



LAUREN RICHARDS
Main (503) 595-3922
lauren@mrg-law.com

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VIA E-MAIL TO

Public Utility Commission of Oregon
Filing Center
201 High Street SE, Suite 100
Salem, Oregon 97301-3398

Re: Docket UE 426 – In the Matter of Idaho Power Company, Request for a General Rate Revision

Attention Filing Center:

Attached for filing in the above-referenced docket, please find Idaho Power Company's Objection to Oregon Irrigation Pumpers Association, Inc.'s Petition to Intervene.

Please contact this office with any questions.

Sincerely,

Lauren Richards
Legal Assistant
McDowell Rackner Gibson PC

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 426

In the Matter of
IDAHO POWER COMPANY,
Application for a General Rate Revision

**IDAHO POWER COMPANY'S
OBJECTION TO OREGON IRRIGATION
PUMPERS ASSOCIATION, INC.'S
PETITION TO INTERVENE**

1 Pursuant to OAR 860-001-0300(5), Idaho Power Company (“Idaho Power” or the
2 “Company”) respectfully submits this objection (“Objection”) to the petition to intervene (“Petition”)
3 of the Oregon Irrigation Pumpers Association, Inc. (“OIPA”) filed on April 23, 2024, and
4 supplemented on April 26, 2024.

5 Given the late timing of OIPA’s Petition, the established procedural schedule in this
6 docket, and the fact that the parties have reached a settlement in principle, OIPA’s participation
7 in this case would necessarily and unreasonably broaden the scope of issues, burden the record,
8 and delay this proceeding. Accordingly, Idaho Power recommends that the Public Utility
9 Commission of Oregon (“Commission”) deny OIPA’s Petition. If the Commission is nonetheless
10 inclined to grant OIPA’s Petition, the Commission should limit the scope of OIPA’s intervention to
11 avoid unduly broadening and burdening this proceeding—and to avoid the delays that would
12 necessarily follow if OIPA were permitted to raise new issues at this late stage. To achieve this
13 end, if OIPA is permitted to intervene, Idaho Power recommends that the scope of OIPA’s
14 participation in this docket should be limited to only participating in the resolution of the one
15 remaining issue that has not been settled.

I. BACKGROUND

16
17 Idaho Power initiated this proceeding on December 12, 2023, when it filed a Notice of Use
18 of General Protective Order, and shortly thereafter the Company filed its Application for a General

1 Rate Revision and testimony on December 15, 2023. On December 19 and 20, 2023, Idaho
2 Power published notices in several newspapers within its service area and between January 8
3 and February 5, 2024, the Company issued bill inserts to all customers. The Oregon Citizens'
4 Utility Board ("CUB") filed its notice of intervention on December 21, 2023, J. R. Simplot Company
5 ("Simplot") filed its petition to intervene on January 2, 2024, and Community Energy Project
6 ("CEP") filed its petition to intervene on February 28, 2024 (collectively, the "Parties").

7 The Commission held a properly noticed prehearing conference on January 9, 2024,
8 which was attended by Idaho Power, Staff, CUB, Simplot, and CEP. At the prehearing conference
9 the Parties agreed on a procedural schedule that was memorialized in Administrative Law Judge
10 ("ALJ") Mellgren's Memorandum issued on January 12, 2024. The deadline to file a petition to
11 intervene was on March 11, 2024, and the deadline to file intervenor testimony was on March 25,
12 2024.

13 Consistent with the schedule, the Parties have been fully engaged in this proceeding, and
14 have conducted discovery, held workshops and settlement conferences, which culminated in the
15 filing of a Motion to Suspend the Procedural Schedule on April 24, 2024, indicating that the Parties
16 had reached a settlement in principle that resolved all the issues in this case, except for one
17 remaining issue, which will be addressed at a settlement conference scheduled for May 6, 2024.
18 ALJ Mellgren granted the Motion to Suspend the Procedural Schedule on April 24, 2024.

19 OIPA filed its Petition approximately a month and a half after the deadline for petitions to
20 intervene. In its Petition, OIPA did not acknowledge the late timing for its request or provide any
21 explanation of why it could not intervene in the case sooner. As a result, ALJ Mellgren directed
22 OIPA to file additional information, which was provided by OIPA on April 26, 2024.

23 **II. LEGAL STANDARD**

24 The procedural schedule for a major case, such as this one, typically includes a requested
25 deadline for filing a petition to intervene. By statute, however, a person may file a petition to

1 intervene any time before the close of the evidentiary record.¹ The requested deadline is included
2 “because it is helpful if parties are identified early in the proceedings.”² In accordance with ORS
3 756.525(2) and OAR 860-001-0300(6), the Commission may grant a petition filed before the close
4 of the evidentiary record provided that doing so will not unreasonably broaden the issues, burden
5 the record, or delay the proceedings. Additionally, the Commission may grant a petition to
6 intervene subject to conditions to ensure that the party’s participation will not unreasonably
7 broaden the issues or burden the record, and otherwise may deny the petition.³ The Commission
8 has also considered whether the petitioning party has established good cause to support a late
9 intervention, and has denied a petition where the intervention would broaden the issues and
10 burden the proceeding, and where the petitioner does not provide any reason justifying a late
11 intervention.⁴

12 III. ARGUMENT

13 A. OIPA’s participation will undoubtedly broaden the issues, burden the record, and 14 delay the proceeding.

15 Given the significant progress that the Parties have made in resolving disputed issues in
16 this case, including reaching a settlement in principle, OIPA’s intervention would necessarily
17 broaden the issues, burden the record, and delay the proceeding. The procedural schedule in
18 this case does not allow for new issues to be raised at this time. The deadline to file a petition to
19 intervene passed on March 11, 2024, and intervenor testimony was due on March 25, 2024. Staff,
20 CUB, and CEP have all filed opening testimony and the Parties have been engaged in productive
21 settlement negotiations. At this stage in the proceeding, the issues in dispute among the Parties
22 have been identified and narrowed, and the Parties are quickly moving toward resolution of all

¹ ORS 756.525(2).

