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July 17, 2012

Jean Jewell  
Commission Secretary  
State of Idaho  
Public Utilities Commission  
472 W. Washington 83702  
PO Box 83720  
Boise, ID 83720-0074

RE: GNR-E-11-03

Dear Ms. Jewell,

Enclosed are the following documents and seven copies of each: Motion for Admission *Pro Hac Vice*, Affidavit of Michael J. Uda, and Petition for Late Intervention.

Sincerely,



Cathleen Uda  
Administrative Assistant  
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Attorneys for Mountain Air Projects, LLC.

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE	)	
COMMISSION'S REVIEW OF PURPA	)	Case No. GNR-E-11-03
QF CONTRACT PROVISIONS	)	<b>MOUNTAIN AIR PROJECTS, LLC'S</b>
INCLUDING THE SURROGATE	)	<b>PETITION FOR LATE INTERVENTION</b>
AVOIDED RESOURCE (SAR) AND	)	
INTEGRATED RESOURCE PLANNING)	)	
(IRP) METHODOLOGIES FOR	)	
CALCULATING PUBLISHED	)	
AVOIDED COST RATES	)	

Mountain Air Projects, LLC ("Mountain Air") hereby petitions the Idaho Public Utilities Commission ("Commission") for late intervention in the above-entitled proceeding pursuant to Rules 71 through 75 of the Commission's Rules of Practice and Procedure, IDAPA 31.01.01.072-.075. In support of this Petition, Mountain Air states as follows:

1. The name and address of Mountain Air is:

Mountain Air Projects, LLC  
6000 N. Foxtail Way

<sup>1</sup> Mr. Uda is admitted in Oregon (OSB No. 914525) and Montana (MT 4170) and has submitted concurrently with this petition a motion for admittance *pro hac vice* to the Commission with Mr. Becker acting as Idaho counsel. Mr. Uda understands he will not be permitted to participate as legal counsel until the Commission approves the motion *pro hac vice* for his limited participation in this proceeding.

Glenns Ferry, ID 83623  
Attn.: Todd Haynes

2. Mountain Air's representatives for the purpose of service of pleadings and other written materials are:

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3. Mountain Air is a subsidiary of Terna Energy USA. Terna is an independent energy company involved in the development, construction, financing and operation of renewable energy projects. The Mountain Air projects are Cold Springs Windfarm, LLC ("Cold Springs"); Desert Meadow Windfarm, LLC ("Desert Meadow"); Hammett Hill Windfarm, LLC ("Hammett Hill"); Mainline Windfarm, LLC ("Mainline"); Ryegrass Windfarm, LLC ("Ryegrass"); and Two Ponds Windfarm, LLC ("Two Ponds") (collectively, the "Mountain Air QFs").

4. Each of the Mountain Air QFs is a direct, wholly owned subsidiary of Mountain Air, and is developing, and will own and operate, wind generation facilities with a gross capacity of 23.0 MW, and an average net output of less than 10 MW per month, that will interconnect to the Idaho Power transmission system. Each of the Mountain Air QFs has been self-certified as a QF, and will sell all of its net output under PURPA to Idaho Power, pursuant to a long-term Petition for Late Intervention of Mountain Air Projects, LLC

PURPA PPA with forecast avoided cost rates (the "Mountain Air PURPA PPAs"). Each of the Mountain Air PURPA PPAs was executed on November 12, 2010, and approved by order of the Idaho PUC issued on November 16, 2010.

5. Mountain Air has a direct and substantial interest in the outcome of this proceeding. Each of the Mountain Air QFs is developing, and will own and operate, wind generation facilities that will be interconnected to the Idaho Power transmission system and will sell all of its net output to Idaho Power at forecast avoided cost rates pursuant to long-term PURPA PPAs with Idaho Power that were approved by the Idaho PUC. In addition, the threat of retroactive modification of the existing, fixed-rate Mountain Air PURPA PPAs could endanger Mountain Air's efforts to obtain permanent financing for the Mountain Air QFs' projects. As such, Mountain Air will be directly affected by the outcome of this proceeding. No other party can adequately represent Mountain Air's interests in this proceeding. Unless Mountain Air is permitted to intervene and to participate fully, it may be bound or adversely affected by Idaho Power's proposal and the Commission's order in this proceeding. Thus, Mountain Air's intervention, and its participation as a party in this proceeding, is in the public interest.

6. In particular, Mountain Air is gravely concerned about Idaho Power's proposed Schedule 74, Policy and Procedure for Operational Dispatch of Certain PURPA Qualifying Facilities, which appears to permit Idaho Power to curtail QFs in circumstances beyond those permitted by Federal Energy Regulatory Commission ("FERC") rule, 18 C.F.R. § 292.304(f). As set forth above, since each of the Mountain Air QFs have existing PPA's with forecast long-term avoided cost rates, any imposition of a curtailment except under the limited "light loading" circumstances expressly set forth in 18 C.F.R. § 292.304(f) may have a substantial and deleterious impact on the Mountain Air QFs. The forecast long-term avoided cost rates in the

