(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR AN ORDER APPROVING THE COMPANY’S PROPOSED PAYMENTS TO THE NEZ PERCE TRIBE PERTAINING TO THE COMPANY’S HELLS CANYON COMPLEX AND FOR AN ACCOUNTING ORDER CONCERNING THE PAYMENTS TO BE MADE IN THE EVENT OF FINAL SETTLEMENT. | )))))))))) | CASE NO. IPC-E-96-3NOTICE OF APPLICATIONNOTICE OF MODIFIED PROCEDURE |

YOU ARE HEREBY NOTIFIED that on April 2, 1996, the Idaho Power Company (Idaho Power; Company) filed an Application with the Commission seeking approval of proposed payments to be made to the Nez Perce Tribe resulting from litigation between the Tribe and the Company.  The litigation involves the Tribe’s claims that the Company’s three Hells Canyon hydroelectric projects (Brownlee Dam, Oxbow Dam and Hells Canyon Dam) prevent anadromous fish from reaching their traditional spawning areas destroying certain fish runs and denying access to certain of the Tribe’s usual and accustomed fishing places.  These actions allegedly deprive the Tribe of its treaty rights to take fish from the Columbia and Snake Rivers.  The Tribe sought compensatory and punitive damages as a result.

Following the filing of a civil action against Idaho Power, the Company and the Tribe entered into settlement negotiations culminating in an agreement between the two parties.  That agreement, included with the Company’s Application, provides for the payment by Idaho Power to the Tribe of the equivalent of $16.5 million plus certain earnings from a Trust as set forth in the agreement.  Pursuant to the agreement, the Company would pay the Tribe $5 million when the Settlement Agreement is entered into between the parties.  At the same time, the Tribe would dismiss an action pending in federal court.  Idaho Power would thereafter pay the Tribe a total of $6.5 million in four equal installments.  Finally, the Company may also make a payment of $5 million into a trust account on August 3, 2003, the date by which the Company must file its Application to relicense the Hells Canyon complex.  The Company is not requesting any action by the Commission at this time in regard to this August 3, 2003 payment.

Idaho Power proposes to capitalize the settlement payments to electric plant as a component of construction costs for injuries and damages, insurance and legal expenditures consistent with the uniform system of accounts (18 CFR § 1.101, A, 8, 14 and 15).  The amounts capitalized will be amortized through Account 404, amortization expense.

Idaho Power proposes an alternative treatment if it is determined that capitalization to utility plant is inappropriate.  The alternative accounting treatment would defer the settlement payments as a regulatory asset with the amortization through Account 557, other power supply expenses.

Under either alternative, Idaho Power proposes to begin amortization of the settlement payments one month after the payments are made.  The monthly amortization would continue through the year 2035.  As proposed, the monthly amortization amounts will be included in the Company’s next rate proceeding and will be reflected in the earnings test for purposes of Order No. 26216, Case No. IPC-E-95-11, the rate moratorium and stability of earnings proceeding.

 YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201 through -.204.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application must file a written comment in support or opposition with the Commission byWednesday, May 29, 1996.  The comment must contain a statement of reasons supporting the comment.  Persons desiring a hearing must specifically request a hearing in their written comments.  Written comments concerning this application shall be mailed to the Commission and the Applicant at the addresses reflected below:

COMMISSION SECRETARYLARRY RIPLEY

IDAHO PUBLIC UTILITIES COMMISSIONIDAHO POWER COMPANY

PO BOX 83720PO BOX 70

BOISE, IDAHO  83720-0074BOISE,  ID  83707-0070

Street Address for Express Mail:

472 W WASHINGTON ST

BOISE, IDAHO  83702-5983

These comments should contain the case caption and case number shown on the first page of this document.

YOU ARE FURTHER NOTIFIED that if no written comments are received within the time limit set, the Commission will consider this matter on its merits and enter its Order without a formal hearing.  If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

DATED at Boise, Idaho this                  day of May 1996.

Myrna J. Walters

Commission Secretary

vld/N:IPC-E-96-3.bp

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

May 7, 1996