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Boise, Idaho

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Attorney for Petitioner  
Community Action Partnership  
Association of Idaho

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF )  
PACIFICORP DBA ROCKY MOUNTAIN )  
POWER FOR APPROVAL OF CHANGES TO )  
ITS ELECTRIC SERVICE SCHEDULES )

<sup>07-05</sup>  
CASE NO. PAC-E-~~051~~  
  
COMMUNITY ACTION  
PARTNERSHIP ASSOCIA-  
TION OF IDAHO'S  
PETITION FOR  
INTERVENOR FUNDING  
AND MOTION FOR  
EXTENSION OF TIME

Comes now petitioner Community Action Partnership Association of Idaho (CAPAI) and, pursuant to Idaho Code § 61-617A and Rules 161-165 of the Commission's Rules of Procedure, IDAPA 31.01.01, petitions this Commission for an award of intervenor funding.

According to IDAPA 31.01.01.164, this petition is one day late. Legal counsel has been battling severe cardiac issues since last summer and spent the better part of the past two days either in the hospital or being treated at a medical clinic. The undersigned apologizes for this one day delay, but respectfully submits that it does not harm or

jeopardize any party to this proceeding. The undersigned counsel represents that this petition is being emailed to all parties on this date, will be overnighted to all parties on the day after Thanksgiving, and a hard copy is being filed with the Commission today. Counsel appreciates anyone's understanding in advance.

### **Rule 162 Requirements**

#### **(01) Itemized list of Expenses**

Consistent with Rule 162(01) of the Commission's Rules of Procedure, an itemized list of all expenses incurred by CAPAI in this proceeding is attached hereto as Exhibit "A."

#### **(02) Statement of Proposed Findings**

CAPAI's proposed findings are set forth in the testimonies and exhibits of Jon Howat and Teri Ottens filed in this proceeding. Put succinctly, CAPAI strenuously opposed the Company's proposal, set forth in the testimony of Carole Rockney, to amend Regulation 10R.8 to allow for the recovery of "collection costs" from customers as a condition of reconnection. CAPAI expressed a considerable number of concerns and legitimate rationale, as well as supporting documentation, why this proposal is disturbing and unjustifiable. That rationale and exhibits includes, but is not limited to, the fact that the proposal contained no set amounts that the customer would be required to pay other than to broadly define the amount as "any reasonable costs associated with the collection of unpaid accounts...." As Mr. Howat observed, this amount could easily exceed the actual amount of unpaid debt considerably.

Further, witnesses Howat and Ottens demonstrated how this would place an undue burden on low-income customers by essentially "penalizing" them and making it

very difficult, if not impossible, to reconnect. CAPAI submits that this is a self-defeating proposal and not in the best interests of the general body of ratepayers..

Finally, Mr. Howat noted that the proposal eliminated the incentive to the Company to strive to minimize collection agency costs or attorney fees associated with credit and collections.

CAPAI also notes that, unlike issues such as low-income weatherization, CAPAI has never addressed this issue before and was required to delve into new subject matter requiring additional time and expense.

**(03) Statement Showing Costs**

Attached hereto as Exhibit "A" is a statement showing the costs incurred by CAPAI in this proceeding. CAPAI submits that the costs and fees incurred are reasonable. CAPAI is on an extremely limited budget and, by necessity, must minimize its costs to the greatest extent possible. In an effort to do so, it minimizes travel, lodging, meal, and other expenses and relies heavily on people in the communities served by the CAP agencies to provide valuable input to the Commission through the submission of written comments and attendance at public hearings. CAPAI also sends its own employees to meetings.

Although it utilized an expert witness in this case, Mr. Jon Howat, CAPAI minimized his expenses by communicating solely over the telephone or through email rather than making conducting costly personal meetings.

Finally, the costs sought to be recovered by CAPAI were reasonably necessary for CAPAI to fully participate in this case through analysis of the Company's proposal, the filing of testimony and exhibits, the retention of legal counsel and an expert witness,

involvement in procedural discussions and, ultimately, negotiations with Rocky Mountain who withdrew the proposal in its entirety.

