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VIA ELECTRONIC AND U.S. MAIL

PUC Filing Center
Public Utility Commission of Oregon
PO Box 2148
Salem, OR 97308-2148

Re: UE 233 – Idaho Power Company's Application for Authority to Increase its Rates and Charges for Electric Service to its Customers in the State of Oregon

Attention Filing Center:

Enclosed for filing in Docket UE 233 is an original five copies of Idaho Power Company's Post Hearing Brief.

A copy of this filing has been served on all parties to this proceeding as indicated on the attached Certificate of Service.

Please contact me with any questions.

Very truly yours,

Wendy McIndoo
Office Manager

Enclosures
cc: Service List

1 II. ARGUMENT

2 A. The Commission's Prudence Standard is Objective.

3 The parties in this case now agree that the Commission's prudence standard is
4 objective³ and examines the "objective reasonableness of a utility's actions at the time the
5 utility acted . . . based on information that was available (or could reasonably have been
6 available) at the time."⁴ Although CUB now claims that "it has no quibble with the
7 [o]bjective [r]easonableness standard itself,"⁵ CUB's arguments still rely, to some extent,
8 on its application of a subjective standard. For example, CUB argues that "this docket is
9 about what IDAHO POWER knew or should have known . . . This docket is not about what
10 PacifiCorp knew or should have known . . ." ⁶ However, by definition an *objective* standard
11 is the same for both Idaho Power and PacifiCorp because an *objective* standard looks at
12 what a *reasonable utility* would have done based on the information that was available at
13 the time.⁷

14 CUB also claims that "Idaho Power's whole argument advocates for a standard of
15 objective reasonableness" because the information Idaho Power actually relied on does
16 not demonstrate prudence.⁸ This argument completely ignores the fact that it is the

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18 ³ Citizens' Utility Board Oregon's Pre-Hearing Brief at 14.

19 ⁴ *Re Portland General Electric Co.*, Docket UE 196, Order No. 10-051 at 6 (Feb. 11, 2010) (internal
20 quotations omitted).

21 ⁵ Citizens' Utility Board Oregon's Pre-Hearing Brief at 14.

22 ⁶ Citizens' Utility Board Oregon's Pre-Hearing Brief at 5 (emphasis in original). Although CUB
23 makes this argument at one point in its brief, it also argues the opposite—that Idaho Power and
24 PacifiCorp have the same due diligence obligation and that "[i]f PacifiCorp is found to be imprudent
25 it stands to reason that Idaho Power has been imprudent as well." Citizens' Utility Board Oregon's
26 Pre-Hearing Brief at 9-10.

27 ⁷ *Re PacifiCorp*, Dockets UM 995/UE 121/UC 578, Order No. 02-469 at 4-5 (July 18, 2002); *Re*
28 *Public Utility Commission of Oregon Investigation to consider adoption of new federal standards*
29 *contained in the Energy Independence and Security Act of 2007*, Docket UM 1409, Order No. 09-
30 501 at 5 (Dec. 18, 2009) (Commission applies a "reasonable person" standard to prudence
determinations).

⁸ Citizens' Utility Board Oregon's Pre-Hearing Brief at 21.

1 Commission, not Idaho Power, that has adopted and consistently applied an objective
2 prudence standard.⁹ Indeed, in her prehearing ruling in this case, ALJ Pines has stated
3 that it “would misapply [the Commission’s] prudence standard” to strike from the record
4 studies that were not actually relied on by Idaho Power.¹⁰

5 **B. The Decision to Invest in the Jim Bridger Unit 3 Scrubber Upgrade Project was**
6 **Prudent.**

7 The Jim Bridger Unit 3 Scrubber Upgrade Project was required to ensure compliance
8 with the Regional Sulfur Dioxide (“SO₂”) Milestone and Backstop Trading Program.¹¹ The
9 unit-specific emission limitations applicable Jim Bridger Unit 3 that necessitated the
10 scrubber upgrade were incorporated into the operating permits issued by the Wyoming
11 Department of Environmental Quality (“WYDEQ”).¹² The Wyoming State Implementation
12 Plan (“SIP”) specifically contemplates that the enforceable requirements of the Regional
13 SO₂ Milestone and Backstop Trading Program will be incorporated into each source’s
14 permits.¹³ These permits are “enforceable federally and by citizens pursuant to
15 Wyoming’s SIP.”¹⁴ In this case, the WYDEQ issued permits to PacifiCorp that required a

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19 ⁹ See e.g., Order No. 02-469 at 4-5; Order No. 10-051 at 6; Order No. 09-501 at 5; *Re Guidelines*
20 *for the Treatment of External Environmental Costs*, Docket UM 424, Order No. 93-695, 142
P.U.R.4th 465, 470 (May 17, 1993).

21 ¹⁰ *Re Idaho Power Company*, Docket UE 233, Ruling (May 22, 2012).

22 ¹¹ See *Idaho Power/1300, Carstensen/8*, II. 11-19.

23 ¹² *Idaho Power/1300, Carstensen/8*, II. 11-19; Docket UE 246, PAC/500, Teply/80, I. 16 – 81, I. 19.

