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

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| EARTH POWER RESOURCES, INC.  Complainant,  vs.   IDAHO POWER COMPANY  Respondent. | )  )  )  )  )  )  )  )  )  )  ) | CASE NO. IPC-E-96-14  ORDER NO. 27862 |

On July 3, 1996, Earth Power Resources, Inc. (Earth Power) filed a complaint against Idaho Power Company (Idaho Power) with the Idaho Public Utilities Commission (Commission).  Earth Power contends that it offered to sell Idaho Power the output of two 1 megawatt geothermal PURPA qualifying projects located at Allen Springs and Lee Hot Springs in Churchill County, Nevada and that Idaho Power refused to purchase at rates, terms and conditions that Earth Power believes that it is otherwise entitled to.

Earth Power and Idaho Power are also parties to a pending contract dispute in a District Court proceeding in the Fourth Judicial District of Idaho.  Idaho Power contends that the District Court action bears on Idaho Power’s obligation to purchase and may be dispositive of proceedings before the Commission.  Reference February 10, 1994, Option Agreement.

On September 5, 1996, the Commission stayed further proceedings in Case No. IPC-E-96-14 pending further motion by either Idaho Power or Earth Power.

On December 28, 1998, the Commission through its attorney contacted Earth Power’s counsel regarding the protracted period of inactivity in Case No. IPC-E-96-14.  The Commission is apprised that the District Court action which was filed by Idaho Power on July 1, 1996, has yet to be resolved or adjudicated and remains on the Court’s docket with no scheduling.  It appearing that there is no impending resolution of the District Court case, the Commission is apprised that Earth Power consents to a dismissal without prejudice of its complaint in Case No. IPC-E-96-14.

COMMISSION FINDINGS

The Commission has reviewed and considered the filings of record in Case No. IPC-E-96-14 and the representations of its counsel regarding the pending District Court action.  The Commission notes that there has been no activity in this docket for over two years.  As a matter of administrative housekeeping the Commission finds it reasonable to dismiss Earth Power’s filing without prejudice.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, an electric utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code.

The Idaho Public Utilities Commission has authority under the Public Utility Regulatory Policies Act of 1978 (PURPA) and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations to purchase energy from small power producers and to implement FERC rules.

O R D E R

In consideration of the foregoing, IT IS HEREBY ORDERED that the complaint of Earth Power Resources, Inc. v. Idaho Power Company in Case No. IPC-E-96-14 is dismissed without prejudice and the docket closed.

THIS IS A FINAL ORDER.  Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order.  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of January 1999.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

January 13, 1999