

## **DECISION MEMORANDUM**

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

**FROM:** **DAPHNE HUANG**  
**DEPUTY ATTORNEY GENERAL**

**DATE:** **APRIL 26, 2017**

**SUBJECT:** **PETITIONS TO INTERVENE OUT OF TIME BY ROCK ROLLING PROPERTIES IN IDAHO POWER'S APPLICATION FOR CPCN IN WOOD RIVER VALLEY, 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. In February, the Commission granted a late-filed petition to intervene by CoxCom, LLC. Order No. 33711.

On April 18, 2017, Rolling Rock Properties, LLC and Rolling Rock Properties #2 (Petitioners), LLC filed Petitions to Intervene out of time. The Commission received no objections by the April 25 deadline per Rule 75. The Rolling Rock Petitions are 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.*

### **ROLLING ROCK’S PETITIONS TO INTERVENE**

Petitioners are owners of real property on the east side of Hospital Drive in Blaine County, Idaho. Petitions at 2. Petitioners assert a number of reasons for their “direct and substantial interest in this proceeding.” *Id.* at 3. According to Petitioners, the overhead configuration of Idaho Power’s proposed transmission line along Hospital Drive, at issue in this case, “would place the transmission line either directly abutting . . . or possibly even running across” the Petitioners’ properties. *Id.* Petitioners state that such configuration “would substantially impair the value, use, and enjoyment of the property by, among other impacts, directly impairing the view of Bald Mountain from [Rock Rolling Properties’ lots], limiting future beneficial uses of the propert[ies], and generally changing the character of the propert[ies] and the[ir] surrounding area[s].” *Id.* Petitioners further assert they “will suffer substantial economic impacts if, as proposed by Idaho Power, the “western boundar[ies] of [their] propert[ies] [are] permanently marred by industrial transmission towers that may be up to 60 feet tall with high-voltage lines.” *Id.* at 3.

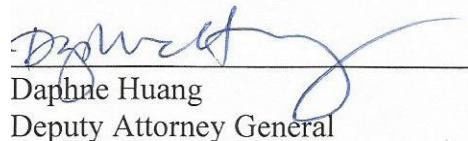
Petitioners contend there is good cause for their late intervention because, to their “best . . . information and belief,” they did not receive notice from Idaho Power that it would initiate this proceeding – separate from the Blaine County conditional use permit proceedings – and where Idaho Power would “argue that Blaine County’s land use decision would be ‘null and void’ to the extent it conflicts with the outcome of this proceeding.” *Id.* at 4 (*citing* Idaho Power’s Application at 14). According to Petitioners, they “more recently became aware of Idaho Power’s position before this Commission.” *Id.* Petitioners also assert they have good cause because their interest is “unique . . . [and] not currently represented in this proceeding.” *Id.*

As to the potential for disruption, Petitioners note that their filing is “prior to the due date for the first round of intervenor and staff testimony . . . and over three months in advance of the scheduled technical hearing.” *Id.* at 5. Petitioners state they would consent to “be bound by

orders and notices entered prior to [their] intervention,” if intervention is granted. Petitioners further state that, if allowed to intervene, they intend to participate “as a party, and if necessary, to introduce evidence, cross-examine witnesses, call and examine witnesses, and be heard in argument.” *Id.* If granted intervention, they contend they “will not unduly broaden the issues beyond their proper scope,” and that no party would be prejudiced. *Id.*

### **COMMISSION DECISION**

Does the Commission wish to find that Rock Rolling Properties and Rock Rolling Properties #2 have stated good cause for their late Petitions, have identified direct and substantial interest in this case, and will not unduly broaden the issues or prejudice other parties, and thus grant the late Petitions to Intervene?



Daphne Huang  
Deputy Attorney General

M:IPC-E-16-28\_djh3\_Late Intervention