

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

**FROM: EDWARD JEWELL
DEPUTY ATTORNEY GENERAL**

DATE: NOVEMBER 13, 2020

**SUBJECT: FORMAL COMPLAINT OF BLACK MESA ENERGY, LLC TO
ESTABLISH A LEGALLY ENFORCEABLE OBLIGATION; CASE NO.
IPC-E-20-17.**

On March 17, 2020, Black Mesa Energy, LLC (“Black Mesa”) filed a formal complaint against Idaho Power Company (“Idaho Power” or “Company”) seeking a determination that Black Mesa established a legally enforceable obligation with Idaho Power for both Black Mesa Energy 1 and Black Mesa Energy 2. Black Mesa Energy 1 and 2 are qualifying facilities under the Public Utility Regulatory Policies Act of 1978.

On April 23, 2020, Idaho Power filed an Answer and Motion to Dismiss.

On May 15, 2020, Black Mesa filed an Answer to Idaho Power’s Motion to Dismiss.

On July 10, 2020, the Commission issued an order denying Black Mesa’s Motion to Dismiss and set briefing deadlines. The Commission set a deadline of August 6, 2020 for Black Mesa to submit a brief on the merits and a deadline of September 3, 2020 for Idaho Power to submit a reply brief. Order No. 34715.

On July 29, 2020, Black Mesa filed a Motion to Stay Briefing Schedule. Black Mesa indicated that the parties were in negotiations that could obviate the need for a Commission decision, and therefore asked for time to allow the negotiations to run their course. Idaho Power concurred in the request.

On August 5, 2020, the Commission granted the Motion and suspended the briefing schedule. Order No. 34747.

On November 13, 2020, Black Mesa filed a Motion to Reinstate Briefing Schedule.

JOINT MOTION TO REINSTATE BRIEFING SCHEDULE

Black Mesa indicates that its negotiations with Idaho Power have not resolved the issues. Therefore, the parties jointly propose the following briefing schedule:

- December 14, 2020 – Black Mesa Initial Brief
- January 11, 2021 – Idaho Power Reply Brief
- January 21, 2021 – Black Mesa Rebuttal Brief

STAFF RECOMMENDATION

Staff recommends the Commission reinstate the briefing schedule as proposed by the parties.

COMMISSION DECISION

Does the Commission wish to reinstate the briefing schedule as proposed by the parties?



Edward J. Jewell
Deputy Attorney General

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