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February 19, 2010

## VIA ELECTRONIC FILING

PUC Filing Center  
Public Utility Commission of Oregon  
PO Box 2148  
Salem, OR 97308-2148

**Re: Docket LC 50**

Enclosed for filing in the above referenced docket is an original and one copy of Idaho Power Company's Answer to Petitions for Intervention of Move Idaho Power and Nancy Peyron.

A copy of this filing has been served on all parties to this proceeding as indicated on the attached Certificate of Service.

Very truly yours,

Wendy McIndoo  
Legal Assistant

Enclosures  
cc: Service List

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing documents on  
3 in Docket LC 50 on the following named persons on the date indicated below by e-mail  
4 addressed to said persons at his or her last-known address indicated below.

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DATED: February 19, 2010

  
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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**LC 50**

In the Matter of Idaho Power Company's  
2009 Integrated Resource Plan

**IDAHO POWER COMPANY'S ANSWER  
TO PETITIONS FOR INTERVENTION OF  
MOVE IDAHO POWER AND NANCY  
PEYRON**

Pursuant to OAR 860-013-0050(1)(c), Idaho Power Company ("Idaho Power" or "Company") hereby files its Answer to the Petitions for Intervention filed by Move Idaho Power ("MIP") and Nancy Peyron (together, "Joint Petitioners") on February 12, 2010. Idaho Power does not object to the requested interventions. However, the Company does ask that the Commission limit Joint Petitioners' intervention to issues relevant to this proceeding and to specifically preclude Joint Petitioners from raising issues related to the specific routing of proposed transmission lines.

**I. Introduction**

On December 30, 2009, Idaho Power filed its 2009 Integrated Resource Plan ("IRP"), which includes a proposed 500 kilovolt ("kV") transmission line from the Boardman substation to the proposed Hemingway substation ("B2H"). At a prehearing conference on January 25, 2010, Administrative Law Judge ("ALJ") Sarah K. Wallace clarified the role of the Public Utility Commission ("Commission") in IRP proceedings noting that the purpose of the IRP process is to evaluate whether a utility has proposed a resource portfolio to meet its energy demand and the cost effectiveness of the proposed resource portfolio, as considered in general terms.<sup>1</sup> Thus, it is not the Commission's role to approve or reject the precise routing of a transmission line.

<sup>1</sup> *Prehearing Conference Memorandum*, Docket LC 50 at 1 (Jan. 25, 2010) ("Prehearing Conference Memorandum").

1           On February 12, 2010, the Joint Petitioners filed Petitions for Intervention  
2 (“Petitions”). In the Petitions, Ms. Peyron states that she owns property near a proposed  
3 transmission line route and that “[h]er property and environment will be affected by the  
4 choice of the routes.”<sup>2</sup> MIP states that it is “dedicated to preventing the construction of  
5 new transmission lines through historically or environmentally sensitive areas in Baker  
6 County, Oregon.”<sup>3</sup> MIP and Ms. Peyron together state that if allowed to intervene they  
7 intend “to pursue in particular issues pertaining to the need for *and routing of proposed*  
8 *transmission lines.*”<sup>4</sup>

9           The Company acknowledges that the Joint Petitioners have asserted sufficient  
10 grounds to intervene—based on their intent to raise issues related to the need for the  
11 proposed transmission line. For this reason, the Company does not oppose the Joint  
12 Petitioners’ requested intervention and welcomes their participation in this IRP process.  
13 However, given Joint Petitioners’ stated intent to raise issues related to the routing of the  
14 transmission line, the Company is concerned that the Joint Petitioners may improperly  
15 seek to enlarge the scope of the proceeding by arguing about the proposed route for the  
16 B2H line. Therefore, the Company asks the ALJ to grant the Petitions subject to the  
17 condition that the intervention is limited to only those issues properly before the  
18 Commission and relevant to an IRP proceeding. Specifically, any attempt by Joint  
19 Petitioners to unduly broaden the issues of this proceeding to the routing of the Boardman  
20 to Hemingway line should be grounds for dismissal from this proceeding.

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24 <sup>2</sup> *Petitions For Intervention of Move Idaho Power and Nancy Peyron*, Docket LC 50 at 1 (Feb. 12,  
25 2009) (“Petitions”).

26 <sup>3</sup> Petitions at 2.

<sup>4</sup> Petitions at 2 (emphasis added).

