services.”

And at Page 49:

“Energy efficiency activities, as currently being pursued by the utilities and the state, not only reduce participating utility customers’ total energy costs but have the added benefit of reducing the long term cost of energy supplies to Idahoans. Investments in energy efficiency also result in local economic development benefits such as support of engineering firms, wholesalers, retailers and contractors to meet the market demand for more efficiency equipment, material, appliances and supplies.”

During the ISEA’s Oct. 7 meeting, Board utility representatives suggested and the Board agreed that the word “all” should be removed from directives to Idaho’s regulated utilities that they should seek and acquire “all cost-effective energy efficiency.” The “all cost effective” language is and always has been reasonable and was taken from a PUC order directing the utilities to do so. It is also language that was expressly approved by the Idaho Legislature in 2007.

ISEA Draft 1, submitted to this Committee in September, notes at Page 77:

“Idaho electric utilities continue to place an emphasis on cost-effective conservation, energy efficiency and demand response, and the Idaho Public Utilities Commission has “steadfastly” directed Idaho utilities to pursue all cost-effective DSM programs. Energy Efficiency and conservation not only addresses current energy use, it is a reliable and cost effective resource to meet future energy demands. This new “supply” of energy comes in two forms, increasing energy savings from existing programs and new savings from new programs. Today, Idaho’s utilities analyze new energy efficiency and conservation as a viable supply resource when factoring their total load and resource balance.”

Consequently, we were very disappointed that during the course of discussion at the Oct. 7 meeting, utility interests on the ISEA Board successfully led a drive to remove the word “all” from the cost-effective recommendations. This is particularly important in light of the fact that, as mentioned above, energy efficiency measure costs range from 3.6 cents to 5.1 cents per kilowatt hour, far cheaper and easier to acquire than any supply-side resource.

- ✓ The Committee should ensure that the term “all cost-effective energy efficiency,” which is a reference to existing PUC orders, be retained in the 2012 Energy Plan. It is inappropriate to alter this language, which is a vital part of the PUC’s regulatory oversight of utility DSM performances.

Renewable Energy Resources

We reiterate our concerns that the ISEA is proposing that tax and other incentives be removed from the 2012 Idaho Energy Plan. As Idaho’s second-priority electricity resource, renewable energy development is critical in meeting the state’s future electric load increases.

- ✓ To comply with recommendation **E-12**, the state should be required to conduct an analysis to determine the cost of broadening the existing renewable energy incentives, particularly to business customers.
- ✓ To meet the spirit of recommendation **E-17**, the PUC should convene a stakeholder workshop to determine whether the current net metering system in Idaho can be improved, and if so how. None of Idaho’s three utilities are close to approaching the “cap” on total net-metered capacity they are allowed by the PUC, and the PUC should explore why that is the case and what can be done to encourage or facilitate improved net metering participation.
- ✓ The Legislature, in conjunction with the PUC, should determine how Idaho utilities and regulators deal with the issue of renewable energy credits (RECs) or the credits from renewable energy resources. Issues that must be resolved at the regulatory level include how and under what circumstances utilities can *purchase* RECs from renewable energy projects they contract with, and also the issue of whether RECs can be retired by utilities as a way to help those utilities meet future clean-energy standards, such as a federal renewables portfolio standard or renewables energy standard. The REC issue was not adequately addressed in the Energy Plan, which recommended state agencies examine how to treat the credits. The Energy Plan should be revised to move this long-running problem toward resolution.
- ✓ Idaho, like many states, is at an impasse over how to implement incentives for homeowners and businesses to encourage greater use of solar and other forms of renewable energy and energy efficiency in homes and businesses. One mechanism, the property assessed clean energy (PACE) method of allowing property owners to access public funds for such improvements and repay their loans through their property tax payments, should be examined in more detail to determine how it or a similar mechanism can be implemented without raising constitutional concerns.

