

Thomas H. Nelson, ISB 7034  
PO Box 1211  
Welches, OR 97067  
Tel: 503.622.3262  
Email: nelson@thnelson.com  
Attorney for Renewable Energy Coalition

RECEIVED  
2011 JAN 21 AM 8:47  
IDAHO PUBLIC  
UTILITIES COMMISSION

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE JOINT  
PETITION OF IDAHO POWER  
COMPANY, AVISTA CORPORATION,  
AND ROCKY MOUNTAIN POWER TO  
ADDRESS AVOIDED COST ISSUES  
AND JOINT MOTION TO ADJUST  
THE PUBLISHED AVOIDED COST  
RATE ELIGIBILITY CAP

CASE NO. GNR-E-10-04

RENEWABLE ENERGY COALITION'S  
REPLY COMMENTS

### Introduction and Background

In response to the Joint Petition of the captioned utilities and to the Staff's and other parties' initial comments, the Renewable Energy Coalition ("Coalition") provides the following reply comments.

The Joint Utilities seek immediate reduction of the eligibility cap for published avoided-cost prices from 10 average megawatts ("aMW") to 100 kilowatts ("kW") while the Commission studies numerous issues raised during the November 3, 2010, workshop in Case No. GNR-E-09-03. Although from the utilities' filings it appears that wind projects (and particularly those on the Idaho Power system) are the major cause for the utilities' concern, the proposed reduction would apply to all types of qualifying facility ("QF") technology; even small base-load hydroelectric projects, both existing and new, would be affected by the proposed lower eligibility cap.

In Order No. 32131 the Commission directed the parties to address three issues in their initial comments: (1) the advisability of reducing the published avoided-cost eligibility cap, (2) if the eligibility cap is reduced, the propriety of exempting non-wind QF projects from the reduced eligibility cap, and (3) the consequences of dividing larger wind projects into projects not larger than 10-MW projects in order to qualify for the published rate. The Commission noted that its future decision on the proposed eligibility cap would be applied retroactively to December 3, 2010.

The Joint Utilities' initial comments continue to support an immediately effective, all-inclusive reduction of the eligibility cap down to 100kW, and subject to revision only after investigation of a long list of complex avoided-cost and PURPA implementation issues. It appears that the motivation of the three utilities is to reduce avoided-cost prices and create a crippling period of regulatory uncertainty for QF project owners and developers; the utilities' suggestion would subject small baseload projects to the challenges associated with the unavailability of published prices. If implemented, the utilities' proposals would result in curtailed development of renewable energy technologies and projects. The Coalition joins with other parties in opposing the lowering of the eligibility cap.

### **The Coalition's Reply to Comments and Suggestions for Moving Forward**

#### **A. The Coalition's Response to Staff's Comments**

The Coalition appreciates and generally agrees with the Staff's initial comments. The points of agreement include (1) that wind and only wind projects are the cause for concern in this docket, (2) that non-wind projects should be excluded from consideration of a lower eligibility cap, (3) that only wind-specific avoided-cost issues should be

investigated during the period of a lowered eligibility cap (assuming the cap is retroactively applied to December 3, 2010), (4) that there are numerous approaches to be explored in mitigating the problem of rapid overdevelopment of large commercial wind projects that qualify for published prices, and (5) that small projects generally have limited resources and often insufficient sophistication to deal with negotiating contracts and prices, particularly when complex models are employed to determine those prices.

**B. The Coalition's Suggestions**

**1. Consider Modifying the Eligibility Cap for to Cover Wind Only**

No party has presented substantial evidence or convincing arguments to justify the proposed reduction of the eligibility cap for all projects. The Staff correctly notes that the utilities' arguments are not directed at all QF technology types but, rather, only at large wind-powered projects, and that, although many of the concerns identified by the parties during the prior workshops are germane to all resource types, the issues that are both the most problematic and most in need of immediate attention pertain almost exclusively to wind. The Staff's comments clearly illustrate that large-scale wind projects only are the source of the utilities' concerns, and the Coalition endorses the Staff's suggestion that the Commission's decision in this docket should not go beyond considering lowering the eligibility cap for wind projects only - but in no circumstances to the extremely low level of 100 kW and then only if other short-term remedies are deemed impractical.

**2. Limit the Duration and Scope of the Investigation**

Although there are numerous avoided-cost and PURPA implementation issues raised by and involved in the current and prior similar dockets, this phase of the investigation should not attempt to address all resource types; rather, it should be limited to wind-only issues. Examples of ancillary issues that should be set aside for the time being include standard contracts, ownership of environmental attributes, and interconnection problems.

While the Staff's initial comments generally support limiting the initial phase of the investigation to those questions that are causing immediate problems for the utilities, some of its comments address specific concepts in an effort to advance the discussions. Most of these comments appear to have some merit, are generally applicable to long-term solutions, may not represent the complete menu of possible solutions, and could be interpreted in some cases to apply to non-wind projects. The Coalition appreciates these concepts for possible long-term solutions but suggests that short-term solutions be given priority consideration. It is critical to minimize the duration and impact of regulatory uncertainty, and therefore primary attention should be given to the concepts that address the immediate problems described by the utilities; consideration of longer-term options should be deferred. For example, the Commission might (1) impose a temporary limitation on the number or the average MW of wind projects a utility might contract with or for, (2) shift temporarily to the use of nameplate capacity in lieu of average MW to determine eligibility, or (3) temporarily employ Oregon's five-mile regulatory scheme under which geographic separation is required to qualify for published avoided-cost prices.

