

## **Idaho Public Utilities Commission**

Case No. IPC-E-13-17, Order No. 32940

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# PUC dismisses Simplot complaint against Idaho Power

State regulators are granting an Idaho Power Company motion to dismiss a complaint by J.R. Simplot Co. The potato processor wants to buy the Idaho Power distribution facilities at its current Caldwell plant and use them at a new plant its building nearby.

Because Simplot and Idaho Power do not agree on a purchase price, Simplot asked the Idaho Public Utilities Commission to determine a fair price. Idaho Power, seeking dismissal of the case, said the commission does not have jurisdiction to determine a sale price when the utility is unwilling to sell.

Most distribution facilities serve a large number of customers. But some large industrial customers, like Simplot, have distribution facilities located on their property, dedicated specifically to the use of one large customer. These larger customers pay a facilities charge to have their utility install and maintain distribution plant because the customer lacks the expertise or capital to fund, design and install the facilities or because the customer doesn't want the responsibility of maintaining them.

During Idaho Power's last rate case, some industrial customers claimed that Idaho Power's facilities charge is excessive and sought commission authority to opt out of paying the charge and, instead, take on the responsibility of maintaining the distribution facilities. In response, the commission approved a new tariff that allows customers to do so.

Both Idaho Power and Simplot agree the net book value of the distribution facilities at the Caldwell plant is about \$120,000. Simplot offered to buy the facilities for \$85,910 and Idaho Power offered to sell for \$272,928.

Idaho Power claims that Simplot's offer furthers Simplot's business interests at the expense of other customers.

Idaho Code § 61-328 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 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.

Simplot argues that Idaho Power’s position requires a customer to “continue paying Idaho Power’s monopolist rate for the facilities charge or agree to Idaho Power’s unilateral sale price.”

The commission agreed with Simplot that the new tariff allowing customers to assume control of distribution plant “does little, if anything, to advance the interests of Idaho Power’s distribution facilities customers if Idaho Power can single-handedly shut down negotiations.”

“Oftentimes, the effect of a proposal cannot be accurately measured until after approval and implementation,” the commission said. “Such is the case here.”

However, the commission said that while it cannot compel Idaho Power to sell the distribution plant, it can urge the parties to continue negotiation. “We believe that there is enough flexibility in the valuation of the distribution facilities for both parties to move further toward an agreeable price,” the commission said. If negotiations fail, Simplot may choose to purchase its own distribution facilities. Further, Simplot can ask the commission to review whether the cost and calculation of Idaho Power’s facilities charge is reasonable, the commission said.

The commission’s order and other documents related to this case are available on the commission’s Web site at [www.puc.idaho.gov](http://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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