

ENTERED JAN 26 2016

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UM 1757

In the Matter of the 2016-2020 Intervenor  
Funding Agreement between

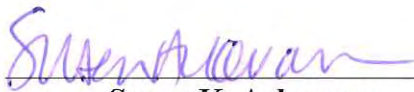
IDAHO POWER COMPANY and the  
CITIZENS' UTILITY BOARD OF  
OREGON.

ORDER

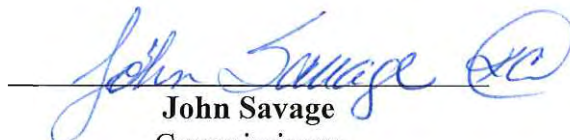
## DISPOSITION: RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at the public meeting on January 26, 2016, to adopt Administrative Law Judge recommendation in this matter. The Administrative Hearings Division Report with the recommendation is attached as Appendix A.

Dated this 26 day of January, 2016, at Salem, Oregon.



Susan K. Ackerman  
Chair



John Savage  
Commissioner



Stephen M. Bloom  
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. CA12

**PUBLIC UTILITY COMMISSION OF OREGON  
ADMINISTRATIVE HEARINGS DIVISION REPORT  
PUBLIC MEETING DATE: January 26, 2016**

REGULAR \_\_\_\_\_ CONSENT  X  EFFECTIVE DATE  January 26, 2016

DATE: January 6, 2016

TO: Public Utility Commission

FROM: Michael Grant, Chief Administrative Law Judge *MG*

SUBJECT: IDAHO POWER COMPANY (Docket No. UM 1757) Approval of 2016-2020 Intervenor Funding Agreement between Idaho Power Company and the Citizens' Utility Board of Oregon

**ADMINISTRATIVE LAW JUDGE RECOMMENDATION:**

The Commission should approve the 2016-2020 Idaho Power-CUB Intervenor Funding Agreement set forth in Attachment A.

**DISCUSSION:**

Idaho Power Company (Idaho Power) and the Citizens' Utility Board of Oregon (CUB) have entered into a written agreement to provide intervenor funding for CUB in Idaho Power proceedings for the period 2016-2020. The agreement is authorized by ORS 757.072, which allows energy utilities to enter into agreements for the financial assistance to organizations representing broad customer interests in Commission proceedings.

Under ORS 757.072, the Commission must approve any agreement before any financial assistance is provided. The Commission previously approved an intervenor funding agreements between Idaho Power and CUB. See Order No. 10-396. The prior agreement's term ended December 31, 2015.

This agreement is modeled after the prior intervenor funding agreement. It includes two funds, a CUB Fund and an Issue Fund, each which provide \$31,500 annually. These amounts reflect a five percent inflation adjustment, as measured by the Consumer Price Index, over the prior agreement. The CUB Fund is established for CUB's use to pay for general expenses, overhead, and the hiring of personnel or consultants. The Issue Fund is made available to pay for eligible expenses for eligible proceedings involving

UM 1504 Intervenor Funding  
October 4, 2010  
Page 2

Idaho Power. Under the agreement, only CUB is eligible to receive an Issue Fund grant, and must submit proposed budgets for the Commission review and approval.

Idaho Power may recover in rates all amounts paid for Intervenor Funding Grants authorized by the Commission. CUB Fund Grant will be allocated to and paid by the residential customer class. Issue Fund Grants used to advocate positions on behalf of a broad cross-section of customers may be assessed against all customers of multiple classes of customers, as determined by the Commission.

The agreement takes effect upon Commission approval, and shall continue in effect until December 31, 2020, unless terminated earlier pursuant to the terms of the agreement.

I recommend the Commission find that the Idaho Power-CUB Intervenor Funding Agreement serves customers and is in the public interest. The Commission should approve the agreement under ORS 757.072 to allow the provision of financial assistance agreed to by the signatories.

**PROPOSED COMMISSION MOTION:**

The Commission approve the Idaho Power-CUB Intervenor Funding Agreement set forth in Attachment A.

