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IDAHO PUBLIC  
UTILITIES COMMISSION

Attorneys for Blaine County

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE PETITION	)	Case No. IPC-E-21-25
OF IDAHO POWER COMPANY FOR	)	
APPROVAL OF A CUSTOMER	)	PETITION OF BLAINE COUNTY
SURCHARGE AND MODIFIED LINE	)	FOR LEAVE TO INTERVENE
ROUTE CONFIGURATION FOR	)	
CONSTRUCTION OF A NEW 138 kV	)	
TRANSMISSION LINE IN THE WOOD	)	
RIVER VALLEY	)	

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Pursuant to Rules 71 through 73 of the Idaho Public Utilities Commission's Rules of Practice and Procedure, IDAPA 31.01.01.71 *et. seq.*, the Blaine County Board of County Commissioners ("Blaine County" or "Board") petitions the Idaho Public Utilities Commission ("Commission" or "Idaho PUC") for leave to intervene. In support of this Petition, Blaine County states as follows:

1. The name and address of Intervenor is:

Blaine County Board of County Commissioners  
206 South 1<sup>st</sup> Ave  
Hailey, ID 83333

2. Blaine County will be represented in this proceeding by Williams Bradbury, P.C. All documents relating to these proceedings should be served on the following persons at the addresses listed:

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3. Blaine County is a body politic and corporate, as established in Idaho Code § 31-109, with all powers conferred on it pursuant to Title 31, Idaho Code, as well as all powers conferred under Idaho's Local Land Use Planning Act, Title 67, Chapter 65.

4. The petition by Idaho Power Company ("IPC" or the "Company") for approval of a surcharge on IPC customers living within Blaine County, and of a modified line route between the towns of Hailey and Ketchum, significantly affects the citizens of Blaine County and their local governmental representative, the Board of County Commissioners. The Board has a direct and substantial interest in this proceeding that will not be adequately represented by any other party. The Board intends to participate in all aspects of this proceeding and will not unreasonably broaden the issues, burden the record, or delay this proceeding. Without the opportunity to intervene herein, the Board would be without a manner or means of participating in the lawful determination of issues which will affect the revised line route and design, and the rates for electric service from the Company to Blaine County homeowners and businesses.

5. The Board respectfully submits this filing as an intervention in support of the Company's petition to levy a surcharge upon IPC customers within Blaine County for the purpose of collecting the funds necessary to reimburse IPC for fully undergrounding its electrical distribution lines between the cities of Hailey and Ketchum and partially undergrounding its redundant transmission line along the same proposed route. The following paragraphs further explain Blaine County's role in this line route permitting process as well as the Board's position of support for the Company's petition.

6. For many years, the Company and local leaders have discussed IPC's perceived need for a redundant transmission line to provide electric service to northern Blaine County, including the cities of Sun Valley and Ketchum. These discussions resulted in a citizen's advisory committee (CAC) that evaluated potential siting for the transmission



line, which resulted in IPC filing a conditional use permit (CUP) application with the County to construct an overhead transmission line running between the cities of Hailey and Ketchum in 2016.

7. In its first CUP application, the transmission line was proposed to be located adjacent to residential areas, along and across Highway 75 within the Scenic Highway Overlay District, through the area of McHanville which includes the St. Luke's Regional Medical Center, and along the Wood River Trails bike path in several areas before going underground as it moves north at the intersection of Highway 75 and Elkhorn Road. The CUP application proposed to replace existing distribution poles and lines along the route with new, larger, poles that would carry both transmission and distribution lines, as well as existing communications line on these new poles. The Company's CUP application would have increased the height of existing pole structures between Hailey and Ketchum anywhere from four to fifteen feet per pole. Additional pole structures were also necessary in some areas, and the combination transmission-distribution line would cross Highway 75 in one location.

8. The Blaine County Planning and Zoning Commission (P&Z Commission) held four public hearings and one public workshop to consider IPC's CUP application on October 13, 2016, October 29, 2016 (workshop), November 10, 2016, December 1, 2016, and January 5, 2017. At the hearings, the P&Z Commission received testimony from proponents of the project, neighbors concerned with their property values, other citizens regarding the need for a redundant transmission line, as well as complaints about the proposed line's aesthetic impact and health hazards. Following deliberations, a majority of the P&Z Commission voted to deny the CUP application after making negative findings on several standards of evaluation set forth in Blaine County Code Section 9-25-3. Specifically, the Commission determined that the proposed transmission line was not in accordance with the Comprehensive Plan, was not harmonious with the character of the area, was hazardous and disturbing to neighboring uses, would create excessive requirements at public cost, and would damage natural and scenic areas of major importance.

