

DECISION MEMORANDUM

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

**FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL**

DATE: OCTOBER 3, 2014

**SUBJECT: DELETION OF THE COMMISSION'S PUBLIC RECORDS ACT
"RULES" AND ADOPTION OF THE PUBLIC RECORDS GUIDELINES,
DOCKET NO. 31-0201-1401 (IPUC CASE NO. RUL-U-14-01)**

In this rulemaking, the Commission proposed to repeal its Public Records Act Rules and replace the rules with Public Records Guidelines as provided in *Idaho Code* § 9-347.¹ The Commission's Notice of Proposed Rulemaking to repeal its Public Records Rules was published in the Idaho Administrative Bulletin on September 3, 2014. Comments in response to the proposed repeal of the Public Records Rules were to be submitted to the Commission no later than September 24, 2014. The Commission received no comments in response to its Rulemaking Notice.

The Commission did receive a memorandum and a letter from the Legislative Services Office. In its memorandum dated August 26, 2014, Legislative Services indicated that it did "not have any technical or substantive problems with the proposed rule." In its subsequent letter dated September 16, 2014, Legislative Services reported that there were no objections to the proposed repeal of these rules by the Senate and House Subcommittees for Review of Administrative Rules.

As Staff noted in its memorandum dated July 18, 2014, the adopted Public Records Guidelines are substantially the same as the Commission's existing Public Records Rules. The Guidelines were updated to correct typographical errors and reflect that "critical infrastructure information" may be exempt from public disclosure pursuant to regulations promulgated by

¹ This section provides that every state agency shall "adopt guidelines that identify the general subject matter of all public records kept or maintained" by the Commission, the custodian, and the physical location of such documents. *Idaho Code* § 9-347 (emphasis added).

FERC. See 18 C.F.R. § 388.112-.113. The new Guidelines (adopted July 16, 2014) are located on the Commission's web site under three separate locations: "Laws & Rules"; "File Room"; and "Consumers."

COMMISSION DECISION

1. Does the Commission wish to adopt the proposed repeal of the Public Records Rules as its pending rule?

2. Does the Commission wish to have its Notice of Adoption of Pending Rules (Chapter Repeal) submitted to the 2015 Legislature and published in the next Administrative Bulletin on November 5, 2014?



Don Howell
Deputy Attorney General

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