The importance of tapping Idaho’s abundant renewable energy resources to meet future load growth and to offset the generation that will be lost through the eventual decommissioning of the coal-fired power plants used by Idaho utilities is undeniable. ISEA Draft 1 says as much on Page 87:

“Renewable resources provide fuel diversity, reducing Idaho’s exposure to high and fluctuating natural gas, oil and coal prices. In-state renewables also typically have attractive environmental attributes because of substantially reduced air and water emissions, including carbon dioxide. Finally, in-state renewable resources contribute to economic growth by creating jobs and tax revenues in Idaho, frequently in rural areas that are most in need of new economic stimulus.”

With regard to the Public Utility Regulatory Policy Act (PURPA), we believe the recommendation in the 2007 Energy Plan dealing with the PUC continues to be valid. We urge the Committee to retain updated language in ISEA Draft 1 that says:

- ✓ The Idaho PUC should administer its responsibilities under (PURPA) in a way that encourages the cost-effective development of customer-owned renewable generation and combined heat and power facilities.”

During discussion on this issue at the Oct. 7 ISEA meeting, utility representatives argued (on behalf of their employers) to strike this action item. This is all the more noteworthy in light of the fact that Idaho’s three electric utilities are currently embroiled in a highly controversial docket before the PUC on precisely this issue. ***To manipulate the 2012 Idaho Energy Plan in a way that removes from state policy a goal that the PUC encourages PURPA development at the bidding of the very utilities that are involved in this complicated matter would be unfortunate and could create the impression of a conflict of interest.*** The issue of PURPA implementation in Idaho continues to be complex and polarizing. The Legislature should use utmost care in wading into this ongoing debate beyond the recommended action item above.

Nuclear

With regard to the Energy Plan’s lone recommendation (**E-20**) dealing with nuclear power, it should be noted that Idaho’s investor-owned utilities have indicated no interest in financing or developing a nuclear facility, “next generation” or otherwise. INL is investigating new nuclear technologies, but there is no direct utility involvement, largely because such an expenditure would not be recoverable from ratepayers and because the cost of nuclear power compared to other energy resources considered by Idaho utilities makes it a non-starter from a resource selection standpoint. We recommend this item be removed from the Energy Plan. But if this action item remains in the Energy Plan, ***the reference to Idaho utilities participating in such a nuclear feasibility study as envisioned in E-20 should emphasize that such participation would be at the expense of the companies and their shareholders – not Idaho utility customers.*** Such an expense could not reasonably survive a PUC prudence review. In addition, contrary to claims made by the state, there are no credible proposals for development of a non-utility or “merchant” nuclear plant in Idaho. We further recommend the Committee consider retaining the language contained in ISEA Draft 1, which again was submitted in September:

“Although several developers have expressed interest in siting commercial nuclear generating stations in Idaho and surrounding states that impact Idaho’s energy supply, there are no firm plans involving merchant generators or Idaho utilities to do so at the present time. Technology maturity, risk mitigation through demonstration and federal financial assistance, public sentiment post-Fukushima accident, greenhouse gas emissions policy, water availability, availability and proximity to transmission, and notably the cost of alternative generation such natural gas-fired generation, will all factor heavily on any decision by utilities to pursue commercial nuclear generation in Idaho.”

Conventional Resources

As the Committee is aware, Idaho's regulated electric utilities in the past five years have purged new coal-fired generation from their respective Integrated Resource Plans. None envision building new coal plants, and the prospects that IGCC coal plants with "capture and sequestration" technologies will be developed on a utility scale within the next 10 to 20 years are remote. Consequently, ISEA Draft 1 states, on Page 40:

"This substantially impacts generation costs and available options today and in the future, creating significant doubt regarding the viability of new coal based generation and the future of existing generation. "

And on Page 67:

"Idaho's electric utilities have historically relied on coal and hydroelectricity as their predominant energy sources. New investments in these two resources are becoming problematic, however, as large hydro resources are mostly developed and coal is increasingly associated with the impacts of global climate change. Moreover, these existing resources are now themselves sources of risk due to hydro relicensing and possible carbon regulation."

