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CASE PROCESSING GUIDELINES AND STYLE MANUAL

CASE PROCESSING GUIDELINES

I. INTRODUCTION

Purpose. The purpose of the Case Processing Guidelines and the Style Manual is to assist the Commission Staff and its Deputy Attorneys General (DAGs) in processing cases that come before the Commission. The Case Processing Guidelines are not a rule and do not bind anyone. The laws and rules governing cases before the Commission include: the Public Utilities Law (Titles 61 and 62, *Idaho Code*), other Idaho statutes (e.g., Opening Meetings Law), and the Commission's Rules of Procedure (IDAPA 31.01.01.000, *et seq.*). In instances where these Case Processing Guidelines conflict with statutes or the Commission's Rules of Procedure, the statutes and the Rules of Procedure will control. All references to "Rules" below are to the Commission's Rules of Procedure, IDAPA 31.01.01.000, *et seq.*, unless otherwise indicated.

Organization. These Guidelines generally address how cases are processed at the Commission. Parties appearing before the Commission are called: applicants, petitioners, complainants, respondents, or intervenors. These terms have specific meanings under the Commission's Rules of Procedure. For purposes of these Guidelines, these terms are used interchangeably for illustration purposes. The Guidelines also describe the organization of the Commission's public Decision Meeting agendas.

II. THE BASICS

A. Types of Initial Pleadings. Rule 51 describes the various types of pleadings filed at the Commission. They include:

1. Applications (Rules 51-52). Applications are typically filed by utilities when they seek: a Certificate of Public Convenience and Necessity (CPCN) under either Rule 111 or 112; a right; authority to take some action (e.g., adopt/approve rates or expenses); or acknowledge of an action (e.g., the filing of an Integrated Resource Plan (IRP)). There are also special types of applications such as the issuance of securities (Rule 141) or the discontinuation of telecommunications service (Rule 20).
2. Petitions (Rule 53). Petitions are pleadings that seek a specific action from the Commission. Petitions may seek a modification/amendment, stay, clarification, or reconsideration of an Order; or initiate a proceeding that will lead to the issuance of an

Order (Rule 53.03). A petition is also a pleading that seeks intervenor funding, or an Order granting a person or organization intervention in a Commission proceeding.

3. Tariff Advices (Rule 134). Tariff Advices are filed by utilities seeking authority to make minor rate or program changes to existing tariff schedules.
4. Complaints (Rule 34). The Commission recognizes two (2) types of complaints in its Rules of Procedure.
 - a. Informal complaints or inquiries (Rules 21-26, 55) are typically submitted by utility customers by telephone or in writing (via email, letter, or through the Commission's web page). Informal complaints or inquiries received by the Commission's front receptionist are usually forwarded to the Consumer Assistance Staff for investigation. In particular instances, an informal complaint may be forwarded to a specific Staff unit (e.g., railroad grade crossing complaints may be referred to the Rail Safety Unit). The Commission encourages the use of informal proceedings to settle complaints or inquiries. See Rules 21-22.
 - b. Formal written complaints (Rule 54) come in two general types. First are complaints typically filed by an attorney and usually conform to the pleading requirements for a properly formatted complaint. Examples of formal complaints include utility-initiated complaints and PURPA complaints against electric utilities. The second type of formal complaint are those complaints that the Commission decides to process as formal complaints or investigations.
 - c. All complaints, whether styled "informal" or "formal," are forwarded to the Consumer Assistance unit (or other Staff unit) for factual development. It is the Commission that decides whether a complaint is to be processed as a formal complaint. Even if a complaint is submitted as a "formal" complaint, Consumer Assistance investigators may attempt to resolve the complaint informally. The Staff investigator assigned to the complaint may refer the complaint to other Staff units (e.g., engineering or telecommunications) if technical assistance or information is needed. Any person dissatisfied with resolution of an informal complaint is given the opportunity to make a formal complaint pursuant to Rules 51-58, 23, 24. See Case No. INT-G-16-01 and Order No. 33524.

B. Subsequent Pleadings.

1. Petitions to Intervene (Rules 71-75)
2. Motions (Rule 56).
3. Answers (Rule 57).
4. Consent and Settlement Agreements (Rules 58, 273).
5. Comments and Protests (Rule 202.02).
6. Reply Comments (Rule 202.01.d).

7. Petition for Intervenor Funding (Rules 161-64).
8. Petition for Reconsideration (Rules 331-33).
9. Notice of Appeal (Rules 341-43).
10. Petition to Stay an Order (Rule 324).
11. Petition to Clarify an Order (Rule 325).
12. Petition to Modify or Amend an Order (Rule 326).

C. Form and Content of Pleadings.

1. Transmittal Letter. Typically, a transmittal letter will accompany a pleading. The letter will usually direct inquiries to a certain person and request that the Commission Secretary return a “date stamped” copy of the letter and/or pleading to the person identified in the transmittal letter.
2. First Page of Pleading. The first page of all pleadings must contain: 1) the identity of the person filing the pleading; 2) the title of the proceeding; 3) the case number for the proceeding; and 4) the title for that particular pleading. The appropriate format of the first page of all pleadings is shown in procedural Rule 62.02.
 - a. *The Representative(s)*. The appropriate representative(s) of the person or organization filing the pleading is placed in the upper left-hand corner of the pleading. The designation of representative(s) on the first page is limited to two (2) persons (typically attorneys, see Rule 43).
 - b. *The Title of the Proceeding*. The proceeding title (in all capital letters) is intended to disclose the utility involved and the general issue to be decided by the Commission. The “proceeding title” is sometimes called the “Case Caption.” For example: “In the Matter of the Application of Intermountain Gas Company for Authority to Increase its Gas Rates,” or “In the Matter of Idaho Power Company’s Application for a Determination of 2017 Demand Side Management Expenses as Prudentially Incurred.”
 - c. *Case Number System*.
 - (i) Assigning Case Numbers. In 1988, the Commission revised its case numbering system.¹ The revised case numbering system is in four parts: 1) a three-letter designation for each utility or railroad; 2) next is a single letter designating the type of utility or railroad; 3) then the calendar year of the filing; and finally; and 4) the consecutive number of the case for that utility in that specific year. For example, Case No. IPC-E-16-21 means:

¹ Prior to 1988, the Commission assigned a specific number for each utility. For example, U-1006 was Idaho Power’s designated case number, followed by the consecutive numbered proceeding for each utility.

IPC – Idaho Power Company,
E – electric utility (also G for gas, P for pipeline, R for railroad, T for telecommunications, U for multi-utilities, and W for water),
16 – calendar year 2016, and
21 – the twenty-first consecutive case for Idaho Power in calendar year 2016.

- (ii) Generic Cases. In addition to the specific utility case numbers, the Commission also processes “generic” or “GNR” cases that address issues applicable to several utilities or a certain group of utilities. For example, the Commission’s recent investigation into the reduction of federal income taxes for corporations was identified as GNR-U-18-01.²
- (iii) Reserving Case Numbers. Typically, each utility will monitor its own case numbers and check with the Commission’s records custodian to confirm the next case number for a yet to be filed case. Utilities may also request that a specific case number be reserved for a specific case so that the reserved case number can be used for the preparation of all the documents in that case (multiple exhibits, multiple witnesses, etc.). Pre-assigning case numbers allows the utility to properly reference other documents within the pleading. Otherwise, the Commission’s records custodian will assign the next case number. If a requested case number is not used by the utility, the Commission Secretary or records custodian may void the unused case number.
- (iv) Title of Document. The title of the document goes below the “Case No. ___” and identifies the party filing the document, e.g., “Clearwater Paper’s Petition to Intervene.” A short title of the document should also appear as no more than a two-line footer in the bottom left-hand corner of each page, e.g., “Clearwater’s Petition to Intervene.”

D. The Body of the Pleading. The body or substance of the pleading should: 1) describe the particular issue presented for the Commission’s review and resolution; 2) recite the facts pertaining to the issue; 3) cite to the statutes, rules, orders or other controlling law; 4) recommend how the case should be processed; and 5) request the particular relief or action desired. Rules 52, 53.07, 54, 56, 58.

E. Originals and Number of Printed and Electronic Copies.

1. Printed Copies. Rule 61 sets out the number of printed copies that must be provided for each type of pleading. The original document must be unbound and unstapled to allow for scanning. Rule 62.04. The Commission Secretary has authority to reduce the number of copies. Rule 61.04.

² The pre-1988 case number for generic cases was U-1500-__.

2. Electronic or Facsimile (FAX) Documents. Rule 61 also allows certain documents to be filed with the Commission electronically as an attachment to an email or by FAX. See Rule 61.02 and 61.03. The Commission Secretary may also change the form of filing (e.g., from paper to electronic originals or copies). Rule 61.04.

F. Service. Pleadings and other documents are considered officially “filed” with the Commission when they are physically received by the Commission Secretary. Rule 14.02. The Secretary sends a confirmation email to the filer stating that the document has been received. Documents are also date-stamped when they are received.

1. Service by Parties. A party must serve a copy of all documents in a proceeding on all other parties unless otherwise directed by order, notice, or the presiding officer on the record. Rules 44, 63. All documents served on the other representatives of every party (Rule 63) or the Commission must contain a "certificate of service" showing the parties served with the document. Rule 64.
2. Service by the Secretary. The Commission Secretary serves all orders, notices, summons, and complaints issued by the Commission. Notices and Orders may also be served by email in cases designated by the Commission. Rule 16.01.

G. Legal Representation. Rule 43 discusses which entities must be represented by a licensed Idaho attorney or an attorney qualified to appear before the Commission under Rule 43.03. The Rule recognizes that Commission proceedings are sometimes administrative in nature or quasi-judicial in nature.

1. Administrative Functions. The type of filings that are considered “administrative” in nature include: tariffs; tariff advices; price lists; interconnection agreements; and written comments in Modified Procedure, rulemaking, or public testimony at a formal public hearing. Rule 43.01. Such filings may be made by a natural person, a partner in a partnership, an employee of a corporation (e.g., a utility), or an attorney licensed in Idaho.
2. Quasi-Judicial Functions. In quasi-judicial proceedings, only a qualified attorney may represent a person or organization and perform judicial functions such as filing formal complaints, petitions, applications for Modified Procedure, performing cross-examination, or making objections and motions. Representation in quasi-judicial proceedings (Rule 43.02) must be by a licensed Idaho attorney or an attorney qualified under Rule 43.03, unless a natural person is representing himself or herself. If in doubt, consult one of the DAGs.

H. Parties and Public Witnesses in Proceedings.

1. Original Parties. Original parties to proceedings include: applicants (Rule 32); petitioners (Rule 33); complainants (Rule 34); and respondents (Rule 35).
2. Staff. The Commission Staff may appear as a party in any proceeding without intervention. Rule 37.
3. Intervenors. All other entities wishing to participate as a party in a proceeding must petition to intervene and are denoted as intervenors. Rule 36. Parties and other entities are typically referred to by their shortened names or initials after their full name is mentioned for the first time, e.g., Idaho Power Company – Idaho Power; Frontier Communications Northwest – Frontier; Community Action Partnership Association of Idaho – CAPAI; etc.
4. Public Witnesses. Persons or other entities who have not intervened in a proceeding and either testify at a public hearing or sent in written comments or protests about a proceeding, do not have parties' rights to examine witnesses or otherwise participate in a proceeding. Rule 76. Public witnesses or commenters (under Rule 203) do not have to intervene in a case.

I. Intervention. The Commission may grant a petition seeking intervention when the entity seeking intervention has a direct and substantial interest in the proceeding. Rules 72-75. The Petition to Intervene must comply with Rules 41, 61, and 62. Rule 72. If it later appears that there is no direct or substantial interest in the proceeding, the Commission may dismiss the intervenor from the proceeding. Rule 74.