**(04) Explanation of Cost Statement**

CAPAI is a non-profit corporation overseeing a number of agencies who fight the causes and conditions of poverty throughout Idaho. CAPAI's funding for any given effort or year might come from a different variety of sources, including governmental and is, therefore, highly unpredictable. CAPAI wishes to point out that the governmental agencies who provide or manage the funding CAPAI receives, primarily the U.S. Department of Health and Human Services and the Idaho Department of Health and Welfare, place considerable restrictions on the manner in which the funds they provide CAPAI are spent. The amount of funding that CAPAI uses for intervening in cases before this Commission is severely restricted.

Based on the foregoing, it is a fact that the cost to CAPAI of participating in this proceeding constitutes a significant financial hardship.

This Commission has been extremely accommodating to CAPAI's regular involvement in significant proceedings such as this, and the Commission has awarded CAPAI its reasonable costs in past rate cases. If it were not for this fact, CAPAI would simply not be able to afford to participate and advance the interests of not only low-income ratepayers, but all ratepayers. In spite of the Commission's honorable decisions, there is never a guarantee that CAPAI will recover the costs it incurs in these proceedings. Furthermore, even if the Commission does ultimately award full recovery through intervenor funding, CAPAI must pay its costs as it goes. This is a tremendous

struggle, in terms of cash-flow, for non-profits organizations, such as CAPAI, who operate on unpredictable and limited budgets.

CAPAI is concerned about an issue that it and its legal counsel has not had to address in past cases. This issue pertains to cost recovery sought by intervenor Timothy Shurtz and the Idaho Irrigation Pumpers Association, Inc. Nothing stated herein should be construed as a criticism of either of these intervenors or the value of their involvement in this proceeding. What is of concern is as follows: first, Mr. Shurtz seeks compensation for his own personal time involved in this case. Mr. Shurtz did not attend the technical hearing on November 6, 2006 during which the proposed settlement stipulation was submitted to the Commission and the parties in attendance expressed their support so it is assumed that the travel costs claimed by Mr. Shurtz pertain to his attendance and involvement in the public hearings conducted in eastern Idaho. Mr. Shurtz seeks \$3,350.00 for work performed on the case.

Over the past half decade or so, CAPAI has formally intervened and participated in a myriad of cases involving all of Idaho's three major investor-owned electric utilities, United Water, Intermountain Gas Company, and has been involved in cases that generally affect the residential and low-income customers of Idaho's regulated utilities. It is fair to say that CAPAI has been the lead advocate for low-income and the only advocate that represents exclusively the residential class in most of those cases.

CAPAI highly commends Mr. Shurtz for his efforts, but notes that CAPAI has never sought recovery for the work of its former executive director and current expert consultant Teri Ottens, though she is certainly an expert in her field. Similarly, CAPAI does not seek, and has never sought, compensation for the services of its current

executive director, Mary Chant. To the best of its recollection, CAPAI has never sought compensation for anything other than its attorney, two expert witnesses over the past five or six years and out of pocket expenses. While the Commission's Rules of Procedure, IDAPA 31.01.01, do not specifically prohibit the recovery of the costs described above, CAPAI and its legal counsel have been of the strong impression based on countless intervenor funding awards made over the past 16 years or so, that such expenses are not recoverable. If they are, it is fair to say that CAPAI has lost the benefit of many thousands of dollars.

Second, CAPAI is concerned about what the scope of recoverable expenses would be if they are expanded beyond legal and expert fees and out of pocket costs. As an example, the Idaho Irrigation Pumpers Association seeks \$510 for "paralegal" services. CAPAI has used the services of countless individuals including paralegals, administrative assistants, outside consultants, etc. Should these fees be recoverable, the question is raised as to whether their scope and nature would expand the amounts sought by intervenors to an extent that the \$40,000.00 available for intervenor funding could easily and often be fully exhausted by a single party, such as the Irrigator's request in this case of \$66,027.12. This could prove a disincentive to intervenors who cannot even begin to finance such an undertaking from participating in future Commission proceedings, which undermines the desired effect of that funding.

Finally, CAPAI notes that it too sent representatives to the public hearings. For example, Mr. Russ Spain testified at the hearing in or near Idaho Falls. Numerous CAPAI employees spent considerable time spreading awareness of the public hearings

throughout Rocky Mountain's service territory resulting in additional low-income and residential class customers to either attend or submit comments.

Again, nothing stated herein is meant to suggest the slightest impropriety on the part of any other intervenor but to point out to the Commission that expanding the scope of fees and costs as proposed by those intervenors arguably constitutes a departure of existing policy and could have negative consequences that were not contemplated when the funding was first established.