While the Alliance does not oppose research and development that might lead to a capture-and-sequester coal technology, particularly for retrofitting existing plants, this Energy Plan is about realistic technologies that are in place or may soon be available. IGCC technologies do not yet fall into that category, and as a result:

- ✓ While ongoing research and development into new and developing generation technologies may lead to cleaner energy generation, the 2012 Energy Plan should not suggest that Idaho utilities use ratepayer dollars to explore the potential of untested generation technologies. These kinds of investments are not recoverable in rates, and as a result such participation by utilities, while perhaps worthwhile, would be at the expense of the utilities themselves and their shareholders.

Facility Siting

ISEA Draft 1 artfully describes part of the problem facing state policy-makers when it comes to siting large generation or transmission facilities. From Page 91:

Over the past five years, proposals to construct energy facilities have generated a great deal of public interest and debate. The Committee believes this level of public interest in energy facility siting can only be expected to grow as existing and new energy facility proposals are advanced to meet future energy demands in Idaho. Therefore, the Committee reiterates the recommendation from the 2007 Plan that local jurisdictions make a reasonable effort to hear testimony about the impact of proposed energy facilities from citizens and businesses in neighboring jurisdictions. This is included in the Act.

We are aware that Idaho policy-makers are not disposed to create a meaningful state energy facility siting mechanism that allows the state to exercise its interests in siting decisions for large electric generation facilities, and we are mindful of the desire to keep these decisions with the local jurisdictions that could be home to such a project. However, as both ISEA Drafts acknowledge, the trigger mechanism that currently exists to allow local jurisdictions to seek the advice and experience of relevant state agencies has never been used. This despite the fact that Idaho has been the proposed site for a large nuclear reactor that would have profound impacts not only on the county at issue, but on the state as a whole. If counties are resistant to seeking state assistance in siting a generation facility as technically complex as the state's first commercial nuclear reactor, it is hard to envision a project that would trigger state involvement, even for technical expertise.

It is increasingly clear that Idaho must develop a coherent statewide energy siting system that protects the interests of local government jurisdictions while also ensuring that the rights and concerns of other Idahoans, as well as the far reaching environmental and other impacts, are considered when a large energy project is proposed. Recommendations S-2 and S-3 are designed to move the state forward on non-transmission energy facility siting, but to date the Legislature has been unwilling to explore the issue. The Legislature adopted H154 in 2007, but this is a voluntary measure that allows local jurisdictions to seek state advice, and so far that has not occurred, including for such massive and complex projects as proposed nuclear reactors in Idaho. No advisory teams have been created and no state siting mechanism has been established.

Opposition to siting legislation comes primarily from county governments that have objected to an usurpation of local control. However, it is abundantly clear that local governments are generally ill-equipped to deal with the complexities as well as the costs of siting a large power generation facility. Because such projects – whether renewable energy or traditional thermal generation facilities – create impacts that can spread far beyond a city or county's boundaries, state involvement in analyzing these impacts should be mandatory. Doing so need not deprive local officials of their decision-making authority, but it would inform Idahoans who might not otherwise be informed about the projects or be allowed to participate in their approval processes.

If the state does not intend to seriously address the issue of energy facility siting, this action item should be removed from the Energy Plan. Idaho cannot afford to allow far-reaching decisions to be made that affect its air and water quality and that have myriad other environmental and public health impacts in the vacuum of a single county.

The existing siting language in the Energy Plan and the language in ISEA Draft 1 (“The Office of Energy Resources should ensure local officials are aware of the Act and the opportunity to establish Energy Facility Site Advisory Teams to provide technical assistance when requested by local jurisdictions.”) is so broad and general as to be ineffective. The interests of all Idahoans confronting the impacts from large power facilities are currently not being protected.

- ✓ The Energy Plan should ensure that state resources are available to local jurisdictions to assist those jurisdictions in analyzing energy generation and transmission projects. A state analysis

shall be performed for any generation project in excess of 50MW and such analysis shall be provided to local jurisdictions and made available to the public, regardless of whether the local jurisdictions choose to act on the analysis.