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**II. Background**

**A. Boardman to Hemingway Transmission Line**

The Company's 2009 IRP seeks Commission acknowledgement of a plan that includes the Company's proposal to build a 500 kV transmission line from Boardman to Hemingway.<sup>5</sup> This proposed line will provide the Company with critical capacity required to serve its Oregon and Idaho retail customer loads and maintain system reliability. Pursuant to Commission Orders Nos. 89-507 and 07-002, the Company seeks acknowledgement from the Commission that the Company's planned transmission line is reasonable, cost effective, and necessary to ensure that Company customers receive adequate services at reasonable rates.<sup>6</sup> The Company does not request that the Commission review, approve, or acknowledge the specific routing of the line.

**B. Procedure for Certification of Transmission Line**

*1. EFSC Jurisdiction of Transmission Line Routing*

Before the Company can begin construction, it must obtain a site certificate issued by Oregon's Energy Facility Siting Council ("EFSC")—a part of the Oregon Department of Administrative Affairs.<sup>7</sup> This certificate authorizes the construction of the proposed transmission line along the route approved by the EFSC.<sup>8</sup> Thus, the ultimate decision as to the siting and routing of the proposed B2H line resides with EFSC and not the Commission.

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<sup>5</sup> *In the Matter of Idaho Power Company 2009 Integrated Resource Plan*, Docket LC 50, Application (Dec. 30, 2009).

<sup>6</sup> *Re Least-cost Planning for Resource Acquisitions*, Docket UM 180, Order 89-507, 102 P.U.R.4th 301, 1989 WL 418453 (April 20, 1989) ("Order No. 89-507"); and *In the Matter of Public Utility Commission Investigation Into Integrated Resource Planning*, Docket UM 1056, Order No. 07-002 (Jan. 8, 2007) ("Order No. 07-002").

<sup>7</sup> ORS 469.320(1) and ORS 469.450(1).

<sup>8</sup> ORS 469.401(1).

1 Oregon statutes allow extensive public participation in the EFSC siting process. The  
2 EFSC is required to hold public meetings in the area affected by the siting proposal and  
3 elsewhere as deemed appropriate.<sup>9</sup> In addition to the public hearings, the EFSC is also  
4 required to conduct a public contested case hearing.<sup>10</sup> Any party that participates in the  
5 public hearings may be authorized to participate in the contested case proceeding.<sup>11</sup>

6 2. *Satisfying EFSC "Need" Showing through Commission*  
7 *Acknowledgement of Least Cost Plan.*

8 The EFSC will issue a site certificate authorizing the construction of a transmission  
9 line ("non-generating facility") only after the Company demonstrates a need for the facility  
10 in accordance with EFSC's least-cost plan rule.<sup>12</sup> The requirements of the least-cost plan  
11 rule can in turn be met through a Commission acknowledgement of the resource in the  
12 Company's "least cost plan" or, as currently named, IRP.<sup>13</sup> In this case, Idaho Power  
13 hopes to satisfy EFSC's least cost plan rule's requirement through an acknowledgement  
14 of its 2009 IRP in this docket.<sup>14</sup>

15 Following the issuance of the siting certificate by the EFSC, the Company must then  
16 seek a Certificate of Public Convenience and Necessity ("CPNC") from the Commission.<sup>15</sup>

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19 <sup>9</sup> ORS 469.370(2).

20 <sup>10</sup> ORS 469.370(5).

21 <sup>11</sup> *Id.*

22 <sup>12</sup> OAR 345-023-0005(1).

23 <sup>13</sup> OAR 345-023-0020(2).

24 <sup>14</sup> If the Commission acknowledges the Company's proposed plan, however, that does not mean that  
25 the EFSC will automatically issue a site certificate and authorize construction along the route  
26 proposed by the Company. A demonstration of need is only one of many requirements the Company  
must satisfy before issuance of the site certificate. See ORS 469.310 (siting decisions must be  
consistent with the health and welfare of the people of Oregon); OAR 345-022-0000 to 345-022-0120  
(general standards for siting facilities).

<sup>15</sup> See ORS 758.015.