# **INTERVENOR FUNDING AGREEMENT**

**BY AND AMONG**

**IDAHO POWER COMPANY**

**AND THE**

**CITIZENS' UTILITY BOARD OF OREGON**

**January 1, 2016**

**TABLE OF CONTENTS**

|                  |                                                         |    |
|------------------|---------------------------------------------------------|----|
| <b>Article 1</b> | Definitions.....                                        | 1  |
| <b>Article 2</b> | Term .....                                              | 2  |
| <b>Article 3</b> | Condition Precedent .....                               | 2  |
| <b>Article 4</b> | Scope .....                                             | 3  |
| 4.1              | General. ....                                           | 3  |
| 4.2              | Funds and Accounts. ....                                | 3  |
| 4.2.1            | CUB Fund. ....                                          | 3  |
| 4.2.2            | Issue Fund. ....                                        | 4  |
| 4.3              | Rollover. ....                                          | 4  |
| 4.4              | Advance.....                                            | 4  |
| 4.5              | Unused Balances. ....                                   | 5  |
| <b>Article 5</b> | Issue Fund Grant Eligibility .....                      | 5  |
| 5.1              | General. ....                                           | 5  |
| <b>Article 6</b> | Issue Fund Grant Request Procedures.....                | 6  |
| 6.1              | Eligible Proceedings.....                               | 6  |
| 6.2              | Notice of Intent to Request an Issue Fund Grant. ....   | 6  |
| 6.3              | Proposed Budgets.....                                   | 6  |
| 6.4              | Additional Information.....                             | 7  |
| 6.5              | Commission Decision. ....                               | 7  |
| 6.6              | Amendment of Proposed Budget. ....                      | 8  |
| 6.7              | Intervenors' Report. ....                               | 9  |
| <b>Article 7</b> | Payment of Grants.....                                  | 9  |
| 7.1              | Payment of CUB Fund Grants. ....                        | 9  |
| 7.2              | Issue Fund Grant Request for Payment.....               | 10 |
| 7.3              | Eligible Expenses. ....                                 | 11 |
| 7.4              | General Operation Expenses Excluded. ....               | 11 |
| 7.5              | Commission Review and Action.....                       | 12 |
| 7.6              | Customer Class Allocation.....                          | 12 |
| 7.7              | Idaho Power's Payment of Intervenor Funding Grants..... | 13 |
| 7.8              | Recovery of Intervenor Funding Grants.....              | 13 |
| 7.9              | Audits. ....                                            | 14 |
| 7.10             | Delegation. ....                                        | 14 |
| <b>Article 8</b> | Termination of Eligibility .....                        | 14 |
| 8.1              | Termination of Eligibility.....                         | 14 |
| 8.2              | Effect of Termination of Eligibility. ....              | 14 |
| <b>Article 9</b> | Termination .....                                       | 15 |
| 9.1              | Termination. ....                                       | 15 |
| 9.2              | Notice. ....                                            | 16 |
| 9.3              | Discharge of Obligations Upon Termination. ....         | 16 |

|                   |                                        |    |
|-------------------|----------------------------------------|----|
| <b>Article 10</b> | Miscellaneous.....                     | 17 |
| 10.1              | Dispute Resolution.....                | 17 |
| 10.2              | Parties' Cooperation and Support. .... | 17 |
| 10.3              | Enforcement. ....                      | 17 |
| 10.4              | Counterparts. ....                     | 17 |
| 10.5              | Entire Agreement. ....                 | 17 |
| 10.6              | Successors. ....                       | 18 |
| 10.7              | No Assignment.....                     | 18 |
| 10.8              | Amendments.....                        | 18 |
| 10.9              | Governing Law.....                     | 18 |

## **INTERVENOR FUNDING AGREEMENT IDAHO POWER COMPANY AND CUB**

This Intervenor Funding Agreement (the “Agreement”), effective as of January 1, 2016, (the “Effective Date”), is by and among Idaho Power Company (“Idaho Power”), an Idaho corporation; and the Citizens’ Utility Board of Oregon (“CUB”), an Oregon nonprofit corporation (collectively, the “Parties”).