1. Time to File. A Petition to Intervene must be filed at least fourteen (14) days before either a hearing or prehearing conference, whichever is earlier, unless a different time is set by Order or Notice. Rule 73.
2. Time to Oppose. Any party opposing a Petition to Intervene must file its opposition within seven (7) days of the Petition. Rule 73. The DAG assigned to the case will place the disputed intervention on the Decision Meeting agenda under "Matters in Progress" (a Decision Memo may not be necessary) for the Commission to review and decide whether the Petition to Intervene should be granted.
3. Unopposed Intervention. If the Petition to Intervene is timely, the Legal Administrative Assistant drafts the Order granting intervention after waiting seven (7) days to ensure that no party has opposed intervention. The Legal Administrative Assistant provides the draft order to the Commission Secretary for Commission review and signatures. Timely uncontested Petitions to Intervene are usually not placed on the Decision Meeting Consent Agenda because the Commission has a long history of liberally granting uncontested intervention. Rule 13.

4. Late Petition to Intervene. If the Petition to Intervene is untimely, the DAG assigned to the case will prepare a Decision Memo for the Commission to decide whether the untimely Petition should be granted. (Rule 73). The Commission may limit or condition late petitions for intervention (Order Nos. 33311, 32350, 25219). If the late petition is granted by the Commission, the legal secretary will draft the order granting late intervention and provide the draft order granting late intervention to the assigned DAG for review. The draft order will then be forwarded to the Commission Secretary for Commission review and signatures.

J. Initial Staff Review and Assignment – Defective or Late Pleadings

1. Once a pleading is filed with the Commission Secretary, each Commissioner receives a copy of the pleading. This copy is subsequently placed in each Commissioner's hearing book. The records custodian scans and enters the pleading in the Case Information System. The system automatically generates an internal email notice to the Utilities Administrator/section supervisors, Legal Administrative Assistant, and the Utilities Division secretaries. The Commission Secretary or records custodian date stamps the pleading, and upon request, returns a date-stamped copy to the filer.
2. The Utilities Administrator/section supervisors and Lead DAG assign their respective staffs to the case. Staff and the assigned DAG typically conduct an initial review of the document for completeness. Pleadings may be returned or dismissed for errors or lateness (Rule 65).
3. Certain pleadings may require specific content (e.g., petitions to intervene (Rule 72), new utility (Rule 111), new competitive local exchange company (CLEC) (Rule 114), general rate case (Rules 124-25), intervenor funding (Section 61-617A and Rules 161-65). Staff and the assigned DAG should consult the other Rules to review whether the requirements of these other rules have been met. If the Staff or DAG believes that the application or petition is deficient or incomplete, it should advise the Commission in the initial Decision Memo.
4. An application to change rates (Rule 121) that has been suspended by the Commission (Section 61-622) cannot be dismissed but it can be returned for correction. The running of the suspension period is tolled until the corrected pleading is re-filed.
5. The Commission may allow a party to amend or correct its pleadings. Rule 66.

III. THE FOUR METHODS FOR PROCESSING CASES

A. Introduction. There are generally four (4) procedural methods to processing cases filed at the Commission. The most prevalent method for processing a Commission case is using Modified Procedure (issuing public notice and requesting written comments). Second, for cases that may be more significant or present complex issues requiring witness testimony, there are formal

Technical Hearings (written prefiled testimony and cross- examination of witnesses). Third, in limited cases, the Commission may allow utilities to make minor changes to tariff or rate schedules using the Tariff Advice process. Finally, the Commission may use the complaint process to initiate an investigation or issue summons compelling a response by a respondent. At times, the Commission has combined the features of the various methods and used a hybrid method to process a case.

B. Modified Procedure (Rules 201-204). In cases processed under Modified Procedure, there are often times just two Orders. The first Order is an introductory Order that contains a Notice of Application section (describing the action requested in the initial pleading), and a Notice of Modified Procedure section (setting the matter for public written comment and scheduling due dates for initial and reply comments. The second Order is the Commission’s Final Order deciding the issues raised in the initial pleading and/or in the written comments or protests filed in response to the Commission’s Notice of Modified Procedure.³

1. Steps in Modified Procedure Cases (see Flow Chart in Figure No. 1 at the end of these Guidelines):
 - a. The Application/Petition⁴ is filed with the Commission Secretary. The Secretary forwards the Application to the records custodian for entry into the Case Management System. The system generates an email notice to the Utilities Administrator/section supervisors, the Utilities Division Administrative Assistants, and the Legal Administrative Assistant.
 - b. The Utilities Administrator/section supervisors and Lead DAG review and assign appropriate Staff. The Administrator decides whether to hold a Staff meeting to review/discuss issues, proposed schedule, and whether discovery⁵ is necessary. Staff and assigned DAG review form and content of Application to evaluate whether all the applicable content and filing requirements have been meet. See page 7, § J.
 - c. Assigned Staff and DAG determine whether they support the proposed processing methodology and the proposed schedule suggested in the Application. Staff determines whether discovery⁶ is necessary. If discovery is desired, Staff prepares discovery for DAG review and signature. Staff serves discovery on Applicant/Petitioner.

³ Of course, there may be other introductory orders issued by the Commission such as intervention orders or orders granting limited admission to out-of-state attorneys in response to motions for pro hac vice (Rule 43.03). There may also be intermediate orders such as granting discovery requests or motions to change a written comment deadline.

⁴ The same steps will apply to either an Application or Petition.

⁵ Discovery can be accomplished by production requests, written interrogatories, and requests for admissions. Rules 225, 228, 229. Staff may also perform statutory audits. Rule 227.

⁶ Will discovery affect the schedule proposed by the Applicant?

- d. Staff or DAG prepares Decision Memo. Either the Staff or the Legal Administrative Assistant places the Decision Memo on the Decision Meeting agenda under “Consent” if recommending the case be processed and scheduled as proposed by applicant, or under “Matters in Progress” if recommending a different process or schedule. The Decision Memo should discuss the proposed schedule and ask whether the Commission wishes to adopt schedule. If applicable, the Decision Memo should also recommend whether the Commission considers a suspension of the proposed effective date for rate, class, or service changes. Sections 61-307, 61-622; Rule 123.03.
- e. At its Decision Meeting, the Commission will review the Decision Memo and determine whether Modified Procedure is appropriate for this matter, or select some other process. If Modified Procedure is appropriate, the Commission decides whether to issue the Notice of Application and Notice of Modified Procedure. Commission sets the case schedule and determines whether a public workshop should be conducted (Rule 127) if the utility proposes to increase a rate.
- f. DAG drafts the Order containing the Notice of Application and Notice of Modified Procedure for the Commission. A Notice of Application to change or affect any rate, classification, rule or service must be issued within twenty-one (21) days of the date that the Application was filed, unless the Notice of Application is issued under Modified Procedure or earlier approved or addressed by order. Rule 123.02. Consequently, the initial review of the Application should be expeditious if the Notices of Application and Modified Procedure are to be joined in an order.
- g. Once the Commission executes the Order, the Commission Secretary shall serve copies on parties and other interested persons, newspapers, municipalities, counties and chambers of commerce located in the territorial scope of the pleading. Rule 202.02.
- h. The Commission determines whether to issue a press release regarding the Application.
- i. Staff reviews discovery responses (if applicable) and prepares Staff comments⁷ for supervisors/DAG review, consistent with schedule contained in Order. The practice has been that the DAG reviews Staff’s comments for form, readability, consistency, but not for Staff’s expert analysis and opinions. DAG signs comments⁸ and Staff serves comments on Applicant and other parties (if any).
- j. Commission Secretary scans and files all comments or protests concerning the Application as received.

⁷ See Utilities Division Process Flow Chart in Fig. 3 dated June 8, 2017.

⁸ Although DAGs typically sign Modified Procedure comments, there is no legal requirement for the DAG to do so. See Rule 43.02.

- k. Applicant files reply comments, if necessary. Rule 202.01.d.
- l. Record closed and submitted for Commission decision on Decision Meeting Agenda as "Fully Submitted." Rules 283, 311.
- m. Commission issues Final Order. Commission Secretary serves on parties and commenters and protesters.

C. Formal Technical Hearing. Based upon the request of the Applicant, Staff's recommendation or its own review, the Commission may decide that a case should be processed with a formal technical hearing. A technical hearing process differs from Modified Procedure in several ways. Elements of a technical hearing include: 1) a deadline for intervention is set in the Notice of Application; 2) a Notice of Parties is issued (Rule 49) after the Commission has granted any Petitions to Intervene (Rules 71-75); 3) a prehearing scheduling conference is held and normally conducted by the assigned DAG (Rules 211-215); 4) the parties typically engage in extensive discovery (Rules 221-29); 5) a public workshop may be held (Rule 127); 6) the parties present evidence in the form of prefiled testimony and exhibits of witnesses (Rules 230-31, 266-67); 7) a technical hearing is scheduled for the parties; and 8) a formal public hearing located in the utility's service area is held for customers, public officials and other interested persons not related to the parties in the case (Rule 241.04.b).

1. Steps in a Technical Hearing (see Flow Chart in Figure No. 2 at the end of these Guidelines).
 - a. The Application, usually accompanied by prefiled testimony and exhibits, is filed with the Commission Secretary. The Secretary forwards the complete Application to the records custodian for entry into the Case Management System. A copy of the Application provided to each Commission and subsequently placed in each Commissioner's hearing notebook. The Case Management System generates an email notice to the Utility Administrator/section supervisors, the Utilities Division Administrative Assistants, and the Legal Administrative Assistant.
 - b. Utility Administrator/section supervisors and Lead DAG review and assign respective staff to case. Utility Staff schedules Staff meeting to initially review/discuss issues and propose a schedule to process case.⁹ Staff/DAG reviews form and content of Application for compliance with rules.
 - c. Staff and DAG determine whether the proposed effective date for the Application should be suspended (Rule 123, Section 61-622).

⁹ There may be periodic Staff meetings throughout the technical hearing process.

- d. DAG prepares Decision Memo. The Legal Administrative Assistant places the Decision Memo on the Decision Meeting agenda under “Consent” if Staff agrees with the proposed effective date or schedule. If Staff recommends suspension or otherwise does not agree with an Application issue, the Decision Memo is placed under “Matters in Progress.” The memo should recommend the issuance of a Notice of Application, Deadline for Intervention, and subsequent issuance of a Notice of Parties. The memo should also recommend that the DAG conduct the prehearing conference where the parties will review and recommend a hearing, discovery and testimony schedule to the Commission; and address other issues as necessary.
- e. At the Decision Meeting, the Commission determines the appropriate case process, whether suspension is warranted, and directs whether a Notice of Application and intervention deadline should be issued. The Commission instructs the Commission Secretary to issue a Notice of Parties after the deadline for intervention has passed.
- f. DAG drafts Order for the Commission containing the Notice of Application, the deadline for intervention and, if necessary, a suspension period.
- g. When the Commission executes Order, Commission Secretary services copies of Order on parties and other interested persons.
- h. Commission determines whether to issue a press release about the proceeding.
- i. Commission Secretary issues Notice of Parties (with assigned exhibits numbers and service requirements) and subsequent Notice of Prehearing Conference. Rules 212, 242.
- j. DAG conducts prehearing scheduling conference for the parties to discuss a proposed hearing schedule, a discovery schedule, the issues in the case, settlement conference dates (if advisable), and other issues raised by the parties. Facts disclosed, offers made, and other negotiations are privileged and are not part of the record. (Rule 215.) The Commission or a Commissioner may also conduct the prehearing conference on the record. Rule 213.
- k. After the prehearing conference, DAG prepares a Decision Memo containing the parties’ recommended hearing schedule, discovery schedule, public workshop date(s), and settlement conference(s) for review and approval by the Commission.
- l. At the Decision Meeting, the Commission reviews the proposed schedules, issues a scheduling order, and addresses other preliminary matters as necessary. Rule 214.
- m. Parties engage in discovery and serve other parties and the Commission Secretary with the discovery (Rule 61.02).

