

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF**

FROM: DON HOWELL

DATE: AUGUST 7, 2003

**RE: STAFF RECOMMENDATIONS TO AMEND THE COMMISSION'S RULES
OF PROCEDURE; CASE NO. RUL-U-03-2 (IDAPA DOCKET NO. 31-0101-
0301)**

In this decision memorandum the Staff is recommending that the Commission amend several of its Rules of Procedure. The proposed amendments are attached for your review. Most of the proposed changes are to improve the clarity or readability of the rules, remove ambiguity, correct citations and cross-references, or make other housekeeping changes. The substantive changes to the Commission's rules are outlined in greater detail below.

1. Rule 125 Public Workshops. The Staff is proposing a new rule regarding the scheduling of public workshops when a public utility files an application to increase any rate. The purpose of the workshop is for the Staff to dispense information regarding the application and to obtain written or oral comments from the public prior to the Staff filing testimony or comments in a case. The Pro Tem recommended that the Commission adopt such a rule.

2. Electronic Filing. Staff is also recommending that several Commission rules be modified to allow for a wider use of electronic filing and service of documents. In particular, Rule 132 encourages utilities to electronically file their tariff schedules. Rule 16 would allow the Commission Secretary to serve notices and orders electronically "in cases designated by the Commission."

3. Rule 43 Attorney Representation. The Staff is proposing that Rule 43 be modified to conform to Rule 222 of the Idaho State Bar. Bar Rule 222(a) provides that only a member of the Idaho State Bar may represent a party as an attorney with one exception. The

exception is provided in Bar Rule 222 which allows a limited admission (Pro Hac Vice) upon application to the State Bar.

As the Commission may be aware, the State Bar successfully challenged prior provisions of this rule in 1980. *Idaho State Bar Association v. Idaho PUC*, 102 Idaho 672 (1981). In its opinion, the Supreme Court recognized that proceedings before the Commission are “quasi-judicial, and often involve matters more administrative than judicial in nature[. Consequently], some relaxation of the traditional rule against the practice of law by lay persons is appropriate.” *Id.*, 102 Idaho at 676. In its opinion, the Court observed that it was reasonable to require entity representatives to be connected with such entities when appearing before the Commission. For example, the Court said it was reasonable for a partner to represent a partnership, or a corporate officer to represent a corporation. Conversely, a person unconnected with an entity may not represent that entity before the Commission.

In 2000, the State Bar promulgated and the Supreme Court approved Bar Rule 222 that allows out-of-state attorneys limited admission to represent a party in Idaho courts. As set out in Subsection .05 of Rule 43, the Staff recommends that the Commission adopt Bar Rule 222 by incorporation. This rule would require that an out-of-state attorney desiring to appear before the Commission in a representative capacity in major or quasi-judicial proceedings to file a written motion with the Commission Secretary and serve a copy on all parties. Examples of quasi-judicial proceedings include formal complaints, petitions, motions, and applications for modified procedure or evidentiary hearings. Administrative proceedings where no admission would be necessary include tariff advices, tariff schedules, price lists, interconnection agreements, and certificates to provide local service.

The Pro Hac Vice motion shall be substantially in the form set out in Bar Rule 222(i), replacing references to courts with the word “Commission.” Bar Rule 222(j) also requires that a copy of the written motion be filed with the Idaho State Bar to accompany the filing fee. Rule 222(j) establishes a filing fee of \$200 payable to the Idaho State Bar.

Staff believes that adoption of Bar Rule 222 is reasonable. Since this rule has been in effect, several out-of-state attorneys appearing before the Commission have filed Pro Hac Vice motions to appear before the Commission. Although Bar Rule 222(j) requires a motion and payment of the fee “in each case,” Staff believes that formal admission is only necessary in quasi-judicial proceedings. In addition, there are ways to mitigate this fee for Oregon and

Washington attorneys. For example, the Idaho Bar has reciprocity with the State Bars of Oregon and Washington. Bar Rule 222 is also attached.

4. Reducing the Number of Copies. Staff also recommends two changes to Rule 61 regarding the number of copies filed with the Commission. First, the Rule specifies that proceedings to approve telecommunication interconnection agreements, the applicant only needs to file one copy of the pleading. Second, new Subsection .03 allows the Commission Secretary to exercise discretion and reduce the number of required copies or allow electronic copies to be filed in lieu of printed originals and copies on a case-by-case basis.



