

DECISION MEMORANDUM

TO: COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSIONER KEMPTON
COMMISSION SECRETARY
COMMISSION STAFF

FROM: SCOTT WOODBURY AND KRISTINE SASSER
DEPUTY ATTORNEYS GENERAL

DATE: AUGUST 21, 2008

SUBJECT: CASE NOS. AVU-E-08-01/AVU-G-08-01 (Avista)
GENERAL RATE CASE – LATE INTERVENTION FILING

On April 3, 2008, Avista filed an Application with the Commission for authority to increase the Company's general rates for electric and natural gas service in Idaho. A Notice of Application and Notice of Intervention Deadline was issued by the Commission on April 16, 2008, setting a May 9, 2008, deadline for intervention. Two parties timely filed for (and were granted) intervention – Potlatch and CAPAI. Workshops were held in Moscow and Coeur d'Alene on July 24 and 25, respectively. A settlement conference was held on July 31, 2008, wherein all parties to the case were present and participated. Pursuant to settlement discussions, the parties entered into a Stipulation and negotiated settlement that purported to resolve all issues raised in this proceeding. Thereafter, on August 12, 2008, the Commission issued a Notice of Proposed Settlement. Bennett Forest Industries, Inc. (Bennett Forest), an electric customer taking service under Schedule 25, filed its Petition to Intervene on August 18, 2008.

THE REQUEST FOR INTERVENTION

Bennett Forest seeks to intervene in order to participate in the August 28, 2008, technical hearing and the filing of comments. It claims that customers taking service under Schedule 25 were not represented in the discussions and negotiations leading to the Settlement Stipulation. Under the terms of the proposed settlement, Bennett Forest calculates an increase in the cost of its electric service of approximately \$200,000 a year. Although Bennett Forest does not anticipate introducing any testimony at the hearing, it seeks the opportunity to ask clarifying questions on cross-examination of witnesses supporting the Settlement Stipulation.

Bennett Forest acknowledges that its petition is untimely. It claims that unfamiliarity with Commission procedure left Bennett Forest unaware of its right to participate. However, Bennett Forest asserts that a grant of its Petition to Intervene will not cause disruption of the existing schedule, nor will it result in prejudice to existing parties or cause an undue broadening of the issues. Further, Bennett Forest claims a direct and substantial interest in this proceeding based on its annual consumption of approximately 24.6 million kWh of electrical energy at a cost of over \$1 million.

Answer of Avista

Avista filed an Answer to Bennett Forest's petition on August 20, 2008. Avista points out that Bennett Forest was provided ample, well-publicized notice of the Company's filing. Moreover, Avista points out that Potlatch, as an intervenor and party to the case, was present for settlement discussions and does, in fact, have two customer accounts taking service under Schedule 25. Ultimately, Avista urges that, should Bennett Forest's late request for intervention be granted, the Commission condition such intervention in a way that will not broaden the issues, disrupt the process, or otherwise prejudice existing parties.

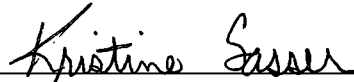
Answer of Commission Staff

Staff filed an answer to Bennett Forest's petition on August 21, 2008. Staff agrees and concurs with the representations and positions set forth by Avista in its answer to Bennett Forest's petition. Staff is concerned with "clarifying questions" becoming an opportunity for Bennett Forest to engage in discovery weeks after the deadline for production requests has expired (July 29). Staff recommends that Bennett Forest's questions be circumscribed and the parties be given latitude to object to what they believe to be improper questions.

COMMISSION DECISION

1. Does the Commission wish to grant Bennett Forest's late-filed Petition to Intervene?
2. Does the Commission wish to restrict the parameters of Bennett Forest's participation based on the following criteria:
 - a. Bennett Forest will not seek to introduce testimony at the technical hearing;
 - b. Bennett Forest may ask clarifying questions on cross-examination of witnesses supporting the settlement Stipulation to aid in preparing written comments by the September 5, 2008, deadline;

- c. Bennett Forest understands that it is bound by all Orders and Notices previously entered by the Commission;
- d. Bennett Forest will not seek to alter or modify prior Order and Notices;
and
- e. Bennett Forest pledges that its participation will not cause disruption of the existing schedule, nor will it result in prejudice to existing parties or an undue broadening of the issues.



Kristine Sasser
Deputy Attorney General

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