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IDAHO PUBLIC
UTILITIES COMMISSION

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May 20, 2015

VIA HAND DELIVERY

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
Boise, Idaho 83702

Re: Case Nos. IPC-E-15-01, AVU-E-15-01, and PAC-E-15-03
Modify Terms and Conditions of PURPA Purchase Agreements – Idaho
Power Company's Objection and Motion in Opposition to Ecoplexus, Inc.'s
Petition to Intervene

Dear Ms. Jewell:

Enclosed for filing in the above matter please find an original and seven (7)
copies of Idaho Power Company's Objection and Motion in Opposition to Ecoplexus,
Inc.'s Petition to Intervene.

Very truly yours,

Donovan E. Walker

DEW:csb
Enclosures

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UTILITIES COMMISSION

Attorney for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER)	
COMPANY'S PETITION TO MODIFY)	CASE NO. IPC-E-15-01
TERMS AND CONDITIONS OF PURPA)	
PURCHASE AGREEMENTS)	
_____)	
IN THE MATTER OF AVISTA)	
CORPORATION'S PETITION TO)	CASE NO. AVU-E-15-01
MODIFY TERMS AND CONDITIONS OF)	
PURPA PURCHASE AGREEMENTS)	
_____)	
IN THE MATTER OF ROCKY MOUNTAIN)	
POWER COMPANY'S PETITION TO)	CASE NO. PAC-E-15-03
MODIFY TERMS AND CONDITIONS OF)	
PURPA PURCHASE AGREEMENTS)	IDAHO POWER COMPANY'S
)	OBJECTION AND MOTION IN
)	OPPOSITION TO ECOPLEXUS,
)	INC.'S PETITION TO INTERVENE
_____)	

COMES NOW, Idaho Power Company ("Idaho Power" or "Company"), pursuant to Idaho Public Utilities Commission ("Commission") Rules of Procedure 73 and 75, and hereby objects to Ecoplexus, Inc.'s ("Ecoplexus") Petition to Intervene filed on May 12, 2015. The basis for Idaho Power's objection is as follows:

I. BACKGROUND

Idaho Power filed its Petition, as well as the accompanying direct testimony of two witnesses, Lisa Grow and Randy Allphin, on January 30, 2015. On February 6, 2015, the Commission issued Order No. 33222, Notice of Petition and Notice of Intervention Deadline. This Order set an intervention deadline of February 20, 2015. Additionally, on March 13, 2015, the Commission issued Order No. 33250, by which it consolidated the petitions of Rocky Mountain Power Company ("Rocky Mountain Power") and Avista Corporation ("Avista") with Idaho Power's Case No. IPC-E-15-01. This Order also directed that all parties granted intervenor status in Idaho Power's case would be designated as parties in Rocky Mountain Power's and Avista's cases, and that any other persons desiring to intervene in the Rocky Mountain Power and Avista matters should file petitions to intervene no later than March 27, 2015.

On March 18, 2015, the Commission issued Order No. 33253, by which it granted clarification of its previously directed interim relief, adopted a procedural schedule for the filing of direct and rebuttal testimony, and scheduled the technical hearing for this proceeding. The Commission ordered that Staff and Intervenors file direct testimony no later than April 23, 2015, and that Staff and Intervenors file rebuttal testimony no later than May 14, 2015. The utilities were directed to file rebuttal testimony no later than June 11, 2015. The Commission scheduled the technical hearing in this matter for June 29, June 30, and July 1, 2015.

On May 7, 2015, the Commission issued Notice of Public Customer Hearings for this proceeding. The Commission scheduled two public customer hearings: one in person on June 24, 2015, and one telephonic on June 30, 2015.

Ecoplexus submitted its untimely Petition to Intervene on May 12, 2015, well after the February 20, 2015, deadline for intervention in Idaho Power's Case No. IPC-E-15-01, and well after the March 27, 2015, deadline for intervention in Rocky Mountain Power's and Avista's cases.

II. ARGUMENT

RP 73 sets forth timeliness requirements for petitions to intervene in a Commission proceeding. The Rule states:

Petitions not timely filed must state a substantial reason for delay. The Commission may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition.

