

Additional Comments of AARP Idaho
To the Interim Committee on Energy, Environment and Technology
On The Draft 2012 Idaho Energy Plan
November 18, 2011

On behalf of AARP's 180,000 members in Idaho, we submit the following additional comments on Draft 2012 Idaho Energy Plan, dated October 14, 2011. Ensuring consumers, especially low income and seniors, have access to affordable energy is a top priority for AARP. AARP files these additional comments to supplement and expand on our initial comments of October 17.

As stated in our initial comments, AARP supports adding language to the Draft Energy Plan to address affordability. AARP supports the proposal made by CAPAI that would give the Public Utilities Commission authority to approve a discounted rate for low income consumers.

In our initial comments AARP recommended the creation of a utility consumer advocate office in Idaho. Idaho is the only state in the West lacking an office to represent consumers before state regulatory commissions, other agencies and the courts. These comments provide additional information regarding state utility advocate offices across the country.

I. Introduction

Utilities in Idaho serve three main customer classes: industrial, commercial and residential. While the residential class is the largest, it is the group of customers that seldom has independent legal representation before the Idaho Public Utilities Commission (IPUC). Large commercial and industrial customers or their customer associations, as well as large government agencies are typically parties to utility rate cases. Idaho, unlike 42 other states and the District of Columbia, has no state-financed customer advocate participating at IPUC proceedings to represent residential customers.

AARP Idaho supports creation of an Office of Consumer Advocate for Utilities provides independent legal representation for residential and small commercial customers before the PUC, federal agencies and the courts. This representation could be accomplished at modest cost, yet provide a vital service to residential customers who struggle under the burden of high energy prices, compounded by the impact of the economic downturn.

II. Structure of Consumer Advocate Offices

Forty-two states and the District of Columbia have established and created funding for utility consumer advocate offices to represent utility consumers primarily before state

utility regulatory commissions, but also before other state and federal agencies and the courts. Idaho is one of only nine states that does not support such an office.¹ In these states, the interests of residential customers, as a class, are not independently voiced when important decisions regarding utility rates and policies are debated before regulators.

In the states with state-sponsored residential utility consumer advocate offices, state law ensures representation of the interests of residential utility consumers in utility cases. To be effective, utility consumer advocate offices require sufficient funding and independence to represent the interests of utility consumers before regulatory agencies and in the courts, including the right to appeal regulatory agency orders. Depending upon the state statute, the consumer advocate offices usually serve as independent advocates for residential customers or residential and small business customers combined. The state statutes authorize the consumer advocate to represent the office's customer clients in proceedings before the state utility commission, and other policy making venues, such as the Federal Energy Regulatory Commission (FERC). The chief characteristics of these offices are that they represent the residential consumer interest, are independent of the regulatory agency and have authority to appeal regulatory decisions in the courts.

State utility consumer advocate offices typically are organized around one of the following models: as a stand-alone state agency; as a function of a consumer protection office; or as a specific duty of the state's office of Attorney General. In addition, consumers in states including Illinois, Oregon and Wisconsin are represented by state-created entities, such as a Citizens Utility Board ("CUB"). Funding sources include appropriations of state revenue, fees or assessments on utilities or CUB membership dues.

State utility consumer advocate offices are headed by an appointed official. In the majority of states the Governor or the Attorney General appoints the advocate. The Attorney General typically appoints a deputy within the office. In the remaining states the appointment is made by a governing board, another agency, or a legislative committee. Political accountability for the operation of the office, thus, rests with a single individual who is elected statewide in the case of the gubernatorial and Attorney General appointments, or with a multi-member board or committee.

The states that provide consumers with an independent office to represent customers before the utility regulatory agency generally follow one of several different models. Common models of utility consumer representation are independent, stand-alone state agencies (such as Ohio, Florida and Texas) that are separate and apart from the utility commission. A second model incorporates the consumer advocate representation function into the state's Attorney General Office. Another model is a separate office operating

¹ The states are: Idaho, Louisiana, Mississippi, Nebraska, North Dakota, Oregon, Rhode Island, and Wisconsin. However, Idaho provides "intervenor funding" to encourage participation by private groups representing consumers; Oregon and Wisconsin both have "Citizens Utilities Board" or CUBs which were created by statute, but now funded by dues. Nebraska has limited consumer representation for gas utility cases. Mississippi once had offices designated to represent consumers in utility cases, but these offices are no longer performing that function. Finally, the consumer advocate office in Georgia remains in law, but has had its funding zeroed due to the state's budget crisis.

within the building of the utility commission but where the consumer advocate is appointed by an authority independent of the Commissioners. In a limited number of other states intervenor funding is provided to outside groups to ensure they are able to participate in the process. The Citizens Utility Board or CUB is yet another model.

The state utility consumer advocate offices are headed by an appointed official. In the majority of states the Governor appoints the advocate or the appointment is made by the Attorney General, where he/she typically would appoint a deputy with the responsibilities of the office. In the remaining states the appointment is made by a governing board; another agency; or a legislative committee.

According to research conducted by the National Regulatory Research Institute (NRRI) in 2004², funding for state utility consumer advocate offices comes from three primary sources: appropriations from the state general fund; assessments against utility companies; or membership dues (in those states with CUBs). Idaho currently assesses utility companies to fund the operations of the PUC.