- n. Parties convene settlement conferences, if scheduled. Settlement negotiations are confidential unless all participants at the settlement agree to the contrary. Rule 272. If some or all of the parties reach settlement of some or all issues, they usually file a Motion to Accept the Settlement and recommend that the Commission take testimony or comments on the proposed settlement. An Order amending the hearing schedule may be necessary. The Commission is not bound by any settlements. Rule 276. See page 17 (Settlements).
- o. If no settlement, Staff and intervenor parties prepare, file and serve testimony and exhibits consistent with scheduling order. (Rules 230, 231, 267.)
- p. Secretary scans and files public comments and the testimony of the Staff and intervening parties as it is received.
- q. The Applicant files rebuttal testimony, if desired.
- r. Commission may conduct two types of public hearings: a technical hearing and a customer hearing. For both types of public hearings each party shall provide a brief written summary of its case for the public (Rule 260), unless the Commission determines that such a summary is unnecessary. The Commission may reiterate the deadline for filing Petitions for Intervenor Funding at the technical hearing. Rule 164.
- s. Eligible parties may file Petitions for Intervenor Funding filed (Rule 164). If allowed, post-hearing briefs may be filed. (Rule 255).
- t. Reporter prepares transcript. Rules 286-87.
- u. Record closed (Rule 283) and submitted for Commission decision as “Fully Submitted.”
- v. Final Order issued.

D. Tariff Advice (Rule 134). The tariff advice process allows utilities, in limited instances, to add new services, modify existing services, provide for new or modified rules, or otherwise make minor changes to existing tariff schedules. Rule 134. No tariff advice may propose an effective date fewer than thirty (30) days after it is filed unless the Commission approves an earlier effective date for good cause shown on the record. If no effective date is proposed, the proposed tariff cannot go into effect until approved by the Commission. Rule 131.02. The Commission acts on tariff advices at its Decision Meetings based upon a written ex parte recommendation of

the Commission Staff (Rule 134.03).¹⁰ A tariff advice may be approved in the minutes of the Commission's decision meeting or by minute order. See page 13, § 2.

1. Steps in the Tariff Advice Process:

- a. Utility files Tariff Advice with the Commission Secretary. The Secretary or records custodian date stamps the Tariff Advice, returns copy to the utility, and forwards the Advice to the Utilities Administrator and Commission's tariff specialist. The tariff specialist copies the Tariff Advice and enters it on the Commission's homepage in the "Laws & Rules" section, under "Pending Title 61 Company Tariffs."
 - b. Utility Administrator or section supervisors assigns Staff to review.
 - c. Staff evaluates whether matter is appropriate as Tariff Advice and may consult with DAG. Staff considers whether the proposed effective date for the Tariff Advice is appropriate or should Staff recommend that the Commission suspend a proposed effective date.
 - d. Staff prepares Decision Memo. Staff places Tariff Advice on the Decision Meeting agenda under "Matters in Progress." If Staff disagrees with the merits or the proposed effective date, consults with utility to determine whether it will resubmit as an application or adjust proposed effective date. If utility does not agree, Staff should recommend an appropriate process in its Decision Memo.
 - e. At its Decision Meeting, the Commission reviews the Tariff Advice. If Commission finds that the proposed Tariff Advice meets the requirements for processing as a Tariff Advice and finds that the merits of the Advice are appropriate, then it may approve the Tariff Advice. Conversely, if Commission finds the matter is inappropriate for processing as a Tariff Advice or disagrees with the underlying merits, then the Commission determines how the pleading will be processed (usually by Modified Procedure). If the proposed effective date should be suspended, the Commission will set the suspension period in the Order scheduling further proceedings. Rule 134.02.
2. How Approved. If the Commission approves the Tariff Advice, the Commission Secretary will record the approval in the minutes of the Decision Meeting, stamp approval on the tariff page (Rule 131), and return one (1) copy to the utility. If the Commission desires to issue a minute order, the lead DAG will assign the case to a

¹⁰ Tariff schedules filed in compliance with a prior Commission Order are not normally considered to be a Tariff Advice. Compliance tariff filings are submitted pursuant to Order and allows Staff to review the submitted tariff schedules to ensure they comply with prior Orders. Rule 133.

DAG to prepare the Minute Order.¹¹ Rule 134.02. See Minute Order in Case No. PAC-E-10-07.

E. Formal Complaints (Rule 54). As a note on page 2 above, formal complaints generally arise in two situations. First are formal written complaints typically filed by a utility or a PURPA complaint against an electric utility. Second are typically complaints from customers that the Commission decides to process as formal complaints or investigations.¹²

1. Utility/PURPA Complaints. Complaints initiated by a utility or a PURPA complaint against an electric utility must be in writing and contain the following information:
 - a. The name of the respondent (Rule 35).
 - b. Fully state the facts which constitute the improper act or omission.
 - c. Recite the statutes, rules, orders, notices, tariffs, or other controlling law that the utility has violated.
 - d. State with specificity the desired action or outcome for the Commission to consider.
2. Customer Complaints Seeking Formal Process. All complaints forwarded to the Consumer Assistance Section will be reviewed by the supervisor. The supervisor may decide that further informal action is warranted before the "formal" complaint is presented to the Commission for processing.
3. Defective Complaint. Some formal or informal complaints may be jurisdictionally defective. For example, a repeated complaint (a collateral attack) or a complaint about a rate or charge will be not be entertained except on the Commission's own motion or if received from 25 customers, a mayor, a city council, or a county commission. *See* Section 61-612.
4. Preparation of Decision Memo. The Staff member or DAG will prepare a decision memorandum outlining the background and issues of the complaint. The Utility Administrator, Consumer Assistance Supervisor, and the Lead DAG should discuss who is the most appropriate person to prepare the decision memo. For example: a consumer-oriented complaint may be directed to a Consumer Assistance staff member; a technical or policy utility complaint assigned to an appropriate utility staff; or a complaint raising legal issues may be assigned to a DAG. The purpose of the decision

¹¹ There are other minor cases that are processed with minimal proceedings and fall outside the four general processes outlined above. For example, the Commission may approve without further proceedings a minor modification to a PURPA contract where the two parties to the contract both agree to the modification. *See* Order Nos. 33358, 33489. The Commission may set the annual adjustment of PURPA avoided cost rates for qualifying facilities (*see* Order No. 33773); may authorize a name change; or other uncontested or insignificant matter.

¹² The Commission may also initiate an investigation of a utility or a particular issue. *See* Case No.GNR-U-10.01.

memorandum is to describe the issues and dispute in a neutral fashion, and to simply recommend to the Commission how the complaint should be processed. For example, should a summons be issued, should an investigation be opened, should the complaint be handled under Modified Procedure (requesting comments from other interested parties), or should some other process be used?

5. How Processed. The Commission will decide how to process a formal complaint. The Commission may: 1) encourage the parties to see if they can resolve the dispute with or without Staff assistance; 2) issue a summons directing the respondent to file an answer to the complaint or address specific issues or questions; 3) initiate an investigation and process via Modified Procedure or Formal Technical Hearing; or 4) chose some other process. *See* Rule 57.02, Order No. 33524.

6. Complaints with Significant Impacts. Consumer complaints (whether styled as a formal or informal complaint), that have a significant impact on customers or utilities or are of a sensitive nature, should be brought to the Commissioners' attention by email by the Consumer Assistance Supervisor. Significant complaints may be those that effect a large number of customers, have serious adverse consequences for even a small group of customers, or any complaints forwarded or filed by an elected official. The President of the Commission may also direct Staff to prepare a draft response for the President's signature. The Commission Secretary keeps a copy of the complaint in a "tickler" file until a response has been sent and the matter has been resolved. The Commission Secretary also keeps a copy of the Commission President's or Staff's response to the complaint.

IV. MISCELLANEOUS PROCEDURES

A. *Filing a General Rate Case (Rules 122-25)*. A general rate case will generally follow the steps listed above in "Formal Technical Hearing" with additional substantive processing requirements. These additional steps or requirements include:

1. Notice of Intent. Large utilities with annual gross revenues in excess of \$3.0 million must file a 60-day notice before filing a general rate case (Rule 122). If the rate case is not filed within 120 days of the 60-day notice, then it will be considered withdrawn unless the utility provides a written statement that it still intends to file a rate case. *See* exceptions to filing the notice at Rule 122.02.

2. Staff Tasks.
 - a. **Resources and Timelines**. The Notice of Intent is the starting point for several Staff actions. Section supervisors and the Lead DAG will evaluate their available Staff

resources for working on the rate case and they may assign or re-assign staff members to the case. The Notice allows the Staff to calculate a rough timeline for the processing of the case. Section 61-622 generally requires that a rate case be completed within six (6) months of the date it is filed.¹³ Thus, the Staff may develop a preliminary timeline and benchmarks for discovery; the filing of written testimonies; tentative workshop, public and technical hearing dates and locations; settlement conference dates; and the date the Commission must issue its final order.

- b. The 60-day notice period also allows the Staff and DAG(s) assigned to the rate case sufficient time to review prior rate case orders, and other significant orders regarding the utility since the last rate case. The Staff can also begin to prepare discovery interrogatories and/or audit requests for the rate case. Routine rate case discovery includes: standard financial data; customer numbers; etc.
3. Deadline for Case Competition. The filing of the rate case starts the six (6) month deadline to complete the rate case under Section 61-622(3). For good cause on the record, the Commission may extend the deadline for an additional sixty (60) days. *Id.* Additional time may be taken only with the written consent of the utility. Typically, most utilities propose an effective date for the general increase in rates of thirty (30) days from the date the Application is filed. Consequently, the Commission usually suspends the proposed rates for six (6) months so it may process the case.
4. Suspension of Proposed Rates. No change to a rate, rule or service may become effective on fewer than thirty (30) days' notice unless the Commission finds good cause by Order. Section 61-307; Rule 123.03. Good cause may be a rate reduction or an emergency. Rule 123.01.
5. Standard Rate Case Paragraphs. The Commission's Notice of General Rate Case must include the standard paragraphs in Rule 124.
6. Testimony and Exhibits. The utility's application must be accompanied by "testimony and exhibits showing financial statements, cost of capital and appropriate cost of service studies." Rule 121.01.e.
7. Customer Notice. The rate case application must also contain a copy of the notice to each customer (Rule 125); describe how the customer notice was distributed (Rule 125.03); and a copy of the press release (Rule 125.04). The contents of the required customer notice are found in Rule 125.01.

¹³ There are two (2) extensions to the standard six-month deadline. First, for "good cause shown on the record," the Commission may grant an additional sixty (60) days. Second, when the utility consents in writing to an extension of time. *See* ¶ 3 below.

B. Amendments to Pleadings (Rule 66). The Commission may allow a party to amend or correct its pleading.

C. Prehearing Conferences (Rules 211-15). Prehearing conferences are usually used for the parties to discuss and propose a schedule for a proceeding; to set a discovery schedule; to set or discuss settlement conferences; to discuss the order of witnesses; and to discuss or review other matters. Prehearing conferences may be formal (on the record with the Commissioners present) or informal (where Commission not present). Rule 213. Facts disclosed, offers made, and all aspects of negotiations are confidential and privileged and not part of the record. Rule 215. The Commission usually issues an order following a prehearing conference. Rule 214.

D. Settlements (Rules 271-76). There are two types of settlements: “passive” settlements and “active” settlements.

1. Passive Settlement. A passive settlement is where a party in a formal proceeding agrees to concur in, accept or not oppose another party’s position previously on record with the Commission. For example, when a utility files an application to implement new rates or services, another party may concur, accept or not oppose positions/issues contained in the application. Rule 271.
2. Active Settlement. An active settlement is where a party or parties agree to change a previously stated position with regard to an issue in a proceeding. For example, an intervenor may file testimony opposing a rate increase but subsequently agree on the record to a smaller increase. All parties (except as noted below) may engage in active settlement without notice to the Commission or other parties. Rule 272.
 - a. The Commission Staff may not engage in active settlement negotiations (i.e., change its positions), without first providing notice to the other parties and the Commission that Staff intends to begin or has begun settlement negotiations.
3. Confidential Negotiations. All settlement negotiations are confidential unless all participants agree to the contrary. Rule 272.
4. Commission Review. The Commission is not bound by parties' settlement. Rule 276. The Commission will prescribe appropriate procedures for considering the settlement. Rule 274. For example, the Commission may solicit written comments on the proposed settlement; may hold an evidentiary hearing; or may summarily accept the settlement if it has no significant impact on other utilities, customers, law or policy. Rule 274. The proponents of a settlement carry the burden of proof that the settlement is fair, just, and reasonable. The Commission will independently review any settlement to determine whether it is fair, just and reasonable and in the public interest.

