

Minutes
Energy, Environment and Technology
Interim Committee
November 2 and 3, 2011

The meeting was called to order at 10:10 a.m. by Cochairman Senator Curt McKenzie. Other committee members present were Cochairman Representative George Eskridge, Senator Patti Anne Lodge, Senator Steve Bair, Senator John Tippetts, Senator Elliot Werk, Senator Dan Schmidt, Representative Bert Stevenson, Representative Eric Anderson, Representative Jeff Thompson, Representative Reed DeMordaunt, Representative Wendy Jaquet and ad hoc member Representative Brian Cronin. Senator Russ Fulcher and Representative Maxine Bell were absent and excused. Legislative Services Office staff members present were Mike Nugent and Toni Hobbs.

Others present at the meeting included: Robert Nielson, Idaho Strategic Energy Alliance; Randy Barcus, Larry LaBolle, Avista; Lisa LaBolle, Office of Energy Resources and the Idaho Strategic Energy Alliance; Carolyn Failla; John Chatburn, Office of Energy Resources; Pat Barclay and Beth Markley, Idaho Council on Industry and the Environment; Annie Black; Heather Wheeler, Community Transportation Association of Idaho; Lynn Young and David Irwin, AARP; Mike Brassey and Karl Bokenkamp, Idaho Power; Ron Williams, Williams Bradbury; Ben Otto, Idaho Conservation League; Will Hart, Idaho Consumer Owned Utilities Association; Teresa Molitor, Energy Integrity Project; Cyndi Tiferet, Occupy Boise; Lisa Young and Liz Woodruff, Snake River Alliance; Russell Westerberg, Rocky Mountain Power, Skip Smyser, Brenda Tominaga, Idaho Irrigation Pumpers Association; Steve Walker, David Hawk, Idaho Petroleum Council; Terri Otten, Community Action Partnership of Idaho; Ron Whitney, Division of Building Safety; Travis McLing, Idaho National Laboratory and ISEA Carbon Task Force member; and Andy Tyson, ISEA Solar Task Force member.

Senator McKenzie explained that the meeting today was being held so the committee could hear from members of the public regarding the revision of the 2007 Energy Plan. After opening remarks **Senator McKenzie** moved that minutes of the October 20 meeting be approved. **Representative Stevenson** seconded the motion and the minutes were approved unanimously by voice vote.

Ms. Annie Black was the first presenter. Her written comments are available at: <http://www.legislature.idaho.gov/sessioninfo/2011/interim/energy.htm>.

Ms Black worked as a utility regulatory consultant for a firm active in the California Market and later joined Idaho Power Company and worked in energy efficiency and the Green Power Program and currently is a full time mother.

Ms Black voiced concern that people do not understand where the electricity that is delivered to their homes actually comes from. She said that while utility documents show generation sources that include renewable energy, those resources (geothermal and wind) do not make it to a home's electrical outlet (attachment A). **Ms. Black** stated that there is a difference between the generation fuel mix and the delivery fuel mix (attachment B). These attachments are available as part of **Ms. Black's** complete comments at: <http://www.legislature.idaho.gov/sessioninfo/2011/interim/energy.htm>.

The reason for this is due to the fact that green power can be sold as a complex, two-part product; megawatt hour of electricity and the associated environmental attributes of that megawatt hour of electricity. Those environmental attributes, primarily greenhouse gas emissions profile, are bundled and traded as renewable energy credits (REC) or green tags.

Ms. Black commented that because the 2012 draft plan focuses on “energy IQ” as one of its three pillars, it is important for people to understand the impact of stripping RECs from electricity generated in Idaho. In her opinion this fundamentally changes the nature of the product delivered to the retail customer.

She explained that Idaho operates in a national REC market with generators, utilities and businesses routinely buying and selling RECs for a variety of reasons. According to **Ms. Black**, Idaho Power must sell the RECs it has the rights to under the direction of the PUC. Attachment C of her presentation gives some context to the impact of the PUC’s policy in this area.

Her message is that if an Idaho utility is integrating a kilowatt hour of wind energy into the grid but is not entitled to retire the associated REC, its customers are not receiving wind energy as part of the fuel mix. Instead customers are receiving electricity that is hard to classify. **Ms. Black** noted that Idaho Power lists the energy source as “purchased power.” This means that someone outside of Idaho has bought that REC and made an environmental claim to his customer. She added that since it was only one kilowatt hour to start with, two customers cannot be enjoying the RECs associated benefits.

In order to help correct this, **Ms. Black** suggested rewriting Action Item E9 as follows:

“Idaho utilities shall report annually to their retail customers their sources of electricity (their “fuel mix”) both in terms of generation and delivery. In addition, Idaho should encourage an informed discussion on the difference in the fuel mix between what Idaho utilities generate and what Idaho retail consumers receive.”

Representative Jaquet clarified that **Ms. Black** was saying that to promote green energy in Idaho, everyone should know where the RECs are going and should find a way to keep those RECs in the state. **Ms. Black** said that was correct but that everyone should be on the same page. She is advocating that if utilities sell RECs, they admit to generating green energy in the state but not delivering it.

Senator Tippetts asked how the sale of RECs to another state impacts the delivery of power in Idaho. **Ms. Black** said that is the crux of the challenge. She explained that RECs are the environmental attributes created by wind or other green energy. She admitted that the actual electrons are delivered in Idaho but the environmental credit is sold to other states. This allows other companies in other states to say they are using renewable energy. She added that she just wants people to gain a better understanding of this.

Representative Demordaunt asked whether this means they are double counting the green electron. **Ms. Black** said yes and no. She said utilities are not double counting but the consumer is. She said the consumer is double counting because when the utility shows green energy in their fuel mix, the consumer thinks it is getting delivered to their homes or businesses. In response to another question from **Representative DeMordaunt**, **Ms. Black** explained that companies that purchase RECs claim to be promoting and using green energy, when in reality, they are only buying the RECs from Idaho.

