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-95-5ORDER NO.  26091 |

On June 23, 1995, Rosebud Enterprises, Inc. (Rosebud) filed a Motion to Dismiss this proceeding.  Rosebud bases its Motion upon three primary assertions.  First, Rosebud contends that Idaho Power’s Application is deficient in that the Company’s sole witness, Mr. John R. Gale, “has no apparent expertise and does not offer any testimony supporting whether the Twin Falls project is used and useful in 1995 and accordingly, a prudent resource to be ratebased.”  Motion to Dismiss at p. 1.

Second, Rosebud contends that it was improper for Idaho Power to construct the Twin Falls plant while Commission Order Nos. 25021 and 25160, issued earlier in this proceeding, are pending review by the Idaho Supreme Court.  In addition, Rosebud asserts that the construction of Twin Falls was inappropriate given Idaho Power’s claim that it had no need for new resources until the year 2006.

Finally, Rosebud submits that Mr. Gale’s testimony lacks any detailed explanation of how ratepayers are benefitted by purchasing a plant which, Rosebud contends, has a 38% capacity factor and delivers primarily spring runoff resources.

On July 7, 1995, Idaho Power Company (Idaho Power; Company) filed an answer to Rosebud’s Motion to Dismiss.  Idaho Power quotes language from Order No. 26056 issued by this Commission on June 29, 1995 granting Rosebud’s intervention in this proceeding but limiting it to relevant issues.  Idaho Power asserts, that Rosebud is attempting to litigate issues related to the contract negotiations between Rosebud’s Mountain Home QF project and Idaho Power.

FINDINGS

We hereby deny Rosebud’s Motion to Dismiss this proceeding.  On July 22, 1993, the Commission issued Order No. 25021 granting Idaho Power the following assurance:

Accordingly, we find that, in the ordinary course of events, the Company may expect its investment in the Twin Falls project to be recognized in its revenue requirement, barring unforeseen circumstances of a kind not characteristic of hydroelectric facilities. The ultimate decision determining the appropriate amount of the Twin Falls investment to include in revenue requirement will, of course, be made during the course of a general rate proceeding or a tracker proceeding initiated for that purpose.

Order No. 25021 at p. 13 (emphasis added).

The Commission recognized the inherent value of hydro power and the relative cost effectiveness of the Twin Falls project when compared with the Company’s avoided costs and accepted the Company’s “commitment estimate” as a ceiling on the amount of the Twin Falls investment that may be included in the Company’s revenue requirement.

On September 24, 1993, the Commission issued Order No. 25161 denying Rosebud’s Petition for Reconsideration and reaffirming Order No. 25021.

Rosebud correctly observes that the two foregoing orders are currently pending for review by the Idaho Supreme Court.  During the earlier proceeding, Rosebud raised a number of issues including those set forth in its Motion to Dismiss.  Those issues were fully litigated by all parties to the case and were resolved in Order Nos. 25021 and 25160.  Following the issuance of those two orders, the only issues unresolved, therefore,  related to the appropriate amount of the Twin Falls investment to include in the Company’s revenue requirement.  We made specific note of this when we granted Rosebud’s Petition to Intervene in this case ruling:

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.

Order No. 26056 at p. 2.

Rosebud’s Motion primarily raises issues that have already been fully resolved or should have been raised earlier in this proceeding.  To the extent Rosebud wishes to challenge the specific amount of Idaho Power’s investment in Twin Falls that should be included in the Company’s revenue requirement, then Rosebud may do so through the presentation of evidence as currently scheduled in this case.  Rosebud’s Motion to Dismiss is denied.

O R D E R

IT IS HEREBY ORDERED that Rosebud’s Motion to Dismiss this proceeding is denied.

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

RALPH NELSON, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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