

DECISION MEMORANDUM

**TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF**

**FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL**

DATE: APRIL 28, 2010

**SUBJECT: THE COMMISSION'S NEGOTIATED RULEMAKING TO EXAMINE
DRAFT CHANGES TO THE RULES OF PROCEDURE, IDAPA 31.01.01,
DOCKET NO. 31-0101-1001 (IPUC CASE NO. RUL-U-10-01)**

On March 11, 2010, the Commission initiated a negotiated rulemaking process to examine various amendments to its Rules of Procedure, IDAPA 31.01.01. On April 7, 2010, the Commission also caused to be published in the Idaho Administrative Bulletin a Notice of Negotiated Rulemaking. Both Notices stated that the Commission would hold an informal public workshop so that interested persons could discuss and review the proposed changes.

THE PUBLIC WORKSHOP

On April 21, 2010, the informal workshop was held in the Commission Hearing Room. Persons participating in person or by telephone included representatives of: Idaho Power Company, Commission Staff, Qwest Corporation, PacifiCorp dba Rocky Mountain Power and United Water. The workshop participants had no objections to the proposed changes to Rules 16, 19, 125, 231, 286, and 301.

Based upon comments and discussion offered at the workshop, the participants agreed to correct and/or clarify other rules. In particular, the parties agreed to amend Rules 0, 5, 20, 43, and 121. These changes are laid out in the Staff comments filed April 26, 2010. The Staff comments containing participants' agreed upon changes are attached for your review.

WRITTEN COMMENTS

In addition to Staff comments, written comments were submitted by Avista, Idaho Power, Qwest, Verizon and United Water. In their written comments, the commenters agreed with the revisions set out in Staff's comments.

COMMISSION DECISION

1. Given the lack of any objections to Rules 16, 19, 125, 231, 286, and 301, does the Commission wish to formally adopt these changes and issue a Notice of Proposed Rulemaking?

2. Does the Commission wish to adopt the changes laid out in Staff comments and agreed to by the commenters including Rules 0, 5, 20, 43, and 121? Does the Commission desire to include these changes in a Notice of Proposed Rulemaking?

3. Does the Commission desire to issue a Notice of Proposed Rulemaking to be published in the Idaho Administrative Bulletin on June 4, 2010?



Don Howell
Deputy Attorney General

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IDAHO PUBLIC
UTILITIES COMMISSION

Attorney for Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE NEGOTIATED)
RULEMAKING TO EXAMINE DRAFT) IDAPA DOCKET NO. 31-0101-1001
CHANGES TO THE COMMISSION'S) IPUC CASE NO. RUL-U-10-01
RULES OF PROCEDURE, IDAPA)
31.01.01.000)
)
) COMMENTS OF THE
) COMMISSION STAFF**

COMES NOW the Staff of the Idaho Public Utilities Commission by and through its attorney of record, Donald L. Howell, II, and hereby submits these comments in support of the Commission's proposed changes to its Procedural Rules. On March 11, 2010, the Commission initiated a negotiated rulemaking process to examine various amendments to its Rules of Procedure, IDAPA 31.01.01. On April 7, 2010, the Commission also caused to be published in the Idaho Administrative Bulletin a Notice of Negotiated Rulemaking. Both Notices stated that the Commission would hold an informal public workshop for the purpose of reviewing and discussing the proposed changes to its Rules of Procedure.

THE PUBLIC WORKSHOP

On April 21, 2010, interested persons met in the Commission Hearing Room or participated by telephone in the negotiated rulemaking workshop. As set out in the Notices, the reasons for the proposed changes include: (1) conforming the Commission's testimony and transcript rules (Rules 231 and 286) to changes in the Idaho Supreme Court's Appellate Rules; (2) changing Rule 43 (Representation of Parties) to conform to Supreme Court Opinions

COMMENTS OF THE
COMMISSION STAFF

regarding the representation of partnerships, corporations and other entities; (3) adding Rule 20 to make it easier to determine when telephone companies are no longer conducting business in Idaho; and (4) making other changes to improve clarity (Rules 5, 16, 125, 301) and correcting citations (Rules 0, 19, 21). Notice at p. 1, Administrative Bulletin, Vol. 10-4, at p. 25. Representatives from Idaho Power Company, Commission Staff, Qwest Corporation, PacifiCorp dba Rocky Mountain Power and United Water attended and participated in the workshop.

