

# Williams · Bradbury

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IDAHO PUBLIC  
UTILITIES COMMISSION

July 20, 2012

Ms. Jean Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
472 W. Washington  
Boise, ID 83702

Re: GNR-E-11-03

Dear Ms. Jewell:

Please find enclosed an original and seven copies of Memorandum of the Renewable Energy Coalition and Dynamis Energy for filing in the above referenced case.

Thank you for your assistance in this matter. Please feel free to give me a call should you have any questions.

Sincerely,



Ronald L. Williams

RLW/jr  
Enclosures

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Attorneys for Renewable Energy Coalition and Dynamis Energy LLC

**BEFORE THE IDAHO PUBLIC UTILITES COMMISSION**

|   |                            |
|---|----------------------------|
| IN THE MATTER OF THE COMMISSION'S )     | Case No. GNR-E-11-03       |
| REVIEW OF PURPA QF CONTRACT )           |                            |
| PROVISIONS INCLUDING THE )              | LEGAL MEMORANDUM OF THE    |
| SURROGATE AVOIDED RESOURCE (SAR) )      | RENEWABLE ENERGY COALITION |
| AND INTEGRATED RESOURCE )               | AND DYNAMIS ENERGY         |
| PLANNING (IRP) METHODOLOGIES FOR )      |                            |
| <u>CALCULATING AVOIDED COST RATES )</u> |                            |

This legal memorandum is submitted on behalf of the Renewable Energy Coalition ("REC" or "the Coalition") and Dynamis Energy LLC ("Dynamis"). These parties adopt by reference the briefing of the Twin Falls Canal Company and Northside Canal Company, and those legal positions taken in the testimony of Donald W. Schoenbeck.

**I  
RENEWABLE ENERGY CREDITS AND ENVIRONMENTAL  
ATTRIBUTES ARE PRIVATE PROPERTY RIGHTS OF  
DEVELOPERS AND THE COMMISSION LACKS JURISDICITON  
TO DETERMINE OTHERWISE**

1. RECS as Separable, Intangible, Private Property. Renewable Energy Credits and other environmental attributes associated with renewable energy power production ("RECs") are "tradable environmental commodities that monetize the environmental and social benefits of the non-energy attributes of renewable energy

generation.”<sup>1</sup> For each megawatt (“MW”) of power generated from a renewable source, two separate commodities are produced: (i) electric power, and (ii) RECs.<sup>2</sup> A REC separated from the underlying power “carries with it the value imbedded in the environmental attributes of the generation along with all environmental claims.”<sup>3</sup>

PURPA<sup>4</sup> mandates the purchase by electric utilities of power produced by both qualifying cogenerators and small power producers, but PURPA does not create RECs or otherwise dictate ownership of RECs. PURPA only mandates the purchase of power by the utility from the PURPA qualifying facility (“QF”) that the utility would otherwise generate itself.<sup>5</sup> FERC has also clearly noted that the QF avoided cost rates established by a state commission “are not intended to compensate the QF for more than the capacity and energy” delivered by the QF to the utility.<sup>6</sup> In short, PURPA is blind to whether the QF power is “green” power, or whether it is fossil fueled cogenerated power.

The monetary value of a REC is wholly a creature of state law. Specifically, RECs exist and are valuable because of the twenty-plus states that have legislatively mandated renewable portfolio standards (“RPS”) for utilities providing electric service in those states.<sup>7</sup> Many western States, including Washington, Oregon and California, have legislatively mandated RPS standards. Idaho has not. Conversely, for states like Idaho without a RPS standard, RECs have no in-state regulatory compliance value to the utilities purchasing

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<sup>1</sup> Application, IPC-E-08-24, *In the Matter of the Application of Idaho Power Company for an Order Authorizing the retirement of its Green Tags*, p. 2. See also IPUC Order No. 30868.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> The Public Utilities Regulatory Policy Act of 1978, 16 U.S.C § 824a-3(a)(2).

<sup>5</sup> *Id.*

<sup>6</sup> *American Ref-Fuel Co.*, 107 FERC ¶ 61,016, ¶ 15 (2004).

<sup>7</sup> Holt, *Who Owns Renewable Energy Certificates?*, Ernest Orlando Lawrence Berkley National Laboratory, April 2006.

power from renewable energy facilities. Consequently, the dispute over REC ownership in this case is a dispute over the ownership of intangible private property, and who has the right, in interstate commerce, to monetize this private property value. Putting aside questions of whether a regulatory transfer of RECs from a developer to a utility is a regulatory taking, or a violation of the Commerce Clause of the U. S. Constitution<sup>8</sup>, it is clear that the Commission does not have the statutorily authority to determine the ownership of RECs.

2. The Idaho Commission Lacks the Necessary Statutory Authority to Determine the Ownership of Renewable Energy Credits. A series of cases dating back to 1979 has continued to define and restrict the extent of the Commission's jurisdiction to only those matters expressly delineated in statute. That case, with facts analogous to this proceeding, was *Washington Water Power Co. V. Kootenai Environmental Alliance*<sup>9</sup> ("WWP"). In *WWP*, the Kootenai Environmental Alliance filed a complaint at the PUC alleging, among other things, that WWP could not use its billing envelope to communicate political messages to customers. On this point the Commission agreed and ordered WWP to cease including political messages in customers' bills. WWP appealed to the Idaho Supreme Court on the grounds that: (i) the Commission Order "violated the [free speech] constitutional rights of the Company," and (ii) that the Order "constituted a rulemaking procedure beyond the authority of the Commission."<sup>10</sup> In overturning the Commission's order, based on this second argument, the Court noted that the powers expressly granted the Commission by Idaho Code § 61-501 *et. seq.* can be generally categorized as matters that "require the technical expertise

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<sup>8</sup> Dynamis and the Coalition are also of the opinion that a Commission ordered transfer of RECs from QFs to utilities under the Commission's jurisdiction would likely be an unlawful taking of a QF's property rights without just compensation, in violation of the takings clauses of the Idaho and U.S Constitutions. *U. S Const. Amend. V, cl. 4; Idaho Cost. Art. 1 §14*, and a violation of the Commerce Clause of the U. S. Constitution, *U. S Const., Art. I, § 8, cl 3*.

<sup>9</sup> 99 Idaho 875, 591 P.2d 122 (1979)

<sup>10</sup> 591 P. 2d. at 123.

of a commission.”<sup>11</sup> The Court then found that “the subject matter of the Commission’s order at issue here does not deal with the subject matter traditionally regulated by the public utilities commissions and does not fall into a category of regulation which requires the technical expertise of a commission as contrasted with a legislature.”<sup>12</sup> The Court also noted that “[it] will construe narrowly those powers delegated by the legislature to the Commission where it is contended that a fundamental right, such as freedom of speech, is to be thereby curtailed or diluted.”<sup>13</sup> (emphasis added) The court concluded its holding in WWP as follows: “In sum, we do not accept the argument of the Commission that their authority . . . should be so broadly construed as beyond the traditional and orthodox ratemaking function. If the legislative branch desires the Public Utilities Commission to have such authority, it must be provided by precise language.”<sup>14</sup> Because the Court invalidated the Commission Order on the second point, it did not address the constitutional issue.<sup>15</sup>

Two additional Idaho Supreme Court cases are instructive as to the Commission’s lack of jurisdiction outside statutorily authorized areas. In *Alpert v. Boise Water Corporation*<sup>16</sup> the District Court was asked to determine the validity of franchise contracts between the utilities and certain cities. Boise Water claimed that the matter was for the Commission, not the court, to decide. In rejecting this argument, the Idaho Supreme Court

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<sup>11</sup> *Id.* at p. 129.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* citing *Kent v. Dulles*, 357 U.S. 116, 78 S. Ct. 1113, 2 L. Ed. 2<sup>nd</sup> (1958)

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* See also footnote 8 above where Dynamis and the Coalition expressly reserve the right to assert a constitutional “takings” argument.