E. Withdrawal of Pleadings. Rule 68 allows a pleading to be withdrawn by the filer when the filer serves a Notice of Withdrawal on the Commission and all other parties. Unless otherwise

ordered by the Commission, the withdrawal is effective fourteen (14) days after the Notice of Withdrawal is served. *See* Order No. 30921; Case No. IPC-E-14-41 (DOE withdraws its pleadings).

F. Confidential or Exempt Documents (Rules 67, 233, 287). Certain documents filed with the Commission are protected from public disclosure under various statutes including the Public Records Act (*Idaho Code* §§ 74-104 through -107), and the Idaho Trade Secrets Act (*Idaho Code* §§ 48-801 *et seq.*).

1. Procedure for Asserting Confidential Information. When a party believes that information contained in pleadings is confidential, the attorney for such party must so state in writing and cite the legal authority in an attorney's certificate per Rule 67.03. Such confidential information must be marked "confidential", separated from other documents not containing confidential material, and printed on yellow paper. Rule 67.02 (a), 67.03.
2. Protective Agreements. Parties and Staff may enter into "protective agreements" (Rule 67.04) to facilitate the exchange of protected documents among parties. While Staff may enter into protective agreements, Staff may also obtain information from utilities through a statutory audit.
3. Commission not a Party. The Commission itself is not a party to any protective agreement. Rule 67.04.
4. Public Records. Regardless whether parties have entered into protective agreements, the issue whether a document or information contained in a document must be publicly disclosed is controlled by the Idaho Public Records Act.

G. Transcripts (Rule 285). All formal hearings, formal conferences, and other proceedings on the record must be transcribed by the Commission's reporter. The format for the transcript is contained in Rule 286. Any party may purchase a copy of the transcript from the reporter. Rule 286.09. Transcripts involving trade secrets or other confidential information exempt from public disclosure shall be sealed at the direction of the Commission (Rule 287) and that portion of a public hearing may be closed to unauthorized persons.

H. Submission for Decision (Rule 311). When all the Commissioners have heard a case themselves, then they may consider the case submitted for their decision. The Commission or a hearing examiner may issue a final decision from the bench, but a bench ruling will be followed a written final order. Rule 311.

V. RECONSIDERATION AND APPEALS

A. Reconsideration of a Final Order. Any person aggrieved by any issue decided in a final order may petition for reconsideration within twenty-one (21) days after the service date of any

final order. Petitions and Cross-Petitions for Reconsideration must set forth specifically the grounds why the petitioner contends that the final order or any issue decided in the final order is unreasonable, unlawful, erroneous or not conformity with the law, and a statement of the nature and quantity of evidence for argument the petitioner will offer if reconsideration is granted. The petition or cross-petition for reconsideration must also state whether the petitioner or cross-petitioner requests reconsideration by evidentiary hearing, written brief, comments, or written interrogatories. Section 61-626 and Rule 331.01.

1. Who may Petition. Section 61-626(1) provides that any corporation, public utility or person may petition for reconsideration. The person or entity petitioning for reconsideration is not required to have been a party in the underlying proceeding. *See* Order No. 13532.
2. Timely Filing (Mailbox Rule). A petition for reconsideration is considered timely-filed if it is physically received by the Commission Secretary or postmarked no later than twenty-one (21) days after the service date of the final order. Rule 331.04. This is the only mailbox service rule for the Commission. If the petition is not mailed and postmarked within eighteen (18) days from the service date of the final order, the petitioner must notify the Commission Secretary and all other parties by telephone that a petition for reconsideration has been mailed. Rule 331.04. The Commission Secretary or records custodian should retain all postmarked envelopes containing a petition for reconsideration. *See* Order No. 32419.
3. Effect of Filing a Reconsideration Petition. Filing a Petition for Reconsideration does not excuse compliance with any order nor stay the effectiveness of any order unless otherwise ordered by the Commission. Petitions to Stay a final order may accompany or precede a Petition for Reconsideration. Rule 333, Section 61-626(3).
4. Cross-Petitions to Petition(s) for Reconsideration. Once a person has timely-filed a Petition for Reconsideration, then any corporation, public utility or person may file a cross-petition for reconsideration in response to any issue raised in any Petition for Reconsideration. Cross petitions for reconsideration must be filed within seven (7) days after the subject Petition for Reconsideration has been filed. Cross petitions for reconsideration will be denied when the Petition for Reconsideration to which they are directed are denied. Section 61-626(1).
5. Answers to Petition(s)for Reconsideration. Answers to Petitions that do not ask for affirmative relief from the Commission's final order must be filed according to the procedures for cross-petitions for reconsideration. Rule 331.05.
6. Considering Petitions for Reconsideration. The Commission shall determine within twenty-eight (28) days after a filing of a Petition for Reconsideration whether or not it will grant such reconsideration and issue its order accordingly. The Commission may also grant reconsideration on its own motion. Rule 332.

7. Granting Reconsideration. If the Commission grants reconsideration, its order shall specify how the matter will be reconsidered and whether any cross-petitions for reconsideration will be granted. The matter must be reheard within thirteen (13) weeks after the date for filing petitions for reconsideration. If reconsideration is ordered, the Commission must issue its final order upon reconsideration within twenty-eight (28) days after the matter is finally submitted for reconsideration. Section 61-626(2).
8. Final Order on Reconsideration. Once the Commission has reconsidered the issues granted in Petitions for Reconsideration or cross-petitions for reconsideration (see Rule 332), then the Commission will issue its Final Order on Reconsideration. This Final Order on Reconsideration will contain the standard paragraph in Rule 323.01.b or a paragraph substantially similar.

B. Notice of Appeal. After a Petition for Reconsideration is denied or if a petition is granted, then any party aggrieved by the Commission’s Final Order on Reconsideration may appeal to the Supreme Court by filing a Notice of Appeal with the Commission. Section 61-627 and Rule 341. If a Petition for Reconsideration is denied or if granted, then after the Commission issues its Final Order on Reconsideration, either the State of Idaho or any party aggrieved may appeal from any such Final Order on Reconsideration. Rule 341.

1. Filing the Notice of Appeals. The Notice of Appeal must be physically-filed with the Commission Secretary as provided in the Idaho Appellate Rules issued by the Idaho Supreme Court. A Notice of Appeal is only considered timely filed when it is physically received by the Commission Secretary. Rule 342. The Notice of Appeal must be in a form substantially in compliance with Idaho Appellate Rule 17 and be accompanied with the appropriate fees. Upon payment of the required appellate fees, the Commission Secretary will certify and deliver the Notice of Appeal to the Clerk of the Supreme Court. Section 61-627 and Rule 343.
2. No New Evidence. The appeal shall be heard on the record of the Commission and no new or additional evidence may be introduced on appeal. Section 61-629.
3. Contents of the Commission’s Record on Appeal. Idaho Appellate Rule 28(b)(3) lists the contents for a “standard” appellate record for appeals from the Commission’s final orders on reconsideration. However, the Court encourages parties to designate an “agency’s record more limited than the standard record.” Appellate Rule 28(a). Consequently, the DAG assigned to the appeal should communicate with the appellant in an effort to limit the record on appeal to only those documents pertinent to the issues on appeal.

VI. DECISION MEETING MEMOS AND AGENDA

1. Time to File. Since 1997, the Commission has utilized a specific format for its decision meeting agendas. Items to be placed on the scheduled Monday or Tuesday decision meeting agenda are usually due NLT 1:30 p.m. the previous Friday (Section 74-204(4)(a)), unless the Commission Secretary has authorized a “Memo to Follow” or the Commission President has authorized an addition to the agenda. The Legal Administrative Assistant will post the DAG’s Decision Memos on the Agenda system, under the appropriate agenda category designated by the DAG. Decision Memos prepared by the Utilities Division Staff will be posted on the Agenda system by the Utilities Division Administrative Assistants. The Legal Administrative Assistant prepares the Decision Meeting Agenda for the Commission Secretary’s review and publication.¹⁴
2. Who Prepares the Decision Memo. The decision of whether the decision memo is prepared by a DAG or a Utilities Division Staff member has developed over the years. Generally, the assigned DAG prepares the initial decision memo for: applications; petitions; formal complaints; motions; and other legal matters. Conversely, Staff has usually prepared decision memos for: tariff advices; applications for broadband tax credits; informal complaints; changes to the interest rates on utility deposits; annual utility and railroad assessments; whether tariff schedules are in compliance with previously issued orders; new competitive local exchange carrier (CLEC) applications; telecommunications interconnection agreements; annual adjustments to prior approved methodologies (PCA, ECAM, FCA, DSM riders, PGA); changes to uniform statewide telecommunications surcharges; and applications to issue securities. These lists are not exhaustive. There may be times when it is unclear who should prepare a decision memo, or when either the DAG or Staff asks the other to write a decision memo. The key is for the DAG and Staff to communicate with each other to ensure that the decision memo is timely prepared.
3. Content of Decision Memo. Besides the description of the pleading and the action requested, the author of the decision memo should discuss how the case is to be processed and any proposed schedule for processing the case. The author of a decision memo should also consider having the draft memo reviewed by the assigned DAG or the assigned staff member, depending on who drafts the memo. Staff prepared decision memos may also be reviewed by the supervisor(s) or the Utilities Administrator.
4. The Categories of the Decision Meeting Agenda.
 - a. “Approval of Minutes” from previous meetings will be circulated to each Commissioner.
 - b. “Consent Agenda” is where the Staff is in agreement with the processing proposed (e.g., Modified Procedure, tariff advice, other scheduling requirements) by the

¹⁴ See the Agenda Management System Guide.

party who filed the pleading (e.g., an application). For example, if a utility has asked for an issue to be processed under Modified Procedure with a twenty-one (21) day comment period and Staff agrees, then that item may be placed on the Consent Agenda. Any non-controversial matter may be placed in the Consent Agenda.

- c. “Matters in Progress” is utilized for subsequent decision-making in a proceeding, or where there is not initial consent between Commission Staff and the party preparing the pleading. In cases where the Staff does not agree with process or the schedule as proposed by the filer, then the Staff should advise the filer to see if the Staff and the filer can reach an agreement. If agreed, then the filer should be asked to provide an email to the Staff documenting the agreement or consent. If there is no agreement, then the Decision Memo should contain the reasons for the Staff’s disagreement(s).
- d. “Rulemaking” is when the Commission proposes rulemaking under the Idaho Administrative Procedures Act (IDAPA) and pursuant to Rule 401.
- e. “Fully Submitted Matters.” The Idaho Open Meetings Law allows the Commission to privately deliberate on matters which are fully submitted. Section 74-203(2).
- f. “Executive Session Matters.” Section 74-206 sets out the types of matters when the Commission may enter into an executive session. A Commissioner must make a motion to move into Executive Session and state the legal reason for Executive Session in the motion. The motion and the vote on the motion shall be recorded in the minutes of the Commission’s Decision Meeting.

VII. PROCESSING SPECIFIC CASES

A. *New Utility (Rules 111, 113).* New utilities seeking to provide service in Idaho must comply with additional requirements.

B. *New or Amended CPCN (Rules 112-116).* An existing utility seeking to obtain or amend a Certificate of Public Convenience and Necessity (CPCN) must comply with additional requirements.

C. *Application for a New CLEC (Competitive Local Exchange Carrier) (Rule 114).*

D. *Application to Approve Interconnection Agreements (Rule 126).*

E. *Petition for Declaratory Order (Rule 101).* See Order Nos. 32861, 32755, 30921.

F. *Application to Issue Securities (Rules 141-147).* See Order No. 33513.

G. Pole Attachments (Rule 151). When a cable TV company and a public utility are unable to agree upon the rates, terms and conditions for the use of poles, right-of-way ducts or conduits, either party may file a pleading asking the Commission to establish such rates, terms or conditions. Section 61-538; Rule 151. The rule contemplates that the Commission should endeavor to decide the case within thirty (30) days but no later than six (6) months if it decides to develop a record.

