

SUPREME COURT OF IDAHO

Idaho Power Co. v. Idaho Public Utilities Commission

140 Idaho 139 (2004) · Decided March 30, 2004

SUMMARY

The Idaho Supreme Court held that Idaho Public Utilities Commission Order 28699 authorized Idaho Power Company to recover reduced or lost revenues associated with its Irrigation Buy-Back Program through the Power Cost Adjustment mechanism. The court vacated and remanded later Commission orders denying recovery because they conflicted with the earlier policy decision. The court declined to address the broader issue of whether the Commission had authority to require demand-side management programs.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Kidwell, Justice; Kidwell; Schroeder; Eismann; Burdick; Trout
JURISDICTION	Idaho
DECIDED	March 30, 2004
DISPOSITION	vacated
PROCEDURAL POSTURE	Idaho Power appealed the Idaho Public Utilities Commission's final order denying recovery of lost revenue allegedly incurred through its Irrigation Buy-Back Program.
STANDARD OF REVIEW	Review is confined to the Commission record under Idaho Code section 61-629 and determines whether the Commission regularly pursued its authority, including whether its order violated a constitutional right.
PRECEDENTIAL VALUE	published precedential Idaho Supreme Court opinion
PARTIES	Idaho Power Company v. Idaho Public Utilities Commission

TOPICS

judicial review of agency action

administrative law

appellate procedure

statutory interpretation

plain meaning rule

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Idaho Public Utilities Commission Order 28699 authorized Idaho Power to recover, through the Power Cost Adjustment mechanism, lost revenue resulting from the Irrigation Buy-Back Program.
2. Whether the Idaho Public Utilities Commission's authority to require demand-side-management programs was properly before the Court on this appeal.

HOLDINGS

1. Order 28699 authorized Idaho Power to include and recover the Irrigation Buy-Back Program's lost revenue through the Power Cost Adjustment mechanism, subject to determining the appropriate amount of lost revenue.
2. The Court declined to decide the Commission's authority to require demand-side-management programs because the issue was a broad public-policy issue beyond the scope of the appeal.

KEY QUOTATIONS

"It has been uniformly held that words denote their ordinary meaning unless a different intent is clearly indicated." (142)

"Therefore, based on the record before this Court, a reasonable reading of Commission Order 28699 is that the recovery of reduced/lost revenues would be part of the PCA and, thus, recoverable to an extent to be determined at the conclusion of the Program." (143)

"This Court need not address whether the PUC has the authority to require DSM programs because it is a broad public policy issue and is beyond the scope of issues raised on appeal." (143)

FACTUAL BACKGROUND

Idaho Power proposed an Irrigation Buy-Back Program for the 2001 growing season, offering monetary incentives to large irrigation customers to reduce electricity demand and consumption. Idaho Power expected to incur direct payment costs and lost revenue and sought authority to recover both through its Power Cost Adjustment mechanism. The Commission issued Order 28699 stating that direct costs and lost-revenue impacts may be treated as purchased-power expenses, but later denied recovery of lost revenue while allowing recovery of direct costs.

PROCEDURAL HISTORY

The Commission initially authorized Idaho Power to implement the Irrigation Buy-Back Program and issued Order 28699 stating that the program's direct costs and lost-revenue impacts may be treated as purchased-power expenses in the Power Cost Adjustment mechanism. In a later proceeding, the Commission authorized recovery of direct costs but denied recovery of lost revenue in Order 28992, then reaffirmed that denial in Order 29103 after reconsideration. Idaho Power appealed to the Idaho Supreme Court, which vacated and remanded the denial order.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the Commission order denying recovery of lost revenue and remand for proceedings consistent with the determination that Order 28699 authorized inclusion and recovery of lost revenue in the Power Cost Adjustment, with the amount to be determined.

CASES CITED

- Indus. Customers of Idaho Power v. Idaho PUC, 134 Idaho 285, 288, 1 P.3d 786, 789 (2000)
- Hulet v. Idaho PUC, 138 Idaho 476, 478, 65 P.3d 498, 500 (2003)
- Intermountain Health Care, Inc. v. Bd. of Comm'ns of Blaine County, 109 Idaho 412, 414, 707 P.2d 1051, 1053 (1985)
- Storrer v. Russo, 123 Idaho 442, 444, 849 P.2d 115, 117 (Ct. App. 1991)