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IDAHO PUBLIC
UTILITIES COMMISSION

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Attorney for Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF IDAHO POWER COMPANY FOR)
AUTHORITY TO RATE BASE THE INVEST-)
MENT REQUIRED FOR THE REBUILD OF)
THE SWAN FALLS HYDROELECTRIC)
FACILITY.)**

**CASE NO. IPC-E-90-2
STATEMENT OF STAFF
POSITION ON LEGAL AND
JURISDICTIONAL ISSUES**

The Staff of the Idaho Public Utilities Commission makes the following statement of position concerning the legal and jurisdictional issues presented by Idaho Power's Application in this proceeding:

1. Idaho Power's Swan Falls Dam and hydroelectric generation facility is an existing facility. Accordingly, Idaho Power may increase the capacity of this existing generating plant without applying to the Commission for a certificate. See *Idaho Code* §61-526.
2. Under *Idaho Code* §61-526, a utility's authority to construct a facility under a certificate or its exemption from the necessity of obtaining a certificate to expand an existing facility gives the utility authority with regard to construction of the project. *Idaho Code* §61-526 is silent about rate basing new

construction, however, and it does not guarantee that a project authorized for construction will be rate based. Authorizing construction and authorizing rate basing of plant are distinct issues.

3. It is appropriate for Idaho Power to petition the Commission for a declaratory ruling whether, in the abstract, its investment in the rebuild of the Swan Falls plant is an appropriate investment to be rate based. See *Idaho Code* §67-5208; RP&P 15.1. The Staff believes that the Company's Application and the uncontested need to repair the existing facility shows the necessity of reconstructing the plant and including the investment in the plant in rate base.

4. The amount of investment in plant to be included in rate base, however, is another issue and is not to be decided in this case. Once the plant is in service, the Staff proposes that the amount to be included in rate base should be the lesser of these three figures:

(a) The plant costs reasonably incurred in reconstruction of Swan Falls;

(b) The avoided costs of Idaho Power, appropriately calculated to take into account the difference between the Swan Falls plant's expected useful life and the contractual commitment of a cogenerator or small power producer; or

(c) Idaho Power's proposed cap on rate base contained in its Application.

This factual determination should not be made in this case.

5. The Staff does not believe an evidentiary hearing is necessary to consider the legal issues presented by the Swan Falls Application.

RESPECTFULLY submitted this 31 day of August 1990.


Michael S. Gilmore
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 31ST DAY OF AUGUST, 1990, SERVED THE FOREGOING **STATEMENT OF STAFF POSITION**, CASE NO. IPC-E-90-2, ON ALL PARTIES OF RECORD BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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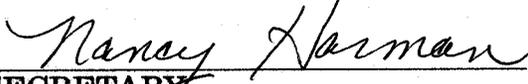
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