Experience has shown that negotiating power-purchase agreements not eligible for published avoided-cost prices is extremely problematic, time-consuming, expensive, and untimely in terms of project development schedules: Only two such contracts have been executed and approved since the Commission began implementing PURPA in the early 1980s. Consequently, in order to preserve the possibility of a viable renewable-resource industry, longer-term solutions should not involve lowering the eligibility cap, particularly when other, less drastic means are available to deal with the problem presented.

Finally, the Coalition notes that there has been no demonstration of the "magnet effect" that reducing Idaho Power's eligibility cap would have on the two other utilities; until such a problem actually arises the Coalition urges that a lower cap not be applied to those utilities. Only potential large wind projects are ambulatory, *i.e.*, can be relocated from place to place without much difficulty; other types of renewable resources such as hydroelectric and biomass are restricted to particular geographic areas because of motive force/fuel considerations, and large solar projects are difficult if not impossible to relocate. Thus the Staff's concerns regarding the "shopping" for utilities with the most attractive rate and highest eligibility cap arises only in regard to wind projects. Hampering PURPA implementation should not occur until Rocky Mountain Power and Avista Corporation actually experience problems from the relocation of a significant number of wind projects from Idaho Power's territory to theirs. This docket is evidence that the Commission has all the tools necessary to deal effectively with such a problem if it occurs; as it is, the proposal to apply the eligibility cap to all three utilities is a solution looking for a problem.

## Summary

There is insufficient evidence in this docket to support the reduction of the eligibility cap to 100kW for non-wind projects, and therefore the Coalition heartily endorses the Staff's suggestion that the initial phase of this investigation be applicable to wind projects only. Finally, the Coalition encourages the Commission to consider taking steps to reduce the scope and duration of the investigation while long-term solutions are examined and pursued; any restrictions imposed on projects should be short-term in nature only until longer-term solutions are implemented.

Respectfully submitted,

*/s/ Thomas H. Nelson* 

Thomas H. Nelson, ISB 7034  
PO Box 1211  
Welches, OR 97067  
Tel: 503.622.3262  
Email: [nelson@thnelson.com](mailto:nelson@thnelson.com)  
Attorney, Renewable Energy Coalition

## CERTIFICATE OF SERVICE

I hereby certify that I have on this 19th day of January, 2011, I served a copy of the foregoing Reply Comments of Renewable Energy Coalition on the entities designated as served by the Joint Petitioners in the captioned docket by serving an electronic copy on their email addresses of record as set forth below. The original and seven (7) copies of this document were filed with the Commission electronically and by United States Mail, postage prepaid, on the 19th day of January, 2011.

### IDAHO PUBLIC UTILITY COMMISSION

Jean Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
PO Box 83720  
Boise, ID 83720-0074  
jjewell@puc.state.id.us

### AVISTA CORPORATION:

Michael G. Andrea  
Avista Corporation  
1411 E. Mission Ave.  
Spokane, W A 99202  
E-mail: michael.andrea@avistacorp.com

### IDAHO POWER COMPANY:

Donovan E. Walker  
Lisa D. Nordstrom  
Idaho Power Company  
PO Box 70  
Boise, ID 83707-0070  
E-mail: dwalker@idahopower.com  
lnordstrom@idahopower.com

### COMMISSION STAFF:

Donald L. Howell, II  
Kristine A. Sasser  
Deputy Attorneys General  
Idaho Public Utilities Commission  
472 W. Washington (83702)  
PO Box 83720  
Boise, ID 83720-0074  
E-mail: don.howell@puc.idaho.gov  
kris.sasser@puc.idaho.gov

### PACIFICORP, dba ROCKY

### MOUNTAIN POWER:

(Exhibit Nos. 201-300)

Denel Solander  
PacifiCorp/ dba Rocky Mountain Power  
201 S. Main St., Suite 2300  
Salt Lake City, UT 84111  
E-mail: daniel.solander@pacificorp.com

### J.R. SIMPLOT COMPANY:

Peter J. Richardson  
Gregory M. Adams  
Richardson & O'Leary, PLLC  
PO Box 7218  
Boise, ID 83702  
E-mail: peter@richardsonandolear.com  
greg@richardsonandolear.com

**THE NORTHWEST AND  
INTERMOUNTAIN POWER  
PRODUCERS COALITION:**  
Peter J. Richardson  
Gregory M. Adams  
Richardson & O'Leary, PLLC  
PO Box 7218  
Boise, ID 83702  
E-mail: peter@richardsonandolear.com  
greg@richardsonandoleary.com

Robert D. Kahn  
Executive Director  
Northwest and Intermountain Power  
Producers Coalition  
117 Minor Ave., Suite 300  
Seattle, WA 98101  
E-mail: rkahn@nippc.org

