BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 426

In the Matter of	)
	)
Idaho Power Company,	)
	)
Request for a General Rate Revision	)
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OPENING TESTIMONY

OF THE

OREGON CITIZENS' UTILITY BOARD

March 25th, 2024

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I. INTRODUCTION

Q. Please state your name, occupation, and business address.

A. My name is Bob Jenks. I am the Executive Director of the Oregon Citizens' Utility Board (CUB). My business address is 610 SW Broadway, Ste. 400, Portland, Oregon 97205.

Q. Please describe your educational background and work experience.

A. My witness qualification statements are found in exhibit CUB/101.

Q. What is the purpose of your testimony?

A. Idaho Power Company (Idaho Power or the Company) is proposing what CUB believes is the largest residential rate hike since the Western Power Crisis more than 20 years ago. This is the latest in a series of large rate hikes that utilities across Oregon have proposed. Accordingly, CUB's testimony in this case will look different than it has in most utility general rate cases. CUB questions whether the traditional way utility regulators review utility filings is appropriate in an era of big rate hikes. CUB worries that by focusing on approving new costs,

regulation encourages utility spending and rate hikes, rather than encouraging a utility to prioritize its spending in a manner that considers the experience of customers who ultimately pay the bills – if they can afford to pay the bills.

CUB's Opening Testimony will not focus on a line-by-line analysis of Idaho Power's proposed revenue requirement for the test year. We recognize that such a review is important and that the Oregon Public Utility Commission (PUC or Commission) Staff will undertake such a review – CUB will respond to Staff's analysis in Cross-Answering Testimony. But adding up the cost of all the line items that are deemed prudent or reasonable may not lead to a rate that is affordable. Instead of focusing our analysis on cost recovery for the utility's expected expenses and investments, CUB wants to center our analysis on the customer. From a customer perspective to be "just" or "reasonable," a utility rate must also be affordable.

CUB's testimony will address the following issues:

- CUB Exhibit 100 will address:
  - Idaho Power's customers and the impact of this proposed rate increase;
  - CUB's proposal for dealing with the rate shock that customers will experience with this increase; and
  - CUB's proposed modifications to Schedule 64, the Company's proposed income-qualified Bill Discount Program.
  - CUB's concerns regarding Idaho Power's capacity deficit

- CUB Exhibit 200 will address the issue of Seasonal Rates. Idaho Power has sought Seasonal Rates for more than a decade, without offering much testimony concerning how those rates will affect customers. CUB attempts to fill in some of this knowledge by examining how seasonal rates will affect the large number of customers who live in mobile home/manufactured housing.

II. IDAHO POWER'S CUSTOMERS

A. Idaho Power's Customers Cannot Afford this Increase

Q. What is important to know about Idaho Power's residential customers in Oregon?

A. CUB believes that understanding certain facts about Idaho Power's residential customers in Oregon is important when thinking about this case and considering its outcomes. These customers:

- Have lower household incomes than Oregon households as a whole,[1]
- Have higher electric usage than Oregon households as a whole,[2] and
- These combine to create higher energy burdens for Idaho Power customers.

Q. What can you tell us about household incomes of Idaho Power customers.

A. Idaho Power serves a small slice of Eastern Oregon, primarily in Malheur County. The largest Oregon city that Idaho Power serves is Ontario. The median household income in Malheur County between 2017 and 2021 was $47,906.[3] This is slightly more than half of the median household income Oregon's richest county (Washington County), $92,025, and is well below Oregon's median household income of $70,084 and the nation's median household income of $69,021.[4]

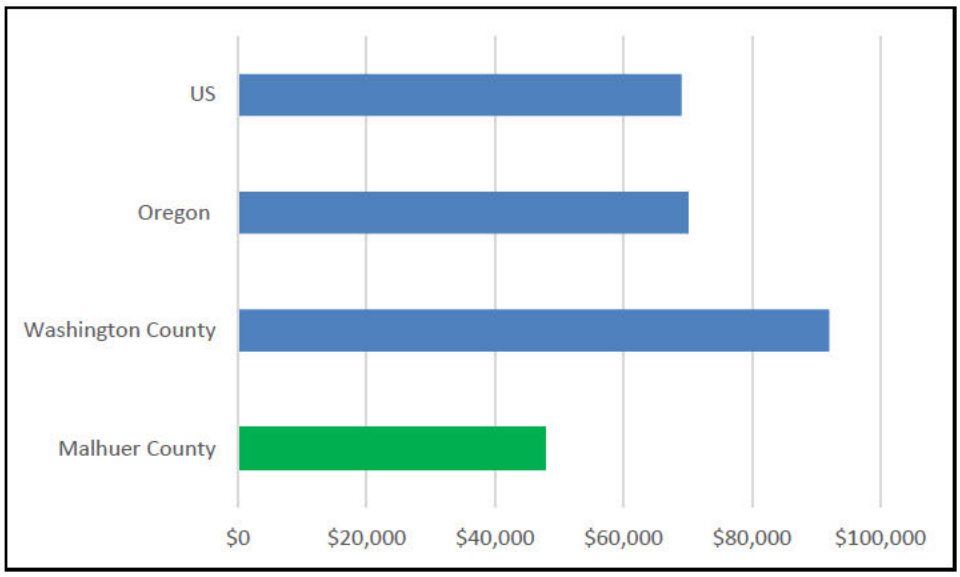
[1] Nat'l Inst. on Minority Health and Health Disparities, S*ocial, Economic, & Cultural Environment: Oregon Income Table*, https://hdpulse.nimhd.nih.gov/data-portal/social/table?race=00&race_options=race_7&sex=0&sex_options=sexboth_1&age=001&age_options=ageall_1&statefips_options=area_states&demo=00011&demo_options=income_3&socialtopic=030&socialtopic_options=social_6&statefips=41 (last visited March 22, 2024).

[2] Or. Pub. Util. Comm'n, *2022 Oregon Utility Statistics*, 13, https://www.oregon.gov/puc/forms/Forms%20and%20Reports/2022-Oregon-Utility-Statistics-Book.pdf (hereinafter *Oregon Utility Statistics*)..

[3] Nat'l Inst. on Minority Health and Health Disparities, *supra* note 1.

[4] *Id.*

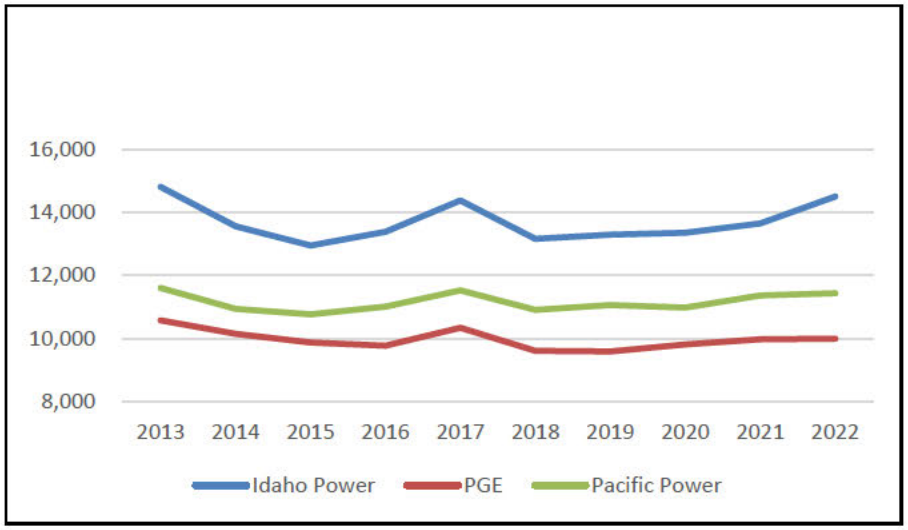
Table 1: Median Household Income[5]



Q. What can you tell us about Idaho Power customers' electric usage?

A. Idaho Power customers live in a climate that is, on average, hotter in the summer and colder in the winter, than the average Oregonian. This is reflected in higher annual electric usage than customers of other regulated utilities.

Table 2: Residential Electric Use (kwh/year)[6]

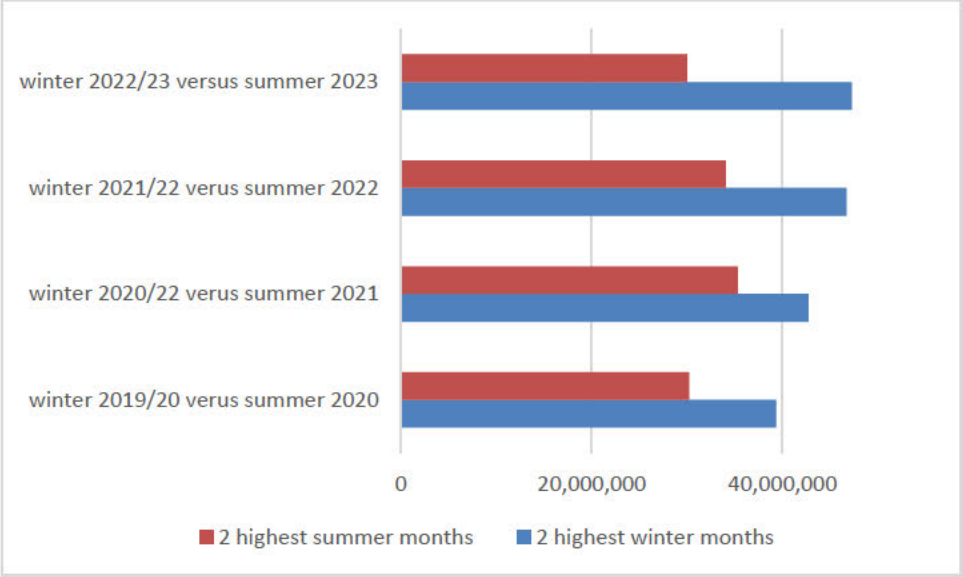


[5] Chart created by CUB using data from Nat'l Inst. on Minority Health and Health Disparities, *supra* note 1.

[6] *Oregon Utility Statistics*, *supra* note. 2.