STAFF COMMENTS

Except as noted below, the workshop participants agreed or did not object to most of the rule changes proposed by the Commission. More specifically, the participants had no objections to the changes to Rules 16, 19, 125, 231, 286, and 301.

Based upon the comments and suggestions of the workshop participants, Staff recommends that the Commission review and approve several changes to the proposed rules. To facilitate the Commission's review of the proposed changes, the reasons for the changes are discussed before each rule in numeric order below.

Rule 0: Although the participants generally agreed with the proposed changes to Rule 0 (Legal Authority), Qwest commented that several references to Title 62 statutes appear to be inadvertently omitted. The Staff agrees and recommends that the Commission adopt the proposed changes shown in bold italics below.

000. LEGAL AUTHORITY (RULE 0).

These rules are adopted under the general legal authority of the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code; Chapters 9, 8 through 10, and 13, 15 through 17, Title 61, Idaho Code; Chapters 3 and 4, Title 62, Idaho Code; the Telecommunications Act of 1988, as amended, Chapter 6, Title 62; and Chapters 12, Title 62, Idaho Code, Chapter and 13, Title 62, Idaho Code; and the particular authority of Sections 56-904, 61-304 through 61-309, 61-501, ~~61-502, 61-503~~ through 61-505, 61-507, 61-516, 61-538, 61-541, 61-601 through 61-607, 61-610 through 61-619, 61-6201 through 61-626, 61-803 through 61-806, 61-902 through 61-905, 61-909, 61-1003 through 61-1005, 61-1007, 61-1305, 61-1306, 61-1603 through 61-1607, 61-1703 through 61-1709, 62-304, 62-305, 62-424, ~~62-6024, 62-605, 62-608~~ through ~~62-612, 62-610A through 62-610F, 62-614 through~~ 62-616A, 62-619, 62-622, 62-622A, 62-1201 through 62-1207, 62-1303, and 62-1304, 63-3029I, and 67-6528, Idaho Code. (4-5-00)()

Rule 5: Qwest noted a typo in the proposed text. The correct citation to the definitions in Title 62 is Section 62-603. Staff agrees and recommends that the Commission adopt the change reflected below.

005. DEFINITIONS (RULE 5).

Terms of art used throughout these rules are defined within the rules themselves. The term "utility" used in these rules includes every common carrier, pipeline corporation, gas corporation, electric corporation, telephone corporation, and water corporation as defined in Chapter 1, Title 61, Idaho Code, and Section 62-6023, Idaho Code. (7-1-93)()

Rule 20: Qwest and Verizon suggested that the new Rule 20 set out below be clarified to indicate that the rule applies to the discontinuance of basic local exchange service or message telecommunications service (i.e., long-distance calling). Staff concurs and recommends that the Commission adopt the changes reflected below.

020. (RESERVED). DISCONTINUANCE OF TELECOMMUNICATIONS SERVICE (RULE 20).

A telephone corporation that intends to discontinue service in Idaho shall file a notice with the Commission at least ninety (90) days in advance of the date that it intends to cease operations. The telephone corporation proposing to discontinue *basic local exchange or message telecommunications* services shall also publish a notice of such discontinuance in a legal newspaper circulated in its service area pursuant to Section 62-612, Idaho Code. If the telephone corporation held any customer deposits or advance payments, the telephone corporation shall indicate in the notice how the deposits are to be returned to customers. See also IDAPA 31.41.01.312 ()

Rule 43: This rule attracted the most discussion among the participants. Most of the discussion centered on the distinction between the types of "administrative proceedings" and "quasi-judicial proceedings" set out below. In particular, the participants questioned whether rulemaking proceedings under Commission Rule 401 (IDAPA 31.01.401) would require representation by attorneys. After discussing this matter with the Idaho State Bar Counsel, Staff believes that rulemaking is more legislative than judicial. Accordingly, Staff recommends that "rulemaking" be added to the list of administrative proceedings under Subsection 01 below.

