Vicky Davis

Response to Idaho Power's Answer

February 21, 2012

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Jean Jewell, Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, Idaho 83720-0074
FAX: (208) 334-3762

VIA: HAND DELIVERY

RE: Case No. IPC-E-12-04
Bonnie Menth and Vicky Davis, Complainants, vs. Idaho Power Co., Respondent

Dear Ms. Jewell:

Enclosed for filing are an original and seven (7) copies of Bonnie Menth and Vicky Davis' response to Idaho Power's Answer to the Summons in the above matter.

Sincerely,

Vicky L. Davis,
Complainant

Bonnie Menth
Complainant

Vicky Davis, Complainant
Case No. IPC-E-1204

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

BONNIE MENTH AND VICKY DAVIS,	)	
	)	Case No. IPC-E-12-04
Complainants,	)	
	)	RESPONSE TO ANSWER
vs.	)	
	)	
IDAHO POWER COMPANY,	)	
	)	
Respondent.	)	
	)	

Complainant, Vicky Davis, hereby responds to answers provided to the IPUC for the Summons issued in the above entitled-case by the Respondent, Idaho Power Company, as follows:

I. FACTUAL BACKGROUND

Idaho Power is an investor owned, regulated utility company engaged in the business of selling electricity. I am a customer and consumer of electricity. The implied contract for electric service with Idaho Power is that they provide electricity to my home, they meter the usage, they bill me for it and I pay for it.

Advanced Metering Infrastructure (AMI) metering devices – commonly referred to as Smart Meters, represent a significant change to the basic contract between service provider and customer. The Smart Meter does meter electric usage, but it

also has a two-way communications component that is used to receive and transmit data over the power lines (PLCC – power line carrier communications protocol). The Smart Meters record moment-by-moment usage of electricity and that data is periodically uploaded to Idaho Power's data center probably via the assigned substation for the end-service address.

On the morning of December 13, 2011, an Idaho Power Customer Service Representative, an installer and a Twin Falls County Deputy Sheriff arrived at my home to forcibly install a Smart Meter over my strenuous objections. A complaint was filed with the Idaho Public Utilities Commission and a Summons was issued to Idaho Power to answer the complaint. I received a copy of Idaho Power's Answer to the Summons on February 10, 2011.

II. RESPONSE TO IDAHO POWER'S ANSWER

A. Smart Meter as a Surveillance and Control Device

Idaho Power's ANSWER at 6 in reference to me, states, "she did not want Idaho Power to spy on her". What I actually said many times was that the Smart Meters were surveillance devices that could track movements and behaviors in the home ***by the collection of moment-by-moment usage of electricity***. When Chris Bell, the Idaho Power Customer Service Representative brought the Deputy Sheriff with him to force the installation of the Smart Meter, I did say that the device was a spy device. It was an attempt to get the attention of the Deputy Sheriff to the fact that he was using the force of law to aid and abet in the forced

installation of a wiretap device that provides surveillance data on the movements and activities in the homes of electricity customers through the records of electrical events, time and duration.

Idaho Power's contention (ANSWER at 6) is that I have a misconception about the technology. To support my position concerning the nature of this technology, please refer to the following report:

Colorado Public Utilities Commission Decision No. C09-0878 opening Colorado Docket 09I-593EG, in the matter of the investigation of security and privacy concerns regarding the deployment of Smart Grid Technology, dated August 12, 2009. This Docket was opened to explore the issues brought to the Commission in a report titled, *Smart Metering and Privacy: Existing Law and Competing Policies* by Elias Leak Quinn. A copy of this report may be obtained in the electronic filings section of the Colorado Public Utilities Commission website.[1]

Excerpts from the report as noted:

> **Pages 1-3 (Adobe 10-12)**
>
> **In order to examine the privacy consequences of smart grid development, it is important to first understand the technological capabilities and information extraction possibilities created by such metering infrastructure...**

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[1] Colorado Public Utilities Commission electronic filings website, http://www.dora.state.co.us/puc/PUCsearch1.html. Report titled, Smart Metering and Privacy: Existing Law and Competing Policies by Elias Leak Quinn. A direct link to the document cannot be provided. This link is to the search page where the Docket Number 09I-593EG may be entered into the Documents text box. Doing so will bring up the complete record of this Docket including the report referenced. Also referenced, Jack I. Lerner and Deirdre K. Mulligan, Stanford Technology Law Review, Taking the "Long View" on the Fourth Amendment: Stored Records and the Sanctity of the Home, http://stlr.stanford.edu/pdf/lerner-mulligan-long-view.pdf

A. Technological Capabilities

The drive for high-resolution energy usage data from which to forecast load demand or optimize service led naturally to an investigation of individual appliances and their relative contribution—both in time and amount of draw—to the overall load. Traditionally, this meant the installation of cumbersome and rather intrusive monitoring equipment within customer homes, often involving "a monitoring point at each appliance of interest and wires . . .connecting each to a central data-gathering location."[1] In the early 1980's, researchers at MIT turned the research on its head with the development of the non-intrusive appliance load monitor (NALM),[2] which "reverses this balance[] with simple hardware but complex software for signal processing and analysis."[3] The NALM insight was simple in form, but profound in consequence: If a device could be appended to the existing metering infrastructure that would allow for realtime logging of electricity consumption (the simple hardware), the information of appliance use might be able to be reconstructed from the overall load data (through the application of complex software) and thereby remove the need for intruding within the residential space and installing new equipment within the home.

In order to disaggregate a customer's electricity usage profile into its constituent appliance events, researchers began compiling libraries of appliance load signatures that could be matched to signals found within the noise of a customer's aggregated electricity use. Though initially thought a daunting task to work backwards from an appliance's demand to the identity of the appliance itself, the load signatures of various appliance categories are surprisingly unique,[4] and an impressive amount of detail concerning customer usage habits could be discerned from NALM-generated information.

NALMs were ever research tools, set up to monitor only a small number of customers in order to facilitate load forecasting and management. However,

smart meters allow for the collection and communication of highly detailed electricity usage information in much the same way as did the NALM. However, unlike NALMs, smart meters are being deployed throughout entire electricity distribution networks. Indeed, the Federal Energy Regulatory Commission (FERC) recently reported that, all told, 52 million smart meters would be installed throughout the country over the next five to seven years.[5] Smart-metered information, collected at levels as fine as one-minute intervals, can be disaggregated into its constituent appliance events, allowing both consumers and utilities (and anyone else with access to the information) to see exactly what makes up an individual household's electricity demands:

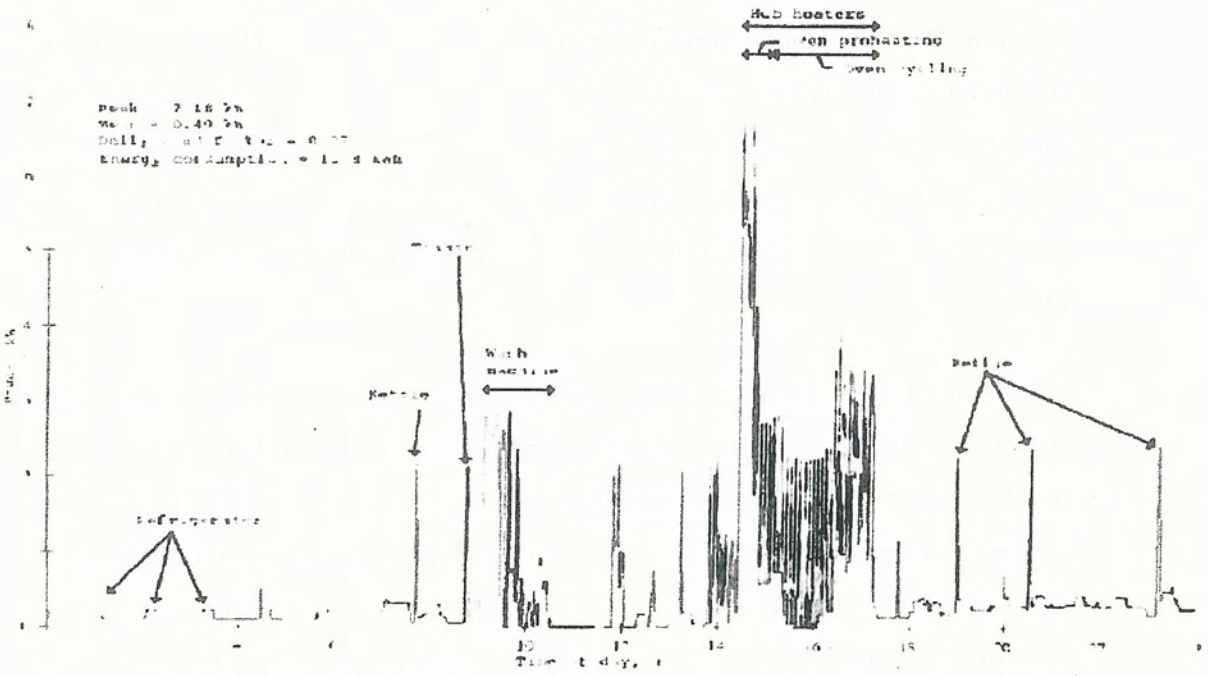

Figure 1: Household Electricity Demand Profile Recorded on a One-minute Time Base[6]

As analytic tools evolve, even information collected at significantly longer intervals—e.g. every fifteen or thirty minutes—can be used to pinpoint the use of most major household appliances.[7] Such detailed information about the in-

