(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE COMMISSION’S INVESTIGATION INTO CHANGES OCCURRING IN THE ELECTRIC INDUSTRY. | )  )  )  ) | CASE NO. GNR-E-96-1  ORDER NO.  26569 |

On June 4, 1996, the Low Income and Environmental Conservation Coalition (Coalition), a participant to this proceeding, filed an Application for intervenor funding alleging expenses in the amount $4,410.  On June 17, 1996, the Idaho Power Company filed a motion in objection to the Coalition’s Application contending that the Coalition had not petitioned for intervenor status and, therefore, was not entitled to intervenor funding.  Idaho Power also argues that because this case is not a contested proceeding but, rather, a solicitation by the Commission of the non-binding views of numerous parties, it is not a proceeding in which intervenor funding is available.

Idaho Code § 61-617A provides that the Commission shall rely upon the following considerations in awarding funding to a given intervenor: (1) whether the intervenor materially contributed to the decision rendered by the Commission; (2) whether the alleged costs of intervention are reasonable in amount and would be a significant financial hardship for the intervenor to incur; (3) whether the recommendation made by the intervenor differed materially from the testimony and exhibits of the Commission Staff, and; (4) whether the testimony and participation of the intervenor addressed issues of concern to the general body of users or consumers.

In addition to the foregoing criteria, Rule 162 of the Commission’s Rules of Procedure, IDAPA 31.01.01, sets forth a number of procedural requirements for intervenor funding requests generally dovetailing with Idaho Code § 61-617A and requiring that the intervenor itemize its alleged expenses and provide a statement of the recommendation or finding it wishes the Commission to adopt.

FINDINGS

While the stated purpose of § 61-617A is “to encourage participation at all stages of all proceedings’ the defining language of the statute envisions that only parties who have been granted intervenor status are eligible for funding.  For example, subsection 2 of § 61-617A states that funding may be awarded to “intervening parties.”  The Coalition was never granted intervenor status in this case; it does not, therefore fall under the statutory language.  While it might be possible to construe the statute to include the Coalition, other necessary findings cannot be made because of the nature of this case.

It is not possible to determine whether the Coalition’s recommendation “differed materially from the testimony and exhibits of the Commission Staff” as required by Idaho Code § 61-617A(2)(c), because Staff never set forth its position in writing.  As discussed, this case involved a group effort in which a number of varying interests sat face to face and discussed a variety of issues in a give and take process.  It was not the typical proceeding in which parties petition for intervenor status and present evidence through prefiled testimony and exhibits.

Finally, it is equally difficult to state whether the recommendations of the Coalition “materially contributed to the decision rendered by the Commission” as required by Idaho Code § 61-617A(2)(a) because we did not make specific findings regarding contested issues in this case.  Rather, the purpose of this case has been to listen to the viewpoints of a variety of interests concerning the future of the electric industry and to make some general observations from the Commission’s perspective.  Under our statute as it is presently written, this is not the type of proceeding for which intervenor funding can be awarded.  We do find, however, that the Coalition contributed materially to the workshop discussions and offered a perspective that the other parties did not.  We encourage its continued participation in our processes.

O R D E R

IT IS HEREBY ORDERED that the Application for intervenor funding filed by the Low Income and Environmental Conservation Coalition is denied.

THIS IS A FINAL ORDER.  Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No.  GNR-E-96-1  may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. GNR-E-96-1 .  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of August 1996.

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                MARSHA H. SMITH, COMMISSIONER

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DENNIS S. HANSEN, COMMISSIONER

ATTEST:

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Myrna J. Walters

Commission Secretary

vld/O:GNR-E-96-1.bp3

DISSENT FOR

COMMISSIONER RALPH NELSON

IN CASE NO. GNR-E-96-1

The clear intent of Idaho Code § 61-617A is “to encourage participation at all stages of all proceedings before the commission . . . .”  The statute goes on to list some factors that should be considered in determining the award of costs of intervention.  These include making a material contribution and a showing of financial hardship.

It is clear that the Low Income and Environmental Conservation Coalition (Coalition) was an active participant who made a material contribution to the process.

My colleagues would deny funding based on the fact that the Coalition was not a formal intervenor in the case.  In fact, there were no intervenors in this case, just participants.  While this case was different from the formal rate cases I think the statute envisioned, the Coalition was nonetheless a “participant” as envisioned in the opening sentence of the statute.

I think this case differs materially from other cases where we have denied intervenor funding because of the applicant’s status.  In Order No. 21443, we denied funding to Northwest Telco because they did not show financial hardship.  They were also the complainant.  In that Order, however, we left open the status question, saying, “It is possible to imagine circumstances in which a party, although denominated as a complainant, has interests more in the nature of those usually associated with intervenors.”

In this case, the Coalition’s interests were clearly in the nature of an intervenor, were clearly of a nature that I believe should be encouraged as a policy of this state, their costs were reasonable in amount, and I believe funding should be awarded, with the state’s three investor-owned electric utilities splitting the cost.

RALPH NELSON, PRESIDENT

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

August 21, 1996