### **RECITALS**

WHEREAS, ORS 757.072 allows public utilities to enter into a written agreement with an organization that represents broad customer interests in regulatory proceedings conducted by the Oregon Public Utility Commission (“Commission”) relating to public utilities that provide electricity or natural gas;

WHEREAS, the purpose of this Agreement is to make funds available to CUB to enable it to advocate on behalf of residential customer interests in proceedings before the Commission;

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **AGREEMENT**

#### **Article 1** **Definitions**

Except as otherwise defined herein, capitalized terms used in this Agreement have the meanings assigned to them as follows:

- (a) “Eligible Expense” has the meaning set forth in Section 7.3 of this Agreement.
- (b) “Eligible Proceeding” means any Commission proceeding that directly affects Idaho Power including, but not limited to, rulemaking proceedings, declaratory ruling

proceedings, and contested case proceedings, but does not include complaint proceedings if CUB initiates or causes to be initiated the complaint proceeding.

(c) “Intervenor Funding Grant” means any intervenor funding grant made available under the terms of this Agreement.

(d) “CUB Fund” has the meaning set forth in Section 4.2.1 of this Agreement.

(e) “CUB Fund Grant” means an Intervenor Funding Grant from the CUB Fund account.

(f) “Issue Fund” has the meaning set forth in Section 4.2.2 of this Agreement.

(g) “Issue Fund Grant” means an Intervenor Funding Grant from the Issue Fund account.

(h) “Participating Public Utility” means the utilities who have signed Intervenor Funding Agreements approved by the Commission - Northwest Natural, PacifiCorp, Portland General Electric, Cascade Natural Gas, Avista, or Idaho Power.

## **Article 2**

### **Term**

The Agreement shall be effective beginning on the Effective Date of this Agreement and shall continue in effect until December 31, 2020, unless terminated earlier pursuant to the terms of Article 9 of this Agreement (the “Term”).

## **Article 3**

### **Condition Precedent**

The obligations and rights of the Parties under this Agreement are subject to the condition precedent that the Commission issue an order (i) approving this Agreement without material modifications and (ii) finding that the intervenor funding program implemented through the Agreement serves customers and is in the public interest.

**Article 4**  
**Scope**

4.1 General. Intervenor funding grants will be made available pursuant to the terms of this Agreement (“Intervenor Funding Grants”) as a supplement to CUB’s own significant funding of activities before the Commission. Intervenor Funding Grants may not be used in a complaint proceeding initiated, or caused to be initiated, by CUB. Intervenor Funding Grants will not be made available for proceedings involving telecommunications utilities, water utilities or wastewater utilities unless the proceedings relate to Idaho Power.

4.2 Funds and Accounts. There shall be established two funds from which Intervenor Funding Grants can be made under this Agreement: a CUB Fund, and an Issue Fund, as each is defined below (“Fund(s)”). Accounts for the Funds shall be established for Idaho Power. For each calendar year during the Term of this Agreement, the following amounts shall be made available in each account:

|            | IDAHO POWER COMPANY |
|------------|---------------------|
| CUB Fund   | 31,500              |
| Issue Fund | 31,500              |

The above amounts reflect the annual amount made available in each account (the “Annual Grant Amount”) and represent a five percent inflation adjustment as measured by the Consumer Price Index over the 2010 Intervenor Funding Agreement. During the Term, the Annual Grant Amounts shown above may be supplemented pursuant to the terms of Sections 4.3 and 4.4 below.

4.2.1 CUB Fund. This fund will be established for use by CUB for expenses, including, but not limited to, general operations, overhead, or the hiring of personnel or consultants. CUB may not use grants from the CUB Fund for political activities or fund raising.

For each calendar year during the Term of this Agreement, the Annual Grant Amount will be the amount shown in Section 4.2 above, which may be supplemented under the terms of Sections 4.3 and 4.4 below.

