

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR AN ORDER) CASE NO. IPC-E-97-11
AUTHORIZING THE FORMATION OF A)
HOLDING COMPANY AND THE EXECUTION)
OF A SHARE EXCHANGE AGREEMENT.) NOTICE OF APPLICATION
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YOU ARE HEREBY NOTIFIED that on August 8, 1997, the Idaho Power Company (Idaho Power; Company) filed an Application with the Commission for authority to form a holding company structure. The Company contends that a holding company will allow it to better respond to the changing business environment of the electric industry. Idaho Power submits that its plan does not entail the transfer of any utility assets nor would it affect the Commission's current jurisdiction over the Company's assets.

Essentially, Idaho Power intends to modify its current corporate structure through the option of a holding company organization (reorganization). Under this plan, a holding company would be formed as the parent corporation of Idaho Power. The parent company would also hold Ida-West Energy Company (one of Idaho Power's current six subsidiaries). The other five subsidiaries will continue to be held by Idaho Power. Idaho Power may file separate applications with the Commission in the future to transfer ownership of one or more of the five subsidiaries to the parent company.

The holding company structure will be formed under the terms and conditions of a Share Exchange Agreement (Agreement), which will be executed between Idaho Power and the parent company. The parent company will be referred to as Idaho Power Holding Company in the Agreement. The Company anticipates that a new name will be developed for the parent company before it begins operations. The Idaho Power Holding Company will be wholly owned by Idaho Power. After incorporation, the holding corporation will issue common stock and the same number of shares there are currently outstanding for Idaho Power Company. Each share of Idaho Power common stock will then be exchanged for one share of common stock in the holding corporation. After the share exchange is completed, the parent company

will own all the common stock of Idaho Power and the former owners of the common stock of Idaho Power will hold all the common stock of the parent company. The preferred stock in the outstanding first mortgage bonds and pollution revenue bonds of Idaho Power will continue to be held by Idaho Power and the terms thereof will not be altered as a result of the exchange. The Idaho Power Articles of Incorporation will also not be changed in any way as a result of the exchange.

Idaho Power notes that it has six wholly owned subsidiary companies. In conjunction with the reorganization, ownership of one of the subsidiaries (Ida-West) will be transferred from Idaho Power to the parent company. The other five subsidiaries, including Idacorp, Inc., Idaho Energy Resources Company, Idaho Power Resources Corporation, Idaho Utility Products Company and Stellar Dynamics, Inc., will continue to be held by Idaho Power. Idaho Power may, however, file separate applications with the Commission in the future to transfer ownership of one or more of these five subsidiaries to the parent company.

Idaho Power asserts that the formation of the parent company and the reorganization in general will allow Idaho Power to continue to operate its regulated utility business efficiently, while providing the opportunity to separate the non-regulated businesses of Idaho Power from the regulated utility business. The reorganization will make it easier for the parent company to enter into new business within the power industry as well as to continue its diversification into other ventures.

Idaho Power states that competition is increasing in the electric industry due to a variety of developments. As part of its ongoing strategic planning process, Idaho Power has determined that the increasingly competitive energy market requires a reorganization of the Company. The Company notes that the open access policy implemented by the Federal Energy Regulatory Commission has led to the creation of power marketing companies that sell power at market-based rates and buy and sell electric energy in the wholesale market. Many utility holding companies have formed non-regulated power marketing subsidiaries to market power to other utilities and industrial users. Idaho Power indicates that the parent company may wish to form such a power marketing subsidiary.

Idaho Power contends that the reorganization will not in any way effect the financial, technical and managerial abilities of the Company to continue to provide high

quality, reliable utility service. Moreover, the Application warrants that approval of the reorganization will not affect Idaho Power's rates or charges. After the reorganization, Idaho Power acknowledges that it will continue to be subject to the regulatory jurisdiction of the Commission as to its rates, service, accounting and other general matters of utility operation.