9. The Company appealed the P&Z Commission's decision to the Board and the Board, in a 2 to 1 decision, affirmed the P&Z Commission's denial of IPC's CUP on September 12, 2017. In its Decision on Appeal, the Board agreed with the P&Z

Commission's decision and determined that the proposed transmission line did not satisfy conditional use permit criteria relating to compliance with the Comprehensive Plan, compatibility with the existing or intended character of the area, disturbance with neighboring uses, excessive public costs, and damage to areas of scenic importance. More generally, the Board determined that the aesthetic impacts of a new transmission line running through the Highway 75 corridor, which is an area of profound scenic value in Blaine County, far outweighed the improved service that would come with a redundant line.

10. As the zoning proceedings were pending before Blaine County, IPC concurrently sought a Certificate of Public Convenience and Necessity (CPCN) from the Idaho PUC, seeking a determination that the proposed transmission line was necessary in the location and design as proposed by the Company. Because there were active zoning applications pending before it, Blaine County did not participate in the Idaho PUC proceedings on the proposed CPCN, as doing so would lead to the consideration of *ex parte* information as well as potential claims of bias among the County decision-makers. These parallel tracks of Idaho PUC and County proceedings made it impossible for Blaine County to appear before or consult with the Idaho PUC, as required by Idaho Code Section 67-6528, in its consideration of the CPCN.

11. The Idaho PUC approved the Company's CPCN application in Order No. 33872 on September 15, 2017, three days after the Board's decision to affirm the P&Z Commission's denial of the overhead transmission line. The Idaho PUC decision explained that "we approve [Idaho Power's] requested route of overhead transmission from the Wood River substation to the transition point near Elkhorn Road, then underground transmission to the Ketchum substation." Noteworthy in the Idaho PUC's Order of CPCN approval was the Commission's encouragement that "all interested parties [] continue to work together on these issues, as there may still be opportunities to find areas of common interest and common ground, notwithstanding the outcome of this proceeding." IPUC Order No. 33872, p. 13.

12. Following the Board's appeal decision denying the CUP and this Commission's issuance of the CPCN, several mediation sessions were held involving representatives of the Company, the P&Z Commission, and the Board, where several possible solutions were discussed, including undergrounding all lines or a portion thereof,



undergrounding just the transmission line, and various design changes to alleviate visual and aesthetic impacts. Following these mediation sessions, IPC filed a new CUP application for a redundant transmission line on November 20, 2017, which was similar to the original application but relied heavily upon the CPCN authorized by Order NO. 33872. The P&Z Commission held four public hearings on November 13, 2018, November 15, 2018, November 27, 2018, and December 6, 2018 and two mediation workshops on June 1, 2018 and September 6, 2018. At the hearings, the P&Z Commission considered the proposal against its standards of evaluation, while also taking into account the Idaho PUC's approval of the CPCN, and funding considerations in the event undergrounding of the line was pursued.

13. The P&Z Commission conditionally approved the Company's application on January 15, 2019, finding that the proposal conditionally met the standards of evaluation. In laying out conditions of approval, the P&Z Commission adopted a "priorities" approach, which prioritized certain conditions that, in the eyes of the P&Z Commission, would satisfy the various standards of evaluation. The first priority "is to underground the lines, both transmission and distribution, from the Wood River Substation to the Elkhorn light where it would link with the underground infrastructure headed North through Ketchum." If funding was not available to accomplish this condition, then further priorities such as more limited undergrounding, siting adjustments, pole design, and other mitigation were spelled out that would help alleviate the visual impact of the transmission line.

14. Several neighboring property owners appealed the P&Z Commission's decision to the Board, which heard the appeal on May 6, 2019. At the close of the Board's appeal hearing, the Board voted to conditionally approve the CUP application, with the primary condition that the redundant transmission line be undergrounded. In making this determination, the Board explained as follows,

[t]he only condition of approval that would allow it to make positive findings at this time is to underground the entire line from the Wood River Substation to the traffic light at the intersection of Elkhorn Road and Highway 75. Undergrounding the redundant transmission line allows for positive findings on compliance with the Comprehensive Plan, impacts on neighboring uses, potential hazards and disturbances, and permanent damage to areas of vital scenic importance. While imposing such a condition will require difficult discussions on the funding alternatives, the

Board believes that these funding discussions should be fully exhausted before any consideration of an overhead transmission line in this area. Depending upon the results of these funding processes, further consideration and deliberation may be necessary to “continue to work together on these issues, as there may still be opportunities to find areas of common interest and common ground.” *BCC Decision on Appeal dated June 4, 2019, at p.6.*

15. Following the Board’s appeal decision, the County pursued various funding alternatives. As its first step the County considered holding elections for a temporary levy override, a permanent levy override, or an election to incur indebtedness at a much-reduced interest. Surveying demonstrated a majority of Blaine County voters did not support either an override or indebtedness election. The temporary (two year) levy override was unlikely to pass, despite requiring a simple majority, because the County would need to raise \$40 million [IPC’s construction estimate] over the two-year period. Permanent levy and indebtedness elections, both of which require a 2/3 supermajority, were also highly unlikely to pass county-wide.