Don Howell

Vld/N:31-0101-0301_DecMemo_dh

**IDAPA 31
TITLE 01
CHAPTER 01**

**31.01.01 - RULES OF PROCEDURE OF THE
IDAHO PUBLIC UTILITIES COMMISSION**

012. OFFICE--OFFICE HOURS - FAX NUMBER - MAILING, ELECTRONIC AND STREET ADDRESSES (Rule 12).

The principal office of the Commission is in Boise, Idaho. This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The Commission's telephone number is (208) 334-0300. ~~The Commission's text telephone (TDD) number for the hearing or speech impaired is (208) 334-3151~~ may reach the Commission through the Idaho Telecommunications Relay Service by dialing 711. (4-5-00)(_____)

01. Fax Number, Mailing And Street Addresses. The Commission's FAX number is (208) 334-3762. The Commission's mailing address is: Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074. The street address of the Commission is: 472 West Washington, Boise, Idaho 83702-5983. All documents filed in all proceedings must be filed with the Commission at one (1) of these addresses. (4-5-00)

02. Electronic Address. The Commission's electronic address for its Internet homepage is www.puc.state.id.us. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

016. SERVICE BY COMMISSION (Rule 16).

The Commission Secretary serves all notices, orders, summonses, and complaints issued by the Commission or by the Secretary. (7-1-93)

01. Service Of Orders And Notices. All notices and orders served by the Commission may be served by United States mail. Notices and orders may also be served by electronic mail ~~at the request of persons to be served~~ in cases designated by the Commission. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is either deposited in the United States mail or transmitted electronically. All orders and notices shall be affixed with the Commission

Secretary's official service date on the first page. The Commission Secretary will serve all orders and notices in a proceeding on the representatives of each party designated pursuant to Rule 41 for that proceeding and upon other persons designated by these rules or by the Commission or any Commissioner. (4-5-00)()

02. Service Of Summonses And Complaints. The Commission Secretary will serve complaints against utilities upon the person designated for that purpose by the utility. All utilities must maintain on file with the Commission Secretary a designation of such a person. Summonses and complaints directed to regulated utilities or other persons shall be served by registered or certified mail. Writs of summons or subpoena and warrants of attachments directed to all other persons must be served by a person authorized to serve process by statute or by the Idaho Rules of Civil Procedure. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

019. INCORPORATED BY REFERENCE -- IDAHO BAR COMMISSION RULE (Rule 19).

Rule 43 incorporates by reference Idaho Bar Commission Rule 222 (Limited Admission/Pro Hac Vice). Bar Rule 222 is promulgated by the Idaho State Bar and adopted by order of the Idaho Supreme Court. Bar Rule 222 may be obtained from the Idaho State Bar, PO Box 895, Boise, ID 83701, or online at www2.state.id.us/isb/ under the "Rules" icon. Bar Rule 222 is also available for inspection and copying at the Idaho State Law Library or at the offices of the Idaho Public Utilities Commission. ()

— **020. (RESERVED).**

(BREAK IN CONTINUITY OF SECTIONS)

037. COMMISSION STAFF (Rule 37).

The Commission Staff, without intervention, may appear at any hearing and has all rights of participation as a party to the proceeding. If counsel is desired, an Deputy aAttorney General for the Commission represents the Staff. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

041. INITIAL PLEADING BY PARTY--LISTING OF REPRESENTATIVES (Rule 41).

01. Designation of Representative Required. The initial pleading of each party to a proceeding (be it an application, petition, complaint, motion, or answer) must name the party's representative(s) for service and state ~~the~~ each representative's^(s) mailing and electronic (if available) address(es) for purposes of receipt of all official documents. ~~Parties desiring to be served by electronic mail shall indicate their preference in their initial pleadings.~~ Service of documents on the named representative(s) by mail or by electronic mail is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as a party's representative, the person signing the pleading will be considered the party's representative.

(4-5-00)(____)

02. Number Of Representatives. No more than two (2) persons may be designated as a party's representatives for purposes of service or receipt of official documents unless otherwise authorized by order. The Commission may condition such an order upon reasonable terms concerning payment of copying costs and mailing costs to additional representatives. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

043. REPRESENTATION OF PARTIES AT HEARING PROCEEDINGS (Rule 43).

Recognizing that proceedings before the Commission are sometimes administrative in nature or quasi-judicial in nature. Appearances and representation of parties at hearing must shall be as follows:

(7-1-93)(____)

01. Natural Person. A natural person must represent himself or herself or be represented by a duly authorized employee, or an attorney, ~~family member or next friend.~~ (7-1-93)(____)

02. Partnership. A partnership must be represented by a partner, duly authorized employee, or an attorney. (7-1-93)

03. Corporation. A corporation must be represented by an officer, duly authorized employee, or an attorney. (7-1-93)

04. Other Entity. A municipal corporation, state, federal, tribal, or local government agency, or entity, incorporated association, or non-profit organization must be represented by an officer, a duly authorized employee or an attorney. (7-1-93)