4.2.2 Issue Fund. For each calendar year during the Term of this Agreement, the Annual Grant Amount for each account shall be the amount shown in Section 4.2 above. Receipt of grants from an Issue Fund shall be subject to the matching fund requirements specified in Sections 6.5 and 7.2(c) below. The Annual Grant Amount may be supplemented pursuant to the terms set forth in Section 4.3 below. The Commission will authorize Issue Fund Grants pursuant to the criteria and process set forth in Article 6 and Article 7 below. Issue Fund Grants shall be limited to the amount available in the Issue Fund account. An Issue Fund Grant may be used solely to pay Eligible Expenses for Eligible Proceedings involving Idaho Power. CUB will be eligible to apply for Issue Fund Grants. The Commission shall review such applications using the criteria set forth in Section 6.5 below. CUB may not be denied Issue Fund Grants on the grounds that it will receive CUB Fund Grants under this Agreement.

4.3 Rollover. A balance in either of the Fund accounts that is unused in any year during the Term of the Agreement will be carried over at the end of the calendar year and made available for use in succeeding years, subject to the limitations identified in this Section 4.3 (the "Rollover"). The amount of the Rollover that may be used in any calendar year during the Term shall not exceed the Annual Grant Amount associated with the applicable account set forth in Section 4.2 of this Agreement. For example, no more than \$31,500 may be rolled over in one year in Idaho Power's Issues Fund account.

4.4 Advance. CUB may request to use in any calendar year during the Term amounts that would otherwise be available in the CUB Fund account subject to the limitations identified

in this Section and Sections 7.1 of the Agreement (an “Advance”). An Advance will not be available from the Issue Fund. However, the Commission may approve an Issue Fund Grant from funds that will be made available in the next calendar year when the proceeding for which the Issue Fund Grant is sought is expected to continue into that year and funds in the current year Issue Fund are inadequate to provide the level of Issue Fund Grants that the Commission determines is appropriate. An Advance may not be used in the last year of the Term of this Agreement. An Advance shall have the effect of reducing by the amount of the Advance the Annual Grant Amount that would otherwise be made available in the next year in the CUB Fund account. The amount of the Advance that may be used in any calendar year during the Term shall not exceed the Annual Grant Amount associated with the applicable account set forth in Section 4.2 of this Agreement.

4.5 Unused Balances. The unused balance in the Fund account shall be eliminated upon the termination of this Agreement (whether as a result of a termination pursuant to Section 9.1 below or at the end of the Term), except that certain expenditures incurred pursuant to a Commission-authorized Intervenor Funding Grant awarded before termination may be reimbursed according to the terms specified in Section 9.3 below. Any unused balance in the Fund account at the end of 2016 may be rolled over to 2017, etc., subject to the limitations of subsection 4.3 above.

## **Article 5** **Issue Fund Grant Eligibility**

5.1 General. Only CUB will be eligible to receive Issue Fund Grants under this agreement.

**Article 6**  
**Issue Fund Grant Request Procedures**

6.1 Eligible Proceedings. Requests for an Issue Fund Grant may be made only in an Eligible Proceeding.

6.2 Notice of Intent to Request an Issue Fund Grant. CUB must file a notice of intent to request an Issue Fund Grant ("Notice of Intent") when it submits its petition to intervene or notice of intervention in the matter or, for matters that do not involve a formal intervention, at such other time as the Commission designates. The Notice of Intent must be served upon Idaho Power, and all parties of record in the proceeding or, if no such list has been established, to such other persons as the Commission designates.

6.3 Proposed Budgets. CUB must submit a proposed budget to the Commission along with such other information as the Commission may require in considering the request. A proposed budget must include: (a) a statement of work to be performed by the applicant for which the applicant is seeking an Issue Fund Grant; (b) a description of the areas to be investigated by CUB; (c) a description of the particular customer class or classes that will benefit from CUB's participation; (d) an estimate of the amount of available funds in the Issue Fund account; (e) a budget showing estimated attorney and consultant fees and expert witness fees, which may include the cost for appropriate support staff and operational support; and (f) a representation that CUB will use matching funds in the form of either in-house resources or outside funding to account for or pay at least 20% of the Eligible Expenses for the work to be performed for which CUB is seeking an Issue Fund Grant. The deadline for submitting proposed budgets will be 30 days after the prehearing conference at which the schedule for the proceeding is established or by such other date as the Commission designates. Proposed budgets shall be served on the Commission and all parties of record in the proceeding. In proceedings with

multiple phases, proposed budgets should encompass work to be performed for the initial phase of the proceeding. In the event the proceeding continues beyond the initial phase, the Commission will establish a schedule for CUB to submit proposed budgets for any later phase(s) of the proceeding. If CUB expects to incur Eligible Expenses in an Eligible Proceeding in more than one calendar year, the proposed budget may seek an Issue Fund Grant from funds that will be made available in the next calendar year. In such cases, the proposed budget should identify the amount of funds requested from each year's fund.