Reprint from Original To make chart readable

smart meters allow for the collection and communication of highly detailed electricity usage information in much the same way as did the NALM. However, unlike NALMs, smart meters are being deployed throughout entire electricity distribution networks. Indeed, the Federal Energy Regulatory Commission (FERC) recently reported that, all told, 52 million smart meters would be installed throughout the country over the next five to seven years.[5] Smart-metered information, collected at levels as fine as one-minute intervals, can be disaggregated into its constituent appliance events, allowing both consumers and utilities (and anyone else with access to the information) to see exactly what makes up an individual household's electricity demands:

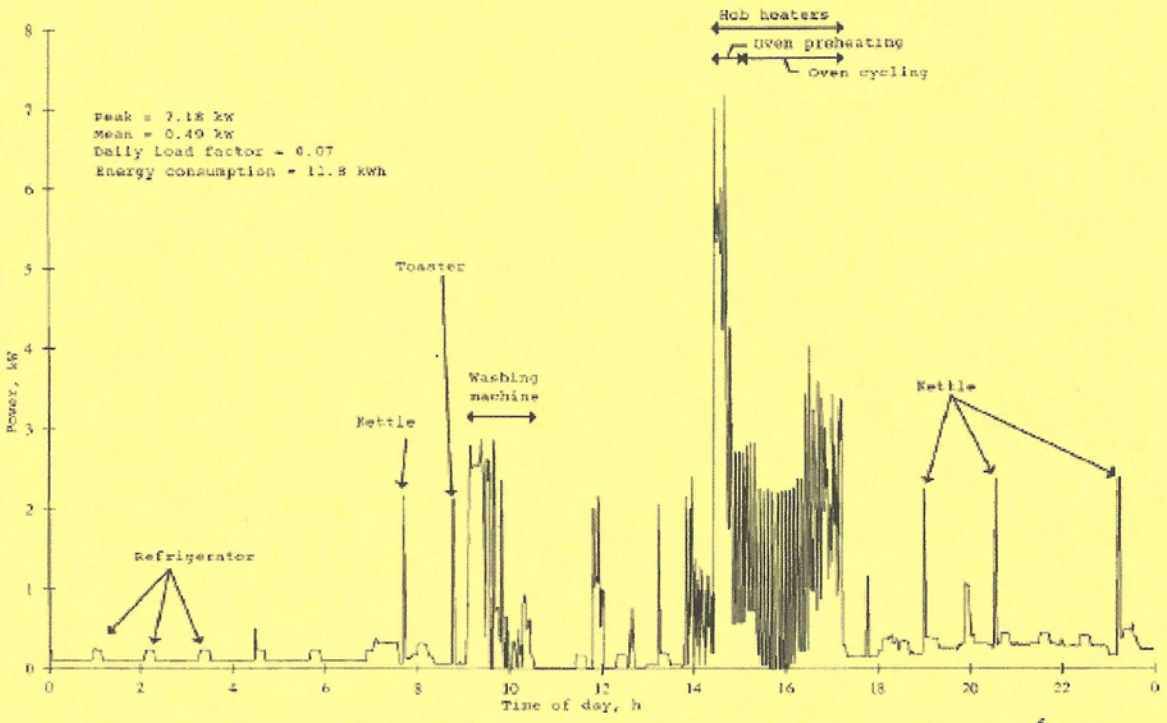

Figure 1: Household Electricity Demand Profile Recorded on a One-minute Time Base[6]

As analytic tools evolve, even information collected at significantly longer intervals—e.g. every fifteen or thirty minutes—can be used to pinpoint the use of most major household appliances.[7] Such detailed information about the in-

RESPONSE - 5

> home activities of electricity customers can thus be used to piece together a fairly detailed picture of an individual's daily life or routine. Furthermore, as plug-in hybrid electric vehicles are deployed and customers engage in electricity sales on the grid outside of their homes, an electricity usage profile may become a one-stop-shop for tracking behaviors even outside the walls of the residence. Cataloging and analytic methods advance, and thus the huge volumes of data about electricity usage soon to be unleashed, rather than seen as overly burdensome and expensive to make use of, are likely to be found treasure troves of information.[8]

In a report titled, *Smart Grid: Enabler of the New Energy Economy* published by the Electricity Advisory Committee in 2008[2], the following paragraph describes the objective of the AMI:

> Though the terms are not synonymous, the communications technologies and devices in AMI are key enablers of Smart Grid technologies. Advanced meters can better integrate **"behind-the-meter"** devices such as residential energy storage units, PHEVs, distributed generation, and various mechanisms for controlling or influencing load.

"Behind-the-meter" is my home and Idaho Power is NOT invited. The forced installation of the Smart Meter device was in effect, forcing their way into my home. The Smart Meter is the enabling technology for integration and management of in-home devices.

According to the Idaho Public Utilities Commission 2010 Annual Report, Page 8, the IPUC has quasi-legislative and quasi-judicial as well as executive powers and

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[2] Electricity Advisory Committee, December 2008, Smart Grid: Enabler of the New Energy Economy, Page 6 (Adobe 15), 2.3 Benefits to Utilities, http://energy.gov/sites/prod/files/oeprod/DocumentsandMedia/final-smart-grid-report.pdf

duties. The Statutory authorities for the commission are established in Idaho Code Titles 61 and 62. In Idaho Power's Answer at 1, they define in detail, the Commission's support for and approval of the installation of Smart Meters including the final order issuing a Certificate of Public Convenience and Necessity authorizing system-wide implementation.

Regardless of the intentions of both Idaho Power and the Idaho Public Utilities Commission, the order for installation of the Smart Meters constitutes an order for a 24/7 warrantless "wiretap" on the homes of every Idaho Power electricity customer, and presumably on every regulated electric utility customer in the State of Idaho. Idaho Power's ***current*** polices concerning the data collection are notwithstanding because they can be changed at will and Idaho Power's current configuration is irrelevant because the Smart Meter firmware is updatable and the software that processes the usage data regardless of whether purchased or custom can be modified to analyze and report on the data at the granularity desired by Idaho Power and their potential "information customers" which could include law enforcement.

Again referring to the Quinn Report referenced above (Page 28 – Adobe 37):

> ii. Fourth Amendment Jurisprudence
>
> Other authors—most notably Jack Lerner and Deirdre Mulligan—have dealt squarely with Fourth Amendment concerns related to advanced metering infrastructure and high resolution energy usage information.[92] The lessons of their investigation should, however, be kept in mind—namely, that interval data of electricity consumption appears to be in something of a no-man's-land under Supreme Court Fourth Amendment jurisprudence. On the one hand, the Court has upheld the sanctity of the

home as the touchstone for privacy protection.[93] Technology that effectively pierces the blinds, exposing information about activities inside the home requires a warrant before it is employed. It would appear that electricity usage data, as it contains many intimate details about the in-home activities of consumers, allows investigators to see through walls into the home and so access to the information should be restricted to essentially a need-to-know basis.[94]

On the other hand, business records collected and kept by third parties enjoy far fewer privacy protections, the underlying theory being that consumers elected to transact with the business, and to engage in activities open to observation by the public.[95] Traditional electricity metering information has generally been treated as business records and so lies unprotected by the Fourth Amendment.[96] Though Lerner and Mulligan seem optimistic that courts will "take the long view" on Fourth Amendment protections and extend them to smart metering data, my own analysis is that the law as it stands does not decide the matter, and the jurisprudence could easily be used to justify either result.

The acquiescence to the installation of the Smart Meters could be construed as de facto permission for a 24/7 warrantless wiretap, which is why I was adamant concerning my refusal to allow installation of the Smart Meter.

The acquiescence to the installation of the Smart Meter is also acquiescence to the regulatory authority of the Idaho Public Utilities Commission. It is the "foot in the door" so to speak. And I do not accept it. The Idaho Public Utilities Commission was chartered to regulate public utilities – not residential customers of utilities. Once the Smart Meter is installed, that "iron foot" is permanently wedged in my door and my right of refusal for the "enhanced customer services"

is void. The "voluntary demand response program" can become mandatory with simple software changes and if ordered to do so by the IPUC, Idaho Power would install those software changes so Idaho Power's assurances that they have no ***current*** capabilities are meaningless.

In Idaho Power's Answer at 9 concerning the voluntary demand response program, they state that a direct load control device must be installed and is only installed on customer equipment who request a device to participate in the voluntary AC Cool Credit or Irrigation Peak Rewards Program. Excerpt Answer at 9:

> "The AMI system in the substation supports direct load control by providing commands to those voluntary devices (which are physically separate from and operate independently of the AMI meters) and confirmation of the action performed by devices installed on customer-owned equipment, such as air conditioners or irrigation pumps".

The direct load control device is a "bridge device" meaning that it is an add-on to bridge the gap between new technology and older devices that don't have built-in capability. As those older devices are replaced, the new devices will have the direct load control device built-in as an industry standard.

In the section titled, Idaho Power's Position, Answer – 14, Idaho Power wrote:

> "Complainants both cite the required state review of federal smart meter ratemaking standard for electric utilities in the Energy Policy Act of 2005, 16 U.S.C. §2621(d)(14), as legal authority for the ability to opt-out of receiving an AMI Meter. Idaho Power does not believe the complainants have accurately interpreted the statute, the intent of

which was to promote adoption of the smart meter technology and time-based rates they wish to opt-out of."

