

KRISTINE A. SASSER
 DEPUTY ATTORNEY GENERAL
 IDAHO PUBLIC UTILITIES COMMISSION
 PO BOX 83720
 BOISE, ID 83720-0074
 TEL: (208) 334-0357
 IDAHO BAR NO. 6618

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 IDAHO PUBLIC
 UTILITIES COMMISSION

LISA D. NORDSTROM
 DONOVAN E. WALKER
 IDAHO POWER COMPANY
 PO BOX 70
 BOISE, ID 83707-0070
 TEL: (208) 388-5825
 IDAHO BAR NOS. 5733 and 5921

Sup-E-10-01

Attorneys for Respondents on Appeal,
 Idaho Public Utilities Commission and
 Idaho Power Company

IN THE SUPREME COURT OF THE STATE OF IDAHO

BUILDING CONTRACTORS ASSOCIATION)	
OF SOUTHWESTERN IDAHO,)	SUPREME COURT
)	DOCKET NO. 37293-2010
Petitioner/Appellant,)	
)	
v.)	
)	
IDAHO PUBLIC UTILITIES COMMISSION,)	RESPONDENTS' JOINT
)	MOTION TO STRIKE
Respondent on Appeal,)	APPELLANT'S
)	AUGMENTATION OF
and)	BRIEFS
)	
IDAHO POWER COMPANY,)	
)	
Respondent/Respondent on Appeal.)	

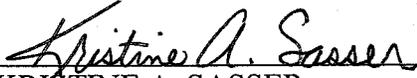
Pursuant to Idaho Appellate Rule 32(c), the Idaho Public Utilities Commission (PUC) and Idaho Power Company respectfully move this Court to strike the augmentation of briefs filed with this Court by Building Contractors Association (BCA) on April 12, 2011.

Pursuant to Idaho Appellate Rule 34(f)(1), BCA augmented its brief with three decisions issued by the PUC in 1987, 1993 and 1997. Uncertified copies of the decisions were included by BCA “for the Court’s convenience.” Augment at 3. Rule 34(f)(1) clearly states that “any party may supplement his brief by the *citation of additional authority*, identifying the issue on appeal to which it pertains, *without written comment thereon....*” (Emphasis added). BCA did not provide the “citations” to these old decisions (all older than 14 years).¹ BCA’s augmentation to its brief is nothing more than a thinly veiled attempt to present additional argument regarding its entitlement to intervenor funding. Because the PUC Orders cited by BCA were all issued more than a decade ago, BCA had ample opportunity to include these citations and arguments in proceedings before the PUC; in its initial brief to this Court filed on May 24, 2010; in its reply brief filed on August 6, 2010; or during its oral argument held on April 5, 2011.

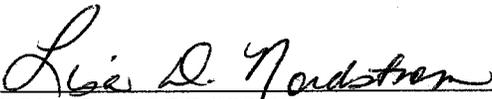
BCA’s “augmentation” falls more appropriately under the parameters of Rule 34(f)(2) which requires “a showing of good cause why the material had not been included in the prior brief” and allows adverse parties to file a reply. Consequently, BCA’s augmentation should not be considered by the Court absent a showing of good cause why the Commission Orders were not included by BCA until after oral argument.

¹ *In Re Idaho Power Company* (Order No. 24941), 143 P.U.R. 4th 570 (1993), 1993 WL 328092 (Idaho PUC); *In Re General Tele. Co. of the Northwest* (Order No. 21513) has no citation to a reporter system; *In Re Idaho Power Company* (Order No. 27267) has no citation to a reporter system.

Submitted on behalf of the Idaho Public Utilities Commission and Idaho Power
Company this 25TH day of April 2011.



KRISTINE A. SASSER
Deputy Attorney General
Attorney for Respondent on Appeal,
Idaho Public Utilities Commission



LISA D. NORDSTROM
Attorney for Respondent on Appeal,
Idaho Power Company

O:BCA_Joint Motion to Strike_ks

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 25TH DAY OF APRIL 2011, SERVED THE FOREGOING **RESPONDENTS' JOINT MOTION TO STRIKE APPELLANT'S AUGMENTATION OF BRIEFS** IN SUPREME COURT DOCKET NO. 37293-2010, BY MAILING TWO COPIES THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

LISA D. NORDSTROM
DONOVAN E. WALKER
IDAHO POWER COMPANY
1221 W. IDAHO STREET
PO BOX 70
BOISE, ID 83707-0070

MICHAEL C. CREAMER
MICHAEL P. LAWRENCE
GIVENS PURSLEY LLP
601 W. BANNOCK STREET
PO BOX 2720
BOISE, ID 83701-2720



SECRETARY