The participants also discussed whether in-house counsel for utilities might be exempt from the Pro Hac Vice requirements in Rule 43.03 below. Staff believes that Idaho law

requires that utilities be represented by Idaho licensed attorneys in quasi-judicial proceedings. As the Idaho Supreme Court recently noted in *Indian Springs v. Indian Springs Land Investment*, 147 Idaho 737, 744-45, 215 P.3d 457, 464-65 (2009): “the law in Idaho is that a business entity, such as a corporation, limited liability company, or partnership must be represented by a licensed attorney before an administrative body or a judicial body.” Staff believes that the current Pro Hac Vice rule in effect since 2004 strikes the appropriate balance by requiring out-of-state licensed attorneys to request limited admission at least one (1) time per calendar year. See Rule 43.03 below.

043. REPRESENTATION OF PARTIES AT PROCEEDINGS (RULE 43).

~~Recognizing that p~~Proceedings before the Commission are sometimes administrative in nature or quasi-judicial in nature, ~~appearances and~~. (3-16-04)()

01. Administrative Proceedings. Administrative proceedings before the Commission include matters such as the filing of tariff schedules, tariff advices, price lists, certificates to provide local exchange service, interconnection agreements, rulemaking, written comments in modified procedure, or written comments provided at a customer hearing. These filings may be made by a natural person pro se, a partner in a partnership, an employee or officer of a corporation, or a licensed attorney. ()

02. Quasi-Judicial Proceedings. The representation of parties at quasi-judicial proceedings for the purpose of adjudicating the legal rights or duties of a party is restricted as set out below. Quasi-judicial proceedings before the Commission include matters such as formal complaints, petitions, motions, applications for modified procedure or technical/evidentiary hearings. Representation of parties at these types of proceedings shall be as follows:()

01a. Natural Person. ~~A natural person must~~ may represent himself or herself or be represented by a ~~duly authorized employee, or an licensed~~ attorney. (3-16-04)()

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

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

04c. Other Entity. A municipal corporation; a state, federal, tribal, or local government agency; ~~or entity,~~ an unincorporated association; ~~or a non-profit~~

organization, or other entity must shall be represented by ~~an officer, a duly authorized employee or an~~ licensed attorney. (7-1-93)()

053. 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 2227 (Limited Admission/Pro Hac Vice). The Commission adopts by incorporation Bar Rule 2227 as modified below. (3-16-04)

a. ~~Given the administrative nature of many proceedings, I~~ 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 representing the same party in one (1) or more quasi-judicial ~~eases~~ proceedings ~~(such as formal complaints, motions, petitions, and applications that request modified procedure or an evidentiary hearing);~~ must request limited admission at least one (1) time per calendar year. (3-16-04)()

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 2227(1) with references to the Commission instead of the court. (3-16-04)()

c. A copy of the written motion shall be submitted to the Idaho State Bar accompanied by the fee prescribed by in Bar Rule 2227(j). (3-16-04)()

Rule 121: Qwest proposed that the scope of this rule be clarified. Staff and the other participants agreed. Accordingly, Staff is recommending that the Commission adopt the change to Rule 121.01 noted below.

