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 IDAHO PUBLIC
 UTILITIES COMMISSION

Attorneys for the Industrial Customer of Idaho Power

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

BOB LEWANDOWSKI AND MARK)	CASE NO. IPC-E-04-10
SCHROEDER)	CASE NO. IPC-E-04-08
Complainants)	MOTION TO CONSOLIDATE
vs)	OR IN THE ALTERNATIVE
IDAHO POWER COMPANY, an Idaho)	FOR LEAVE TO INTERVENE
Corporation)	AND MOTION TO AMEND
Respondent)	COMPLAINT
_____)	

COMES NOW, Bob Lewandowski and Mark Schroeder (“Complainants”), through their attorneys, Richardson and O’Leary, and herby moves, pursuant to Rule 247 of the Rules of Practice of the Idaho Public Utilities Commission (“Commission”), that their complaint be consolidated for purposes of hearings, briefings and other related actions with that complaint filed by U.S. Geothermal against Idaho Power in Docket No. IPC-E-04-08. Complainants also seek leave to amend their complaint by adding, in its entirety the third count contained in U.S. Geothermal’s Complaint against Idaho Power in Docket IPC-E-04-08. In support of their motion the Complaints say as follows:

CONSLIDIATION

The issues raised in the two complaints deal with what contract terms are acceptable to this Commission when Idaho Power enters into a power purchase agreement with a QF. The issues in both complaints are essentially identical. It would make no sense to proceed with two separate dockets addressing essentially the same issues. The defendant in both dockets is Idaho Power. The complainants in both dockets are QF developers who seek Commission guidance on issues that are essentially identical.

Rule 247 specifically allows the Commission to consolidate dockets when “it finds that they present issues that are related and that the rights of the parties will not be prejudiced.” No party would be prejudiced by consolidation of these two dockets because no procedural actions have been taken in either docket except for the actual filing of the complaints and Idaho Power’s filing of its answer in the –08 docket. In addition there is no prejudice because the issues in both dockets are so closely related.

Finally, failure to consolidate may actually prejudice your Complainants because they will not have an opportunity to participate in the U.S. Geothermal docket as it is approximately three weeks ahead of the complaint filed by your Complainants.

ALTERNATIVE MOTION TO INTERVENE

Should the Commission not allow for the consolidation of these two dockets, then Mr. Lewandowski and Mr. Schroeder respectfully request that the Commission issue its order granting them status as a party in the U.S. Geothermal Docket. Issues raised in that docket will substantially impact their ability to proceed with their respective wind projects. They therefore have a direct and substantial interest in that docket. Rule 74 of the Commission’s rules provides

that “If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the Commission . . . will grant intervention.” As noted above, your Complainants will not broaden the issues because their issues are essentially the same as U.S. Geothermal’s issues. In addition, Rule 74 provides that the Commission “will” grant such a request for intervention. Rule 74 appears to mandate that such petitions to intervene be granted.

AMENDMENT OF COMPLAINT

The Complaints seek Commission authorization to amend its complaint to incorporate the third count contained in U.S. Geothermal’s complaint regarding Idaho Power’s ability to terminate an agreement should retail deregulation be implemented in Idaho. Upon reflection, your Complainants believe that U.S. Geothermal is correct in its assertion that there is no basis in law or fact for Idaho Power’s position, and that it would effectively nullify this Commission’s rules by making it extremely costly, if not impossible, to finance PURPA projects.

No party will be prejudiced by permitting the above requested amendment. It is anticipated that Idaho Power’s answer to U.S. Geothermal’s complaint on that issue will be the identical one sentence denial it filed in its answer to U.S. Geothermal’s complaint.. It will not burden Idaho Power to add that sentence when it files its answer.

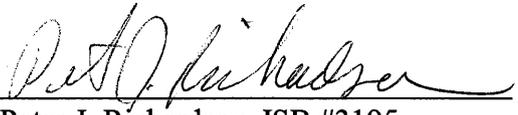
PRAYER FOR RELIEF

WHEREFORE Mr. Lewandowski and Mr. Schroeder respectfully pray for this Commission’s order consolidating Dockets Nos. IPC-E-04-08 and IPC-E-04-10 or in the alternative granting their Petition to Intervene in Docket No. IPC-E-04-10. Finally, Mr.

Lewandowski and Mr. Schroeder respectfully request leave to amend their complaint as noted above.

Respectfully submitted this 12th day of May, 2004.

RICHARDSON & O'LEARY PLLC

By: 
Peter J. Richardson, ISB #3195
Attorneys for the Industrial Customers
of Idaho Power

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of May, 2004, I caused a true and correct copy of the foregoing **MOTION TO CONSOLIDATE OR IN THE ALTERNATIVE FOR LEAVE TO INTERVENE AND MOTION TO AMEND COMPLAINT** to be served by the method indicated below, and addressed to the following:

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Signed 
Nina Curtis