24 ¹³ Docket UE 246, *Sierra Club/504*, at 39. The Wyoming SIP states that sources subject to the
25 Regional SO₂ Milestone and Backstop Trading Program will be subject to Wyoming’s permitting
requirements and that the “pre- and post-trigger requirements of the market trading program fall
under the definition of ‘additional requirements’, and will be incorporated into each source’s”
permits.

26 ¹⁴ Docket UE 246, *Sierra Club/504*, at 39.

1 unit-specific SO₂ emission limit of 0.15 lbs/MMBtu.¹⁵ The scrubber upgrade project
2 enabled Jim Bridger Unit 3 to meet this emission limit.¹⁶

3 Moreover, the Commission need not find that that Idaho Power had a legal obligation
4 to install the scrubber upgrade in order to find that the upgrade was prudent. Prudence
5 requires that the Company acted reasonably; as such, in this case the question is
6 “whether the utility’s decision was a reasonable response to the *possibility* that external
7 environmental costs would be internalized.”¹⁷ In applying that standard, given the then-
8 current and expected regulation of SO₂ through the Regional SO₂ Milestone and Backstop
9 Trading Program, along with Idaho Power’s extensive discussions with Wyoming
10 regulators,¹⁸ it was reasonable for Idaho Power to conclude that Jim Bridger Unit 3 was
11 required to reduce its emissions to 0.15 lbs/MMBtu—even if another party might have
12 reasonably concluded that there was no immediate legal basis for Wyoming to have
13 required such a reduction.

14 Thus, even if the Commission reads the Regional SO₂ Milestone and Backstop
15 Trading Program as allowing for a certain amount of flexibility in meeting emissions
16 requirements, and even if the Commission were to further conclude that the imposition of
17 a 0.15 lbs/MMBtu emission limit at Jim Bridger Unit 3 was not *necessarily* required, the
18 economics of the Jim Bridger Unit 3 Scrubber Upgrade Project demonstrate that the
19 investment was nevertheless reasonable. As discussed in Mr. Carstensen’s testimony,

20 ¹⁵ Idaho Power/1300, Carstensen/8, ll. 11-19; Docket UE 246, PAC/500, Teply/80, l. 16 – 81, l. 19.

21 ¹⁶ Idaho Power/1300, Carstensen/8, ll. 11-19; Docket UE 246, PAC/500, Teply/80, l. 16 – 81, l. 19.

22 ¹⁷ Order No. 93-695, 142 P.U.R.4th 465, 468-70 (emphasis added) (a resource decision may be
23 prudent “presumably because it mitigated the risk that external costs would be internalized through
24 taxes, emission allowance trading, or additional control requirements.”). In other words, a decision
25 to invest in additional emission controls may be prudent even if, at the time the decision was made,
26 there was only the possibility of future compliance obligations—as long as the decision was
reasonable. For example, there are currently no greenhouse gas emission regulations applicable
to the Jim Bridger plant. However, all parties agree that the possibility of these future regulations
must be considered when deciding whether to invest in the scrubber upgrade.

26 ¹⁸ Idaho Power/1400, Carstensen/2, l. 13 – 3, l. 1.

1 Jim Bridger 3 was among the Company's lowest cost resources even with the
2 contemplated upgrades.¹⁹ Indeed, even Sierra Club made clear that they were not they
3 were not arguing for a disallowance of the Jim Bridger 3 investment given that the
4 economics of the Jim Bridger Unit 3 scrubber upgrade were substantially more favorable
5 as compared with other PacifiCorp plants.²⁰ Clearly, even if PacifiCorp did have any
6 flexibility in meeting its environmental obligations, it would nevertheless have acted exactly
7 as it did in making the upgrades at Jim Bridger 3. It must also be pointed out that the idea
8 of "flexibility" in meeting emissions requirements does not apply particularly well to Idaho
9 Power. Idaho Power owns only a partial stake in one coal plant in Wyoming, and
10 therefore would have had no ability to meet emissions limits through actions at other
11 Wyoming plants, even if such flexibility were available in other cases.

12 CUB argues that Idaho Power was imprudent: (1) by failing to conduct a least-
13 cost/least-risk analysis prior to investing in the Jim Bridger Unit 3 Scrubber Upgrade
14 Project; (2) by delegating management of the Jim Bridger plant to PacifiCorp; and (3) by
15 delegating to PacifiCorp the defense of the studies prepared by PacifiCorp that support
16 the prudence of the Jim Bridger Unit 3 Scrubber Upgrade Project.²¹ As set forth in the
17 Company's Prehearing Brief and below, these arguments are without merit and should be
18 rejected.

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¹⁹ Idaho Power/1400, Carstensen/4, ll. 4-10.

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²⁰ Docket UE 246, Transcript of Oral Argument at 64, ll. 14-21 and 66, line 14 – 67, line 12 (Nov. 20, 2012). In UE 246 the Sierra Club argued that PacifiCorp's emission control investments at its Naughton and Hunter plants were imprudent, in part, because the Regional SO₂ Milestone and Backstop Trading Program does not create a unit-specific emission limit for PacifiCorp's generating units. Notably, Sierra Club did not raise this argument with respect to the Jim Bridger investment and no party in UE 233 has raised this argument. The Company requests that the Commission take official notice of the transcript of the UE 246 oral argument. OAR 860-001-0460(1)(d).