Representative Eskridge clarified that because utilities are required to sell RECs contractually, Idaho consumers are not receiving any renewable energy. **Ms. Black** said that was correct. **Representative Eskridge** asked if utilities were able to keep and not sell RECs, would they have to impose separated charges to consumers recognizing green power or increase rates. **Ms. Black** stated that the financial benefit to selling RECs is being folded into price cost adjustment and said that if utilities were to keep the RECs and retire them within the same year they are used, the financial benefit would have to be folded into the rates. She emphasized that this would be a very small amount in terms of cost per kilowatt hour. **Ms. Black** expressed that she was concerned that general public needs to be educated on this issue.

Senator Werk suggested that her recommendation ultimately is for disclosure that would help raise the energy IQ by providing energy generation and delivery (consumption) information. This would allow the customer to see that there is a difference and ask more informed questions. He stated that this was more of an educational opportunity for the customer public to better understand what is going on in the renewable industry today. **Ms. Black** said that was the essence of her request. She said it is simply a matter of figuring out whether we understand and what do different groups need to know to be able to understand in order to be informed.

In response to another question from **Representative Eskridge**, **Ms. Black** agreed that if disclosure of the delivery mix was required, it would not include any green power because the RECs are all being sold elsewhere. Attachment B and the last page of attachment C show this in more detail.

Senator McKenzie commented that regardless of who buys the RECs, the electrons are still delivered within the system and that still helps keep rates down in Idaho. In his opinion this is an economic benefit to the state. **Ms. Black** agreed but voiced concern that if power is labeled as wind, ratepayers make assumptions that they are receiving the benefit of the environmental attributes as well.

Representative Eskridge commented that if utilities were required to disclose this information, it would have to include a breakdown of all sources of energy including hydro, coal and natural gas. **Ms. Black** said she does not see it that way. She noted that the EPA makes a distinction between traditional, renewable and green energy and that she would get more information for the committee.

Representative Cronin commented that the word “shall” in her proposed language is somewhat contentious and said that utilities currently provide this information voluntarily. He asked whether she was suggesting this be a requirement to utilities from the legislature. **Ms. Black** said she chose “shall” because it was in the old language as well as the proposed draft. She added that she did not have an issue with shall or should, she is simply interested in the energy IQ.

In response to a question from **Representative Anderson**, **Ms. Black** said she was not suggesting Idaho have renewable portfolio standards. She stated that she is suggesting dialogue that helps people who are making incorrect assumptions with regard to energy and consumption.

Representative Anderson stated that the United States treats large scale hydro power differently than anywhere else in the world and that the EPA excludes it under the clean air act. He said as part of the energy IQ or education, perhaps this should be part of the discussion. In his opinion, 97% of all power produced in Idaho should be renewable. He went on to say that to exclude hydro as a renewable resource is inappropriate around the rest of the world. He would like to have a broader discussion of how to expand the energy IQ. **Ms. Black** agreed that there is a lot of confusion about how things are labeled in the energy realm. She added that Idaho has an opportunity to tell its story to its consumers. **Ms. Black** explained that RECs did not start with the EPA, the idea actually started in the northwest with voluntary markets and eventually became the defacto standard in the country.

Representative DeMordaunt commented that the language suggestion distinguishing between “generation and delivery” is due to the fact that Idaho does not have demand for RECs so utilities are selling them elsewhere. He asked whether this was actually more of an issue of getting more people to sign up for green energy so there would be more demand in Idaho for RECs. **Ms. Black** said that there is a market in Idaho because utilities do have green power programs. Idaho Power came before the PUC and asked for opportunity to retire the tags on behalf of their customers and the PUC, through testimony and their own information decided this was unnecessary because there was not a REC market in Idaho.

Ms. Heather Wheeler, Executive Director, Community Transportation of Idaho was the next presenter. Her complete comments are available at:
<http://www.legislature.idaho.gov/sessioninfo/2011/interim/energy.htm>.

Ms. Wheeler encouraged the committee to incorporate the following comments when revising the 2012 draft energy plan:

Action T1 - Restore “natural gas” language to ensure that state procurement rules continue to promote promoted purchases of natural gas vehicles in addition to high-efficiency and alternative-fuel vehicles.

Action T2 and T3 – Restore the “incentives” language that was overwhelmingly approved by the 2007 legislature. In her opinion striking “incentives” and replacing it with “encourage” will likely result in reduced purchases of efficient, flex-fuel and alternative fuel vehicles and thus not limit the expected increase in energy consumption in future years.

Action T8 – Do not delete this item from the plan. **Ms. Wheeler** said that Idaho should definitely permit local authorization of transit option taxes to support the use and expansion of public transportation. She added that with no dedicated state funding for public transportation, local option sales tax is one tool that communities in Idaho would use to improve their transportation options and reduce their fuel consumption. **Ms. Wheeler** used an example of successful use of resort city sales tax authority and the city of Ponderay. This example is included in her complete comments at:
<http://www.legislature.idaho.gov/sessioninfo/2011/interim/energy.htm>

Ms. Wheeler commented that local option sales tax was a funding recommendation made by the Governor’s Task Force for Modernizing Funding in 2010. She said it would seem counterproductive for one statewide committee to be striking a recommendation that was made by another. Additionally, on page 20 of the 2012 draft plan, it recommends “encouraging public transportation where practical.”

Action T10 – Do not delete this item from the plan. **Ms. Wheeler** stated that it is well documented that energy consumption in Idaho is expected to increase substantially as our population and economic activity increases. She said that one promising way to reduce transportation fuel demand is to integrate transportation planning into land use planning.

In response to a question from **Representative Jaquet, Representative Eskridge** said the public transportation program **Ms. Wheeler** mentioned was established using a one-time grant. In addition to Ponderay, the program includes the city of Dover and two other communities in northern Idaho and it is very successful. **Representative Anderson** commented that it will be interesting to see what happens after the one time grant expires. **Representative Eskridge** agreed because currently all ridership is free. **Ms. Wheeler** said this is why it is important to offer local option sales tax so communities do not have to rely on the federal government. She stated that many other cities would like to implement something like this but they are not resort cities so they cannot implement local option sales tax. **Senator McKenzie** agreed and said that each of these points will be discussed during review of the plan.