The key phrase in that paragraph is "the intent was to promote adoption" which is not the same thing as making the Smart Meters mandatory.

The following is the text of a letter from Senator Tom Coburn of Oklahoma in response to a constituent letter concerning the Smart Meters. The recipient's name and address have been redacted for privacy concerns. This letter was sent via email from Senator Coburn's Washington office:

From: Senator_Coburn@coburn.senate.gov <Senator_Coburn@coburn.senate.gov>
Subject: Correspondence from Senator Coburn
To:
Date: Thursday, December 8, 2011, 11:35 AM

Dear Mr. G

Thank you for your email regarding the recent installment of smart meters in parts of Del City. It is good to hear from you and I apologize for my delayed response.

As you may already know, the American Recovery and Reinvestment Act of 2009 (H.R. 1, also known as the "stimulus") funded the development of Smart Grid technology, and subsequent smart meters, at $4.5 billion. It has been said that Smart Grid technology has the capability of monitoring electricity consumption, and bringing in a new era of energy efficiency. While I believe our nation's energy grid requires updating, there are numerous questions that must be answered about smart grid technology, most of which you raised in your email. Concerns relating privacy and property rights in monitoring and adjusting home energy usage (as well as other things) and vulnerability to criminal actions must be addressed. Any invasion of privacy or overreach of the federal government would be inappropriate, and I will strongly oppose it.

Furthermore, the feasibility of this technology has not been proven; yet politicians eager to demonstrate their support for energy efficiency (and spend your money) have jumped on the smart grid bandwagon. I firmly believe that politicians should not select winners and losers in the market-**that responsibility should be left to American consumers who will purchase the most effective and efficient technologies through trial and error, and the free market.** Our free market has time and again shown it is more efficient and effective than the government in allocating resources in our economy and that government mandates and subsidies prevent the full use of America's technological know-how.

In regard to smart meters in Oklahoma, a voluntary smart meter program was approved last year by the Oklahoma Corporation Commission. As a member of the U.S. Senate, I was not involved with this decision. You might consider contacting the members of the Commission to share your concerns.

Thank you again for contacting me on this subject, and please know **I will guard the privacy of Americans and the ability to operate households as they see fit.** Please stay in touch.

Sincerely,

Tom A. Coburn, M.D.

United States Senator

Senator Coburn's letter confirms the legitimacy of the issues brought forward by Complainants concerning the Smart Meter devices and since the Oklahoma Corporation Commission established a voluntary Smart Meter program, the Complainant's interpretation of the statute must be correct.

Idaho Power Grant

As noted in Senator Coburn's letter, the American Recovery and Reinvestment Act of 2009, HR-1 provided grant money for Smart Grid technology including Smart Meters. The Department of Energy offered the money under Funding Opportunity Number DE-FOA-0000058[3]; CFDA Number 81.122 – Electricity Delivery and Energy Reliability Research, Development and Analysis dated June 25, 2009. Idaho Power applied for and was awarded a grant in the amount of $47,000,000 under Category 6, Integrated and/or Crosscutting Systems[4].

The following is an excerpt from the initial announcement of the grant opportunity with emphasis added:

> The overall purpose of the Smart Grid Investment Grant Program (SGIG) is to accelerate the modernization of the nation's electric transmission and distribution systems and promote investments in smart grid technologies, tools, and techniques which increase flexibility, functionality, interoperability, cyber-security, situational awareness, and operational efficiency. This purpose will be accomplished through a merit-based,

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[3] Los Alamos National Laboratory website, Stimulus Communications Center, Recovery Act, Financial Assistance, Funding Opportunity Announcement, U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, Smart Grid Investment Grant Program, Funding Opportunity Number: DE-FOA-0000058, Initial Announcement, http://www.lanl.gov/stimulus_communication_center/75/DE-FOA-0000058[1]_12-16-2009_11:47:30.rtf

[4] U.S. Department of Energy, Recovery Act Selections for Smart Grid Investment Grant Awards, Page 9, http://energy.gov/sites/prod/files/edg/media/SGIGSelections_Category.pdf

competitive solicitation for projects to receive federal financial assistance for up to 50% percent of eligible project costs. This financial assistance is intended to enable measurable improvements that can result from accelerated achievement of a modernized electric transmission and distribution system, including:

- Reliability of the electric power system.
- Electric power system costs and peak demand.
- Consumer electricity costs, bills, and environmental impacts.
- Clean energy development and greenhouse gas emissions.
- Economic opportunities for businesses and new jobs for workers.

Recipients of funding appropriated by the Act shall comply with requirements of applicable Federal, State, and local laws, regulations, DOE policy and guidance, and instructions in this FOA, unless relief has been granted by DOE. Recipients shall flow down the requirements of applicable Federal, State and local laws, regulations DOE policy and guidance, and instructions in this FOA to subrecipients at any tier to the extent necessary to ensure the recipient's compliance with the requirements.

The goals of the SGIG program involve accelerating progress toward a modern grid that provides the following specific characteristics that DOE believes define what a smart grid would accomplish:

- **Enabling informed participation by consumers in retail and wholesale electricity markets.**
- Accommodating all types of central and distributed electric generation and storage options.
- Enabling new products, services, and markets.
- Providing for power quality for a range of needs by all types of consumers.
- Optimizing asset utilization and operating efficiency of the electric power system.
- Anticipating and responding to system disturbances.
- Operating resiliently to attacks and natural disasters.

One requirement in the grant requires "informed participation by consumers". Idaho Power's post card notification of installation of the Smart Meters and the flyers in their bills touting the alleged benefits of this technology do not constitute an effort at fully informing electricity consumers. To be informed, one must understand what "participation in retail and wholesale electricity markets" means and they should understand the Smart Meter technology and the implications of the installation of those meters on their homes. Idaho Power not only didn't provide full disclosure on the meters, they presented disinformation on the benefits to be derived from them.

In all Idaho Power information about the Smart Meter installation program, the idea that electric consumers could save money is used as a sales pitch. De facto, "saving energy" in a system where usage is billed, is the same thing as saying "you'll save money by reducing usage" and that is absolutely false and Idaho Power and the Idaho Public Utilities Commission both know it because electric rates have been decoupled from Idaho Power's rate base of installed facilities and operating costs. Idaho Power has been guaranteed continued, increasing profits regardless of the reductions of electric consumption by consumers of electricity.

This inversion of traditional electric cost calculations model is a perversion of the electric utility business putting electric consumers in a similar situation as the greyhound running to catch the mechanical rabbit. He'll never catch it because it's designed to make him run – not to give him the reward of catching it. No matter how much electric consumers reduce their consumption, the price for a kilowatt-hour of electricity will increase correspondingly with the reduction in the

sales of kilowatt-hours because that's the deal that Idaho Power and the Idaho Public Utilities Commission struck.

There is also a question as to whether or not Idaho Power is in compliance with ALL Federal, State and Local Laws specifically as it pertains to criminal statutes and unauthorized wiretapping. The Smart Meter device with the two-way communications capability is the critical component that enables the collection of in-home activities through electrical event, time and duration information and the communications component to send it to an offsite repository that is the issue. Regardless of Idaho Power's intentions and current configuration, the fact remains that the Smart Meter device is a surveillance and control-enabling device and the installation of it without fully informed and positive (opt-in) consent is unauthorized wiretapping and an unlawful intrusion, a breech of personal and home security, and it is a breech of the right to privacy and the right to dominion over one's personal possessions inside the walls of the home.

B. Control of Appliances

In Idaho Power's Answer - 6, it says:

> "Ms. Davis refused discussion stating that she did not want the meter and did not want to enable Idaho Power to have control of her appliances".

It's not true that I refused discussion. I'll discuss these issues with anybody, anytime, anywhere. However, my discussion doesn't go in the direction that Idaho Power wanted. I did refuse to change my mind about giving permission for the installation of the Smart Meter for all the reasons listed in my correspondence

with Idaho Power; in the complaint filed with the IPUC and in this response to Idaho Power's Answer to the Summons.

In the next paragraph – Answer 6:

> "On October 4, 2011, Ms. Davis continued her conversation with Mr. Bell and reiterated her belief that Idaho Power at a later date would install a module in the AMI meters to control appliances. Mr. Bell explained the necessity of Idaho Power installing the AMI meters and attempted to dispel her misconceptions about the technology and Idaho Power's intentions.

The following are excerpts from Tucson Electric Power (TEP) Customer Agreement for their TEP Power Partners Project[5], the point of which is to show that I have no misconceptions about the ability of the utility companies to remotely control devices in the home. The load control switch is an interim bridge device that probably wouldn't be necessary with a new A/C unit. Note that the programmable thermostat is inside the home – not connected to the load control switch attached to the A/C unit.

CUSTOMER AGREEMENT

> I understand that Tucson Electric Power (TEP) is deploying the TEP Power Partners Project to gather information about energy usage, and that this program will continue for approximately two years from the date of my enrollment... I agree to participate in the pilot, and I understand that, as part of my participation, I will be asked survey questions at various points throughout the pilot. I also understand that my energy usage information will be analyzed throughout the pilot. My individual usage will not be made

[5] Tucson Electric Power, TEP Power Partners, Customer Agreement, https://enroll.teppowerpartners.com/customer_agreement.php

publicly available, but it will be grouped and analyzed along with other pilot participants, and the aggregated results may be shared publicly.

