

DECISION MEMORANDUM

TO: COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSIONER KEMPTON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: SCOTT WOODBURY
DEPUTY ATTORNEY GENERAL

DATE: JUNE 11, 2009

SUBJECT: CASE NO. IPC-E-09-03 (Idaho Power)
JOINT MOTION TO STAY PROCEEDINGS

On March 6, 2009, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) in Case No. IPC-E-09-03 for a Certificate of Public Convenience and Necessity (Certificate) authorizing construction of the Langley Gulch Power Plant (Langley Gulch; Project) and inclusion of the Project in the Company's rate base. *Idaho Code* §§ 61-526, -528; RP 112; *Idaho Code* § 61-541 (7/1/2009).

Pursuant to Notice issued April 20, 2009, the following scheduling remains:

June 19, 2009 Staff/Intervenor Direct Testimony – Prefile Deadline

July 2, 2009 Rebuttal Testimony – Prefile Deadline

July 31, 2009 Post-Hearing Brief – File Deadline

Technical hearing in Case No. IPC-E-09-03 is scheduled to commence on July 14, 2009.

On May 29, 2009, a Joint Motion to Stay Proceedings in Case No. IPC-E-09-03 for at least 10 months was filed by the Industrial Customers of Idaho Power, Idaho Irrigation Pumpers Association, Snake River Alliance, Idaho Conservation League, and Northwest & Intermountain Power Producers Coalition (collectively Movants).

JOINT MOTION FOR STAY

Movants contend that significant and unforeseen events have taken place since Idaho Power initially filed its Application. Any single one of these events, they contend, would be sufficient to cause reasonable persons to seek to slow down the Company's forced march to seek

Commission action on its request for a Certificate, however, they contend that when taken in concert, the cumulative effect of the following events makes a stay of this proceeding critical.

I. Unprecedented Shareholder Vote Casts Doubt on Idaho Power's Resource Future

Idaho Power shareholders, over the objections of management, passed a resolution directing the Company to develop a plan for reducing its emissions of greenhouse gasses. Although the resolution was advisory in nature, Company management agreed to be bound by it and will have its greenhouse gas reduction strategy report prepared by September 30, 2009. Movants note that Idaho Power's most recent Integrated Resource Plan (IRP) does not have a greenhouse mitigation strategy. Exactly where the Langley Gulch Power Plant, a greenhouse intensive emitting facility, will fit in the yet to be written plan is unclear. Granting a Certificate now, before the Company's greenhouse strategy is published, Movants contend, is premature at best and possibly a costly mistake that may well conflict with the Company's announced plans to reduce its greenhouse gas emissions.

II. Idaho Power has Delayed Publication of its 2009 Integrated Resource Plan

Pursuant to Idaho Power petition, the file date for the Company's 2009 Integrated Resource Plan was extended from June 2009 until December 31, 2009, Case No. IPC-E-09-13, Order No. 30815. Granting a Certificate for the Langley Gulch Plant without a current IRP to instruct prudence questions, Movants contend, is clearly an instance of putting the proverbial cart before the horse. Because the economy has shifted so dramatically as to cause Idaho Power to require a delay in the publication of its 2009 IRP, Movants contend then that the Commission processing of the Certificate Application should likewise be delayed.

III. New Idaho Legislation Makes the Commission's Decision in this Case One of the Most Far Reaching in Idaho PUC History

The Company has asked that the newly enacted *Idaho Code* § 61-541 be applied to the Commission's Certificate Order. If so granted and a Certificate is also granted for Langley Gulch, the Commission will essentially lock in its decision for the life of the plant without permitting future prudence review. Movants respectfully urge the Commission to proceed with extreme caution in applying its new authority for the first time given its long lasting impact on future generations of ratepayers. Movants believe that a more deliberative process is necessary than that provided by the current, expedited schedule.

***IV. Idaho Power Should Have Little Problem
Renegotiating its Prepaid Turbine Deal***

Movants are cognizant of Idaho Power's commitment to make a September 1, 2009, payment on the turbines it has already ordered from Siemens. Given the soft market for turbines of any type, Movants are confident that Idaho Power will most likely be able to negotiate an extension of that payment date, perhaps for a price; but nevertheless a deadline of Idaho Power's own creation, Movants contend, should not drive this Commission as it considers the ramifications of granting a Certificate (with no future prudence review) in this economic climate.

V. Idaho Power has Already Delayed the Plant's Online Date

As initially proposed, the Langley Gulch Power Plant was to come online in time to meet the summer load of 2012. Langley Gulch is a base load unit and Idaho Power's energy load/resource balance is most critical during the summer months. In spite of the summer being the Company's most critical load/resource period, Idaho Power has delayed the online date until December 2012 which puts the plant online exactly at a time when Idaho Power does not need additional resources. At worst, the plant will be needed in the summer of 2013. Idaho Power's ability to meet load, Movants contend, will not be in jeopardy by a delay in this docket's schedule.

***VI. The Continued Unprecedented Recession will have
Direct Impact on Immediacy of Need for New Power Plants***

While the Movants appreciate Idaho Power's foresight in considering new resources for robust growth, when that growth disappears, Movants contend that it is appropriate to delay the proceeding to evaluate issuance of a Certificate at least until evidence surfaces that load destruction has ended and that a general recovery has begun.

VII. Other Regional Utilities are Mothballing Planned Expansions

While not suggesting that Idaho Power should follow the lead of other utilities in the region (e.g., PacifiCorp), Movants contend that when one finds oneself on the edge of such great uncertainty and others are slowing down to assess the best future course of action, it may be prudent to slow down as well.

***VIII. The Impacts of Idaho Power's Demand Response
Programs have not been Ascertained***

On January 14, 2009, in Order No. 30717 (Case No. IPC-E-08-23), the Commission approved significant changes to the Company's Irrigation Peak Rewards Program. The changes

authorized a new dispatchable curtailment program that is expected to increase avoided peak demand from the 35 MW realized during the summer of 2008 to an estimated 144 MW in 2009, 186 MW in 2010, and 232 MW in 2011. Movants believe that these amounts will prove to be conservative in light of the fact that Idaho Power already has more irrigators wanting to participate in the new dispatchable program than it can physically provide the infrastructure for. In addition, programs such as the AC Cool Credit Program and the newly authorized Commercial Demand Response Program administered through EnerNOC will continue to significantly expand Idaho Power's demand response programs. These programs, Movants contend, minimize the need for Idaho Power to acquire more expensive supply-side resources such as Langley Gulch. These demand response programs, Movants contend, need to be included in the IRP and their effects quantified in determining whether new supply-side resources are necessary. Delaying this proceeding to allow this to happen, Movants contend, is a prudent course of action for the Commission to take.

For all of the foregoing reasons, Movants respectfully request that the Commission delay the procedural schedule in this docket by at least 10 months.

IDAHO POWER ANSWER

Idaho Power's Answer is due June 12, 2009. IDAPA 31.01.01.057.

COMMISSION DECISION

A Joint Motion to Stay Proceedings in Case No. IPC-E-09-03 was filed on May 29, 2009. Staff/Intervenor direct testimony is due June 19, 2009. The hearing is scheduled to commence on July 14, 2009. Should proceedings in Case No. IPC-E-09-03 be stayed?



Scott Woodbury
Deputy Attorney General

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