Idaho Power objects to the untimely Petition to Intervene filed by Ecoplexus for failure to state good cause for its untimely filing, disruption of the proceedings, prejudice to existing parties, and unduly broadening of the issues in the case. In the alternative, should the Commission be inclined to grant Ecoplexus's Petition to Intervene in the case, the Commission should substantially limit Ecoplexus's participation to that of an Interested Person and Public Witness as defined by RP 39 and RP 76.

A. The Petition to Intervene Should be Denied for Failure to State Good Cause for the Untimely Filing.

In this case, the time for which petitions to intervene must be filed was set by Order No. 33222 as February 20, 2015—nearly 3 months ago. Pursuant to RP 73, petitions filed after that date must state a substantial reason for delay. Ecoplexus acknowledges that its Petition to Intervene “is not timely pursuant to Order No. 33222.” Petition to Intervene at 2. Ecoplexus states as the sole basis for its delay and

untimeliness that it was not aware of the proceeding: “Ecoplexus was not aware of this proceeding until recently. Ecoplexus’s participation will not broaden the issues, delay the proceedings or result in prejudice to any party.” Petition to Intervene at 2.

Despite its statement that it was not aware of this case, the fact is that Ecoplexus was specifically and expressly informed of Idaho Power’s filing, including the case number, on February 2, 2015. Idaho Power filed its Petition on Friday, January 30, 2015, and informed Ecoplexus in writing on the very next business day, Monday, February 2, 2015. Please see Attachment 1, incorporated herein by this reference, which is a copy of the February 2, 2015, letter from Idaho Power to Ecoplexus.

Ecoplexus’s failure to read and comprehend the issues raised in the Company’s January 30, 2015, petition and direct testimony is not a substantial reason for delay under Rule 73. Ecoplexus had notice of the issues in this case for over three months, and has been in continued correspondence with Idaho Power, both before and after the February 2, 2015, letter attached hereto as Attachment 1. The Petition to Intervene fails to describe why Ecoplexus delayed until this late time, when the evidentiary submissions from Staff and the intervening parties are now closed (as of May 14, 2015) to seek intervening party status.

Ecoplexus had ample time to review the testimony and make a determination regarding whether the case would impact them prior to the February 20, 2015, intervention deadline. Instead, Ecoplexus put off filing for intervention until a couple of days before the deadline for Staff and Intervenor rebuttal testimony. Ecoplexus’s failure to adequately assess the issues and make a timely determination, even though all information needed to make such an assessment was publicly available for more than three months, does not constitute good cause for delay. The Commission should deny

the Petition to Intervene because a potential party's inability to ascertain whether issues will impact it is not a substantial reason for untimely filing. Ecoplexus's only explanation for being late is that it "was not aware of this proceeding until recently." This clearly is not the case, as shown in Attachment 1. Consequently, the Petition to Intervene fails to "state a substantial reason for delay" as required by RP 73, and must therefore be denied.

B. The Commission Should Deny the Petition for Late Intervention Because It Will Disrupt the Case, Prejudice the Parties, and Unduly Broaden the Issues.

Ecoplexus's significant delay in filing for intervention will disrupt the proceedings, prejudice existing parties, and unduly broaden the issues in the case.

Ecoplexus has chosen to intervene so late in the proceedings that such intervention cannot be accommodated without disruption in the case. Notably, Ecoplexus filed its Petition to Intervene well after the deadline for Staff and Intervenor direct testimony, and just two days before the deadline for Staff and Intervenor rebuttal testimony. This very objection to its late-filed Petition to Intervene is due just three business days after the due date for Intervenor rebuttal testimony, during the time in which the utilities are to prepare rebuttal to all other parties' direct and rebuttal testimony submissions, which is due by June 11, 2015. Idaho Power, as well as the other parties to this proceeding have devoted significant time and energy toward preparing their respective testimonies and legal positions (as well as all other aspects of this case) and Ecoplexus's filing now requires parties to divert their attention from preparing this case, and preparing for hearing, in order to object to Ecoplexus's untimely Petition to Intervene. This alone is a substantial disruption and hardship.

Additionally, due to the proximity of the filing of the petition seeking late intervention to the deadline for Staff and Intervenors to file rebuttal testimony, there is no way to allow Ecoplexus to participate without modifying the schedule, or allowing untimely submissions, which disadvantages all other parties to the proceeding. In addition, Ecoplexus's late request will also disrupt the case as, if granted, its attorney will need to be afforded the opportunity to participate in the hearing, including cross-examining the utilities' witnesses. This will require additional time at the technical hearing; thus, disrupting the case. The Commission should not disrupt these proceedings simply to accommodate Ecoplexus's untimely request and should deny its request for intervention.

