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IDAHO PUBLIC UTILITIES COMMISSION

N. Saccus

PETER J. RICHARDSON

September 5, 1990

Ms. Myrna J. Walters
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702

Re: Statement of Position and Issues of the Industrial
Customers of Idaho Power
Case No. IPC-E-90-2 and Case No. IPC-E-90-8

Dear Ms. Walters:

Enclosed is the original and seven copies of the above
referenced Statement of Position and Issues of the Industrial
Customers of Idaho Power. Would you please file the same?

If you have any questions concerning this filing, please do
not hesitate to contact Peter Richardson.

Sincerely,

Nancy Pfelfer

Nancy Pfelfer
Secretary to Peter Richardson

np

Enclosures

FAX: (208) 336-8833

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PETER J. RICHARDSON

September 7, 1990

IDAHO PUBLIC
UTILITIES COMMISSION

N. Walters

Ms. Myrna J. Walters
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702

Re: Statement of Position and Issues of the Industrial
Customers of Idaho Power
Case No. IPC-E-90-2 and Case No. IPC-E-90-8

Dear Ms. Walters:

Enclosed is the original and seven copies of a new page 8 of the above referenced Statement of Position and Issues of the Industrial Customers of Idaho Power. This replacement page 8 corrects a typographical error and in no way changes the context of the document. Would you please replace the original page 8 with this new page 8 in documents we filed with you on September 5, 1990?

By copy of this letter, we serve the parties of record. If you have any questions, please do not hesitate to contact me.

Sincerely,

DAVIS WRIGHT TREMAINE

Pete Richardson

Peter J. Richardson

np

Enclosures

In addition, a revision of the Company's power costs will have other related implications. For example, income tax expenses will be altered. Simply "rate basing" the actual construction costs of Swan Falls and Milner ignores these considerations and will result in rates that do not match, and will probably exceed, costs.

IV. IDAHO POWER HAS NOT MADE THE REQUISITE SHOWING FOR THE GRANTING OF PRE-APPROVAL OF RATE MAKING TREATMENT FOR THESE FACILITIES

One of the principal issues that must be addressed whenever a new resource is considered is the issuance of a certificate of public convenience and necessity. A second important issue deals with rate making treatment. For example, is the cost of the new resource less than or equal to the cost of other resources available to the utility? If the new resource costs more than identified alternatives, or if alternative resources provide better service at the same, or lower cost, the utility's request for a certificate, or rate recognition must be rejected. As stated above, the utility's avoided cost is one measure of the cost of these alternatives. At a minimum Idaho Power must pass the threshold test of demonstrating that its new generating facility will produce power at less than, or equal to its avoided cost.

Idaho Power must obtain a certificate of public convenience and necessity prior to beginning construction of any new generating facility. I.C. § 61-526 (1976). In granting that

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IDAHO PUBLIC
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H. Sullivan

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR) CASE NO. IPC-E-90-2
AUTHORITY TO RATE BASE THE)
INVESTMENT REQUIRED FOR THE)
REBUILD OF THE SWAN FALLS)
HYDROELECTRIC FACILITY.)
_____)

IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR A) CASE NO. IPC-E-90-8
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY FOR THE RATE BASING)
OF THE MILNER HYDROELECTRIC)
PROJECT OR IN THE ALTERNATIVE) STATEMENT OF POSITION
A DETERMINATION OF EXEMPT STATUS) AND ISSUES OF THE
FOR THE MILNER HYDROELECTRIC) INDUSTRIAL CUSTOMERS OF
PROJECT) IDAHO POWER
_____)

Pursuant to the agreement of the parties reached during
the prehearing conferences in the above-entitled matters, the
Industrial Customers of Idaho Power (ICIP) provide herein their

Statement of Position and Issues relating to Idaho Power Company's (Idaho Power, or Company) Milner and Swan Falls applications. These applications raise procedural and jurisdictional issues, the resolution of which may affect future proceedings before this Commission relating not only to these hydroelectric projects, but to Idaho Power's general rates, as well. These threshold issues must be resolved by the Idaho Public Utilities Commission ("Commission") before it recognizes either project for rate making purposes.

I. IDAHO POWER'S REQUEST FOR PRE-APPROVAL OF RATE BASE TREATMENT IS INAPPROPRIATE AND MUST BE REJECTED

In the Swan Falls application Idaho Power requests Commission "authority to rate base the investment required for the rebuild of the Swan Falls" facility. In the Milner application Idaho Power requests either a "certificate of public convenience and necessity for the rate basing of the Milner" project or "a determination of exempt status" for that project. Neither application conditions these requests on completion of these projects. Rather, both applications appear to contemplate that the requested actions will be implemented by the Commission at the completion of these proceedings.

