

July 25, 2012

Idaho Public Utilities Commission
P.O. Box 83720
Boise, Idaho 83720-0074

RECEIVED
2012 JUL 26 AM 8:28
IDAHO PUBLIC
UTILITIES COMMISSION

Re: Our Client: Twin Falls Canal Company; and North Side Canal Company;
AFRD No. 2; and Big Wood Canal Company
CLG File No. 6417.000

Dear Commissioners:

Enclosed please find an original and nine copies of a Reply to Idaho Power Company's Objection to Petition to Intervene by Big Wood Canal Company and American Falls Reservoir District No. 2.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

Capitol Law Group, PLLC



Lori Thomas
Paralegal to C. Tom Arkoosh

CTA/lbt
Enclosures

C. Thomas Arkoosh, ISB No. 2253
CAPITOL LAW GROUP, PLLC
205 N. 10th St., 4th Floor
P.O. Box 2598
Boise, Idaho 83701-2598
Telephone: (208) 424-8872
Facsimile: (208) 424-8874
e-mail: tarkoosh@capitollawgroup.com

RECEIVED
2012 JUL 26 AM 8:28
IDAHO PUBLIC
UTILITIES COMMISSION

*Attorneys for Big Wood Canal Company and
American Falls Reservoir District No. 2*

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMMISSION'S REVIEW OF PURPA QF CONTRACT PROVISION INCLUDING THE SUBROGATE AVOIDED RESOURCE (SAR) AND INTEGRATED RESOURCE PLANNING (IRP) METHODOLOGIES FOR CALCULATING PUBLISHED AVOIDED COST RATES.

Case No. GNR-E-11-03

**REPLY TO IDAHO POWER
COMPANY'S OBJECTION TO
PETITION TO INTERVENE BY BIG
WOOD CANAL COMPANY AND
AMERICAN FALLS RESERVOIR
DISTRICT NO. 2**

COME NOW Big Wood Canal Company and American Falls Reservoir District No. 2, "Petitioners" for the purposes of intervention, by and through their attorney of record, C. Tom Arkoosh, of Capitol Law Group, PLLC, and hereby submit their Reply to Idaho Power Company's Objection to Petition to Intervene by Big Wood Canal Company and American Falls Reservoir District No. 2. For the reasons set forth below, Idaho Power Company's Objection is without merit and the Petition to Intervene should be granted as requested.

ARGUMENT

I. PETITIONERS HAVE STATED A SUBSTANTIAL REASON FOR THE DELAY.

Petitioners have in fact stated a substantial reason for their delay in seeking to intervene in

this action. Idaho Power Company, Avista and PacifiCorp submitted their prefiled testimony on January 31, 2012. Since that time, the various parties have conducted discovery, and additional prefiled testimony has been submitted to IPUC. The vast information provided through these various submissions has led to a more full development of the issues before IPUC in this matter.

Petitioners are entities of finite resources and simply cannot participate fully as a party in every proceeding that might have an effect on their interests. It is only after review of the prefiled testimony and discussion with the members of Twin Falls Canal Company, Inc., North Side Canal Company, Inc., and counsel for these entities, that Petitioners were able to confirm that the issues outstanding in this matter warranted participation beyond the one paragraph letters submitted to IPUC in Case No. GNR-E-10-04 on December 17, 2010. This constitutes a “substantial” reason for the delay under IPUC Rule of Procedure 73.

More importantly, however, Idaho Power Company has not shown that Petitioners’ intervention would cause any disruption or prejudice to any party, or that it would broaden the issues already before IPUC.

II. THE PETITION TO INTERVENE HAS CAUSED NO DISRUPTION OR PREJUDICE AND WILL NOT BROADEN THE ISSUES BEFORE IPUC.

Idaho Power Company has made several fascinating arguments that to allow Petitioners to intervene will cause disruption and prejudice to the parties and will broaden the issues before the IPUC. Petitioners will briefly address each assertion.

A. Idaho Power Company was not *required* to file an Objection to the Petition to Intervene.

Idaho Power Company has made the circular and misleading argument that it faced a “substantial disruption and hardship” because its objection to the Petition to Intervene was due the same day as its legal brief. However, Idaho Power Company was not required to file an objection. It chose to. Additionally, the deadline for filing the Legal Briefs (July 20, 2012) has been set

since November 2, 2011. See Notice of Scheduling Order No. 32388. It is highly doubtful that counsel for Idaho Power Company was scrambling to slap together its approximately 100 page legal brief at the last minute. However, even if this were the truth of the matter, choosing to file an objection to a party's request for intervention falls far short of "substantial disruption and hardship." Idaho Power Company is no more prejudiced by filing an objection that Petitioners are by filing their Petition to Intervene, or this Reply.