While Idaho Power claims summer peak usage drove Idaho Power's 2021 RFP,[7] residential customers use significantly more electricity in the winter than they do in the summer. This is consistent with national data that shows that space heat accounts for 45% of the home's energy usage.[8]

Table 3: Winter versus Summer Usage (Idaho Power residential customers in Oregon) [9]



But winter usage is not consistent within the residential class. Space heating is the highest source of energy consumption in American households accounting for 45% of the average home's energy usage.[10] However, because a significant number of homes use natural gas for space heating, when thinking about the impact of winter rate increases it is important to try to focus on homes with electric heat. According to Idaho Power's Low Income Needs Assessment (LINA), approximately 66% of Idaho

[7] UE 426 - Idaho Power/300, Hackett/9.
[8] U.S. Dep't of Energy, *Energy Saver 101 Infographic: Home Heating* (Mar. 2, 2023), https://www.energy.gov/energysaver/heating-and-cooling#:~:text=Space%20heating%2C%20space%20cooling%2C%20and.cooling%20systems%2C%20and%20maintain%20comfort (last visited Mar. 23, 2024).
[9] UE 426 – CUB/102.
[10] U.S. Dep't of Energy, *supra* note 8.

Power's residential customers use electricity for their primary or secondary heating source.[11] In Ontario, 76% of the Company's customers rely on electricity as their primary heating source.[12] According to the Oregon Department of Energy, in Malheur County, 54% of homes use electric heat, 28% use gas, 4% use propane and 8% use wood.[13]

Recognizing that space heat is the highest source of energy consumption, but some homes do not use electricity for heat, it is likely that the set of homes that use electricity for space heating represent the highest usage customers in the winter. CUB's desire is to focus on homes with electric resistance heating as their primary source of heat. While 66% of Idaho Power customers use electricity for their primary or secondary heating source, CUB wants to adjust this number downward to remove customers who use electricity to back up gas, propane or wood heat, customers with heat pumps and customers with homes that are well weatherized. CUB is interested in customers who have high winter heating bills because of a combination of weather, inefficient resistance heat and poorly weatherized homes.

CUB asked Idaho Power to identify the set of customers that had the highest 30% of usage during each month of the year. CUB knows that this set does not represent all electric resistance heat customers, but it is a good proxy set for thinking about the

[11] Empower Dataworks, *Idaho Power: Oregon Low Income Needs Assessment*, 16 (July 2023) https://edocs.puc.state.or.us/efdocs/HAH/um2211hah143035.pdf).
[12] *Id.* at 24.
[13] Or. Dep't of Energy, *Oregon's Energy Sector Profiles* (2020), https://www.oregon.gov/energy/Data-and-Reports/Documents/2020-BER-County-Profiles-Supplement.pdf.

impact of Idaho Power's rate proposal on these customers with inefficient resistance heat and poorly weatherized homes.

This proxy set of customers that represent electric resistance heat customers, begins with customers whose usage is 28% to 30% higher than the average residential customer during the winter. The median of this proxy set of customers uses between 74% and 79% higher usage than the average residential customer during the winter. The median of this proxy set of electric heat customers used 2649 kwh/winter-month, versus 1502/kwh/winter-month for the average residential customer.[14]

Based on Idaho Power's proposed new rates, the median use customer from this proxy set of electric resistance heat customers will see their rates increase by 21.5%, from $254.63 to $309.3 in a typical winter month.[15] But winter weather varies. In a colder month, the median of our proxy group would see a bill increase that is, $117 or 46% higher than the typical winter bill under current rates.[16]

This potential increase of between $50 and $120 per month is in one of the poorest parts of the state. For many customers, this is unaffordable. For many customers it is not "just," it is not "fair," and it is not "reasonable."

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[14] CUB/102, *supra* note 9 (CUB uses median, rather than average, to remove the impact of a few customers who can use more than 1000 kwh/month).
[15] *Id*.
[16] *Id.*

Q. What can you tell us about the energy burden of Idaho Power customers?

A. According to Idaho Power's LINA, approximately 3500 households are considered high burdened households.[17] This is more than 27% of occupied, non-seasonal household meters. While Oregon has established a low-income bill discount which will provide critical relief to many of Idaho Power's households, even the best managed program will not serve all eligible customers. Many high burdened households will face the rates established by this proceeding. Consider that in 2022 Idaho Power's Project Share energy assistance program served only 28 of these households.[18]

Customers who are energy burdened will find themselves in a difficult place if this rate increase is approved. Finding an additional $50 to $120 to pay a winter power bill means that there is less money for food, rent, medicine, transportation, and other utilities.

B. CUB's Proposal for Dealing with Large Rate Increases

Q. What is rate shock?

A. In the context of utilities, rate shock occurs when there is a sudden, large rate increase which is significant enough that customers find it difficult to adjust their budgets to absorb the increase. Customers are feeling financial pressures from the rising cost of essentials: housing, energy, food, medicine, medical bills, childcare and transportation.

[17] Empower Dataworks, *supra* note 11, at 19.
[18] *See* UE 426, Idaho Power/600, Hanchey/20.

Rate shock is particularly a concern for big increases that come in the winter when bills are at their highest. Rate shock is a big problem for customers that live paycheck-to-paycheck. Adjusting to rate shock means adjusting how much a person pays for food, medicine, other utilities, and other expenses in order to make up for the increase in their electric bill. For customers who live paycheck-to-paycheck, absorbing a $40 to $60 increase in one bill can be very difficult, and absorbing a bill that is more than $100 above normal can be nearly impossible.

Q. Does the Commission have the power to address rate shock?

A. Yes. The Commission has several tools that it has identified that it can deploy to reduce the rate shock to customers. In 2003, Commissioner Beyer testified to the Oregon legislature that the PUC had tools to address rate shock and the PUC would utilize those tools. According to Commissioner Beyer's testimony, the Commission has three tools that can be used to address rate shock:

- Deferring or phasing in the rate increase—with or without carrying charges;
- Setting the rate at a level that is not lower than the lowest reasonable rate; and
- Requiring the utility to propose and implement other rate mitigation measures.[19]

Q. Has the Commission deployed these tools?

A. Not exactly. Most of the big issues in significant rate cases reach the Commission through stipulation, and the Commission has adopted stipulations which include proposals to deal with rate shock. But because stipulations do not set precedents, there are not clear standards for when to apply these tools, or how to do so.

[19] UE 426 – CUB/103.

Q. Is relying on stipulations an adequate way to address rate shock?

A. Absolutely not. Part of the problem is that utilities update rate cases through the course of a case. In the case of power cost proceedings, utilities will update the cases even after the Commission enters its final order. Moreover, the increasing proliferation of single-issue rate increases makes it hard to know what additional costs will be added to rates. This means that the size of the rate increase can grow during the suspension period, as we saw happen in Portland General Electric's (PGE) 2023 rate case .[20] Intervenors do not necessarily know that rate shock will be a problem when filing testimony. Rate shock can also be caused by the combined effect of various cases – a general rate case (GRC) combined with a power cost forecast, wildfire mitigation, and a Power Cost Adjustment Mechanism (PCAM). Because intervenors do not know what the final rate will be when putting evidence on the record, asking intervenors to anticipate rate shock and work to address it is problematic.

The entity that is best able to address rate shock is the utility. It has visibility into all of the cost drivers, controls investment decisions, and the timing of general rate cases and most single-issue rate cases. But a utility has an incentive to make investments, which will bring in additional return on equity (ROE).

Q. How should the Commission address this problem?

A. CUB believes the answer lies in designing a policy around rate shock that can be implemented even in cases where the rate shock is not evident early in the year. Such

[20] UE 416, *In the Matter of PORTLAND GENERAL ELECTRIC COMPANY, Request for a General Rate Revision; and 2024 Annual Power Cost Update*.

a policy would require defining a standard for rate shock and identifying the response, so it can be easily implemented. And most importantly, such a policy should create better incentives for the utility to manage and prioritize its spending in order to avoid rate shock.

C. CUB's Rate Shock Standard Process

Q. Does CUB have a recommendation as to a standard definition of rate shock?

A. Yes. While CUB recognizes that what is unaffordable to one person is different from what is unaffordable to another person, we do believe that it is possible to set a standard for when the Commission will implement a response to rate shock.

To this end, CUB recommends that the Commission look to the Oregon legislature's mechanism to limit rent increases.[21] This limit can be viewed as a policy decision about what is a reasonable level of increase for the cost of housing. Because utilities are a part of the cost of housing, CUB believes that this is a good starting point for discussing the standard for declaring that there is rate shock. The legislature's limit was established as the lower of two limits:

- 10%, or
- 7% + CPI.[22]

Under this standard, if the Consumer Price Index (CPI) was 2%, the limit on an annual rent increase would be 9%. If the CPI was 5%, the limit on rent increases would be 10%. While the legislature has established these as hard annual caps on rent increases, CUB is proposing that the PUC establish a similar mechanism that triggers

[21] Kyra Buckley, *New rental cap kicks in, limiting hikes to 10% next year for some Oregonians*, Or. Pub. Broad. (Sept. 26, 2023, 5:02 PM), https://www.opb.org/article/2023/09/26/oregon-rent-increase-caps/.
[22] *Id.*

implementing the three tools, noted above, that it has described as ways to mitigate rate shock. While the rent cap applies to individual tenants, CUB is proposing a mechanism on a residential class basis, whereby rate increases that hit a certain established Rate Shock Threshold would trigger a rate shock finding and require application of tools to mitigate that shock.

The Commission could also establish a higher or lower trigger amount if it felt that would be appropriate. But CUB believes that setting a common standard for rate shock which then triggers rate shock mitigation is necessary.

Q. The first tool the Commission has described is deferring or phasing in the rate increase—with or without carrying charges. How would CUB propose that the Commission implement this tool?

A. The first tool, phasing in the rate increase with or without carrying charges, would allow the Commission to approve a rate increase, but limit how much of that rate increase could be allowed to go into effect immediately and provide a schedule for phasing in the remainder of the increase.

Generally, CUB would propose that the standard be applied on an annual basis and amounts above this cap could go into rates the following year. CUB recognizes that there may be circumstances where the financial health of the utility requires that higher rates be phased in more quickly, but that should be discouraged. The Commission is currently allowed to implement a rate increase on an emergency basis without an investigation, subject to refund after the investigation happens and this is

rarely used. CUB believes that allowing utility rates to increase above the Rate Shock Threshold on an annual basis should also be limited.

As to the carrying charges, CUB recommends that the Commission reject using the Company's cost of capital for carrying charges. The cost of capital includes a return on equity, which means that shareholders would be rewarded for proposing rate increases above the Threshold and that customers would, in effect, be fully financing their temporary rate reduction. The Commission has other choices for carrying charges. It can phase in or delay the increase without a carrying charge. This would provide a powerful incentive for utilities to control their costs. The Commission could also use the modified blended treasury rate, recognizing that once the Commission approves, but delays the rate hike, the utility is no longer at risk as to getting the money from customers, only the timing is at issue.