Similarly, this extremely late filing prevents the opportunity for discovery and timely assessment of issues as they may relate to Ecoplexus and the impact its intervention could have on the pending case. At this point in the case, when discovery is complete and the parties are wrapping up their issues for the Commission, it is highly prejudicial to allow a new potential party to join. The hearing in this case is set for June 29, 2015, and the time designated for Staff and Intervenors to submit testimony has passed. This proceeding is nearing the tail end of a very involved case and it is detrimental to current parties in the case to allow an extremely late filed intervenor to enter the fray.

Furthermore, the inclusion of Ecoplexus is likely to unduly broaden the issues in the case. Ecoplexus states that its intervention will not broaden the issues, delay the proceedings, or result in prejudice to any party. However, one of the Petition to Intervene's stated issues is to "introduce evidence, cross-examine witnesses, call and examine witnesses, and be heard in argument." Petition to Intervene at 2. It is unclear

how Ecoplexus can maintain that its interests are not protected and yet it will protect those interests without introducing new issues in the case. Ecoplexus affirmatively states it wishes to raise new issues in the case relative to “grandfathered” entitlement to previous terms and conditions. Petition to Intervene at 3. This constitutes broadening of the issues, which is contrary to allowing late intervention.¹ Ecoplexus is a solar developer. Several other solar developers have already timely intervened in this proceeding, submitted testimony, and will participate at the hearing. Because Ecoplexus is similarly situated to several other parties in this proceeding, it is likely that its interests will be adequately represented by other parties to this proceeding.

In light of the burdensome nature of the request, its disruption of proceedings, prejudice to other parties, expansion of issues, and Ecoplexus’s failure to promptly address issues raised in Idaho Power’s January 30, 2015, Petition and direct testimony, which was specifically brought to Ecoplexus’s attention on the very next business day, is not an adequate, much less a substantial, reason for delay that justifies granting the petition for late intervention. Accordingly, the Commission should deny Ecoplexus’s request for intervention.

C. If the Commission is Inclined to Grant the Petition to Intervene, Ecoplexus Should be Granted the Status of “Interested Person” and “Public Witness” Rather Than That of a “Party.”

In the alternative, if the Commission is inclined to grant the untimely Petition to Intervene, in order to mitigate the adverse effects on existing parties to the case, the Commission should limit Ecoplexus’s involvement to that of an “interested person” and

¹ As this Objection was being prepared, Ecoplexus, on May 18, 2015, submitted a motion to admit testimony and direct testimony. In this testimony, Ecoplexus clearly intends to broaden the scope into issues of legally enforceable obligation and grandfathering. Idaho Power intends to separately object to the motion and testimony and will do so within the next seven days.

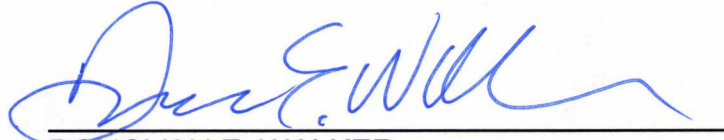
a “public witness” pursuant to the Commission Rules of Procedure 39 and 76. RP 39 allows for the participation and the receipt of Notice, in administrative proceedings by entities that are not parties to the case but are “interested persons.” RP 39. RP 76 provides that persons that are not parties and not called by a party to testify can participate in a Commission proceeding and have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, but otherwise do not have parties’ rights to examine witnesses or otherwise participate in the proceedings. Public Witnesses’ written or oral statements and exhibits are subject to examination and objection. If the Commission is inclined to allow Ecoplexus to participate in this proceeding, it should grant Ecoplexus “interested person” status to allow notice and service upon Ecoplexus—and grant “public witness” status to Ecoplexus, allowing it to submit written comments prior to the completion of the technical hearing, the anticipated time when the evidentiary record in this case will close. Allowing participation as an “interested person” and “public witness” strikes an appropriate balance from a due process standpoint as it will allow Ecoplexus an opportunity to provide evidentiary submissions into the record without unduly prejudicing other parties and disrupting the case.