05. Attorney Representation. Only an active member of the Idaho State Bar may represent a party as an attorney except as provided by Idaho Bar Commission Rule 222 (Limited Admission/Pro Hac Vice). The Commission adopts by incorporation Bar Rule 222 as modified below. ()

a. Given the administrative nature of many proceedings, limited admission by out-of-state attorneys will not be necessary in conjunction with administrative filings such as tariff schedules, tariff advices, price lists, certificates to provide local exchange service, and interconnection agreements. Out-of-state attorneys shall request limited admission in quasi-judicial cases such as formal complaints, motions, petitions, and applications that request modified procedure or an evidentiary hearing. ()

b. An attorney applying for limited admission to appear before the Commission in a representative capacity shall file a written motion with the Commission Secretary and serve a copy on all parties. The motion shall be substantially in the form set out in Bar Rule 222(1) with references to the Commission instead of the court. ()

c. A copy of the written motion shall be submitted to the Idaho State Bar accompanied by the fee prescribed by Bar Rule 222(j). ()

044. SERVICE ON REPRESENTATIVES OF PARTIES AND OTHER PERSONS (Rule 44).

From the time a party files its initial pleading in a proceeding, that party must serve and all other parties must serve all future documents listed in Rule 751 upon all other parties' representatives designated pursuant to Rule 41, unless otherwise directed by order or notice or by the presiding officer on the record. The Commission may order parties to serve past documents filed in the case upon those representatives. The Commission may order parties to serve past or future documents filed in the case upon persons not parties to the proceedings before the Commission.

(7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

052. APPLICATIONS--DEFINED--FORM AND CONTENTS (Rule 52).

All pleadings requesting a right, certificate, permit, or authority from the Commission or the award of intervenor funding are called "applications". Applications must: (4-5-00)

01. State Facts. Fully state the facts upon which they are based, (7-1-93)

02. Refer To Provisions. Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based, and (7-1-93)

03. Pray For The Order, Authorization, Or Certificate Action Sought. Request the action desired. (4-5-00)(____)

04. Public Information. Unless otherwise exempted from disclosure by statute, information in applications is public information not exempt from disclosure under Section 9-340C(9), Idaho Code. (____)

(BREAK IN CONTINUITY OF SECTIONS)

061. FILING DOCUMENTS WITH THE COMMISSION--NUMBER OF COPIES--FACSIMILE TRANSMISSION (FAX) (Rule 61).

The following numbers of documents must be filed with the Commission Secretary: (7-1-93)

01. Printed Filings. When filing printed material. (4-5-00)

a. In utilities cases (other than ~~security issuancees~~ those cases specified below): (4-5-00)(____)

i. Pleadings (applications, petitions, complaints, motions, answers and consent agreements)--an original and seven (7) copies. (7-1-93)

ii. Briefs, proposed orders, statements of position, and exceptions under Rule 312--eight (8) copies. (4-5-00)

iii. Prepared testimony and exhibits--nine (9) copies (one (1) copy designated as reporter's copy) plus computer disk as required by Rule 231.05. (7-1-93)

iv. Discovery-related documents (notice of deposition, production requests, written interrogatories, requests for admission, answers to discovery, explanations in lieu of discovery under Rule 225 and objections to discovery)--three (3) copies except as requested pursuant to Rule 229. (7-1-93)

b. Security issuance cases: (4-5-00)

- i. Pleadings--an original and four (4) copies. (7-1-93)
- ii. Other documents except for discovery-related documents--five (5) copies. (7-1-93)
- iii. Discovery-related documents--three (3) copies. (7-1-93)
- c. Telecommunication interconnection agreements: ()
- i. Pleadings--an original. ()
- ii. All other documents--two (2) copies. ()

02. FAX Filings. Pleadings (including supporting affidavits, memoranda, etc.) not exceeding ten (10) pages in length, notice of taking depositions, notices of withdrawal of party or of withdrawal of representative, stipulations, and documents requiring urgent or immediate action by the Commission may be filed with the Commission Secretary by facsimile transmission (FAX). Whenever any such document is filed by FAX, originals must be delivered to the Commission by overnight mail on the next working day. The use of FAX is prohibited to file prepared testimony and exhibits, requests for or answers to discovery (other than notices of taking deposition), or any other documents except as authorized by this paragraph. (7-1-93)

03. Reducing the Number or Changing the Form of Copies. The Commission Secretary is authorized to reduce the number of required copies or allow electronic copies to be filed in lieu of a printed original or copies. ()

062. FORM OF DOCUMENTS (Rule 62).

01. Information To Be Listed. All documents listed in Rule 61 submitted by a party and intended to be part of the record must: (7-1-93)