Ms. Lynn Young, American Association of Retired Persons (AARP) spoke to the committee regarding the need for a consumer advocate office to help consumers (especially low income and seniors) with access to affordable energy. She explained that AARP urges the committee to include in its recommendations for the 2012 energy plan support for legislation that give the Idaho PUC the authority to adopt programs, policies and rates for the benefit of low income residential customers, as well as authority to approve rates or changes designed to recover the costs of such programs and that the plan include support for the creation of an independent state utility consumer advocate office.

Senator Werk commented that a consumer advocate has been discussed and there has been legislation in the past. He noted that the PUC considers its staff consumer advocates and asked whether AARP agrees with this idea. **Ms. Young** answered that AARP thinks the PUC does the work it is given but they do not believe the PUC carries the role to be an advocate for consumer. **Senator Werk** asked whether there is any reason the pool of money that is available for intervenors should not be considered to be available to consumers rather than have separate area for consumers. **Ms. Young** said that intervenors are used by groups representing other interests. She emphasized that 42 other states have consumer advocates with regard to utilities and that Idaho is the only western state that does not have one. **Senator Werk** asked whether the other seven states have a different type of platform available for consumers. **Ms. Young** said she would get that information for the committee.

Representative Eskridge stated that, regarding the intervenor process, \$40,000 is available for use on behalf of constituents and asked why AARP supports a separate consumer advocate office instead of using the intervenor funding. **Ms. Young** said there was a case where one member was a residential customer and went through the intervenor process and he did not receive any intervenor funding because PUC said he did not bring enough new information to the issue even though he had to have a lawyer present and paid his own fees. **Representative Eskridge** asked how a consumer advocate office would help. **Ms. Young** said the individual would be able to go to this office for review of the case before spending unnecessary money.

Representative Jaquet asked since community action agencies sometimes get intervenor funding, why individuals would not go to them. **Ms. Young** said that different intervenors represent different customer groups. **Representative Cronin** commented that the fact that intervenor funding is not stable or guaranteed does play a role. He asked whether the cost for a consumer advocate office would come out of the rate base. **Ms. Young** said she would be happy to research that and added that the PUC is funded by fees collected by utilities and she thinks a consumer advocate office would be similar.

Representative Anderson asked why AARP does not step forward to help individuals if they are concerned with someone hiring a lawyer as an intervenor and risking not get funding. **Ms. Young** said they do testify before the PUC but think a consumer advocate office would be more beneficial.

Senator McKenzie commented that the PUC sets rates for all customers and that they do not designate between classes. He said he thinks all utilities have programs in place for low income customers and asked for recommendations as to what this would look like. **Ms. Young** said that of the three main utilities, two have programs in other states that could be used as models.

Representative Eskridge asked whether a consumer advocate office would represent all rate categories or just residential customers. He said he sees conflicts either way. **Ms. Young** it would be the same as an advocate that represents small and large businesses and she thinks they could represent all residential customers. She said she would send information on how other states offices are set up.

Representative Stevenson commented that there seems to be a perception that all intervenors receive funds and that is not always the case. He explained that they have to prove their case in order to participate in the intervenor hearing.

Mr. Ben Otto, Idaho Conservation League (ICL) was the next speaker. He stated that he intervenes all the time before the PUC for the ICL and represents residential customers and said this is a difficult and expensive process. He explained that for intervening cases, money is spent first with the hope of getting some funding returned. He added that \$40,000 is total pool for all intervenors. **Mr. Otto** said that the

formation of a consumer advocate office is a very good idea. He clarified that the PUC staff does a great job of looking out for ratepayers but they are also required to insure that the utility gets a fair deal. A consumer advocate fights only for rights of consumer and this leads to better decisions. **Mr. Otto** added that there are several options for how the consumer advocate office would work and said that it could be an attorney general consumer advocate within the PUC or a division of consumer protection. A third option is an independent nonprofit citizen utility board that would not require state funding and would be completely independent.

Mr. Otto went on to say that energy efficiency and conservation should remain the highest priority because the potential for efficiency is vast, the price is right and it is the best way to promote economic growth. He encouraged the committee and the legislature to put real action into the plan.

He said by using energy wisely, Idahoans can reduce their energy bill even when rates rise and avoid the need for new power plants. Energy efficiency and developing in-state energy resources reduces our exposure to outside policy changes. Using existing resources wisely can free up energy for new homes and businesses without needing to build expensive plants. Best of all investing in energy efficiency will stimulate the economy and create jobs.

Mr. Otto cited a Vermont study that shows for every \$1 million invested in energy efficiency, 43 full time, in-state jobs are created; the state gross domestic product is increased by \$5.5 million; personal income is increased by \$2.2 million; and over \$6.1 million is saved in energy costs.

Mr. Otto made the following recommendations for the 2012 draft plan:

CE9 – Recommend continual updating of building codes. He said that building codes lock in energy savings at the cheapest possible time which is when new homes and offices are first built.

CE8 – Examine the idea of tax incentives for making homes more energy efficient because it saves money and stimulates economic activity that uses local workers. **Mr. Otto** stated that tax code is among the most powerful tools available to the legislature. He added that the notion of tax incentives is very broad and includes credits, rebates, deductions, exemption and so on.

With regard to regulatory policy the ICL made the following recommendations:

C2 – The draft plan should continue the policy and action item for Idaho utilities to pursue “all” cost effective energy efficiency. This is the current policy and practice from the PUC. **Mr. Otto** stated that cost effective by definition means efficiency costs less than supply side resources and by not pursuing all cost effective energy efficiency the state and utilities are asking Idahoans to pay for more expensive other options.

C4 – The plan should provide the PUC every option to get at the problem which is that revenue is intertwined with sales divided by a forecast of what sales will be. **Mr. Otto** explained that decoupling is a regulatory mechanism that separates utility revenues from sales. Decoupling addresses the following problem: under traditional regulation the price a customer pays for a unit of energy generates revenue for the utility to recover its costs and some profit. The price for each unit is set by the PUC based on a forecast of the total cost to provide service to everyone divided by a forecast of individual sales. If actual sales are below the forecast, utility revenue is less than expected. If actual sales are above the forecast, utility earns more revenue than expected. Under this scheme, the utility has an inherent incentive to only increase sales and a disincentive to encourage energy efficiency.