B. To the extent a legal brief has been submitted by Petitioners, it has caused no disruption or prejudice.

According to Idaho Power Company, "the fact that non-parties to the case have an opportunity to submit legal briefs for subsequent evidentiary determination by the Commission is a disruption to this proceeding." Objection, p. 7. As to Petitioners, that argument is inapplicable. By way of footnote in the Legal Brief submitted by Twin Falls Canal Company, Inc. and North Side Canal Company¹ counsel indicated that the very same brief would also serve as legal brief for American Falls Reservoir District No. 2 and Big Wood Canal Company in the event the Petition to Intervene was granted.

Therefore, the brief submitted by Twin Falls Canal Company and North Side Canal Company is already properly before IPUC. If Petitioners are allowed to intervene, the brief will not change, nor will its admissibility be questionable. Exactly as was stated in the Petition to Intervene, Petitioners will simply join that position.

C. Idaho Power Company has not been prejudiced by its inability to conduct discovery as to Petitioners.

Idaho Power Company will not be prejudiced because the discovery deadline has passed. Other than discovering who Petitioners are aligned with, Idaho Power Company does not articulate what, if any, information it would have sought from Petitioners. Obviously, any

¹

discovery that Idaho Power Company wanted to conduct as to the issues before IPUC could have been asked of Twin Falls Canal Company and North Side Canal Company, since Petitioners are simply joining that same position.

D. Petitioners' inclusion will not broaden the issues.

Petitioners' inclusion in this matter will not broaden any issues. As noted above, the position that would be taken by Petitioners has already been articulated in the Legal Brief submitted by Twin Falls Canal Company and North Side Canal Company on July 20, 2012. In fact, Petitioners whole-heartedly agree with the position taken by Idaho Power Company in part "C" of the argument in its Objection. Petitioners should be limited to accept the record as it currently exists and limited to joining the scope of inclusion and positions taken by Twin Falls Canal Company and North Side Canal Company. This is no more than what was requested in the Petition to Intervene.

CONCLUSION

For the reasons set forth herein, Big Wood Canal Company and American Falls Reservoir District No. 2 respectfully ask the Commission to Grant the Petition to Intervene, subject to the limitations set forth in the Petition and reiterated herein.

DATED this ____ day of July, 2012.

CAPITOL LAW GROUP, PLLC



C. Thomas Arkoosh
*Attorneys for Big Wood Canal Company and American
Falls Reservoir District No. 2*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of July, 2012, I served a true and correct copy of the foregoing upon each of the following individuals by causing the same to be delivered by the method and to the addresses indicated below:

Jean Jewell, Commission Secretary
Idaho Public Utilities Commission
427 W. Washington St.
Boise, Idaho 83702

____ U.S. Mail, postage prepaid
____ Hand-Delivered
____ Overnight Mail
____ Facsimile
X Via E-Mail jean.jewell@puc.idaho.gov

Daniel Solander
Rocky Mountain Power
201 S. Main St., Ste. 300
Salt Lake City, UT 84111

____ U.S. Mail, postage prepaid
____ Hand-Delivered
____ Overnight Mail
____ Facsimile
X Via E-Mail daniel.solander@pacificorp.com

Ronald L. Williams
Williams Bradbury PC
1015 W. Hays St.
Boise, Idaho 83702

____ U.S. Mail, postage prepaid
____ Hand-Delivered
____ Overnight Mail
____ Facsimile
X Via E-Mail ron@williamsbradbury.com

Robert A. Paul
Grand View Solar II
15690 Vista circle
Desert Hot Springs, CA 92241

____ U.S. Mail, postage prepaid
____ Hand-Delivered
____ Overnight Mail
____ Facsimile
X Via E-Mail robertapaul08@gmail.com

R. Greg Ferney
Mimura Law Offices, PLLC
2176 E. Franklin Rd., Ste. 120
Meridian, Idaho 83642

____ U.S. Mail, postage prepaid
____ Hand-Delivered
____ Overnight Mail
____ Facsimile
X Via E-Mail greg@mimuralaw.com

Bill Piske, Manager
Interconnect Solar Development, LLC
1303 E. Carter
Boise, Idaho 83706

____ U.S. Mail, postage prepaid
____ Hand-Delivered
____ Overnight Mail
____ Facsimile
X Via E-Mail billpiske@cableone.net

Robert D. Kahn, Executive Director
Northwest and Intermountain Power
Producers Coalition
1117 Minor Ave., Ste. 300
Seattle, WA 98101