H. Objection to Annual Regulatory Assessment. Any utility or railroad may object to its annual regulatory fee “on or before the time specified for payment of the first installment of the assessment made against it” i.e., May 15th of each year. Section 61-1007. Once a utility or railroad objects to its assessment, 61-1007 requires that the Commission conduct a hearing within twenty (20) days of the objection and then issue its determination within twenty (20) days after the hearing. Such cases periodically involve railroads. *See* Order Nos. 29245, 29290, 30332, 33143, 33144.

I. Enforcement of Civil Penalties. The Commission may seek to impose a “civil penalty” when the Commission is of the opinion that a public utility is failing to do anything required by law or if it is violating any order, decision, rule or direction of the Commission. Section 61-706 establishes the maximum civil penalty of not more than \$2,000 for each and every offense. Each day’s continuance of an offense is deemed to be a separate and distinct offense. Section 61-707. *See* Order Nos. 26303, 26610, 29136. Violations regarding pipeline facilities and the transportation of natural gas is capped at \$200,000. Section 61-712A.

J. Application for Broadband Tax Credit. The Commission issued procedural Order No. 28784 concerning the evaluation and issuance of broadband tax credit orders. The Staff reviews the broadband tax application, prepares an ex parte decision memo, and the Commission issues its findings in an order that is forwarded to the State Tax Commission. *See* Order Nos. 34037, 34035.

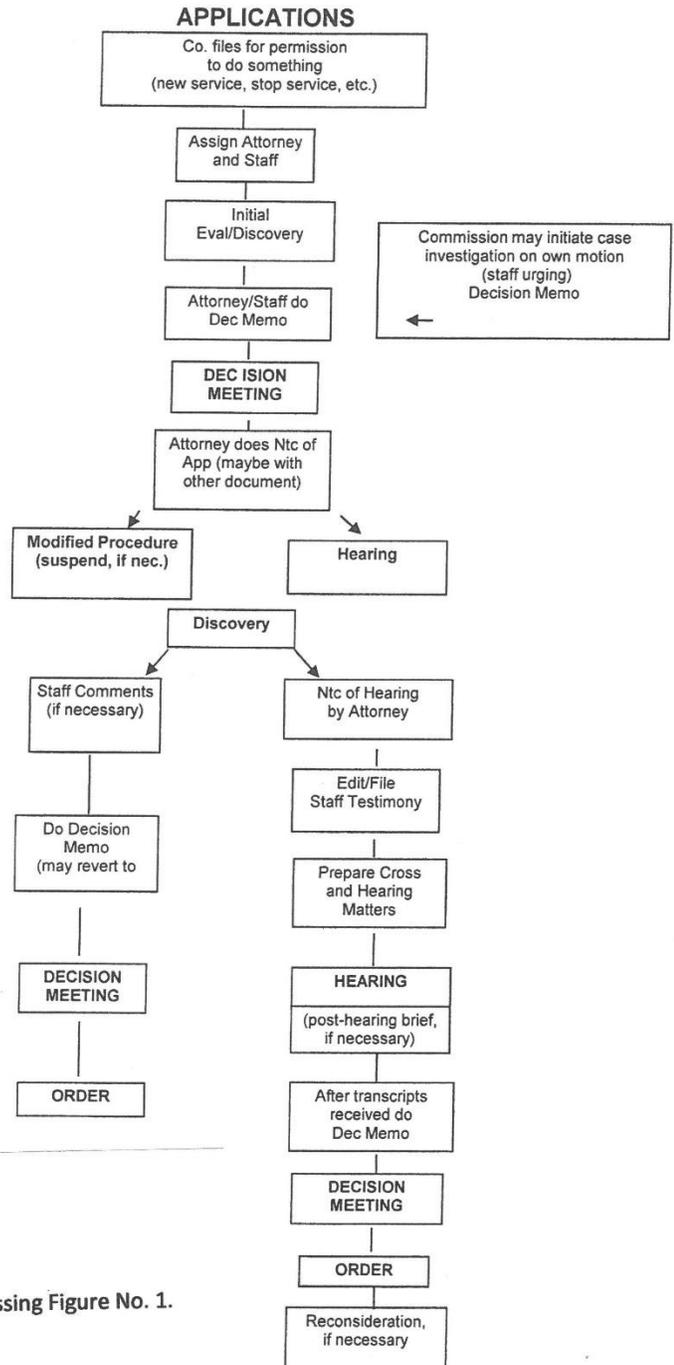
K. Integrated Resource Plan. An energy utility files an IRP every two years. The IRP outlines and analyzes the utility’s strategy for meeting its customers' projected energy needs over the next 20 years. The IRP is meant to demonstrate that the utility has reasonably planned meeting energy needs under different scenarios. Once the IRP is subject to public and Commission review, the IRP is normally accepted for filing. *See* Order Nos. 22299, 33971, 33983.

L. Annual Power Cost Adjustment or Energy Cost Adjustment Mechanisms. A PCA or ECAM proceeding allows an energy utility to adjust its rates each year to capture the difference between its actual power supply expenses for a particular year and the power expenses embedded in base rates. *See* Order Nos. 33492, 33894, 34040.

M. The Sale of Utility Assets. *See* Order Nos. 30993, 24676.

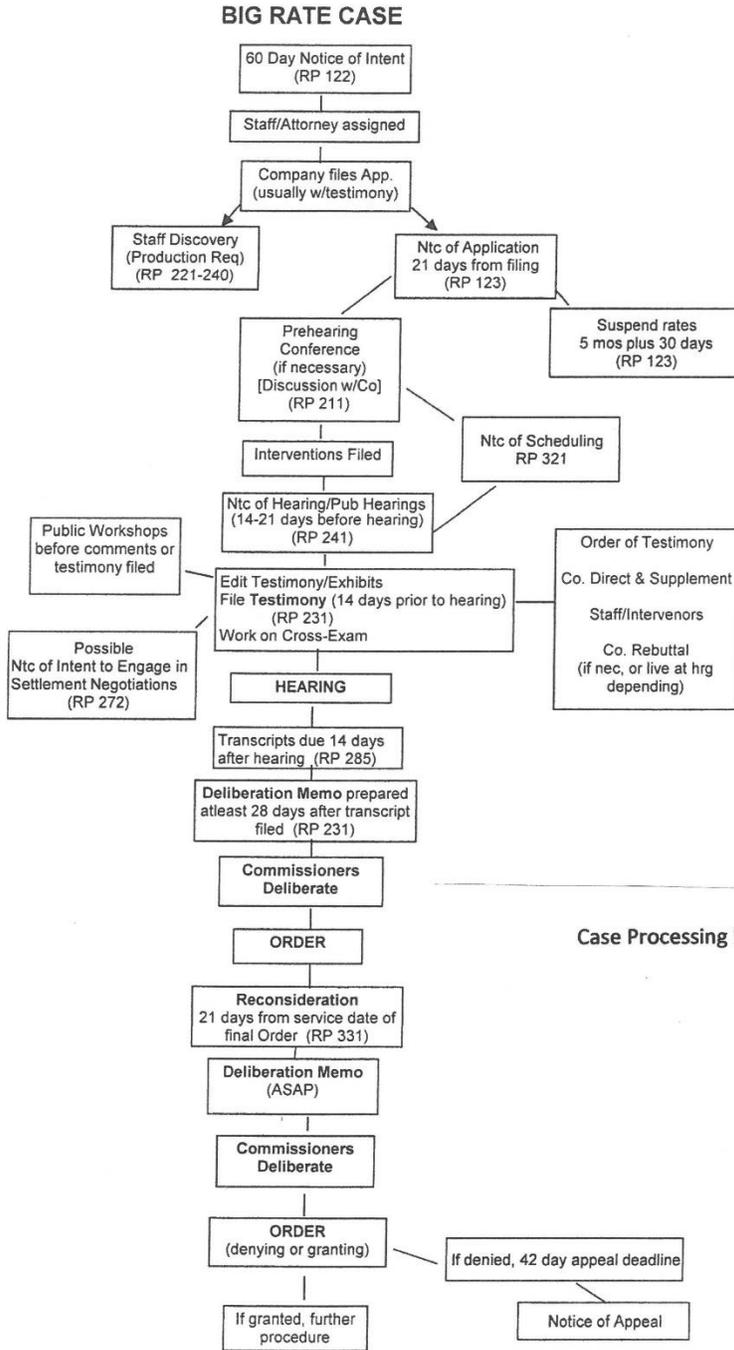
N. Informal Complaints becoming Formal Complaints. *See* Order Nos. 28860, 28950, 30615, 32264, 33524.

O. Allocation of Electric Customers or Service Territory. Section 61-333(1) of the Electric Supplier Stabilization Act (ESSA) provides that electric suppliers may contract for the purpose of allocating territories, consumers, and future consumers and designating which territories and consumers are to be served by which contracting electric supplier. The Commission may approve agreements allocating service territories and/or customers between electric suppliers in conformance with the purposes of the ESSA. *See* Order Nos. 29775, 30318, 30404, 32646, 33287.



Case Processing Figure No. 1.

FIGURE 3. FLOW CHART IN PROCESSING A GENERAL RATE CASE IN IDAHO



Case Processing Figure No. 2.

RP = Rules of Procedure

STYLE MANUAL

I. INTRODUCTION

Introduction and Purpose. The Style Manual sets out general guidelines regarding the organization of Commission documents (orders, notices, memos, testimony) and the use of citations, quotations, abbreviations and other matters of writing style. The Manual is not intended to be an exhaustive source for all style or writing questions but is intended to address only the most common issues faced by Staff and the Deputy Attorneys General (DAGs) assigned to the Commission. This Manual relies on recognized standards of usage found in *The Bluebook* (19th Ed. 2010) and *The Gregg Reference Manual* (10th Ed. 2005). The standards contained in the Manual are modified below by the Commission's current office custom or policy, especially concerning the use of citations.

II. DOCUMENTS

A. *Decision Memos.* Decision Memos are prepared by the Commission Staff or the DAGs. Typically, there are two general types of Decision Memos: introductory decision memos (usually the first Decision Memo in a case); and intermediate or subsequent decision memos. These memos are used to present and frame issues or questions to the Commission at its Decision Meetings. The number of Decision Memos issued in each case is usually a reflection of complexity of each case, i.e., the more complex the case, the greater the number of Decision Memos. The structure of Decision Memos follows a pattern that has developed over the years: Introduction; Background; the Body of the memo (the proposal of the utility, the issues or questions presented for the Commission's decision); Staff Recommendation (if applicable); and Commission Decision.

1. **The Subject.** The subject line of the decision memo should generally describe the matter and specify the utility or the identity of the party preparing a pleading if different. The subject of the decision memo does not have to exactly match the Title of the Proceeding ("Case Caption") contained on the first page of a pleading. The subject should also include the specific case number or tariff advice number. (Note that the examples below are suitable for use as describing items on a Decision Meeting Agenda.) Examples include:
 - a. Brandon Karpen's April 13, 2018, Decision Memorandum re: Idaho Power's Annual Power Cost Adjustment; Case No. IPC-E-18-06.
 - b. Michael Morrison's April 12, 2018, Decision Memorandum re: Avista's Tariff Advice to Update its Electric Line Extension Schedule 51; Tariff Advice No. 18-04-E.
 - c. Camille Christen's April 1, 2018, Decision Memorandum re: Staff's Motion to Strike Parts of Idaho Power's Prefiled Testimony; Case No. IPC-E-02-16.