<sup>16</sup> 118 Idaho 136, 140, 795 P. 2<sup>nd</sup> 298, 302(1990).

noted that the question presented (the validity of a franchise contract) “clearly rais[ed] legal issues to be resolved by the courts rather than an administrative agency.”<sup>17</sup>

Much more recently, the Idaho Supreme Court, in *Ada County Highway District v. Idaho Public Utilities Commission*<sup>18</sup>, rejected an Order of the Commission holding that it had the statutory authority to order relocation of utility facilities owned by third-party beneficiaries, for the reason that facilities relocation was a “service” authorized by statute.<sup>19</sup> The Court noted that the Commission “certainly has the authority to determine the costs that the Company [Idaho Power] can charge a private person who requests services from the Company, ”<sup>20</sup> but that the Commission could “not point to any statute” authorizing the Commission to “require a third party to pay for services that the third party did not request.”<sup>21</sup> Without such express jurisdiction, the Court found that such an exercise of power “exceed[ed] the authority of the IPUC.”<sup>22</sup>

As a final point, it is worth noting that both the utilities in this case, as well as the Commission, appear to agree that the Commission does not have statutory authority to determine REC ownership. During the course of the 2012 Idaho Legislative Session the utilities drafted and had printed Senate Bill 1364 (“SB 1364”), a copy of which is attached as Exhibit No. 802 to this Memorandum. That bill, had it been enacted into law, would have been a clear legislative determination that “environmental attributes” (RECs) associated with

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<sup>17</sup> *Id.* at p. 302, 303. The Court also generally summarized powers granted to regulatory commission, as follows: “As a general rule, administrative authorities are tribunals of limited jurisdiction and their jurisdiction is dependent entirely upon the statutes reposing power in them and they cannot confer it upon themselves.

<sup>18</sup> 151 Idaho 2, 253 P. 3d 675 (2011)

<sup>19</sup> 253 P. 3d. at 682; referencing power granted pursuant to I.C. §61-502, 61-503 and 61-507.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at p. 683.

QF power sales to the utility are “attributes of the power purchased by the utility.” SB 1364 was not, however, enacted into law. In fact, there were no hearings on it.

As SB 1364 was languishing in the Legislature, a second attempt to clarify REC ownership, or more accurately — the Commission’s authority to determine REC ownership — appeared. This draft legislation would have granted the Commission explicit statutory authority “to determine the ownership of the environmental attributes generated by or associated with PURPA qualifying facilities.” A copy of that draft legislation, which never received a bill number, is attached as Exhibit No. 803 to this Memorandum.

It is a reasonable assumption to make that both pieces of legislation were drafted and presented, based on a recognition by the utilities and the Commission, that without such legislation, the Commission lacks authority to otherwise determine ownership of RECs and other environmental attributes. That assumption remains the correct assumption.

The Court’s admonition in *WWP*, that it will narrowly construe the Commission’s authority on constitution matters such as “freedom of speech,” is equally applicable to REC “private property rights.” Without direct, specific legislation authorizing the Commission to adjudicate or regulate REC ownership, the Commission is simply barred from otherwise making such a determination.

## II

### **IDAHO POWER PROPOSED SCHEDULE 74 IS A VIOLATION OF PURPA, AN ADMINISTRATIVE ABROGATION OF EXISTING CONTRACTS, AND RESTS ON THE FAULTY CLASSIFICATION OF THE VAST MAJORITY OF IDAHO POWER’S GENERATION AS “MUST RUN” AND “BASE LOAD”**

Idaho Power proposes a new Schedule 74 which would allow it to curtail QF generators when the company determined that “operational circumstances” would require the

company to dispatch “higher cost, less efficient resources to serve system load,”<sup>23</sup> or that certain “Base Load Resources [all run of river plants, the Hells Canyon hydro complex, Jim Bridger (coal), Valmy (coal), Boardman (coal) and Langley Gulch (natural gas)]” would be “unavailable for serving the next anticipated load.”<sup>24</sup>

1. Proposed Schedule 74 Violates PURPA: On its face, PURPA Rule 304(f) says a utility “will not be required to purchase electric energy or capacity during any period during which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make such purchases, but instead generated an equivalent amount of energy itself.”<sup>25</sup> As to this point — both Idaho Power witness Park and Staff witness Sterling misinterpret FERC’s regulations under PURPA, as evidenced by FERC’s own words to the contrary.

FERC’s own interpretation of this Rule is that it involves a very limited exception to a utility’s obligation to purchase QF Power. As FERC said in Order No. 69, it “does not intend that this paragraph [304(f)] override contractual or other legally enforceable obligations incurred by the utility to purchase from a qualifying facility” where the avoided cost rates contained in a contract represent the “average value of the purchase over the duration of the obligation.”<sup>26</sup>

For decades, this Commission has set avoided costs rates, based on “average values.” That “averaging” has occurred in multiple ways, including but not limited to (i) adoption of a surrogate avoided resource (“SAR”) with capital costs projected over a 20 year basis, (ii)

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<sup>23</sup> This is curtailment for “higher cost, less efficient resources would be a curtailment for “economic” purposes, and not for “operational circumstances,” as represented by Ms. Park.

<sup>24</sup> Park, DI, Exhibit No. 5, P. 2.

<sup>25</sup> 18 C.F.R. 292.304(f)(1).

<sup>26</sup> Order No. 69, 45 Fed. Reg. ¶ 12,214, 12,228 (1980).

avoided energy costs based on AURORA computer modeling of long-term regional average energy costs; (iii) seasonalization (i.e., ‘averaging’) of avoided costs above and below the mean, (iv) rate adjustments above and below the ‘average’ for light and heavy load hours, and (v) avoided cost discounts for energy delivered by intermittent resources, such as wind and solar.

In *Entergy Servs. Inc.*, FERC recently reaffirmed that Rule 69 provides a very rare opportunity to curtail QFs, when it stated: “[I]n such circumstances [where avoided cost rates are calculated on an average or composite basis and already reflect variations in value], the utility is already compensated, through the lower rate it generally pays for unscheduled QF energy, for periods during which that energy’s value is lower than the true avoided cost.”<sup>27</sup> In this completely analogous case FERC held that *Entergy* was not authorized to curtail QF purchases on a unilateral basis. In effect, FERC said that a Rule 304(f) curtailment can only occur where a QF has elected an avoided cost calculated as of the time of delivery<sup>28</sup>, but not where avoided costs are instead calculated “over a specified term” and “at the time the [legally enforceable] obligation is incurred.”<sup>29</sup> It is a very simple and direct concept— where a QF elects avoided cost rates calculated (i) over a specific time frame [e.g., 20 years], and (ii) at the time of establishing a LEO, then the ability of a utility to curtail a QF simply does not legally exist.

As mentioned above, Idaho Power witness Park also asserts that Rule 304(f) allows Idaho Power to interrupt QF generators based on economic reasons.<sup>30</sup> FERC again disagrees

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<sup>27</sup> *Entergy Servs., Inc.*, 137 FERC ¶61,199 at PP 52-58 (2011)(“*Entergy*”)

<sup>28</sup> 18 C.F.R. 292.304(d)(1)

<sup>29</sup> 18 C.F.R. 292.304(d)(2)

<sup>30</sup> Park, DI pp 14, 15.

with Ms. Park. In *Sweacker v. Midland*<sup>31</sup> FERC held to the contrary, that: “Section 292.304(f) of the Commission’s regulations, when read in conjunction with the relevant explanation in Order No. 69, applies only to such low loading scenarios, and cannot be relied upon to curtail purchase of unscheduled QF energy for general economic reasons.”<sup>32</sup> Neither should Idaho Power be authorized to unilaterally curtail QF purchases, pursuant to proposed Schedule No. 74.

2. Idaho Power Overreaches in Categorizing Almost All of its Generation, Except its Gas Peaking Plants, as “Must Run” Facilities. Idaho Power presents a very unique view of how electrical generating assets actually work, in the context of an integrated supply system. In essence, Idaho Power now insists that virtually all of its generating resources, other than gas-fired peaking plants, are essentially unable to respond to load changes in light or low load conditions, when the company is also purchasing QF generation.

To the contrary, there is ample and overwhelming testimony by multiple intervenors that much or most of the company-owned resources which it classifies as “must run” are, in fact, not. That testimony will not be summarized and argued here; with one exception. Langley Gulch.

It is duplicitous for Idaho Power to advocate for the approval, construction and rate-basing of Langley Gulch as a mid-peak or intermediate-class generating asset with flexible response capability, only to now insist that Langley is a base-load asset that “must run,” while interrupting PURPA generators. The very words used by Idaho Power on its own web site to describe Langley Gulch are:

In addition to providing electricity for Idaho Power’s customers, Langley

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<sup>31</sup> 137 FERC ¶ 61200; 2011 WL 6523727, p. 5.

<sup>32</sup> *Id.*

Gulch will also help to integrate the large amount of wind and other renewable resources Idaho Power expects to have on its system in the near term.