Instead, if utility revenue is separated from sales, the utility becomes indifferent to whether actual sales are above or below forecast sales. There are essentially two major policy options to break the link between revenue and sales; recovery of lost revenues and decoupling.

Representative Jaquet asked for a copy of the Vermont plan.

Senator Werk commented that distributive generation seems to have been taken out of new draft plan and asked whether the ICL will be including language to keep that in the plan. **Mr. Otto** said yes.

Senator Werk said that distributive generation helps with energy efficiency because it avoids the need for transmission and distribution facilities. In his opinion it allows more efficient ways to deliver energy because it is delivered within a community, not over long distances.

Ms. Lisa Young, Snake River Alliance, (SRA) was the next speaker with supplemental comments to the SRA's written comments submitted after the October 20 meeting. These comments are available at: <http://www.legislature.idaho.gov/sessioninfo/2011/interim/energy.htm>.

Ms. Young commented on the excellent work that was done by ISEA task forces and said the SRA does not know why the ISEA board had to go over the draft plan again after task force recommendations were completed. She emphasized that the draft plan contains significant revisions made by the board that were not all vetted and these should be taken with careful scrutiny. **Ms. Young** stated that the difference between the task force drafts and the ISEA board draft is important for the committee. She urged the committee to look at the task force drafts when updating the plan.

The supplemental comments include recommendations for items in the 2012 draft energy plan for electric resources, transmission, natural gas, petroleum and transportation fuels, transportation fuel conservation, conservation and energy efficiency, energy facility siting and energy education and outreach and are available in full at:

<http://www.legislature.idaho.gov/sessioninfo/2011/interim/energy.htm>

Senator Werk asked about the process and how consensus was reached for the action items at the board meeting. **Ms. Young** said that unfortunately there are no meeting minutes but that each action item was read and opened up for comments. It was not a formal meeting and people could make comments and suggestions. If there were no objections, an item was agreed upon and they moved on to the next item. Items that were deleted were due to the fact that the board thought they did not have enough information to make a decision or because they were too contentious and agreement could not be reached. She noted that the board only had four hours to discuss the entire document. In her opinion, a lot of decisions were made quickly without a lot of research. **Senator Werk** asked whether minutes would be required because the ISEA is under governor's office. **Mr. Kjellander, PUC Commissioner** explained that the board was created through executive order and he does not think they have to comply to with the open meeting law. He noted that they try to do so. He said that board members were told to review all items being discussed prior to the meeting so they would be able to act quickly. **Ms. Young** noted that the SRA just wanted the committee to understand how the decisions were made.

Ms. Young next presented comments for **Ms. Liz Woodruff, Executive Director, SRA** that are available at: <http://www.legislature.idaho.gov/sessioninfo/2011/interim/energy.htm>.

Her comments are regarding the nuclear power section of the 2012 draft energy plan that begin on page 43. **Ms. Young** explained that in September, SRA staff met with Dr. Aumeier to offer suggestions for this section. She said that while adjustments were made, the SRA still has some refinements to suggest. Their

intent is to try to achieve balance by suggesting changes that could make this section more objective and to offer information that might be of interest to the committee.

In item 2.3.6 Nuclear of the 2012 draft energy plan, **Ms. Woodruff's** comments state that the sentence that refers to "financial incentives authorized by the 2005 Energy Policy Act...there has been increasing business interest in expanding nuclear power in the United States.", is unnecessary. She states that only one loan guarantee has been awarded and that reactor is still not licensed. They suggest striking this sentence as well as the next sentence

The SRA also believes that most of the next paragraph is incorrect. The complete explanation of this and the remainder of her suggestions is available in her comments at:
<http://www.legislature.idaho.gov/sessioninfo/2011/interim/energy.htm>.

Mr. David Hawk, Idaho Petroleum Council was the next speaker. He voiced support for the Idaho Department of Lands rules for oil and gas exploration and cautioned the committee on doing anything that might preempt those rules.

Mr. Hawk emphasized that the ISEA has done an excellent job on the draft plan and their process has been very transparent. He noted that he was a member of the hydro task force that included people from many different aspects of energy and that energy efficiency and conservation was always the first consideration.

In response to a question from **Representative Stevenson**, **Mr. Hawk** said that he had seen consumer advocate office in other states and said that while he respects the opinion of AARP, he has seen consumer advocates cost money and cost ratepayers money. In his opinion the consumer advocate in North Dakota works best for all ratepayers. He said he trusts the judgment of the PUC and its staff.

Representative Eskridge stated that a residential customer might be at a disadvantage with regard to fairness compared to an industrial advocate with attorneys and experts presenting a lot of evidence. He asked whether a consumer advocate would be advantageous in this situation. **Mr. Hawk** said he did not see this as an issue, industrial customers have an attorney and an economist. He said he has occasionally seen the state bring in other witnesses. He said he did not think industrials have been offered intervenor money for many years and that if a group does not make impactful input into the issue, they do not get funding. He suggested increasing intervenor funding rather than establishing a consumer advocate office. He emphasized that the committee should get more information regarding intervenor funding and the PUC before deciding on a consumer advocate. **Representative Eskridge** said that he was struggling with having the consumer advocate as part of the energy plan because the plan should be a guide to providing adequate energy to residents at the lowest cost, not a guide to establishing rate. He stated that a consumer advocate does nothing with regard to having an adequate energy supply. **Mr. Hawk** agreed and said rate has something to do with the economy of certain energy forms. In his opinion, the consumer advocate should be addressed through the legislature at a different level than the energy plan.

Representative Anderson said this relates back to the "energy IQ." He said it is important that residents understand that the PUC cannot establish rate with low income residential as a separate rate. **Mr. Hawk** opined that this could be done on a use basis. **Representative Anderson** agreed but said that it cannot be done by income level. In his opinion this is a social issue and should not be part of the energy plan or energy rates. **Mr. Hawk** agreed. **Representative Anderson** suggested using citizen's utility boards that would have no tax payer involvement and would not require legislation. He does not see the need for action from the legislature, He asked why interested parties do not step forward and intervene for those they advocate for. In his opinion, the private sector could develop its own intervenor board to go before

the PUC to represent whatever class it is. He added that he does not see the need to create anything new. **Mr. Hawk** said that state funding would make it more stable. **Mr. Hawk** commented that this could further polarize the process.