2. Introductory Paragraph. The introductory paragraph of the first decision memo in a case should contain the date that the pleading was filed, the name of the party filing the pleading, and briefly indicate what the party wants. If the party seeks specific action by a stated effective date, then state the proposed effective date (and if no proposed effective date, state that as well).
3. The Body.
 - a. The introductory decision memo should generally outline the contents of the pleading and include appropriate citations to the pleading. The body should recite the filer's reasons in support of the requested action. If appropriate, the body of the decision memo may include a "background" or "procedural history" section if the subject of the memo involves issues that the Commission has addressed in the past, e.g., applications that are filed annually (PCA, PGA, ECAM, FCA, DSM surcharges/riders, avoided cost rates, etc.).
 - b. The introductory decision memo should also state whether the filer of the pleading has requested that the case be processed in a particular manner (e.g., modified procedure) and/or recommended a processing schedule for the Commission. If the Staff is recommending a different processing procedure or a different processing schedule, then briefly explain the differences and the reasons for the Staff's different recommendation.
 - c. The introductory decision memo should state the entities (if any) that were served with a copy of the pleading.
 - d. If the pleading has other substantive filing requirements (e.g., rate case customer and public notices, suspension issues, public workshop issues), then the introductory decision memo should also discuss these issues.
4. Recommendation Action. The memo should contain a "Staff Recommendation" outlining the Staff's recommended course of action for the Commission to consider.
5. The Decision for the Commission. The memo should conclude with a "Commission Decision" section asking the Commission whether it desires to take the action recommended by the Staff.

B. Intermediate or Subsequent Decision Memos. After the introductory or first decision memo, Staff and DAGs will prepare intermediate or subsequent decision memos. These subsequent decision memos typically address issues or questions that arise after the Commission issues its initial Order (e.g., Notice of Application and Notice of Modified Procedure; or informal technical hearing, intermediate memos after the Notice of Application, Deadline for Intervention and suspension (if necessary)). Subsequent decision memos do not need to repeat all the basic details of the Application or Petition but are used to address issues that arise during the processing

of the case. Subsequent decision memos usually address topics such as: setting or adjusting hearing and testimony schedules; discovery schedules; workshop schedules; motions and objections; proposed settlements; and other issues or questions submitted for the Commission's decision.

C. Staff Comments and Testimony. Staff usually files written comments (Rule 203) in Modified Procedure cases and prefiles written testimony (Rule 266) in technical hearing cases. Staff comments and testimony are prepared by Staff assigned to the case and reviewed by the supervisors and assigned DAGs (as necessary).

1. Written Comments. Comments usually follow the format below:
 - a. "Introduction" which starts with "COMES NOW" and describes the case and case number.
 - b. "Background" which describes the case and its issues, e.g., Orders issued, deadlines established, and/or prior Commission action.
 - c. "Staff Review" which discusses Staff positions on the issues raised by the Applicant and other parties.
 - d. "Staff Recommendation" or Summary.
 - e. Signature of DAG and list of technical Staff.¹⁵
2. Staff Testimony. Rule 231. Staff testimony is prepared in the form of "questions and answers" (Q and A) which address the proceeding, the issues, Staff's analysis of the issues, Staff's position on each issue, and recommendations. The scope of prefiled testimony will depend on the number of issues addressed in the written testimony. For example, some testimony may address one or two issues or represent an overview or summary of the Staff's entire case.
 - a. Staff also prepares exhibits and charts to accompany their testimony, as necessary. Each witness's prepared testimony must be accompanied by a cover page showing the case number and case caption; the name of the Staff member testifying; and the nature of the testimony (direct, rebuttal, supplemental, etc.). Rule 231.02.a. The first page of prepared testimony should contain only testimony and begins with the first question. Rule 231.02.b.
 - b. All references to exhibits must refer to the exhibits by their number as assigned to each party by the Commission Secretary. Rule 231.03.

¹⁵ See footnote No. 8 *infra*.

3. Developing the Staff Position on Issues. When preparing either Staff comments or testimony the Utilities Administrator or section supervisor may convene meetings with Staff and the assigned DAG(s) to discuss the various issues contained in the applicant's or petitioner's case. An initial meeting may be used to initially identify issues in the case; evaluate significant issues (in terms of revenue, number of customers affected, or importance to the company); assign Staff to issues; and determine whether the Staff may need to procure the services of an outside expert. See Fig. 3.
 - a. Subsequent or additional meetings may be necessary for the Staff to formulate and develop Staff positions regarding the various issues. The development of the Staff positions may be based upon several factors including: controlling opinions of courts and administrative bodies; the Public Utilities Laws (Title 61 and 62); prior Commission orders and decisions; national standards (accounting, best practices); past Staff positions; and good public policy.
 - b. Staff positions are usually developed by the staff member assigned to a particular issue and may be in response to a utility position or be a staff-initiated issue. The primary responsibility of the Staff is to use its best professional and expert judgment to develop a position on each issue. A staff position may also be developed in consultation with other staff members and section supervisors. Whether the Staff agrees with or opposes the position of other parties on various issues, the Staff should explain its reasons for agreeing or disagreeing with the positions of other parties.
 - c. In some cases, a particular staff position may affect other Staff positions. If this occurs, the staff members and supervisors may need to further discuss a particular position. The discussion of the pros and cons of each position should occur in a setting that examines the merits of each position without recrimination. In some cases, the Utilities Administrator may be required to be the final arbiter of different perspectives and determine the Staff position on an issue. In some cases, the Administrator may consider whether to offer a primary position and an alternate position. Based upon the particular alignment of the parties and their positions in the case, the Staff may decide not to present a particular alternate position because the alternative may be addressed by another party in the case.
4. Supervisor Review. Staff-prepared comments and testimony will be reviewed by the unit supervisors, other supervisors (as necessary), and the DAG assigned to the case. For Staff comments in Modified Procedure cases, the DAG may sign and submit the comments on behalf of the Staff and the technical staff will be identified. See Fig. 3.
5. Researching Issues. Orders issued before 1988 will utilize the prior case numbering system (e.g., U-1002 or U-1500 (Generic)). In addition to the change in the case numbering system, several utilities have had different corporate names over the years and thus different 3-letter designations. For example, Avista (AVU) was formally

named the Washington Water Power (WWP); or PacifiCorp (PAC) was formally known as Utah Power & Light (UPL).

D. Commission Orders. Commission Orders have usually followed a particular format modeled on the format of Idaho Supreme Court opinions. Orders and notices are usually prepared by a DAG. There are three (3) general types of orders.

1. Introductory Orders. “Introductory” orders are those orders issued at the beginning of a case such as: Notice of Application (or Petition); Notice of Modified Procedure; Notice of Deadline for Intervention; orders granting intervention; Summons and Complaint; and Notice of Parties. As discussed above, these types of introductory orders typically explain the action requested in the initial pleading, may set a deadline for intervention, suspend the proposed action (if necessary), or disclose how the Commission will process the case. A Notice of Parties is normally prepared by the Commission Secretary’s designate and reviewed by the DAG assigned to the case.
2. Intermediate Orders. “Intermediate” orders are those orders issued after the introductory orders but before the Final Order(s) that are issued in a case. These types of orders include: scheduling orders (after a prehearing conference); Notice of Hearings; Notice of Public Workshop; Notice of Customer Hearing; Notice of Settlement Conference(s); and orders deciding preliminary matters such as motions, objections or rulings on other issues.
3. Final Orders. There are two types of “Final” Orders. First, there is a Final Order at the end of a proceeding that decides all the issues presented in a case. Second, in cases involving reconsideration, the Commission issues a Final Order on Reconsideration that decides all the issues on reconsideration. If either type of Final Order contains many pages and/or sections, the DAG may include a “Table of Contents” and a short Summary of the Order on a separate cover page to assist the reader.
 - a. Partial Final Order. On occasion, the Commission may issue a “partial” Final Order on some but not all issues (Order No. 32910), or partially grant reconsideration (Order No. 32554) to some but not all issues on reconsideration. The Commission may also further suspend an application under reconsideration for up to an additional 60 days for good cause under Section 61-622(4).
 - b. Final Order Paragraphs. All final orders must contain the standard final order paragraphs set out in Rule 323.01 or substantially similar paragraphs.

E. Format of Initial Orders.

1. Introductory Paragraph. After the case caption and Order Number, there is the “introductory” paragraph. In initial Orders, the introductory paragraph typically includes the full name of the applicant or petitioner; the date of the filing; the general

subject of the pleading; and the suggested method of processing the case (including any proposed effective date). For example, the outline for an introductory paragraph might include:

On ____, 2018, [who] filed [the pleading] requesting/seeking [something]. The Company requests that the Commission process the [pleading] [under Modified Procedure or as a tariff advice] and proposes an effective date of _____. In this Order the Commission [does what].

(a) Actual examples of introductory paragraphs appear below:

(i) Example 1:

On June 9, 2017, Avista Corporation filed an Application seeking authority to increase the Company's general rates for electric and natural gas service in Idaho. Avista proposes a two-year rate plan that would increase annual electric billed revenues by \$18.6 million (7.9%) on January 1, 2018, and by \$9.9 million (4.2%) on January 1, 2019. The plan includes an increase in annual natural gas billed revenues by \$3.5 million (5.7%) on January 1, 2018, and by \$2.1 million (3.3%) on January 1, 2019. [Order No. 33808 at 1 (AVU-E-17-01). kk.]

(ii) Example 2:

On November 22, 2011, Idaho Power Company filed an Application with the Commission requesting acceptance or rejection of a 20-year Firm Energy Sales Agreement (Agreement) between Idaho Power and High Mesa Energy, LLC (High Mesa) dated November 16, 2011. The Application states that High Mesa would sell and Idaho Power would purchase electric energy generated by the High Mesa wind project (the "Facility") located near Bliss, Idaho. Idaho Power requests that its Application be processed by Modified Procedure. [Order No. 32414 at 1 (IPC-E-11-26) kr.]

(iii) Example 3:

Here is a longer introduction in two paragraphs that includes some "background" information:

On April 13, 2012, Idaho Power Company filed its annual power cost adjustment (PCA) Application. Since 1993, the PCA mechanism has permitted Idaho Power to adjust its PCA rates upward or downward to reflect the Company's annual "power supply costs." Because about half of the Company's generation is from hydropower facilities, Idaho Power's actual cost of providing electricity (its power supply cost) varies from year to year depending on changes in Snake River

streamflows, the amount of purchased power, fuel costs, the market price of power, and other factors. The annual PCA surcharge or credit is combined with the Company's "base rates" to produce a customer's overall energy rate.

This year Idaho Power calculates that its annual power costs have increased above the normalized PCA rates. The Company estimates that the existing PCA rates should be increased by about \$43 million, or an average increase in the existing PCA rates of approximately 5.10%. When the proposed PCA increase is combined with the Company's Revenue Sharing Case (IPC-E-12-13), the overall average proposed increase in PCA billed rates is estimated to be 1.71% for tariff customers and between 6.12% and 7.62% for the four special contract customers. The Company proposes that the PCA Application be processed under Modified Procedure and that the new PCA rates become effective on June 1, 2012. [Order No. 32533 at 1 (IPC-E-12-17) dh.]

2. Background or Procedural History. Following the introductory paragraph(s), there may be a "Background" or "Procedural History" or "Application" section which may include the issues and requests contained in the application. In introductory orders this may be denoted as the "Notice of Application [or] Petition" section.¹⁶
3. The Body Section. The "body" section is next. The contents of the body section will typically depend on how the Commission will process the case.
 - a. For example, in Modified Procedure cases, the body of the introductory order will be the Notice of Modified Procedure section, comprised of the "standard" Modified Procedure paragraphs, and the due dates for the submission of comments and reply comments, if any.
 - b. In formal technical hearing cases, the body of introductory orders will typically set a deadline for intervention and notify parties that a prehearing conference will follow. The body of the introductory orders may also contain the findings of the Commission when it decides to suspend a proposed effective date.
4. Order Section. Finally, there is the "ORDER" section at the conclusion of the introductory order. This is typically the section of the introductory order (and intermediate and final orders) where the Commission directs (or "orders") the parties to comply or take certain actions (e.g., intervene by a date certain or suspend a proposed effective date). *See* Order Nos. 34039, 34051.

¹⁶ Likewise, orders granting uncontested intervention typically follow an established template prepared by the Legal Administrative Assistant.

F. Format of Intermediate Orders. Intermediate orders address a host of matters after the Commission issues its introductory order in individual cases.