1 outright—if granting the intervention unreasonably (1) broadens the issues; (2) burdens  
2 the record; or (3) delays the proceedings.<sup>22</sup> Here, the Joint Petitioners’ petition states  
3 clearly that they intend to raise issues related to the routing of proposed transmission  
4 lines—an issue not before the Commission in this docket.<sup>23</sup>

5 The purpose of an IRP proceeding is to “assure an adequate and reliable supply of  
6 energy at the least cost to the utility and its customers consistent with the long-run public  
7 interest.”<sup>24</sup> To accomplish this goal, utilities are required to file plans that include specific  
8 procedural and substantive elements outlined in Order No. 07-002. In that Order the  
9 Commission adopted thirteen guidelines utilities must follow when filing an IRP. In  
10 describing IRP requirements for transmission projects, the Commission’s guidelines state  
11 that the utility must include cost information for the proposed transmission project, as well  
12 as, possible alternatives to the proposed project.<sup>25</sup> The Commission’s orders do not  
13 require detailed routing information nor is a determination of the route appropriate for an  
14 IRP proceeding. In fact, the Commission noted that “To keep the IRP process separate  
15 from the procurement process, we prefer to acknowledge general, not specific, resources  
16 in the IRP process.”<sup>26</sup>

17 On the other hand, the EFSC is specifically tasked with determining the appropriate  
18 route for any new transmission project.<sup>27</sup> That proceeding is the proper forum for Joint  
19 Petitioners’ to challenge the proposed route.

20 The Commission has recognized that routing determinations are not proper issues  
21 for IRP proceedings. In a NW Natural IRP docket, several property owners intervened

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22 <sup>22</sup> ORS 756.525(2) and OAR 860-012-0001(2).  
23 <sup>23</sup> Petitions at 2.  
24 <sup>24</sup> Order No. 89-507 at 8.  
25 <sup>25</sup> Order No. 07-002 at 13.  
26 <sup>26</sup> Order No. 07-002 at 25; see also Prehearing Conference Memorandum at 1.  
27 <sup>27</sup> See generally ORS 469.300-469.563, 469.590-469.619, and 469.930-469.992.

1 and objected to the South Mist Pipeline Extension included in the proposed IRP.<sup>28</sup> The  
2 intervenors argued the extension was a wrong choice for resource acquisition and raised  
3 several issues regarding the EFSC process and the proposed route for the pipeline.<sup>29</sup> In  
4 addressing the issues raised by those intervenors, the Commission ruled that their  
5 comments reflected “arguments more appropriately raised in the EFSC site certification  
6 process” and not the IRP proceeding.<sup>30</sup>

7 Here, one of Joint Petitioners’ primary purposes is to oppose a specific routing of the  
8 transmission line and they have indicated their clear intent to raise this issue in this  
9 proceeding.<sup>31</sup> Because this IRP proceeding is focused on the determination of the need  
10 for the B2H line and not its route, intervention should be properly limited to the issue of the  
11 necessity for the transmission line and not to its route.

12 If Joint Petitioners are allowed to intervene without the conditions the Company  
13 seeks, the scope of the proceeding may be unreasonably broadened to include issues not  
14 relevant to an IRP proceeding. Moreover, Joint Petitioners may participate in the routing  
15 decision through the Company’s EFSC proceeding. For this reason, granting intervention  
16 subject to the condition that Joint Petitioners not raise issues related to transmission line  
17 routing will not preclude MIP or Ms. Peyron from challenging the routing decision; it will  
18 simply require them to do so in the proper forum.

#### 19 IV. Conclusion

20 Idaho Power welcomes Joint Petitioners’ participation in this docket on all issues  
21 relevant to the Commission’s investigation. The integrity of the IRP process, however,  
22 requires that the scope of the proceeding be limited to relevant issues properly before the

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23 <sup>28</sup> *In the Matter of the Investigation into Least-Cost Planning for Resource Acquisition by NW Natural*,  
24 Docket LC 29, Order No. 00-782 (Dec. 11, 2000) (“Order No. 00-782”).

25 <sup>29</sup> Order No. 00-782 at 5-6.

26 <sup>30</sup> Order No. 00-782 at 8.

<sup>31</sup> Petitions at 2.

1 Commission. For this reason the Company requests that the ALJ limit the scope of the  
2 intervention by allowing Joint Petitioners' intervention subject to the condition that they not  
3 raise issues related to the transmission line routing in this docket.

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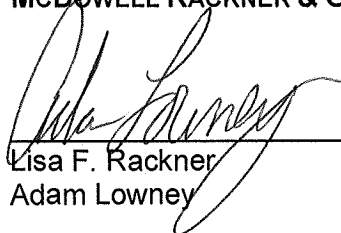
5 Respectfully submitted this 19<sup>th</sup> day of February, 2010.

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**MCDOWELL RACKNER & GIBSON PC**

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