Representative Jaquet said affordability was discussed in the 2007 plan because Avista wanted to be able to create a program across the rate base for low income people. In her opinion this should be included in the new plan because she sees the energy plan as an umbrella to cover all issues dealing with energy. She thinks it would be helpful if the plan contains this as an area that the legislature should explore. **Mr. Hawk** agreed that this is important, it is just a philosophic discussion of where it should take place.

Representative Anderson said did not want to create the perception that the ICL or AARP are not advocates for the people they represent, but thinks there are many programs in place to help low-income individuals; not everyone out there is out there to do harm. **Mr. Hawk** said this is another area that relates to energy education and said that the ISEA puts out a guidebook to energy in Idaho that is very helpful and informative.

Terri Ottens, Community Action Partnership Association (CAPAI) was the next speaker. Her complete comments are available at:

<http://www.legislature.idaho.gov/sessioninfo/2011/interim/energy.htm>.

CAPAI made the following recommendations for the 2012 energy plan:

1. Recognition of low income customers and their needs.
2. Formal recommendations of the contributions that the programs listed in her comments make in accomplishing the plan's goals.
3. A recommendation to pass legislation addressing a utility's right to pursue bill assistance programs should that be their decision.
4. The development of a Consumer Advocate Office to represent residential customers in Idaho.

Mr. Ron Whitney, Division of Building Safety spoke in support of building codes. He offered his assistance regarding the building code adoption process. He suggested changing the word "adopt" to "review" in item CE9. He recognized the need to move forward as codes are updated but said the division is not ready for full adoption of the newest codes.

Mr. Travis McLing, Chairman of the ISEA Carbon Issues Task Force thanked the committee for taking such an interest in the work that has been done. He said, regarding the "energy IQ" of the state, that the task forces are an important source that could provide that education throughout the state. He emphasized the he works for INL but was never asked to advocate for INL as a task force member. The members were just advocates for the state of Idaho and what is best for it. The task forces looked at what the state needs to do to be prepared for issues coming in the future.

In response to a question from **Representative Jaquet**, **Mr. McLing** explained that the task forces were asked for input regarding the 2012 plan at board meetings and that he thinks the new plan is excellent. He said they just need to put meat on the bones of the plan. He added that it took over 18 months to put together their report and it is a well thought out and well considered document.

Senator Werk regarding the action items proposed EE2 in relation to education, asked for comments on specific ideas that could be included or whether the plan should be general. **Mr. McLing** said it would be a waste of time if the plan is just put on the shelf. He said that education is critical for Idaho citizens

because they will have to make difficult decisions down the road. He would like to see an active education program and have people go out into the schools to give presentations regarding energy. He added that there are a lot of misconceptions regarding energy.

Representative Cronin asked why the carbon issue task force did not take a stand on climate change and asked whether this was a conscious decision. **Mr. McLing** said that the task force felt that due to the fact that other states are making decisions regarding carbon emissions to deal with climate change, that will affect Idaho. He said that other states will build low carbon energy plants and that the costs will increase and if the power can be sold to markets other than Idaho for less, it will be due to transmission issues. He emphasized that the federal government will regulate C_o2. He stated that it does not really matter if someone thinks climate change is real. other states are taking action that will affect Idaho.

Representative Cronin asked whether Idaho is missing out on opportunities by failing to acknowledge this. **Mr. McLing** said the state is setting up for missed opportunities and that we need to be ready for changes and to compete with neighboring states for business.

Representative Eskridge commented that the committee has learned a lot about the value of the ISEA and how they can be utilized by the legislature and thinks their expertise will be used a lot down the road.

Mr. Andy Tyson, Chairman of the ISEA Solar Task Force explained that their report was a two year process. He commented that he is pleased that the work of the ISEA has been instrumental in providing the 2012 draft plan for the committee. He added that the draft only includes policy recommendations from the ISEA on which full consensus was reached. He suggested that in creating the new energy plan, the committee go beyond what is included in the draft plan recommendations.

Mr. Tyson went on to outline some current trends in the solar industry. He explained that he is the owner of a business that designs and installs solar systems for residential, commercial and governmental customers. He commented on the fact that the solar industry continues to grow in this country with increasing demand and decreasing cost. Solar energy is becoming an increasing part of the energy mix in areas of the country where retail costs are high. Idaho is not one of these areas yet due to its low electricity rates. He said that the solar resource in Idaho is excellent and the load demand profile matches well with the benefits of solar production. He said, looking ahead, solar can become an important part of Idaho's energy mix and should be considered as an important growth industry to support, not only for the jobs it can provide, but also for the environmental benefits. With the sharp decrease in the cost of solar and the continued rise in traditional energy sources small incentives can help bridge the gap turning a mostly dormant industry into a growing one. **Mr. Tyson** said that the current energy plan speaks to, but does not go far enough, policy and actions for support of renewable energy.

Mr. Tyson commented that page 68 and page 94 of the draft plan state support for action regarding renewable energy. He stated that this call for action is not well supported in the draft plan. He said there is one action item but no specific policy. Previous drafts of the plan included policy that, in his opinion, should be put back in. This includes to encourage the development of customer owned and community owned rural energy and combined heat and power facilities. Regarding another recommendation in the last paragraph of section 3.7.2 that ends with "there is simply no free lunch when it comes to energy, and renewable energy is no exception to this rule.", **Mr. Tyson** stated that he sees this committee as representing Idaho citizens as the appropriate path to sketch Idaho's energy future. He said if there is no free lunch when it comes to energy, why not support energy produced in our state creating industry and jobs in Idaho. Policy that paves the way to in-state energy generation is good policy and good for Idahoans.

Mr. Tyson went on to say the Idaho should adopt international building codes at a minimum of every three years for building energy efficiency standards and should provide technical and financial assistance to local jurisdictions for implementation and enforcement. He said that this was included in a previous draft and he would like to see it put in the revised draft plan as well.