1. **Rate Case.** Intermediate orders in a rate case may schedule formal technical hearings (Order No. 33825); schedule a public workshop (a Notice issued by the Commission Secretary); adjust the hearing schedule (Order No. 33837); issue notice and request testimony on a proposed settlement (Order No. 33920); and requested closing briefs (Order No. 33947).
2. **Formal Complaint and Appeal.** After a utility filed a formal complaint and petitioned for a declaratory order, the Commission's introductory order consolidated the two issues and order the two respondents to file an answer or responsive motion. In that particular case, the Commission's Intermediate orders denied a Motion to Dismiss (Order No. 32755); denied a motion for permissive appeal but granted respondents a stay to seek an interlocutory appeal (Order No. 32780). After the Idaho Supreme Court issued its opinion in the interlocutory appeal, the case was remanded to the Commission and the Commission issued an order setting a new hearing schedule (Order No. 33126).

G. Format of Final Orders. Final orders will contain an introductory paragraph and usually a section (sometimes labeled "Background" or "Prior History" that addresses the initial pleading, how the case was processed, and necessary procedural matters.

1. **Introductory Paragraphs of Final Orders.** Below are the edited introductory paragraphs in the three Final Orders that correspond to the three examples of interlocutory orders set out above on pages 30-31.

- a. **Example 1 (Avista Gas and Electric Rate Case):**

On June 9, 2017, Avista Corporation filed an Application seeking authority to increase its rates for electric and natural gas service in Idaho. Avista proposed a two-year rate plan that would increase annual electric revenues by \$18.6 million in 2018 and \$9.9 million in 2019, and would increase annual natural gas revenues by \$3.5 million in 2018, and \$2.1 million in 2019. The proposed effective dates for the rate increases would be January 1 for both 2018 and 2019. On June 30, 2018, the Commission issued a Notice of Application and granted intervention to Clearwater Paper, Idaho Conservation League (ICL), Idaho Forest Group, the Community Action Partnership Association of Idaho (CAPAI), and Sierra Club. Order Nos. 33808, 33804, 33815, 33829.

Consistent with the hearing schedule, the parties held settlement discussions. On October 20, 2017, Staff filed a proposed stipulation and settlement ("Settlement") and a motion to approve it. Under the proposed Settlement, annual electric revenues would increase by \$12.9 million in January 2018, and \$4.5 million in January 2019. Natural gas revenues would increase by

\$1.2 million in January 2018, and \$1.1 million in January 2019. The Settlement was signed and supported by all parties except the Sierra Club and ICL.

On October 25, 2017, the Commission issued a Notice of the Settlement and amended the case schedule. Order No. 33920. The Order amended the deadlines for prefiled testimony in support of the Settlement, reply testimony and rebuttal testimony, but retained the date for the technical hearing. *Id.* Commission Staff held public informational workshops in Lewiston and Coeur d'Alene on August 30 and 31, 2017. The Commission convened a public hearing for customers in Coeur d'Alene on November 30, 2017, and held a technical hearing in Boise on December 8, 2017. At the technical hearing, the Commission closed the public comment period and set a deadline for the parties to file any briefs. Order No. 33947. Avista, ICL and the Sierra Club timely filed briefs. After reviewing the testimony and the exhibits of the parties and the public comments, the Commission now issues this Order approving the Settlement.

b. Example 2 (PURPA Agreement between Idaho Power and a QF).

On November 22, 2011, Idaho Power Company filed an Application requesting the Commission accept or reject a 20-year Firm Energy Sales Agreement (Agreement) between Idaho Power and High Mesa Energy, LLC (High Mesa) dated November 16, 2011. The Application states that High Mesa would sell and Idaho Power would purchase electric energy generated by the High Mesa wind project (Facility) located near Bliss, Idaho. Idaho Power requested that its Application be processed by Modified Procedure.

On December 16, 2011, the Commission issued a Notice of Application, Notice of Modified Procedure, and established comment deadlines. Order No. 32414. Staff was the only person or party to file comments. High Mesa filed reply comments. By this Order, the Commission approves the Agreement between Idaho Power and High Mesa for the sale and purchase of electric energy.

c. Example 3 (Idaho Power PCA Case) (footnote omitted).

On April 13, 2012, Idaho Power Company filed its annual power cost adjustment (PCA) Application. Since 1993, the PCA mechanism has permitted Idaho Power to adjust its PCA rates upward or downward to reflect the Company's annual "power supply costs." Because about half of the Company's generation is from hydropower facilities, Idaho Power's actual cost of providing electricity (its power supply cost) varies from year to year depending on changes in Snake River streamflows, the amount of purchased power, fuel costs, the market price of power, and other factors. The annual

PCA surcharge or credit is combined with the Company's "base rates" to produce a customer's overall energy rate.

This year Idaho Power calculates that its annual power costs have increased above the normalized PCA rates. The Company estimates that the existing PCA rates should be increased by about \$43 million, or an average increase in the existing PCA rates of approximately 5.10%. The Company proposes to offset its proposed PCA rate increase with revenue credits (about \$27.1 million) from its Revenue Sharing Case (IPC-E-12-13). When the two cases are combined, the Company proposes that the overall average increase in PCA billed rates would be 1.71% for tariff customers and between 6.12% and 7.62% for the four special contract customers. The Company proposes that the PCA rates become effective on June 1, 2012.

On April 25, 2012, the Commission issued Order No. 32533 requesting public comment on the PCA Application. The Commission's Notice of Modified Procedure requested that written comments be filed no later than May 15, 2012. In response to the Commission's Notice, comments were filed by several customers, Snake River Alliance (SRA), and Commission Staff. The Company filed timely reply comments. As set out in greater below, the Commission approves Idaho Power's PCA Application with new PCA rates effective June 1, 2012.

2. The Body of Final Orders. The structure or arrangement of the body of a final order depends on the number of issues the Commission is called upon to decide and the number of parties that commented or testified on each disputed or undisputed issue. When reviewing disputed issues, the body of the Order usually addresses public comments/testimony (if any) first, then the comments/testimony of the parties, and finishes with the reply comments/testimony of the applicant. The Commission then makes its findings and decides the issue(s) in a section usually entitled "Discussion and Findings." This "findings" section may begin with (or should contain elsewhere) the Commission's legal authority over the parties and the issues to be decided.
 - a. Single or Few Issues. For cases with a single issue or a few issues to be decided by the Commission, the body of the final order may be divided by issues and further divided by the position of each party or commenter. Examples of single or few issues in a Final Order include:
 - i. Modified Procedure to Adjust BPA Residential Exchange Credit. In Final Order No. 33896, the Commission approved the increase in the BPA credit for Rocky Mountain Power based upon the comments of Staff.

- ii. Modified Procedure Approving PURPA Contract. In Final Order No. 30087, the Commission approved an Energy Sales Agreement between Idaho Power and a QF where only the Staff filed comments.
 - iii. Formal Technical Hearing to Consider a Proposed Settlement Agreement. In Final Order No. 33437, the Commission approved a proposed settlement of a rate case. The Commission reviewed the public comments and the testimony of the utility, intervenor and Staff urging the Commission to approve the proposed rate case settlement.
 - iv. Modified Procedure to Review Fixed Cost Adjustment (FCA) Tariff for Idaho Power. In Final Order No. 32171, the Commission disapproved proposed revisions to FCA tariff schedule based on the comments of Staff.
 - v. Modified Procedure with Four Commenters and Multiple Issues in an IRP Case. In Final Order No. 32997, the Commission reviewed the four issues/comments raised by Staff; the three major issues and sub-issues raised by the other commenters; and the reply comments of the utility. The Commission's final Order ended with a "Findings and Discussion" section, followed by an "Order" section.
- b. Multiple Parties and Issues. In cases where there are several disputed issues and several parties, the body of a final order may be organized by each issue where each party's position on the particular issue are discussed. This format may be used with disputed or undisputed (settled) issues. Using his format, the Commission may issue its findings and decisions for each issue in the body of the final order. A sample section format is set out below:

DISPUTED ISSUES

A. Issue No. 1 [The Cost of Capital]

Applicant
 Parties Supporting Applicant
 Parties Opposing Applicant
 Reply by Applicant
Commission Findings:

B. Issue No. 2 [DSM Labor Expenses]

Applicant
 Parties Supporting Applicant
 Parties Opposing Applicant
 Reply by Applicant
Commission Findings:

- c. Examples of Cases involving Multiple Parties or Issues are:
 - i. Formal technical hearing in gas rate case where parties proposed settlement of case. See Final Order No. 32769.
 - ii. Formal technical hearing in a consolidated case to reduce the length of IRP-based PURPA contracts for the three electric utilities. In Final Order No. 33357, the Commission examined three large disputed issues based upon testimony from nearly 10 parties. In its Final Order on Reconsideration No. 33419, the Commission examined three large issues with several sub-issues.
 - iii. Modified Procedure to review special facilities agreement between Idaho Power and a developer, Avimor. In Final Order No. 30322, the Commission disapproved the agreement. The Commission granted reconsideration (Order No. 30372) and partially granted and partially denied reconsideration in Final Order on Reconsideration No. 30396.
- 3. Commission Finding. The “*Commission Finding*” or the “Findings and Discussion” section of the body of an intermediate or final order normally should begin with an overview of the Commission’s statutory jurisdiction over the parties and the issues (rules, rates, service, etc.). The jurisdictional findings are then followed by a specific finding for each disputed issue based upon testimony or comments in the record. If the body of immediate or final orders contain multiple issues for the Commission to decide, the general jurisdictional findings are generally stated in the beginning and not repeated in each finding section. See Order Nos. 33987.
- 4. Conclusion or Summary. At the end of the body of a final order and before the "ORDER" section, there may be a conclusion or summary of the findings or decisions contained in the body of the order.
- 5. Order Section. Finally, there is the “ORDER” section of the final order that contains the “ordering” paragraphs. Every Final Order, or Final Order Denying Reconsideration, or Final Order on Reconsideration, must contain the appropriate final paragraph from Rule 323.01 or a paragraph substantially similar.
 - a. Often times the Commission’s Order simply approved new rates or tariff schedules as submitted by the parties and they become effective when ordered by the Commission. In other cases, a utility may need to submit new or “confirming” rates and schedules if the Commission approved rates or schedules different than originally submitted. When this occurs, the Commission may order that the conforming rates or schedules be submitted by a specific date for review by the Staff.

H. Signing/Service Dating Orders. All orders are signed by the Commissioners and the Commission Secretary. Some orders may be considered “time sensitive” because they must be issued in time to meet the requirements of either rules or statutes. In such cases, the DAG should advise the Commission Secretary of the time-sensitive nature of a particular order.