6.4 Additional Information. The Commission may seek additional information concerning proposed budgets. The Commission will act upon proposed funding budgets within 14 days of receiving the proposed budgets or, if applicable, any supplemental information provided in response to the Commission's request.

6.5 Commission Decision. The Commission will determine the amount, if any, of Issue Fund Grants that will be made available for each Eligible Proceeding. The Commission may make this determination based upon the following factors: (a) the breadth and complexity of the issues; (b) the significance of any policy issues; (c) the procedural schedule; (d) the dollar magnitude of the issues at stake; (e) the participation of other parties that adequately represent the interests of customers; (f) the amount of funds being provided by CUB; (g) CUB's qualifications and experience before the Commission; (h) the level of available funds in the Fund account or accounts involved; and (i) other Eligible Proceedings in which CUB may seek additional Issue Fund Grants from the same Fund account. The Commission shall condition Issue Fund Grants on CUB's providing evidence that CUB has used in-house resources or outside funding to account for or pay at least 20% of the Eligible Expenses for the work to be performed in the proceeding for which CUB is seeking an Issue Fund Grant. The Commission

may deny, in whole or in part, a request for an Issue Fund Grant based on the above criteria and requirements. The Commission may place reasonable conditions on Issue Fund Grants, including but not limited to requiring that CUB use in-house resources or outside funding to account for or pay more than 20% of the Eligible Expenses for the work to be performed in the proceeding for which CUB is seeking an Issue Fund Grant. Except as provided in this Section, an Issue Fund Grant shall constitute a binding obligation on the Commission to order reimbursement of Eligible Expenses subject to satisfaction of any conditions imposed on the Issue Fund Grant and the requirements set forth in Article 7 and Article 8 below. The Commission may amend an Issue Fund Grant if it finds that there has been a material change in the breadth and complexity of the issues, the significance of the policy issues, or the dollar magnitude at stake, such that the initial Issue Fund Grant is no longer warranted. If the Commission amends an Issue Fund Grant, it will provide notice to CUB and afford an opportunity to comment and provide a revised budget. A Commission amendment of an Issue Fund Grant shall take effect on a prospective basis only. Eligible Expenses incurred or accrued before the Commission amendment will be reimbursed according to the terms set forth in Article 7 below notwithstanding the Commission amendment of the Issue Fund Grant.

6.6 Amendment of Proposed Budget. At any time during the proceeding, CUB may file to amend its budget and request additional funding due to unforeseen changes in the scope or complexity of issues, positions taken by other parties, changes in the schedule of the case, or other good cause. The Commission may seek additional information concerning a proposed budget amendment. The Commission will act upon the request within 14 days of receiving the proposed amendment or, if applicable, any supplemental information provided in response to the Commission's request.

6.7 Intervenors' Report.

- (a) On or before each April 1 during the Term of this Agreement, CUB shall file a report with the Commission showing, as of December 31 of the prior calendar year for each Issue Fund, its budget request pending approval, approved budget amounts, requested payments, payments received, and a statement indicating whether any of its approved budget amounts for an Issue Fund Grant may be released back to the Issue Fund because CUB does not intend to use the full approved amount.
- (b) To ensure that CUB's respective members contribute a significant portion of the organization's funding of activities before the Commission for which CUB seeks intervenor funding, CUB shall also include in its report filed pursuant to subsections (a) or (b) of this Section the following: (1) a statement estimating the total expenditures CUB incurred participating in all proceedings affecting Idaho Power before the Commission in that year; and (2) a statement showing the amount of expenditures CUB incurred in participating in each proceeding affecting Idaho Power before the Commission for which it requested payment of a grant from an Issue Fund in the prior calendar year.
- (c) Information in the reports may be designated as confidential and protected from public disclosure to the maximum extent possible under the Oregon Public Records Law (ORS 192.410 *et seq.*).