The Need for a Consumer Advocate to Represent Residential Customers Before the PUC

Idaho is alone among the 13 Western states in not having a dedicated consumer advocate representing residential customer interests. Often called “consumer advocates” or “public counsels” or “ratepayer advocates,” these offices fill a role that doesn’t exist in Idaho: Intervening before the Public Utilities Commission on behalf of residential or small business customers that lack the expertise, training, time and money to represent themselves and their interests - or to hire someone to do it for them. In fact, residential and small business utility customers may be the only utility customer classes that aren’t routinely represented before the PUC: Industrial, special contract, large commercial and agricultural customers are amply represented in regulatory proceedings, generally by counsel who specialize in utility regulatory law. While PUC staff can sometimes fill the role of a customer advocate, it is not charged with representing the interests of residential customers – whose interests may be unique and may conflict with those of other customer classes.

Idaho low-income utility customers often are capably represented by counsel for Community Action Partnerships that also help provide bill-pay assistance, weatherization, and other services. But those interests, again, are not always in sync with the larger residential class. Instead, the interests of residential customers are sometimes represented by Idaho public interest groups such as the Snake River Alliance and the Idaho Conservation League, and by regional public interest groups such as the Seattle-based NW Energy Coalition and the Portland-based Renewable Northwest Project. These are groups whose missions include advocacy for energy efficiency, renewable energy, affordable energy, and progressive regulatory measures, but representing customers before the PUC is not truly their job.

- ✓ The Idaho Legislature should create an Office of Consumer Advocate to represent residential utility customers in matters before the Idaho Public Utilities Commission. Where this position should be located and how it will be staffed can be explored by the Legislature with the input from various stakeholders.

Energy Plan Implementation and Office of Energy Resources Funding

With regard to recommendations **I-1 and I-2** in the 2007 Energy Plan, the governor’s office acted unilaterally and without consulting the Legislature in creating the Office of Energy Resources on Sept. 4, 2007. The Legislature has not acted to codify OER’s statutory authority or duties, which continues to leave OER in a state of limbo. While this measure was a step in the right direction in removing Idaho’s energy office from the shadow of IDWR, the office continues to exist solely through the governor’s Executive Order 2007-15. That order is scheduled to expire Oct. 19, 2011, barring its renewal by the governor. Should that occur, the Office of Energy Resources would lapse. Despite efforts to do so, the

Legislature has not established a “statutory framework” for the energy office, and it should continue to pursue this.

- ✓ The Legislature should codify the statutory authority and duties of the Office of Energy Resources to ensure a more stable future for the only state agency that is responsible for energy planning, program administration, and policy development.

Equally troubling, OER remains without a source of dedicated funding, relying instead on an uncertain stream of grants and other outside financial support. This not only is unsustainable, it also creates serious concerns about the agency’s independence and its future. We are deeply concerned that OER’s lack of funding threatens its very existence. To its credit, OER created the Idaho Strategic Energy Alliance, which includes various task forces that contain stakeholders to examine energy issues. However, those task force reports have not resulted in legislation or policy changes. In addition, concerns have been expressed about the leadership hierarchy of the ISEA and the lack of broad stakeholder constituencies on some of the task forces. ***If, as has been the case so far, the Office of Energy Resources does not intend to attempt to translate these task force reports into meaningful policies, the Legislature should conduct an audit to determine why that is the case.***

- ✓ The Legislature, in conjunction with the executive branch, should explore possible funding mechanisms for the Office of Energy Resources to ensure the office’s continued financial and staffing stability.

Energy Affordability and Low Income Utility Customer Issues

The Alliance supported the inclusion of affordable energy and low-income issues in the 2007 Energy Plan and we were disappointed that those references were removed from the Plan prior to its submittal to the Legislature. We subscribe to the language contained in the 2007 Plan’s minority report.

While Idaho’s lower-income or fixed-income utility customers can benefit from efforts to keep gas and electric rates as low as possible, it is undeniable that the less fortunate among us are saddled with utility bills that gobble up a disproportionately larger share of their household income. By some estimates, fixed-income electric customers devote about 14 percent of their annual income for energy, compared to less than four percent for all customers. And in many cases, the options of doing something about it are more limited, whether because the home might be a rental or because the age of the home might make energy-saving improvements financially impractical if not impossible.