Mountain Air QF PPAs did not contemplate substantial curtailments of any sort other than those otherwise permitted under 18 C.F.R. § 292.304(f) and Idaho Power's existing tariffs and the Commission's current set of orders and regulations governing the appropriate method for calculating avoided costs. The Mountain Air QFs had their financing commitments established under the laws, tariffs, orders and regulations that existed at the time those commitments were made. Any change in Idaho Power's curtailment policy that would affect these existing Mountain Air QFs could therefore undermine those prior financing commitments. Schedule 74 appears to be a substantial departure from prior Idaho Power curtailment policy, and thus directly and substantially affects the interests of each of the Mountain Air QFs. Further Mountain Air would highlight the fact that the Wind Integration Charge does not apply to all wind generators connected to the Idaho Power system, and curtailment under Schedule 74 does not apply to QFs that do not have GOLCs and/or a nameplate capacity of less than 10 MW. Consequently, wind generator QFs that, like the Mountain Air QFs, are subject to the charge will not only be subject to their proportional share of curtailment, but will also share of curtailment of exempt QFs if Schedule 74 is approved by the Commission.

7. The Commission rule governing timely intervention (IDAPA 31.01.01.073) states:

Petitions not timely filed must state a substantial reason for delay. The Commission may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition.

8. Mountain Air only become aware that Schedule 74 might be applied to existing contracts following May 4, 2012, when Commission Staff witness Rick Sterling submitted prefiled direct testimony which for the first time stated his belief that Schedule 74 could be used

to curtail existing QF contracts for purely economic reasons.<sup>2</sup> Although Mountain Air previously had been aware there was an ongoing avoided cost proceeding at the Commission, Mountain Air assumed with some justification, that this would be prospective ratemaking only and any new methodology or tariff provisions would not apply to Mountain Air's existing contracts. Although Mountain Air had hoped that at some point the proceeding would clarify that Schedule 74 could not apply to existing QF contracts, it became clear to Mountain Air following Mr. Sterling's submittal of prefiled rebuttal testimony on June 29, 2012, that the issue of whether Schedule 74 will apply to existing QF contracts will continue to be a major issue in this proceeding. This realization prompted Mountain Air to file this petition to intervene to protect its interests as they relate to potential economic curtailment of the Mountain Air QFs.

9. Obviously, the deadline for intervention in this proceeding has long since passed, but Mountain Air had no reason to suspect or know that a historically prospective ratemaking hearing might result in the application of a new curtailment tariff to existing agreements. Moreover, there was no reason to suspect that Idaho Power would propose to radically change the scope of its interpretation of 18 C.F.R. § 292.304(f).

10. The Commission recently granted the late intervention of Idaho Wind Partners I, LLC in Order No. 32547 (May 9, 2012) and also recently granted late intervention to Ridgeline Energy, LLC in Order No. 32557 (May 25, 2012). In the Ridgeline Energy, LLC Order, the Commission noted that

Ridgeline maintains that it will not disrupt or prejudice existing parties or unduly broaden the issues. Ridgeline agrees to limit its participation to submission of a legal brief on or before July 20, 2012, relating to legal issues associated with

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<sup>2</sup> Mr. Sterling in fact, devotes almost the entirety of his rebuttal testimony to a defense of schedule 74, and also analyzes the applicability of Schedule 74 to the Idaho Wind Partners existing PPAs, concluding that it would be appropriate to apply the curtailment provisions to those contracts since the current avoided cost methodology does not contemplate costs associated with low loading periods.

Idaho Power's proposed Schedule 74 and cross-examination of Idaho Power's witness, Tessia Park, at the technical hearing scheduled to begin August 7, 2012. By adopting the self-imposed limitations to Ridgeline's participation in these proceedings, we find that granting this late intervention will not prejudice any party and that late intervention should be granted.

Similarly, Mountain Air's participation in this proceeding will not broaden the scope of this proceeding nor introduce new issues. Nor will its participation unduly prejudice other parties or cause any disruption to the proceeding. Mountain Air will accept the procedural schedule as is, with a recognition that it will have no right to introduce testimony in this proceeding. Instead, Mountain Air will limit itself to submitting a legal brief on or before July 20, 2012, and conducting cross examination on the issues relating to Idaho Power's proposed Schedule 74. Mountain Air wishes to intervene to protect its interests in this proceeding, and believes that its participation may help assist the Commission in developing a more complete record and in crafting an appropriate order.

11. Mountain Air takes issue with proposed Schedule 74 and believes it would be a violation of PURPA. Specifically, Mountain Air does not believe the Commission may legally retroactively apply Schedule 74 to contracts executed prior to the effective date of Schedule 74. Mountain Air further contends that Schedule 74 cannot be applied to curtail QFs with contracts at forecast avoided cost rates. Finally, Mountain Air believes that the scope of curtailment under Schedule 74 violates Section 292.304(f) of FERC's regulations because it authorizes QF curtailment in circumstances beyond those contemplated by this provision, namely, on economic and environmental grounds.

12. Mountain Air believes that it should be permitted to intervene in this proceeding given that Schedule 74 may have a substantial effect on the existing PPAs of the Mountain Air QFs.

WHEREFORE, Mountain Air respectfully requests that the Commission grant this Petition for Late Intervention and authorize Mountain Air to participate in the above-entitled proceedings with full rights as a formal party.

DATED this 16th day of July 2012.

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion for Admission was served via e-mail on this 16<sup>th</sup> day of July, 2012 upon the following:

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