Both of these applications on their face request the Commission to perform what is traditionally regarded as a rate making 'act' with respect to these generating facilities prior to the commercial operation, or even the commencement of construction

of either project. According to each application, Idaho Power asks the Commission to include in the Company's rate base the amount invested in each project up to a "Commitment Estimate" developed for each project. Cf., Swan Falls application, p. 8; Milner application, p. 9. Additionally, in the Milner application Idaho Power also requests recognition of royalty and debt service payments to Twin Falls Canal Company as "revenue requirement expenses." Finally, while the Company's alternative request for Milner would exclude Milner expenses and revenues from general rates for 20 years, approval of that request would commit the Commission to a buy-back plan, or formula once the "exemption" period has terminated. See, Milner application, para. V, p. 11.

The Commitment Estimate for Swan Falls is \$80,285,000. See, Attachment 3 to Supplement to Initial Application, June 21, 1990. The Commitment Estimate for Milner is \$63,350,600. Milner application, p. 9. The royalty and debt service "revenue requirement expenses" for Milner are estimated in the Company's application, but the cost of the Milner "buy back" alternative cannot now be estimated. At a minimum, Idaho Power seeks some form of assurance from the Commission that the Company's rate base will be increased by as much as \$143,635,600, or by some other amount the Commission finds reasonable on the basis of the Company's, Staff's and intervenors' submissions in these proceedings. The Company wants that assurance now, not after these projects are completed, operational and demonstrated to be used and useful.

Idaho Power's applications are nothing more than a request for Commission pre-approval of significant investments in new generating resources. Absent the filing of revised tariffs, Idaho Power seems to be content to wait until Milner and Swan Falls have been completed before actually requesting an increase in rates (although that is not what a literal reading of the applications would indicate). However, the Company seeks assurance now that its investment and expenses, or the Milner buy-back alternative, will be recognized in rates--up to a limit--at some future date.

II. THERE IS NO AUTHORITY FOR IDAHO POWER'S REQUESTS

At the combined pre-hearing conferences, counsel for Idaho Power admonished the ICIP's attorney for "not reading the [Swan Falls and Milner] applications" to discover the Company's citations of authority relating to these applications. The Milner application, however, cites no authority whatsoever to support the concept of "rate basing" the investment cost of that project, prior to commencement of construction, or commercial operation of the project.

Our review of this Commission's orders reveals no case in which the Commission has approved, or rejected a utility's request for future (or current) rate recognition of investment and expense associated with a yet-to-be-constructed generating facility. Our review discloses no record of any Idaho utility

requesting such pre-approval.¹ Nor does Idaho case, or statutory law authorize the Commission to approve such a request.

In its Swan Falls application Idaho Power cites the Commission's orders in Docket Nos. U-1006-240 and IPC-E-89-8 (Order No. 22526) and recites that these orders require the "Swan Falls rebuild be reviewed, and Commission approval for rate basing be obtained, before construction of the facilities commences." Swan Falls application, p. 1. However, Order No. 22526 merely closed a proceeding the Commission initiated to investigate the costs of the Swan Falls rebuild. The Commission based its decision to close that proceeding on Idaho Power's representation that the Company would file the instant application following FERC approval of Idaho Power's rehabilitation plan. Nothing in the Commission's investigation, or the Company's representations to the Commission, suggested or implied that the intended outcome of these proceedings would be the "rate basing," or pre-approval of this investment for rate making purposes. Finally, there is nothing in the Commission's orders regarding Swan Falls to indicate that, even if the Commission were prepared to pre-approve Swan Falls rebuild costs for rate making purposes, this same treatment was to be extended to Milner. Possibly, without citation, the Company "relied" on the Commission's directives announced in Order No.

¹ While there have been discussions in various IPUC orders of construction work in progress, CWIP is not pre-approval of total investment cost, or expenses associated with a future generating facility.

18189 in Case No. U-1006-197, relating to cost reconciliation and certificates of public convenience and necessity. At pages 8 through 11 of that order the Commission required Idaho Power, as a condition of obtaining a certificate for a new generating facility, to report to the Commission "final construction estimates" and to report variances from these estimates as project construction went forward. Nowhere, however, is it stated, or implied that such "final construction estimates" will be used as a ceiling for "rate basing" such projects, or for any rate making purpose whatsoever. While Idaho Power's Swan Falls and Milner applications comply with the directives of Order No. 18189 in that they provide "final construction estimates," these applications go well beyond the Commission's directive by requesting that these estimates be used for future rate making purposes.

III. THE COMMISSION IS UNABLE TO PREDICT THE FAR REACHING IMPLICATIONS OF PRE-APPROVAL OF A RATE BASE EXPENSE

The Commission is charged with authority to place a value on utility assets for rate making purposes. Idaho Code § 61-523 (1976). While often the proper "value" of a utility's assets is equal to the original cost of those assets, less depreciation, the Commission may use other measures of value, as well. For example, if a generating facility costs, over its useful life, more than the utility's avoided cost--which is the Commission's determination of the cost of the utility's next generating resource addition--the Commission might "cap" its valuation of the generating facility at

a cost equal to avoided cost. Alternatively, if the Commission were to find the utility imprudent as to the cost of a new facility, the Commission may determine that it is in the public interest to place a value, for rate making purposes, only on a portion of the asset.