A big part of the problem is that lower income utility customers often face seemingly insurmountable challenges in becoming energy-smart electricity and gas consumers. There are federally funded and utility-funded programs to assist customers struggling to pay their power bills, and as important as those programs are, they don’t get to the root problem of porous, energy-leaking buildings; inefficient appliances; and outdated fixtures that bleed expensive electricity. In Idaho, for instance, studies show every dollar invested in weatherization returns \$3.77 in direct energy savings and other benefits. And the more homes that are weatherized, the more power is saved and the more we reduce the need for expensive new generation plants. Idaho community action agencies – the true workhorses in the fight

for energy affordability and low-income assistance efforts in Idaho – managed to plow tens of millions of dollars in federal stimulus energy dollars into weatherizing thousands of Idaho homes. Still, those agencies are the first to admit they were able to just scratch the surface, let alone shrink the waiting line for assistance.

To its credit, the Idaho PUC initiated its own “Inquiry About Energy Affordability Issues” in 2008. In directing Idaho’s energy utilities to participate in workshops dealing with low-income issues, the Commission said:

“The Commission recognizes that there are a variety of factors contributing to significant upward pressure on electric and natural gas rates in Idaho and energy affordability has become a central issue for many Idaho households and businesses. Utilities are facing the prospect of more customers being unable to pay their energy bills in full and/or on time. Customers who are unemployed, have lower incomes, and/or have fixed incomes that fail to keep pace with inflation are disproportionately affected by rising energy costs, since they must devote an increasingly larger share of their income to paying for natural gas and electricity.”

After holding workshops and receiving a mountain of feedback from stakeholders, the PUC issued an extraordinary report in February 2009. Participating in the workshop, along with PUC staff, were Idaho Power, Rocky Mountain Power, Avista Utilities, Intermountain Gas, the Northwest Industrial Gas Users, Community Action Partnership Association of Idaho, the Idaho Community Action Network, and the Snake River Alliance. Among the PUC’s recommendations was one that was introduced in the Legislature but, inexplicably, was not enacted to allow the within-class “discrimination” in rates referenced above in order to help low-income consumers with their power bills. That change requires legislation, and the recommendation would have been voluntary for Idaho utilities. The Commission report noted that 101,000 Idaho households qualified for assistance under the federal Low-Income Home Energy Assistance Program (LIHEAP) in 2008, but only 32,843 of those households received assistance due to a lack of adequate funding. The LIHEAP program in 2007-2008 had \$9,410,895 in funding, but would have needed an additional \$19,492,902 to cover all households with an average benefit amount of \$286 per household.

- ✓ The Legislature, in conjunction with the PUC and Idaho’s regulated electric utilities, should follow through with the PUC’s 2009 recommendations and establish a mechanism wherein the utilities may petition the PUC to offer within-class discriminatory rates for residential customers. Such a mechanism would qualify customers meeting certain income thresholds with lower electric rates than charged the overall residential class.

Climate Issues

The 2007 Energy Plan is almost silent on the issue of climate change, how to reduce greenhouse gas emissions, and how Idaho can prepare for eventual carbon constraints from outside the state. In light of the progress made by states other than Idaho in the time since the Plan was adopted, Idaho should show more leadership in how to reduce the state’s “carbon footprint.” This issue, as recognized by the Western Governors’ Association and other regional energy entities and the states, demands more

coherent examination and action by state government. Failure to do so places Idaho at risk of having to react and adapt to regional and national climate and greenhouse gas reduction initiatives rather than deal with them in a proactive manner. It is far better for Idaho to be an active participant in planning for carbon regulation rather than await mandates from outside the state.

As we testified on Sept. 28, the issue of whether one believes climate change is occurring, or whether there are human “fingerprints” related to the changes that we are seeing, is becoming less important as time passes. The facts are that policy-makers, government agencies, utilities and others *outside of Idaho* have determined that greenhouse gas emissions must be significantly reduced. Idaho cannot take a pass on making similar decisions if for no other reason than that those decisions directly affect Idaho utilities, businesses and others that conduct their affairs across state lines. Idaho is not immune from the greenhouse gas-reduction strategies being implemented elsewhere.

