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Peter J. Richardson (ISB No. 3195)
Gregory M. Adams (ISB No. 7454)
RICHARDSON & O'LEARY, PLLC
515 N. 27th Street
P.O. Box 7218
Boise, Idaho 83702
Tel: 208-938-7901
Fax: 208-938-7904
peter@richardsonandoleary.com
greg@richardsonandoleary.com

Attorneys for Northwest and Intermountain
Power Producers Coalition

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE
COMMISSION'S INVESTIGATION
INTO DISAGGREGATION AND AN
APPROPRIATE PUBLISHED
AVOIDED COST RATE ELIGIBILITY
CAP STRUCTURE

Case No. GNR-E-11-01

**MOTION TO STRIKE TESTIMONY OF
BRUCE GRISWOLD AND JOIN IN
MOTIONS TO STRIKE TESTIMONY OF
CLINT KALICH AND MARK STOKES**

COMES NOW, the Northwest and Intermountain Power Producer's Coalition (NIPPC) and, pursuant to IDAPA 31.01.01.056, hereby moves the Idaho Public Utilities Commission (Commission) to strike selected portions of the pre-filed direct testimony of Bruce Griswold in the above captioned docket. Pursuant to IDAPA 31.01.01.256.04, NIPPC also hereby joins in Renewable Northwest Project's Motion to Strike Portions of the Direct Testimony of Clint Kalich and Motion to Strike Portions of the Direct Testimony of Mark Stokes.

**MOTION TO STRIKE
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BACKGROUND

In Order No. 32195, the Commission limited the issues to be addressed in this proceeding. That Order restricts the issues to be addressed herein to just an investigation into an avoided cost rate eligibility cost structure that:

- (1) allows small wind and solar QFs to avail themselves of published rates for projects producing 10 aMW or less; and
- (2) prevents large QFs from disaggregating in order to obtain a published avoided cost rate that exceeds a utility avoided cost.

Order No. 32195, at p. 3.

Hence, the testimony in this docket should be very narrowly focused on a methodology to allow projects producing 10 average monthly megawatts (aMW) or less to avail themselves of the Commission's published rates and the prevention of disaggregation of larger projects – and nothing else.

That the Commission is not allowing other issues to be addressed was highlighted by the results of NIPPC's unsuccessful discovery attempts in this limited-scope docket. NIPPC sought to investigate, through discovery, the use of the IRP methodology for setting avoided cost rates. In response, PacifiCorp dba Rocky Mountain Power (PacifiCorp) filed motions for clarification and a protective order against NIPPC's inquiry into how it implements the IRP Methodology with its GRID Model. *Rocky Mountain Power's Motion for Clarification and Motion for Protective Order*, Case No. GNR-E-11-01 (March 17, 2011). According to PacifiCorp's motions at that time, NIPPC's First Production Requests sought to elicit information regarding "the IRP Methodology and appear to have no relevance to the questions set for hearing in this case." *Id.* at p. 3. In PacifiCorp's view, implementation of the IRP Methodology was beyond the scope of

this proceeding, and if the Commission allowed NIPPC to comment on the matter at the May 10, 2011 hearing, Rocky Mountain Power “will not have a fair chance to produce [its] testimony and refute that offered by NIPPC.” *Id.* at p. 4.

The Commission addressed PacifiCorp’s Motion for a Protective Order (and the proper scope of this docket) extensively at its regularly scheduled decision meeting on March 21, 2011. During the decision meeting, the attorneys for NIPPC and PacifiCorp addressed the propriety of permitting discovery on the IRP Methodology. NIPPC argued that the adequacy of the methodology for calculating avoided cost rates for projects over the eligibility threshold for published avoided cost rates is the critical issue in any investigation into methods to prevent “disaggregation.” NIPPC argued, in other words, that the IRP Methodology provides rates below the utilities’ *full* avoided costs, and the way to solve any perceived disaggregation problem is to implement the IRP Methodology (or some other methodology) such that qualifying facilities over 10 aMW will have access to rates set at the utilities’ *full* avoided costs.