III. Examples of Residential Utility Consumer Advocate Offices in Neighboring States

The Public Counsel in the state of Washington is part of the Attorney General's Office:
<http://www.atg.wa.gov/Utilities/AboutPublicCounsel.aspx>

The Director of the Office of Consumer Services in Utah is appointed by the Governor, but the office receives legal assistance from the Office of Attorney General:
<http://ocs.utah.gov/aboutus/introduction.html>

Montana's Consumer Counsel office is included in the state constitution, and is appointed by the Legislature:
<http://leg.mt.gov/css/Committees/Administration/Consumer%20Counsel/membership.asp>

IV. Recommendation

AARP Idaho recommends the Draft Energy Plan include support for the establishment of a utility consumer advocate office with the duty and authority to represent the interests of residential and small commercial consumers of public utilities services. Our recommendation for inclusion in the plan is attached. We look forward to working with the Committee, members of the Legislature and other stakeholders to create an office to represent the hard working ratepayers of our state.

² "The Role of Utility Consumer Advocates in a Restructured Regulatory Environment", September, 2004, National Regulatory Research Institute, 04-12.

Sincerely,

A handwritten signature in black ink, appearing to read "David Irwin". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

David Irwin
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AARP Recommended Amendments and Addition:

6.8. ENERGY OUTREACH, ~~AND~~ EDUCATION ~~AND~~ CONSUMER REPRESENTATION

Policies

12. Idaho should raise the awareness of energy challenges and opportunities in Idaho through education, ~~and outreach,~~ and representation of residential and small business consumers before the PUC.

Energy is a critically important industry. Reliable, affordable energy supplies are not only critical to the functioning of a modern economy but are necessary to protect the public health and safety. The nature of energy systems necessitates a strong degree of public oversight, and regulation of electric and natural gas utilities places the state in a very active oversight role. In order to make informed decisions, the public and decision-makers must be well informed regarding these issues. Thus, the Committee believes that it is crucial for policy-makers to maintain consistent oversight of the energy industry and to stay informed about the latest technological and institutional developments. To that end, the Committee recommends a number of steps to raise the profile of energy issues 2012 Idaho Energy Plan within state government and to promote and oversee implementation of the recommendations of this Energy Plan.

Actions

EE-1. Encourage schools to provide courses or workshops on energy technologies, issues, and approaches.

EE-2. The Office of Energy Resources, including the Idaho Strategic Energy Alliance, should engage in public outreach and education and work with Idaho energy stakeholders to promote a reliable, diverse, cost-effective and environmentally-sound energy system for the benefit of Idaho citizens and businesses.

One of the roles that the Committee envisions for the OER is to work with the public, policy-makers, utilities and other Idaho energy stakeholders to promote the development and maintenance of a portfolio of energy resources that support the Objectives of this Energy Plan. Provided the monetary means to do so, the OER would serve as a clearinghouse for information about new technologies and ways to use energy more efficiently, and would provide this information in a variety of energy policy forums. The Idaho Strategic Energy Alliance was created, in great part, to provide a group of experts in various aspects of energy and thus is in an ideal position to provide guidance, information, and assistance in moving the state toward a reliable, diverse, cost-effective, and environmentally sound energy system.

EE-3. The Office of Energy Resources will report to the Legislature as requested on the progress of Idaho state agencies, energy providers and energy consumers in implementing the recommendations in this Energy Plan.

The Committee recommends that the standing committees with jurisdiction over energy issues maintain active oversight over the implementation of this Energy Plan, and that the Idaho Strategic Energy Alliance be available to provide ongoing expertise and information. The Committee recommends that the OER submit a report to the Legislature and testify to the standing committees every two years regarding the progress that has been made in implementing the recommendations of this Energy Plan. It is the Committee's expectation that this will provide a forum for standing committee members to consistently engage with state energy policy issues.

EE-4. The Interim Committee recommends that the Legislature revisit this Energy Plan and develop a process and approach to continually update data and assess opportunities and risks on a yearly basis and perform a complete revision of the Plan on at least a five year basis.

The Committee finds that it is important that the recommendations in this Energy Plan be subject to an organized review on a regular, scheduled basis to ensure that they continue to reflect the best interests of Idaho citizens and businesses. While the Committee cannot bind future Legislatures to a schedule for Energy Plan updates, the Committee recommends that data, lessons learned, technologies, approaches, etc. be revisited regularly (at least on a yearly basis) by the Idaho Strategic Energy Alliance as needed, and that the entire Plan be revised at least every five years. 2012 Idaho Energy Plan A-1

EE-5. The Interim Committee recommends that the Legislature create an Office of Consumer Advocate for Utilities to provide independent legal representation for residential and small commercial customers before the PUC, federal agencies and the courts.

Idaho is one of the few states that does not have an independent office to represent residential and small commercial customers when rate decisions are made at the PUC. To be effective, utility consumer advocate offices require sufficient funding and independence to represent the interests of small utility consumers. The chief characteristics of these offices are that they represent the residential consumer interest, are independent of the regulatory agency and have authority to appeal regulatory decisions in the courts. A portion of the utility assessment that is used to fund the PUC could be used to fund such an office.