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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR APPROVAL OF NEW TARIFF PROVISIONS RELATING TO NEW SERVICE ATTACHMENTS AND DISTRIBUTION LINE INSTALLMENTS OR ALTERATIONS. | ))))))) | CASE NO. IPC-E-95-18ORDER NO.  26364 |

On December 8, 1995, Idaho Power Company filed an Application for approval of modification of its Tariff No. 101 providing for charges for the construction of distribution line installations or alterations.  Idaho Power proposes to shift the cost of new service attachments and distribution line installations or alterations from the system revenue requirement to the new customer requesting the construction.  On February 12, 1996, the Idaho Building Contractors Association (Building Contractors) filed a Motion with the Commission to dismiss the Application filed by Idaho Power.  The Building Contractors allege, as grounds for dismissal, that the Application constitutes a collateral attack upon, and is precluded by, Commission Order No. 26216, issued October 20, 1995.  On February 26, 1996, Idaho Power filed a Response to the Building Contractors’ Motion.  On March 6, 1996, an oral argument was held on the Motion. The Building Contractors, Idaho Power and the Commission Staff presented their arguments.  By this Order the Commission denies the Motion to Dismiss.

DISCUSSION

The Building Contractors allege that the Application by Idaho Power is precluded by Order No. 26216, which is an Order approving a stipulated settlement entered into in Case No. IPC-E-95-1, commonly known as the Idaho Power rate stability case.  The general contention of the Building Contractors is that Order No. 26216 intended to prohibit any increases in fees to customers, and that the relief proposed by the Application is not revenue neutral.  The Building Contractors further claim that the only theory upon which the Application could be approved would be that the line extension fees proposed in Idaho Power’s Application are not “base rates” within the meaning of the stipulation and Order No. 26216.

Idaho Power’s Response to the Motion to Dismiss essentially claimed that the line extension fees are not base rates within the meaning of the stipulation and Order No. 26216.  During the oral argument, Idaho Power further stated it did not know at this time whether its proposal is revenue neutral as required by the moratorium Order.  Idaho Power argued that an evidentiary proceeding is required to determine if the changes to Rule H will be revenue neutral.

The Commission Staff did not file a response to the Building Contractors’ Motion, but did during the oral argument clarify their intent when they entered into the Agreement with the parties in Case No. IPC-E-95-11.  Staff explained that the stipulation, as understood by Staff, did not preclude addressing line extension issues during the rate moratorium.  The stipulation was referenced and adopted in Commission Order No. 26216.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On October 20, 1995, the Commission issued Order No. 26216 as a final Order in Case No. IPC-E-95-11.  The Order approved a settlement stipulation entered into by all the parties in the proceeding.(footnote: 1)  In  general, the Order authorized certain accounting treatments for reorganization costs, provided a method for ensuring stability of earnings, and authorized a rate moratorium.    The Order, with respect to the rate moratorium, provides that Idaho Power’s base rates will not be changed prior to January 1, 2000, subject to certain exceptions.

1.The Company’s power cost adjustment (PCA) mechanism is unaffected and tracker proceedings can be instituted to recover changes in local, state and federal taxes or franchise agreement;

2.Legislatively imposed surcharges for hydro relicensing;

3.Changes in the manner in which demand side management charges are recovered;

4.Recovery by Idaho Power of costs relating to catastrophic events beyond the Company’s control;

5.Rate reductions if earnings exceed a cap;

6.Any proceeding that is revenue neutral.

Order No. 26216 at 3-4.

The Order further expresses the Commission resolve to ensure that the Company not take unfair advantage of the exceptions to the rate stability promise.

(W)e hereby inform the Company that any attempts by Idaho Power to increase base rates through one of the exceptions provided in Section IV(d) of the Settlement Stipulation shall be rigorously scrutinized.  As stated, the primary benefit of the stipulation, from the viewpoint of ratepayers, are of low rates and rate stability.  We intend to hold the Company to the assurances provided in the stipulation in this regard.

Order No. 26216 at 6.

The term “base rates” was used by the Commission in reference to Idaho Power when the Commission approved the Company’s PCA mechanism.  At that time, the Commission in Case No. IPC-E-92-25, Order No. 24806 dated March 29, 1993, recognized that the Company’s energy rates for electrical service would be comprised of base rates and PCA rates.  The base rates were set “so that a certain number of cents for each kilowatt hours sold will cover the current fixed costs of Idaho Power’s generation plant.  As firm load grows, the total revenue recovered from the portion of base rates will increase above the level of fixed costs at the time the rates were set.”  Order No. 24806 at 22.  The remaining portion of the energy charge is included in the PCA component.  The Company accordingly filed rate schedules which included a base rate and a PCA rate.

Upon review of  the record in Case No. IPC-E-95-11 and the history of base rates before the Commission, we conclude that the Commission’s intent did not include a moratorium on line extension issues in Order No. 26216.  Idaho Power’s base rates were unambiguously defined in Order No. 24806, and base rates are clearly identified in the Company’s published tariffs.  None of the fees proposed by the Company in this case fall under the base rate category.  We conclude that the Application of Idaho Power for approval of new tariff provisions relating to new service attachments and distribution line installations or alterations, otherwise known as line extensions, is not precluded by Order No. 26216.  Because we have found that the fees proposed in the Application are not base rates we do not need to determine if they are revenue neutral. The Motion to Dismiss is denied.

O R D E R

IT IS HEREBY ORDERED that the Building Contractors’ Motion to Dismiss the Application of Idaho Power is denied and further, the oral request of the Building Contractors to stay the proceedings is also denied.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of March 1996.

                                                                                                                                       RALPH NELSON, PRESIDENT

                                                                                            MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**FOOTNOTES**

1:

The record indicates that the Industrial Customers, while not signing the stipulation, were generally supportive of the Agreement.

**COMMENTS AND ANNOTATIONS**

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**TEXT BOXES**

Office of the Secretary

Service Date

March 13, 1996