

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE PETITION OF |) | |
| POTLATCH CORPORATION FOR AN ORDER |) | CASE NO. AVU-E-01-5 |
| DETERMINING THE TERMS AND |) | |
| CONDITIONS FOR POTLATCH'S PURCHASE |) | |
| OF ELECTRICITY FROM AVISTA UTILITIES. |) | ORDER NO. 28786 |
| |) | |

On June 4, 2001, the Commission issued Order No. 28747 in Case No. AVU-E-01-5 granting the Industrial Customers of Idaho Power's (ICIP's) Petition for Intervention. On June 15, 2001, Avista filed a Petition for Review of Interlocutory Order No. 28747. Avista contends that neither Avista nor its counsel were served with the Petition to Intervene as required by Commission Rules of Procedure 63 and 64 and that because of the lack of proper notice Avista was denied the opportunity to oppose the Petition to Intervene. Avista opposes the intervention of the Industrial Customers of Idaho Power contending that this case is a limited proceeding between Avista and Potlatch to determine the parameters of service by Avista to Potlatch's Lewiston facility. Avista contends that ICIP has failed to demonstrate a direct and substantial interest in the subject matter of this proceeding. Avista contends that ICIP's participation would unduly broaden the issues and undoubtedly slow the proceeding and hinder executing a follow on contract between Avista and Potlatch. Intervention is unnecessary, Avista contends, because ICIP may still participate in this proceeding as a public witness pursuant to Rule 76.

ICIP in answer to Avista's Petition admits that it inadvertently failed to serve Avista. ICIP notes that in its Petition to Intervene it stated the following:

This intervenor, the Industrial Customers of Idaho Power, is an unincorporated association of large industrial consumers of electricity similar to petitioner Potlatch Corporation. Idaho Power's bound by the same statutory obligation to provide service at just, reasonable and nondiscriminatory rates as Avista Utilities. Therefore, intervenor claims a direct and substantial interest in this proceeding in that the outcome of this proceeding could result in the setting of a Commission precedent that may affect future relationship with Idaho Power.

ICIP contends that one look no further than the Commission's Notice of Application in this matter for unequivocal evidence of the direct and substantial interest that ICIP has in the proceeding. In that Order the Commission observed:

Avista contends that the failure of negotiations to reach an agreement is the result of Potlatch's incorrect assumption that it is entitled to service at average embedded cost rates. Avista denies that the utility has an obligation to offer electric service on the terms requested by Potlatch . . .

It is ICIP's understanding that ratesetting by the Commission has historically been conducted based on embedded cost rates in order to comply with the requirement that rates be set at fair, just and reasonable levels. Reference *Idaho Code* § 61-502. The ICIP intervenes in this proceeding to assure that its (and other customer's) understanding of the concept of fair, just and reasonable rates is still valid and not overturned. This is the forum, it states, to protect that interest as the concept of *stare decisis* may will preclude their ability to do so in subsequent proceedings. ICIP contends that it has demonstrated a direct and substantial interest in part of the subject matter of the proceeding and has thus satisfied the requirements of Rules 72 and 74 of the Commission's Rules of Procedure.

ICIP disputes Avista's contention that it is necessary for an industrial concern to take service from a utility in order to intervene in that utility's cases. ICIP cites Commission cases articulating a very liberal intervention policy.

ICIP maintains that it seeks intervention to address issues raised or implicated by Avista and Potlatch in this matter. ICIP presence, it states, will not broaden the issues – but it may aid the Commission in deciding the case because of the additional perspective additional parties will bring to the deliberations.

Commission Findings

The Commission has reviewed its prior Order No. 28747 granting the Industrial Customers of Idaho Power's Petition for Intervention, and Avista and ICIP's filings regarding same. The Commission finds that ICIP has identified a direct and substantial interest in the subject matter of this proceeding. Reference IDAPA 31.01.01.074. In addition, this Commission has a longstanding policy of liberally granting intervention, so long as the issues in the case are not unduly broadened and the proceeding is not delayed. We find that the participation of ICIP will not delay this matter and ICIP is directed to limit its participation to the issues already identified. Therefore, we affirm our prior Order No. 28747.

ORDER

In consideration of the foregoing, IT IS HEREBY ORDERED and the Commission does hereby affirm its prior interlocutory Order No. 28747 granting intervention to the Industrial Customers of Idaho Power in Case No. AVU-E-01-5.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this day of July 2001.

PAUL KJELLANDER, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Barbara Barrows
Assistant Commission Secretary

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