The new plant will be able to increase or decrease generation quickly to respond to the variable and intermittent nature of renewable resources.<sup>33</sup>

FERC's own definition of "must run" would not include Langley Gulch, for the reason that Langley is "able to increase [its] output levels rapidly."<sup>34</sup> Siemens own description of its generating equipment installed at Langley, is that Langley is a "flex plant" configuration and the "best solution for peaking to intermediate duty dispatch."<sup>35</sup> Clearly, the designation of Langley in this case as "must run," for the purpose of then allowing Idaho Power to Curtail QF generation, lacks any semblance of legitimacy and credibility.

3. Not all QF's that would be Subject to Schedule 74 have PPAs with avoided cost rates based on the SAR Methodology. Staff Witness Sterling supports proposed Schedule 74 because he believes that the SAR methodology employed by the Commission for the past several decades did not accurately or adequately get the long-term avoided cost averaging process right. The Commission may, or may not have, correctly average hourly avoided cost rates into long term average rates. However, the fact that the Commission did so, by adopting a SAR methodology, and then by massaging (i.e., "averaging") the flat, long-term SAR rate to account for seasons, hours and intermittency, cannot be obscured by an argument that because it may have been done poorly, that it was not done at all.

At the core of Mr. Sterling criticism of the SAR methodology as not involving [correct] averaging, is his assertion that this methodology fails to properly assign energy values for light or low load hours . In his words:

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<sup>33</sup> Looper, DI, P. 5 (emphasis added)

<sup>34</sup> Schoenbeck, DI, P. 42

<sup>35</sup> *Id.*

Under the SAR methodology for computing published avoided cost rates, the method is based solely on the estimated cost of building and operating a CCCT, the surrogate avoided resource. There is clearly no attempt to model low loading scenarios, or for that matter, any other load scenarios.

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Quite simply, the SAR methodology considers only the CCCT surrogate, independent of any other resources and system conditions, and assumes that it will be operated during all hours when it is available.<sup>36</sup>

What Mr. Sterling fails to recognize, as does Idaho Power, is that not all QF PPAs have avoided cost rates based on the SAR, and some QFs, such as Dynamis, have contractually agreed not to operate in light load hours. Yet, they would still be subject to Schedule 74 interruptions. As Idaho Power's Application for approval of the Dynamis PPA said: "The energy prices in the FESA are derived from Idaho Power's AURORA economic dispatch model for this Facility's estimated energy shape."<sup>37</sup> The Dynamis Application at the PUC, drafted by Idaho Power, went on to note: "Seller only plans to deliver energy during Heavy Load and Holiday Standard Energy hours and does not intend to produce and deliver any Light Load energy to Idaho Power."<sup>38</sup>

In fact, the Dynamis PPA with Idaho Power has rigorous contract provisions prohibiting light load hours' generation. Furthermore, the energy rates contained in the Dynamis PPA were calculated by Idaho Power's AURORA model to simulate the project's cost to Idaho Power, for each hour of the 20 year contract period. This includes an assumption that Dynamis is not generating in light load hours, when prohibited from doing so. Attached as Exhibit 804 are excerpts from the Dynamis IPUC Application, Appendix E

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<sup>36</sup> Sterling, Reb, P. 6.

<sup>37</sup> Application, P. 4,5. IPC Case No. E-11-25, *In the matter of the Application of Idaho Power Company for a Determination Regarding the Firm Energy Sales Agreement for the Sale and Purchase of Electric Energy Between Idaho Power Company and Dynamis Energy, LLC*

<sup>38</sup> *Id.*

from the Dynamis contract showing monthly energy deliveries, by the hour, and Appendix F showing the IRP derived monthly heavy load avoided cost prices, for 20 years.

Considering the complex IRP modeling of avoided cost prices contained in the Dynamis PPA (as Exhibit 804 shows), as well as the contract restriction prohibiting light load hours delivery, it is impossible to categorize Dynamis PPA as one where “*there is clearly no attempt to model low-load scenarios.*”<sup>39</sup> And, as Mr. Sterling suggests, if Schedule 74 is justified in order to correct for pricing deficiencies because all Schedule 74 QFs are “assume[d] that it will be operated during all hours when it is available,” then Schedule 74 should have no application to any QF with IRP derived avoided cost rates. Yet, Idaho Power insists that Schedule 74 should apply to Dynamis, because it is not dispatchable. Such disregard, and disrespect, for the complex, innovative terms and conditions contained in the Dynamis PPA, can be categorized as nothing other than an attempt to unilaterally “re-open” the Dynamis PPA, in order for Idaho Power to gain additional revenue concessions that it was otherwise not willing to give in arm’s length negotiations.

### **III PURPA MANDATES A BASE LEVEL OF PARITY AS BETWEEN UTILITIES AND QF DEVELOPERS FOR THE NEXT GENERATING RESOURCE**

1. QF Contract Rates, Terms and Conditions are to be Fair, Just and Reasonable; Discrimination as between QF Generation and Utility Generation is Prohibited. PURPA mandates that rules enacted by FERC, to “encourage cogeneration and small power production,” shall insure that the avoided cost rates for the purchase and sale of QF energy: “(1) shall be just and reasonable to the electric consumers and in the public interest” and “(2) shall not discriminate against the qualifying cogenerators or qualifying small power

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<sup>39</sup> Sterling, Reb, P. 6.

producers.”<sup>40</sup> FERC regulations implementing PURPA contain the same requirement.<sup>41</sup> State regulatory authorities are to implement FERC’s PURPA Rules “for each electric utility for which it has ratemaking authority.”<sup>42</sup> Idaho Code requires that the “practices or contracts” of a utility “may not be unjust, unreasonable, discriminatory or preferential, or in any wise in violation of any provision of law.”<sup>43</sup>

Several of Idaho Power’s proposals in this case violate these state and federal law prohibitions against discrimination and preferential treatment. Chief among the offending proposals is that all QFs above a 100 Kw cap be limited to no more than 5 year contracts. Mr. Stokes justifies a 5 year contract term proposal because it “would minimize the risk to customers of paying higher than avoided cost rates due to unforeseen circumstances or events.”<sup>44</sup>

One only has to look at Langley Gulch to again see duplicity in Idaho Power’s ‘spare the ratepayer from risk’ proposals. For Langley, Idaho Power sought and received a certificate from the Commission authorizing, before construction ever began, “binding [long-term] ratemaking treatment”.<sup>45</sup> In 2009, three years before Langley began operation, the Commission essentially gave Idaho Power a 30 year contract<sup>46</sup> at a fixed price.<sup>47</sup> At the core of Idaho Power’s argument seeking “binding ratemaking treatment” for Langley was an assertion that the pre-commitment of the core elements of Langley’s rate recovery was

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<sup>40</sup> 16 U.S.C. §824a-3(b)

<sup>41</sup> 18 C.F.R § 292.304(a)(i) and (ii).

<sup>42</sup> 16 U.S.C. §824a-3(f)

<sup>43</sup> Idaho Code § 61-502,

<sup>44</sup> Stokes, DI, P.4.

<sup>45</sup> Idaho Code § 61-541

<sup>46</sup> Langley was originally given a 30 year depreciation life; later changed to 35 years.

<sup>47</sup> “IT IS FURTHER ORDERED THAT THE Commission . . . provides Idaho Power with authorization and binding commitment to provide rate base treatment for the Company’s capital investment in the Langley Gulch Power Plant and related facilities in the amount of \$396,618,473, at such time as the plant is placed in commercial operation.” Order No. 30892.

“necessary to facility the financing for Langley.”<sup>48</sup> The same can be said for the independent power industry, QF based, or not.

The Commission indeed found that pre-approval of Langley “was necessary to facility the Company’s financing of the Langley Plant.”<sup>49</sup> The Commission also noted that in 2009, Langley was accused of likely becoming Idaho Power’s highest-cost operating resource, while in 2012, the same accusers argued Langley was one of the Company’s lowest cost resources. This change, resulting from the precipitous fall in natural gas prices — an “unforeseen circumstance” (quoting Mr. Stokes) — benefited, not harmed ratepayers. Likewise, using the same much-reduced gas prices for calculating PURPA rates, and then locking in long-term QF contracts based on such rates, would also inure to the benefit of the ratepayers.