**Article 7**  
**Payment of Grants**

7.1 Payment of CUB Fund Grants. Upon request by CUB, the Commission will direct Idaho Power to pay the amounts made available for CUB Fund Grants pursuant to the

terms of this Agreement. Idaho Power shall pay the amount authorized by the Commission no later than 30 days after receipt of the Commission directive. Each August 1 during the Term, CUB will file with the Commission a statement setting forth the manner in which the CUB Fund Grant was spent, including information sufficient to show that the funds were spent in a manner consistent with the terms of Article 4 above. CUB will serve a copy of the statement it files under this Section on Idaho Power.

7.2 Issue Fund Grant Request for Payment. In order to receive payment of an Issue Fund Grant, CUB must submit a request for payment of Eligible Expenses to the Commission and serve a copy on Idaho Power (a "Request for Payment"). A Request for Payment may be made at any time during an Eligible Proceeding, but no later than 60 days after the Commission's final order issued in the Eligible Proceeding has become final and nonappealable. The Request for Payment must:

- (a) Itemize the expenses, payees and hourly rates for amounts to be reimbursed;
- (b) Demonstrate that the expenses are reasonable and are directly attributable to issues and positions pursued on behalf of the residential customer class and consistent with the CUB's proposed budget;
- (c) Provide information sufficient to show that CUB has complied with any condition or requirement of the Issue Fund Grant, including, but not limited to, documentation sufficient to show that CUB has satisfied the matching fund requirement (i) set forth in Section 6.5 above or (ii) as the Commission may establish as a reasonable condition on Issue Fund Grants, whichever applies; and
- (d) Specify whether the request for payment is for a progress payment or final payment in full and indicate whether any approved budget amount may be

released back to the Issue Fund because CUB does not intend to request payment for the full approved budget amount.

Details of requests for payment under this Section may be designated as confidential and protected from public disclosure to the maximum extent possible under the Oregon Public Records Law (ORS 192.410 *et seq.*). Such a confidential designation shall not excuse service of the request on Idaho Power or prevent Idaho Power from reviewing the request.

7.3 Eligible Expenses. Intervenor expenses eligible for funding under an Intervenor Funding Grant (“Eligible Expenses”) will include:

- (a) Attorney and consultant fees, whether in-house or for outside services, directly attributable to participation in the proceeding;
- (b) Expert witness fees;
- (c) Apportioned wages for in-house staff (professional and clerical) directly related to participation in the proceeding;
- (d) The cost of preparing and copying studies, data request responses and other discovery materials, exhibits, testimony, briefs and other filings in the proceeding;
- (e) Travel costs directly related to participation in the proceeding;
- (f) Costs of acquiring studies or supplies directly related to the proceeding or court report fees and transcripts; and
- (g) Costs of participation in workshops and other informal Commission activities prior to the institution of an Eligible Proceeding.

7.4 General Operation Expenses Excluded. Except as otherwise provided in Section 4.2.1 above, expenses for general operations, overhead, membership recruitment, fundraising, or communication with members, even if specifically related to the proceeding for

which the Intervenor Funding Grant was approved, will not be eligible for funding under an Intervenor Funding Grant.

7.5 Commission Review and Action. Within 30 days of receiving a Request for Payment of an Issue Fund Grant, the Commission will review the sufficiency of the request and act upon it. The Commission may disallow a request for payment, in whole or in part, if it determines that the request seeks reimbursement for (a) expenses that are not Eligible Expenses, or (b) expenses that are inconsistent with CUB's Issue Fund Grant or any conditions placed on the Issue Fund Grant. The Commission shall not award a Request for Payment if CUB fails to show that it has satisfied the matching fund requirements set forth in Sections 6.5 and 7.2(c) above. The Commission will notify CUB and Idaho Power of the following: (a) the amount of payment approved, (b) the Fund account or accounts from which payment is to be made, and (c) the allocation of the payment amount between the classes of customers. The Commission may not award a Request for Payment in excess of the amount of the applicable Issue Fund Grant, including any budget amendments approved by the Commission.

