

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

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| <b>IN THE MATTER OF THE APPLICATION</b> | ) |                              |
| <b>OF AVISTA CORPORATION FOR THE</b>    | ) | <b>CASE NOS. AVU-E-08-01</b> |
| <b>AUTHORITY TO INCREASE ITS RATES</b>  | ) |                              |
| <b>AND CHARGES FOR ELECTRIC SERVICE</b> | ) |                              |
| <b>TO ELECTRIC CUSTOMERS IN THE</b>     | ) | <b>ORDER NO. 30632</b>       |
| <b>STATE OF IDAHO</b>                   | ) |                              |
|   | ) |                              |

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On April 3, 2008, Avista Corporation dba Avista Utilities (Avista; Company) filed an Application with the Commission for authority to increase the Company’s general rates for electric service in Idaho. A Notice of Application and Notice of Intervention Deadline was issued by the Commission on April 16, 2008, setting a May 9, 2008, deadline for intervention. Two parties timely filed for (and were granted) intervention – Potlatch Corporation and Community Action Partnership Association of Idaho (CAPAI). Workshops were held in Moscow and Coeur d’Alene on July 24 and 25, 2008, respectively. A settlement conference was held on July 31, 2008, wherein all parties to the case were present and participated. Pursuant to settlement discussions, the parties entered into a Stipulation and negotiated settlement that purports to resolve all issues raised in this proceeding. Thereafter, on August 12, 2008, the Commission issued a Notice of Proposed Settlement. A technical hearing on the joint Stipulation and proposed settlement is scheduled for August 28, 2008.

On August 18, 2008, Bennett Forest Industries, Inc. (Bennett Forest), an electric customer of Avista taking service under Schedule 25, filed a Petition to Intervene. IDAPA 31.01.01.071-075.

**THE REQUEST FOR INTERVENTION**

Bennett Forest seeks to intervene in Case No. AVU-E-08-01 in order to participate in the scheduled August 28, 2008, technical hearing on the proposed Settlement Stipulation. Bennett Forest claims that customers taking service under Schedule 25 (Extra Large General Service – Idaho) were not represented in the discussions and negotiations leading to the Settlement Stipulation. Under the terms of the proposed settlement, Bennett Forest calculates an increase in the cost of its electric service of approximately \$200,000 a year. Although Bennett Forest does not anticipate introducing any testimony at the hearing, it seeks the opportunity to

ask clarifying questions on cross-examination of witnesses supporting the Settlement Stipulation. It then intends to file written comments.

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

***Answer of Avista***

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

***Answer of Commission Staff***

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

***Commission Findings***

The Commission has reviewed the filings of record in Case No. AVU-E-08-01 including the Company's Application, the Commission's prior Orders and Notices, Bennett Forest's Petition to Intervene, and the Answers of Avista and Commission Staff.

Bennett Forest Industries has filed a late Petition to Intervene in this docket. The deadline for filing a Petition to Intervene in this case was May 9, 2008. The Petition of Bennett Forest was filed August 18, 2008. We find that Bennett Forest is a Schedule 25 customer, and as

such has a direct and substantial interest in Avista's electric general rate case. Bennett Forest states it wants the opportunity to ask clarifying questions at this week's August 28, 2008 technical hearing on the joint Stipulation and proposed settlement. It is Bennett Forest's stated intent to file written comments by the September 5, 2008 deadline.

Both Avista and Commission Staff express concern with the late entry of Bennett Forest into the rate proceedings and do not want to see its clarifying questions enlarged to become discovery. In its Petition, Bennett Forest sets forth the nature of its intended participation. The Commission finds the commitments of Bennett Forest to constitute reasonable sideboards to its participation, i.e.:

- It will not seek to introduce testimony at the technical hearing.
- It may ask clarifying questions on cross-examination of witnesses supporting the Settlement Stipulation to aid in preparing written comments by the September 5, 2008 deadline.
- It understands that it is bound by all Orders and Notices previously entered.
- It will not seek to alter or modify prior Orders and Notices.
- Its participation, it commits, will not cause disruption of the existing schedule, nor will it result in prejudice to existing parties or an undue broadening of the issues.

In committing to be bound by all Notices previously entered in this case, we find that Bennett Forest commits to be bound by the production request deadline which expired July 29, 2008. We accordingly intend to provide other parties to this case latitude to object at hearing to what they believe to be improper questions.

The deadline for intervention in this case having long expired, the Commission finds it reasonable in granting late-filed intervention to Bennett Forest Industries, Inc. to condition its participation and require its adherence to the conditions of participation it proposed so as to avoid any disruption or delay of proceedings and a broadening of the issues to the prejudice of other parties in this case. RP 74.

**ORDER**

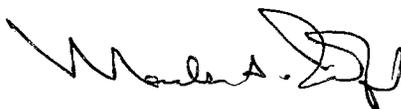
In consideration of the foregoing and as more particularly described and qualified above, IT IS HEREBY ORDERED that the late-filed Petition to Intervene filed by Bennett Forest Industries, Inc. is hereby granted.

IT IS FURTHER ORDERED that all parties in this proceeding serve all papers hereafter filed in this matter on all Parties of Record. The Intervenor is represented by the following for purposes of service:

Dean J. Miller  
McDevitt & Miller LLP  
PO Box 2564  
Boise, ID 83701  
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Scott Atkison  
Chief Operating Officer  
Bennett Forest Industries, Inc.  
171 Highway 95 North  
Grangeville, ID 83530  
E-mail: [scotta@bennettforest.com](mailto:scotta@bennettforest.com)

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 27<sup>th</sup>  
day of August 2008.



MACK A. REDFORD, PRESIDENT

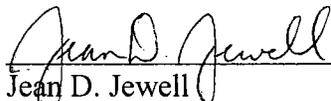


MARSHA H. SMITH, COMMISSIONER



JIM D. KEMPTON, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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