Idaho Power believes that the reorganization will help the Company maintain a balanced capital structure and insulate its utility customers, preferred shareholders and debt security holders from the effects of its non regulated businesses. Moreover, by separating the regulated and non-regulated activities, the parent company structure will help to ensure that the credit quality of Idaho Power is unaffected by the higher risks associated with the non-regulated businesses and that Idaho Power continues to have access to the capital markets at favorable rates. The Application asserts that a stand alone capital structure is appropriate for Idaho Power because it will permit the requisite equity ratios to be maintained at the regulated electric utility and enable the Company's utility customers to be insulated from the effects of the non regulated businesses for ratemaking purposes.

Idaho Power states that it is submitting this Application to the Commission for approval based on the Commission's general authority over public utilities within the state of Idaho under Title 61 of the *Idaho Code*. The Company argues that reorganization, however, does not fall within the scope of *Idaho Code* ' 61-328 requiring the Commission's approval of the sale, assignment or transfer of utility property. This is because, under the reorganization, there will be no transfer of the title, possession or use of public utility property.

In addition, the share exchange will also involve the issuance of new shares of the parent company stock. Under *Idaho Code* ' 61-901, Commission approval is required for the issuance of stock by public utilities operating in Idaho. Idaho Power believes, however, that *Idaho Code* ' 61-901 does not apply to the reorganization because the new stock issuance will be made by the parent company rather than the utility, Idaho Power. Nonetheless, because of the Commission's general authority over utilities operating in this state, Idaho Power submits to the Commission's jurisdiction under Title 61 of the *Idaho Code*.

YOU ARE FURTHER NOTIFIED that Idaho Power has requested that the Commission issue its Order in this proceeding no later than December 15, 1997. This would purportedly allow the Company to proceed with its required proxy statement filings with the

Securities and Exchange Commission early next year in order to present the reorganization proposal to the Company's shareholders for approval at the Company's May 1998 annual meeting. To the extent that the 30-day consideration period for the Commission's securities approval under *Idaho Code* ' 61-904 may apply, the Company voluntarily waives such period and agrees to a continuance of time as needed by the Commission.

Recognizing that the Commission may require that certain conditions be placed on the reorganization to protect the interest of Idaho Power's customers, the Company would propose the adoption of the following conditions to facilitate the Commission's review of this Application:

Access to Records and Personnel

Upon request, Idaho Power will provide to the Commission access to the books, records, officials and Staff of affiliated companies which provide goods or services to or receive goods or services from Idaho Power. Idaho Power does not waive its right to raise traditional discovery objections to any requests under this provision. Furthermore, before responding to any requests, Idaho Power may require whatever protection it deems necessary to prohibit disclosure of proprietary or confidential information.

Financial Statements and Reports

Idaho Power will provide to the Commission for each affiliated company which provides goods or services to or receives goods or services from Idaho Power (1) quarterly and annual financial statements (with the exception of the fourth quarter which are consolidated into the annual report), (2) annual statements of intercompany transactions, and (3) all financial reports filed with the Securities and Exchange Commission.

Transactions Between Idaho Power and Its Affiliates

Idaho Power will set up accounting controls and other procedures for the allocation of overhead and other costs of jointly used assets or personnel. Such controls and procedures will be designed to ensure that the Company will not bear any costs associated with the diversified business activities of its affiliated subsidiaries. Following approval of this reorganization application, Idaho Power will submit these controls and procedures to the Commission for comment.

Idaho Power will develop an organization and staffing plan providing for the adequate, efficient staffing of the utility business. The Company will report transfers of its staff to any of its affiliated companies annually to the Commission.

Continued Commission Jurisdiction Over Idaho Power

The Company acknowledges that the Commission's approval of Idaho Power's Application for the reorganization does not affect Idaho Power's existing obligation to comply with all of the provisions of the Idaho Public Utility's Law and the Commission's rules and Regulations.

YOU ARE FURTHER NOTIFIED that the Commission has not yet had an opportunity to conduct an initial analysis of the Company's investigation or to establish a schedule in this matter. A Notice of Scheduling will be issued in the near future.

YOU ARE FURTHER NOTIFIED that the Application has been filed with the Commission and is available for public inspection during regular business hours at the Commission offices.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

DATED at Boise, Idaho this day of September 1997.

Myrna J. Walters
Commission Secretary

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