I understand that I will be given equipment that will require access to my existing broadband Internet connection. This equipment may include a Programmable Thermostat, In-Home Display, Load Control Switch, Meter Reading Device, and Internet Gateway Device, which, together, will enable me to monitor my energy consumption in real time. This equipment will be provided to me at no cost.

I understand that TEP will be able to reduce the power used by the air conditioner in my home from the time of the equipment installation in 2011 through September 2012. TEP will reduce the power used by my air conditioner either by reducing how long my air conditioning can continuously run or by adjusting my thermostat one to four degrees, typically over a two- to four-hour time frame. These events may occur eight to 10 times each summer. I understand that I can always override TEP's adjustments at the touch of a button or the click of a mouse, so I will always be in control of my energy.

In a related article by Jonathan DuHamel, writer on energy issues for the Tucson Citizen, wrote the following concerning TEP in an article titled, *"Will you let the power company control your air conditioning?"*[6]

In the news today we find that Tucson Electric Power Company (TEP) is instituting a voluntary program (so far) that would allow TEP to control your air conditioner during periods of peak use....

This is part of Renewable Energy Standards (RES) mandated by the Arizona Corporation Commission in 2006. That standard requires electric utilities to generate at least 15% of electricity from "renewable resources" by 2025. RES also requires a growing percentage

[6] Tucson Citizen, Jonathan DuHamel, June 14, 2011, "Will you let the power company control your air conditioner?" http://tucsoncitizen.com/wryheat/2011/06/14/will-you-let-the-power-company-control-your-air-conditioner/ ; referenced Bloomberg article, James Tyson, November 20, 2006, Fannie Mae Wins Patent for Trading Greenhouse Gas Credits, http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aDkAbYu5DtX8

of the total resource portfolio to come from distributed generation, i.e., residential or non-utility owned installations. The distributed energy requirement started at 5% of the total portfolio in 2007 and grew to 30% of the total renewable mix after this year.

The TEP program is part of a scheme called Demand Side Management and the so-called "smart grid," another mandate by the Arizona Corporation Commission. A similar program is being instituted by Arizona Public Service in Phoenix. "Arizona's public utilities will be required to achieve annual energy savings of at least 22%, measured in kWh, by 2020, with the savings to increase incrementally as a percent of retail energy sales in each prior calendar year to reach that goal." "Energy savings" mean rationing electricity. And given that the air conditioners will be controlled over the internet, the system is vulnerable to attack by hackers who could wreak havoc with air conditioning systems in large buildings or in participating neighborhoods.

...And follow the money: Fannie Mae, the biggest U.S. mortgage finance company, holds Patent No. 6,904,336, for a "System and Method for Residential Emissions Trading," which is the meter that would be attached to your house. Bloomberg reports this is a potential $22 billion dollar market. Maybe that's why governments are creating a market to sell you something you don't need.

On the next page, Answer - 7,

"During communications with Idaho Power personnel, Ms. Davis voiced a number of opinions which have no basis in fact... Despite Company attempts to explain the value of removing older, inefficient refrigerators from the marketplace, Ms. Davis insisted the covert purpose of the Company's See Ya Later, Refrigerator program was to force Idaho Power customers to purchase new refrigerators equipped with smart appliance technology that will allow Idaho Power to control them.

I never said that the software module to allow the remote control of appliances would reside in the Smart Meter. It's not that it couldn't reside there – it just wouldn't be practical, nor would it be efficient and would therefore be unlikely to be located there. What I told Mr. Bell is that the software that Idaho Power bought was modularized and additional functionality could easily be added and

that simply because they didn't buy a module for remote control initially (according to him), didn't mean that they wouldn't buy it in the future. But when I said that, it was an explanation for Mr. Bell because obviously, Idaho Power already had the capability for remote control of devices otherwise, they wouldn't be able to offer the A/C Cool Credit Program – quoting from Idaho Power's website – emphasis added:

> "A $7 per month credit for customers in our service area who allow their air conditioners to be cycled on a few June, July and August afternoons".

It was a misrepresentation for Idaho Power's Representatives to tell me that they didn't have remote device control capability and I knew it at the time they were telling it to me. It's irrelevant whether Idaho Power provides the capability – or whether they contract with a third party contractor[7] to provide it, the fact is that the capability exists and Idaho Power is marketing it.

The fact that a third-party is providing this remote device control capability and they receive access to a real-time stream of the electric customers usage data[8] is even more significant and makes Idaho Power's misrepresentation even more disturbing. In the Quinn Report referenced above in the section on Fourth Amendment Jurisprudence (Page 28 – Adobe 37):

> On the other hand, business records collected and kept by third parties enjoy far fewer privacy protections, the underlying theory being that consumers elected to transact with the business, and to engage in activities open to observation by the public.

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[7] EnerNOC contract with Idaho Power, Idaho Power, Energy Efficiency Advisory Group (EEAG), Minutes, February 18, 2010, http://www.idahopower.com/pdfs/EnergyEfficiency/eeag02_18_10minutes.pdf

[8] EnerNOC business model was described in the National Broadband Plan, Chapter 12, Energy and the Environment, Box insert 12-4: A Virtual Power Plant, http://www.broadband.gov/plan/12-energy-and-the-environment/

For specific details on the issue of appliances and communications, you may refer to a report produced by Conrad Eustis, Portland General Electric titled, "Free Market Choice for Appliance Physical Layer Communications" that is posted on the NIST website[9]. Another source for information on the Smart Grid and Smart Appliances is the Consumer Report's website[10], video hub titled, "General Electric's Smart Appliances".

C. See Ya Later Refrigerator

As it pertains to the *"See Ya Later Refrigerator"* program, my comment to Mr. Bell was in reference to the Minutes of a meeting of the Energy Efficiency Advisory Group, that was formed by order of the Idaho Public Utilities Commission. These Minutes were from the aforementioned program February 18, 2010 meeting[11] and reveal the intentions of its' members:

> **See Ya Later Refrigerator—This program has a high customer satisfaction level. Idaho Power is looking into the idea of going to second hand stores and collecting working units to make sure they do not end up back in the residential market. The stores would receive the incentive.** Another option that is being explored is the Charitable Giving Option. Southern Cal-Edison has a similar program. Jaco would send a list of customers that would like to donate their incentive to a third party charity. The charity would have to issue the official tax receipt. Celeste asked the group for feedback. One member who actually has participated in the program said she loves the idea and that if that option would have been available, she would have donated. One member, who also likes the idea, suggested that the charity be energy related, for instance, Project Share.

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[9] http://collaborate.nist.gov/twiki-sggrid/pub/SmartGrid/H2G/PHY-v20.pdf
[10] http://www.consumerreports.org/cro/video-hub/appliances/other-appliances/general-electrics-smart-appliances/16548701001/62916551001/
[11] Idaho Power, Energy Efficiency Advisory Group (EEAG), Minutes, February 18, 2010, http://www.idahopower.com/pdfs/EnergyEfficiency/eeag02_18_10minutes.pdf

There are two things of significance here: 1) The member's considered going to second hand stores to buy up older working refrigerators to prevent them from ending up in people's homes. That is an admission that there is something significantly different about newer refrigerators than older models. Since refrigerators and refrigeration is considered a mature industry, "innovations" over the last two decades have been of the "bell and whistle" variety with energy savings improvements insignificant. 2) Who typically buys used refrigerators? Poor people and people on fixed incomes buy used refrigerators because they don't have the money for all the bells and whistles.

Another thing that the meeting minutes show is that the IPUC regulatory authority was used to create and fund - to the tune of $17.5 million electric ratepayer dollars for a 5 year contract, a third party committee, whose primary purpose is in creating "market opportunities" for private profiteers who have a guaranteed market because of connections to the Idaho Public Utilities Commission and Idaho Power. The "Energy Efficiency Advisory Committee" attempts to present an image of serving the public interest, but the meeting minutes show otherwise.

D. Electricity Market

In reference to the same paragraph, Idaho Power's Answer at 7 includes the following:

> "During communications with Idaho Power personnel, Ms. Davis voiced a number of opinions that have no basis in fact. For instance, she was adamant that Idaho Power would use AMI technology to sell power to other states and leave Idahoans without power".

This is a mischaracterization of what I said. I said the Demand Side Load Management software combined with the utility company deregulation unbundling generation from transmission and distribution and allowing the creation of a separate company for electricity trading (IPC-E-00-13 Order No. 28596) could potentially leave the electric consumers in Idaho short of electric power if more money can be made by selling the power to utility companies in another state – California for example. This is precisely what happened a few years ago to PG&E when Enron was arbitraging the electric market in California.