ISEA Draft 1 contained a laudable characterization of the greenhouse gas and CO₂ challenges Idaho faces in the future. We are concerned that the ISEA proposed revisions submitted to this Committee in the ISEA Draft 2 will undercut the work represented in the initial draft. For instance, ISEA Draft 1 at Page 89 underscores the risks facing utilities that continue to rely on coal-fired generation for significant portions of their portfolios:

“Carbon dioxide (CO₂) has increased from approximately 280 parts per million (ppm) to over 390 ppm over the past 150 years. This rise in CO₂ is increasing the acidity of the oceans, and is likely a contributor to both global and regional changes in temperature and precipitation. These changes in CO₂ levels pose a real and present threat to human security and prosperity, and in response, the federal government has begun to take action. It is likely that global and national efforts to control CO₂ will impact Idaho’s economy; both through energy pricing and our overall economic competitiveness. Idaho is among the nation’s largest per capita energy importing states, and many of our energy imports come from coal-fired power plants that are most susceptible to carbon-based price increases. If pending regulations increase power production costs, utility regulators in states hosting the power production facilities will likely act to protect the consumers in their region. This could further increase the price of power sold on the open market. When current long-term power contracts expire, these higher prices could expose Idaho electricity consumers to higher rates than neighboring states pay. Additionally, our rural, dispersed economy depends heavily upon personal vehicles and is sensitive to increases in fuel prices.

Large energy facilities can have significant and complex environmental impacts. Generating plants fired by fossil fuels consume large volumes of water and emit carbon dioxide and mercury as well as regulated pollutants such as carbon monoxide, sulfur dioxide, particulates, and oxides of nitrogen. Nuclear power plants pose a safety risk to surrounding communities and create radioactive waste that must be safely stored for thousands of years.

The Committee is particularly concerned about the possible impact of federal regulation of carbon dioxide and other greenhouse gas emissions. The Committee did not debate the science of global climate change. The Committee found it sufficient to note that there is enough momentum behind

efforts to regulate greenhouse gases at the federal level that it is prudent for Idaho and its energy suppliers to continue to incorporate that likelihood into their energy planning. The Committee encourages these utilities and all Idaho energy producers, deliverers, and consumers to continue to improve their preparedness by pursuing less carbon-intensive resources as part of a diversified resource portfolio.

While federal regulations on carbon dioxide and greenhouse gases have potential for significant impact on energy costs in Idaho, such regulations also may provide potential opportunities. Idaho has an abundance of renewable resources and energy efficiency opportunities, which would reduce Idaho's exposure to CO₂ regulatory risk while fostering economic growth. Further, clean energy technology development including equipment design, software and control instrumentation, and manufacturing to serve the needs of state, regional, and global markets would further add to economic development. “

This is important language that is new to the Energy Plan. We recognize there have been and will continue to be attempts to weaken or remove it, and we urge the Committee to resist those attempts. Further, we also urge the Committee to acknowledge the impacts climate change policies are having and will continue to have on Idaho and its utilities.

- ✓ The 2012 Energy Plan must contain an honest assessment of the impacts of greenhouse gas-reduction policies being implemented outside of Idaho and how those policies are and will continue to affect Idaho's energy and economic development decisions.
- ✓ In preparation for what may be costly greenhouse gas-reduction mandates coming from Washington, D.C., Idaho should establish its baseline greenhouse gas emissions levels so that it can measure progress made in stabilizing and reducing those emissions over time.
- ✓ Idaho should establish a state commission to monitor climate change and greenhouse gas emissions issues, as well as policy and other initiatives taken by states and the federal government to curtail emissions, as those actions may have a direct impact on Idaho, its economy, and its future energy choices.

Conclusion

We compliment the Committee for the earnestness with which it is addressing this important issue.

As we did at the Committee's Sept. 28 hearing, the Alliance stands ready to assist and participate at any level in the Legislature's laudable efforts to update the 2007 Idaho Energy Plan and to create a 2012 Plan that launches Idaho on a forward-looking, innovative energy future.

Respectfully submitted,

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