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²¹ Citizens' Utility Board Oregon's Pre-Hearing Brief at 17.

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1. PacifiCorp’s Present Value Revenue Requirement Differential Analysis Demonstrates the Prudence of the Scrubber Upgrade Project.

At the time the decision was made to invest in the scrubber upgrade, the Jim Bridger plant was operating at its highest capacity factor in years and remained one of Idaho Power’s lower cost resources.²² Based on Idaho Power’s understanding of the costs required to bring the plant into environmental compliance, Idaho Power believed—and correctly so—that the additional environmental investments would be least cost for the Company’s customers.²³ Indeed, PacifiCorp’s December 2008 present value revenue requirement differential (“PVERR(d)”) analysis (hereinafter “PacifiCorp PVERR(d) Analysis”) demonstrates by a wide margin that it was beneficial to customers to invest in emissions control equipment for Jim Bridger Unit 3 rather than idling the unit and replacing the generation with market power purchases.²⁴ Staff reached the same conclusion after analyzing the PacifiCorp PVERR(d) Analysis and testified that the study demonstrated the “magnitude of the benefit associated with the Scrubber Upgrade Project is such that had Idaho Power performed the analysis as described by CUB, its decision to go forward with the Scrubber Upgrade Project would not have been different.”²⁵ Examination of each of CUB’s specific criticisms of the PacifiCorp PVERR(d) Analysis exposes the flaws in CUB analysis and further demonstrates the reasonableness of the PacifiCorp PVERR(d) Analysis.

First, CUB criticizes the Company’s reliance on the PacifiCorp PVERR(d) Analysis because Idaho Power did not receive the study until 2012.²⁶ This argument misconstrues

²² Idaho Power/1400, Carstensen/4, ll. 4-10.
²³ Idaho Power/1400, Carstensen/4, ll. 4-10.
²⁴ Idaho Power/1400, Carstensen/9, ll. 10-14; Idaho Power/1403.
²⁵ Staff/1100, Colville/9, l. 22 – 10, l. 3.
²⁶ Citizens’ Utility Board Oregon’s Pre-Hearing Brief at 24.

1 the Company's intent in relying on the analysis. The primary function of the analysis is to
2 demonstrate that the investment in the scrubber upgrade, and the continued operation of
3 Bridger 3, **as a matter of fact** was and continues to be one of the lower cost resources for
4 serving PacifiCorp's and Idaho Power's customers. As such, regardless of what any party
5 knew or could have known in 2008, the investment in the scrubber upgrade results in the
6 least cost resource.

7 Moreover, even assuming for the sake of argument that the results of the PacifiCorp
8 PVRR(d) Analysis did prove to be incorrect in hindsight—an assumption for which there is
9 no evidence in the record—the PVRR(d) analysis would still demonstrate the prudence of
10 the scrubber upgrade because it represents the best information available at the time.
11 Indeed, the PacifiCorp PVRR(d) Analysis was prepared in 2008, prior to the execution of
12 the contract for the scrubber upgrade project²⁷ and was based on the information that was
13 known at the time—including PacifiCorp's most recent forward price curve, PacifiCorp's
14 current planning assumptions related to future carbon regulation, and all reasonably
15 known and expected future regulations and emission control investments, including the
16 anticipated selective catalytic reduction system ("SCR") investment.²⁸ The fact that Idaho
17 Power did not review the PacifiCorp PVRR(d) Analysis until 2012 is irrelevant to the
18 ultimate prudence of the project; prudence is determined based on what Idaho Power
19 knew *or should have known* at the time of the decision.²⁹

20 *Second*, CUB criticizes the PacifiCorp PVRR(d) Analysis' use of a 2008 closure date
21 as the alternative to investment in the emission controls.³⁰ However, changing the
22 PVRR(d) analysis to reflect a closure date of 2013—the compliance deadline at the time—

23 ²⁷ Idaho Power/1400, Carstensen/8, ll. 10-14; Docket UE 246, PAC/500, Teply/84, l. 21 – 85, l. 11.

24 ²⁸ Idaho Power/1400, Carstensen/9, ll. 2-14; Docket UE 246, PAC/500, Teply/84, l. 21 – 85, l. 11;
Docket UE 246, PAC/1500, Teply/28, ll. 1-5; Docket UE 246, PAC/2000, Teply/21, ll. 1-5.

25 ²⁹ Order No. 10-051 at 6.

26 ³⁰ Citizens' Utility Board Oregon's Pre-Hearing Brief at 25.