Providing QF developers the same non-discriminatory, non-preferential access to project financing, through the use of long-term contracts, at fixed rates, would simply put independent power developers on the same footing as the utilities. Conversely, it is doubtful Idaho Power would have been willing to finance and build Langley, if it was only assured rate recovery for Langley’s capital costs, for just five years, with no assurance of follow-on rate recovery periods.

Idaho Power’s reasoning for proposing a 100 Kw cap and a five year contract term — so that it can always apply the latest and best available pricing information in an IRP model — is really just a pricing issue. Alternatively, it is a poison pill disguised as a pricing issue. In either case, there are many solid recommendations in this docket as to how to set and

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<sup>48</sup> Application, Case No. IPC-E-09-03

<sup>49</sup> IPUC Order No. 32582, P. 16. Case No. IPC-E-12-14, *In the Matter of the Application of Idaho Power Company for Authority to Increase its Rates and Its Ratebase to Recover Its Investment in the Langley Gulch Power Plant.*

adjust avoided cost pricing, without making QF financing impossible. Those tools are the better, the fairer, and the non-discriminatory way to mitigate pricing risk, while at the same time, respecting the law, by providing QF developers a realistic opportunity to be the ‘but-for’<sup>50</sup> generating resource alternative to the utility. To instead limit QFs to no more than five year contracts would be unjust, unreasonable, discriminatory and preferential.

2. The Eligibility Cap and Transparency in Pricing. Idaho Power proposes an eligibility cap<sup>51</sup> of 100 Kw for all PURPA projects.<sup>52</sup> Staff, Avista and PacifiCorp support a cap of 10 average MW for all QFs other than wind and solar. The Canal Companies and the Coalition propose a cap down to 10 MW nameplate for all QFs, regardless of fuel source. Clearwater/Simplot/Exergy recommend retaining the current 10 average MW cap, for all QFs. All parties are in general agreement that for PURPA projects sized above the eligibility cap, avoided cost rates will be established by an IRP methodology, while below the cap, QFs should be entitled to standardized QF contract rates, terms and conditions.

As Mr. Schoenbeck testifies, it makes little difference in the end as to whether avoided cost rates are calculated pursuant to an IRP methodology, or a SAR methodology, provided that “consistent assumptions are used in both methods (such as fuel costs and market price forecasts).”<sup>53</sup> What is, or can be different between the two methods, however, is transparency, or lack thereof.

Surrogate resource calculations can be done on a Microsoft Excel spreadsheet, whereas IRP based rates rely on complex production simulation models that are either

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<sup>50</sup> 18 C.F.R., § 292.101(b)(6).

<sup>51</sup> Below the eligibility cap, a QF developer would be entitled to fixed, published avoided cost rates. In essence, the developer would have a good idea, in advance, of the potential sale price for QF energy. Above the cap however, a developer would have the ‘pleasure’ of having to negotiate with the utility, to find out the sales price. Price negotiations, based on complex modeling and relying on experts, is quite expensive.

<sup>52</sup> Stokes, DI, P.4.

<sup>53</sup> Schoenbeck, DI, PP 14 – 16.

internally developed, or costs tens or hundreds of thousands of dollars to purchase, and use hundreds, if not thousands, of input variables.<sup>54</sup> Ms. Brown, for Rocky Mountain Power stated it so well when she said: “The SAR<sup>55</sup> methodology used for calculating published avoided cost rates for smaller QFs continues to provide a simple and transparent means of pricing that minimizes transaction costs a very small QF might incur to negotiate a power purchase agreement.”<sup>56</sup>

In the past, for QF contracts above the cap, Idaho Power has used AURORA to model energy prices, and Staff has been able and willing to check and confirm the proper/improper use of AURORA and other tools used to calculate these energy and capacity prices. For projects below the cap, the SAR standard published price avoided the need for independent price verification. If that cap was dropped to 100 Kw, and with the utility calculating each QF’s unique energy and capacity values, small developers would be disadvantaged in price negotiations, unless they were to hire an AURORA expert, or risk the possibility that the model run by the utility was either biased, or contained errors. For PacifiCorp, this problem is exacerbated by the fact that its GRID model is an internally developed model which lacks the ability for third-party verification.

Even if an both an IRP and SAR methodology are theoretically supposed to lead to similar avoided cost results, Idaho Power’s vision of how the IRP based system would work would continue to remain a ‘black-box’ exercise. First, Idaho Power proposes post AURORA adjustments to the AURORA energy outputs to remove market sales revenues generated from QF projects, and to assign to QF power an avoided energy cost of zero during

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<sup>54</sup> *Id.*

<sup>55</sup> Surrogate Avoided Resource

<sup>56</sup> Brown, DI. P. 4.

minimum load conditions. These two adjustments are in conflict with PURPA's definition of avoided costs, found in Section 292.101.<sup>57</sup> As several parties have recommended, the better method to determine the "but for" avoided energy cost is to run AURORA twice; once without, and then with, the QF resource. The difference in cost would then represent the energy costs that would have been incurred by the utility "but for" the QF.<sup>58</sup>

A second transparency concern exists regarding Idaho Power's proposal to allow unilateral continuous updating of IRP prices, "upon [a] receipt of a written request from a QF for contract pricing." (the "Price Requesting QF") Other Non-Price Requesting QFs would have zero ability to test or challenge the validity, credibility or ability of the Price Requesting QF to develop its project, without having the ability to review what the utility and the Price Requesting QF would assuredly claim was confidential, proprietary trade secret information.

The only thing more irresponsible that counting a Price Requesting QF in the IRP pricing model for avoided cost purposes, would be for the Company to also count the same Price Requesting QF resource in its actual IRP, as being available to meet system peak and serve load. Conversely, only using such a speculative resource for avoided cost calculating purposes, but not planning purposes, injects a significant downward bias in avoided cost prices, because only some fraction of the Price Requesting QFs would likely ever get built. Developers that are "sniffing around" for favorable pricing, by making a price request, are no more qualified to be a PURPA 'but for' resource for purposes of calculating avoided costs, than they are at being the next preferred resource option in the utility's IRP itself.

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<sup>57</sup> 18 C.F.R., § 292.101(b)(6). "Avoided costs mean the incremental cost to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility, . . . such utility would generate itself or purchase from another source."

<sup>58</sup> Schoenbeck, DI, P. 19.

## IV PROCESS

This case, GNR-E-11-03, primarily focuses on setting avoided cost prices. There are, however, process questions mixed in. Those process questions, or issues, would be better addressed in a follow-on docket, after the difficult pricing issues are addressed by the Commission in this case. Many of the process issues could also be better addressed with workshops and negotiations between Staff, QF developers and utilities. Three large process issues remain outstanding and ripe for such workshops.

1. Standardized Tariffs: Both RMP and Idaho Power have proposed tariffs or schedules to govern the QF contracting process. Idaho Power's tariff was submitted with the rebuttal testimony of Mark Stokes, but Staff or Intervenors have had no pre-filed opportunity to respond. While there are a number of provisions of both Idaho Power's and RMP's proposed PURPA schedules that need discussion and revision, there are two legal problems regarding the proposed schedules that will be highlighted here.

a. *Proposed Schedule 73 and 38 violated PURPA*: Both Idaho Power's Schedule 73 and RMP's proposed Schedule 38 require "QFs who desire to make sales to the [companies] at avoided costs rates . . . enter into written power purchase and interconnection agreements" pursuant to the respective Schedules<sup>59</sup> Both Schedules also provide that "Prices and other terms and conditions in the power purchase agreement shall not be final and binding until the power purchase agreement has been executed by both parties and the Commission approves the agreement."<sup>60</sup> These provisions are in violation of PURPA, which provides that at the option of the QF, energy may be provided "as available," or alternative, energy and capacity may be provided pursuant to a "legally enforceable

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<sup>59</sup> Exhibit No. 10, P. 1, Exhibit No. 11, P. 1, Stokes, Reb.

<sup>60</sup> Id., P. 4.

obligation” (“LEO”) setting forth the delivery term, with rates established at the time the LEO is established.<sup>61</sup> FREC has also been clear in the *Cedar Creek* decision that a LEO can be established before, or without, a utility’s counter signature.<sup>62</sup>

b. *Proposed Schedules 73 and 38 Violate Idaho Law.* The last provision of both proposed schedules would require a QF developer to first give notice to the utility of its intent to file a complaint at the Commission, and then wait 60 days before filing the complaint. Such a ‘freeze-out’ waiting period is contrary to Idaho Code § 61-612 *et. sec.*<sup>63</sup> that gives everyone and anyone the right to immediately file a complaint against a utility, and seek redress of their grievance before the Commission.

