

OCT 15 1990

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR AUTH-)
ORITY TO RATEBASE THE INVESTMENT)
REQUIRED FOR THE REBUILD OF THE)
SWAN FALLS HYDROELECTRIC PROJECT)**

CASE NO. IPC-E-90-2

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY FOR THE RATEBASING)
OF THE MILNER HYDROELECTRIC)
PROJECT OR IN THE ALTERNATIVE)
A DETERMINATION OF EXEMPT)
STATUS FOR THE MILNER HYDRO-)
ELECTRIC PROJECT)**

CASE NO. IPC-E-90-8

ORDER NO. 23380

This order directs the parties to address legal issues common to Idaho Power's two applications regarding construction of hydroelectric generation facilities at Swan Falls and Milner through briefs and oral argument at hearing and further directs that an evidentiary hearing be held in the Swan Falls Case, IPC-E-90-2.

BACKGROUND

On August 22, 1990, a prehearing conference was held on these two cases. At that conference, the parties requested an opportunity to submit written statements of position regarding legal or jurisdictional issues. They have done so, and we have reviewed them. We now desire further briefing on three issues that we set forth below and alert the parties to be prepared for oral argument on those issues at the hearing scheduled for November 27-28, 1990 in the Milner case, IPC-E-90-8.

THE ISSUES FOR BRIEFING

The Swan Falls and Milner projects lie before us with different legal backgrounds as well as the different factual backgrounds always associated with different plants. Nevertheless, these projects are closely tied in time and may present overlapping legal or jurisdictional issues. For that reason, we ask the parties to brief the following legal issues in light of the facts of each project and be prepared to address them in oral argument at hearing:

1. What is the legal authority for the Commission to approve ratebasing of the Swan Falls rebuild before the rebuild is in service? What is the legal authority for the Commission to approve ratebasing for the Milner project before the project is in service?

2. What is the legal authority or propriety as a matter of policy of using avoided costs as a cap for ratebasing the Swan Falls rebuild? What is the legal authority or propriety as a matter of policy of using avoided costs as a cap for ratebasing the Milner project?

3. Does the Commission have authority to declare in the abstract that a certified plant or a plant by statute exempt from certification may be ratebased without yet knowing the cost of ratebasing the plant in retail rates? Does the Commission have authority to declare in the abstract that a certified plant or a plant by statute exempt from certification may be excluded from ratebasing for a fixed period in the future without yet knowing the cost of ratebasing in retail rates? How are the rights of utility investors affected in the implied interval created by such a decision?

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DONE by Order of the Idaho Public Utilities Commission at Boise,
Idaho, this 12th day of October 1990.



DEAN J. MILLER, PRESIDENT



PERRY SWISHER, COMMISSIONER



RALPH NELSON, COMMISSIONER

ATTEST:



MYRNA J. WALTERS, SECRETARY

MG:nh/O-1167