- a. Be submitted on white eight and one-half inch by eleven inch (8 1/2" by 11") paper copied on one (1) side only; (7-1-93)
- b. State the case caption, case number and title of the document; (7-1-93)
- c. Include on the upper left corner of the first page the name(s); mailing, and street and e-mail address(es); and telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and (7-1-93)()
- d. Have at least one-inch (1") left and top margins. (7-1-93)

02. Example. These documents complying with this rule will be in the following form: (7-1-93)()

Name of Representative (State Bar No. if applicable)
Mailing Address of Representative
Street Address of Representative (if different)
Telephone Number of Representative
FAX Number of Representative (if there is one)
E-mail address (if available)
Attorney/Representative (for Name of Party)

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSIONS

(Title of Proceeding)	
)	CASE NO. ABC-X-XX-XX
)	
)	TITLE OF DOCUMENT
_____)	

03. Identification Of Parties. Every document filed under this rule must identify the party filing it in its title. The party must be identified by both the party's designation as a party (e.g., intervenor) and the party's name. For example, the Intervenor ABC Company would title its motion to strike as "Motion to Strike of Intervenor ABC Company". A short title of the document must appear at the bottom left corner of each page of the document. For example, the short title of the motion above could be: "ABC's Motion to Strike." (7-1-93)

063. SERVICE ON PARTIES AND OTHER PERSONS (Rule 63).

All documents referred to in Rule 61 must be served upon the representatives of every party of record concurrently with filing with the Commission Secretary. When a document has been filed with the Commission Secretary by FAX, it must be served upon all other parties with FAX facilities by FAX and upon the remaining parties by overnight mail, hand delivery, or the next best available service if these services are not available. The Commission may direct that service be accomplished by electronic mail. The Commission may direct that some or all of these documents be served on interested or affected persons who are not parties. The Commission Secretary's notice of parties (and revisions to it) will list all persons whom the parties must serve and their representatives as of the date of the notice or its revision. (7-1-93)(_____)

(BREAK IN CONTINUITY OF SECTIONS)

067. INFORMATION EXEMPT FROM PUBLIC REVIEW - DEFINITIONS - FORM - PROCEDURES (Rule 67).

01. Definitions. (4-5-00)

a. "Trade secrets" filed with the Commission are exempt from public inspection, examination, and copying pursuant to Section 9-340D, Idaho Code. Trade secrets means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that: (4-5-00)

i. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and (4-5-00)

ii. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (4-5-00)

b. "Confidential information" means information, documents, or records filed with the Commission that are specifically exempt from public inspection, examination and copying pursuant to Sections 9-340A through 9-340F, Idaho Code. (4-5-00)

02. Form. In addition to the requirements of Rule 62 (except Subsection 062.01.a.), information that is alleged to be trade secrets, confidential or otherwise exempt from public disclosure shall be served upon the Commission and other parties who have entered into a protective agreement pursuant to Subsection 067.04 in either printed or electronic format. (4-5-00)

a. If in printed form, the page(s) containing the trade secret or confidential information shall be reproduced on any colored paper other than white. Each page shall be marked as "TRADE SECRETS" or "CONFIDENTIAL". (4-5-00)

b. If in electronic form, the trade secret or confidential information shall be reproduced separately on a DOS formatted three and one-half (3.5") inch; (one point forty-four (1.44) megabyte diskette) or other storage format approved by the Commission; and not included with other material electronically filed. Each diskette or other storage device containing trade secret or confidential information shall be clearly identified with the case caption, case number, title of document and marked as "TRADE SECRETS" or "CONFIDENTIAL". (4-5-00)(_____)

03. Procedure. Whenever a party believes that information contained in pleadings or other documents are trade secrets, confidential or otherwise exempt from public disclosure, the

attorney of such party designated by Rule 41 must state in writing that the information is protected by law from public inspection, examination or copying, citing the specific grounds and legal authority for that assertion. Documents containing trade secrets or confidential information shall be separated from documents not containing trade secrets or confidential information. Trade secrets or confidential information contained in documents will be removed and replaced with a page marked: "This page allegedly contains trade secrets or confidential material and is separately filed." All materials for which no assertion of protection from public inspection, examination and copying is made will be placed in files available for public inspection. Trade secrets, confidential information and other records exempt from public inspection shall be separately stored in a secured location with limited access and safeguarded from unauthorized disclosure. (4-5-00)

04. Protective Agreements. In proceedings before the Commission involving trade secrets or other confidential information, parties may enter into protective agreements to facilitate and safeguard the exchange of necessary information. Protective agreements may include procedures for copying, exchanging, serving, safeguarding, or challenging the characterization of trade secrets or confidential information. The Commission shall not be a party and will not be bound by the terms of a protective agreement. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