² *In the Matter of Nw. Natural Gas Co., dba NW Natural, Request for a Gen. Rate Revision*, Docket UG 344, Prehearing Conference Memorandum at 2 (Feb. 2, 2018).

³ ORS 756.525(2).

⁴ *In the Matter of the Revised Tariff Schedules in Or. filed by PacifiCorp, dba Pac. Power and Light Co.*, Docket UE 111, Order No. 00-427 at 3 (Aug. 7, 2000).

1 issues. The introduction of new issues at this late time will significantly detract from the work
2 among Parties that has already taken place.

3 In Order No. 00-427, the Commission addressed a similarly late-filed petition to intervene,
4 which occurred after testimony and stipulations had been filed. In that case, the Commission
5 denied the intervention, noting that it would undoubtedly “raise issues that should have been
6 addressed in discovery, direct testimony, and settlement conferences.”⁵ So too here. OIPA’s
7 Supplement indicates that it will challenge the proposed rate spread and the validity of the
8 Company’s class cost of service study.⁶ The time to challenge these issues, however, has
9 passed.

10 **B. OIPA’s participation will undermine the Parties’ settlement.**

11 OIPA claims that it “does not want to blow up the apparent settlement,” while seeking
12 permission to intervene specifically to potentially challenge the settlement.⁷ Allowing untimely
13 intervention at this late stage in order to disrupt an agreed upon settlement that is being finalized
14 will have a chilling effect on future settlement discussions. Parties participate in settlement
15 discussions with the confidence that other parties are acting in good faith and that compromise
16 with each other can resolve the disputed issues in the case. If subsequent late coming intervenors
17 can challenge a settlement after the fact, then parties will have less confidence in the settlement
18 process, making future settlements more difficult. Therefore, OIPA’s untimely intervention should
19 be denied.

20 **C. OIPA failed to justify its late-filed Petition.**

21 OIPA has failed to show good cause to support its late Petition. Idaho Power filed its case
22 on December 15, 2023. In addition to the notices provided by the Commission, Idaho Power also
23 published a display advertisement announcing the general rate revision in the following

⁵ *Id.* at 2.

⁶ Supplement to the Oregon Irrigation Pumpers Association, Inc.’s Petition to Intervene at 1-2 (hereinafter “Supplement”).

⁷ Supplement at 2.

1 newspapers of general circulation in the communities served by Idaho Power Company: 1) Argus
2 Observer – Ontario, Oregon; 2) Hells Canyon Journal – Halfway, Oregon; 3) Baker City Herald –
3 Baker City, Oregon; 4) Malheur Enterprise – Vale, Oregon. The Ad ran on Tuesday, December
4 19, 2023, in the Argus Observer, and on Wednesday, December 20, 2023, the Ad ran in the Hells
5 Canyon Journal, the Baker City Herald, and the Malheur Enterprise. The Company also sent bill
6 inserts to all Oregon customers, including irrigators, in bills issued between approximately
7 January 8, 2024, and February 5, 2024.

8 OIPA claims that its members “generally became aware” of the case and met for the first
9 time in early April—three-and-a-half months after the case was filed and initial notices were
10 published.⁸ After that initial meeting, OIPA inexplicably waited another three weeks to file its
11 Petition. OIPA’s explanation for its late filing is inadequate and does not demonstrate good cause
12 for its intervention.

13 **D. If intervention is granted, it should be limited to only the remaining issue in dispute.**

14 If the Commission is inclined to allow OIPA to participate as a party in this case, then its
15 participation should be subject to the condition that it is limited to addressing only the remaining
16 issue in dispute. Allowing OIPA to participate in future settlement discussions of the remaining
17 issue is less likely to unreasonably broaden the issues or delay the case.⁹ Therefore, imposing
18 this condition on OIPA’s intervention is reasonable.

19 **V. CONCLUSION**

20 Idaho Power is interested in expeditiously working with the Parties toward resolving the
21 pending matter. The Company emphasizes the substantial progress made in this case and the
22 detrimental effects that a late intervention would pose. Therefore, Idaho Power recommends that
23 the Commission deny OIPA’s Petition given the late timing in this proceeding. To the extent the

⁸ Supplement at 1.

⁹ Limiting OIPA’s participation to only the remaining issue in dispute would also include limiting OIPA’s right to discovery, submission of testimony, and participation in any evidentiary hearing or oral argument.

- 1 Commission decides to grant OIPA's Petition, Idaho Power requests that OIPA's participation
- 2 should be limited in scope, and that OIPA's participation should not result in any modifications to
- 3 the existing procedural schedule.

Dated May 1, 2024.

MCDOWELL RACKNER GIBSON PC



Jocelyn Pease
419 SW 11th Avenue, Suite 400
Portland, Oregon 97205
Telephone: (503) 290-3620
Email: jocelyn@mrq-law.com

Lisa Nordstrom
Idaho Power Company
1221 W. Idaho Street
P.O. Box 70
Boise, ID 83707-0070

Attorneys for Idaho Power Company