121. FORM AND CONTENTS OF APPLICATION TO CHANGE RATES (RULE 121).

01. Utility Applications to Change Rates. Applications by any public utility subject to Title 61, Idaho Code, to increase, decrease or change any rate, fare, toll, rental or charge or any classification, contract, practice, rule or regulation resulting in any such increase, decrease or change must include the following data: (4-5-00)()

a. An exhibit showing in full each proposed change in rates, tolls, rentals, charges, rules or regulation by striking over proposed deletions to existing tariffs and underlining proposed additions or amendments to existing tariffs, except applications to increase or decrease all or almost all rates and charges by a uniform percentage or by a uniform amount may be made by filing a tariff listing the proposed change and all unchanged rates and charges or rates

and charges not changed by a uniform percentage or a uniform amount, or by use of another designation previously approved by the Commission that clearly calls attention to all proposed changes in numbers or wording. (7-1-93)

b. If the application is subject to Rule 122, a complete justification of the proposed increase in the form of testimony and exhibits or a narrative exposition. (7-1-93)

c. If the application is subject to Rule 122, ~~when a general change in recurring rates is proposed,~~ a statement showing how the application has been brought to the attention of affected customers ~~under IDAPA 31.21.02.102 or 31.41.02.102~~ and a copy of the press release and customer notice required by Rule 125. (7-1-93)()

d. A statement that the applicant stands ready for immediate consideration of the application. (7-1-93)

e. If the application is subject to Rule 122, testimony and exhibits showing financial statements, cost of capital and appropriate cost of service studies. (7-1-93)

f. Workpapers or documentation showing how test year data were adjusted. (7-1-93)

g. If the applicant provides utility service in states other than Idaho or utility service subject to federal regulation, a jurisdictional separation of all investments, revenues and expenses allocated or assigned in whole or in part to Idaho intrastate utility business regulated by this Commission showing allocations or assignments to Idaho. (7-1-93)

02. Proposals Based upon Computer Modeling. In addition, in any application in which a computer model is used to represent or simulate processes from which the revenue requirement is derived or upon which allocations of the revenue requirement to different customer classes are based, complete documentation of all those computer models must be supplied to the Staff, upon request, and be available in the utility's office or other depository. The Staff may request that the computer model itself be provided. A computer model includes the representation or simulation of a process, but does not mean or include the compilation of actual data. The application must state that the documentation of the models already on file in the applicant's office or other depository fully describes the models or that necessary updates or additions to previous documentation that will fully describe the models is on file and will be supplied on request. (4-5-00)

03. Grounds for Returning or Dismissing Application. Failure to comply with Rule 121.01 and 121.02 of this rule is grounds to return or dismiss an application under Rule 65. (7-1-93)

STAFF RECOMMENDATION

In summary, Staff recommends that the Commission adopt the proposed changes set out above and the initially proposed changes to Rules 16, 19, 125, 231, 286, and 301. Staff further recommends that the Commission formally propose these changes and issue a Notice of Proposed Rulemaking in IDAPA Docket No. 31-0101-1001.

RESPECTFULLY submitted this 26th day of April 2010.



Donald L. Howell, II
Deputy Attorney General

bls/N:31-0101-1001_Staff Comments_dh

RULES WITHOUT CHANGES

016. SERVICE BY COMMISSION – DESIGNATION OF AGENT (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 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. (3-16-04)

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)()

03. Designation of Agent for Service. All utilities shall designate a person as their agent to be served with summons and complaints. Utilities shall be responsible for maintaining on file with the Commission Secretary the current name, mailing address and e-mail address of the person designated as the agent to receive service. ()

(BREAK IN CONTINUITY OF SECTIONS)

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

Rule 43 incorporates by reference Idaho Bar Commission Rule 2227 (Limited Admission/Pro Hac Vice) effective _____, 2010. Bar Rule 2227 is promulgated by the Idaho State Bar and adopted by order of the Idaho Supreme Court. Bar Rule 2227 may be obtained from the Idaho

State Bar, PO Box 895, Boise, ID 83701, or online at ~~www2.state.id.us/isb/~~ www.isb.idaho.gov under the "Rules" icon. Bar Rule 2227 is also available for inspection and copying at the Idaho State Law Library or at the offices of the Idaho Public Utilities Commission. (3-16-04)()

(BREAK IN CONTINUITY OF SECTIONS)