2. QF Interconnection; Utility System Upgrades.

a. *PPAs and Interconnection:* The current version of most Idaho jurisdictional PPAs require a QF to meet a hard or fixed operation date, or else be in breach of contract, with forfeiture of liquidated damages. One potential cause of just such a breach is failure for the QF to achieve electrical interconnection. Both proposed schedules continue this irrational scheme that the left-hand of the utility (Generation) is held harmless from the faults of the right-hand (Delivery). While that irrational separation may be required in the FERC world of transmission open access and non-discrimination, there clearly needs to be a more thoughtful solution to the problem of interconnecting a QF. Workshops can help bring a better sense of symmetry between PPAs and GIAs.<sup>64</sup>

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<sup>61</sup> 18 C.F.R. 202.304(d)(1) and (2)

<sup>62</sup> Cedar Creek Wind, LLC, 137 FERC ¶ 61,006(2011).

<sup>63</sup> “Complaint may be made by . . . any person . . . by petition or complaint in writing, setting forth any act or thing done [by a public utility]. . . in violation of any provision or law.”

<sup>64</sup> Generator Interconnection Agreements

b. *Network Upgrades:* The current system for interconnecting QFs to the utility transmission system is in compliance with the mandates of PURPA, that a QF pay the full cost of interconnection. However, the additional practice in Idaho of a QF also having to pay for transmission network upgrades is in conflict with federal law.

Idaho Power argues that because the network upgrade is caused by the QF generation, the QF should pay for the system upgrade.<sup>65</sup> Under PURPA, the only instance where a QF may be required to pay for transmission services is where it is transmitting power to another utility over a host utility's system.<sup>66</sup> FERC Order Nos. 2003<sup>67</sup> and 2006<sup>68</sup> establish clear federal jurisdiction, to the exclusion of the states, over the terms of interconnection between generators and transmission providers, even where the transmission facility also engages in local distribution, insofar as the interconnections are "for the purpose of making sales of electrical energy for resale in interstate commerce."<sup>69</sup> By establishing standard agreements for electrical interconnection FERC has exercised its jurisdiction over the terms of those relationships.<sup>70</sup> A host utility may not require a QF, exercising its PURPA rights and selling its output to the host utility (which QF is therefore only taking interconnection service) to fund additional transmission system upgrades, as a condition for the QF exercising its

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<sup>65</sup> See Park, Reb. P. 12

<sup>66</sup> 18 C.F.R. §292.303(d).

<sup>67</sup> *Standardization of Generator Interconnection Agreement and Procedures*, Order No. 2003, FERC Stat. & Regs. ¶ 31,146 at P 778 (2003) ("Order No. 2003"), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005)

<sup>68</sup> *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180 ("Order No. 2006"), *order on reh'g*, Order No. 2006-A, FERC Stats. & Regs. ¶ 31,196 (2005), *order on clarif.*, Order No. 2006-B, FERC Stats. & Regs. ¶ 31,221 (2006).

<sup>69</sup> Order No. 2003 at 30,545-46.

<sup>70</sup> *Transmission Access Policy Study Group v. FERC*, 225 F.3d 667, 682-83 (D.C.Cir. 2000).

PURPA rights.<sup>71</sup> In broad terms, FERC looks at system benefits, for determining who pays for network upgrades. If a QF is the sole beneficiary, it is the sole payor. On the other hand, if the network upgrades extend beyond the QF, the QF is refunded some portion of its initial charge for system improvements, in relatively short order. In any case, FERC mandates a case-by-case analysis of system betterments. The QF interconnection process in Idaho, and its method of assigning network upgrade costs solely to QFs, is in conflict with FERCs interconnection rules, and is ripe for additional investigation by this Commission.

## V CONCLUSION

For the reasons outlined above, the Commission should:

- a. Acknowledge that it does not have the statutory jurisdiction to determine the ownership of Renewable Energy Credits and other environmental attributes, and affirm that they remain the separate property of the renewable QF developer;
- b. Reject Idaho Power's proposed Schedule 74 as being: (i) a violation of PURPA, an abrogation of existing contracts, and resting on the faulty assumption that many of Idaho Power's alleged "must run" generation facilities are, in fact, not;
- c. Declare that QFs are entitled to long-term, 20 year contracts, in order that they are not discriminated against and have a reasonable opportunity to finance and build power generating facilities as do the utilities,
- d. Establish an eligibility cap for standard contracts and fixed rates for all QF developers at 10 MW (nameplate),

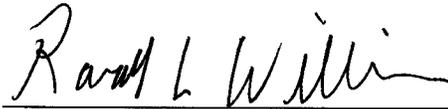
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<sup>71</sup> *Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

e. Order a subsequent proceeding, to begin with workshops, to address process issues involving: (i) fair and reasonable QF tariffs, (ii) standard contracts, and (iii) QF interconnections procedures that are FERC compliant.

RESPECTFULLY SUBMITTED this 20<sup>th</sup> day of July, 2012.

WILLIAMS BRADBURY, P.C.

A handwritten signature in black ink, appearing to read "Ronald L. Williams", written over a horizontal line.

Ronald L. Williams  
Attorneys for the Renewable Energy Coalition  
and Dynamis Energy, LLC

# **EXHIBIT 802**

IN THE SENATE

SENATE BILL NO. 1364

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION; AMENDING CHAPTER 5, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-542, IDAHO CODE, TO DEFINE THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION AND ITS JURISDICTION OVER THE ENVIRONMENTAL ATTRIBUTES OF PUBLIC UTILITY REGULATORY POLICIES ACT QUALIFYING FACILITIES AND TO PROVIDE FOR USE AND IMPLEMENTATION OF ENVIRONMENTAL ATTRIBUTES; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 5, Title 61, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 61-542, Idaho Code, and to read as follows:

61-542. ENVIRONMENTAL ATTRIBUTES OF PURPA QUALIFYING FACILITIES. (1) Definitions:

(a) "Environmental attributes" means any and all claims, credits, benefits, emissions reductions, offsets and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical or other substance into the air, soil or water. Environmental attributes shall include, but are not limited to: (i) green tags, green and/or clean energy credits, renewable energy credits or renewable energy certificates; (ii) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides, nitrogen oxides, carbon monoxide and other pollutants; (iii) any avoided emissions of carbon dioxide, methane and other greenhouse gases. Environmental attributes do not include: (i) tax credits or other tax incentives existing now or in the future associated with construction, ownership or operation of the qualifying facility; or (ii) adverse wildlife or environmental impacts.

(b) "PURPA" means the public utility regulatory policies act of 1978, 16 U.S.C. section 824a-3.

(c) "Qualifying facility" means a qualifying small power or cogeneration facility as defined in 18 CFR 292.101(b)(1) as that section may be amended or superseded.

(d) "Public utility" means an electrical corporation as defined in sections 61-119 and 61-129, Idaho Code.

(2) Ownership. The legislature hereby finds that, to the extent that environmental attributes are generated by or associated with qualifying facilities, such environmental attributes are attributes of the power purchased by the public utility from such qualifying facilities at avoided cost rates. All environmental attributes generated by or associated with such qualifying facilities shall be owned by the public utility purchaser of the power from the qualifying facilities, unless, with regard to any specific qualifying facility, such ownership is expressly assigned to the qualify-

1 ing facility by specific agreement with the public utility purchaser of the  
2 power, and such agreement is approved by the commission.

3 (3) Use. Environmental attributes owned by a public utility pursuant  
4 to this section may be used for any, or all, of the following purposes:

5 (a) Environmental attributes may be used by a public utility to satisfy  
6 the requirements of any state or federal renewable portfolio standards  
7 or requirements applicable to such public utility;

8 (b) Environmental attributes may be sold, and the proceeds of such sale  
9 utilized to offset, or partially offset, the power supply expense paid  
10 by customers of the public utility as determined by the commission;

11 (c) Environmental attributes may be assigned to a qualifying facility,  
12 as referenced in subsection (2) of this section, by specific agreement  
13 approved by the commission. Should the owner of a qualifying facility  
14 desire to enter into such specific agreement assigning ownership of the  
15 environmental attributes to the qualifying facility, the public util-  
16 ity owner of the environmental attributes shall negotiate in good faith  
17 with the owner of such qualifying facility.

18 (4) Implementation. The legislature hereby directs the commission  
19 to implement this requirement for all qualifying facility power purchase  
20 agreements entered into by public utilities subsequent to the date of enact-  
21 ment of this section.