Commissioner Smith made a motion to grant the protective order in this phase of the Commission’s investigation. According to the Commission’s minutes of that meeting:

Commissioner Smith said . . . that she didn’t believe the validity of the IRP methodology is an issue the Commission designated for hearing on May 10th. She said it is her hope that the reduction in the size of the eligibility cap for the avoided cost rates would be an extremely short-lived or temporary state and adding issues to the May 10th hearing would cause delay of the hearing, making it a much longer process. She said the NIPPC discovery is warranted when the Commission sets it [sic] schedule for the subsequent consideration of all the issues it has outlined, but she would not compel the response in time for preparation of testimony . . . She made a motion to stay the response date for discovery to the next phase of the case which will consider the validity of using the IRP methodology in setting of avoided costs.

The Commission issued a Bench Order finding that “evidence regarding the IRP Methodology is beyond the scope of the present case and thus is not relevant to the subject matter of the pending case.” Bench Order, Case No. GNR-E-11-01, pp. 1-2 (March 23, 2011).

ARGUMENT

The only reasonable interpretation of the Commission’s Bench Order is that evidence relating to the IRP methodology, or any matter related to the accuracy of any particular method of calculating avoided cost rates, is beyond the scope of this proceeding. Furthermore, any evidence that relies on a foundation that the IRP methodology produces accurate rates should be stricken because NIPPC has been precluded, pursuant to the Bench Order, from making any inquiries as to the accuracy and reasonableness of the IRP Methodology either as a valid avoided cost rate setting methodology or as foundational evidence. To allow other parties’ testimony on this issue to remain in the record after denying NIPPC the right to obtain reasonable discovery into the matter would be unfair and would deprive NIPPC of its right to due process.

Mr. Griswold’s testimony extensively discusses his perception that the IRP Methodology is superior to the SAR Methodology used in published rates. Mr. Griswold also addresses additional issues that are not relevant to the current proceeding. Those issues include wind integration costs and impacts, transmission system impacts and minimum load issues. Mr. Griswold also suggests that the eligibility threshold for published rates should be based upon nameplate capacity, rather than average monthly capacity.

But, as PacifiCorp itself argued in its motions for clarification and a protective order only a few short weeks ago, this docket is limited to evidence narrowly designed to address how to devise requirements to allow small wind and solar projects to be entitled to published rates up to 10 aMW or how to prevent large wind and solar projects from disaggregating. Indeed, PacifiCorp stated, “If the Commission allows NIPPC to question the validity of the IRP Methodology during the May 10 hearing, parties (including Rocky Mountain Power) that wish to follow the Commission's orders deferring that issue until after resolution of the disaggregation issue will not have a fair chance to produce their testimony and refute that offered by NIPPC.” *Rocky Mountain Power’s Motion for Clarification and Motion for Protective Order*, Case No. GNR-E-11-01, at p. 4. Mr. Griswold’s testimony on the accuracy of various avoided cost rate calculation methodologies should therefore be stricken.

The following portions of Mr. Griswold’s testimony should be stricken and/or reserved for consideration in subsequent phases of this investigation on the ground that they address the IRP Methodology and calculation of avoided cost rates:

- **Pg 6 beginning with the last two words on Line 15 through Line 21**
- **Page 9 the last half of Line 3 through Line 6**
- **Page 9 beginning with the last half of Line 12 through Line 21**
- **Page 10 Line 9 through Line 20**
- **Page 11 Line 10 through Page 12 Line 23**
- **Page 14 Line 3 through Line 13**
- **Page 17 beginning with the second word through Line 19**

Additionally, the Commission should strike the following testimony because it addresses PacifiCorp's position that the published rate eligibility cap should be based on nameplate capacity, rather than average monthly capacity, without addressing the narrow disaggregation issue:

- **Page 16 Line 20 to Page 17 Line 16**

CONCLUSION

For the reasons and authorities cited herein, NIPPC respectfully requests that the Commission enter its order striking the portions of Bruce Griswold's testimony identified above. NIPPC also respectfully requests the Commission grant the Renewable Northwest Project's Motion to Strike Portions of the Direct Testimony of Clint Kalich and Motion to Strike Portions of the Direct Testimony of Mark Stokes, for the reasons set forth in those motions.

