

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER)	
COMPANY'S PETITION FOR APPROVAL)	CASE NO. IPC-E-08-23
OF CHANGES TO THE IRRIGATION PEAK)	
REWARDS PROGRAM.)	
)	
IDAHO POWER COMPANY'S PROPOSAL)	ORDER NO. 30771
TO RECOVER THE ANNUAL COST OF THE)	
PROGRAM IN THE PCA.)	
)	

On March 10, 2009, Idaho Power Company filed a Motion to Close Case pursuant to the Commission's Rules of Procedure 56 and 256. IDAPA 31.01.01.056 and .256. In its Motion, Idaho Power noted that the Commission bifurcated the primary issues in this case, and first considered the merits of the changes proposed to the Irrigation Peak Rewards Program. On January 14, 2009, the Commission issued Order No. 30717 approving a Stipulation to make the changes to the Peak Rewards Program. The separate issue in the case involved funding for the program. In its initial Application, the Company proposed to fund the increased costs of the Peak Rewards Program through the Company's Power Cost Adjustment (PCA). The Company subsequently determined to request funding for the program through an increase in the Energy Efficiency Rider. The Company filed a petition in a separate case to increase the Energy Efficiency Rider to include funding for the Peak Rewards Program. See Case No. IPC-E-09-05. Accordingly, Idaho Power filed its Motion to close this case as being fully resolved.

On March 20, 2009, the Idaho Irrigation Pumpers Association, Inc. (Irrigators) filed a response to Idaho Power's Motion to Close Case. The Irrigators do not oppose the Company's Motion to close the case, but filed a response to remind the Commission that the Irrigators' Application for Intervenor Funding had not been addressed. The Irrigators do not oppose closing the case but ask the Commission to rule on its Application for Intervenor Funding that was filed on December 12, 2008. The Commission in this Order makes a determination on the Irrigators' request for intervenor funding, and closes this case as fully resolved.

The Commission in Order No. 30717 outlined the procedural history of this case. The case was initiated by a Petition filed by Idaho Power Company, along with a Settlement Stipulation signed by the Company, the Irrigators, and the Commission Staff. The Company

requested the Commission modify the Irrigation Peak Rewards Program set forth in the Stipulation filed with the Petition. After the Commission determined to bifurcate “approval of program changes” from the question of program funding, the Commission issued two different notices. A Notice of Application and Notice of Modified Procedure informed interested parties of the Stipulation and the proposed changes to the Peak Rewards Program. Written comments were to be filed within 14 days. The second notice, relating to the question of funding program changes, contained a Notice of Application and Notice of Intervention Deadline. This second notice was the only notice issued by the Commission of an intervention opportunity. No Petitions to Intervene were filed in response to the notice.

Although the Irrigators’ application for intervenor funding states that it was filed pursuant to *Idaho Code* § 61-617A and the Commission’s related rules, (IDAPA 31.01.01.161-165), it is clear that the Irrigators’ application does not meet the requirements of the statute or the rules. First, the reference throughout Section 61-617A is to a possible award to an *intervenor*. For example, an award is appropriate if the Commission finds that “the participation of the *intervenor* has materially contributed to the decision rendered by the commission,” and that the “costs of *intervention* are reasonable in amount and would be a significant financial hardship for the *intervenor*.” *Idaho Code* § 61-617A(2)(a)(b) (italics added). With this requirement in mind, the Commission’s Rules also refer to awards to “intervenors.” For example, the Commission will make an award if it finds, among other things, that “the *intervenor’s* presentation materially contributed to the Commission’s decision,” and that “the recommendations of the *intervenor* differed materially from the testimony and exhibits of the Commission Staff.” IDAPA 31.01.01.165.01.a and .d (italics added).

The Irrigators in this case never filed a Petition to Intervene, nor were they granted intervention status. Because *Idaho Code* § 61-617A and the Commission’s Rules are limited to considering awards to intervenors, the Irrigators’ application in this case cannot be approved. In addition, it is not clear that intervention in this case was necessary or that it would have been appropriate. The Stipulation was achieved through a series of informal workshop meetings and telephone calls. The Commission previously has denied requests for intervention in similar cases, most recently in Case No. GNR-U-08-01. In that case, the Commission denied a Petition to Intervene because the case consisted of informal workshops and comments. We noted that the

case was “not yet the typical Commission proceeding where parties petition for intervenor status and present evidence through formal testimony and/or exhibits.” Order No. 30661, p. 2.

The informal nature of the proceeding in this case results in a record that prevents the Commission from making the necessary findings to award intervenor funding. For example, Commission Rule of Procedure 165 requires the Commission to find that “the recommendations of the intervenor differed materially from the testimony and exhibits of the Commission Staff.” IDAPA 31.01.01.165.01.d. Because this case proceeded informally and no hearings were scheduled, the Commission Staff did not file testimony or exhibits. On this record, it is not possible for the Commission to find that the Irrigators’ recommendations differed materially from the Staff’s testimony and exhibits.

Because the Irrigators never requested intervention status, and because it is not possible for the Commission to make the necessary findings to make an award for intervenor funding, the application of the Irrigators for an award of intervenor funding is denied.

ORDER

IT IS HEREBY ORDERED that the application of the Idaho Irrigation Pumpers Association, Inc. for an award for intervenor funding is denied.

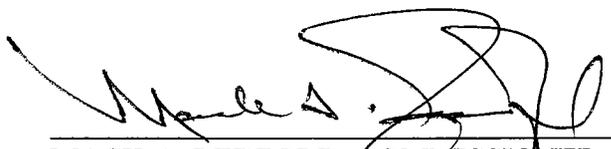
IT IS FURTHER ORDERED that Idaho Power’s Motion to Close Case is granted, and this case is closed.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

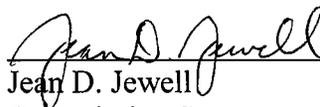
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 10th
day of April 2009.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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