22 SECTION 2. An emergency existing therefor, which emergency is hereby  
23 declared to exist, this act shall be in full force and effect on and after its  
24 passage and approval.

## **STATEMENT OF PURPOSE**

**RS21243C1**

This legislation will require any benefits derived from RECs associated with the sale of renewable energy to investor owned utilities to flow to the benefit of the utilities' customers.

## **FISCAL NOTE**

There is no impact to the General Fund.

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**Statement of Purpose / Fiscal Note**

**S1364**

# **EXHIBIT 803**

LEGISLATURE OF THE STATE OF IDAHO

Sixty-first Legislature

Second Regular Session – 2012

IN THE \_\_\_\_\_

\_\_\_\_\_ BILL NO. \_\_\_\_\_

BY \_\_\_\_\_ COMMITTEE

AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION; AMENDING CHAPTER 5, TITLE 61, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-542, IDAHO CODE, TO DEFINE THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION AND ITS JURISDICTION OVER THE ENVIRONMENTAL ATTRIBUTES IN THE PURCHASE OF POWER BY PUBLIC UTILITIES FROM PURPA QUALIFYING FACILITIES; AND DECLARING AN EMERGENCY

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 5, Title 61, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 61-542, Idaho Code, and to read as follows:

61-542. ENVIRONMENTAL ATTRIBUTES FROM PURPA QUALIFYING FACILITIES. (1) Definitions.

(a) "Environmental Attributes" means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water.

(b) "PURPA" means the public utility regulatory policies Act of 1978, 16 U.S.C. § 824a-3.

(c) "Qualifying Facility" means a qualifying small power or cogeneration facility as defined in 18 C.F.R. 292.101(b)(1) as that section may be amended or superseded.

(d) "Public Utility" means an electrical corporation as defined by sections 61-119 and 61-129, Idaho Code.

(2) Ownership. The legislature hereby delegates the specific authority and directs the commission to determine the ownership of the environmental attributes generated by or associated with PURPA qualifying facilities that sell their generation to public utilities. Such determination is to be made so as to assure that the public interest of the citizens of the state of Idaho is upheld.

(3) Implementation. The legislature hereby directs the commission to implement this requirement for all qualifying facility power purchase agreements entered into by public utilities subsequent to the date of enactment of this section.

**SECTION 2. An emergency existing therefore, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.**

# **EXHIBIT 804**

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Attorneys for Idaho Power Company

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IDAHO PUBLIC  
UTILITIES COMMISSION

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE APPLICATION )  
OF IDAHO POWER COMPANY FOR ) CASE NO. IPC-E-11-25  
A DETERMINATION REGARDING THE )  
FIRM ENERGY SALES AGREEMENT FOR ) APPLICATION  
THE SALE AND PURCHASE OF ELECTRIC )  
ENERGY BETWEEN IDAHO POWER )  
COMPANY AND DYNAMIS ENERGY, LLC. )  
\_\_\_\_\_ )

Idaho Power Company ("Idaho Power" or "Company"), in accordance with RP 52 and the applicable provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), hereby respectfully applies to the Idaho Public Utilities Commission ("Commission") for an Order accepting or rejecting the Firm Energy Sales Agreement ("FESA") between Idaho Power and Dynamis Energy, LLC ("Dynamis" or "Seller") under which Dynamis would sell and Idaho Power would purchase electric energy generated by the Dynamis Ada County Landfill project ("Facility") located near Boise, Idaho.

In support of this Application, Idaho Power represents as follows:

## **I. BACKGROUND**

1. Sections 201 and 210 of PURPA, and pertinent regulations of the Federal Energy Regulatory Commission ("FERC"), require that regulated electric utilities purchase power produced by cogenerators or small power producers that obtain Qualifying Facility ("QF") status. The rate a QF receives for the sale of its power is generally referred to as the "avoided cost" rate and is to reflect the incremental cost to an electric utility of electric energy or capacity or both which, but for the purchase from the QF, such utility would generate itself or purchase from another source. The Commission has authority under PURPA Sections 201 and 210 and the implementing regulations of the FERC, 18 C.F.R. § 292, to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from QFs, and to implement FERC rules.

## **II. THE FIRM ENERGY SALES AGREEMENT**

2. Dynamis proposes to own, operate, and maintain a 22 megawatt (Maximum Capacity Amount) landfill waste to energy generating facility to be located in Idaho Power's service territory near Boise, Idaho. The Facility will be a QF under the applicable provisions of PURPA. Idaho Power and Dynamis entered into a FESA for the sale and purchase of the energy generated by the Facility on November 16, 2011. The FESA for this Facility was executed by C. Lloyd Mahaffey, Chairman and Chief Executive Officer for Dynamis Energy, LLC, on November 14, 2011. It was subsequently executed by Idaho Power on November 16, 2011, and now filed for the Commission's review on November 22, 2011. A copy of the FESA is attached to this Application as Attachment No. 1. This FESA is the result of negotiations between Idaho

**APPENDIX E**

**HOURLY ENERGY PRODUCTION**

This table is a list of hourly energy amounts (measured in MWs) for each hour of a twenty-four (24) hour period in each month that will be applied to all days of the month.

| <b>Hour</b>  | <b>Jan<br/>(MW)</b> | <b>Feb<br/>(MW)</b> | <b>Mar<br/>(MW)</b> | <b>Apr<br/>(MW)</b> | <b>May<br/>(MW)</b> | <b>Jun<br/>(MW)</b> | <b>Jul<br/>(MW)</b> | <b>Aug<br/>(MW)</b> | <b>Sep<br/>(MW)</b> | <b>Oct<br/>(MW)</b> | <b>Nov<br/>(MW)</b> | <b>Dec<br/>(MW)</b> |
|--------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| 1            | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   |
| 2            | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   |
| 3            | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   |
| 4            | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   |
| 5            | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   |
| 6            | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   |
| 7            | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 8            | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 9            | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 10           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 11           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 12           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 13           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 14           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 15           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 16           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 17           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 18           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 19           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 20           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 21           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 22           | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  | 20                  |
| 23           | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   |
| 24           | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   | 0                   |
| <b>Daily</b> | <b>320</b>          |

**APPENDIX F**

**MONTHLY PURCHASE PRICES**

**Mills per Kwh**

| <b>Month/Year</b> | <b>Heavy Load Purchase Price</b> | <b>Holiday Standard Purchase Price</b> |
|-------------------|----------------------------------|--|
| Jan-12            | \$84.27                          | \$81.05                                |
| Feb-12            | \$85.76                          | \$81.03                                |
| Mar-12            | \$81.15                          | \$76.88                                |
| Apr-12            | \$76.70                          | \$73.32                                |
| May-12            | \$69.70                          | \$63.39                                |
| Jun-12            | \$71.77                          | \$64.29                                |
| Jul-12            | \$83.55                          | \$77.70                                |
| Aug-12            | \$87.83                          | \$81.28                                |
| Sep-12            | \$90.25                          | \$82.51                                |
| Oct-12            | \$84.52                          | \$81.19                                |
| Nov-12            | \$87.90                          | \$84.82                                |
| Dec-12            | \$86.69                          | \$82.30                                |
| Jan-13            | \$86.11                          | \$82.01                                |
| Feb-13            | \$87.75                          | \$83.51                                |
| Mar-13            | \$83.19                          | \$79.45                                |
| Apr-13            | \$78.68                          | \$74.02                                |
| May-13            | \$71.21                          | \$64.51                                |
| Jun-13            | \$73.83                          | \$67.88                                |
| Jul-13            | \$85.47                          | \$79.40                                |
| Aug-13            | \$89.91                          | \$83.36                                |
| Sep-13            | \$91.58                          | \$82.47                                |
| Oct-13            | \$83.94                          | \$80.29                                |
| Nov-13            | \$88.88                          | \$84.40                                |
| Dec-13            | \$88.88                          | \$86.14                                |
| Jan-14            | \$87.76                          | \$82.96                                |
| Feb-14            | \$89.40                          | \$84.87                                |
| Mar-14            | \$85.60                          | \$81.15                                |
| Apr-14            | \$80.92                          | \$75.56                                |
| May-14            | \$72.80                          | \$66.01                                |
| Jun-14            | \$76.15                          | \$69.27                                |
| Jul-14            | \$87.08                          | \$81.11                                |
| Aug-14            | \$91.69                          | \$84.96                                |
| Sep-14            | \$94.41                          | \$86.47                                |