1 does not change the results of the analysis, which still demonstrated by a significant
2 margin that it was beneficial for customers for the Company to invest in the scrubber
3 upgrade project.³¹

4 *Third*, CUB claims that if PacifiCorp “updated its study at the end of 2008, or in 2009,
5 the change in forward prices would have had a significant effect on the 2008 study
6 results.”³² However, as discussed in Chad Teply’s testimony, updating the analysis did
7 not change the results.³³ Indeed, the decrease in forecast market prices was not even
8 outside PacifiCorp’s “market price sensitivity range of 80 percent of forecasted values.”³⁴
9 In further responding to CUB’s criticisms, PacifiCorp concluded that even if the Jim Bridger
10 Unit 3 Scrubber Upgrade Project was treated as an avoidable cost in the recent
11 assessment of future Jim Bridger Unit 3 SCR project costs, the costs associated with the
12 scrubber upgrade “do not materially change the financial assessment as CUB purports.”³⁵
13 Notably, Staff agreed that updating the capital costs included in the PacifiCorp PVR(d)
14 Analysis “would not have changed the business decision.”³⁶

15 CUB’s criticisms related to the lack of updating also reflect CUB’s oversimplification
16 of the process of making these types of investments, which cannot necessarily be broken
17 down into a series of project milestones and re-evaluation points.³⁷ Staff also rejected
18 CUB’s updating argument and testified that “CUB advocates for what could result in
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21 ³¹ Docket UE 246, PAC/1500, Teply/11, ll. 3-6; Docket UE 246, PAC/1500, Teply/24, l. 18 – 25, l. 2.

22 ³² Citizens’ Utility Board Oregon’s Pre-Hearing Brief at 25.

23 ³³ Docket UE 246, PAC/1500, Teply/26, l. 6 – 27, l. 1.

24 ³⁴ Docket UE 246, PAC/1500, Teply/26, ll. 14-17.

25 ³⁵ Docket UE 246, PAC/2000, Teply/19, l. 20 – 20, l. 6.

26 ³⁶ Staff/1201, Colville/3 – 4.

³⁷ Idaho Power/1700, Carstensen/4, l. 23 – 5, l. 5; Docket UE 246, PAC/1500, Teply/10, ll. 14-17.

1 decision making paralysis in response to unpredictable electricity markets and a fluid
2 environmental regulatory situation. Paralyzed decision making would not be prudent.”³⁸

3 *Fourth*, CUB criticizes the PacifiCorp PVR(d) Analysis for examining only market
4 purchases as the alternative to the emission control investment.³⁹ However, as both Staff
5 and PacifiCorp testified, the use of market purchases as the alternative resource was a
6 conservative choice because a “new, large generation resource’s all-in costs were
7 typically unfavorable when compared to forward market price curves.”⁴⁰ In addition, Staff’s
8 independent analysis in this case demonstrated that the emission control investments
9 were favorable even when compared with the acquisition of a replacement, gas-fired
10 resource.⁴¹

11 *Fifth*, CUB claims that the Environmental Protection Agency’s (“EPA”) proposed
12 partial disapproval of Wyoming’s Regional Haze Rules’ State Implementation Plan (“SIP”)
13 should have provided the Company an opportunity to “rethink” its decision to invest in
14 emission controls at the Jim Bridger plant.⁴² This argument misunderstands what EPA
15 decided with respect to Wyoming’s SIP. In fact, while the EPA has not approved **some**
16 **portions** of the Wyoming SIP, the agency did approve the portion of the SIP that required
17 the scrubber upgrade investment at Jim Bridger Unit 3.⁴³ Indeed, the EPA has now
18 approved the Regional SO₂ Milestone and Backstop Trading Program in all states where it
19 has been adopted.⁴⁴ Moreover, the EPA’s partial disapproval of the SIP occurred well
20 after the actual scrubber upgrade had been completed.

21 ³⁸ Staff/1201, Colville/2 – 3.

22 ³⁹ Citizens’ Utility Board Oregon’s Pre-Hearing Brief at 25.

23 ⁴⁰ Staff/1200, Colville/7, ll. 1-12; Docket UE 246, PAC/2000, Teply/4, l. 22 – 5, l. 7.

24 ⁴¹ Staff/1000, Colville/6, l. 13 – 7, l. 3; Staff/1001.

25 ⁴² Citizens’ Utility Board Oregon’s Pre-Hearing Brief at 26.

26 ⁴³ Docket UE 246, PAC/1400, Woollums/15, ll. 1-7; PAC/1400, Woollums/29, l. 13 – 30, l. 19.

⁴⁴ [Prepublication] *Approval and Promulgation of State Implementation Plans; State of Wyoming; Regional Haze Rule Requirements for Mandatory Class I Areas under 40 CFR 51.309*, EPA-R08-

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2. The Circumstances Surrounding the Boardman Closure are Distinguishable.

CUB argues extensively that Idaho Power had significant flexibility within its BART analysis and that the Company should have considered a phase out of Jim Bridger Unit 3 in lieu of the emission control investments made in this case.⁴⁵ On this point, CUB argues that Idaho Power should have known in 2008 that Portland General Electric Company (“PGE”) had proposed shortening the useful life of Boardman rather than investing in the full suite of pollution control investments required by Oregon regulators.⁴⁶ CUB’s argument appears to be that once PGE proposed an option for Boardman that included premature closure, it became unreasonable for Idaho Power and PacifiCorp, not to pursue premature closure as well. As demonstrated by the facts in this case, however, CUB’s argument is unpersuasive.