I. Examples of Specific Types of Orders.

1. Proposed Order (Rule 312). The Commission may issue a proposed order in any proceeding. A proposed order does not contain an order number. After the Commission issues a proposed order, parties file exceptions and/or briefs within the proposed order within twenty-one (21) days (unless a different time is designated by the Commission). Thereafter, any other party may file answers to the exceptions of any other party. Once the record is closed, the Commission will consider the exceptions and answers and may adopt or revise the proposed order and issue a final order accordingly. *See* Case Nos. GNR-T-01-10, ATL-E-03-01, GNR-T-04-05/-06.
2. Stay of Order (Rule 324). Any person may petition the Commission to stay any order. The Commission may stay any order on its own motion. *See* Order Nos. 32780, 33567, 33836.
3. Clarification Order. Any party may petition the Commission to clarify an order or the Commission may clarify an order on its own motion. (Rule 325.) Petitions to clarify may be combined with a petition for reconsideration. *See* Order Nos. 32861, 32913, 32220.
4. Emergency Order. Consistent with *Idaho Code* § 61-533, the Commission may issue emergency orders. Order Nos. 28605, 32709, 29840 (water).
5. Annual Assessment Order. Order Nos. 34032 (utilities), 34033 (railroads). *See* Section 61-1004(3) for pipeline utilities. For objections to annual assessments, see page 23, § H.
6. Minute Order (also referred to as a minute entry) (Rule 134.02). Sometimes utilities request a minute order to memorialize actions taken by the Commission which would normally be recorded in the minutes of its decision meetings. It is usually a brief recitation of the Commission’s action regarding a certain matter which does not contain an ordering section or has an order number. It usually contains the three signatures of the Commissioners. *See* Minute Order in Case No. PAC-E-10-07.
7. General Order. Historically, the Commission has utilized three-digit general orders to issue rules, e.g., General Order 155. Before the initiation of rulemaking under the Administrative Procedures Act in 1992, the Commission issued its rules by General

- Order. See Procedural Rule 202 (Notice of Modified Procedure) in the annotations where it states Rule 202 was originally adopted by “G.O. 155; amended and recodified, G.O. 163. . . .” Now rulemaking cases are numbered using the APA numbering system (where the Commission is designated as agency No. 31). For example, Rule 229 was amended in Docket No. 31-0101-0801.
8. Intervention Order (Rules 71-75.) *See* Order Nos. 25219, 32350, 33311 (limiting or denying intervention). *See* pages 6-7, § I.
 9. Intervenor Funding Orders. *See* Section 61-617A, Rules 161-65.
 10. Subpoenas (Rule 226.)
 11. Appointing Orders (Rule 258). The Commission occasionally appoints a hearing examiner to conduct or hear a particular proceeding. The Commission’s DAGs are sometimes appointed as hearing examiners in minor proceedings. When a hearing examiner conducts a proceeding, the examiner prepares and files recommended findings of fact on the Commission Secretary and serves copies on all parties within fourteen (14) days after receipt of the hearing record unless the examiner’s findings are stated on the record at the hearing.
 12. Errata to Orders. When a Commission order contains a material error, the Commission Secretary may issue an “errata” to correct the error in the previously issued order. Section 61-624. For example, if an order contains a transposed rate or amount, a substantial typographical error or other significant error, the Commission may issue an errata. Erratas are not intended to be used as a substitute for clarification. *See* Errata to Order Nos. 29505, 31063, 32199, 33905.
 13. Broadband Tax Credits Orders. *See* Order Nos. 33866, 33734, 32915.
 14. Power Cost Adjustments (PCA), Energy Cost Adjustment Mechanism (ECAM), Purchased Gas Cost Adjustment (PGA) Orders. *See* Order Nos. 32227, 32250, 33776, 33637.
 15. Interlocutory Orders vs. Final Orders (Rules 321-22). Interlocutory orders (typically introductory and intermediate orders) are orders that do not finally decide all previously undecided issues in a proceeding. Generally, unless an order is a final order containing a Final Order paragraph (Rule 323.01.a) or Final Order on Reconsideration (Rule 323.01.b), all orders are interlocutory. The culmination of a formal proceeding is the issuance of a final order where the Commission decides all issues. *See* Order No. 32780.
 16. Rescission or Alteration or Amendment of Final Orders (Rule 326). There are two instances when an order may be rescinded, altered or amended. First is upon remand

of an order from the Idaho Supreme Court pursuant to Section 61-629. The other instance is where there have been changes in circumstances or new information or other good and sufficient reasons since an order was issued to amend the order. Section 61-624; *see* Orders Nos. 32629, 32664.

17. Appeals (Rules 341-343). Parties aggrieved by either a Final Order Denying Reconsideration or a Final Order on Reconsideration, may file a Notice of Appeal with the Commission Secretary pursuant to the Idaho Appellate Rules issued by the Idaho Supreme Court. The preparation of the Appellate Record, transcript, and filing requirements are contained in the Idaho Appellate Rules.

III. CITATIONS

A. PUC Orders. Citations to Orders issued by the Commission are generally made to the five digit Order No. and the page. For example:

Order No. 34311 at 2. (Note the word “page” or the abbreviation “p.” is not used to signify the page.)

Multiple pages – Order No. 29025 at 33-38.

B. Parenthetical Information. The drafter may occasionally include supplemental information about the cited source in parentheticals after a citation. Generally parenthetical information adds to the basic citation and is intended to provide the reader with additional information. Oftentimes parenthetical information may include a reference to a Case No., the title of a statute or rule, a quotation from the citation, or other references. Examples include:

Order No. 33488 (Case No. IPC-E-16-02); or

Order No. 32737 (granting reconsideration in part and denying reconsideration in part);
or

Order No. 32697 (Final Order in Phase III PURPA Investigation).

C. PUC Rules. The Commission has about 17 different sets of Administrative Rules. They are located in the LRULES directory or on the Commission’s public homepage by clicking on “Laws & Rules.” The Commission’s Rules of Procedure are commonly cited as:

“procedural Rule 14”.

1. Examples.

Often times the citation to the Idaho Administrative Procedures Act follows the Rule reference. Rule 14, IDAPA 31.01.01.014.

Subsections to rules are shown as: Rule 43.02.a., IDAPA 31.01.01.043.02.a.

2. Short Name.

- a. Staff comments and draft orders, use the generic or “short name” of the rule set rather than the long, formal title:

Utility Customer Relations Rule 107 (Return of Deposit) instead of:

Customer Relations Rules for Gas, Electric and Water Public Utilities Regulated by the Idaho Public Utilities Commission Rule 107.

- b. If it is necessary to reference the title of a specific rule, the format would be:

Customer Relations Rule 107 (Return of Deposit), IDAPA 31.21.01.107.

- c. If the author is referring to several rules within the same rule set, it is customary to refer to the first rule by its short name, e.g., “Utility Customer Relations Rule 107” and subsequent references to the same rule or other rules within the same rule set as Rule 107, Rule 108, etc.

D. Statutes. Occasionally, authors may need to refer to the public utilities’ statutes. The statutes pertaining to public utilities are usually found in either Title 61 or Title 62 of the Idaho Code. References to specific statutes within the Idaho Code should be in the following format:

Idaho Code § 61-302

When there is a citation to more than one section of the Idaho Code, it should appear:

Idaho Code §§ 61-302, 61-305

Citations to the United States Code typically refers to a title and section of the federal code. For example, Title 47, Section 251 of the Telecommunications Act of 1996 is cited as:

47 U.S.C. § 251.

E. Federal Agency Decisions. Often times the Commission relies upon and references various orders and notices issued by federal agencies such as the Federal Communications Commission (FCC); Federal Energy Regulatory Commission (FERC); Surface Transportation Board (STB); and Pipeline Hazardous Material and Safety Administration (PHMSA). When possible, Staff should cite the cases as reported in the agency’s “Reporter” system such as:

Connecticut Light & Power Co., 70 F.E.R.C. 61,012 (1995), *reconsid. denied*, 71 F.E.R.C. 61,035 (1995)

Note that “*Connecticut Light & Power*” is the case name, “70” is the volume of the Reporter, “FERC” or “FCCR” is the Reporter, and “61,012” is the page.

Typically orders and notices issued by FERC and the FCC have paragraph numbers (numbers assigned to each paragraph). If citing to a specific paragraph within an FCC or FERC document, then the citation would look like:

American Ref-Fuel Co., 105 F.E.R.C. 61,004 at ¶ 4 (Oct. 1, 2003) *reh’g denied*, 107 F.E.R.C. 61,016 (April 15, 2004), *dismissed sub nom. Excel Energy Services v. FERC*, 407 F.3d 1242 (D.C. Cir. 2005); or

In re Lifeline Link Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advanced Broadband Availability through Digital Literacy Training, 27 F.C.C.R. 6656, at 6660-62 (Feb. 6, 2012) (“*Lifeline and Link Up Reform Order*”); or

In re Connect America Fund, 27 F.C.C.R. 4040, *17672-73 (Nov. 18, 2011) (goals for high-cost support include ensuring and advancing the availability of communications services).

F. Court Citations. At times, it may be necessary to reference material from cases involving the Idaho Commission or other state commissions. For example:

McNeil v. Idaho PUC, 142 Idaho 685, 689, 132 P.3d 442, 446 (2006) (“Federal law indicates that a commission does have the authority to interpret and enforce an interconnection agreement.”).

The references to the second pages (689 and 446) in the citation above is to the parallel Reporter systems where the quote in parenthesis is found.

When a title of a case includes the Commission as a party (see above), it is not necessary to use periods as in “*P.U.C.*” or “*Idaho Pub. Util. Com’n*” but simply use “*Idaho PUC.*” The same is true for the FCC and FERC.

G. Code of Federal Regulations. References to the Code of Federal Regulations (C.F.R.) is usually to the title of the federal administrative code (1 through 50) and a “section” or “part” of the code. For example, Title 18 of the C.F.R. and section 292.304 is:

18 C.F.R. § 292.304 (PURPA Rates for Purchase).

H. Case Testimony. Citation to testimony in a transcript is to the volume, page, and line(s). For example:

Staff witness Sterling testified that: “Both Avista and PacifiCorp have also proposed that the SAR methodology and its current eligibility limits be retained.” Tr. Vol. VI, p. 1083, ll. 23-25 (Case No. GNR-E-11-03).

Citation to prefiled testimony that is not incorporated in a transcript or Modified Procedure comments should be cited as:

Sterling Direct at 5; or Staff Comments at 14, respectively.

I. Citations to the Internet. When there is a need to reference a document in an electronic database or available on the Internet, the reference should also contain a “date visited” because a website can be changed or deleted. For example, a reference to the Commission’s 2015 Annual Report available on our homepage is:

<http://www.puc.idaho.gov/fileroom/annualreports/ar2015/ar2015.html> (last visited April 13, 2016).

IV. OTHER STYLE ISSUES

A. Abbreviations. Generally, abbreviations of agency names or other entities appear after the full name of the agency or the entity. Examples:

Federal Bureau of Investigation (FBI)
Federal Energy Regulatory Commission (FERC)
Federal Communications Commission (FCC)

Thereafter, you can use the abbreviation: FBI, FERC, FCC. When used in the text of comments, the capital letters are not separated by periods (e.g., not F.B.I.) except when referring to a record citation such as: 70 F.E.R.C. 61,000 (Feb. 10, 2016).

B. Numbers. Generally, numbers between one and ten are spelled out while numbers above ten appear in numeric form. For example:

The Company purchased ten vehicles in 2015.

The Commission received over 75 comments in response to its request for comments.

If there are multiple high and low numbers they should appear in numeric form: 3, 5, 13; not three, five, 13.

C. **Quotations.** Materials cited from another reference source should be in quotation marks if the cited material is a verbatim transcript of the original source.

1. **Short Quotes.** Generally, citations of less than 50 words may be included in the regular text using quotation marks.
2. **Long Quotes.** Quotations of more than 50 words, or in cases where the drafter wishes to supply extra emphasis to a quoted passage, should be indented on both the left-hand and right-hand margins, without quotation marks (unless used internally). The sentence leading to a block quote is usually followed by a colon. The citation for a block quotation should begin at regular margin. If the drafter wants to emphasize a certain portion of a block quotation, underline that portion showing the emphasis and put in “(emphasis added)” in the citation. The use of “emphasis added” for very long quotes is highly recommended because it focuses the reader’s attention on the critical part of the long quotation. For example:

RECs are “tradeable certificates . . . that correspond to a certain amount of renewable energy generated by a third party.” *American Ref-Fuel*, 105 FERC at ¶ 61,005. Generally speaking, RECs are inventions of state property law whereby the renewable energy attributes are “unbundled” from the energy itself and sold separately. The credits can be purchased by companies and individuals to offset use of energy generated from traditional fossil fuel resources or . . . to satisfy certain requirements that [utilities] purchase a certain percentage of their energy from renewable resources.

Wheelabrator Lisbon v. Connecticut Dept. Pub. Util. Control, 531 F.3d 183, 186 (2d Cir. 2008) (emphasis added).

3. **Ellipsis.** An ellipsis is three spaced periods (. . .) that indicates language or text is missing from a quoted passage. An ellipsis at the end of a sentence is shown with four periods (. . . .). For example, the quoted passage above shows an ellipsis in the second to the last line of the block quotation.
4. **Brackets.** When the drafter is changing a letter from an upper or lower case, or vice versa, or utilizing a different word than is indicated in the quoted passage, then brackets are used to indicate that an inserted word, letter or language is not original to the quote. For example, in the block quotation above the word “utilities” in the second from the last line in the block quotation has been utilized to show that word “utilities” has been inserted in the place of the original text.