Q. What about the second tool, setting the rate at a level that is not lower than the lowest reasonable rate?

A. CUB believes that this is an extremely important tool. Essentially, this is based on recognizing that there is normally a range of reasonableness when rates are established centering around the utility's ROE.[23] When establishing ROE, most expert witnesses first determine a reasonable range of ROEs and then make a recommendation as to where within this reasonable range to set the ROE. This ROE range can be viewed as the range of reasonableness for rates generally. As long as the

[23] Or. Pub. Util. Comm'n, Docket Nos. UE 180, UE 181, UE 184 *In re Portland General Electric Company*, Order No. 07-015, 26 (Jan. 12, 2007) (citing *Duquesne Light Co. v. Barasch*, 488 US 299, 312 (1989)).

Commission is setting rates that seek to allow the utility to receive earnings that are within this range, the rates are reasonable. Because of this range, the Commission can reduce rate shock by setting rates at the lowest level that is reasonable but still in the reasonable range.

This is an important tool to manage rate shock. Most businesses compete in competitive markets, where customers have other options. If that business sets a price that is too high for its product, then customers will go elsewhere and profits will fall. Subjecting utilities to similar market discipline, where if prices rise too quickly it will affect profits, creates a powerful incentive for a utility to prioritize its spending and investments and think about the price impact it is placing on customers.

Q. What about the third tool, ordering the utility to take actions that mitigate rate shock. Does CUB have a recommendation as to how the Commission should implement this tool?

A. Yes. CUB believes that when a utility goes beyond the Rate Shock Threshold for a rate increase the Commission should require the Company to take certain actions:

- The rate effective date associated with costs that do not need to be recovered during the winter months should be delayed and not placed on winter bills. This would help avoid creating circumstances where the increase combined with cold weather make bills unaffordable for customers with space heating.
- The Company should be required to submit a plan to the Commission outlining what it is doing to mitigate the rate shock. This plan should include increasing efforts to educate customers about its Bill Discount Program (BDP), equal pay, energy efficiency and other options that might help the customer deal with the impact.
- A shut-off moratorium should be implemented for a 6-month period, allowing customers some time to manage the increase.
- For 12 months after the increase, the Company should be required to report to the Commission the number of customers, by zip code, who have 30-day

arrearages, the number that have 60-day arrearages, the number that have received shut off notices, the number that have been shut off and any other information the Commission believes will be helpful in understanding the impact of the increase.

- The Commission could order the Company to suspend or reduce the amortization of certain deferred accounts or other single issue ratemaking mechanisms, to reduce the impact of the rate increase.

Q. These rate increase triggers are set for residential customers, do you have a proposal for other customer classes?

A. Rate shock is not something that is limited to residential customers. Other classes of customers also have trouble absorbing large increases. There would be a fairness question if the Commission used these rate increase caps to limit increases to residential customers but allowed the full increases to other classes of customers. CUB proposes that the residential rate increase triggers be used to limit the recovery to other classes of customers consistent with the rate spread of those elements. For example, if the Commission delayed 50% of the increase for residential customers until the following year, all customer classes would see 50% of their increase delayed to the following year.

D. Applying this Rate Shock Standard to Idaho Power

Q. Can you provide more detail about how this could be applied to Idaho Power in this case?

A. Yes. There are several parts to this standard which CUB believes should be applied:

- The Commission should apply the trigger to this case, along with power costs and other rate changes that will also be changing rates;
- The Commission should delay recovery of amounts above the trigger;
- The Commission should reduce the ROE to the lowest that is allowable; and
- The Commission should adopt appropriate rate shock reporting requirements.

1. *Applying the Trigger to Idaho Power*

Defining the rate-year.

The rate effective date for this case is October 15, 2024, just as the winter months approach. Idaho Power's annual power cost filings have rate effective dates of June 1, just as the summer months approach. CUB would recommend setting the rate-year as June 1 – May 31 to correspond to the power cost filing. This means that Idaho Power's rate shock threshold would be applied to all price changes between June 1, 2024 and May 31, 2025.

Power costs go first

In applying the trigger, we will need to consider the impact of this rate case, the power cost case, and any additional costs that are added before the rate effective date. Because the power cost forecast is a forecast of costs over a 12-month period with a true up mechanism, delaying it will impact the following year's PCAM. This can be contrasted to the Idaho Power's general rate case, which projects one year of expenses using the calendar year 2024, but with a rate effective date of October 15, 2024. The rate effective date is towards the end of the test year. This is because the test year is designed to set base rates which will remain in effect until the next GRC. The rate established by the GRC will not be subject to a true up.

Assuming that adding the forecasted power costs do not, by themselves, breach the triggering amount, these power costs should be implemented as approved by the Commission. Establishing this will then set the limits that will then apply as results of other cases are added to rates.

If the power cost case exceeds the trigger, then the cap will be applied to power costs and costs above the cap will then flow into the PCAM, unless the Commission directs otherwise. If the power costs do not exceed the trigger, then the difference between the power cost increase and the trigger amount would be the amount that the GRC would be allowed to increase rates.

As an example, if inflation is 3%, then the trigger is 10%. If the power cost case represents a 2% rate increase, then there is room for an additional 8% before tripping the trigger. This 8% would then apply to the GRC and any additional rate increases that would happen in that year.

2. *Delaying the amount above the trigger.*

Once the trigger amount has been established and the revenue requirement associated with various ratemaking mechanism identified, the amount above the trigger should be set aside to be recovered in a future year. The Commission will need to decide whether there should be a carrying charge and the rate effective date for the second year. Recovery in the second year is subject to a rate shock trigger in that second year.

Reducing the ROE

CUB is not hiring an ROE witness and making a recommendation as to the range of reasonable return or where the precise ROE should be set. And because Idaho Power's ROE is higher than every other regulated electric or gas utility in the state, just saying it should be lowered may not be meaningful enough.

Idaho Power proposes to increase its ROE to 10.4%.[24] Idaho Power's request to increase its ROE should be flatly rejected. Increasing the ROE under these circumstances, where rates are going up by more than 25%, is not reasonable. In addition, Idaho Power's request is well above the 9.4-9.5 % ROEs currently established for other Oregon investor-owned utilities (IOUs).

In addition, Oregon has little impact on Idaho Power's overall ROE. Because Oregon is 4.5% of net plant, Oregon has little ability to influence the Company overall or composite ROE. Even if the Commission were to grant Idaho Power's request, it would only marginally affect the company's overall ROE. For all practical purposes, Idaho Power's ROE is determined by the Idaho Public Utilities Commission.

CUB recommends that the Commission set Idaho Power's ROE at the lowest level possible that still allows the Company a reasonable return. Based on recent cases for other utilities, CUB would expect this to be below 9.4–9.5 percent, which are the current ROEs of regulated Oregon utilities.

Q. What other actions should the Commission order Idaho Power to take?

A. The Commission should require the Company to take several additional steps:

- The rate effective date of the amount that is below the rate shock trigger should be moved from October 15, 2024 to April 1, 2025. This would help avoid creating circumstances where the increase combined with cold weather make bills unaffordable for customers with space heating.
- By January 1, 2025, the Company should be required to submit a plan to the Commission outlining what it is doing to mitigate the rate shock. This plan should include increasing outreach efforts to educate customers about its

[24] UE 426 - *Idaho Power Company's Executive Summary and List of Acronyms*, 3 (Dec. 15, 2023).

BDP, equal pay, energy efficiency and other options that might help the customer deal with the impact.

- A shut off moratorium should be implemented for a 6-month period after the rate effective date (April 1—Oct. 31), allowing customers some time to manage the increase.
- For 12 months after the rate effective date, the Company should be required to report to the Commission, by zip code, the number of customers who have 30-day arrearages, the number that have 60-day arrearages, the number that have received shut off notices, and the number that have been shut off.

III. IDAHO POWER'S BILL DISCOUNT PROGRAM

Q. Please summarize your testimony on this topic.

A. CUB is currently collaborating with Idaho Power and environmental justice stakeholders on Idaho Power's income-qualified Bill Discount Program (proposed Schedule 63) and will likely comment more on this program design in later testimony. CUB echoes the procedural justice concerns of finalizing the Company's interim bill discount program in a general rate case proceeding and offers recommendations for additional analyses to the Company as a compromise to potentially address some stakeholder concerns.[25] Further, CUB recommends that Schedule 64 be modified to remove the $2,000 cap for non-residential customers and expect to provide our recommendation as to cost recovery and rate spread in future testimony.

Q. What is Schedule 63?

A. Schedule 63 is Idaho Power's proposed tariff for its proposed interim income-qualified Bill Discount Program (BDP)**.** The Company is proposing a three-

[25] UM 2211, *NWEC, Verde, CUB, and CEP's Comments Regarding Procedural Equity in Low Income Bill Assistance Program Discussions* (Dec. 21, 2023) (hereinafter "*Comments Regarding Procedural Equity").*

tiered system of monthly bill discounts for residential customers based on percentage of adjusted household income in relation to state median income (SMI), in its proposed tariff Schedule 63.[26] This program would offer a 60% discount to customers whose adjusted household income is up to 20% of SMI; a 25% discount to customers whose adjusted household income is greater than 20% up to 40%; and a 10% discount to customers whose adjusted household income is greater than 40% up to 60% SMI.[27]

Q. Does CUB support the Company's proposed interim bill discount program?

A. Currently, no. But first CUB will acknowledge that we appreciate that Idaho LINA to get baseline information on energy burden in its Oregon service territory. Not every Oregon IOU did this prior to proposing a bill discount program. And CUB appreciates that Idaho Power conducted workshops where stakeholders could provide feedback in UM 2211, and that the Company has incorporated some of this feedback into its proposed bill discount program.

While CUB does not object to the program in its entirety, CUB remains disappointed the Company chose to propose and implement its program in a general rate case and not in a separate docket, which would offer a more transparent and accessible process for environmental justice stakeholders. Less than a week after learning of the utility's intent to file its proposal in its rate case, several stakeholders, including CUB, responded by filing a joint letter in UM 2211, expressing concern about the procedural justice implications of

[26] Idaho Power/1300, Aschenbrenner/21-35.
[27] Idaho Power/1303, Aschenbrenner/117.

holding this process in a contested case proceeding and explicitly requested the utility remove the program proposal review from this docket.[28]

In addition to the procedural justice concerns around finalizing this interim program in a rate case docket, CUB does not believe the Company's proposed $2,000 cap on non-residential customer contributions to the BDP is equitable.

Other concerns CUB has around the proposed program include the mandate for customers to re-enroll every two years. We, along with other stakeholders, including non-intervenors, share concerns about the impact this could have on customers. The Company has proposed a post-enrollment verification of three percent of customers who have not received Low-Income Energy Assistance Program (LIHEAP) benefits within the previous two years, so we wonder why this feature would be necessary. CUB is reminded of the devastating impacts Medicaid reenrollment administrative failures had on low-income families[29] and is concerned about the harm to families being unnecessarily removed from the program—particularly if there is no accompanying arrearage forgiveness/arrearage management program proposed.