III. CONCLUSION

Because Ecoplexus has not shown good cause or a substantial reason for the untimely filing of the Petition to Intervene, and because granting the Petition to Intervene at this late date would create disruption, prejudice, and unduly expand the issues, Idaho Power respectfully requests that the Commission deny the Petition to Intervene. In the alternative, if the Commission is inclined to grant the Petition to Intervene, Idaho Power respectfully requests that the Commission substantially limit

Ecoplexus's participation to that of an interested person and public witness as defined by RP 39 and RP 76.

Respectfully submitted this 20th day of May 2015.



DONOVAN E. WALKER
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of May 2015 I served a true and correct copy of IDAHO POWER COMPANY'S OBJECTION AND MOTION IN OPPOSITION TO ECOPLEXUS, INC.'S PETITION TO INTERVENE upon the following named parties by the method indicated below, and addressed to the following:

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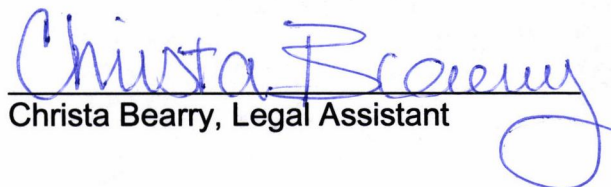
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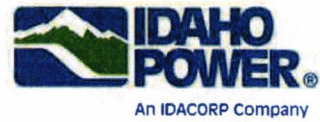

Christa Barry, Legal Assistant

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION**

**CASE NOS. IPC-E-15-01,
AVU-E-15-01, AND PAC-E-15-03**

IDAHO POWER COMPANY

ATTACHMENT 1



February 2, 2015

Ecoplexus, Inc.
Attn: Nathan Rogers
650 Townsend Street, Suite 310
San Francisco, CA 94103

Sent Via: Email (nrogers@ecoplexus.com, jkay@ecoplexus.com), U.S. Mail

Subject: Proposed Indicative Pricing for Mountain Home PV1

Dear Mr. Rogers,

As you are aware, on January 30, 2015, Idaho Power provided, via e-mail, 2 years of indicative pricing for your proposed PURPA solar project in compliance with the approved Idaho Power Schedule 73 process. On January 30, 2015 and on February 1, 2015 Idaho Power received e-mails from your organization requesting additional indicative pricing for a 20 year period. As your proposed PURPA solar project is over 100 kW, the price, terms, and conditions of the proposed PURPA sale to Idaho Power must be negotiated and subsequently approved or rejected by the Idaho Public Utilities Commission ("IPUC"). Idaho Power is proposing a term of two-years, and thus has forwarded an indicative pricing proposal consistent with the same.

In the last eleven orders issued by the IPUC approving PURPA solar Energy Sales Agreements the IPUC has questioned the continued acquisition of such large amounts of PURPA generation when there is no associated need for that generation on Idaho Power's system – and concern for passing those substantial costs on to Idaho Power customers. The IPUC concluded in each of those Orders expressing its concern about Idaho Power's ability to continue to take such large amounts of intermittent generation, and stated that "avoided cost rates are not the only terms to a PURPA contract" and that "The utilities are in the best position to inform the Commission if review of additional PURPA contract terms and conditions is warranted." On January 30, 2015 Idaho Power filed with the IPUC a petition requesting the IPUC to modify terms and conditions of prospective PURPA Energy Sales Agreements (IPUC Case No. IPC-E-15-01).

Idaho Power is not willing to lock-in rates for a twenty-year term for your proposed project when there is currently no need for new generation resources on Idaho Power's system. Idaho Power is proposing a term of two years, and thus has forwarded an indicative pricing proposal consistent with the same. Upon expiration of a PURPA Energy Sales Agreement, a PURPA project may request a replacement

Energy Sales Agreement that will be in compliance with the PURPA rules and regulations applicable to Idaho Power at that time.

Please don't hesitate to contact me with any comments, questions, concerns, etc.

Sincerely,

A handwritten signature in blue ink that reads "Michael Darrington". The signature is written in a cursive style with a large, stylized initial "M".

Michael Darrington
Energy Contracts Coordinator, Sr.
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mdarrington@idahopower.com

cc: Donovan Walker (IPC)
Randy Allphin (IPC)
Erik Stuebe (Ecoplexus)
John Gorman (Ecoplexus)