NOTICE OF HEARING

NIPPC will present argument on this Motion to Strike at the hearing before the Commission on the May 10, 2011, or at such other time and place so designated by the Commission.

DATED this 14th day of April, 2011.

RICHARDSON AND O'LEARY PLLC



Peter J. Richardson ISB # 3195
Attorneys for Northwest and
Intermountain Power Producers Coalition

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of April, 2011, a true and correct copy of the within and foregoing document was served as shown to the following parties:

Jean Jewell
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702
jean.jewell@puc.idaho.gov

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Donald L. Howell II
Kristine Sasser
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702
don.howell@puc.idaho.gov
kris.sasser@puc.idaho.gov

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

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

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Michael G. Andrea
Avista Corporation
1411 E. Mission Street
Spokane, WA 99202
michael.andrea@avistacorp.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

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

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Ronald L. Williams
Williams Bradbury PC
1015 W. Hays Street
Boise, ID 83702
ron@williamsbradbury.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

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

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Dana Zenta
Summit Power Group, Inc.
2006 E. Westminster
Spokane, WA 99223
dzentz@summitpower.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Thomas H. Nelson
PO Box 1211
Welches, OR 97067
nelson@thnelson.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

John R. Lowe
Renewable Energy Coalition
12050 SW Tremont St
Portland, OR 97225
jravensanmarcos@yahoo.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Don Sturtevant
J.R. Simplot Company
PO Box 27
Boise, ID 83707-0027
don.sturtevant@simplot.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Robert A. Paul
Grand View Solar II
15690 Vista Circle
Desert Hot Springs, CA 92241
robertapaul08@gmail.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

James Carkulis
Exergy Development Group of Idaho,
LLC
802 W. Bannock, Ste 1200
Boise, ID 83702
jcarkulis@exergydevelopment.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

R. Greg Ferney
Mimura Law Offices, PLLC
2176 E. Franklin Rd., Ste 120
Meridian, ID 83642
greg@mimuralaw.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

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

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

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

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Paul Martin
Intermountain Wind, LLC
PO Box 353
Boulder, CO 80306
paulmartin@intermountainwind.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Ronald L. Williams
Williams Bradbury, PC
1015 W. Hays Street
Boise, ID 83702
ron@williamsbradbury.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Wade Thomas
Dynamis Energy, LLC
776 W. Riverside Dr., Ste. 15
Eagle, ID 83616
wthomas@dynamisenergy.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Shelley M. Davis
Barker Rosholt & Simpson, LLC
PO Box 2139
Boise, ID 83701
smd@idahowaters.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Brian Olmstead
Twin Falls Canal Company
PO Box 326
Twin Falls, ID 83303
olmstead@tfcanal.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Ted Diehl
North Side Canal Company
921 N. Lincoln St.
Jerome, ID 83338
nscanal@cableone.net

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Bill Brown
Board of Commissioners of Adams
County, ID
PO Box 48
Council, ID 83612
bdbrown@frontiernet.net

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Glen Ikemoto
Margaret Rueger
Idaho Windfarms, LLC
672 Blair Avenue
Piedmont, CA 94611
glenni@envisionwind.com
margaret@envisionwind.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Jeffrey S. Lovinger
Lovinger Kaufmann LLP
825 NE Multnomah, Suite 925
Portland, OR 97232
lovinger@LKLLaw.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Kenneth E. Kaufmann
Lovinger Kaufmann LLP
825 NE Multnomah, Suite 925
Portland, OR 97232
Kaufmann@LKLLaw.com

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Benjamin J Otto
Idaho Conservation League
710 N 6th Street
Boise ID 83702
botto@idahoconservation.org

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Gary Seifert
Kurt Myers
Idaho National Laboratory
Conventional Renewable Energy Group
2525 Fremont Ave
Idaho Falls, ID 83415

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Signed 
Peter J. Richardson