There was no real shortage of electric power in California. There was market manipulation including artificial scarcity as documented in Senator Joe Lieberman's investigation and announced formally in a March 26, 2003 Press Release titled: *Lieberman Faults Slow FERC Response to Western Energy Crisis*, subtitle: *FERC Finds Enron, 30 Others Manipulated the Market*[12]:

> **"In a staff report released Wednesday, FERC staff concludes that manipulation of the Western markets included widespread use of Enron's online trading platform, which resulted in over $500 million in profits for Enron. The report also names over 30 other companies that appear to have tried to gouge unsuspecting consumers.**

It is not a coincidence that Idaho Power electric consumer rates increased ten-fold following that market manipulation. The source for ten-fold increase in

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[12] Homeland Security and Governmental Affairs, Press Release, Wednesday, March 26, 2003, *Lieberman Faults Slow FERC Response to Western Energy Crisis*, subtitle: *FERC Finds Enron, 30 Others Manipulated the Market, http://www.hsgac.senate.gov/media/majority-media/lieberman-faults-slow-ferc-response-to-western-energy-crisis*

electric pricing was the Federal Communications Commission (FCC) National Broadband Plan[13], on Page 270, Box 12-3 – emphasis added:

> The Idaho Power Company, which serves 485,000 customers in the state, has had some of the lowest electricity prices in the nation due to its heavy reliance upon cheap hydroelectric power. **The impact of a statewide drought and the 2000-01 Western energy crisis led prices to spike tenfold,** and the **Idaho Public Utilities Commission put in place an aggressive set of energy efficiency programs to reduce price volatility and help lower customer bills.**

In an honest world, the market manipulation wouldn't have happened because regulators wouldn't have allowed a separate electricity trading operation because there was no business reason for it and the introduction of a middleman just adds costs that ratepayers end up paying – and for no value added. Idaho Power had the capability to sell excess power and to buy power as needed within their existing operation and they were regulated at the time, which means that their pricing was based on the cost of installed facilities plus operating costs and a fixed percentage of profit. Also, the IPUC wouldn't have been prepared to jump to "put in an aggressive set of energy efficiency programs to reduce price volatility and help lower customer bills". The price volatility was due to the creation of an artificial market system for electricity, which led to the ten-fold increase in price.

Note also on the same page, same Box 12-3:

> **"Since state regulators have decoupled the company's profits from how much energy it sells, the utility has new incentives to get its customers to reduce their energy use".**

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[13] Federal Communications Commission, National Broadband Plan, reference to Chapter 12, Energy and the Environment, http://www.broadband.gov/plan/

The source for the insert in the National Broadband Plan was a January 10, 2010 article in the New York Times, *Why is Idaho Power Paying Its Customers*?[14] Why indeed. The following are excerpts from the article:

> These days, Idaho's farmers are being paid to stop using power.
>
> Sitting at a cluttered kitchen table in his home, Mr. Erwin — now a farmer himself — waved a bill showing that last July he received a credit of more than $700 from Idaho Power for turning off his power-guzzling pumps on some summer afternoons.
>
> ...In a related program, it pays homeowners to turn off their air-conditioners briefly at times of high demand...
>
> To pay for these and other energy-saving measures, Idaho customers — individuals and companies — are charged a 4.75 percent "energy efficiency" rider on their electric bills, one of the highest percentage charges of this kind in the country.

Why indeed when Irrigators already have the lowest electric rates. The following are screen captures of the electricity rates for Agricultural/Irrigators, Small Businesses and Residential Customers:

[14] New York Times online, Kate Galbraith, January 23, 2010, Why Is A Utility Paying Customers?, http://www.nytimes.com/2010/01/24/business/energy-environment/24idaho.html?pagewanted=all

Idaho Power Posted Rates as of February 14, 2011

Agricultural - Irrigation

Monthly Rates - Secondary Service

	In-Season (June-September)	Out-of-Season (All Other Months)
Service Charge	$22.00	$3.50
Demand Charge (per kW)	$6.54	$0.00
In-Season Energy (per kWh)		
First 164 kWh per kW	4.8214¢	
All Other kWh	4.5485¢	
Out-Season Energy (per kWh)		5.6210¢

Schedule 7 Tiered Rates — Small General Service Business

Service Charge per month: $5

	Tier 1	Tier 2
Kilowatt-hours (kWh)	First 300	Over 300
Rate (per kWh)	8.4744¢	8.9196¢

	Tier 1	Tier 2
Kilowatt-hours (kWh)	First 300	Over 300
Rate (per kWh)	8.4744¢	10.2030¢

Residential Tiered Rates

Service Charge per month: $5.00

	Tier 1	Tier 2	Tier 3
Kilowatt-hours (kWh)	0-800	801-2,000	Over 2,000
Rate cents per kWh	8.83 ¢	7.59 ¢	8.47 ¢

	Tier 1	Tier 2	Tier 3
Kilowatt-hours (kWh)	0-800	801-2,000	Over 2,000
Rate cents per kWh	7.39 ¢	9.01 ¢	10.81 ¢

RESPONSE - 25

The rates and rebates given to Irrigators constitute an unfair and unjust rate preference for those customers over other residential and small business customers at the expense of residential and small business customers.

If the payments to Irrigators for not watering were the only utility-centered anomaly, one would be tempted to think it was just happening in Idaho but the economic perversion was also found in Florida in an article titled, "Landowners Introduced to Benefits of a Reduced Carbon Economy"[15]:

> September 5, 2007
> Jay Liles
> Florida Wildlife Federation
>
> Tallahassee, FL. – For generations farmers and other large landowners have relied on their crops to return a profit. At a recent conference, sponsored by the Florida Wildlife Federation, Environmental Defense and Tall Timbers Research Station, noted economist Zach Willey brought what he thinks is a new source of income to local farmers and those who own tracts of land in timber.
>
> **Landowners, developers and environmentalists listened to Willey's presentation on the future of using agriculture to reduce greenhouse emissions, and using carbon credits as a commodity in Florida.**
>
> **Willey said using large tracts of forested land that naturally transform carbon dioxide into oxygen may come to be a $100 million industry in Florida. Energy companies would reimburse property owners based on the amount of carbon dioxide their land can absorb.**
>
> … "Landowners can achieve a new source of income and, therefore, increase the value of their land. The very first step is having a land owner in Florida know this is an option," Willey said. **"It's great for both the power sector and the agriculture,** so it's good for the economy."

[15] Florida Wildlife Federation website, Jay Liles, September 5, 2007, originally found in 2010, no longer posted on the Internet, but it was captured from the Archive and may be viewed here: http://www.channelingreality.com/Technocracy/Vapor_Market_Sweep/Florida_Landowners_something_for_nothing_Meeting.pdf

A plain English interpretation of the above is that they are paying landowners who have trees for doing nothing more than having trees – money for nothing. The effect is transfer payments from the productive sectors of the economy to either non-productive or passively productive sectors through the electric utilities business. Since electricity is the first input of a productive economy, penalizing electricity users to reward other non-productive users represents an economic inversion.

E. Channeling Reality – "Documenting America's Race to Global Technotalitarianism"

Idaho Power's Answer at 7

> "Ms. Davis sets forth other unconventional (and potentially libelous) opinions about the provision and regulation of electricity in Idaho."

What is documentation in one forum is evidence in another. I'm a Computer Systems Analyst. While the research and documentation on my website is not in chronological order and it was written for a general audience so it may not appear to be serious work at a cursory glance, the information on my website documents from a technology viewpoint, the history of the "transformation" of the American government from one that worked for the benefit of the American people (for the most part), to a fascist system (corporatism) that works through third-party committees, using the power of government for private, profit-making business objectives – socializing costs and privatizing profits. The Smart Grid, Smart Meters and all related technologies are case in point, the evidence for which can

be read in a report titled, *Smart Grid: Enabler of the New Energy Economy*, A report by The Electricity Advisory Committee, December 2008.[16]

New Energy Economy - Page 1:

> At the request of the U.S. Department of Energy (DOE), the Electricity Advisory Committee (EAC) puts forward this report on the nation's goal to transform its electric power delivery system (the energy grid) into a more intelligent, resilient, reliable, self-balancing, and interactive network that enables enhanced economic growth, environmental stewardship, operational efficiencies, energy security, and consumer choice.

The objectives in the above paragraph have nothing to do with the Electricity Service business and the transmission grid for that purpose. The objectives above are about the technology business and their objective to sell technology.

<u>The 180° turn</u>

> *"Ric Gale of Idaho Power said that after an energy crisis, 'everything turned a full 180'"*[17]

A full 180° is reverse. The implications of a full 180° – reversal within the electric utility industry has implications that ripple throughout our entire economy, our way of life, and in fact, civilization itself when one carries through the concept with a logical extrapolation beginning with the truth expressed in the first sentence of the following quote from the *New Energy Economy Report*:

> *Virtually the nation's entire economy depends on reliable energy. The availability of high-quality power could help determine the future of the U.S. economy.*[18]

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[16] Electricity Advisory Committee, December 2008, <u>Smart Grid: Enabler of the New Energy Economy</u>, http://energy.gov/sites/prod/files/oeprod/DocumentsandMedia/final-smart-grid-report.pdf
[17] Ibid. at 11
[18] Ibid. 12 – Page 5 (Adobe 14)

Electricity is the first input in the supply chain for every business and nearly every activity in a modern country such as the United States. Even activities that don't seem to be dependent on electricity (energy) are dependent if one traces back through the path dependencies. Plentiful, cheap energy allows a country to produce. The ability to produce decreases as the price of energy increases. These are simple, undisputed facts. By definition, control of energy is the power (no pun intended) to control the entire rest of the economy, which is why the utility companies were regulated in the first place – so that they couldn't inhibit, prevent or control all other economic activity.

The 180° turn that Mr. Gale was talking about is the flipping of objectives of utility regulation upside down - using regulatory authority to drive up the price of electricity to create market demand for technology where there wouldn't be demand otherwise. The following statement in the New Energy Economy report[19] is demonstrative:

> The EPRI *Electricity Sector Framework for the Future* estimates $1.8 trillion in annual additive revenue by 2020 with a substantially more efficient and reliable grid.[11]

The logic of that statement is that you can add by subtracting. No doubt they used current economic numbers including assumed savings without including the decline in productive activity that is inevitable due to the higher electric costs and the required expenditures for technology imposed by the mindless, bureaucratic march towards ***collective*** "efficiency" and a "green economy". The so-called additive revenue will accrue to the technology industry as it loots and cannibalizes

[19] Ibid.

the rest of the economy with ever changing demands for installation of new technology to "save electricity".

