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IDAHO PUBLIC  
UTILITIES COMMISSION

PETER J. RICHARDSON

September 19, 1990

Ms. Myrna J. Walters  
Commission Secretary  
Idaho Public Utilities Commission  
472 W. Washington  
Boise, ID 83702

Re: Reply Statement of the Industrial Customers of Idaho  
Power to Idaho Power Company's Response  
Case No. IPC-E-90-2

Dear Ms. Walters:

Enclosed is the original and seven copies of the above  
referenced Reply Statement of the Industrial Customers of Idaho  
Power. Would you please file the same?

If you have any questions concerning this filing, please do  
not hesitate to contact Peter Richardson.

Sincerely,

*Nancy Pfeifer*  
Nancy Pfeifer  
Secretary to Peter Richardson

np

Enclosures

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICA- )	
TION OF IDAHO POWER COMPANY )	CASE NO. IPC-E-90-2
FOR AUTHORITY TO RATE BASE )	
THE INVESTMENT REQUIRED FOR )	REPLY STATEMENT OF THE
THE REBUILD OF SWAN FALLS )	INDUSTRIAL CUSTOMERS OF
HYDROELECTRIC FACILITY )	IDAHO POWER TO IDAHO POWER
_____ )	COMPANY'S RESPONSE

COMES NOW, the Industrial Customers of Idaho Power (ICIP) pursuant to the Notice of Opportunity to Submit Written Comments issued by the Commission Secretary on August 23, 1990, in the above entitled matter, and provide herein their Reply to Idaho Power Company's (Idaho Power or Company) Response in this matter.

I.

IDAHO POWER ATTEMPTS TO  
IMPROPERLY BIND FUTURE COMMISSIONS

Idaho Power's Application and its response to the Statement of Position of the ICIP demonstrates a fundamental misunderstanding of rate making principals. Idaho Power asks this Commission to bind some future Commission to include in the Company's rate base predetermined construction costs. The ICIP therefore respectfully requests that the Company's Application be dismissed in its entirety. Dismissal would not be warranted if the power company were merely seeking a certificate of convenience and necessity for construction work on the Swan Falls facility. Dismissal is warranted because Idaho Power has conditioned the application on receiving a favorable ruling on rate making treatment for its future investment in that facility.

II.

THE COMPANY'S ATTEMPT TO LIMIT THE  
METHODOLOGY BY WHICH FUTURE COMMISSIONS  
REVIEW INVESTMENTS MUST BE REJECTED

In its Statement of Position the Industrial Customers of Idaho Power (as well as the Commission Staff) suggested alternative methodologies for limiting the dollar amount that may be included in Idaho Power's rate base once the Swan Falls construction is completed. For example, the ICIP offered the following alternative:

Idaho Power's avoided costs still provides a benchmark as to the reasonable cost for Swan Falls. The ICIP

submits that, as with Milner, the Company's avoided cost should constitute the ceiling for any rate making recognition of Swan Falls.

Statement of Position and Issues of the ICIP at page 9.

In response, Idaho Power challenges the ICIP and Commission Staff by asserting:

Those Parties that desire to contend that the Commission's Avoided Cost Determinations for Idaho Power Company can be utilized to calculate Idaho Power's investment for rate base purposes should file their specific proposals as to how that calculation would be performed by a date to be set by the Commission.

Response of Idaho Power Company at page 6.

Idaho Power misses the point. This Commission may not obligate a future Commission to a particular rate making methodology. Prior to rate basing a particular investment, the Commission must make a determination that the facility is used and useful and the investment was prudent. Using the published avoided cost rates as a ceiling may be, under today's circumstances, a valid methodology by which to judge power company investment in new generating plant. It may also be a methodology that will likely produce a reasonable result at some time in the future. It is, however, just one possible measure of prudence. The Idaho Commission has the authority to find that, under today's circumstances, a particular methodology for determining the reasonableness of an investment is or is not appropriate. The Idaho Commission cannot find that a particular methodology will, by law, be reasonable at some future date. A ruling as to the

appropriateness of rate basing Idaho Power Company's investment in Swan Falls would be a premature endeavor that has no legally binding effect.