[28] *Comments Regarding Procedural Equity*, *supra* note 24.

[29] Lynne Terry, *Oregon's Medicaid renewal process boots eligible children, adults off the plan*, Or. Pub. Broad., (Oct. 23, 2023, 2:30 PM), https://www.opb.org/article/2023/10/27/oregon-medicaid-renewal-glitch-2/ (last visited Mar. 24, 2024); Amy Goldstein, *Nearly 4 million in U.S. cut from Medicaid, most for paperwork reasons*, The Wash. Post (July 28, 2023, 1:00 PM), https://www.washingtonpost.com/health/2023/07/28/medicaid-unwinding-pandemic/ (last visited Mar. 24, 2024).

At the very least, any re-enrollment requirement should exclude LIHEAP households which could free up Company resources to better inform and support non-LIHEAP households for re-enrollment. Additionally, CUB believes households who receive other state or federal public assistance, such as the Supplemental Nutrition Assistance Program (SNAP), could be exempt from a two-year re-enrollment requirement, as well. CUB is looking forward to identifying additional data streams needed to better inform and analyze the proposed program in Phase II of the UM 2211 investigation.

Q. Does CUB have concerns about the Company proposing its interim bill discount program in this docket?

A. Yes. While CUB appreciates that the Company engaged with stakeholders in the UM 2211 docket, as the other Oregon IOUs, it is noteworthy that Idaho Power is the only Oregon IOU that filed its proposal for an interim bill discount program in a contested docket. CUB believes a non-contested docket is a more publicly accessible forum to propose, develop and implement the Company's interim program. Oregon's other IOUs successfully proposed, developed, and implemented interim bill discount programs outside of a rate case. CUB believes the Company's choices run counter to the intent of HB 2475 (2021).

By seeking to finalize the program in this way, the Company has in effect limited any further discussion of development and implementation of the program, including any final negotiation over the program, to those parties that have the capacity and expertise to engage in a general rate case. CUB is

concerned this strategy will have a chilling effect on meaningful engagement from those stakeholders who have the first-hand knowledge of the needs and resources of low-income residential customers. We look forward to continuing to work with Idaho Power, PUC Staff, and environmental justice advocates on ways to ensure the Company's meaningful engagement with these groups and meaningful consideration of their feedback and recommendations.

Q. Has the Company incorporated feedback from stakeholders?

A. Yes. CUB acknowledges and appreciates that the Company incorporated some stakeholder recommended changes to prior program proposals and does not object to the entirety of the proposed program. Idaho Power removed the $750 residential bill discount cap it originally proposed in UM 2211, and while stakeholders indicated the desire that no cap be placed on non-residential customer bill contributions, CUB acknowledges the Company did change its proposal to increase the cap from $1000 to $2000. CUB also appreciates that the Company's proposal allows for its customers to self-attest to their income.

However, while the proposed program includes self-attestation, the company did not implement concerns from stakeholders related to the post-enrollment verification. In September 2022, CUB along with other stakeholders, suggested that instead of conducting automatic and/or random audits, such as is currently proposed, for the Company to identify metrics that trigger an audit, or for the Company to rely on data sources to inform where discrepancies appear likely. At the very least, CUB requests the Company be required to report evidence of

compelling cases of fraud, including data to show that their 3% selection for post-enrollment verification is actually an effective means of fraud prevention.

Additionally, there are other stakeholder recommendations CUB believes are worthy of analysis by the Company now, that the Company has not included in its proposed program design, instead proposing to consider them in the future. For example, perhaps most urgently in the context of the rate shock the Company's rate increase request would have on customers, is the necessity of an arrearage management/arrearage forgiveness program as part of the Company's BDP program design. Particularly in the context of rate shock and energy burden, it is crucial to comprehensively address not only current bills, but past due bills.

From 2018 to 2023, Idaho Power has had the highest rate of disconnection across all IOUs in Oregon.[30] Yet, Idaho Power is proposing to end its Schedule 67 Residential Arrearage Management Program, its only arrearage assistance program.[31] CUB worries ending this program is premature. As proposed, the Company's BDP will lower energy burden of *current* bills for eligible and enrolled customers, but if customers cannot afford their payment plans and have no sustainable way to manage arrears, the holistic need is not being met and those customers are at risk of disconnection In this context, CUB worries that some of the

[30] Energy Justice Lab, *Utility Disconnections Dashboard: Oregon*, INDIANA UNIVERSITY, https://http-149-165-173-211-80.proxy-js2-iu.exosphere.app/ (last visited Mar. 24, 2024).
[31] Idaho Power/1300, Aschenbrenner/54 ("The Company is proposing to remove the below listed schedules from its tariff because the schedules are either suspended, expired, or unused by customers…").

intended impacts of the BDP would be negated by the unaffordable debt of past due bills.

Lastly, bundling its program with energy efficiency opportunities and plans for improving its engagement with community agencies that provide energy assistance to the Company's customers in Oregon are among other aspects of stakeholder feedback that remain to be addressed.[32]

At a minimum, CUB believes this docket could benefit from the Company's analyses of the costs and benefits of other IOU program discount levels[33] in its service territory, an arrearage management component, a proposal to enhance its weatherization programs, and an analysis of how the Company's low-income needs assessment informed its proposed program design. These analyses could help mitigate some of the procedural justice concerns expressed by environmental justice advocates.

Q. What is the Company's proposed cost recovery mechanism?

A. Currently, IPC tracks all exploratory, implementation, administration and marketing costs of its proposed Bill Discount Program using the deferral authorized by

[32] Comments Regarding Procedural Equity, *supra* note 24*;* UM 2211 - *CUB, NWEC, Verde, and Rogue Climate's Comments on Idaho Power Bill Discount Proposal* (Sept. 22, 2023).
[33] *See* Portland General Electric, Schedule 18, https://assets.ctfassets.net/416ywc1laqmd/5cSAVJJ07TuAGjpOimbpj3/cbf57f7e796359956c182911d860b7ea/Sched_018.pdf) (last viewed Mar. 23, 2024); NW Natural, Schedule 330, https://drive.google.com/file/d/1zMWQRVdNco8nmkVCSwsbfVHP_X4PEMZ-/view?usp=drive_link (last viewed Mar. 23, 2024); and Pacific Power, Schedule 7, https://www.pacificpower.net/content/dam/pcorp/documents/en/pacificpower/rates-regulation/oregon/tariffs/rates/007_Low_Income_Discount.pdf (last viewed Mar. 24, 2024).

Commission Order No. 23-055.[34] Schedule 64 is the tariff proposed by Idaho Power for its preferred cost recovery mechanism for the interim bill discount program.[35] The Company is proposing an automatic adjustment clause that would track costs associated with its bill discount program for recovery by the Company.[36] IPC is also proposing an additional deferral for all costs and revenues incurred to implement its proposed Bill Discount Program's rate mitigation measures.[37] The discount program was enabled by House Bill 2475. Idaho Power's shareholders would not fund its low-income bill discount program. Instead, the program is proposed to be funded by IPC ratepayers.

Q. How is Schedule 64's rate structured?

A. From a rate perspective, the cost of the program to non-participating, non-residential customers is calculated based on a per kWh rate for non-residential customers. Unlike non-residential customers, residential customers would be charged on per bill basis. IPC is proposing that each residential customer's monthly Schedule 64 charge is $0.95 per bill. [38] Non-residential customers would be charged 0.0813¢, up to the Billing Period's first 2,460,024 kWhs (i.e., capped at $2000/month).[39]

Q. What is CUB's proposal?

A. At this point, CUB does not have a specific proposal for Idaho Power's bill discount program, believing more analyses from the Company is necessary. CUB

[34] Idaho Power/1300, Aschenbrenner/31.
[35] Idaho Power/1303, Aschenbrenner/119.
[36] Idaho Power/1300, Aschenbrenner/31-35.
[37] *Id.* at Aschenbrenner/31.
[38] Idaho Power/1303, Aschenbrenner/117.
[39] *Id.*

notes that the Commission has previously determined the costs for a bill discount program "should be shared equitably across all customer classes."[40] The Commission stated:

> We find support for this premise in the law that authorized us, in ratemaking, to consider differential energy burdens on low-income customers. Under ORS 757.695, the costs of the IQBD program "must be collected in the rates of an electric company through charges paid by all retail electricity consumers, such that retail electricity consumers that purchase electricity from electricity service suppliers pay the same amount to address the mitigation of energy burdens as retail electricity consumers that are not served by electricity service suppliers." Although this provision most directly addresses the equity between large customers served by energy service suppliers and those served by the utility, its general direction that large customers participating in the direct access program "pay the same amount" as other retail consumers is instructive.[41]

CUB opposes a rate cap on non-residential customers, in favor of a more equitable solution.

Q. Has CUB been involved in the low-income discount program development?

A. Yes. CUB has been involved in this process. CUB participated in workshops prior to this rate case filing and engaged in the Commission processes addressing these issues.

HB 2475 changed the landscape and ability for the Commission to consider various solutions for low-income customers by enabling the Commission to consider "differential energy burdens on low-income customers and other economic, social equity or environmental justice factors that affect affordability" when setting

[40] UE 416, *In the Matter of PORTLAND GENERAL ELECTRIC COMPANY, Request for a General Rate Revision; and 2024 Annual Power Cost Update*, Order No. 23-476, 9 (Dec. 18, 2023).
[41] *Id.*

classifications of service for each utility.[42] This authority did not exist previously, and essentially enables the Commission and utilities to consider income within the context of rate design and setting. The Commission and utilities now have the statutory authority to protect these customers and help mitigate their energy burden.

Q. Did Idaho Power conduct a Low-Income Needs Assessment for its service territory?

A. Yes. CUB appreciates that Idaho Power conducted a Low-Income Need Assessment (LINA) of its service territory to better inform its bill discount proposal. IPC worked with Empower Dataworks to conduct the assessment of its approximately 12,800 residential customers in spring 2023, releasing the results in September 2023.[43] IPC calculated energy burden as a household spending 6% or more of their income on electricity (if home has electric heat) and 3% or more if they do not have electric heat. The LINA found that at least 62% of IPC's service territory fall under 60% of SMI and 19% fall below the federal poverty line.[44] And that approximately 32% of the population is Hispanic, with a majority of the Hispanic population living in Malheur County.[45] The assessment found that 27% of households in Idaho Power's Oregon service territory were found to be energy-burdened, meaning annual electricity bills exceeded 6% of household income for electrically-heated homes and 3% for non-electrically heated homes.[46] The report also found that:

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[42] HB 2475, Section 2(1) (2021) (codified as ORS 757.230(1)).
[43] Idaho Power/1300, Aschenbrenner/15; *see* Empower Dataworks, *supra* note 11, at 9.
[44] Empower Dataworks, *supra* note 11,.at 17.
[45] *Id.*at 15.
[46] Idaho Power/1300, Aschenbrenner/17.

