BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR AUTHORITY TO INCREASE ITS RATES AND CHARGES FOR ELECTRIC SERVICE TO CUSTOMERS IN THE STATE OF IDAHO BY INCLUSION OF THE TWIN FALLS PROJECT INVESTMENT AND THE ADDITIONAL SWAN FALLS PROJECT INVESTMENT IN REVENUE REQUIREMENT. | )  )  )  )  )  )  )  )  )  ) | CASE NO. IPC-E-95-5  ORDER NO.  26056 |

On June 9, 1995, Rosebud Enterprises, Inc. (Rosebud) filed a Petition to Intervene as a party to this proceeding.  Rosebud’s Petition contains a number of assertions including that Idaho Power Company’s (Idaho Power; Company) investment in the Twin Falls project is not prudent when compared to the costs of competing resources such as Rosebud’s proposed Mountain Home project.  Rosebud notes that there is pending before the Idaho Supreme Court its appeal of Commission Order Nos. 25021 and 25160 issued in Case No. IPC-E-91-4 (Supreme Court Docket No. 20910) in which the Commission ruled that in the ordinary course of events, Idaho Power could expect its prudent investment in the Twin Falls hydroelectric project to be included in the Company’s revenue requirement.  The Commission deferred a prudency review regarding the precise amount of the investment to include in revenue requirement.  That is the purpose of the present proceeding.

On June 19, 1995, Idaho Power filed a Motion to Dismiss Rosebud’s Petition to Intervene on the basis that the petition constituted a collateral attack on prior Commission Orders in contravention of Idaho Code § 61-625.  In addition, the Company asserts that Commission Orders are not stayed pending reconsideration or appeal to the Supreme Court (Idaho Code §§ 61-626, -635, respectively).  Idaho Power concludes that Rosebud should not be allowed to intervene on the basis that it has a pending appeal before the Supreme Court from Commission Orders that have not been stayed.

FINDINGS

Rule 74 of the Commission’s Rules of Procedure (IDAPA 31.01.01) provides:

Granting Petitions to Intervene (Rule 74).  If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the Commission or the presiding officer will grant intervention, subject to reasonable conditions.  If it later appears that an intervenor has no direct or substantial interest in the proceeding, or that the intervention is not in the public interest, the Commission may dismiss the intervenor from the proceeding.

We find that to the extent that Rosebud seeks to challenge the specific amount of Idaho Power’s investment in the Twin Falls project that should prudently be included in the Company’s revenue requirement, such a position is relevant to this proceeding and will be allowed.  In the event, however, that Rosebud seeks to relitigate issues it raised in Case No. IPC-E-91-4 which is pending on appeal before the Idaho Supreme Court, including matters related to contract negotiations between Rosebud’s Mountain Home QF project and Idaho Power, we find such matters to be beyond the scope of the Company’s Application in this proceeding and intend to limit this case to the identified issues.

O R D E R

IT IS HEREBY ORDERED that Idaho Power’s Motion to Dismiss Rosebud’s Petition to Intervene be denied.  Rosebud’s Petition to Intervene is granted subject to the conditions set forth in this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of  June 1995.

                                                            RALPH NELSON, PRESIDENT

                 MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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