III.

IDAHO POWER CANNOT ABDICATE  
ITS MANAGEMENT RESPONSIBILITIES

Idaho Power is attempting to have the best of both worlds. It is, in essence, seeking insurance that before it makes an investment, the Commission will allow that investment to be recovered in rate base. Idaho Power's proposal eliminates all risk to its stockholders of imprudent or untimely decision making in the board room. Idaho Power is attempting to move the entire risk of such decision making to its ratepayers, many of whom do not hold an equity interest in the power company.

The return Idaho Power recovers on its investment includes a measurement for "risk." One of the most significant risks an electric utility assumes is the commitment to construct new generating facilities. Idaho law is clear that a regulated utility may only earn a return on those facilities that actually provide a service to its customers. If the Swan Falls facility proves to be an imprudent investment (for whatever reasons), a future Idaho Commission will be called upon to determine the extent that investment should be disallowed for rate making purposes. Absent significant amendments to the Idaho Public Utilities Law, nothing Idaho Power or the Commission can do today will change that

fundamental fact.

The Commission's decisions concerning Idaho Power's investment in the Valmy plant demonstrated a willingness on the part of the Commission to require the ratepayers to share some of those risks. In addition, the Commission has already admonished Idaho Power to proceed with care on the Swan Falls project. In Order No. 19623 issued on April 24, 1985, the Commission warned:

We put Idaho Power on formal notice that it acts under its own peril for costs associated with the Swan Falls rebuild until such time as the Company is prepared to submit its definitive cost estimate and to demonstrate that the project will be cost-effective. As we stated in the -197 case, the year of "hell-or-high-water-financing" is over. The ratepayer should not be at risk if management commences construction before it receives a definitive cost estimate, or before it has an approved water right, or if it fails to study reasonable alternative projects, or if the project itself is not cost-effective compared to power that is readily available from competitors.

Order No. 19632 quoting Order No. 19121.

As can be seen, there are a myriad of issues that must be addressed. None of those issues, however, include a commitment by the Commission to rate basing a facility that has yet to be demonstrated to be used and useful.

#### IV.

#### DISMISSAL OF IDAHO POWER'S APPLICATION IS THE ONLY REASONABLE OPTION OPEN TO THE COMMISSION

Idaho Power's Application, as noted above, is tied to its attempt to seek preapproval of rate making treatment of its potential construction costs. Because of the conditional nature

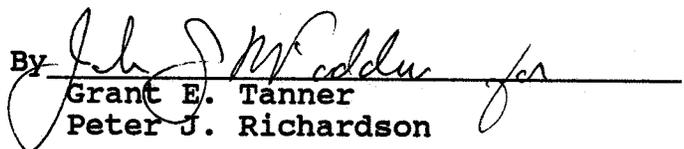
of Idaho Power's Application, a new application to begin construction on the rebuild of the Swan Falls facility would be required, leaving rate making treatment of that facility to be considered at the appropriate time.

For the reasons set forth above, Idaho Power's application must be dismissed in its entirety. In the alternative, the Commission must limit the scope of Idaho Power's Application to a determination of whether authority shall be granted to Idaho Power Company for the construction on the rebuild of the Swan Falls facility.

DATED this 19th day of September, 1990.

Respectfully submitted,

DAVIS WRIGHT TREMAINE

By  Grant E. Tanner  
Peter J. Richardson

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 19th day of September, 1990, served the foregoing REPLY STATEMENT OF THE INDUSTRIAL CUSTOMERS OF IDAHO POWER TO IDAHO POWER COMPANY'S RESPONSE, Case No. IPC-E-90-2, on all parties of record by hand delivering a copy thereof, to the following:

Michael S. Gilmore  
Brad M. Purdy  
Idaho Public Utilities Commission  
472 W. Washington  
Boise, ID 83720

and by mailing a copy thereof, postage prepaid, to the following:

Larry D. Ripley, Esq.  
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By   
Peter J. Richardson