Representative Anderson stated that some cities in the state do not have building departments and might not look favorably on the state getting involved regarding building codes. **Mr. Tyson** said he did not have an answer for this but it would be appropriate for those areas that do have building departments. **Senator Werk** said that in the local planning act there are requirements that counties have building codes even though some do not.

Senator Werk went on to discuss distributive generation and gave an example of someone who was not allowed to install solar panels on his home by his homeowner's association. He asked whether this is something **Mr. Tyson** deals with as an owner of a solar company and whether the energy plan is the place for this to be covered. **Mr. Tyson** said he does encounter this quite often. He also deals with the fact that people are unsure whether they can install solar panels. In many cases he deals with the homeowner's associations to get approval. He said in some states or jurisdictions laws have been passed overriding homeowner's associations on this topic. With regard to including this in the energy plan, **Mr. Tyson** said he did not think so. He thinks it should be discussed but probably does not need to be in the actual plan. **Senator Werk** asked whether there had been any experiences where local governments do not allow people to install solar panels on their homes. **Mr. Tyson** said he had not encountered that anywhere.

Representative Jaquet noted that Wyoming passed a law to finance solar installation by allowing the customer to pay it back on their utility bill and asked whether this would be helpful. **Mr. Tyson** said this is specific to Jackson Hole and it would be helpful for business. **Representative Jaquet** commented that this could be another way to look at creating energy jobs in Idaho.

Representative Stevenson said that he was in Idaho Falls yesterday and spoke with someone putting solar on his home and he was told it would take seven years to pay this off and was only worth it due to tax incentives. He asked whether there is a need to keep an industry going, if it is only done for tax incentives. **Mr. Tyson** said that currently there are federal tax incentives and in other states where the cost of regular energy is higher this makes more sense. He reiterated that the cost of solar has dropped significantly so it can be installed for much less and in states with higher energy costs those incentives have helped everything move forward and allows them to compete.

Representative Cronin said he is assuming the utilities in Wyoming were in support of the bill that was passed in Wyoming. **Mr. Tyson** said he would get more info for committee.

Mr. Larry LaBolle, Avista representative and ISEA participant commented regarding Mr. Tyson's recommendations that the committee insert items back into plan that the board deleted. He said that he feels that the final review by the board did undercut the task force recommendations somewhat. He stated that the task force reports and transmittal letters show what they tried to achieve as a board. **Mr. LaBolle** suggested this final review of the plan should include review of the action plans with actual votes of members to give more background, a snapshot of what were easily supportable by the board and what areas still had questions. The real debate was informed in task force reports and is not reflected in this final consensus draft plan.

In response to another question from **Representative Jaquet** regarding LEED certification, **Mr. Kjellander** said he would get more information for the committee. **Representative Jaquet** suggested this could be part of the education section.

The committee recessed at 4:15 p.m.

Thursday, November 3, 2011

The meeting was called to order at 8:00 a.m. by cochairman Senator Curt McKenzie. Cochairman Representative George Eskridge was present by telephone. Other members present included Senator Patti Anne Lodge, Senator Steve Bair, Senator John Tippetts, Senator Elliot Werk, Senator Dan Schmidt, Representative Bert Stevenson, Representative Eric Anderson, Representative Jeff Thompson, Representative Reed DeMordaunt, Representative Wendy Jaquet and ad hoc member Representative Brian Cronin. Senator Fulcher and Representative Maxine Bell were absent and excused. Legislative Services Office staff members present were Mike Nugent and Toni Hobbs.

Others present at the meeting included: Rich Hahn and Mike Brassey, Idaho Power; Ron Williams, Williams Bradbury; Russ Westerberg, Rocky Mountain Power; John Chatburn, Office of Energy Resources; Lisa LaBolle and Robert Nielson, Idaho Strategic Energy Alliance; Larry LaBolle, Avista, Dar Olberding, Idaho Grain Producers; Ben Otto, Idaho Conservation League; Lisa Young, Snake River Alliance; Brenda Tominaga, Idaho Irrigation Pumpers Association; Teresa Molitor and Maureen Finnerty, Energy Integrity Project; Jackie Flowers, Idaho Falls Power; Andy Tyson, ISEA Solar Task Force Chairman; Trent Clark, Monsanto; and Eric Wilson and Tom Schultz, Department of Lands.

Senator McKenzie stated that this meeting would focus almost entirely on review of the 2012 draft energy plan but allowed **Mr. Trent Clark, Monsanto** to make public comments. He also stated that the Department of Lands would make a presentation regarding their oil and gas exploration rules.

Mr. Clark stated that Monsanto spent an entire day on one part of the draft energy plan. He noted that Monsanto is the largest rate payer in the state and said that nothing is more important for economic success than low rates for energy in Idaho.

Mr. Clark commented that Monsanto has not had enough time to review the entire plan and is not ready to make any real decisions regarding it. He said that there is a wealth of information in the plan but the time frame for review and comment has been very short. He requested that the time for public comment be extended for six more weeks.

Representative Eskridge reminded everyone that the interim committee will just make recommendations to the germane committee of the legislature and said that he has trouble leaving comments open for that long. **Mr. Clark** said he understands that but asked for comments to be taken until the legislative session begins so more information could be provided. **Senator McKenzie** suggested leaving the comment period open since the committee will have another meeting to finalize the plan but said he did not want it open until the session begins; perhaps until a few days before the next meeting. **Representative Eskridge** asked whether the committee would still be able to work on proposed suggestions with comments still coming in. **Senator McKenzie** said he thought that would be possible and said that comments that come in late might be overlooked or given less weight. **Representative Anderson** commented that he did not think the committee could take any action as long as the comment period is still open and voiced concern about how moving forward today with comments still coming in. He said this is not something they should rush through. After more comments regarding the time frame for review, **Mr. Clark** explained that Monsanto's Idaho people have been working on the plan since it was posted on October 14, 2011. The committee decided to keep comments open until Nov 18 and meet the following week. The next meeting will be on November 21, 2011.

Mr. Tom Schultz and Eric Wilson, Department of Lands were introduced to give an update of the proposed oil and gas exploration rules. Both the temporary and proposed rules are available in full at : <http://www.legislature.idaho.gov/sessioninfo/2011/interim/adminrules/rules.htm#L>.