**GRAND VIEW SOLAR II:**  
Peter J. Richardson  
Gregory M. Adams  
Richardson & O'Leary, PLLC  
PO Box 7218  
Boise, ID 83702  
E-mail: peter@richardsonandolear.com  
greg@richardsonandolear.com

Robert A. Paul  
Grand View Solar II  
15960 Vista Circle  
Desert Hot Springs, CA  
E-mail: robertpaul@gmail.com

**CEDAR CREEK WIND, LLC:**  
Ronald L. Williams  
Williams Bradbury, P.C.  
1015 W. Hays Street  
Boise, ID 83702  
E-mail: ron@williamsbradbury.com

Don Sturtevant  
Energy Director  
J.R. Simplot Company  
PO Box 27  
Boise, ID 83707-0027  
E-mail: don.stuevant@simplot.com

**EXERGY DEVELOPMENT  
GROUP OF IDAHO, LLC:**  
Peter J. Richardson  
Gregory M. Adams  
Richardson & O'Leary, PLLC  
PO Box 7218  
Boise, ID 83702  
E-mail: peter@richardsonandolear.com  
greg@richardsonandolear.com

James Carkulis  
Managing Member  
Energy Development Group of Idaho, LLC  
802 W. Bannock St., Suite 1200  
Boise, ID 83702  
E-mail: jcarkulis@exergydevelopment.com

**INTERMOUNTAIN WIND, LLC:**  
Dana Zentz  
Vice President  
Summit Power Group, Inc.  
2006 E. Westminster  
Spokane, WA 99223  
E-mail: dzentz@summitpower.com

Dean J. Miller  
McDevitt & Miller, LLP  
PO Box 2564  
Boise, ID 83701  
E-mail: joe@mcdevitt-miller.com

Paul Martin  
Intermountain Wind, LLC  
PO Box 353  
Boulder, CO 80306  
E-mail: paulmartin@intermountainwind.

Scott Montgomery  
President  
Cedar Creek Wind, LLC  
668 Rockwood Dr.  
North Salt Lake, UT 84054  
E-mail: scott@westernenergy.us

DYNAMIS ENERGY, LLC:  
Ronald L. Williams  
Williams Bradbury, P.C.  
1015 W. Hays Street  
Boise, ID 83702  
E-mail: ron@williamsbradbury.com

INTERCONNECT SOLAR  
DEVELOPMENT LLC:  
R. Greg Ferney  
Mimura Law Offices, PLLC  
2176 E. Franklin Rd., Suite 120  
Meridian, ID 83642  
E-mail: greg@mimuralaw.com

Wade Thomas  
General Counsel  
Dynamis Energy, LLC  
776 W. Riverside Dr., Suite 15  
Eagle, ID 83616  
E-mail: wthomas@dynamisenerg.com

Bill Piske, Manager  
Interconnect Solar Development, LLC  
1303 E. Carter  
Boise, ID 83706  
E-mail: billpiske@cableone.net

NORTH SIDE CANAL COMPANY  
TWIN FALLS CANAL COMPANY:  
Shelley M. Davis  
Barker Rosholt & Simpson, LLP  
1010 W. Jefferson St. (83702)  
PO Box 2139  
Boise, ID 83701  
E-mail: smd@idahowaters.com

THE BOARD OF COMMISSIONERS OF  
ADAMS COUNTY, IDAHO:  
Peter J. Richardson  
Gregory M. Adams  
Richardson & O'Leary, PLLC  
PO Box 7218  
Boise, ID 83702  
E-mail: peter@richardsonandolear.com  
greg@richardsonandolear.com

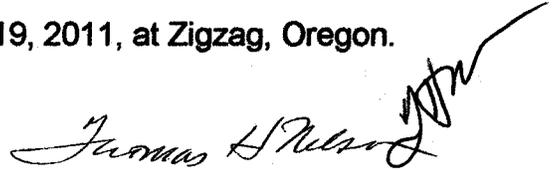
Brian Olmstead  
General Manager  
Twin Falls Canal Company  
PO Box 326  
Twin Falls, ID 83303  
E-mail: olmstead@tfcanal.com

Bill Brown, Chair  
Board of Commissioners  
of Adams County, ID  
PO Box 48  
Council, ID 83612  
E-mail: dbbrown@frontiernet.net

Ted Diehl  
General Manager  
North Side Canal Company  
921 N. Lincoln St.  
Jerome, ID 83338  
E-mail: nscanal@cableone.net

**BIRCH POWER COMPANY:**  
**Ted S. Sorenson, P.E.**  
Birch Power Company  
5203 South 11th East  
Idaho Falls, ID 83404  
E-mail: [ted@tsorenson.net](mailto:ted@tsorenson.net)

This Certificate of Service is executed on January 19, 2011, at Zigzag, Oregon.



**Thomas H. Nelson**  
PO Box 1211  
Welches, OR 97067-1211  
Tel: 503.622.3262  
Cell: 503.709.6397  
E-Mail: [nelson@thnelson.com](mailto:nelson@thnelson.com)

**Attorney, Renewable Energy Coalition**