|        |         |         |
|--------|---------|---------|
| Oct-14 | \$85.99 | \$82.10 |
| Nov-14 | \$89.81 | \$84.92 |
| Dec-14 | \$90.21 | \$86.23 |
| Jan-15 | \$88.57 | \$85.04 |
| Feb-15 | \$91.06 | \$85.94 |
| Mar-15 | \$87.03 | \$80.82 |
| Apr-15 | \$80.13 | \$77.64 |
| May-15 | \$72.89 | \$66.21 |
| Jun-15 | \$76.86 | \$69.27 |
| Jul-15 | \$87.78 | \$81.41 |
| Aug-15 | \$92.43 | \$85.55 |
| Sep-15 | \$98.86 | \$87.90 |
| Oct-15 | \$89.54 | \$82.20 |
| Nov-15 | \$92.80 | \$88.08 |
| Dec-15 | \$90.74 | \$87.31 |
| Jan-16 | \$88.32 | \$84.47 |
| Feb-16 | \$90.76 | \$85.18 |
| Mar-16 | \$86.80 | \$81.29 |
| Apr-16 | \$80.79 | \$77.26 |
| May-16 | \$73.73 | \$67.06 |
| Jun-16 | \$77.05 | \$69.25 |
| Jul-16 | \$87.64 | \$82.32 |
| Aug-16 | \$93.84 | \$86.71 |
| Sep-16 | \$99.25 | \$87.29 |
| Oct-16 | \$87.85 | \$82.35 |
| Nov-16 | \$92.94 | \$88.45 |
| Dec-16 | \$91.13 | \$87.56 |
| Jan-17 | \$90.91 | \$86.04 |
| Feb-17 | \$93.08 | \$88.84 |
| Mar-17 | \$88.74 | \$84.13 |
| Apr-17 | \$83.46 | \$77.18 |
| May-17 | \$76.57 | \$68.02 |
| Jun-17 | \$79.11 | \$71.67 |
| Jul-17 | \$90.60 | \$82.94 |
| Aug-17 | \$95.91 | \$87.95 |
| Sep-17 | \$98.70 | \$87.74 |
| Oct-17 | \$89.78 | \$84.34 |
| Nov-17 | \$95.34 | \$91.13 |
| Dec-17 | \$92.68 | \$89.41 |
| Jan-18 | \$91.93 | \$87.84 |
| Feb-18 | \$94.07 | \$88.83 |
| Mar-18 | \$89.49 | \$85.99 |
| Apr-18 | \$83.54 | \$78.11 |

|        |          |         |
|--------|----------|---------|
| May-18 | \$76.11  | \$70.26 |
| Jun-18 | \$79.39  | \$71.99 |
| Jul-18 | \$91.17  | \$84.38 |
| Aug-18 | \$98.23  | \$90.33 |
| Sep-18 | \$100.60 | \$90.89 |
| Oct-18 | \$93.85  | \$87.16 |
| Nov-18 | \$96.44  | \$91.24 |
| Dec-18 | \$93.60  | \$91.03 |
| Jan-19 | \$93.80  | \$89.99 |
| Feb-19 | \$96.27  | \$89.89 |
| Mar-19 | \$90.44  | \$84.85 |
| Apr-19 | \$84.99  | \$80.00 |
| May-19 | \$77.50  | \$71.01 |
| Jun-19 | \$80.42  | \$73.70 |
| Jul-19 | \$92.47  | \$86.18 |
| Aug-19 | \$98.85  | \$91.90 |
| Sep-19 | \$102.82 | \$91.48 |
| Oct-19 | \$92.49  | \$85.38 |
| Nov-19 | \$96.50  | \$92.43 |
| Dec-19 | \$95.86  | \$92.44 |
| Jan-20 | \$95.88  | \$90.91 |
| Feb-20 | \$97.68  | \$92.99 |
| Mar-20 | \$91.93  | \$87.46 |
| Apr-20 | \$86.60  | \$83.39 |
| May-20 | \$79.04  | \$74.37 |
| Jun-20 | \$83.23  | \$76.02 |
| Jul-20 | \$94.24  | \$89.03 |
| Aug-20 | \$99.84  | \$93.96 |
| Sep-20 | \$104.15 | \$93.04 |
| Oct-20 | \$92.93  | \$87.06 |
| Nov-20 | \$98.42  | \$93.51 |
| Dec-20 | \$97.19  | \$94.41 |
| Jan-21 | \$95.99  | \$92.40 |
| Feb-21 | \$97.44  | \$93.69 |
| Mar-21 | \$92.51  | \$88.32 |
| Apr-21 | \$86.60  | \$83.05 |
| May-21 | \$79.03  | \$73.93 |
| Jun-21 | \$83.55  | \$77.86 |
| Jul-21 | \$94.26  | \$89.12 |
| Aug-21 | \$100.60 | \$94.26 |
| Sep-21 | \$104.59 | \$94.78 |
| Oct-21 | \$97.45  | \$91.52 |
| Nov-21 | \$100.69 | \$95.40 |

|        |          |          |
|--------|----------|----------|
| Dec-21 | \$97.11  | \$94.10  |
| Jan-22 | \$96.68  | \$94.74  |
| Feb-22 | \$98.93  | \$95.11  |
| Mar-22 | \$93.40  | \$90.33  |
| Apr-22 | \$86.54  | \$82.96  |
| May-22 | \$80.90  | \$75.87  |
| Jun-22 | \$84.13  | \$78.08  |
| Jul-22 | \$95.19  | \$88.32  |
| Aug-22 | \$101.85 | \$96.03  |
| Sep-22 | \$105.70 | \$95.02  |
| Oct-22 | \$95.44  | \$87.01  |
| Nov-22 | \$101.54 | \$97.38  |
| Dec-22 | \$97.63  | \$95.98  |
| Jan-23 | \$100.73 | \$99.00  |
| Feb-23 | \$102.77 | \$98.49  |
| Mar-23 | \$97.25  | \$92.52  |
| Apr-23 | \$90.94  | \$88.51  |
| May-23 | \$84.99  | \$77.49  |
| Jun-23 | \$87.83  | \$82.99  |
| Jul-23 | \$99.70  | \$95.09  |
| Aug-23 | \$106.54 | \$99.46  |
| Sep-23 | \$113.09 | \$99.75  |
| Oct-23 | \$100.39 | \$91.86  |
| Nov-23 | \$106.81 | \$101.81 |
| Dec-23 | \$101.66 | \$98.66  |
| Jan-24 | \$102.29 | \$99.61  |
| Feb-24 | \$104.92 | \$100.43 |
| Mar-24 | \$98.80  | \$95.16  |
| Apr-24 | \$91.22  | \$86.96  |
| May-24 | \$85.12  | \$79.41  |
| Jun-24 | \$88.07  | \$82.00  |
| Jul-24 | \$100.61 | \$95.21  |
| Aug-24 | \$108.45 | \$99.79  |
| Sep-24 | \$115.33 | \$100.84 |
| Oct-24 | \$104.31 | \$97.40  |
| Nov-24 | \$107.34 | \$101.78 |
| Dec-24 | \$103.93 | \$100.20 |
| Jan-25 | \$104.23 | \$102.18 |
| Feb-25 | \$107.14 | \$102.26 |
| Mar-25 | \$100.19 | \$95.50  |
| Apr-25 | \$94.30  | \$89.13  |
| May-25 | \$86.67  | \$82.45  |
| Jun-25 | \$90.82  | \$84.52  |

