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

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| IN THE MATTER OF THE PETITION OF PACIFICORP DBA UTAH POWER & LIGHT COMPANY FOR A DECLARATORY RULING. | )  )  )  )  )  )  )  ) | CASE NO. UPL-E-96-5  NOTICE OF PETITION FOR DECLARATORY RULING  NOTICE OF INTERVENTION DEADLINE |

NOTICE OF SCHEDULING

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that on July 12, 1996, PacifiCorp dba Utah Power & Light Company (Utah Power; Company) filed an executed Power Purchase Agreement between PacifiCorp and Earth Power Resources, Inc. (Ref. Case No. UPL-E-96-3) and a Petition for Declaratory Ruling with the Idaho Public Utilities Commission (Commission).  The Commission granting Earth Power’s subsequent Motion to Bifurcate moved the Petition for Declaratory Ruling into a separate docket, Case No. UPL-E-96-5.  (Reference Order No. 26595.)

Earth Power Resources, Inc. (Earth Power) is a Nevada corporation and is the developer (individually or through separate subsidiaries or affiliates) of six proposed 1 MW geothermal generation projects, three generation projects to be located at Allen Springs and three generation projects to be located at Lee Hot Springs in Churchill County, Nevada.  Earth Power proposes to develop and sell the output of its generation projects to PacifiCorp, Idaho Power Company and Washington Water Power Company.  As proposed, Earth Power would sell and each utility would purchase a total of 2 MW, one MW each from Allen Springs and Lee Hot Springs.  Earth Power represents that the generation projects will be qualifying small power production facilities as defined in the Public Utility Regulatory Policies Act of 1978 (PURPA).

PacifiCorp in Case No. UPL-E-96-3 seeks approval of a negotiated Power Purchase Agreement with Earth Power dated June 28, 1996, for the Lee Generation Project I.  The proposed project is a 999 kW geothermal facility with an estimated annual net delivered output of 8,018,000 kWh.

PacifiCorp arguing that the Commission’s prior Orders limiting the availability of published avoided cost rates to projects less than 1 MW would be circumvented were it to allow a developer, such as Earth Power, to develop three projects at each site (Allen Springs and Lee Hot Springs) or to install six generation projects at a single geothermal field, requests a declaratory ruling from the Commission declaring that

(I)additional generation by Earth Power or any of its affiliates, from the same geothermal field supplying geothermal fluid to the facility, will not be entitled to published rates applicable to projects smaller than 1 MW;

(ii)if Earth Power or any affiliated entity seeks to contract with Utah Power for  the purchase of additional power and energy from a generator at the same geothermal field supplying geothermal fluid to the facility, the rates under this Agreement shall be taken into account in order to arrive at a rate for the cumulative generation which reflects Utah Power’s avoided costs.

Earth Power filed an Answer to PacifiCorp’s Petition for Declaratory Ruling on August 1, 1996.  Earth Power contends that the six proposed projects are “independent” and notes that the Commission has never required that each project be built to its fullest possible potential.  Nor has the Commission, it states, ever required all projects that use the same motive force be grouped together for purposes of entitlement to published rates.

YOU ARE FURTHER NOTIFIED that the Commission based on the filings in Case Nos. UPL-E-96-3, IPC-E-96-14, and WWP-E-96-6, has determined in Order No. 26595 that The Washington Water Power Company, Idaho Power Company and Earth Power should be granted intervenor party status in the declaratory ruling Case No. UPL-E-96-5.  Reference IDAPA 31.01.01.071-.075.

YOU ARE FURTHER NOTIFIED that the Petition for Declaratory Ruling and related filings in Case No. UPL-E-96-5 can be reviewed at the Commission’s office and at the Idaho offices of Utah Power during regular business hours.

YOU ARE FURTHER NOTIFIED that persons desiring to intervene in Case No. UPL-E-96-5 for the purpose of participating in the case, presenting evidence or cross-examining witnesses must file a Petition to Intervene with the Commission pursuant to Rules 72 and 73 of the Commission’s Rules of Procedure, IDAPA 31.01.01072-073.  The deadline for filing a Petition to Intervene in Case No. UPL-E-96-5 is Friday, September 13, 1996.  Persons desiring to present their views without parties rights or participation and cross-examination are not required to intervene and may present their comments without prior notification to the Commission or to other parties.

YOU ARE FURTHER NOTIFIED that the Commission, Utah Power, Idaho Power, Water Power, Earth Power and Commission Staff have agreed to the following scheduling for prefile of testimony in Case No. UPL-E-96-5:

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| September 13, 1996  October 18, 1996  November 1, 1996 | Prefile of direct testimony by Earth Power  Prefile of direct testimony by Staff/Utilities/ Intervenors  Prefile of rebuttal testimony by all parties |

Because of the expedited scheduling in this case, prefile dates are also in-hand dates for service on other parties.

YOU ARE FURTHER NOTIFIED that the prepared testimony and exhibits of the parties must conform to the requirements of Rules 230, 231, 266 and 267 of the Commission’s Rules of Procedure, IDAPA 31.01.01.230-321; 266-267.  In addition to paper copies of prepared testimony, testimony in this case must be submitted in computer readable ASCII format.  IDAPA 31.01.01.231.05.

YOU ARE FURTHER NOTIFIED that discovery is available in Case No. UPL-E-96-5 pursuant to the Commission’s Rules of Procedure, IDAPA 31.01.01.221-234.  The Commission and parties have agreed to the following scheduling deadlines for discovery requests and responses:

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| --- | --- |
| September 20, 1996  October 4, 1996 | FAX deadline for discovery requests  In-hand receipt date for discovery responses |

YOU ARE FURTHER NOTIFIED that a public hearing in Case No. UPL-E-96-5 is scheduled to begin WEDNESDAY, NOVEMBER 13, 1996, COMMENCING AT 9:30 A.M. IN THE COMMISSION HEARING ROOM, 472 WEST WASHINGTON STREET, BOISE, IDAHO (208) 334-0300, AND WILL CONTINUE IF NECESSARY ON NOVEMBER 14, 1996.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission’s jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission’s Rules of Procedure, IDAPA 31.01.01.000 et seq.

YOU ARE FURTHER NOTIFIED that all hearings and prehearing conferences in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act.  Persons needing the help of a sign language interpreter or other assistance of the kind that the Commission is obligated to provide under the Americans with Disabilities Act in order to participate in or to understand the testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing.  The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION

PO BOX 83720

BOISE, IDAHO  83720-0074

(208) 334-0338  (TELEPHONE)

(208) 334-3151  (TEXT TELEPHONE)

(208) 334-3762  (FAX)

DATED at Boise, Idaho this day of August 1996.

Jean Jewell

Assistant Commission Secretary

vld/N:UPL-E-96-5.sw

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

August 30, 1996