> Approximately 58% of the energy assistance need is borne by single family households, with 38% in mobile homes and the remainder in multifamily homes. The highest concentration of need is in mobile homes, requiring more than $820/burdened household in assistance on average, compared to $780/burdened household for single family and $470/burdened household multifamily households.[47]

It also found that 37% of the energy assistance need is for renters.[48] Per the report, Idaho Power customers in Oregon pay an average of $1,550/year for electricity, or about $129/month, and have an average annual consumption of 15,400 kWh, or 1283 kWh/month.[49] Approximately 66% of IPC customers use electricity as a primary or secondary heating fuel.[50]

Based on LINAs conducted by other IOUs, many low-income customers in Oregon are paying more than the 6% income that is typically tied to a household being energy burdened. Peer energy utilities NW Natural, Avista, and Cascade Natural Gas all completed LINA's within their Oregon service territories. NW Natural's LINA states that homes across NW Natural's service territory reporting an income of less than $30,000 are likely to be energy burdened, or above that 6% of annual income dedicated to utility costs.[51] Customers with an income of less than $20,000 had an average energy burden of 9.2%. Avista's LINA reported that of 94,000 identified households, 6,400 were identified as high energy burdened and that these customers paid an average of $740 in annual natural gas bills. 2,700 of those customers fell into the very high energy burden category of paying 5% or more for

[47] Empower Dataworks, *supra* note 11, at 18.
[48] *Id.*
[49] *Id.* 16.
[50] *Id.*
[51] Applied Energy Group, *NW Natural Low Income Needs Assessment* (September 2022).

their natural gas bills.[52] Customers experiencing low income are particularly impacted by increases in the cost of energy.

A low-income bill discount program can be an important tool to lower energy burden by directly lowering current monthly energy bills for Idaho Power's qualified and enrolled customers. With low-income rate mitigation programs, customers can stay more up to date on their energy expenditures, be less likely to experience disconnection, and be more able to comfortably heat and cool their homes. This program may need to be expanded to better reach the goal of lowering energy burden for the most vulnerable communities in Idaho Power's service territory.

Q. What is the impact of customer enrollment and discount level on the revenue requirement recovered under Schedule 64?

A. IPC approximates the bill discount program will cost approximately $488,000 annually, at 25% enrollment.[53] Any increase in enrollment will increase annual costs borne under Schedule 64. An increase in the discount level for Schedule 64 will increase costs borne under Schedule 64. The annual cost of Schedule 64 could grow if additional discount tiers are provided. With a $2,000 cost cap on Schedule 64 for non-residential customers, enrollment growth shifts significant costs from larger customers to smaller customers (residential and small commercial) as this program matures.

[52] Empower Dataworks, *Avista Oregon Energy Burden Assessment* (June 2022).
[53] Idaho Power/1300, Aschenbrenner/34.

Q. Why should the Commission reject the Company's proposed cap on non-residential customers' contributions to the bill discount program?

A. Everyone should pay for these bill discount programs to help our low-income neighbors. This includes all customers; industrial, commercial, and residential paying their fair share for the programs. There is not a good policy reason to make this program bypassable. NW Natural's, Avista's, PGE's and Cascade's interim low-income discount programs do not have a dollar bill cap on low-income discount programs. If the Commission were to adopt CUB's recommendation to lift the cap for Schedule 64, CUB would advocate for consistency between all Oregon energy utilities around cost recovery for low-income discount programs.

The cost cap for Schedule 64 that IPC proposes for non-residential customers is not required by legislation, which is an issue that CUB may address in briefing.

Q. What is CUB's proposed change to Schedule 64?

A. CUB proposes that the Commission eliminate the cap for non-residential customers in Schedule 64. CUB expects to provide further testimony and recommendations on the Company's bill discount program in later testimony.

IV. IDAHO POWER'S CAPACITY DEFICIT

Q. How has the capacity short fall driven Idaho Power's costs?

A. As it was conducting its 2021 IRP, Idaho Power identified a large near-term capacity deficit.[54] In response, Idaho Power executed an emergency 2021 RFP to satisfy the capacity shortfall, and in particular, to meet the resource needs of select

[54] UE 426 - Idaho Power/300 Hackett/9-10.

large customers.[55] CUB's concerns in this respect are two-fold. First, CUB shares the concerns raised by the Idaho Public Utilities Commission, that the race to acquire sufficient capacity in a hasty and reactive manner risks the Company's customers bearing the financial consequences.[56] Second, while CUB recognized that these large customers are paying for their power costs, the increase to embedded costs for new transmission and capacity are spread across the customer classes. It's uncertain how the limited number of Oregon residential ratepayers on Idaho Power's system, whose energy demands peak in the winter, are causing the need for new battery capacity to meet summer peak.

Q. How are large customers driving Idaho Power's capacity needs?

A. Idaho Power, like other utilities around the country, is facing a surging demand for electricity as the number of data centers are quickly setting up shop. Data centers for example, can be built in a year. [57] These new tech customers are driving up peak demand in the summer and forcing utilities to scramble to keep up with capacity needs of these large consumers. What's not known is whether they will remain within the service territory or pack up shop and move to a more amicable environment, leaving ratepayers on the hook for the costs these data centers incurred on the system.

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[55] *See* UM 2317: Idaho Power again is planning a 2028 AS RFP to meet capacity needs that request waiver of the competitive bidding rules while its 2023 IRP is still under review.

[56] *In the Matter of Idaho Power Company's Application for a Certificate of Public Convenience and Necessity to Acquire Resources to be Online by 2023 to Secure Adequate and Reliable Service to its Customers*, Idaho Pub. Utilities Comm'n, Order No. 35643, Case No. IPC-E-22-13, 13-14 (Dec. 27, 2022).

[57] The New York Times reports that a data center can be built in just one year, *see* Brad Plumer & Nadja Popovich, *A New Surge in Power Use Is Threatening U.S. Climate Goals* (Mar. 14, 2024). https://www.nytimes.com/interactive/2024/03/13/climate/electric-power-climate-change.html (last viewed Mar. 24, 2024).

Similarly, Idaho Power has recently instituted a Clean Energy Your Way (CEYW) – Construction offering, which allows large customers to form contracts with Idaho Power for renewable supply. [58] The emergency 2021 RFP included the construction of the Black Mesa Project, 40 MW of solar and 40 MW of battery storge, to meet the needs of the CEYW contract between Micron Technology, Idaho power's largest electric load customer and the Company. [59] Idaho Power's 2023 IRP similarly shows additional firm load coming from a few large customers. This includes significant new capacity demand from Brisbee, LLC (aka Meta Platforms of Facebook) which intends to develop a large data center in Idaho powered by a CEYW contract.[60] Meanwhile, IPC's service territory in Oregon has only grown by about 500 residential customers over the past decade.

Q. Does CUB have a recommendation concerning the costs associated with the need for capacity?

A. No. Not at this time. CUB is concerned that these are costs that are not being incurred to serve Oregon residential load. We will review the Staff's analysis on this and may make recommendation during cross-answering testimony

Q. Does this conclude your testimony?

A. Yes.

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[58] *Idaho Power and Micron Technology Partner to Advance Solar-Powered Renewable Energy in Idaho*, IDAHO POWER CO. (Mar. 22, 2022) https://idahopower.com/news/idaho-power-and-micron-technology-partner-to-advance-solar-powered-renewable-energy-in-idaho/ (last viewed Mar. 24, 2024) (hereinafter "Idaho Power and Micron").

[59] *Id.*; *see also* UE 426, Idaho Power/302 Hackett/12-14; *In the Matter of Idaho Power Company's Application for a Certificate of Public Convenience and Necessity to Acquire Resources to be Online by 2023 to Secure Adequate and Reliable Service to its Customers*, Id. Pub. Utilities Comm'n, Order No. 35643, Case No. IPC-E-22-13, 2 (Dec. 27, 2022).

[60] *See* LC 84, *In the Matter of IDAHO POWER COMPANY, 2023 Integrated Resource Plan*, Id. Power Company's 2023 Integrated Resource Plan, 106-107 (Sept. 29, 2023).

WITNESS QUALIFICATION STATEMENT

NAME: Bob Jenks

EMPLOYER: Oregon Citizens' Utility Board of Oregon

TITLE: Executive Director

ADDRESS: 610 SW Broadway, Suite 400
Portland, OR 97205

EDUCATION: Bachelor of Science, Economics
Willamette University, Salem, OR

EXPERIENCE: Provided testimony or comments in a variety of OPUC dockets, including UE 88, UE 92, UM 903, UM 918, UE 102, UP 168, UT 125, UT 141, UE 115, UE 116, UE 137, UE 139, UE 161, UE 165, UE 167, UE 170, UE 172, UE 173, UE 207, UE 208, UE 210, UE 233, UE 246, UE 283, UG 152, UM 995, UM 1050, UM 1071, UM 1147, UM 1121, UM 1206, UM 1209, UM 1355, UM 1635, UM 1633, and UM 1654. Participated in the development of a variety of Least Cost Plans and PUC Settlement Conferences. Provided testimony to Oregon Legislative Committees on consumer issues relating to energy and telecommunications. Lobbied the Oregon Congressional delegation on behalf of CUB and the National Association of State Utility Consumer Advocates.

Between 1982 and 1991, worked for the Oregon State Public Interest Research Group, the Massachusetts Public Interest Research Group, and the Fund for Public Interest Research on a variety of public policy issues.