7.6 Customer Class Allocation. The Commission will make a determination in each proceeding as to how to recover the CUB Funding Grants from the various customer classes of Idaho Power:

- (a) In a proceeding involving more than one Participating Public Utility, the Commission will apportion the payment among the affected Participating Public Utilities. Criteria for making this allocation may include the relative gross revenue of the utilities, load, or other such factors as the Commission determines to be relevant to the particular matter.

- (b) CUB expenditures pursuant to a CUB Funding Grant and made on behalf of the residential customer class will be charged to and paid for by that customer class. CUB Fund Grants shall be allocated and charged to residential customers. Issue Fund Grants used to advocate positions on behalf of a broad cross-section of customers may be assessed against all customers or multiple classes of customers, as determined by the Commission, so as to fairly align the costs of the advocacy with the intended potential beneficiaries of the advocacy, regardless of actual outcome of the case. The determination may result in a combination of both class-specific assessments and general assessment to all customer classes based on the expenses incurred for the benefit of various classes in a case.

7.7 Idaho Power's Payment of Intervenor Funding Grants. Idaho Power will pay CUB the Intervenor Funding Grant as directed by the Commission pursuant to Section 7.5 above. Such payment(s) will be made within 30 days of receiving the notice of approval from the Commission.

7.8 Recovery of Intervenor Funding Grants. The Commission shall allow Idaho Power to recover in rates all amounts paid for Intervenor Funding Grants under this Agreement. If Idaho Power seeks rate recovery through a deferred account, the account and amortization of the account shall be exempt from the amortization caps and earnings test set forth in subsections 5, 6, 7, 8 and 10 of ORS 757.259, as such subsections may be amended from time to time, and shall not be included in any calculation of the amortization cap for other deferred accounts. Amounts in any deferred account under this Section will include carrying costs at Idaho Power's authorized cost of capital. If the applicable Eligible Proceeding results in a change of rates, Issue Fund Grants shall be incorporated into rates at the same time as the rate change is made. Issue

Fund Grants that are not recovered in the Eligible Proceeding in which the funds were expended and CUB Fund Grants will be included in rates concurrently with the Company's annual power cost adjustment, which is currently June 1 of each year. The Company may, however, request that the Commission change the timing and amortization period for recovering CUB Funding Grants and Issue Fund Grants that are not recovered in the Eligible Proceeding in which the funds were expended.

7.9 Audits. The Commission may audit the relevant, not privileged, records of CUB submitting a Request for Payment or submitting a request for payment under Sections 7.1 above as necessary to verify the accuracy of the information provided in the Request for Payment or the request under Sections 7.1 above, or to confirm the accuracy of CUB's report filed pursuant to Section 6.7.

7.10 Delegation. The Commission may delegate its authority set forth in Sections 7.5 and 7.6 to any Commission employee or category of employees. If the Commission delegates this authority, the delegatee's decisions may be appealed to the Commission.

## **Article 8**

### **Termination of Eligibility**

8.1 Termination of Eligibility. Upon the filing of a complaint pursuant to ORS 756.500 or upon a Commission investigation or motion pursuant to ORS 756.515, the Commission may terminate the precertification of CUB as set forth in OAR 860-012-0190. If CUB is decertified pursuant to this Section it will be ineligible for precertification for the Term of this Agreement.

8.2 Effect of Termination of Eligibility. In the event of termination of the precertification of CUB, such termination shall take effect on a prospective basis only. A decertified CUB may not receive Intervenor Funding Grants except as provided in this Section.

If CUB is decertified it may recover Eligible Expenses incurred pursuant to a Commission authorized Intervenor Funding Grant and incurred before decertification, subject to satisfaction of the requirements set forth in Article 7 of this Agreement.