The 180° flip is to deregulate the utility companies unleashing the monopoly power of the electricity business – but with the Public Utilities Commission in control of the monopoly power. The PUC regulators are breaking up the utilities while continuing to appear to be regulating as the utility regulatory system was historically intended to do. The trail of evidence to support includes the follows:

Reference:

The Unfinished Agenda, The Citizen's Policy Guide to Environmental Issues; A Task Force Report Sponsored by the Rockefeller Brothers Fund, Edited by Gerald O. Barney, 1977, ISBN-0-690-01481-3;

Energy Efficiency : A New Agenda, Authors: William U. Chandler, Howard S. Geller, Marc R. Ledbetter; Published by the American Council for an energy-efficient economy; 1988; ISBN-0-918249-0606, Authors: William U. Chandler, Howard S. Geller, Marc R. Ledbetter;

Galvin Electric Initiative – Policy Framework
http://www.galvinpower.org/sites/default/files/PolicyFramework_0113.pdf

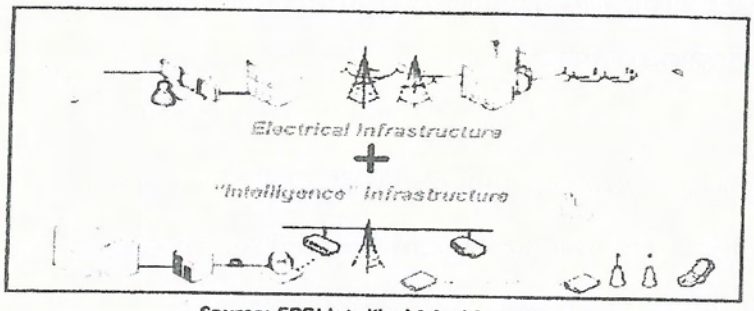
Smart Grid: Enabler of the New Energy Economy; A Report by The Electricity Advisory Committee, December 2008, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy.

Page 13 (Adobe 22) Today, telecommunications choices and services are much greater thanks to legislation and technological advances that broke up the

monopoly and later opened the door to competition in the telecommunications industry. The Energy Independence and Security Act of 2007 (EISA 2007), with its support for Smart Grid research and investment, is an important step forward in achieving government involvement is needed to remove obstacles to further innovation.

Virtual Utility

The distortions in the electricity business don't end with the price perversion. The introduction of the third party, middle man "market system" adds costs and it adds unreliability of supply because it breaks the direct link between production and sales of electricity.



Source: EPRI Intelligrid Architecture

Source: 2010 U.S. Smart Grid Vendor Ecosystem. Report on the companies and market dynamics shaping the current U.S. Smart Grid landscape.[20]

The above picture gives the impression that the electric grid is the same as the communications grid when the only real similarity is that the "product" travels on a wire in a circuit – satellite and wireless communications notwithstanding. The similarity ends when you consider the entire process of the utility business including generation and transmission without which, there is no utility business.

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[20] 2010 U.S. Smart Grid Vendor Ecosystem. Principal Authors: Greg Neichin and David Cheng of The Clean Tech Group. Report was posted on the Department of Energy, Office of Electricity Delivery and Energy Reliability (OEDER), page 4 http://energy.gov/oe/downloads/2010-us-smart-grid-vendor-ecosystem-report-companies-and-market-dynamics-shaping, CleanTech

On paper, they look the same. In the real world, they are completely different in all aspects that matter.

In the keynote address[21] titled, ***Visions of the Smart Grid: Deconstructing the traditional utility to build the virtual utility***, at a U.S. Department of Energy Smart Grid Implementation Workshop, Tom Standish, President and COO of the regulated operations of CenterPoint Energy said the following:

> **Today's paternalistic utility** We have today the traditional utility – power flows down the line to the house. That's about all we do. And I would offer that today's utility is very paternalistic. The consumer doesn't do much. They consume electricity, they pay a bill, and that's sort of the extent of it because it's a closed system that's been that way for a number of years.
>
> Just a few days ago, I heard a comment that research showed that people aren't interested in the smart grid. They were perfectly happy with the grid set up the way it is. It's paternalistic: they get their bill; they don't have a lot of interest in going forward. And really it struck me – I thought if that's true, why not have one brand of toothpaste, one type of soap, one beer, and it can just be delivered to your house. You can just take the quantity of it you want, and at the end of the month you get a bill and pay for what you take and that'd be just like electricity. What do you need choices for? What do markets do?
> ...
> We are going to face a lot of forces here: business, regulatory, economic, environmental, social. When you start changing a paradigm, when it comes to electricity, every sector of our economy is touched. What you are being asked to do you have to think about in very broad terms. I'm asking you to think about where we're headed and the path we need to go down to get there.
>
> **A vision of the smart grid** Here's my vision for a smart grid – "to create a digital communication path to enable information flow for the operation and control of the efficient production, transportation, and use of energy." It's broader than electricity. It's not just delivery of electricity. It's the whole energy chain. And it's not just energy. It's

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[21] Center Point Energy, Tom Standish, President and COO of Regulated Operations, Keynote Address titled, *Visions of the Smart Grid: Deconstructing the traditional utility to build the virtual utility* by Tom Standish to the U.S. Department of Energy, Smart Grid Implementation Workshop, http://www.centerpointenergy.com/staticfiles/CNP/Common/SiteAssets/doc/The%20Smart%20Grid.pdf

> information, information people can act on and will act on to change the way that they live their lives.
>
> What I want to talk about is a deconstruction of the traditional integrated utility and evolution toward a virtual utility that we'll do in four steps: smart meters, to an intelligent grid, to distributed generation, to a virtual utility. Let me make an aside – I'm going to focus mainly on the distribution side; there are tremendous benefits that will occur on the transmission side as well. Those tend to be the more technical issues: we want more power on the lines, we want to keep cascades from occurring – those sorts of things. I think the transformational part in terms of the economy occurs at the distribution level, and that's really what I want to talk about.

An adult reading that would be more likely to believe that Mr. Standish is a techno-lusting schoolboy without enough real life experience to understand what he is saying but his words are reflective of current thinking in government policy as evidenced by regulatory impositions evidenced by his statement:

> **"What I want to talk about is a deconstruction of the traditional integrated utility and evolution toward a virtual utility that we'll do in four steps: smart meters, to an intelligent grid, to distributed generation, to a virtual utility."**

Try cooking your dinner or heating your home with some modern, virtual electricity from the virtual energy company of your choice.

The Smart Grid infrastructure, Smart Meters and the concept of "virtual energy companies"[22] are the tools and the setup for the implementation of a totalitarian system of control that includes the distribution and access to electricity. The computerized control systems don't end with the electric grid. There is an "integrated whole" of centrally planned and designed control systems for virtually every area of our lives including transportation, health, education, labor management, aggregated and centralized "commodity functions" of state

[22] Virtual Energy Forum, http://www.virtualenergyforum.com/

government and more. This is just a glimpse of the systems of control that are being built and installed step-by-step.

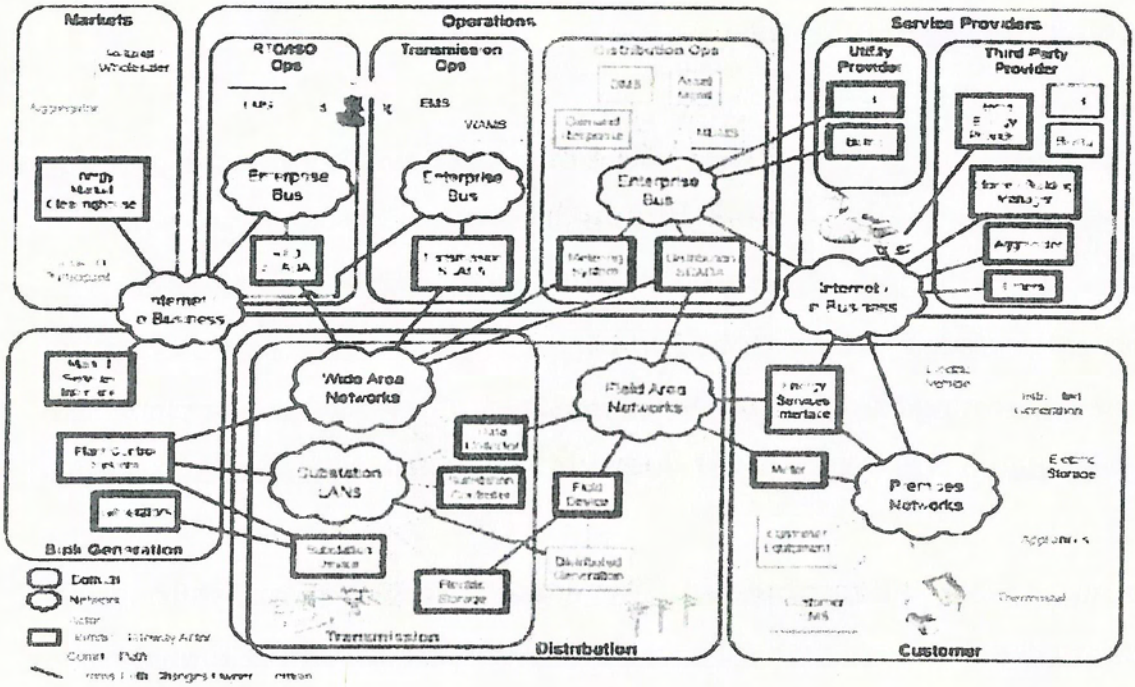
As it pertains to the energy system, what they are doing is attempting to sell the idea that with demand management through technology combined with "renewable energy" inputs, that utility company generation facilities can be downsized or closed, saving money and increasing efficiency. All around the country, generating capacity is being eliminated. Coal-fired power plants are being shut down. Dams are being removed. And windmills are being erected.