Idaho Power's request that some amount up to the "Commitment Estimates" for Swan Falls and Milner be "rate based" is a request that a commitment be made to include up to \$143,650,600 in the Company's rate base at sometime in the future. This commitment could now be made only on the basis of the Commission's review of the reasonableness of the construction cost estimates provided by Idaho Power. If that commitment is made, neither this Commission, a future Commission, nor any other interested parties will be able to urge that Milner and/or Swan Falls be "valued" on any basis other than actual, original construction cost.

Moreover, when a new generating facility is included in rate base, a number of other rate making adjustments must also be made. An obvious example, involves the impact of the new facility on average, or "normal" power costs. If Milner or Swan Falls are included in rate base, the Company's power cost model must be updated with these facilities included to determine a new set of average power costs. For Idaho Power, this also means updating the model to account for the most recent water years and deleting an equivalent number of years from the beginning of the series.

In addition, a revision of the Company's power costs will have other related implications. For example, income tax expenses will be altered. Simply "rate basing" the actual construction costs of Swan Falls and Milner ignores these considerations and will result in rates that do not match, and will probably exceed, costs.

IV. IDAHO POWER HAS NOT MADE THE REQUISITE SHOWING FOR THE GRANTING OF PRE-APPROVAL OF RATE MAKING TREATMENT FOR THESE FACILITIES

One of the principal issues that must be addressed whenever a new resource is considered for purposes of issuance of a certificate of public convenience and necessity. A second important issue deals with rate making treatment. For example, is the cost of the new resource less than or equal to the cost of other resources available to the utility? If the new resource costs more than identified alternatives, or if alternative resources provide better service at the same, or lower cost, the utility's request for a certificate, or rate recognition must be rejected. As stated above, the utility's avoided cost is one measure of the cost of these alternatives. At a minimum Idaho Power must pass the threshold test of demonstrating that its new generating facility will produce power at less than, or equal to its avoided cost.

Idaho Power must obtain a certificate of public convenience and necessity prior to beginning construction of any new generating facility. I.C. § 61-526 (1976). In granting that

certificate the Commission must find that it is in the public interest to permit construction of the facility, which involves consideration not only of the need for power, but also of the cost of that power.

In order for Idaho Power to demonstrate that Milner is in the public interest it must prove that Milner will be constructed and will produce power for less than or equal to Idaho Power's full avoided cost, as established by the Commission, and as measured by the same standards upon which avoided cost rates paid to cogenerators and small power producers are determined.

If Milner costs more than alternative sources of equally reliable energy, it would not be in the public interest for Idaho Power be allowed to include it in rate base.

Swan Falls has been certificated and the Company has been ordered by the FERC to rehabilitate this facility on pain of termination of the Company's operating license. Nevertheless, Idaho Power's avoided cost still provides a benchmark as to the reasonable cost for Swan Falls. The ICIP submits that, as with Milner, the Company's avoided cost should constitute the ceiling for any rate making recognition of Swan Falls. In the alternative, if Swan Falls' cost exceeds the Company's avoided cost, avoided cost rates extended to CSPPs should be increased to the Swan Falls level.

V. CONCLUSION

The ICIP requests that the Commission make the following findings:

1. Idaho Power's Milner and Swan Falls applications requesting pre-approval for rate making purposes of the Company's construction costs for each project, up to the amounts of the Milner and Swan Falls Commitment Estimates should be rejected. Neither project should be recognized for rate making purposes until each is operational and shown to be used and useful to Idaho Power's rate payers.

2. The Milner project should not be certified unless the cost of that facility is demonstrated to be less than, or equal to Idaho Power's full avoided cost, as measured by the same standards and over the same time periods used by the Commission to set CSPP buy-back rates.

3. Since the Swan Falls facility has been certified, once that facility has become operational, following the Company's rehabilitation of the project, the avoided cost standard should be used by the Commission as a "cap" on rate recognition of Idaho Power's expenditures.

DATED this 5th day of September, 1990.

Respectfully submitted,

DAVIS WRIGHT TREMAINE

By


Peter J. Richardson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 5 day of September, 1990, served the foregoing STATEMENT OF ISSUES AND POSITION OF THE INDUSTRIAL CUSTOMERS OF IDAHO POWER, Case No. IPC-E-90-2 and IPC-E-90-8, on all parties of record by hand delivering a copy thereof, to the following:

Michael S. Gilmore
Brad M. Purdy
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83720

and by mailing a copy thereof, postage prepaid, to the following:

Larry D. Ripley, Esq.
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By


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