111. FORM AND CONTENTS--NEW UTILITY (Rule 111).

Applicants for the issuance of a certificate of convenience and necessity for a new utility under Section 61-526, Idaho Code, or Commission order, must submit the data required by this rule (where relevant) with their applications. (4-5-00)

01. Name, Address And Form Of Business. (7-1-93)

a. If the applicant is a sole proprietor: (7-1-93)

i. The name, business address, and electronic address (if available) of the applicant; and (4-5-00)

ii. The business name (including dba) of the sole proprietorship. (7-1-93)()

b. If the applicant is a partnership: (7-1-93)

- i. A list of the names, business addresses, and electronic addresses (if available) of all the partners; and (4-5-00)
- ii. The business name (including dba) of the partnership. (7-1-93)(____)
- c. If the applicant is a corporation: (7-1-93)
 - i. A short statement of the character of public service in which it may engage; (7-1-93)
 - ii. The name of the corporation (including dba) and the state in which it is incorporated; (7-1-93)(____)
 - iii. Its principal business address, its principal business address within Idaho, and electronic address (if available); (4-5-00)
 - iv. A certified copy of its articles of incorporation; and (7-1-93)
 - v. If not incorporated in Idaho, a certificate of good standing issued by the Secretary of State of Idaho and the name and address of its agent for service in Idaho. (7-1-93)(____)

02. Written Explanation Why Service Is Proposed. A statement or prepared testimony and exhibits explaining why the proposed utility service is or will be in the public convenience and necessity. (7-1-93)

03. Proposed Operations. A full description of the proposed location, route or routes of the utility service, including a description of the manner of construction, and the names of all public utilities, corporations, or persons with whom the proposed new utility is likely to compete. (7-1-93)

04. Maps. A map of suitable scale showing the location of the utility service and its relation to other public utilities in the area that offer or provide similar utility service. (7-1-93)

05. Financing Of Construction. A statement of the manner in which the applicant proposes to finance new utility service construction, the time when the applicant proposes to begin construction and the time when the applicant proposes to begin service. (7-1-93)

06. Cost Of Service. Estimates of the cost of extending to and the annual cost of serving the territory for which the certificate is sought, of the number of service connections already made or to be made, of the annual revenue from them or expected annual revenue from them, and of anticipated rates and charges. (7-1-93)

07. Financial Statement. A financial statement of the applicant. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

125. PUBLIC WORKSHOPS ON APPLICATIONS TO INCREASE RATES (Rule 125).

01. Public Workshop. When a public utility files an application to increase any rate, fare, toll, rental or charge regarding any classification or service, the Commission will determine if the staff should conduct a public workshop. The purpose of any workshop is for the staff to dispense information concerning the utility's application and to receive written or oral comments from the public prior to the staff filing testimony or comments in the case. ()

02. Notice and Location of Workshop. Notice of the public workshop shall be disseminated a minimum of seven (7) days prior to the workshop to newspapers of general circulation and radio and television stations in the affected area. The Commission shall determine the location for the workshop within the area served by the public utility. The notice shall also be posted on the Commission's website. ()

03. Exemptions. The requirements of Subsection .01 shall not apply to applications regarding uniform statewide surcharges under Sections 56-904, 62-610 and 62-610F, Idaho Code, or to utility tariff advices. ()

1256. -- 130. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

**RULES 131 THROUGH 140 - TARIFF SCHEDULES OF UTILITIES --
INTERCONNECTION AGREEMENTS**

(BREAK IN CONTINUITY OF SECTIONS)

132. NUMBER OF TARIFF COPIES FILED (Rule 132).

The Commission encourages public utilities must to file an original and three (3) copies their tariff schedules via electronic mail. (7-1-93)()

01. Electronic Tariffs. For electronically filed tariffs, each utility shall submit its tariff schedules prepared in Adobe Acrobat in portable document format (PDF) as an attachment to an e-mail message sent to the Commission Secretary at: jjewell@puc.state.id.us. Electronic tariff

schedules may also be submitted as PDF documents on appropriately formatted three and one-half (3.5) inch diskette, zip disk, or CD-ROM. ()

02. Printed Tariffs. To file printed tariffs, each utility shall file an original and two (2) copies of their tariff schedules with the Commission Secretary. (7-1-93)()

03. Approval. The Commission will stamp its approval in the space provided on each copy of an approved tariff, placing the original in its files and returning one (1) copy to the public utility. (7-1-93)()

