DECISION MEMORANDUM

TO:COMMISSIONER NELSON

COMMISSIONER SMITH

COMMISSIONER HANSEN

MYRNA WALTERS

TONYA CLARK

DON HOWELL

STEPHANIE MILLER

DAVE SCHUNKE

RICK STERLING

BEVERLY BARKER

DAVID SCOTT

WORKING FILE

FROM:SUSAN HAMLIN

DATE:FEBRUARY 28, 1997

RE:JERRY BETCHAN’S LETTER REQUESTING RECONSIDERATION IN IDAHO POWER’S LINE EXTENSION CASE; IDAHO POWERS RESPONSE AND CROSS-PETITION; CASE NO. IPC-E-95-18

On February 18, 1997, the Commission received a letter from Jerry Betchan asking the Commission to reconsider particular findings within the Idaho Power line extension order, Order No. 26780 issued February 6, 1997.  In Order No. 26780 it states “. . . a five-year refund period is reasonable and should be retained, except in the cases of platted, undeveloped subdivisions where we order a ten-year refund period.”  Id. at 17.  Mr. Betchan asked that the ten-year refund period be extended to all refund applications, not just the case of platted undeveloped subdivisions.  (See attached copy)

On February 27, 1997, Idaho Power filed a response to Mr. Betchan’s Petition for Reconsideration.  (See attached copy)  Idaho Power states that it believes the Commission can create a class of platted and undeveloped subdivisions for a special refund period, and such class would meet any discrimination or preferential test.  If the Commission believes that it is not equitable to treat the platted underdeveloped subdivisions differently, then it should provide for a five-year rule for all refunds and not extend to ten years platted underdeveloped rule to all line extensions.

Idaho Power also cross-petitioned pursuant to Rule 331 on the issue of period of time that the Commission has provided for refunds.  The Company believes that the record in this proceeding demonstrates that a five-year rule is equitable and should be applied to all refund periods for all classes of customers.  The Company asserts that a longer period for the refund period requires the Company to administer and keep track of the period of time for which a line extension contribution is eligible for refund provisions.  Accordingly, the Company submits that if the Commission desires to reconsider the period of time within which refunds will be allowed and is concerned with having different periods of time for different types of extensions, then the Commission should provide for a single period of time, with that single period of time being five years.

RULE

Rule 331 of the Commission’s Rules of Procedure (IDAPA 31.01.01) provides that any person interested in the final Order of the Commission may petition for reconsideration within 21 days after the day of service of that Order.  Such Petition must set forth the ground or grounds why the petitioner contends that the Order is unreasonable, unlawful, erroneous or not in conformity with the law and a statement of the nature and quantity of evidence or argument that the petitioner will offer if reconsideration is granted.  The rule further provides that any person may cross-petition within seven days after an initial petition for reconsideration is filed.

The Commission may deny the Petition, in which case, it simply needs to issue an Order to that effect.  The Commission may, of course, grant the Petition and either solicit written comments from all concerned or schedule an evidentiary hearing if it deems necessary.

Staff’s Recommendation

Betchan’s Petition was timely filed. Staff notes that Mr. Betchan has not adequately complied with the Commission’s Rules on the reconsideration in the fact that he has not given notice to all parties. However, Staff has faxed a copy of his letter to attorneys representing the parties in this case. As grounds for reconsideration Mr. Betchan claims that extending the refund policy to ten years for all applications would be in the best interest of the public and more equitable. Mr. Betchan does not ask for a hearing.

Idaho Power responds to Betchan’s request and cross-petitions asking that the refund period be set at five years in the cases of platted, undeveloped subdivisions.  Also, in the tariff filed by Idaho Power it has interpreted the language in Order No. 26780 extending the refund for ten years for platted, undeveloped subdivisions to apply to undeveloped subdivisions platted prior to January 1, 1997. Staff, on the other hand, believes that extending the refund policy to ten years for platted undeveloped subdivisions is prospective.  For the tariffs filed by Idaho Power on February 26, 1997, Staff has recommended approval of all sections except for the special rule for undeveloped subdivisions platted prior to January 1, 1997. Staff recommends the Commission clarify its intend on timing of the refund for platted, undeveloped subdivision.

Commission Decision

1.  Does the Commission wish to treat Betchan’s letter as a  Petition for Reconsideration by granting the Petition?

2.  Does the Commission wish to extend all refund periods to ten years?

3.  Does the Commission wish to set all refund periods at five years?

4.  Does the Commission wish to deny the petition and cross petition and clarify the period of time within which refunds will be allowed for platted undeveloped subdivision?

5.  Does the Commission have another suggestion?

Susan Hamlin

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