|        |          |          |
|--------|----------|----------|
| Jul-25 | \$103.41 | \$97.10  |
| Aug-25 | \$110.38 | \$103.83 |
| Sep-25 | \$118.31 | \$103.33 |
| Oct-25 | \$103.45 | \$96.55  |
| Nov-25 | \$109.55 | \$103.13 |
| Dec-25 | \$106.58 | \$102.87 |
| Jan-26 | \$105.29 | \$103.81 |
| Feb-26 | \$108.34 | \$102.91 |
| Mar-26 | \$101.66 | \$96.42  |
| Apr-26 | \$95.16  | \$91.31  |
| May-26 | \$88.51  | \$83.12  |
| Jun-26 | \$92.95  | \$85.79  |
| Jul-26 | \$103.99 | \$97.46  |
| Aug-26 | \$110.99 | \$103.38 |
| Sep-26 | \$118.59 | \$104.40 |
| Oct-26 | \$103.57 | \$98.25  |
| Nov-26 | \$110.70 | \$103.57 |
| Dec-26 | \$107.23 | \$104.86 |
| Jan-27 | \$107.04 | \$104.13 |
| Feb-27 | \$108.84 | \$106.16 |
| Mar-27 | \$102.59 | \$98.42  |
| Apr-27 | \$95.88  | \$91.00  |
| May-27 | \$88.75  | \$83.89  |
| Jun-27 | \$93.73  | \$86.59  |
| Jul-27 | \$104.02 | \$98.83  |
| Aug-27 | \$112.65 | \$104.92 |
| Sep-27 | \$120.17 | \$104.44 |
| Oct-27 | \$108.53 | \$102.47 |
| Nov-27 | \$115.07 | \$106.88 |
| Dec-27 | \$108.05 | \$105.52 |
| Jan-28 | \$108.72 | \$106.78 |
| Feb-28 | \$110.62 | \$107.11 |
| Mar-28 | \$103.93 | \$100.06 |
| Apr-28 | \$96.84  | \$91.57  |
| May-28 | \$91.20  | \$85.09  |
| Jun-28 | \$94.32  | \$90.04  |
| Jul-28 | \$107.38 | \$101.22 |
| Aug-28 | \$117.64 | \$107.54 |
| Sep-28 | \$119.38 | \$105.96 |
| Oct-28 | \$107.42 | \$100.50 |
| Nov-28 | \$115.65 | \$109.11 |
| Dec-28 | \$109.38 | \$106.42 |
| Jan-29 | \$110.53 | \$109.27 |

|        |          |          |
|--------|----------|----------|
| Feb-29 | \$112.52 | \$107.38 |
| Mar-29 | \$106.27 | \$101.09 |
| Apr-29 | \$98.95  | \$92.44  |
| May-29 | \$91.67  | \$87.86  |
| Jun-29 | \$96.52  | \$90.47  |
| Jul-29 | \$108.94 | \$101.62 |
| Aug-29 | \$118.42 | \$109.67 |
| Sep-29 | \$121.14 | \$106.68 |
| Oct-29 | \$106.91 | \$101.53 |
| Nov-29 | \$114.55 | \$106.74 |
| Dec-29 | \$112.20 | \$109.32 |
| Jan-30 | \$113.04 | \$111.74 |
| Feb-30 | \$115.09 | \$109.79 |
| Mar-30 | \$108.65 | \$103.31 |
| Apr-30 | \$101.12 | \$94.41  |
| May-30 | \$93.61  | \$89.69  |
| Jun-30 | \$98.61  | \$92.38  |
| Jul-30 | \$111.40 | \$103.86 |
| Aug-30 | \$121.17 | \$112.15 |
| Sep-30 | \$123.97 | \$109.07 |
| Oct-30 | \$109.31 | \$103.77 |
| Nov-30 | \$117.18 | \$109.13 |
| Dec-30 | \$114.76 | \$111.79 |
| Jan-31 | \$115.62 | \$114.28 |
| Feb-31 | \$117.73 | \$112.27 |
| Mar-31 | \$111.10 | \$105.60 |
| Apr-31 | \$103.34 | \$96.43  |
| May-31 | \$95.61  | \$91.57  |
| Jun-31 | \$100.76 | \$94.34  |
| Jul-31 | \$113.93 | \$106.17 |
| Aug-31 | \$124.00 | \$114.71 |
| Sep-31 | \$126.88 | \$111.54 |
| Oct-31 | \$111.78 | \$106.07 |
| Nov-31 | \$119.88 | \$111.60 |
| Dec-31 | \$117.40 | \$114.34 |
| Jan-32 | \$118.20 | \$116.82 |
| Feb-32 | \$120.37 | \$114.75 |
| Mar-32 | \$113.55 | \$107.88 |
| Apr-32 | \$105.55 | \$98.43  |
| May-32 | \$97.59  | \$93.43  |
| Jun-32 | \$102.89 | \$96.28  |
| Jul-32 | \$116.46 | \$108.46 |
| Aug-32 | \$126.83 | \$117.26 |

|        |          |          |
|--------|----------|----------|
| Sep-32 | \$129.79 | \$113.99 |
| Oct-32 | \$114.25 | \$108.36 |
| Nov-32 | \$122.59 | \$114.05 |
| Dec-32 | \$120.03 | \$116.88 |
| Jan-33 | \$121.02 | \$119.60 |
| Feb-33 | \$123.26 | \$117.47 |
| Mar-33 | \$116.23 | \$110.39 |
| Apr-33 | \$107.99 | \$100.66 |
| May-33 | \$99.79  | \$95.51  |
| Jun-33 | \$105.25 | \$98.44  |
| Jul-33 | \$119.23 | \$110.99 |
| Aug-33 | \$129.90 | \$120.05 |
| Sep-33 | \$132.96 | \$116.69 |
| Oct-33 | \$116.95 | \$110.89 |
| Nov-33 | \$125.54 | \$116.75 |
| Dec-33 | \$122.90 | \$119.66 |
| Jan-34 | \$123.84 | \$122.38 |
| Feb-34 | \$126.15 | \$120.18 |
| Mar-34 | \$118.90 | \$112.89 |
| Apr-34 | \$110.42 | \$102.87 |
| May-34 | \$101.98 | \$97.56  |
| Jun-34 | \$107.60 | \$100.58 |
| Jul-34 | \$122.00 | \$113.51 |
| Aug-34 | \$132.99 | \$122.84 |
| Sep-34 | \$136.14 | \$119.38 |
| Oct-34 | \$119.65 | \$113.41 |
| Nov-34 | \$128.50 | \$119.44 |
| Dec-34 | \$125.78 | \$122.44 |
| Jan-35 | \$126.74 | \$125.24 |
| Feb-35 | \$129.12 | \$122.98 |
| Mar-35 | \$121.66 | \$115.47 |
| Apr-35 | \$112.92 | \$105.15 |
| May-35 | \$104.22 | \$99.68  |
| Jun-35 | \$110.02 | \$102.79 |
| Jul-35 | \$124.85 | \$116.11 |
| Aug-35 | \$136.17 | \$125.72 |
| Sep-35 | \$139.41 | \$122.15 |
| Oct-35 | \$122.43 | \$116.00 |
| Nov-35 | \$131.54 | \$122.22 |
| Dec-35 | \$128.74 | \$125.30 |
| Jan-36 | \$129.65 | \$128.11 |
| Feb-36 | \$132.10 | \$125.78 |
| Mar-36 | \$124.42 | \$118.04 |

|               |                 |                 |
|---------------|-----------------|-----------------|
| <b>Apr-36</b> | <b>\$115.42</b> | <b>\$107.41</b> |
| <b>May-36</b> | <b>\$106.46</b> | <b>\$101.78</b> |
| <b>Jun-36</b> | <b>\$112.43</b> | <b>\$104.98</b> |
| <b>Jul-36</b> | <b>\$127.70</b> | <b>\$118.70</b> |
| <b>Aug-36</b> | <b>\$139.36</b> | <b>\$128.60</b> |
| <b>Sep-36</b> | <b>\$142.70</b> | <b>\$124.92</b> |
| <b>Oct-36</b> | <b>\$125.21</b> | <b>\$118.58</b> |
| <b>Nov-36</b> | <b>\$134.60</b> | <b>\$124.99</b> |
| <b>Dec-36</b> | <b>\$131.71</b> | <b>\$128.17</b> |

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IDAHO PUBLIC  
UTILITIES COMMISSION

Attorneys for Renewable Energy Coalition and Dynamis Energy LLC

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF THE COMMISSION'S )  
REVIEW OF PURPA QF CONTRACT )  
PROVISIONS INCLUDING THE )  
SURROGATE AVOIDED RESOURCE (SAR) )  
AND INTEGRATED RESOURCE )  
PLANNING (IRP) METHODOLOGIES FOR )  
CALCULATING AVOIDED COST RATES )

Case No. GNR-E-11-03

CERTIFICATE OF DELIVERY

I HEREBY CERTIFY that on this 20th day of July, 2012, I caused to be served a true and correct copy of the Legal Memorandum of the Renewable Energy Coalition and Dynamis Energy upon the following individuals in the manner indicated below:

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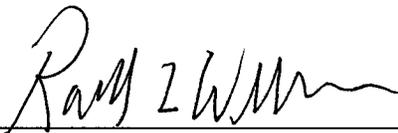
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