125. NOTICES TO CUSTOMERS OF PROPOSED CHANGES IN RATES (RULE 125).

01. Customer Notice of a Change in Rates. (5-8-09)

a. If a utility is requesting a rate increase, the utility shall issue a customer notice to each customer. The customer notice shall include a brief explanation of the utility's need for additional revenue and the dollar amount requested. The notice shall give the proposed overall percentage change from current rates as well as the proposed percentage increase in revenue for each major customer class. ()

b. If the utility is requesting a rate decrease, the utility shall issue a customer notice to each customer. The customer notice shall include a brief explanation of the reason for the decrease, the overall dollar amount of the proposed decrease, and the proposed percentage decrease for each major customer class. ()

c. The customer notice shall make it clear that the application is a proposal, subject to public review and a Commission decision. It shall also inform customers that a copy of the utility's application is available for public review at the offices of both the Commission and the utility, and on the Commission's homepage. ()

02. Timing of Notice for Trackers or Annual Cost Adjustments. Tracker adjustments occasioned by federal action that result in an increase or decrease in rates may be brought to the attention of customers in compliance with this rule after approval by the Commission. ~~All~~ Other tracker or annual cost adjustment cases that result in an increase in rates remain subject to the requirements of advance notice contained in this rule. Other tracker or annual cost adjustment cases that result in a decrease in rates may be brought to the attention of customers in compliance with this rule after approved by the Commission. (5-8-09)()

03. Distribution of Customer Notices. The customer notices referred to in Subsection 125.01 may be mailed to customers as bill stuffers over the course of a billing cycle or may be contained in additional comment pages to the customer's monthly bill. If additional comment pages are used, the information required by this rule is to be clearly identified, easily

understood, and pertain only to the proposed rate change. (5-8-09)

04. Press Release. In instances covered by Subsection 125.01, the utility shall also send a press release containing, at minimum, the same information presented in the customer notices to all newspapers, radio, and television stations listed on the Commission's news organization list for that utility. The press releases shall be mailed or delivered simultaneously with filing of the application. (5-8-09)

05. Filing of a Press Release and Customer Notice. A copy of the press release and customer notice shall be filed with the application. (5-8-09)

06. Purposes and Effects of This Rule. The purposes of Subsections 125.01 through 125.05 of this rule are to encourage wide dissemination to customers of information concerning proposed rate changes for utility services. It is not a purpose of these subsections to create due process or other procedural rights in customers by expanding, contracting, or otherwise modifying the notice and due process rights of customers under the Public Utilities Law and the Commission's Rules of Procedure, IDAPA 31.01.01. Accordingly, Subsections 125.01 through 125.05 of this rule create no individual procedural rights in any customer for notice that would give rise to a due process or other procedural claim cognizable by the Commission, but failure to comply with Subsections 125.01 through 125.05 of this rule can be grounds for returning an application for incompleteness. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

231. PREPARED TESTIMONY AND EXHIBITS (RULE 231).

01. Prepared Testimony May Be Required. Order, notice or rule may require a party or parties to submit prepared testimony and exhibits to be presented at hearing. (7-1-93)

02. Format for Prepared Testimony. (7-1-93)

a. Prepared testimony and exhibits must be accompanied by a cover sheet showing the case caption and case title, the person testifying, the party for whom the testimony is offered, and the nature of the testimony (direct, rebuttal, etc.). (7-1-93)

b. The first page of prepared testimony should contain testimony only (i.e., it should begin with the first question to the witness and not repeat the information on the cover page). (7-1-93)

c. Prepared testimony must be submitted on white eight and one-half by eleven inch

