

BEFORE THE OREGON PUBLIC UTILITIES COMMISSION

LC 50

In the Matter of

**IDAHO POWER COMPANY
2009 Integrated Resource Plan**

**MOTION FOR CONTESTED
CASE HEARING ON
ACKNOWLEDGEMENT OF
BOARDMAN-HEMINGWAY
TRANSMISSION LINE IN IPC
LEAST COST PLAN**

Move Idaho Power (MIP) and Nancy Peyron move that the Commission conduct as a contested case the portion of this proceeding addressing the inclusion of a Boardman-Hemingway transmission line in the least-cost plan Idaho Power Company (IPC) proposes for acknowledgement. A contested case includes the opportunity for discovery, presentation of sworn testimony, a decision based on the evidence, and opportunity for judicial review.

The Energy Facility Siting Council (EFSC) is required by law to conduct energy facility siting proceedings as contested cases. ORS 469.370(4)-(5)A central determination in a siting case is whether the proposed facility is needed. ORS 469.601(1)(L). EFSC has adopted a rule that allows the agency to bypass contested case procedures in making the need determination, if the Oregon Public Utility Commission (OPUC) has acknowledged the facility, or a similar facility, in a least-cost plan process. OAR 345-023-0020. This appears to be an unlawful circumvention of statutory requirements upon EFSC, as it deprives opponents of a facility the contested case process guaranteed by law.

ORS 469.501(1)(L) does allow EFSC to "consider least-cost plans when adopting a need standard or in determining whether an applicable need standard has been

met." But that subsection does not excuse EFSC from conducting a contested case hearing to do that consideration or to make the need determination. Nor does it authorize EFSC to make a least-cost plan acknowledgement by the OPUC conclusive on that determination. It does not authorize the rule that EFSC has adopted.

A party may argue, however, that this circumvention does not deprive opponents of a facility of their statutory rights, because this Commission has authority to conduct its least-cost plan acknowledgement proceeding, or a part of it, as a contested case. The Commission is not likely to undertake such a contested case, unless it is requested.

MIP and Nancy Peyron so request and move that the portion of this docket involving acknowledgement of a Boardman-Hemingway transmission line, or any similar transmission line, be conducted as a contested case.

Dated: March 2, 2010

Respectfully Submitted,

/s/ Milo Pope

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing MOTION FOR CONTESTED CASE HEARING ON ACKNOWLEDGEMENT OF BOARDMAN-HEMINGWAY TRANSMISSION LINE IN IPC LEAST COST PLAN by mailing a copy properly addressed with first class postage to every address listed on the service list on the docket website this date for which paper service has not been waived:

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I further certify that I also served the same document by electronic mail, pursuant to OAR 860-013-0070(4), on every email address listed this date on the service list on the docket website (in addition to puc.filingcenter@state.or.us).

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