

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION) OF IDAHO POWER COMPANY FOR) AUTHORITY TO MODIFY ITS RULE H) LINE EXTENSION TARIFF RELATED TO) NEW SERVICE ATTACHMENTS AND) <u>DISTRIBUTION LINE INSTALLATIONS.)</u> 	CASE NO. IPC-E-08-22 ORDER NO. 30896
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BACKGROUND

On October 30, 2008, Idaho Power Company filed an Application with the Commission seeking authority to modify its Rule H tariff relating to new service attachments and distribution line installations and alterations. Specifically, the Company sought to increase the charges for new service attachments, distribution line installations and alterations.

On December 10, 2008, Building Contractors Association of Southwestern Idaho (BCA) filed a Petition for Intervention. The Commission granted BCA's request on December 19, 2008. Order No. 30707. Subsequently, on July 1, 2009, the Commission issued Order No. 30853 approving Idaho Power Company's request to modify its Rule H tariff addressing charges for installing or altering distribution lines.

PETITION FOR INTERVENOR FUNDING

On July 13, 2009, BCA filed a request for intervenor funding. BCA acknowledges that its Petition is untimely, but submits that it was an "inadvertent and unintentional oversight by its legal counsel with respect to the correct timing for submission of requests for intervenor funding." Petition at 2. BCA further argues that a determination of whether to accept a late-filed request for intervenor funding is within the Commission's discretion. Finally, BCA maintains that neither Idaho Power nor its ratepayers would be prejudiced by the consideration and granting of BCA's Petition. BCA requests recovery of \$28,386.35 in fees and expenses.

COMMISSION FINDINGS

Idaho Code § 61-617A and Rules 161-165 of the Commission's Rules of Procedure provide the framework for awards of intervenor funding. Section 61-617A(1) declares that it is the "policy of this state to encourage participation at all stages of all proceedings before the Commission so that all affected customers receive full and fair representation in those proceedings." Accordingly, the Commission may order any regulated utility with intrastate

annual revenues exceeding \$3,500,000 to pay all or a portion of the costs of one or more parties for legal fees, witness fees and reproduction costs, not to exceed a total for all intervening parties combined of \$40,000.

Commission Rules of Procedure 161 through 165 provide the procedural requirements for applications for intervenor funding. Rule 164 states that “[u]nless otherwise provided by order, an intervenor requesting intervenor funding must apply no later than fourteen (14) days after the last evidentiary hearing in a proceeding or the deadline for submitting briefs, proposed orders, or statements of position, whichever is last.”

It is undisputed that BCA’s Petition for Intervenor Funding does not comply with the procedural requirements of Rule 164. While *Idaho Code* § 61-617A vests the Commission with the discretion to award attorney’s fees and costs, Rule 164 clearly requires that an application be filed “no later than fourteen (14) days after the last evidentiary hearing . . . or deadline for submitting briefs.” As conceded by BCA in its Petition, the 14-day deadline expired on May 15, 2009. BCA did not file its request until July 13, 2009. BCA’s request for intervenor funding is untimely and is, therefore, denied.

ORDER

IT IS HEREBY ORDERED that Building Contractors Association’s Petition for Intervenor Funding is denied as untimely.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

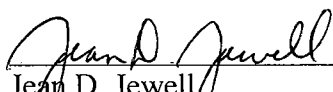
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 3rd
day of September 2009.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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