Obviously, scarcity is being created. The magician's trick of load shifting and "voluntary demand reductions" has a limited lifespan but by the time most people figure out "the game", it will be too late and we will all be locked into a technocratic, totalitarian system of control enabled by the Smart Grid and Smart Meter technology controlled by a remote and "virtual" entity. The forced installation of the Smart Meters is the first tangible glimpse of the iron fist in the velvet glove.

The following two diagrams were found in a report titled, U.S. Smart Grid Vendor Ecosystem[23]. The NIST Smart Grid Conceptual Model shows the "virtual utility" along with the breech into home turf. It should be noted that beside the home is a windmill.

[23] Ibid. smart grid ecosystem

NIST Smart Grid Conceptual Model[24]



[24] Ibid. smart grid ecosystem

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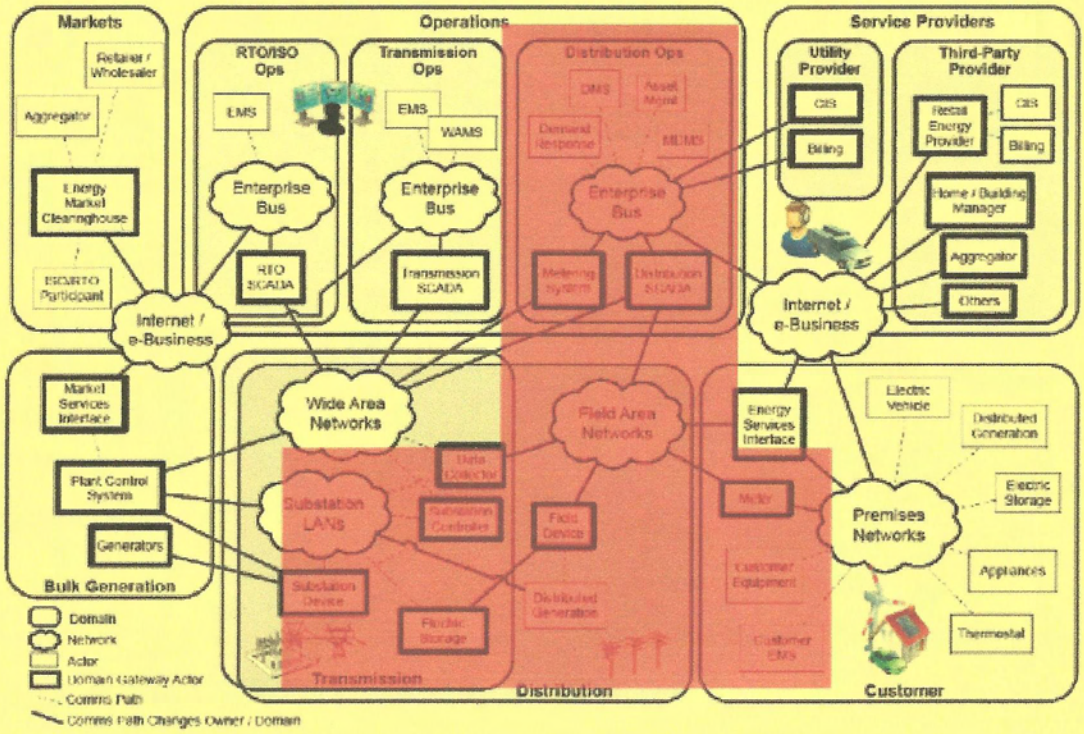
NIST Smart Grid Conceptual Model[24]



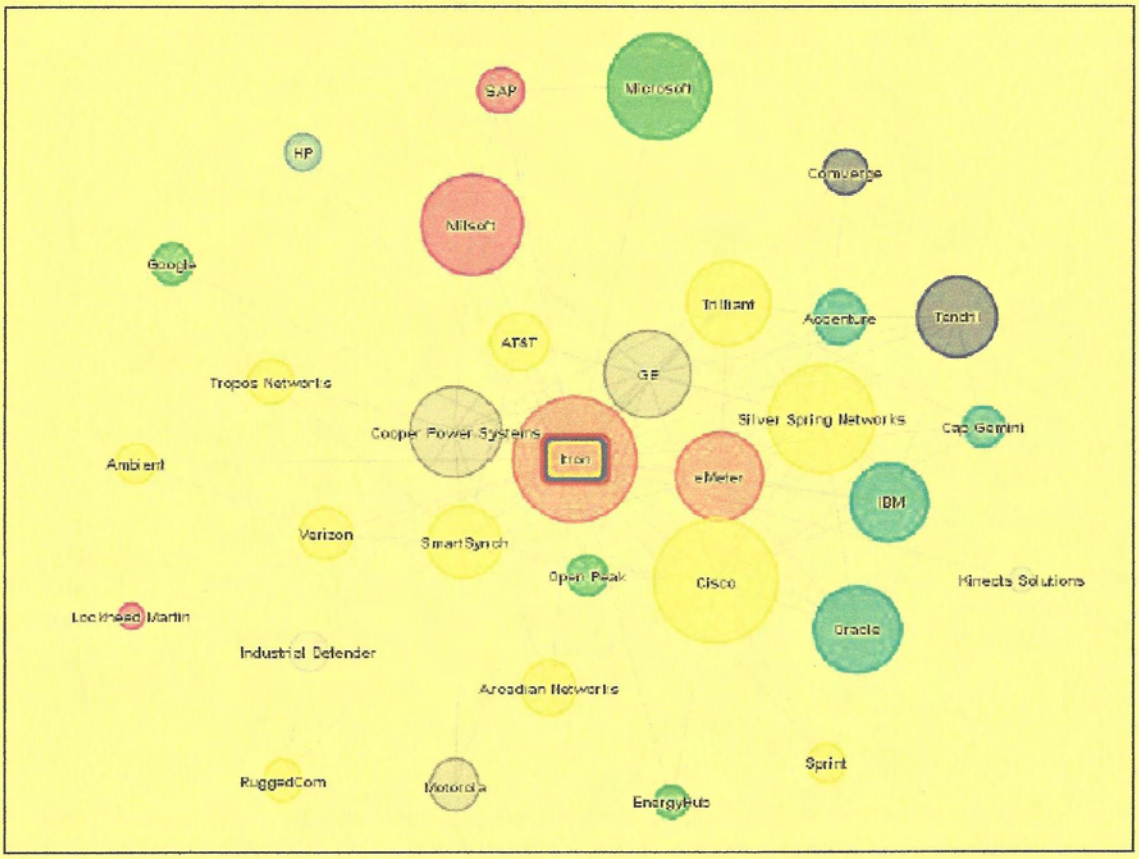
[24] Ibid. smart grid ecosystem

RESPONSE - 35

Reprint from original to make it readable

This diagram is a little difficult to read, so notice that the names inside the bubbles are the names of technology companies and each bubble on the diagram is an additive cost to the price of electricity without corresponding benefit to the electric ratepayers.

Itron: Smart Grid Relationships[25]



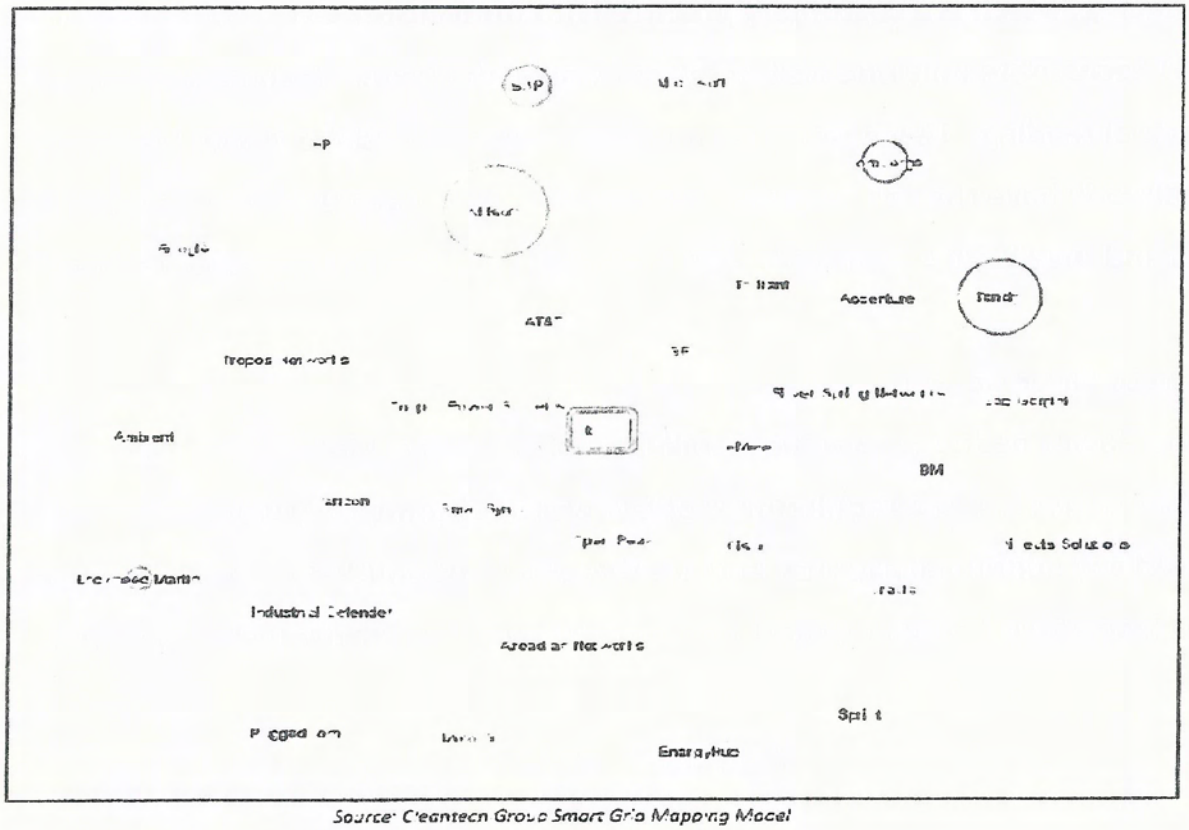
Source: Cleantech Group Smart Grid Mapping Model