In summary these rules include:

Formatting changes to conform with Chapter 52, Title 67, Idaho Code;

Changes to definitions for the purpose of consistency and clarity;

Well drilling permit requirements are expanded to ensure that the Department has the information needed to properly review them;

A public comment period on applications is added;

Application, operating and reporting requirements for well treatments, including hydraulic fracturing, are added;

Bond amounts are increased and additional bonding requirements are added to decrease the potential well plugging liabilities present in other states;

Basic surface owner protections are added, and geophysical exploration requirements are expanded, to reduce conflicts between surface and mineral owners and thereby enhance orderly development of oil and gas resources;

Well drilling and plugging rules are modified to better prevent waste and protect fresh waters;

Well completion and well log reporting is clarified to improve the flow of information and stimulate additional exploration;

Active and inactive wells are defined to reduce the potential liability of abandoned wells;

The periodic testing of well integrity is added to prevent waste and protect fresh waters;

Class II injection wells are no longer permitted under this rule as the Idaho Department of Water Resources currently prohibits their use pursuant to its rules and they will pursue permitting authority with the EPA;

Basic emergency response requirements were added to ensure that accidents and fires are handled appropriately and public safety issues are addressed;

Other sections of the rules addressing wellhead equipment, tools with radioactive material, the pulling of casing, gas-oil ratios, and multiple zone completions were upgraded or added based on the existing standards used in other states to prevent waste, protect correlative rights and protect fresh water supplies;

Responsibilities of the Department and the Oil and Gas Conservation Commission are clarified; and

Multiple documents are incorporated by reference to allow the industry standards to be adopted in Idaho.

Mr. Wilson said that public comments received have included requests to prohibit open pits; concerns with confidentiality; concerns with the definition of active/inactive wells; many want the sampling area for water treatment extended from $\frac{1}{4}$ mile to $\frac{3}{4}$ mile; there is interest in surface owners being notified; many do not like blanket bonding; there is concern that surface owner protections are too weak and they want more control; requests for a county to be notified when an application is received; some want more inspections to be done by the Department; air quality issues; and nuisance factors. He said they are still working through how to incorporate some of these suggestions into the rules.

Mr. Wilson stated that the department would have some statutory changes that include increasing the drill application fees from \$100. He said they would also like to amend the severance tax section to 2.5% and take what goes to the general fund and give that to oil and gas. This would be done by the Tax Commission collecting the entire portion of that tax and distributing it.

Senator Tippetts asked, with regard to the liquid used for hydraulic fracturing, if a company says the contents are proprietary information, do they still have to report those contents to the Department and if they claim it is a trade secret can that be challenged. **Mr. Wilson** said he was not sure but thinks there is some way for that to be challenged. **Senator Tippetts** asked whether the new bonding requirements were

consistent with other states. **Mr. Wilson** stated that the Department did a detailed analysis of all states and they are all very different. He noted that the new amounts seem to be right in line.

In response to a question from **Representative Jaquet**, **Mr. Wilson** said it is difficult to require third party contractors to disclose information.

Representative Jaquet asked whether one additional FTE would be enough to allow the Department to get the work done considering all of the reports that are being required. **Mr. Wilson** said yes, given the current level of activity.

Senator Werk commented that counties are retaining some authority for siting and asked whether the state has a method for offering technical assistance to counties. **Mr. Wilson** said the Department can barely keep up with that today and that he is not sure what other assistance can be given. He noted that counties want to give conditional use permits for every well permit.

Representative Cronin commented on the list of concerns from citizens and what was being done with those. **Mr. Wilson** said the Department is still working through those comments to see what can be put in the rules and what would need statutory change. He stated that this will have to be within the next few days as they have to present to the commission in order to get to the legislature.

Senator Werk asked about baseline testing and **Mr. Wilson** said they have to do both baseline and after. In response to another question from **Senator Werk** regarding carcinogens and aquifer designation, **Mr. Wilson** explained that carcinogens are already in there but changing the designation would allow less stringent requirements. He said this would require rulemaking. **Senator Werk** asked about nondisclosure penalties and whether there are any ethical concerns being addressed. **Mr. Wilson** stated that the statutory changes beef up penalty and criminal provisions and updates language. There is not a lot of this in the rules. There is always a danger regarding ethical questions so they have tight chain of command and a lot of public disclosure.

The committee moved on to discuss and review the 2012 draft energy plan. This plan and the consensus document are available in full at: <http://www.legislature.idaho.gov/sessioninfo/2011/interim/energy.htm>.

Policy 1

Add "The State of Idaho should enable..." to the beginning of this sentence. It was suggested to put "energy efficiency" before "power generation".

Policy 2

Want to keep the ISEA version (in column C) of the consensus document. The committee feels this is more concise and accurate than the 2007 Plan version. **Representative Cronin** commented that he does not like the "consistently message" language and the committee agreed that they would work on the language before making a final decision.

Policy 3

Senator Werk feels that the 2007 Plan (Policy #5) was very direct on this point and wants to keep this but replace "may not" with "will not" as follows "When acquiring resources, Idaho and Idaho utilities should give priority to: (1) Conservation, energy efficiency and demand response; and (2) Renewable resources; recognizing that these alone may not fulfill Idaho's growing energy requirements." **Senator McKenzie** wants to add "prudent and cost-effective" to original language: "...give priority to cost effective: (1)". **Representative Cronin** wants to add to the end "recognizing these resources play a role in

addition to traditional resources in providing for Idaho's energy needs." **Representative Jaquet** suggested that be "conventional" rather than "traditional" to be consistent with the 2007 Plan.

Policy 4

The ISEA board suggested deleting this policy but the committee decided it was valuable and decided to keep it in the new plan.

Action E1

The committee discussed the term "diversity" and said that they do not want to give the impression that diversity is desirable for diversity's sake. The term "resource diversity" was suggested and additional language will be explored.