133. TARIFFS SUBMITTED PURSUANT TO ORDER (Rule 133).

01. Order May Require Submission Of Tariffs. When the Commission directs or authorizes by order that certain tariffs be filed, the order may require the tariff submissions to the Commission to be accompanied by appropriate explanatory documents, summaries, workpapers, or similar material. When the Commission authorizes a utility to file new tariffs pursuant to order in a general rate case, the Commission may require the utility to file a complete set of tariffs containing both pages with changed rates and charges and those without. (7-1-93)

02. Staff Review Of Tariffs Filed Pursuant To Order. When a utility files tariffs with the Commission pursuant to an order of the Commission in a proceeding in which other persons are party, the responsibility for reviewing the tariff submission to determine whether it complies with the Commission's order is upon the Commission Staff, which shall promptly report to the Commission whether the tariffs do comply. The review of tariffs filed pursuant to order is an ex parte, ministerial responsibility of the Commission Staff. Tariffs may be approved by in the minutes entry of the Commission's decision meetings or by minute entry after Staff review without further order. After approval, the utility must promptly serve the tariffs on all parties. (7-1-93)()

03. Motions With Regard To Tariffs Submitted Pursuant To Order. If the Commission has approved tariffs, parties or persons contending that approved tariffs are inconsistent with the Commission's orders may file appropriate motions asking that approval be reviewed. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

135. INTERCONNECTION AGREEMENTS (Rule 135).

01. Uncontested Agreements. A utility may file an application for the Commission to approve voluntarily negotiated, adopted or amended interconnection agreements pursuant to Section 252 of the federal Telecommunications Act of 1996. The Commission acts on adopted or negotiated interconnection agreements and uncontested amendments to previously approved agreements with the assistance of an ex parte recommendation of the Commission Staff. ()

02. Contested Agreements. Petitions to arbitrate, mediate or otherwise resolve interconnection disputes between or among telecommunication carriers shall be processed under Rule 53. ()

1356. -- 140. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

161. CASES IN WHICH INTERVENORS MAY APPLY FOR FUNDING (Rule 161).

In any case involving regulated electric, gas, water or telephone utilities with gross Idaho intrastate annual revenues exceeding ~~one~~ three million five hundred thousand dollars (\$~~13~~,500,000), intervenors may apply for intervenor funding. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

165. AWARDS (Rule 165).

01. Order Awarding Intervenor Funding. The Commission may by order award intervenor funding pursuant to Section 61-617A, Idaho Code. The total award for all intervening parties combined shall not exceed ~~twenty-five~~ forty thousand dollars (\$~~2540~~,000) in any proceeding. The Commission must find that: (7-1-93)()

- a. The intervenor's presentation materially contributed to the Commission's decision, (7-1-93)
- b. The costs of intervention awarded are reasonable in amount, (7-1-93)
- c. The costs of intervention were a significant hardship for the intervenors, (7-1-93)
- d. The recommendations of the intervenor differed materially from the testimony and exhibits of the Commission Staff, and (7-1-93)

e. The intervenor addressed issues of concern to the general body of users or consumers. (7-1-93)

02. Payment Of Awards. Awards of intervenor funding must be paid within twenty-eight (28) days of the order of the Commission awarding intervenor funding, unless the order of the Commission is stayed. (7-1-93)

03. Recovery Of Awards Of Intervenor Funding. Awards of intervenor funding paid by electric, gas, water or telephone utilities will be an allowable business expense in the pending rate case or, if the proceeding is not a rate case, in the utility's next rate case. Awards of intervenor funding shall be chargeable to the class of customers represented by the intervenors. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

215. ~~FACTS DISCLOSED~~ CONFERENCE PROCEEDINGS PRIVILEGED (Rule 215). Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences are privileged and are not part of the record. Except by agreement, facts disclosed cannot be used against participating parties, before the Commission or elsewhere, unless proved by independent evidence. Offers made and other aspects of negotiations or settlement other than a final agreement itself are privileged. (7-1-93)(_____)

(BREAK IN CONTINUITY OF SECTIONS)

228. ANSWERS TO PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND TO REQUESTS FOR ADMISSION (Rule 228).

01. When Answers Not Filed. Answers to production requests or written interrogatories and to requests for admission need not be filed and served in the following circumstances: (7-1-93)

a. Voluminous answers may be filed in a depository designated and agreed to by the parties or designated by the Commission, and an explanation notifying the parties of the availability of the answers at the depository must be filed and served in their stead. (7-1-93)

b. Answers involving data compiled by computer may be transmitted in computer-readable form (e.g., by ~~magnetic tape~~ disk or other mutually agreed means) to the party

requesting them and to all other parties requesting them in similar computer-readable forms and an explanation notifying the parties of their distribution must be filed and served in their stead.

