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

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| EARTH POWER RESOURCES, INC.,  Complainant,  vs.  THE WASHINGTON WATER POWER COMPANY,  Respondent. | )  )  )  )  )  )  )  )  )  )  ) | CASE NO. WWP-E-96-6  NOTICE OF SCHEDULING  NOTICE OF HEARING  ORDER NO.  26630 |

On July 3, 1996, Earth Power Resources, Inc.  (Earth Power), a Nevada corporation, filed a complaint against Washington Water Power Company (Water Power; Company) with the Idaho Public Utilities Commission (Commission).  Reference IDAPA 31.01.01.043.  Earth Power represents that it is the developer of two 1 MW geothermal PURPA qualifying projects located at Allen Springs (QF 96-15-000) and Lee Hot Springs (QF 95-1-001) in Churchill County, Nevada.  Earth Power represents that it initiated negotiations with Water Power on December 5, 1995.  Earth Power contends that it has offered to sell the output of its two facilities to Water Power and that Water Power has refused to purchase at rates, terms and conditions that Earth Power believes it is otherwise entitled to.

On July 26, 1996, Water Power filed a response and a Motion for Order Allowing Representation by Out of State Counsel.  Water Power denies that its actions reflect a refusal to negotiate with Earth Power and contends that it has acted in accordance with Commission Orders and policy.  Water Power denies that Earth Power is entitled to receive payment for its power at the requested rates.  Water Power contends that Earth Power is not entitled to posted rates available for QFs less than 1 MW.  Water Power contends that Earth Power failed to disclose material facts and has failed to demonstrate that it was ready, willing and able to enter into a contract for the sale of power.

On August 1, 1996, Earth Power filed a Motion in Case No. WWP-E-96-6 requesting a stay of proceedings pending Commission resolution of a related application by PacifiCorp for declaratory ruling in Case No. UPL-E-96-3.  On August 14, 1996, Water Power filed an answer to Earth Power’s Motion to Stay recommending that the case not be stayed pending resolution of PacifiCorp’s Application for Declaratory Ruling but rather that the two cases be consolidated.  Reference IDAPA 31.01.01.056; .247.  Water Power contends that there are issues arising out of its docket which may have application to the PacifiCorp proceeding but which have not been presently framed in the PacifiCorp proceeding.  In particular, Water Power cites issues of nondisclosure of material facts and grandfathering.  The Commission, Water Power contends, may want to consider these issues before establishing a policy to guide utilities and QF developers.

On August 30, 1996, the Commission in Order No. 26595 in Case No. UPL-E-96-3 denied the Petition of Water Power to consolidate Case Nos. UPL-E-96-3 and WWP-E-96-6.  In its findings, the Commission stated: “Because the Commission believes that Water Power Case No. WWP-E-96-6 presents a unique set of facts and chronology and because we have by this Order granted to Water Power intervenor party status in Case No. UPL-E-96-5 (re:  Petition for Declaratory Ruling), the Commission finds it reasonable to deny Water Power’s Petition to Consolidate Case Nos. UPL-E-96-3 and WWP-E-96-6.”  The Commission directed the Commission Secretary to establish a new docket Case No. UPL-E-96-5, captioned “in the matter of the petition of Pacificorp dba Utah Power & Light Company for a declaratory ruling.”

YOU ARE HEREBY NOTIFIED that the parties in Case No. WWP-E-96-6 have pursuant to agreement and stipulation determined that proceedings in Case No. WWP-E-96-6 should not be stayed but that further scheduling should be established.  Pursuant to agreement of the parties and the Commission, the following scheduling for prefile of testimony in Case No. WWP-E-96-6 is adopted:

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| --- | --- |
| September 27, 1996  November 26, 1996  December 03, 1996 | Prefile of direct testimony by Earth Power  Prefile of direct testimony by Water Power  Prefile of rebuttal testimony by Earth Power |

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 31.01.01.230-231; 266-267.

YOU ARE FURTHER NOTIFIED that discovery is available in Case No. WWP-E-96-6 pursuant to the Commission’s Rules of Procedure, IDAPA 31.01.01.221-234.

YOU ARE FURTHER NOTIFIED that a public hearing in Case No. WWP-E-96-6 is scheduled to begin TUESDAY, DECEMBER 17, 1996, COMMENCING AT 9:30 A.M. IN THE COMMISSION HEARING ROOM, 472 WEST WASHINGTON STREET, BOISE, IDAHO (208) 334-0300.

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 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)

COMMISSION FINDINGS

The Commission has reviewed and considered the filings of record in Case No. WWP-E-96-6 including Water Power’s Motion for Order allowing representation by out of state counsel and Motion to Consolidate, and Earth Power’s Motion to Stay.  The Commission notes, as reflected above, that in Order No. 26595, we denied Water Power’s Motion to Consolidate.  We find it reasonable to grant Water Power’s Motion for Order allowing representation by out of state counsel, i.e., Blair Strong.  We also find it reasonable to adopt the foregoing scheduling for prefile of testimony and hearing in Case No. WWP-E-96-6.  In approving the scheduling, we note that the parties in proposing same have effectively consented to withdrawal of Earth Power’s Motion to Stay.

CONCLUSIONS OF LAW

The Commission has jurisdiction over The Washington Water Company, an electric utility, and the issues presented in Case No. WWP-E-96-6 pursuant to the authority and power granted it under Title 61 of the Idaho Code, the Commission’s Rules of Procedure, IDAPA 31.01.01.000 et seq., and the Public Utility Regulatory Policies Act of 1978 (PURPA).

O R D E R

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED that the Motion of The Washington Water Power Company for Order allowing representation by out of state counsel is granted.

IT IS FURTHER ORDERED and the Commission hereby approves and adopts the foregoing scheduling for prefile of testimony and hearing.  In doing so the Commission acknowledges that the Motion of Water Power to consolidate Case No. WWP-E-96-6 with Case No. UPL-E-96-3 was denied in Order No. 26595, and that Earth Power’s Motion to Stay has been effectively withdrawn.

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

                                                                                                                                      RALPH NELSON, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/N:WWP-E-96-6.sw

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

October 8, 1996