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IDAHO PUBLIC UTILITIES COMMISSION

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SOP-E-10-01
SOP-E-10-02

Attorneys for Petitioner/Appellant Ada County Highway District

IN THE SUPREME COURT OF THE STATE OF IDAHO

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY TO)
MODIFY ITS RULE H LINE EXTENSION)
TARIFF RELATED TO NEW SERVICE)
ATTACHMENTS AND DISTRIBUTION)
LINE INSTALLATIONS.)
_____)

AFFIDAVIT OF MERLYN W. CLARK
IN SUPPORT OF STIPULATED
MOTION FOR EXTENSION OF TIME
FOR FILING AND REQUESTED
SCHEDULE FOR FURTHER BRIEFING

BUILDING CONTRACTORS)
ASSOCIATION OF SOUTHWESTERN)
IDAHO,)

Petitioner/Appellant,)

vs.)

IDAHO PUBLIC UTILITIES COMMISSION)
and IDAHO POWER COMPANY,)

Respondents On Appeal.)
_____)

Supreme Court Docket No. 37293-2010
Idaho Public Utilities Commission No.
IPC-E-08-22

AFFIDAVIT OF MERLYN W. CLARK IN SUPPORT OF UNOPPOSED MOTION FOR
EXTENSION OF TIME FOR FILING APPELLANT'S BRIEF AFFIDAVIT OF MERLYN W.
CLARK IN SUPPORT OF STIPULATED MOTION FOR EXTENSION OF TIME FOR
FILING AND REQUESTED SCHEDULE FOR FURTHER BRIEFING - 1

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IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY TO)
MODIFY ITS RULE H LINE EXTENSION)
TARIFF RELATED TO NEW SERVICE)
ATTACHMENTS AND DISTRIBUTION)
LINE INSTALLATIONS.)

ADA COUNTY HIGHWAY DISTRICT,)
)
Petitioner/Appellant,)
vs.)
IDAHO PUBLIC UTILITIES COMMISSION,)
)
Respondent on Appeal,)
and)
IDAHO POWER COMPANY,)
)
Respondent/Respondent on Appeal.)

Supreme Court Docket No. 37294-2010
Idaho Public Utilities Commission No.
IPC-E-08-22

Merlyn W. Clark, being first duly sworn upon oath, deposes and states as follows:

1. I am an attorney of record for the Petitioner/Appellant, Ada County Highway District, in the above-captioned action.
2. I am duly admitted to the practice of law before this Court and the courts of the State of Idaho, and maintain offices at 877 Main Street, Suite 1000, Boise, Idaho.
3. I have personal knowledge of the matters herein referred to, and make this Affidavit in support of Appellant's Unopposed Motion for Extension of Time for Filing Appellant's Brief.
4. Appellant's Brief is currently due May 3, 2010.
5. No previous extension of time has been granted.

AFFIDAVIT OF MERLYN W. CLARK IN SUPPORT OF UNOPPOSED MOTION FOR
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CLARK IN SUPPORT OF STIPULATED MOTION FOR EXTENSION OF TIME FOR
FILING AND REQUESTED SCHEDULE FOR FURTHER BRIEFING - 2

6. No previous request for an extension of time has been denied.

7. The reasons or grounds why an extension is necessary are that my schedule has not allowed adequate time to prepare Appellant's Brief. Since receipt of the Court's Order dated March 29, 2010, establishing the deadline for Appellant's Brief, my available time to work on the Brief has been limited by prior commitments, including several matters before this Court. For example, in the last two weeks I have filed a Motion to Dismiss and supporting memorandum with this Court in *Fazzio v. Mason*, Supreme Court Case No. 36068, on April 16, 2010. I am currently working on a Reply brief to be filed soon in the *Wasden v. Idaho State Board of Land Commissioners* matter. In addition to these matters before this Court, my schedule over the next few weeks includes several mediations, hearings and depositions.

8. This appeal will ultimately decide whether the Idaho Public Utilities Commission has authority to issue regulations related to the relocation of public utility lines on public rights-of-way or whether such issues fall within the exclusive jurisdiction of the highway districts. Given the serious nature of this matter, it deserves to be fully briefed with adequate time.

10. Appellant requests a 21 day extension, which will make May 24, 2010 the date on which Appellant's Brief will be due.

11. Over the last few days, I have discussed this request for extension of time with counsel for Respondents and with counsel for the Building Contractors Association of Southwestern Idaho (Appellant in the consolidated appeal), none of whom object to the request for extension of time. I am advised that counsel for the Building Contractors Association of Southwestern Idaho has a four-day trial scheduled for the end of April. I am advised that Counsel for Idaho Power will be out of town for training for approximately three weeks during

the month of June. For purposes of keeping the same briefing schedule for the two consolidated appeals, and for purposes of allowing all parties adequate time for briefing, it is respectfully submitted that the following schedule apply to each Appellants' Brief and each Respondents' Brief:

- a) Each Appellants' Brief will be due May 24, 2010
- b) Each Respondents' Brief will be due July 9, 2010
- c) Any Reply Brief will be due as per the standard deadline set forth in I.A.R. 34(c).

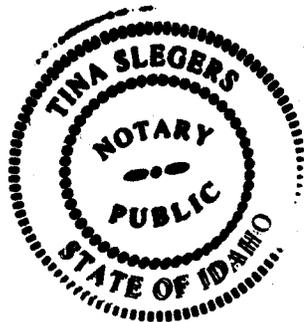
12. Counsel for all parties have agreed to this requested briefing schedule.



Merlyn W. Clark

STATE OF IDAHO)
) ss.
County of Ada)

SUBSCRIBED AND SWORN before me this 22nd day of April, 2010.





Name: Tina Slegers
Notary Public for Idaho
Residing at Nampa, ID
My commission expires June 11, 2015

AFFIDAVIT OF MERLYN W. CLARK IN SUPPORT OF UNOPPOSED MOTION FOR EXTENSION OF TIME FOR FILING APPELLANT'S BRIEF AFFIDAVIT OF MERLYN W. CLARK IN SUPPORT OF STIPULATED MOTION FOR EXTENSION OF TIME FOR FILING AND REQUESTED SCHEDULE FOR FURTHER BRIEFING - 4

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of April, 2010, I caused to be served a true copy of the foregoing AFFIDAVIT OF MERLYN W. CLARK IN SUPPORT OF UNOPPOSED MOTION FOR EXTENSION OF TIME FOR FILING APPELLANT'S BRIEF by the method indicated below, and addressed to each of the following:

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