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail rkahn@nippc.org

Michael G. Andrea
Avista Corporation
1411 East Mission Ave.
Spokane, WA 99202

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail michael.andrea@avistacorp.com

Dean J. Miller
McDevitt & Miller, LLP
P.O. Box 2564
Boise, Idaho 83701

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail joe@mcdevitt-miller.com

Don Sturtevant, Energy Director
J.R. Simplot Company
P.O. Box 27
Boise, Idaho 83707

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail don.sturtevan@simplot.com

James Carkulis, Managing Member
Exergy Development Group of ID, LLC
802 W. Bannock St., Ste. 1200
Boise, Idaho 83702

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail jcarkulis@exergydevelopment.com

M.J. Humphries
Blue Ribbon Energy LLC
4515 S. Ammon Rd.
Ammon, Idaho 83406

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail blueribbonenergy@gmail.com

Brian Olmstead, General Manager
Twin Falls Canal Company
P.O. Box 326
Twin Falls, Idaho 83303

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail olmstead@tfcanal.com

John R. Lowe
Consultant to Renewable Energy
Coalition
12050 SW Tremont St.
Portland, OR 97225

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail jravenousanmarcos@yahoo.com

Donovan E. Walker
Jason B. Williams
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707-0700

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail dwalker@idahopower.com
jwilliams@idahopower.com

Ted Sorensen PE
Birch Power Company
5203 South 11th East
Idaho Falls, Idaho 83404

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail ted@tsorenson.net

Bill Brown, Chair
Board of Commissioners of Adams
County, ID
P.O. Box 48
Council, Idaho 83612

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail bdbrown@frontiernet.net

Donald L. Howell, II
Kristine A. Sasser
Deputy Attorneys General
Idaho Public Utilities Commission
472 W. Washington St.
Boise, Idaho 83702

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail don.howell@puc.idaho.gov

kris.sasser@puc.idaho.gov

Arron F. Jepsen
Blue Ribbon Energy, LLC
10660 South 540 East
Sandy, UT 84070

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail arronesq@aol.com

Wade Thomas, General Counsel
Dynamis Energy, LLC
776 W. Riverside Dr., Ste. 15
Eagle, Idaho 83616

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail wthomas@dynamisenergy.com

Glenn Ikemoto
Margaret Rueger
Idaho Windfarms, LLC
672 Blair Ave.
Piedmont, CA 94611

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail glenni@envisionwind.com
margaret@envisionwind.com

Ted Diehl, General Manager
North Side Canal Company
921 N. Lincoln St.
Jerome, Idaho 83338

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail nscanal@cablone.net

Megan Walseth Decker
Senior Staff Counsel
Renewable Northwest Project
917 SW Oak St., Ste. 303
Portland, OR 97205

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail megan@rnp.org

Peter J. Richardson
Gregory M. Adams
Richardson & O'Leary, PLLC
P.O. Box 7218
Boise, Idaho 83702

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail peter@richardsonandoleary.com
greg@richardsonandoleary.com

Marv Lewallen
Clearwater Paper Corporation
601 W. Riverside Ave., Ste. 1100
Spokane, WA 99201

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail
marv.lewallen@clearwaterpaper.com

Benjamin J. Otto
Idaho Conservation League
P.O. Box 844
Boise, Idaho 83701

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail botto@idahoconservation.org

Don Schoenbeck
RCS
900 Washington St., Ste. 78
Vancouver, WA 98660

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail dws@r-c-s-inc.com

Liz Woodruff
Ken Miller
Snake River Alliance
P.O. Box 1731
Boise, Idaho 83701

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail lwooruff@snakeriveralliance.org
kmiller@snakeriveralliance.org

Deborah E. Nelson
Kelsey J. Nunez
Givens Pursley LLP
P.O. Box 2720
Boise, Idaho 83701-2720

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail den@givenspursley.com
kjn@givenspursley.com

Dr. Don Reading
6070 Hill Rd.
Boise, Idaho 83703

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail dreading@mindspring.com

Tauna Christensen
Energy Integrity Project
769 N. 1100 E.
Shelley, Idaho 83274

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail tauna@energyintegrityproject.org

Lynn Harmon
AFRD #2
409 N. Apple St.
Shoshone, Idaho 83352

U.S. Mail, postage prepaid
 Hand-Delivered
 Overnight Mail
 Facsimile
 Via E-Mail lynnharmon@cableone.net

C. Thomas Arkoosh