(7-1-93)()

02. Filing Of Answers. Except as provided in Rule 228.01, answers to production requests or written interrogatories and to requests for admission must restate in full each question asked, then state in full the party's response to the question and the persons who will be able to answer questions about or sponsor the answer at hearing. Answers to production requests or interrogatories need not be separately answered under oath by each person preparing the party's response to the question or each witness who will be able to answer questions about or sponsor the answer, but instead can be generally subscribed by the party's representative. The restatement of the question and its accompanying answer must begin on a new page whenever the preceding answer refers to other documents or whenever the preceding question in the particular production request or written interrogatory is not answered in full in that document.

(7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

286. TRANSCRIPTS (Rule 286).

01. Form Of Transcripts--Cover Sheet. Transcripts must be prepared on white eight and one-half by eleven inch (8 1/2" x 11") paper. The cover page of each volume of transcript must show the title of the proceeding, the case number, the presiding officer, the time and place of hearing, and other information as shown in the following example:

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

(TITLE OF PROCEEDING)
)
)
)
)
)

CASE NO. XXX-X-XX-XX

(COMMISSIONER Able Baker, Presiding)

(HEARING OFFICER Charlie Dog, Presiding)

(Date, e.g., January 21, 1983)

(Hearing Room, e.g., Commission Hearing Room)

(Address, e.g., 472 West Washington, Boise, Idaho)

(7-1-93)

02. Volumes Of Transcript--Indices To Volumes. Each day of hearing must be transcribed in a volume or volumes separate from other days of hearing. Each volume of transcript must begin with a list of the parties who appeared that day and their representatives at hearing that day. This list must be followed with a list of all witnesses whose testimony is reported in that volume, showing the pages at which each witness's testimony begins, what party (if any) called the witness, the pages upon which each other party's examination begins, the pages upon which each Commissioner's or hearing examiner's examination begins, and the pages upon which redirect examination or any party's, Commissioner's or hearing examiner's re-examination begins. These lists must be followed with a list showing all exhibits identified in that volume of transcript (including exhibits accompanying prepared testimony), the pages upon which they are first identified, and, if any exhibits are denied admission, the pages upon which the exhibits are denied admission.

(7-1-93)

03. Matters Included In Transcript. The transcript must contain all discussions on the record while the hearing is in order. Unless otherwise directed by the Commission, the presiding officer, or the Commission Secretary, prepared testimony must be included in the transcript without change or retyping. Witness's corrections to prepared testimony should be made by distributing replacement pages to the reporter and describing those corrections on the record and/or distributing an errata sheet; unless otherwise directed, no corrections other than replacement pages will be made in the prepared testimony before it is incorporated in the transcript, except the reporter may make minor corrections by interlineation in the prepared testimony. Witnesses may have seven (7) days after hearing to distribute replacement pages to all parties and to the reporter, unless the Commission, the presiding officer or the Commission Secretary otherwise directs.

(7-1-93)

04. Marginal Notes. The testimony of all witnesses reported in the transcript must be designated in the lower right margin by the witness's surname and the party sponsoring the witness's testimony. Witnesses not sponsored by any party must be designated "Public". The type of testimony must be shown following the witness's surname as "Di" (direct or redirect), "X" (examination by any party not sponsoring the witness), or "Com" (examination by a Commissioner or hearing examiner). Examples of the designations required by this Rule follow:

Accountant, Di;

Accountant, Com; Ratepayer, X

Discussions on the record that are not testimony or examination may be labeled "argument," "decision," "colloquy," etc., to describe what is reported. (7-1-93)

05. Volume Size--Number Of Pages. Transcript volumes should not exceed three hundred (300) pages unless the transcript can be completed in three hundred fifty (350) pages or less. Transcript volumes and pages of all proceedings on the record, including prehearing conferences, hearings, arguments, and any other proceedings on the record, must be numbered consecutively. For example, if a prehearing conference on the record preceded a hearing, the transcript volume and page numbers of the hearing would be numbered consecutively with that of the prehearing conference. (7-1-93)(____)

06. Number of Copies – Binding. The reporter shall prepare an original and one (1) copy of the transcript for the Commission. The original of each transcript shall be filed with the Commission Secretary unbound but each volume shall be separated (if applicable). Copies of the transcript shall be fastened at the left margin in spiral or plastic-type binding, so as to open as flat as possible. (____)

07. Purchase of Transcript. Any party or other person may request and pay for a copy of a transcript or portions of the transcript from the reporter. (____)

- (3) upon the resignation of the intern's supervising attorney;
- (4) upon the suspension or termination by the Board of Commissioners of the Idaho State Bar of the supervising attorney's status as a supervising attorney; or
- (5) upon the withdrawal of approval of the intern pursuant to this Rule.