[25] Ibid. smart grid ecosystem

RESPONSE - 36

This diagram is a little difficult to read, so notice that the names inside the bubbles are the names of technology companies and each bubble on the diagram is an additive cost to the price of electricity without corresponding benefit to the electric ratepayers.

Itron: Smart Grid Relationships[25]



Source: Cleantech Group Smart Grid Mapping Model

[25] Ibid. smart grid ecosystem

F. Alternative to Smart Meter

The analog meter performed the task of metering electric usage perfectly well. I recognized the benefits that would accrue to Idaho Power by reducing their costs so my offer to them a "level pay" program that is apparently called "budget pay" by Idaho Power. Alternately, I offered to read the meter myself and to phone in the reading, which is a customary practice with rural customers. Either way, it would necessitate only one visit per year by an Idaho Power Technician to obtain the actual reading. There would be no additional cost to Idaho Power because they already have the software for "budget pay", they have the historical data for usage and they have to pay a site visit once a year to service the meter anyway.

G. Cost to Offer Opt-Out

If Idaho Power hadn't forced the installation of the Smart Meter while the issue of whether or not it was a requirement of law was in dispute, they would not have incurred any additional expense and are therefore not entitled to reimbursement of any kind either for the replacement analog meter nor for the installation of it.

Vicky Davis' Position

This case began with the forced installation of Advanced Metering Infrastructure (AMI) Meters commonly called Smart Meters over the objections of Bonnie Menth and Vicky Davis. Idaho Power is attempting to unilaterally modify the basic contract for electric services for which, the AMI device is not required.

16 U.S.C. §2621(d)(14) indicates that customers were to be offered – not forced to accept, an AMI device. Idaho Power abused their privileged status with law enforcement to force the install an AMI Meter with communications capability.

Throughout Idaho Power's responses, the word "currently" is prominent. This is a deflection because regardless of the issue, "it" – meaning technology, software, policy, etc., could change tomorrow. Technology for the Smart Grid is evolving as it is being installed. The AMI "Smart Devices" were designed just like computers with sockets, updatable firmware and modularized software to allow upgrading and increasing capability as time goes on.

Idaho Power's representations to the effect that this technology is merely to save them the cost of meter reading are disingenuous at best and deceptive at worst.

Idaho Power is a regulated electric utility business, subsidiary of the IDACORP holding company. IDACORP has both regulated and unregulated subsidiaries.

The Idaho Public Utilities Commission was chartered as the regulatory agency to oversee electric utility operations with responsibilities defined in Idaho Statutes Titles 61 and 62. The Idaho Public Utilities Commission also regulates gas, telephone, water, pipeline safety and rail. To be succinct, the Idaho Public Utilities Commission has a regulatory monopoly over the entire network of critical infrastructure through the utilities they regulate.

The Smart Grid and related technologies – including the Smart Meter, have more to do with Information Technology than they do with any particular utility service. The Smart Meter is more like a computer with an electricity-metering feature added than it is a meter with communications capability added.

The Smart Grid is a network of networks for controlling our critical infrastructure. The appearance at "ground level" is that individual utilities will control their own operations, but when networks are connected, they become, in effect, a single system – a monolith of control - harmonized by standardization, designed to be integrated.

As a Systems Analyst and an electric utility customer, it appears to me that the public utilities regulatory authority has been captured by the Information Technology sector and they are driving the regulation of utilities to meet their own business goals on one level – but the more serious potential is total control of our critical infrastructure through the networked process control and information systems they are mandating through the regulatory process.

The direction of the Public Utilities Commission as it pertains to electric utility companies is to decouple electric generation from transmission and distribution. The idea is to create an artificial "market" for electricity. An artificial market is a logical structure that is managed by a "market maker". The market maker becomes the monopoly controller of the market. The logical structure of a "market" is a creation of the Information Technology sector. EBAY is a prime example. They make the market. They control the market. Theoretically, they

simply provide the trading platform (software) for buyers and sellers and they passively run the system, but they could easily manipulate the market to select the winners and losers in any sale. The same would be true of an artificial "market" for electricity – or for any commodity for which a logical market was created.

As near as can be determined, the perversion of utility regulation began in the 1980's with Ken Lay of Enron (not at the time) creating an artificial market for natural gas but electric utility *mal-regulation* began in California as a settlement of a lawsuit between the Environmental Defense Fund and Pacific Gas & Electric[26]. This is where the idea of "market-based environmentalism" began and it has now evolved into "market-based electricity" sales – a concept disconnected from the fundamental business objective of an electric utility, which is to generate and sell electricity.

The alliance between the Information Technology sector "partnered" with radical environmentalist groups with the "partnership" having captured the regulatory authority over our critical infrastructure through the authorities of the Public Utilities Commission is a serious and significant threat. The evidence of the regulatory capture is obvious even in Idaho Power's response where they make sure to note the "environmental benefits" Answer at 15.

The Order for installation of Smart Meters throughout Idaho Power's territory is evidence of an attempt to bring electric consumers under the regulatory authority

[26] strategy+business, Issue 51, Summer 2008, "The Making of a Market-Minded Environmentalist" by Fred Krupp, http://www.strategy-business.com/article/08201?gko=97ea9

of the Public Utilities Commission. The installation of computer systems – especially as large as the Smart Grid with related technologies, is a phased process. Once all of the hardware and software is installed, then the monopoly regulatory power and the power to control electricity, water and gas and other utility products will be revealed.

There is already evidence on the record of the use of regulatory authority to drive up the price of electricity through deregulation and artificial market creation. While this meets the objectives of radical environmentalists like EDF, it is the complete opposite direction and purpose for which the Idaho Public Utilities Commission was chartered.

Simply because a technology is available does not mean that it's use is advisable or desirable. Cost effectiveness for one party (the utility company) also does not constitute justification for a mandate on another party (the electric consumer). If the Smart Meter was a cost saving device, then Idaho Power should have requested a rate reduction from the Idaho Public Utilities Commission instead of steady price increases over the next several years.

Requested Relief

Vicky Davis requests an order for removal of the Smart Meter and replacement of the analog meter with no award for costs associated with it. If Idaho Power hadn't rushed to force the installation while the installation was still in dispute,

they would have incurred no additional costs and are therefore not entitled to additional costs.

She also requests that the policy on Smart Meters be an "opt-in" program rather than a mandatory program with no options at all because of the nature of the technology and the capabilities enabled by it's installation. Idaho Power should design a consumer education program that describes in detail the technology including the negative aspects as well as the positive aspects. Idaho Power should be required to retroactively obtain the "opt-in" from all customers after they retroactively educate them on the technology per the previous statement.

Idaho Power should have a database of installed load control devices and when a disconnect order is received; Idaho Power should be required to remove the device from the dwelling. Alternately, the device could remain as long as Idaho Power is required to inform the new customer of the device, it's purpose and they give the new customer the option to have it removed without charge.

Vicky requests a standing order for the cost savings due to efficiency gains achieved by computerized systems and technology to be automatically passed through to electric consumers in the form of rate reductions and not retained by Idaho Power and not dribbled in increments through rebates for participation in add-on programs.

Vicky requests an order that all overhead costs associated with the Energy Efficiency Committee be taken out of Idaho Power's profits and not charged back to electric consumers.

Vicky requests an independent investigation of the regulatory monopoly of the Idaho Public Utilities Commission to determine if they are fulfilling their mandate to serve the interest of the public. The regulatory structure under which the Idaho Public Utilities Commission operates was designed for the industrial era – a different time in history when each utility type was a separate and distinct business. With the integrative capabilities of computer technology and process control systems, there is a danger that the consolidated regulatory authority will be used to regulate us into a totalitarian system of control through centralized control of our critical infrastructure. Vicky requests an undetermined amount for attorneys fees to initiate an independent investigation of the regulatory monopoly of the Idaho Public Utilities Commission.

Dated at Twin Falls, Idaho this 21st day of February 2012.

Vicky L. Davis
Complainant, Case IPC-E-12-04