(8-1/2" x 11") paper, be double-spaced (except for quoted material and tables or other collections of numerical data), and contain no more than ten (10) characters per inch and no ~~more~~ less than twenty-five (25) lines of double-spaced testimony or more than thirty (30) lines per page. Each page may be printed on the front and back (duplexed). (5-8-09)(_____)

d. Each line of prepared testimony must be numbered at the left margin (except single spaced quotations or tables of numerical data, which may be numbered at the left margin as though they were double spaced). Each page of testimony must have a one and one-half (1-1/2) inch left margin that will allow the page to be bound on its left side without obscuring the printed material. Indentations for paragraphing and for "Q" and "A" must be seven (7) spaces.(7-1-93)

e. Each page of prepared testimony must be numbered at the lower right corner and must be blank in the center of the bottom margin to allow the reporter to insert transcript page numbers there. Each page of prepared testimony must have at least a one-inch (1") top and bottom margin. (7-1-93)

f. Each page of prepared testimony must contain the witness's surname followed by the designation "Di" (signifying direct testimony) or "Di-Reb" (signifying direct testimony on rebuttal) and the name of the party sponsoring the testimony printed in the lower right margin. For example, the marginal notation on page 5 of the testimony of the witness Lynn Accountant of ABC Company would be:

5
Accountant, Di
ABC Company

or

Accountant, Di 5
ABC Company

(7-1-93)

03. References to Exhibits. All references to exhibits in prepared testimony must refer to the exhibits by their number as assigned by the Commission Secretary. Exhibits accompanying prepared testimony must be consecutively numbered from the first exhibit number assigned to the party by the Commission Secretary if the party has not previously identified exhibits, or from the highest exhibit number previously identified by that party. Exhibits must be filed on eight and one-half by eleven inch (8-1/2" x 11") paper unless it is impractical to make them that size. Exhibits accompanying prepared testimony must comply with Rule 267. (7-1-93)

04. Number of Copies -- Filing and Service. Unless otherwise provided by order, notice or agreement of the parties, nine (9) legible copies of prepared testimony and exhibits

must be filed with the Commission Secretary and copies filed on all parties pursuant to Rules 61, 62, 63 and 64 at least fourteen (14) days before the hearing at which they will be presented. The original, if there is an original, or one (1) of the copies, if there is not, must be specifically designated as the reporter's copy by cover sheet, attached note or otherwise, and be included with the copies filed with the Commission Secretary. In special circumstances, notice or order may provide that the reporter's copy of prepared testimony and exhibits be served directly on the reporter rather than the Commission Secretary. (7-1-93)

05. Computer-Searchable Copies of Testimony. In addition to the paper copies of prepared testimony, the Commission Secretary may also require or the parties may agree that some or all of the prepared testimony to be submitted to the Secretary, parties and the reporter in computer searchable CD-ROM without password protection. The CD-ROM shall be in ~~standard ASCII format~~, Adobe Acrobat (PDF), or other searchable format agreed upon by the reporter and the parties. Each CD-ROM shall be labeled with the Commission's case number, case name, the name of each witness and the sponsoring party. (5-8-09)(____)

(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 line of each page shall be double-spaced with a minimum of twenty-five (25) lines and a maximum of thirty (30) lines per page. Quotations, citations and parenthetical notes may be single-spaced. Each line shall be numbered on the left margin. 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. Margin 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
ABC Company ABC Company Public

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. (3-16-04)

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. (3-16-04)

07. Compressed Transcript. Any party may request a compressed transcript having no more than four (4) pages of regular transcript on a page. Each volume of compressed transcript shall contain no more than two hundred (200) pages unless the transcript can be completed in two hundred fifty (250) pages or less. A compressed transcript may be duplexed. The pagination shall be horizontal as follows: ()

<u>1</u>	<u>2</u>
<u>3</u>	<u>4</u>

08. Computer-Searchable Transcript. Any party may request a computer-searchable disk of the written transcript. The disk shall be in Adobe Acrobat (PDF) or other searchable format agreed upon by the reporter and the party ordering the disk. ()

079. 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. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

301. FAILURE TO ANSWER OR APPEAR AT HEARING – DEFAULTS (Rule 301).

After an applicant's, petitioner's, complainant's or moving party's failure to appear at the time and place set for hearing, the Commission may dismiss the petition, application, complaint or motion. When a respondent that has been properly served fails to answer or appear at hearing, the Commission may order any relief against the respondent authorized by law. (7-1-93)