First, the decision to prematurely close the Boardman plant was not made until 2010 and final approval of the plan did not occur until 2011.⁴⁷ In this case, the decision to invest in the scrubber upgrade was made in 2008, the contract was executed in 2008, and construction began in 2010—all well before the Boardman decision was final.

Indeed, while CUB now argues that as of December 2008 it became unreasonable for Idaho Power not to pursue a phase out of the Jim Bridger plant, CUB’s own statements regarding the Boardman decision undermine its argument. In postings on CUB’s website, CUB described January 2010 as the “turning point” when PGE expressed the intent to

OAR-2011-0400 (November 13, 2012).). The EPA issued similar orders approving the program in New Mexico and Utah.

⁴⁵ Citizens’ Utility Board Oregon’s Pre-Hearing Brief at 26-30.

⁴⁶ Citizens’ Utility Board Oregon’s Pre-Hearing Brief at 28.

⁴⁷ Docket UE 246, PAC/2304; Docket UE 246, PAC/2000, Teply/3, ll. 8-10.

1 close Boardman in 2020.⁴⁸ In that same posting CUB described the Boardman closure as
2 follows:

3 On a national level this is a very big deal. One environmental
4 consultant predicted that this would send shock waves
5 through the utility industry over the next few days. This may
6 be the first baseload coal plant that is being shut down . . .
7 Closing down a coal plant like Boardman, a baseload
8 workhorse of a plant that produces electricity reliably around
9 the clock is new. It could be game-changing.⁴⁹

10 Thus, in recognizing the novelty of premature closure as an option for avoiding
11 environmental remediation costs, CUB's contemporaneous description of the Boardman
12 closure is at odds with its current testimony and arguments.

13 *Second*, CUB's argument is also flawed because CUB focuses on Idaho Power's
14 awareness of PGE's approach at Boardman. However, even if Idaho Power was aware of
15 PGE's decision making, that does not mean that it is unreasonable to take a different
16 approach when working with a different coal plant subject to the jurisdiction of a different
17 state.⁵⁰ Indeed, even CUB recognized that every coal plant is different and what
18 happened with Boardman tells us nothing about what might happen with state regulators
19 in Wyoming.⁵¹

20 *Third*, CUB's claim that in 2008 it became unreasonable not to pursue premature
21 closure is at odds with the fact that CUB could point to only one other example that is
22 similar to Boardman.⁵² Indeed, as late as February 2011, CUB was still describing the
23 Boardman closure as the "first time there had been an agreement to close a modern coal

24 ⁴⁸ Docket UE 246, PAC/2304.

25 ⁴⁹ Docket UE 246, PAC/2304.

26 ⁵⁰ *Re Public Utility Commission of Oregon Investigation to consider adoption of new federal standards contained in the Energy Independence and Security Act of 2007*, Docket UM 1409, Order No. 09-501 at 5 (Dec. 18, 2009) (Commission applies the "reasonable person" standard to judge the prudence of a utility's investment decision.)

⁵¹ Docket UE 246, Tr. 215-16 (Oct. 15, 2012).

⁵² Docket UE 246, Tr. 204 (Oct. 15, 2012).

1 plant in the United States.”⁵³ The fact that Idaho Power’s decision-making was consistent
2 with the industry standards at the time supports a finding that the Company’s decision was
3 objectively reasonable.⁵⁴

4 Notably, Staff also agrees that prior to 2010, it was reasonable for a utility to consider
5 the useful life of a plant fixed for purposes of the BART analysis, even though PGE had
6 already begun negotiations to prematurely close Boardman.⁵⁵

7 **3. CUB’s Argument that Jim Bridger Unit 3 should be Phased Out Between**
8 **2020 and 2025 is Flawed.**

9 CUB argues that if Idaho Power or PacifiCorp had updated the PacifiCorp PVR(d)
10 Analysis, “it would have found that phasing out the plant sometime between 2020 and
11 2025 would have been the least cost/least-risk [sic] option.”⁵⁶ CUB’s analysis, however, is
12 materially flawed and does not, in fact, support the conclusion that the Jim Bridger Unit 3
13 should be phased out.

14 *First*, CUB incorrectly assumes that the Company could continue to operate the plant
15 today without the scrubber upgrade. In fact, without the Jim Bridger Unit 3 Scrubber
16 Upgrade Project, Jim Bridger Unit 3 would be non-compliant today and “without the
17 environmental controls at issue in this case, [Jim Bridger Unit 3] could not continue to
18 operate.”⁵⁷

19 *Second*, CUB’s phase-out analysis fails to consider alternative compliance costs, the
20 costs of replacement generation, and decommissioning costs.⁵⁸ It is worth noting that the
21 alternative compliance costs for Boardman were substantial. According to its filings with

22 ⁵³ Docket UE 246, PAC/2307.
23 ⁵⁴ Order No. 10-051 at 10 (consistency with industry standards demonstrates prudence).
24 ⁵⁵ Staff/1100, Colville/26, ll. 4-6..
25 ⁵⁶ Citizens’ Utility Board Oregon’s Pre-Hearing Brief at 29.
26 ⁵⁷ Docket UE 246, PAC/1900, Woollums/2, ll. 8-11.
⁵⁸ Docket UE 246, PAC/2000, Teply/21, ll. 14-17; Docket UE 246, Tr. 206 (Oct. 15, 2012).