Action E2

Keep this policy but change the sentence structure by moving "or the individual... utilities," after "Idaho investor-owned

Action E3

This item removed language for providing incentives and **Representative Jaquet** said she thinks it is important to keep incentives. **Senator Tippetts** commented that this action sends mixed messages and **Senator Werk** suggested removing "this priority order" from the original version. **Senator Tippetts** said that the committee should encourage compliance with the Energy Plan, but the language could be reworked. He suggested starting with the 2007 Version as follows: "The Idaho PUC and Idaho's municipal and cooperative utilities should ensure that their policies provide ratepayer and shareholder incentives that are consistent with this priority order." **Senator Werk** agreed and said this statement implies that we want everyone on the same page. **Senator Schmidt** noted that this was changed from an action item to a policy and **Senator McKenzie** said that the committee should add some action items if this is made a policy.

Action E4

Senator Werk suggested removing the word "electric utilities" to make it more inclusive and adding references to regional interconnections. He also suggested deleting the references to utility IRPs so it can be more broad-based. He would also like to strike the words "in order to" and change "access to regional markets" to include "national and international"

Action E5

This was updated by combining former policy 10 and 11 from the 2007 plan into an action item and then it was deleted by the ISEA board. **Representative Jaquet** commented that she liked the ISEA version before it was deleted. **Senator Schmidt** suggested striking "federal" from "federal regulations". **Senator McKenzie** said he would like to break these apart like in the 2007 Plan. **Senator Tippetts** commented that the utilities section is redundant because utilities are already doing this. **Senator McKenzie** stated that he likes acknowledging that the utilities are doing this. **Mr. Kjellander** said that utilities look at carbon adders and suggested removing "greenhouse gas emissions" and just keeping "federal regulation" to be more inclusive. This was approved. **Senator Werk** suggested the following: add "federal regulations that impact resource portfolios."

Action E6

Representative Eskridge said he would like to keep original ISEA language and add "tax incentives and other measures." **Senator Werk** suggested adding a policy specific to distributive generation. **Mr. Larry LaBolle** commented that the board wanted to make this broader to include businesses and not just

customer or households. **Ms. Jackie Flowers** noted that E10 in the consensus document refers to net metering with regard to distributive generation.

Action E7

Representative Eskridge likes taking out the backstop language and suggested using the ISEA recommendation.

Action E8 (E6 in the draft plan)

Accepted as is.

Action E9 (E7 in the draft plan)

The committee discussed adding the word “significantly” after “online.” There was also discussion that this should either be addressed more completely or deleted.

Action E10 (E8 in the draft plan)

Sen. McKenzie suggested adding to the beginning something like: "The policy of the state is to encourage investment in customer-owned generation."

Action E11

The committee discussed deletion of “(their "fuel mix") and the addition of "generation" so it will be "sources of electricity generation." **Representative Anderson** suggested adding something that includes costs as follows: “including costs of things such as fish mitigation.” He added that perhaps this should be part of the "education" process.

Action E12

Accepted as is. The committee may move this to a category other than Conventional Resources.

Action E13

Accepted as is.

Action E14

Add a policy here for Transmission as follows: "It is Idaho policy to encourage a stable, robust, reliable transmission system in order to provide reliable low cost energy to Idaho consumers and facilitate renewable generation."

Action E15

Accepted as is.

Action E16

Accepted as is.

Action E17

Deletion was recommended but the committee is going to check with the Idaho Energy Resources Authority for more information.

NATURAL GAS

Policy 5

Senator Tippets questioned the need to say that customers need to have "diverse and varied resources" and suggested "reliable and low-cost supply."

Policy 6

Accepted as is.

Action NG 1

Remove the words "in non-traditional" and add at the end "in a manner that protects property owners and the environment." **Representative Jaquet** commented that encouraging without incentive won't get us very far. She said that these developers need the incentives. **Senator Tippets** asked whether there was an assumption that all of these will have a beneficial effect on the environment. **Representative Anderson** noted that if these types of projects are sited on school endowment lands, there is a huge benefit monetary benefit for the endowment. There was no consensus on this.

Action NG2

Accepted deletion of this item due to the development of new technology.

Senator Werk commented that there is a lot more emphasis on conservation in the electricity area than in the natural gas area and asked whether a similar emphasis should be included in the natural gas area.

Senator McKenzie asked for suggestions.

PETROLEUM AND TRANSPORTATION FUELS

Policy 7

Accepted as is.

Policy 8

Accepted as is.

Policy 9

Accepted as is.

ALTERNATIVE FUEL ACTIONS

Action T1

Accepted as is.

Action T2 and T3

The language change from "provide incentives to "encourage" was accepted. **Representative Jaquet** asked about having some sort of pilot plan for electric cars. **Senator McKenzie** said he would consider language. **Senator Werk** also discussed the impact cars will have on use of electricity and demand for it at certain times. **Senator McKenzie** agreed that the committee needs to be aware of this but said he does not think it will be a problem within the next five 5 years.

Action T4

Recommended deletion due to the fact that federal incentives are available so there is no need for state incentives.

Action T5

Accepted with new language to be provided by Representative DeMordaunt to give it more emphasis due to the gap between good ideas and commercialization.

Action T6

Deleted as the committee was not sure it is still relevant because of federal standards (fuel standards).

TRANSPORTATION FUEL CONSERVATION

Action T7

The committee recommended changing the language to say that Idaho supports fuel efficiency standards rather than “CAFÉ standards.” Senator Tippetts said he would like more discussion on the impacts of CAFÉ standards on Idaho. There was also suggestion to add text to mention how dependent Idaho is on out-of-state resources. Senator McKenzie will work on new language and suggested “support fuel efficiency standards for vehicles set at the federal level.”

Action T8

This deals with local option taxes for transportation projects and was recommended for deletion by the ISEA board but the committee discussed keeping it due to unintended consequences. The committee stated that there will probably be legislation this year regarding this issue. Senator Werk commented with regard to local option legislation that passed the House of Representatives last year along with a constitutional amendment, there seems to be support for local option authority but there is debate about whether it is a constitutional issue.

Action T9

Change "provide incentives for the" to "encourage local communities to" and, after discussion, the committee agree to delete this from the plan.

Action T10

This item will require more discussion.

Due to time constraints the committee will complete discussion of the draft plan at the next meeting on November 21. This meeting was adjourned at 12:30 p.m.