16. As a second alternative, Blaine County also considered establishment of a local improvement district (LID) for undergrounding in accordance with Idaho Code Title 50, Chapter 25, but exemptions for city parcels and County parcels greater than five acres in size made creation of a LID impractical and unfair as many of those benefitting from the undergrounding would not contribute to the undergrounding cost. On this issue, the County sought legislative amendments to close these loopholes, but County led legislative efforts to make the LID process more fair and equitable failed.

17. Failure of the above-described alternatives led the Board to conclude that it was unlikely that the entire redundant transmission line could be undergrounded at a reasonable cost to Blaine County residents and taxpayers. Therefore, in mid-2020 the County and IPC engaged in a series of additional discussions and negotiations to explore other possible options, “opportunities” and “areas of common interest and common ground”<sup>1</sup> that would maximize the undergrounding of power lines, minimizing aesthetic impacts of those lines, and provide an alternative funding solution. It was over the course of those meetings that IPC and Blaine County pivoted to a possible solution that involved: (i) undergrounding all the distribution lines between Hailey and Ketchum, (ii)

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<sup>1</sup> Id., Order No. 33872



undergrounding a portion of the new transmission line, and (iii) imposing a 3% electric rate surcharge throughout Blaine County to collect the difference between the overhead and underground construction costs.

18. Even though Blaine County and IPC were now back at the table looking for solutions, the Board still felt strongly that the Company's proposals were less than innovative, were aggressive in benefiting IPC shareholders, and were punitive to County residents. Specifically, the Board challenged IPC's cost assumptions in an effort to reduce the overall cost of the undergrounding project, estimated by IPC to be a whopping \$40 million. Second, the County objected to IPC's 9.59% carrying charge<sup>2</sup> applicable to the overhead-underground cost differential. Regarding the construction costs as originally estimated, Blaine County and Idaho Power were able to resolve this issue by further refining and limiting the cost exposure to County ratepayers with a better understanding of how costs would be trued-up to actual construction costs, and that the estimate of the hypothetical overhead only line construction costs would also be trued-up.<sup>3</sup>

19. Little headway was made however regarding IPC's insistence that it recover a 9.59% carrying charge for costs related to the overhead-underground cost differential. Blaine County proposed that because of the unique environmental, aesthetic and wildfire mitigation measures, that the Company should agree to an alternative financing arrangement that would have cut the financing charge by over two-thirds. Specifically, Blaine County asked that Idaho Power debt finance 100% of the cost differential with bonds issued by the Idaho Energy Resources Authority (IERA), similar to two recent financings the IERA just completed for the Bonneville Power Administration (BPA) and the City of Idaho Falls (IF Power). Because the IF Power financing was a sale of tax-exempt bonds, the more appropriate comparison is the BPA bond sale, of \$300+ million in bonds, at a bond yield rate (i.e., carrying charge) of 2.861%.<sup>4</sup> The IF Power bond rate for the long-term portion of the bonds in that transaction was 1.74%.<sup>5</sup> Under the BPA transaction, the IERA issued the bonds to finance certain transmission assets of BPA throughout the Northwest, but then leases those facilities back to BPA, who then operates

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<sup>2</sup> The Company's pre-tax authorized rate of return.

<sup>3</sup> See p. 20 - 23 of IPC Petition to Approve Surcharge.

<sup>4</sup> <https://iera.info/download/BPA-IERA-2021-Transmission-Bonds-OS.pdf>

<sup>5</sup> <https://iera.info/download/IERA-Ida.-Falls-2021-Tax-Exempt-Bonds-OS.pdf>

and maintains them.<sup>6</sup> Bonneville has no problem doing lease financing of transmission facilities that are otherwise integral to its entire transmission system; yet Idaho Power found the financing arrangement objectionable. Had Idaho Power agreed to this alternative financing mechanism to reasonably accommodate the citizens of Blaine County, who have also agreed to be the sole payors for this improvement<sup>7</sup>, it would have allowed for the undergrounding of approximately \$17.6 million of electrical facilities, instead of just \$9.8 million. Alternatively, it would have resulted in a surcharge rate of 1.7%, rather than 3%. Clearly, IPC shareholders were the winners on this carrying charge issue, to the detriment of Blaine County residents who are paying for it.