MEMBERSHIP: National Association of State Utility Consumer Advocates
Board of Directors, OSPIRG Citizen Lobby
Telecommunications Policy Committee, Consumer Federation of America
Electricity Policy Committee, Consumer Federation of America
Board of Directors (Public Interest Representative), NEEA

month	average usage	top 30% of usage beginning	top 30% median usage	bottom of top 30 versus average	median top 30 versus average	difference median and average
Jan-20	1506	1944	2644	29%	76%	1138
Feb-20	1,393	1777	2445	28%	75%	1052
20-Mar	1,228	1,569	2,137	28%	74%	909
Dec-20	1490	1907	2,630	28%	76%	1140
Jan-21	1621	2081	2845	28%	75%	1224
Feb-21	1441	1840	2,533	28%	76%	1092
Mar-21	1,379	1,764	2,411	28%	75%	1032
Dec-21	1,294	1,646	2260	27%	75%	966
Jan-22	1727	2208	3,065	28%	78%	1338
Feb-22	1,662	2,156	2,951	30%	78%	1289
Mar-22	1,461	1,876	2,559	28%	75%	1098
Dec-22	1649	2133	2927	29%	77%	1278
Jan-23	1735	2244	3,103	29%	79%	1368
Feb-23	1560	2017	2776	29%	78%	1216
1-Mar	1,512	1,944	2,665	29%	76%	1153
Dec-23	1368	1773	2409	30%	76%	1041
Jan-24	1,514	1,956	2,676	29%	77%	1162
	1,502	1,931	2,649			1,147
year	2 highest winter months	2 highest summer months				
winter 2019/20 verus summer 2020	39,299,210	30,190,030	30%			
winter 2020/22 verus summer 2021	42,684,760	35,294,430	21%			
winter 2021/22 verus summer 2022	46,704,020	34,043,760	37%			
winter 2022/23 versus summer 2023	47,247,780	29,975,040	58%			
	175,935,770	129,503,260	36%			
source: CUB DR 3 to Idaho Power						

BEFORE THE HOUSE COMMITTEE
On
BUSINESS, LABOR & CONSUMER AFFAIRS

HB 3575

Testimony of Lee Beyer, Commissioner
Oregon Public Utility Commission

April 14, 2003

I am here today to discuss the effects of the HB 3575 on the Public Utility Commission and the parties we regulate.

This bill amends numerous laws that govern utility ratemaking and other proceedings before the Commission. Some of these changes merely codify existing regulatory standards used by the Commission. Others create new processes and restrictions.

Let me start by saying that the Commission is not wildly enthusiastic about this bill. We do not particularly see a need for it and realize that it will embark us on a considerable rule making adventure over the next 12 to 18 months. We also are concerned about the way it treats the four industries we regulate differently and believe that this may lead to confusion about fairness in Oregon's regulatory process.

However, we feel strongly that everyone involved in the regulatory process must feel that it is fair and provides equal access to all parties. If the parties and the Legislature feel that this is a journey that should be taken, we are ready to do so.

Before getting into the details of the bill, I would also like to commend the sponsoring parties for working with the Commission to address our concerns. Their proposed amendments have resolved many of our initial concerns.

Now to the details; in view of the numerous and varied changes proposed by this bill, I would like to walk through the bill's substantive changes section by section.

Section 1 makes two specific changes to the Commission's general powers to incorporate language from the Natural Gas Act. The United States Supreme Court construed this Act in its *Hope* decision, which established constitutional ratemaking

standards used today. Section 1 inserts language to clarify that the Commission has discretion to set the lowest reasonable rates for a utility, and that reasonable rates must provide revenue only for prudent expenses and investment.

The Commission is already required to follow the Supreme Court's decision in *Hope*. Accordingly, Section 1 makes no change in the law or in Commission practice.

Section 3 modifies the Commission's process used in contested cases. It incorporates many ideas raised during the HB 3615 Task Force review relating to *ex parte* communications. It also restricts the involvement of the Governor's Staff, Executive employees, Legislators, and employees of the Legislature in Commission decision-making.

Current law restricts private communications between a party to a case and a decision-maker. The law defines decision-maker to include an administrative law judge (ALJ) and a Commissioner but exempts communications with Commission staff.

HB 3575 expands these restrictions by limiting decision makers from communicating with (1) staff witnesses, (2) Assistant Attorney Generals that represent staff, and (3) staff members that participate in settlement discussions. The proposal to expand ex parte restrictions to include communications with individuals in the first two categories should not significantly change Commission practice. Our internal operating guidelines currently prohibit agency decision makers from privately communicating with any staff member who appeared as a witness in a particular proceeding, or any Assistant Attorneys General that represented Staff in that proceeding.

The proposal to restrict communications with any staff member that participates in settlement discussions, however, is more problematic. Settlement discussions are an important part of our proceedings. The Commission prefers that parties resolve disputes informally rather than proceed with contested litigation. Because these events play an important role, parties prefer that experienced staff members participate in these discussions to help negotiate a settlement that will likely be approved by the Commission.

Due to limited agency resources, however, agency decision makers also must rely on these experienced staff members to provide technical advice. Thus, a conflict exists between the parties' need for key staff at settlement conferences and the Commissioner's need to obtain competent technical advice.

These expanded ex parte restrictions do not apply to all senior staff. HB 3575, however, requires the Commission to adopt rules addressing communications between agency decision makers and staff members not identified above. The Commission's internal operating guidelines noted previously currently address these communications. Consistent with the Commission's obligations to conduct fair and impartial proceedings, these guidelines restrict the conduct of any senior staff that provides technical advice. In providing this assistance, senior staff members are expected to provide independent, expert recommendations and refrain from advocacy.

Finally, it is important to note that the proposed ex parte restrictions are more stringent than those currently imposed on other agencies by the Administrative Procedures Act (APA). While the APA restricts ex parte communications on "a fact in issue," HB 3575 restricts "any communication concerning the issues, merits or facts of the case." The need for this more rigid standard is unclear.

Section 4 requires at least one Commissioner to attend hearings at which substantive testimony is presented related to a request by an electric or natural gas public utility to change rates. A Commissioner need not attend such a hearing if agreed to by all parties to the proceeding.

In response to recommendations by the HB 3516 Task Force, the Commissioners are attending most evidentiary hearings. Moreover, parties may now request an opportunity to appear before the Commission for oral argument. Of these two proceedings, the Commission has found that the oral arguments are of more benefit to the decision-making process than attending evidentiary hearings.

Because the Commissioners are attending more hearings, the proposed requirement that one Commissioner attend major energy cases should not significantly impact current Commission practice.

We have reservations, however, about making Commissioner participation mandatory even if attendance does not benefit the decision-making process. Moreover, we question the basis to require Commissioner attendance at hearings involving rates for energy utilities but not telecommunications utilities.

Section 5 states that the Commission shall enter findings of fact and conclusions of law "*based upon a preponderance of the evidence in the record of the case.*" The Commission is already required to use this standard. Thus, like Section 1, this section makes no change in the law or in Commission practice.

Section 6 requires the Commission to audit accounts of each electric and natural gas utility on a schedule set by Commission rule. The Commission recently renewed its audit program after it had been disbanded for several years. The current policy is to conduct audits in advance of general rate filings and investigate special issues as they merit. Consequently, the proposal to require the Commission to perform these audits should not significantly change current Commission policy. Again, however, we question the requirement for energy utilities while excluding telecommunications utilities.

Section 7 clarifies that, in setting rates for energy utilities, the Commission may take action to mitigate rate increases that would adversely affect customers or the state's economy. These actions include:

1. deferring or phasing-in the rate increase—with or without carrying charges,
2. setting the rate at a level that is not lower than the lowest reasonable rate, and
3. requiring the utility to propose and implement other rate mitigation measures.

The Commission currently has the authority to take any of these actions to mitigate the impact of a rate increase. Consequently, like Sections 1 and 5, this new language makes no change to the law or Commission practice.

Section 8 amends the suspension process used by the Commission to investigate energy utility rate filings. This section requires the Commission to rule on a rate request

within nine months of when the rate is to go into effect. No longer would Commission inaction allow a tariff to go into effect by operation of law.

This section substantially modifies the traditional suspension concept used to review and approve utility rate filings. Rather than allowing a filing to go into effect by operation of law, the Commission would be under a legal obligation to rule one way or the other within the nine months suspension period. If it failed to act within that time period, the Commission would be subject to a writ of mandamus.

Section 9 amends laws that govern tariff filings by requiring energy utilities to provide additional justification and notice of rate changes scheduled to take effect upon less than 30 days notice. Utilities must establish the need for the filing and provide copies of work papers and supporting documents on a notice list maintained by the Commission. This section also requires that a majority of the Commission approve any change to rate schedules, and that the Commission establish by rule various procedures to implement the amendments.

The change requiring a majority of Commissioners to approve rate changes is a substantive change to existing regulations. If there is no suspension of a tariff, it will no longer go into effect by operation of law.

The remaining amendments in this section are primarily procedural and should not significantly impact Commission practice. The purpose for these procedural changes, however, is unclear, as the Commission is not aware of any abuse of filings requesting rate changes on less than 30 days notice. Moreover, we again question the adoption of new standards and procedures for energy utilities while excluding telecommunications utilities.

Section 10 amends the deferred accounting provisions by limiting any deferral requested by an electric utility to five (5) percent of the utility's gross revenues. The Commission may exceed this cap if it determines, after a hearing, that a greater deferral is necessary to protect the financial integrity of the electric utility and the public interest.

Limiting the amount of a deferral to five (5) percent of the revenues of an electric utility may have unintended consequences. The power cost deferrals filed by Portland General Electric and PacifiCorp in 2000-01 greatly exceeded this cap. Had the Commission limited those deferrals to the five (5) percent cap, these utilities would have been forced to try to recover these expenses in a general rate filing. Under ratemaking standards, however, those higher power costs probably would have been considered transitory and not appropriate to include in base rates going forward. While HB 3575 allows the Commission to exceed the cap under certain circumstances, the restriction may prevent electric utilities from recovering prudently incurred expenses.

Again, we question the adoption of such a restriction for electric utilities, while excluding natural gas and telecommunications utilities.

Section 11 requires the Commission to conduct a proceeding to investigate and review the use of deferred accounting and report to the 2005 Legislative Assembly. This provision is consistent with the Commission current concerns with deferred accounting and desire to review current statutes, rules and procedures. We question, however, the need to include a request for such an investigation—including topics for consideration—in statute.

No effect on ORS 757.262 mechanisms; change is housekeeping prompted by other changes in deferred accounting in Section 10.

Section 12

Section 12 moves the current deferred accounting provisions for certain purchases from Bonneville Power Administration (BPA) out of ORS 757.259 into ORS 757.663, which authorizes these purchases.

No effect on ORS 757.663 purchases; change is housekeeping prompted by other changes in deferred accounting in Section 10.

Section 13

This section states that amendments in HB 3575 apply only to proceedings before the Commission that were commenced on or after the effective date of the Act.

This section merely indicates when these proposed changes would take effect, if HB 3575 is enacted.

I. INTRODUCTION

Q. Please state your name, occupation, and business address.

A. My name is Ryan Tran. I am an Economist employed by Oregon Citizens' Utility Board (CUB). My business address is 610 SW Broadway, Ste. 400 Portland, Oregon 97205.