1 the Commission, PGE anticipated emissions control investments of approximately \$140
2 million prior to closure in 2020.⁵⁹ In addition, in the only other example CUB found where
3 a utility chose to phase out a coal plant due to excessive environmental compliance costs,
4 the utility was nevertheless required to invest \$175 million in emissions controls prior to
5 closure in 2026.⁶⁰ These amounts far exceed Idaho Power's \$8.2 million investment in the
6 scrubber upgrade.

7 Idaho Power's replacement power costs would also be substantial. The Jim Bridger
8 plant provides Idaho Power with 706 MW of net dependable capacity with an annual
9 generating capability of 625 aMW.⁶¹ This amount is significant and the replacement of
10 even one-quarter of this amount (assuming only Unit 3 is phased out) will require the
11 Company to incur substantial replacement power costs.

12 With respect to decommissioning costs, PGE anticipated that its two-thirds share of
13 the decommissioning costs related to the Boardman closure will be approximately \$44.8
14 million in 2020 dollars.⁶² Again, this is a material amount that CUB's analysis simply
15 ignores.

16 That CUB's phase out analysis in this case failed entirely to quantify or account for
17 these alternative compliance costs, replacement power costs, and decommissioning
18 costs renders CUB's conclusions invalid.

19 **4. PacifiCorp's March 2012 Integrated Resource Plan Update is Irrelevant.**

20 CUB relies on PacifiCorp's March 2012 Update to its 2011 Integrated Resource Plan
21 (hereinafter "PacifiCorp's March 2012 IRP Update"), which was filed in March 2012, to
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23 ⁵⁹ Docket UE 246, Tr. 203 (Oct. 15, 2012); Docket UE 246, PAC/2302.

24 ⁶⁰ Docket UE 246, PAC/2308.

25 ⁶¹ Idaho Power's 2011 Integrated Resource Plan at 30 (June 2011).

26 ⁶² *Re Portland General Electric Company*, Docket UE 230, Order No. 11-242, Appendix A at 3 (July 5, 2011).

1 argue that the decision to invest in the scrubber upgrade was imprudent.⁶³ As noted
2 above, however, PacifiCorp's March 2012 IRP Update was developed well after the
3 decision in this case was made (2008), well after the contract was entered into (2008), and
4 well after the scrubber upgrade project was completed (2011).⁶⁴ Thus, it is irrelevant to
5 the determination of prudence because the 2012 IRP Update was not based on what the
6 Company knew or should have known when the decision was made. When reviewing the
7 prudence of contracts entered into by PGE, the Commission observed that its prudence
8 standard required it to "determine whether PGE's actions and decisions with regard to the
9 four disputed power contracts were reasonable in light of the circumstances existing at the
10 time PGE entered into the contracts."⁶⁵ The Commission continued that it "cannot let the
11 luxury of hindsight allow us to second guess a utility's conduct."⁶⁶ Thus, the Commission
12 "must look to the existing circumstances surrounding the decision, not the ultimate
13 outcome of the decision."⁶⁷ Likewise, the Commission should not look to the PacifiCorp's
14 March 2012 IRP Update because doing so reflects hindsight review of the scrubber
15 upgrade decision.⁶⁸

16 **5. The Company's Reliance on PacifiCorp was Reasonable.**

17 CUB argues that Idaho Power has "delegate[d] away its responsibility for the making
18 of the clean air investments at Jim Bridger 3 to PacifiCorp."⁶⁹ CUB claims that Idaho

19 ⁶³ Citizens' Utility Board Oregon's Pre-Hearing Brief at 23-24.

20 ⁶⁴ Idaho Power/1400, Carstensen/3, ll. 6-7; Idaho Power/1400, Carstensen/8, ll. 10-14; Docket UE
246, PAC/500, Teply/84, l. 21 – 85, l. 11.

21 ⁶⁵ *Re Portland General Electric Company*, Docket UE 139, Order No. 02-772 at 11 (Oct. 30, 2002).

22 ⁶⁶ Order No. 02-772 at 11.

23 ⁶⁷ Order No. 02-772 at 11.

24 ⁶⁸ It is worth noting that CUB's own testimony seems to suggest that it understands the limited
25 relevance of the IRP, where CUB states that, because the costs of the scrubber update project
26 were considered sunk PacifiCorp's March 2012 IRP Update "did little to demonstrate that the
scrubber upgrade is cost-effective." CUB/300, Feighner-Jenks/10, ll. 4-5; Citizens' Utility Board
Oregon's Pre-Hearing Brief at 23; CUB/300, Feighner-Jenks/11, ll. 3-4.

26 ⁶⁹ Citizens' Utility Board Oregon's Pre-Hearing Brief at 18.