## **Article 9** **Termination**

9.1 Termination. A Party may terminate this Agreement if any one or more of the following events occur:

- (a) In an order, the Commission rejects all or a material part of this Agreement or adds a condition that has a material effect on the terms and conditions of this Agreement;
- (b) The Commission repeals or amends a material part of the rules implementing this Agreement;
- (c) There is a repeal or material change in the statutory provision enabling CUB to receive intervenor funding from energy utilities;
- (d) Any of the following are enacted through legislation, ballot measure or formal action of the Commission:
  - (1) An alternative intervenor funding program affecting Idaho Power;
  - (2) Changes in the method by which Idaho Power recovers expenses incurred in regulatory proceedings if such changes prohibit or limit Idaho Power's ability to recover such expenses through rates;
  - (3) The creation of an elected Commission;
  - (4) Any action that makes intervenor funding unnecessary, including:
    - a. The creation of a consumer advocate staff or agency;

- b. A change in the role of Commission Staff that is materially different from the statement adopted in the Commission's current Internal Operating Policy Guidelines; or
- c. Any change similar to a. and b. above.

9.2 Notice. A Party terminating this Agreement shall give the other Party and the Commission 30 days advance written notice. Such termination will become effective only upon a determination by the Commission that the Party has a valid basis pursuant to Section 9.1 above to terminate the Agreement.

9.3 Discharge of Obligations Upon Termination. If this Agreement is terminated pursuant to this Article, the terminating Party shall be released and discharged from any obligations arising or accruing under this Agreement from and after the date of such termination. Termination of this Agreement (under this Section or at the end of the Term of this Agreement) shall not discharge or relieve any Party from any obligations or liabilities which may have accrued under the terms of this Agreement before such termination. In particular, the Commission shall require Idaho Power to pay Eligible Expenses incurred under a Commission-authorized Intervenor Funding Grant that was awarded before the date of termination, subject to satisfaction of the requirements of Article 7. The Commission shall permit Idaho Power to recover in rates any such authorized intervenor expenditures. If Idaho Power has not recovered all of its payments of Intervenor Fund Grants under this Agreement by the end of the Term or the date on which the Agreement is terminated, the Commission shall permit Idaho Power to recover such amounts after the Term of this Agreement or after the termination date.

**Article 10**  
**Miscellaneous**

10.1 Dispute Resolution. The Parties agree to confer and make a good faith effort to resolve any dispute arising under this Agreement before bringing an action or complaint to the Commission or any court with respect to such dispute.

10.2 Parties' Cooperation and Support. The Parties shall file this Agreement with the Commission. The Parties agree to support this Agreement before the Commission and before any court in which the Agreement is considered. The Parties agree to support the Commission's adoption and issuance of rules necessary to implement the terms of this Agreement.

10.3 Enforcement. The Parties agree that the Commission may enforce the terms of the Agreement in the same manner as the enforcement of a Commission order. To the extent the Commission lacks authority to enforce or compel performance of particular terms of this Agreement, the Parties may seek enforcement in a court of competent jurisdiction of the State of Oregon. The jurisdiction over this Agreement of the Commission and the courts in the State of Oregon shall be exclusive.

10.4 Counterparts. The Agreement may be signed in any number of counterparts, each of which will be an original for all purposes, but all of which taken together will constitute only one agreement.

10.5 Entire Agreement. This Agreement supersedes any and all oral or written agreements and understandings made relating to intervenor funding to be made available by the Participating Public Utilities and constitutes the entire agreement and understanding of the Parties.

10.6 Successors. The terms and provisions of this Agreement and the respective rights and obligations of the Parties under this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors.

10.7 No Assignment. The benefits and obligations of this Agreement may not be assigned or transferred without the written consent of each of the other Parties and Commission approval.

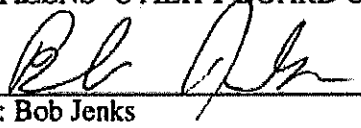
10.8 Amendments. No amendment or modification of the terms of this Agreement shall be binding on any Party unless reduced to writing and signed by all Parties.

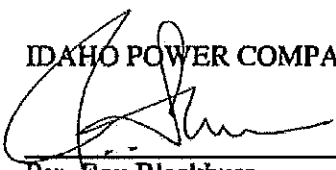
10.9 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Oregon, without regard to principles of choice of law.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the day and year first above written.

CITIZENS' UTILITY BOARD OF OREGON

IDAHO POWER COMPANY

  
By: Bob Jenks

  
By: Rex Blackburn

Its: Executive Director

Its: Senior Vice President and General Counsel