Q. Please describe your educational background and work experience.

A. My qualifications are provided in exhibit CUB/201.

Q. What is the purpose of your testimony?

A. To present analysis CUB worked on regarding the impact of the Company's Proposed Seasonal rates on subsets of residential customers. More specifically, CUB determined how using a non-seasonal rate analogue to the Proposed Seasonal rates, and an alternative rate structure that is 100% variable, would affect customers by comparing the respective annualized bill[1] increases from what customers are currently paying.

Q. What were the subsets of residential customers you looked at?

A. Mobile homes, multi-families, and a category called "Other" that consisted of all other housing types that did not belong in the first two categories according to County Assessor data.

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[1] When "bill amounts" are calculated for this analysis, they only include a fixed charge and a variable charge, synonymous with the Service Charge and Energy Charge from Schedule 1. Actual bills to customers may include additional items like an annual power cost update, an energy efficiency rider, municipal exactions, and more. These were omitted because they were superfluous to analysis.

Q. What are seasonal rates, and why did CUB want to do this focused analysis on them?

A. Seasonal rates are changes in the rates that customers receive on their energy, based on different times of the year. This isn't CUB's first dance with the topic; in 2011, Idaho Power proposed seasonal rates be applied to residential customers.[2] At the time CUB opposed seasonal rates due to concerns about how this would affect customers who rely on air conditioning in the summer, particularly customers who lived in mobile homes. At present, what the Company is proposing are seasonal rates that are based on just two categories: summer and non-summer months. CUB is concerned that a new rate structure based on summer and non-summer months would burden some customers too much, just like in 2011. With higher summer rates, customers who live in manufactured or mobile homes with poor weatherization, could potentially see drastically higher bills. In this proceeding, CUB decided to take a hard look at seasonal rates and their effects on customers who live in mobile homes and other housing types.

Q. What does the Company's current rate structure look like? And why are they suddenly interested in changing it to have a seasonal component?

A. Right now there is a Service Charge of $8, with the rate for the first 1,000 kWhs or less at $0.084275, and all additional kWhs at a rate of $0.098455.[3] Customers pay these same rates regardless of time of year. The Company wishes to increase the Service Charge to $15 and move to seasonal rates of $0.100566 and $0.117487 in

[2] *See* UE 233, *In the Matter of IDAHO POWER COMPANY Request for General Rate Revision*, Initial Utility Filing (July 29, 2011).
[3] UE 426 - Idaho Power/1300, Aschenbrenner/10.

the non-summer, and $0.109320 and $0.127716 in the summer.[4] Please refer to exhibit CUB/202 to see the entire Rate Table. Notably, Idaho Power is proposing to extend the summer season by one month, from June 1 to September 30, stating the high-risk hours more frequently occur later in the summer, often in September.[5]

To answer the second question, the Company wants this change because the cost to provide service to customers varies throughout the year, and economic theory supposes it is more efficient to price rates accordingly. Using that logic, since it is generally more expensive for Idaho Power to meet customer energy requirements in the summer, they have summer rates set higher, which the Company believes incentivizes customers to reduce consumption during higher cost months.

Q. Does CUB find the Company's argument for implementing seasonal rates reasonable?

A. Yes. However, while economic efficiency is important, CUB understands sometimes there are important tradeoffs to consider. In this case, while the Company may get closer to the cost-of-service ideal, some of the changes may result in overly negative impacts on some customers. Generally, changes to rate design will create some "winners" and some "losers," so it is important to examine how applying this economic theory will affect actual residential customers, particularly low income customers and seasonal workers in the context of rate shock.

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[4] *Id.*
[5] Idaho Power/1300, Aschenbrenner/6.

Q. Please summarize the position you developed based on your analysis.

A. CUB is now less inclined to believe the Company's seasonal rates to be more burdensome than non-seasonal, but would like more time to explore new questions that arose from the conclusion of the analysis. Only then might it be appropriate to take a firm position.

Q. Please tell us what you concluded based on your analysis.

A. While the Company's method of implementing seasonal rates has little effect on the total yearly bill amount customers are paying, it will increase bill variance throughout the year compared to a non-seasonal analogue. Customers will see lower non-summer month bills at the expense of higher summer month bills.

Q. How much higher are the summer bills, and how much lower are the winter bills?

A. Roughly, seasonal rates will result in a $5 or less decrease during non-summer months, and a $5-10 increase in summer months (medians). It evens out annually because there are 8 non-summer months and 4 summer months. Please refer to exhibit CUB/204.

Q. Can you give a summary of what your analysis entailed in a few sentences?

A. CUB used billing data on residential customers which included information on each customer's usage in each billing period for a whole year. The level of granularity of this data allowed CUB to play around with rates and hypotheticals like 'what if we made some of the fixed charges variable instead?' Python code[6] was created, which used some math and statistical packages to run each customer and their test year

[6] "Python code" is written script in the Python programming language that instructs a computer to (in the context of this analysis) manipulate data and perform calculations.

usage through as an input, which ascribed them a calculated annualized bill amount as an output. CUB did this for different billing methods, which included a "current" billing method, the rate structure that customers are currently charged. Next, the calculated current annualized bill was subtracted from all other billing methods, and as a result, for each customer, they end up with an "annualized bill increase" for the Proposed Seasonal, the Proposed Non-Seasonal, and the Fully Variable methods. The resulting distributions of these are studied.

Q. What data did you use?

A. Staff submitted an informal data request, and the accompanying response from the Company included an Excel file titled "Response to Staff's Informal Data Intensive Request No. 1 – Attachment". This file contained billing history for all Schedule 1 and Schedule 5 customers in 2022, which included usage by billing period. The tab "CustomerHHCharacteristics" contained the demographic information necessary to categorize by housing type.

Q. Did you make any changes to the original data before you put it through analysis?

A. Yes. In order to study seasonal vs. non-seasonal rates, there needed to be as little noise as possible in the data. The ideal would be data where all customers had stable, consistent billing for the entire year. In order to achieve this ideal, CUB took steps to remove billing periods and/or customers from the data that did not fit this ideal. First, all billing periods outside the studied test year were removed, as they were unnecessary. In addition, all billing periods that fell outside of between 28 and 31 days (inclusive) were removed. Reason being, the original data will consist of

unordinary billing periods such as for three days (for example, because that was the last month before the customer moved), and such low usage for a billing period would inaccurately skew analysis. Also, all net metering customers were removed, as they may have negative numbers for usage. Lastly, all customers that did not have 12 bills total were removed. As a quick and dirty test of robustness, the original data was put through the same exact analysis as the final cleaned version, only to result in roughly the same distributions seen in exhibit CUB/203. The chart below details how data changed from start to finish, separated by housing type:

Figure 1

Housing Type	# of customers in original data	# of customers in cleaned data
Mobile Home	3603	2328
Multifamily	1260	816
Other	11792	5758

Q. As I understand it, each observation in the Excel file has a unique customer contract's billing period and the usage by that customer within that billing period, amongst other things. How did you use that information to get the billable amount for that specific period?

A. Each observation can be thought of as consisting of a fixed charge and a variable charge. Regardless of usage, the fixed charge is always the same for each billing period, and only depends on the method being used. For example, when calculating

the billable amount under Idaho Power's current rates, the fixed charge would be $8. For the variable charge, the billing period's usage is separated into tiers, with the first tier being the first 1,000 kWhs or less, and the second tier being all additional kWhs, if there were any. Then the first and second tier rates of the method are multiplied by the respective usage tiers, using the correct seasonal rates where necessary. Finally, the fixed and variable charges are summed to get the billable amount for the billing period.

Q. And to get each customer's annualized bill, you just sum over all 12 of their billing periods, correct?

A. Yes, and this same exact process is performed for every customer and for every method, whether it is the Company's current rates, its Proposed rates, CUB's Proposed Non-Seasonal analogue rates, or the Fully Variable rates.

Q. I imagine an important part of this analysis entails setting the per-kWh variable rates correctly, but these were rates that you devised hypothetically. Can you explain how you calculated the hypothetical rates for the Proposed Non-Seasonal and Fully Variable methods in CUB/202?

A. The workpaper titled "Aschenbrenner Workpaper 1 – Rate Design" was used to understand how the Company derived their Proposed Seasonal rates. CUB used this understanding to derive our own hypothetical rates as described here.

- Proposed Non-Seasonal rates: To get the rates for the non-seasonal rate analogue, CUB used all calculations supplied in tab O01, right before test year billing units were split between summer and non-summer that were subsequently used for Proposed Seasonal rates. Non-Seasonal rate for the first 1,000 kWhs or less (first tier) is calculated using the following formula:

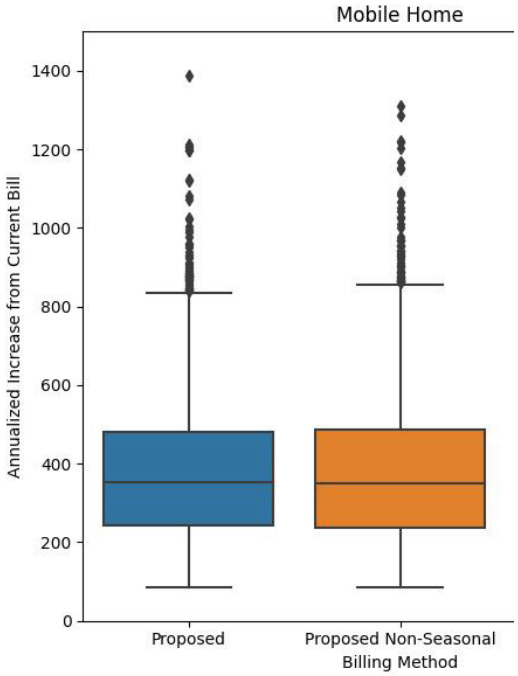
$$\frac{\textbf{\textit{total target base revenue}} - \textbf{\textit{service charge revenue}} - \textbf{\textit{minimum charge revenue}}}{\textbf{\textit{first tier units}} + [\textbf{\textit{second tier units}} * \textbf{\textit{Energy Tier Differential}}]}$$

- Fully Variable rates: To get the rates for the Fully Variable method, the same formula above is used, the only difference being the Service Charge and Minimum Charge revenue were not subtracted in the numerator. The logic being, they will be collected according to usage, hence the "fully variable" moniker.

Q. Which Exhibit summarizes the results of your analysis? Can you walk us through it?

A. Please refer to exhibit CUB/203. CUB used box plots to visualize the distributions of the annualized increases of the different billing methods, separated by housing type. A snippet of CUB/203 is shown as Figure 2 below:

Figure 2



The line inside each box represents the median, while the box itself represents the interquartile range, or the glut of customers huddled around the median. We can visually see that for the Mobile Home group, the characteristics of the boxes and their positioning are very similar, implying that there is very little difference

between the Proposed and Proposed Non-Seasonal methods, at least when examined from the zoomed out perspective of the test year. The entirety of exhibit CUB/203 will show something similar for the other two housing types.