20. During the fall of 2020, Blaine County held stakeholder meetings to solicit public input on the proposed solution. In addition, the County conducted non-scientific based polling on the question whether County residents would support an electric rate surcharge to pay for the revised underground/overhead electric line plan. Polling indicated general public support for the plan, a similar result to the stakeholder meetings.

21. The Company submitted a modified CUP application on December 23, 2020, which was considered by the Board in two meetings in January and February of 2021, culminating in the Board's signed Findings of Fact, Conclusions of Law, and Decision (Decision) on March 15, 2021. In its Decision, the Board explained the rationale for approving the modified application as follows,

The Board's preferred option is to underground the entire transmission line to best meet both the objections of the Comprehensive Plan and ... P.U.C. Order 33872. The undergrounding of the entire 138kv Transmission Line proved to be cost prohibitive and would therefore cause a significant burden to county residents. However, the Board finds that the modified conditions of approval bring it into compliance with the conditional use permit standards of evaluation and in accordance with the comprehensive plan. The modified conditions meet the comprehensive plan Aesthetic Values within the Scenic Corridor by keeping the height of the new poles similar to the height of the distribution poles along this route today while reducing the number of powerlines from at least 6 to 3. In addition, new poles would not be erected where they do not exist today along Hospital Drive and the bike path north to Elkhorn Rd. While cost was prohibitive for the all-

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<sup>6</sup> The IF Power transaction was similar in concept, except that rather than a lease-back of the facilities from the IERA to IF Power, the transaction was structured as "Transmission Services Agreement" to comply with some unique provisions of Idaho municipal law.

<sup>7</sup> "Q. Who is responsible for the additional costs of the Owl Rock Road route? A. The additional incremental cost[s] of the Owl Rock Road Route [] are to be funded by Blaine County customers." Adelman, DI, p. 20.



underground condition, the partial undergrounding condition is in accordance with the desired outcome of reducing the impact on scenic values and cost to county residents. Based on the conditions attached to this decision and positive conclusions on the other criteria, the Board finds that this application complies with the general goals and objectives of the Comprehensive Plan. The partial undergrounding condition balances the feasibility of fully undergrounding against the reduction of visual impact as stated in the comprehensive plan. *BCC Findings of Fact, Conclusions of Law, and Decision (Decision) dated March 15, 2021, at p. 8.*

22. This finding, as well as several others made by the Board in its Decision, reflect the Board's view that (1) full undergrounding remains the best alternative; (2) the cost and limited funding alternatives available to the Board made full undergrounding unworkable; (3) the modified proposal reduced the overall visual impact of the project by incorporating partial undergrounding, undergrounding distribution lines, and reducing pole numbers; and (4) the modified proposal balanced funding feasibility and reducing visual impacts. More broadly, it reflects the Board's general opposition to the transmission line as well as its grudging acceptance of the modified proposal, including the surcharge, as the best alternative moving forward. In short, the surcharge, partial undergrounding of the transmission line, and full undergrounding of existing distribution lines is far preferable than an overhead transmission line running through the middle of the Wood River Valley's scenic corridor.

23. For years, Blaine County has engaged with IPC on the need for a redundant transmission line serving the northern part of Blaine County, while wrestling with visual impacts that will diminish many of our community's most cherished scenic views. Consideration of the need for the redundant line was made irrelevant by the Idaho PUC's 2017 issuance of the CPCN, but Blaine County still sees promise in using alternative energy sources for resilience and redundancy. Through the County's land use process, detailed above, the County and IPC have worked together "to find areas of common interest and common ground" in the siting and design of the redundant line as well as existing distribution lines. Blaine County has pursued legislative amendments, participated in mediation, run numerous data projections, hired consultants to comb through IPC's cost projections, hired outside counsel to assist it with funding alternatives, financing options, and the PUC proceedings, and participated in numerous meetings and discussions in an attempt to secure the best possible result for the citizens of Blaine County.

24. While it is not ideal, the surcharge and partial undergrounding solution being put forward by IPC represents the most realistic and least intrusive option under the circumstances. It is for this reason that Blaine County supports IPC's request to implement a surcharge to cover the costs of partially undergrounding the proposed transmission and existing distribution lines.

WHEREFORE, Blaine County respectfully requests that the Commission grant its petition to intervene with full party status in this proceeding and to appear and participate in all matters as may be necessary and appropriate; and to present evidence, call and examine witnesses, cross-examine witnesses, present argument, and fully participate in the proceedings.

Dated this 17<sup>th</sup> day of August, 2021.

Respectfully submitted,

/s/ *Ronald L. Williams*

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