1 Power “alone” must demonstrate the prudence of the Jim Bridger Unit 3 Scrubber
2 Upgrade Project.⁷⁰ However, contrary to CUB’s arguments, it was reasonable for Idaho
3 Power to rely on PacifiCorp to operate the plant, it was reasonable for Idaho Power to rely
4 on PacifiCorp’s analysis of the scrubber upgrade, and it was reasonable for Idaho Power
5 rely on PacifiCorp to defend the studies that PacifiCorp authored.

6 Moreover, contrary to CUB’s assertions, Idaho Power did not delegate away its
7 obligations as a co-owner of the plant. Although the Company did rely on PacifiCorp,
8 Idaho Power was actively engaged in the decision making process for this, and all, capital
9 projects at the plant and Idaho Power personnel met regularly with PacifiCorp regarding
10 operations at the plant.⁷¹

11 **a. Idaho Power Reasonably Relied on PacifiCorp to Operate the**
12 **Plant.**

13 As the minority owner of the Jim Bridger plant, Idaho Power has contracted with
14 PacifiCorp, the majority owner, to have PacifiCorp operate the plant.⁷² As the operator,
15 PacifiCorp is obligated to ensure that the plant is run in a prudent and skillful manner
16 consistent with prevailing utility industry standards and in accordance with all applicable
17 laws and regulations, including all relevant environmental regulations.⁷³ This type of
18 arrangement is typical of the industry.⁷⁴ Indeed, this is the same arrangement that Idaho
19 Power has with PGE with respect to the Boardman plant and CUB has never alleged that
20 Idaho Power is imprudent for relying on PGE to operate Boardman.⁷⁵ There is nothing

21 _____
⁷⁰ Citizens’ Utility Board Oregon’s Pre-Hearing Brief at 18.

22 ⁷¹ See Idaho Power/1500, Carstensen/3, I. 15 – 4, I. 15; Idaho Power/1700, Carstensen/1, I. 16 – 2,
23 I. 10.

24 ⁷² Idaho Power/1400, Carstensen/1, I. 25 – 2, I. 1.

25 ⁷³ Idaho Power/1400, Carstensen/2, II. 1-6.

26 ⁷⁴ Idaho Power/1500, Carstensen/3, II. 11-14.

⁷⁵ See, *Re Idaho Power Company*, Docket UE 239, Application of Idaho Power Company for
Authority to Implement a Boardman Operating Life Adjustment Tariff for Electric Service to

1 unreasonable about this approach to resource management and, in fact, it results in
2 efficiencies that result in a prudently run plant at the least cost for customers.⁷⁶

3 The Commission has specifically concluded that it is reasonable for utilities to rely on
4 outside experts provided the utility provides reasonable oversight.⁷⁷ Here, Idaho Power
5 personnel met regularly with PacifiCorp beginning in 2006 to evaluate an environmental
6 compliance strategy⁷⁸ and Idaho Power also participated in discussions with the Wyoming
7 Division of Air Quality regarding the proposed BART requirements.⁷⁹

8 **b. Idaho Power can Demonstrate Prudence Using PacifiCorp's**
9 **Economic Analysis.**

10 CUB criticizes Idaho Power for relying on the PacifiCorp PVR(d) Analysis to
11 support the decision to invest in the scrubber upgrade project.⁸⁰ However, for the same
12 reasons it is reasonable for Idaho Power to rely on PacifiCorp to operate the plant, it is
13 reasonable for Idaho Power to rely on PacifiCorp's economic analysis of that plant.

14 CUB is also critical of the fact that the Company did not actually receive the
15 PacifiCorp PVR(d) Analysis until April of this year.⁸¹ As discussed above, this argument
16 is entirely without merit because the prudence standard examines what a utility knew or
17 should have known, and therefore the "standard does not require [a utility] to prove the
18 factors it actually considered with respect to the decision."⁸²

19

20 Customers in the State of Oregon (Sept. 26, 2011) (describing ownership and operation of
21 Boardman).

22 ⁷⁶ Idaho Power/1500, Carstensen/3, ll. 5-10.

23 ⁷⁷ Order No. 10-051 at 10.

24 ⁷⁸ Idaho Power/1400, Carstensen/2, ll. 15-22.

25 ⁷⁹ Idaho Power/1400, Carstensen/2, ll. 22-25.

26 ⁸⁰ Citizens' Utility Board Oregon's Pre-Hearing Brief at 17.

⁸¹ Citizens' Utility Board Oregon's Pre-Hearing Brief at 24.

⁸² Order No. 02-469 at 5.

1 CUB is also critical of Idaho Power for relying on PacifiCorp to defend PacifiCorp's
2 economic analysis.⁸³ However, there is nothing unreasonable about Idaho Power relying
3 on PacifiCorp, as the author of the economic analysis, to defend that economic analysis.
4 And the prudence issue in this case involves Idaho Power's emission control investments,
5 not Idaho Power's prosecution of its general rate case, so how Idaho Power chooses to
6 demonstrate prudence is immaterial to the relevant issues in this case.