Q. While the *annualized* bill increases may be similar for both Proposed and Proposed Non-Seasonal, what if you zoomed in and looked at bill increases at different parts of the year?

A. Great question. Please refer to exhibit CUB/204. Please also keep in mind that the increase for each defined month is not accurate, as billing periods overlap months, and CUB cautions to only use this visualization for general understanding. Nevertheless, for these line plots, instead of looking at annualized increases like in exhibit CUB/203, CUB separated the increases out by month to study what is happening chronologically during the test year. Ignoring the Fully Variable line and just focusing on the other two, we can visually see that the Proposed line has greater peaks and lower troughs than the Proposed Non-Seasonal. What this implies, is that compared to if seasonal rates did not exist, customers will pay lower winter bills at the expense of higher summer bills.

Q. You mentioned earlier that upon completion of this analysis, CUB takes an inconclusive position. What is missing that will help you form a conclusive position on the Proposed Seasonal rates?

A. CUB looks forward to productive conversations with the Company about whether they would have calculated non-seasonal and 100% variable rates in a way that might be different from CUB's. CUB also wishes to review Staff's and other party's analysis of the proposed rate structure, so we can consider any insights that

they provide. Last but not least, while yearly total may remain the same, it will be important to study the effects of higher variance in bills, primarily the effects of higher summer bills on customers.

Q. What are some of the main reservations you have about your analysis?

A. There are several that are important to mention. The first is that the County Assessor data that classifies each customer as a mobile home is also lumped in with "secondary dwelling units". However, CUB believes they do not constitute a significant portion of it, but if they do, the housing type "Mobile Home" might not be the most apt descriptor.

Secondly, this analysis used static historic usage data. Economists famously cannot simply use demand to calculate supply because, conversely, supply has an effect on demand. Similarly, CUB has to be wary of utilizing usage to calculate billed amounts because billed amounts have an effect on usage. While energy is generally considered an inelastic good (people are less likely to turn down their thermometers in the summer because of how much electricity costs, compared to, say, forgoing a designer shirt because of the price tag), there is no doubt there exist customers who examine rates and the subsequent bills they receive, and adjust their usage accordingly. This may be true especially in the Fully Variable case, where customers have more control over their final billed amount.

Third, the data on billing periods overlap months; the majority of them last from mid-month to mid-month. What follows is that some usage in December will be

ascribed to January, so on and so forth. This becomes a problem when examining the billing periods that overlap May-June and September-October, as the end of the initial month in each pairing demarcates the start of new seasonal rates. But for purposes of analysis on seasonal rates that change twice a year, CUB believes the results can still be insightful.

Fourth, CUB only had access to one year of data. Weather has a significant effect on both summer and winter usage, and therefore the distribution of costs will change if other years are included in the analysis. However, as discussed in CUB/100, residential customers as a class consistently use more electricity in the winter.

Finally, we note that our analysis did not include customers who lived in the territory for less than 12 months. There is a concern that seasonal customers, such as agricultural workers, will see higher summer rates, but not receive the offsetting benefit on lower winter rates. We know that within the Company's service territory, Malheur County in particular is home to many farmworkers and their families. Per a 2022 Oregon Human Development Corporation (OHDC) assessment, there were an estimated 9,126 farmworkers and their dependents living in Malheur County, making up one third of the population of that county.[7]

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[7] Colibri Consulting, *Farmworker Needs Assessment*, Appx. G: County Farmworker Profiles, 97 (Apr. 2022), https://www.ohdc.org/uploads/1/1/2/4/11243168/ohdc_farmworker_needs_assessment_2022.pdf.

Q. Do you have any additional concerns?

A. Changes in rate design create “winners” and “losers”. CUB’s analysis initially shows that mobile homes (and other housing types) may not be big “losers” in this. But understanding how this will affect customers, such as customers who use gas or wood for heating, and who are more likely to be “losers”, is not clear. Particularly when this is built on top of a rate increase of more than 26%. Does this rate design cause some customers to see increases that are more than 30%? Generally, changes in rate design are best done independently from large changes in overall rates.

Q. Does this conclude your testimony?

A. Yes.

WITNESS QUALIFICATION STATEMENT

NAME: Ryan Tran

EMPLOYER: Oregon Citizens' Utility Board

TITLE: Economist

ADDRESS: 610 SW Broadway, Suite 400
Portland, OR 97205

EDUCATION: MS, Economics
University of Oregon, Eugene, OR

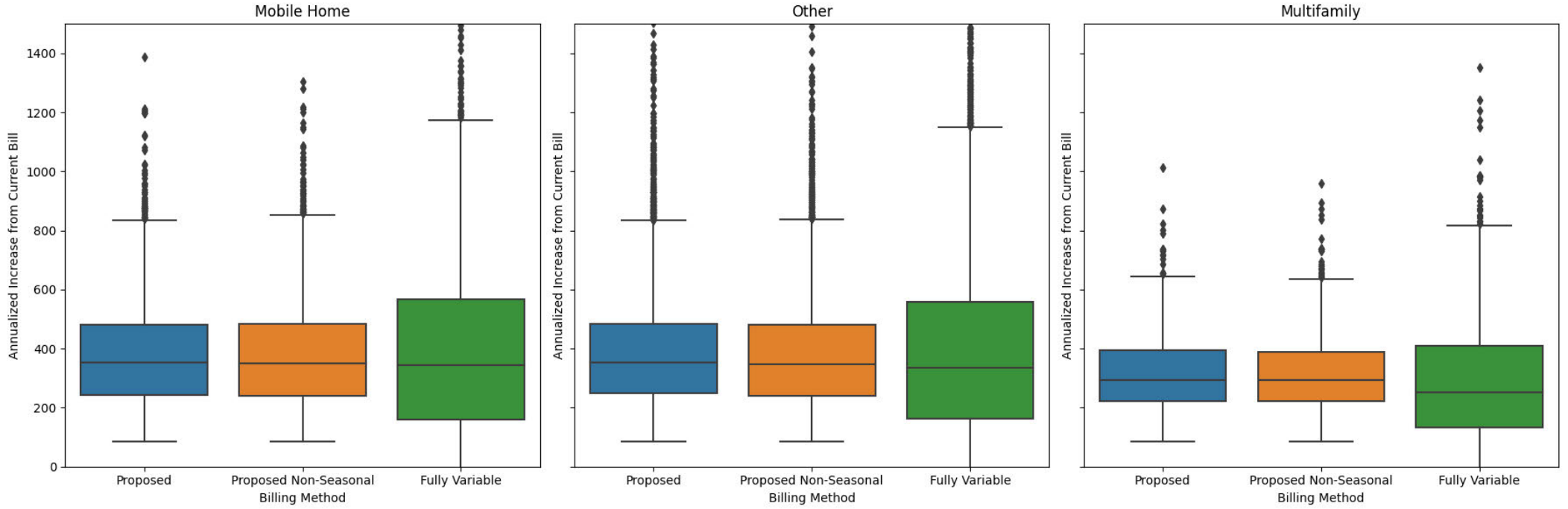
BS, Mathematics
University of Houston, Houston, TX
BBA, Finance
University of Houston, Houston, TX

EXPERIENCE: Researcher in energy and environmental economics with experience using Python for data analysis.

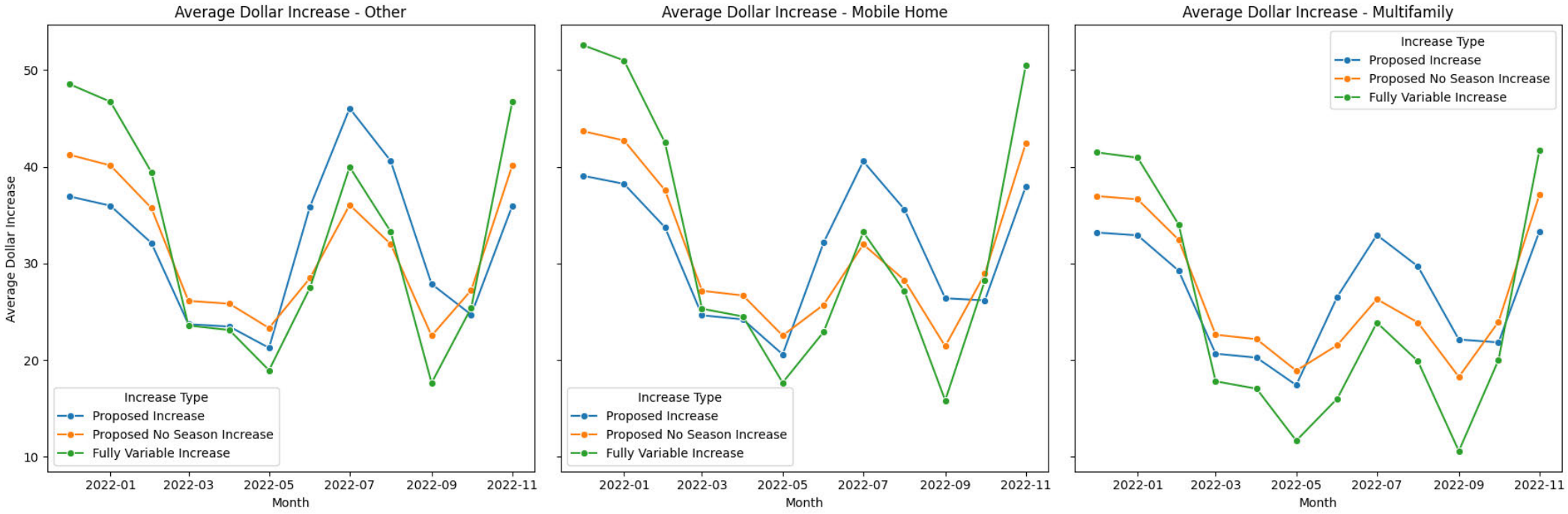
Rate Table

	Current	Proposed	Proposed Non-Seasonal	Fully Variable
Service Charge	$8	$15	$15	$0
First 1,000 kWhs or Less:	.084275	**Non-Summer** .100566 **Summer** .109320	.1029089381	.1150512601
All Additional kWhs:	.098455	**Non-Summer** .117487 **Summer** .127716	.120224396	.1344097851

Distributions of Different Billing Methods for Different Housing Types



Chronological Plot of Approximate Average Increases During the Test Year*



*Because billing periods overlap months, the charts are not precise monthly increases. Rather, they should only be used to visualize what is generally happening chronologically