In the event that CAPAI has been in error regarding the Commission's policy on the scope of recoverable fees and costs, then CAPAI respectfully suggests the following. The Commission could either deny the expenses attributable to Mr. Shurtz and the Irrigator's paralegal as not being "reasonable" for the purposes of intervenor funding and establish a formal policy for future proceedings, or grant CAPAI additional time to calculate the numerous fees and costs that it has incurred in this proceeding that are of a similar nature. This, of course, would not compensate CAPAI for lost monies that it could have recovered over the past years.

Again, CAPAI applauds the hard efforts of its co-intervenors, but submits that due to the importance of funding, the scope of recoverable fees and costs be fairly applied to all intervenors and that it be as definitively outlined as possible exactly what is recoverable.

**(05) Statement of Difference**

While the Commission Staff called into question the propriety of Rocky Mountain's proposal to recover collection fees, its position was based on different rationale than that provided by CAPAI who pointed out that the amount of the costs was

completely undefined and incalculable, the amount of costs could drastically exceed the amount of the actual debt, the proposal would minimize the Company's incentive to minimize its collection costs, the Company's low-income customers would bear a disproportionate amount of the burden of these costs, it would make it difficult if not impossible for low-income customers to reconnect to the system, and as a result of the foregoing, it would adversely affect the general body of Rocky Mountain's ratepayers.

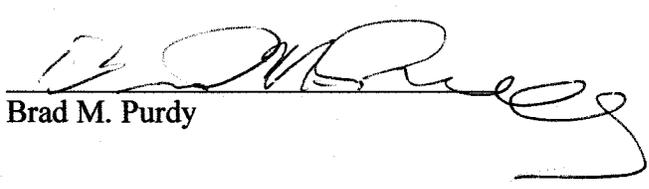
**(06) Statement of Recommendation**

CAPAI's opposition to Rocky Mountain's proposal addressed issues of concern to the general body of ratepayers. The proposal could have had deleterious effects on all classes of ratepayers for the reasons described above. It is hard to imagine that assisting those customers in true need of help by avoiding penalties of the nature proposed by the Company, and possibly causing those customers to drop off the system, is not of interest or concern to every customer of Rocky Mountain.

**(07) Statement Showing Class of Customer**

To the extent that CAPAI represented a specific PacifiCorp customer class, it is the residential class.

RESPECTFULLY SUBMITTED, this 21st day of November, 200<sup>7</sup>.

  
Brad M. Purdy

**EXHIBIT "A"**  
**ITEMIZED EXPENSES**

<b>Costs:</b>		
	Photocopies and overnight delivery	\$215.04
	<b>Total Costs</b>	<b>\$215.04</b>
<b>Fees:</b>		
	Legal (Brad M. Purdy 45.00 hours @ \$150.00/hr)	\$6,750.00
	Expert witness (Jon Howat)	\$6,195.00
	<b>Total Fees</b>	<b>\$12,945.00</b>
	<b>Total Expenses</b>	<b>\$13,160.04</b>

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of November, 2007, I caused to be served the foregoing PETITION TO INTERVENE OF COMMUNITY ACTION PARTNERSHIP ASSOCIATION OF IDAHO on the following, by electronic filing, in Case No. PAC-E-07-05.<sup>1</sup>

Justin Brown  
Brian Dickman  
PacifiCorp  
201 S. Main St., Suite 2300  
Salt Lake City, Utah 84111

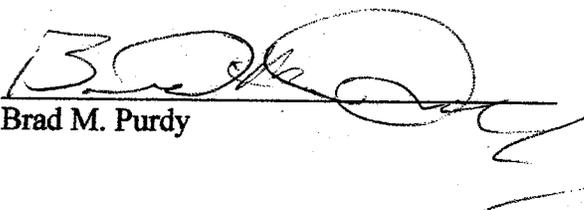
Randall C. Budge  
Racine, Olsen, et. al.  
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Pocatello, ID 83204

Eric L. Olsen  
Racine, Olsen, et al.  
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Idaho Falls, ID 83404

Timothy Shurtz  
411 S. Main  
Firth, ID 83236

  
Brad M. Purdy

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<sup>1</sup> Due to physical illness, hard copies were not overnighted to the mailing list above until November 27, 2007 though a hard copy was filed with the Idaho Public Utilities Commission and electronic copies sent to the entire List of Parties on November 21, 2007.