*(t) **Termination of Rule for Intern Limited License.** The effectiveness of this Rule for intern limited license shall be terminated when ordered by the Supreme Court of the State of Idaho.

*(Sections (o)-(t) amended 6-15-01 - Effective 7-1-01)

***RULE 222. Limited Admission/Pro Hac Vice**

- *(a) Except as otherwise provided in these Rules, only an active member of the Idaho State Bar may enter appearances for a party, sign stipulations or receive payment or enter satisfaction of judgment, decree, or order.
- *(b) Any active member in good standing of the bar of the highest court of any State or any Territory or Insular possession of the United States, who has been retained to appear in the courts of this state, who is not a member of the Idaho State Bar or a resident of the State of Idaho, and who currently maintains an ongoing law practice with offices located in another jurisdiction, may be permitted, after motion to the affected court and without previous notice, to appear and participate in a particular case, subject to any limitations imposed by any jurisdiction of which the applicant is a member of the bar, and subject to the limitations set forth below.

*(Sections (a), & (b) amended 3-1-88)

*(c) An applicant for limited admission shall designate, in his or her motion to so appear, an active member of the Idaho State Bar with whom the court and opposing counsel may readily communicate regarding the conduct of the case. He or she shall also include with such motion the address, telephone number and written consent of such designee and shall include reference to the Bar of which he/she is a member.

*(Section (c) amended 3-1-88; and amended 5-28-02 - effective 7-1-02)

- (d) Since permission to appear is limited, no certificate of admission shall be issued by the court.
- (e) The lawyer designated as local counsel shall personally appear with the limited admittee on all matters tried and heard before the court, unless the trial judge specifically excuses local counsel from attendance.
- (f) By his or her application, an attorney who applies for limited admission consents to the exercise of disciplinary jurisdiction by the court and the Idaho State Bar over any alleged misconduct which occurs during the progress of the case in which the attorney so admitted participates.
- *(g) Any attorney seeking or granted limited admission shall state, upon any court filing on which the attorney's name appears, his or her current office address in the jurisdiction where the attorney is an active member.

*(h) "Active member" means any person who is not a judge and who is licensed to practice law before the highest court of any State, or any Territory or Insular possession or the United States, and who is engaged in the active practice of law in that jurisdiction.

*(Sections (g) & (h) added 3-1-88)

*(i) The Idaho State Bar shall maintain a record of all limited admission applications as a public record, and shall promptly provide such record, upon request, to any judge seeking to know whether the applicant has previously sought limited admission.

*(j) Each application for limited admission shall be by written motion. The original shall be filed with the trial court, with copies to be served on all parties to the action. A copy of the motion shall be submitted to the Idaho State Bar, accompanied by a \$200 fee in each case. Local counsel shall be jointly responsible for payment of the fee.

*(k) This rule does not quantify the number of limited admissions that may be granted to an individual, except for any lawyer applying by virtue of active membership in a jurisdiction that limits the number of limited admissions of Idaho lawyers. For those lawyers, there shall be a reciprocal limitation on the number of admissions.

*(l) The application shall be in substantially the following form:

Local Counsel
Office Address
Business Phone
Bar Number

Applying Counsel
Out of State Office Address
Business Phone

IN THE _____ COURT OF THE STATE OF IDAHO

Case Caption) Case # _____
))
) Motion for Limited Admission

...

The undersigned *local counsel* petitions the court for admission of the undersigned *applying counsel*, pursuant to Idaho Bar Commission Rule 222, for the purpose of the above-captioned matter.

Applying counsel certifies that he/she is an active member, in good standing, of the bar of _____, that he/she maintains the regular practice of law at the above-noted address, and that he/she is not a resident of the State of Idaho or licensed to practice in Idaho. *Applying counsel* certifies that he/she has previously been admitted under IBCR 222 in the following matters: _____

[If *applying counsel* has been denied admission under this rule in this or any jurisdiction, a separate affidavit explaining the circumstances of such denial shall accompany this motion].

Both undersigned *counsel* certify that a copy of this motion has been served on all other parties to this matter and that a copy of the motion, accompanied by a \$200 fee, has been provided to the Idaho State Bar.

Local counsel certifies that the above information is true to the best of his/her knowledge, after reasonable investigation. *Local counsel* acknowledges that his/her attendance shall be required at all court proceedings in which *applying counsel* appears, unless specifically excused by the trial judge.

DATED this _____ day of _____

/s/ _____ /s/ _____
Applying Counsel Local Counsel

*(Rule 222 amended and Sections (l)-(i) added 3-31-00 - Effective 10-1-00)