

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: DAPHNE HUANG
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DEPUTY ATTORNEYS GENERAL

DATE: JANUARY 26, 2016

SUBJECT: COXCOM'S LATE PETITION TO INTERVENE IN IDAHO POWER'S APPLICATION FOR WOOD RIVER VALLEY CPCN, CASE NO. IPC-E-16-28

In November 2016, Idaho Power Company filed an Application for a Certificate of Public Convenience and Necessity (CPCN) to make system improvements in the Wood River Valley. The Commission issued a Notice of Application and Order setting a deadline of December 20, 2016 for petitions to intervene. The Commission received and granted timely intervention petitions from Kiki Tidwell, Laura Midgeley, the Sierra Club, the Idaho Conservation League, and the City of Ketchum. Order Nos. 33675, 33683. The Commission issued a Notice of Schedule and Notice of Technical Hearing on January 26, 2017, adopting the schedule proposed by the parties in an informal scheduling conference. Order No. 33705.

On January 13, 2017, CoxCom, LLC filed a late Petition to Intervene. The Commission received no objections by the January 20 deadline per Rule 75. CoxCom's Petition is now before the Commission.

LATE PETITIONS TO INTERVENE

Commission Rules provides that a petitioner seeking intervention must state its "direct and substantial interest . . . in the proceeding." IDAPA 31.01.01.072. Petitions to intervene that are not timely filed "must state a substantial reason for delay." IDAPA 31.01.01.073. "The Commission may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons." *Id.* Also,

“Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition.” *Id.*

COXCOM’S PETITION FOR INTERVENTION

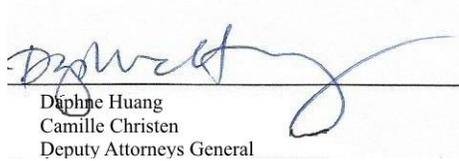
CoxCom is a limited liability company providing commercial cable television and telecommunications services in Idaho. Petition at 1-2. CoxCom states it has “a direct and substantial interest” in this matter because it has transmission equipment between the cities of Hailey and Ketchum that is attached to Idaho Power’s poles for which Idaho Power proposes replacement in its pending Application. *Id.* at 2. CoxCom wants to ensure that any new construction resulting from Idaho Power’s requested CPCN will still allow room for its equipment. *Id.*

CoxCom asserts that its exclusion from these proceedings could “result in extreme and substantial hardship, needless expense, and redundant proceedings.” *Id.* Also, CoxCom states its intervention would “not unduly broaden [the] issues in this matter because manner of construction, equipment used therefor, . . . placement of equipment” and the new facilities’ cost are already directly at issue in the case. *Id.* Because its issues of interest are “currently squarely before the Commission,” CoxCom states that granting intervention would not cause delay or prejudice to the parties. *Id.*

According to CoxCom, it participated in the Blaine County Planning and Zoning proceedings and “reasonably contemplated that [that] this was the primary jurisdiction” for determining whether Idaho Power’s new distribution facilities would have capacity to carry CoxCom’s equipment. *Id.* at 3. The Blaine County Planning and Zoning Commission denied Idaho Power’s application on January 5, 2017 – 37 days after the Idaho Public Utilities Commission’s deadline to intervene in this matter. *Id.* CoxCom states that obtaining status as an intervenor would “allow for clearer communication about and resolution of” its concerns in a single forum. *Id.*

COMMISSION DECISION

Does the Commission wish to find that CoxCom has stated good cause for its late petition, has identified direct and substantial interest in this case, and will not unduly broaden the issues, and thus grant the late petition to intervene?



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