

Idaho Public Utilities Commission

Case No. IPC-E-13-17, Order No. 32870

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Idaho Power seeks dismissal of Simplot petition

J.R. Simplot Co. wants to buy the Idaho Power distribution facilities used to serve its Caldwell potato processing plant to accommodate construction of a new plant, but the potato processor and the utility cannot agree on a purchase price.

Simplot petitioned the Idaho Public Utilities Commission to determine a fair price. Idaho Power is asking that the petition be dismissed, maintaining the commission does not have jurisdiction to determine a sale price or order a public utility to sell its property.

According to Simplot's petition, both Idaho Power and Simplot agree the net book value of the distribution facilities is about \$120,000. Simplot has offered to buy the facilities for \$85,910 and Idaho Power has offered to sell for \$272,928.

Simplot cites Idaho Code § 61-328, which requires a utility to obtain commission authorization before it can sell or transfer ownership of generation, transmission or distribution property. Because customers pay through rates for utility equipment, the commission must determine if it is in the public interest when a utility seeks to buy or sell property and if rates will be impacted. However, Idaho Power claims the statute does not "permit a customer (Simplot) to unilaterally call upon the commission to determine a sale price of a utility's assets" when the utility is not seeking to buy or sell property.

Idaho Power claims Simplot's offer is far less than the fair value of the assets and, if accepted, would negatively impact customers. "Simplot's application attempts to use I.C. § 61-328 to further its own private business interests at the expense of other Idaho Power customers," Idaho Power claims in its motion to dismiss.

Most distribution facilities serve a large number of customers. But some large industrial customers have distribution facilities located on their property, dedicated specifically to their use. In Idaho Power's last general rate case, the commission said those customers ought to be provided with the option to buy those facilities if the industrial customer wants to bear the responsibility of operating, maintaining and replacing the facilities. The commission said it would consider those requests on a case-by-case basis.

Simplot cites as precedent, Sinclair Oil Corporation's purchase of Idaho Power facilities within the Sun Valley resort and Idaho Power's sale of distribution line to the Raft River Rural Electric Cooperative.

Documents related to this case are available on the commission's Web site at www.puc.idaho.gov. Click on "Electric" and then on "Open Cases" and scroll down to Case No. IPC-E-13-17.

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