7 CUB also charges Idaho Power with selectively relying on studies prepared by
8 PacifiCorp, pointing out that Idaho Power does not rely on the analysis included in
9 PacifiCorp's 2011 IRP Update.⁸⁴ However, as discussed above, the analysis included in
10 the PacifiCorp's March 2012 IRP Update is irrelevant to the prudence determination in this
11 case because it is based on information that was not available at the time the decision to
12 invest in the scrubber upgrade was made.⁸⁵

13 **C. The Scrubber Upgrade is Used and Useful.**

14 CUB argues that the scrubber upgrade is "only used and useful when [all the
15 Regional Haze Rule investments are] combined as a total project."⁸⁶ This argument
16 reflects a basic misunderstanding of how the state of Wyoming has implemented the
17 Regional Haze Rules. In fact, Wyoming has implemented the Regional Haze Rules for
18 SO₂, nitrogen oxides ("NO_x"), and particulate matter ("PM") on a pollutant-specific basis for
19 each unit.⁸⁷ The scrubber meets the standards for SO₂, and no further investments are
20 necessary.

21 _____
⁸³ Citizens' Utility Board Oregon's Pre-Hearing Brief at 18.

22 ⁸⁴ Citizens' Utility Board Oregon's Pre-Hearing Brief at 20. Although CUB refers to the "LC 48
23 Spring 2012 IRP Update" in its brief, the Company believes the reference to "LC 48" is an error.

⁸⁵ Order No. 02-772 at 11.

24 ⁸⁶ Citizens' Utility Board Oregon's Pre-Hearing Brief at 31.

25 ⁸⁷ Docket UE 246, PAC/1500, Teply/29, ll. 19-20; *see also*, Docket UE 246, Sierra Club/100,
26 Fisher/16-17 ("Wyoming has divided their regional haze compliance obligations into two nearly
independent programs. . .").

1 CUB also claims that “[i]f Idaho Power insists that investments must be considered
2 on a piecemeal basis, and that the costs associated with the [SCR] investments are
3 irrelevant” then adopting CUB’s used and useful approach is the “only way to ensure that
4 all relevant costs are considered in a prudence review.”⁸⁸ This argument is based on
5 CUB’s misguided and repeated insistence that the PacifiCorp PVRR(d) Analysis did not
6 include the SCR investment when it analyzed the PVRR(d) for the Jim Bridger Unit 3
7 scrubber upgrade.⁸⁹ However, as the Company set forth in its Prehearing Brief,⁹⁰ and will
8 do so again here, the PacifiCorp PVRR(d) Analysis included all the reasonably knowable
9 emission control investments expected for Jim Bridger Unit 3—including SCR.⁹¹ CUB’s
10 continued insistence that the SCR was not included is disingenuous considering that CUB
11 has already admitted in pleadings in this case that SCR was included in the PacifiCorp
12 PVRR(d) Analysis⁹² and in UE 246 CUB has also admitted that the PacifiCorp PVRR(d)
13 Analysis did include “costs for potential SCR installation on Bridger 3.”⁹³ CUB’s own
14 admissions undermine the entire rationale for its novel interpretation of the used and
15 useful standard.

16
17

18 ⁸⁸ Citizens’ Utility Board Oregon’s Pre-Hearing Brief at 32.
19 ⁸⁹ Citizens’ Utility Board Oregon’s Pre-Hearing Brief at 32 (“The Company needed to be reviewing
20 the need for the SCR at the same time it was considering how to manage BART . . .”); *see also*,
21 CUB/200, Feighner-Jenks/7 (CH2M Hill study didn’t examine SCR); CUB/300, Feighner-Jenks/2, ll.
22 18-19 (without the SCR the scrubber upgrade is not used and useful); CUB/300, Feighner-Jenks/3,
23 ll. 2-3 (studies failed to consider costs of SCR); CUB/400, Feighner-Jenks/7, ll. 13-16 (prudence
24 review should include SCR investments).
25 ⁹⁰ Idaho Power Company’s Prehearing Brief at 14-16.
26 ⁹¹ Docket UE 246, PAC/1500, Tetry/28, ll. 1-5; Docket UE 246, PAC/2000, Tetry/21, ll. 1-5.
⁹² *Re Idaho Power Company*, Docket UE 233, Citizens’ Utility Board of Oregon’s Motion to Compel
Idaho Power Company to Respond to CUB’s Data Requests and for Additional Time to Analyze
and File Supplemental Testimony Related to Any Additional Information Provided (June 12, 2012)
(referencing that Idaho Power’s response to CUB data request 48 stated that the SCR investment
was included in the PacifiCorp PVRR(d) Analysis).
⁹³ Docket UE 246, Citizens’ Utility Board Oregon’s Pre-Hearing Brief at 20.

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III. CONCLUSION

For the reasons set forth above, the Commission should conclude that Idaho Power's investment in the Jim Bridger Unit 3 Scrubber Upgrade Project was prudent because it ensures that the unit is operating in compliance with all applicable environmental regulations and was the least cost, adjusted for risk, alternative for customers. In addition, the Commission should find that the scrubber upgrade is used and useful as required by ORS 757.355.

Respectfully submitted this 5th day of December, 2012.

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing document in
3 UE 233 on the following named person(s) on the date indicated below by email addressed
4 to said person(s) at his or her last-known address(es) indicated below.

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