

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. 30817
TO RECOVER THE ANNUAL COST OF THE)	
PROGRAM IN THE PCA.)	
)	

On April 13, 2009, the Commission issued a final Order in this case granting Idaho Power Company's request to close the case and also denying an Application for Intervenor Funding filed by the Idaho Irrigation Pumpers Association, Inc. (Irrigators). The Commission denied the Irrigators' request for intervenor funding, noting that the intervenors never requested nor were they granted intervention status because "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." Order No. 30771, p. 3.

On May 4, 2009, the Irrigators filed a Petition for Reconsideration and a petition for leave to file for late intervention. The Irrigators point out that the Commission previously awarded intervenor funding to the Irrigators in other proceedings that did not involve formal hearings, specifically Case Nos. IPC-E-03-05 and IPC-E-04-23. The Irrigators did not specifically address the Commission's concern that the record is insufficient to make the necessary findings for an intervenor funding award, but asserted that the "Staff participated in all stages of these proceedings and they can assist the Commission in making the determinations of whether the requirements of Rule of Procedure 165 are met." Petition for Reconsideration, p. 6. The Irrigators also argue that to deny them intervenor funding in this case would thwart the purpose of the intervenor funding statute to encourage participation in all proceedings and at all stages before the Commission. See *Idaho Code* § 61-617A(1).

The statute authorizing an award for costs of intervention, *Idaho Code* § 61-617A, declares it to be "the policy of this state to encourage participation at all stages of all proceedings before the commission so that all affected customers receive full and fair representation in those proceedings." The statute also requires, however, that the Commission's determination to award

intervenor funding “*shall* be based on the following considerations: (a) a finding that the participation of the intervenor has materially contributed to the decision rendered by the commission; and (b) a finding that the costs of intervention are reasonable in amount and would be a significant financial hardship for the intervenor; and (c) the recommendation made by the intervenor differed materially from the testimony and exhibits of the commission staff; and (d) the testimony and participation of the intervenor addressed issues of concern to the general body of users or consumers.” *Idaho Code* § 61-617A(2) (emphasis added). These same standards are found in the Commission’s Rule of Procedure 165. IDAPA 31.01.01.165. In the cases cited by the Irrigators where the Commission awarded intervenor funding in the absence of formal hearings, the Commission was able to make the necessary findings on the record presented. See Order No. 29371, p. 4 and Order No. 29868, pp. 4-5. There is nothing in the Irrigators’ Petition to show the Commission erred when it determined it is not possible to make the necessary findings on the record created in this case.

The Petition for Reconsideration filed by the Irrigators is denied, as is its Petition for Leave to Intervene.

O R D E R

IT IS HEREBY ORDERED that the Petition for Reconsideration and the Petition for Leave to Intervene filed by the Idaho Irrigation Pumpers Association, Inc. are denied.

THIS IS A FINAL ORDER DENYING RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. IPC-E-08-23 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

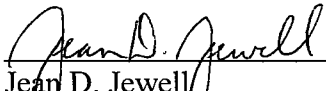
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 21st
day of May 2009.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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