

GIVENS PURSLEY LLP

LAW OFFICES

601 W. Bannock Street
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Deborah E. Nelson
den@givenspursley.com

Gary G. Allen
Peter G. Barton
Christopher J. Beeson
Clint R. Bolinder
Erik J. Bolinder
Preston N. Carter
Jeremy C. Chou
William C. Cole
Michael C. Creamer
Amber N. Dina
Elizabeth M. Donick
Thomas E. Dvorak
Jeffrey C. Fereday
Martin C. Hendrickson

Steven J. Hippler
Donald E. Knickrehm
Debra K. Kristensen
Anne C. Kunkel
Michael P. Lawrence
Franklin G. Lee
David R. Lombardi
Emily L. McClure
Kenneth R. McClure
Kelly Greene McConnell
Alex P. McLaughlin
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller

Judson B. Montgomery
Deborah E. Nelson
W. Hugh O'Riordan, LL.M.
Angela M. Reed
Mark Scoville
Robert B. White

Retired
Kenneth L. Pursley
James A. McClure (1924-2011)
Raymond D. Givens (1917-2008)

January 15, 2013

VIA HAND DELIVERY

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

Re: GNR-E-11-03

Dear Ms. Jewell:

Enclosed please find an original and seven (7) copies of Idaho Wind Partners I, LLC, Answer to Idaho Power Company's Petition for Clarification and/or Reconsideration.

Please do not hesitate to contact our offices if you have questions or concerns.

Sincerely,



Deborah E. Nelson

DEN/kml
1669265_1
Enclosures

RECEIVED
2013 JAN 15 PM 4:13
IDAHO PUBLIC
UTILITIES COMMISSION

Deborah E. Nelson, ISB # 5711
GIVENS PURSLEY LLP
601 W. Bannock St.
Post Office Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1200
Facsimile: 208-388-1300
11067-6_1667460_4

RECEIVED

2013 JAN 15 PM 4: 13

IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Idaho Wind Partners 1, 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 PUBLISHED AVOIDED
COST RATES

Case No. GNR-E-11-03

**ANSWER TO IDAHO POWER
COMPANY'S PETITION FOR
CLARIFICATION AND/OR
RECONSIDERATION**

Idaho Wind Partners 1, LLC ("Idaho Wind Partners"), pursuant to Rule of Procedure 331 of the Idaho Public Utilities Commission ("Commission"), files this Answer to Idaho Power Company's ("Idaho Power") Petition for Clarification and/or Reconsideration ("Petition") of the Commission's Order No. 32697 ("Order"). Because Idaho Power's requested clarification regarding curtailment is unnecessary and unsupported by the record, Idaho Wind Partners requests the Commission to deny Idaho Power's request.

Idaho Power's stated basis for clarification is inconsistent with the actual language in the Order. The language at issue in the Order provides:

We further find that, while each power purchase agreement (PPA) that we have reviewed contains a general reference to 18 C.F.R. § 292.304(f), curtailment under this section was not reasonably contemplated when the parties entered into their agreements. The apparent need for such authority to curtail under these circumstances has only presented itself within the last several

years in Idaho – and, as evidenced by the testimony, seems to be a problem only on Idaho Power’s system.

Order at 36. Contrary to Idaho Power’s claim in the Petition at page 5, this language does not make any broad pronouncement about the general applicability of FERC regulations and federal law to PURPA contracts. Therefore, clarification is unnecessary.

Further, the actual clarification requested by Idaho Power is unsupported by the record.

Specifically, Idaho Power requests the Commission to order:

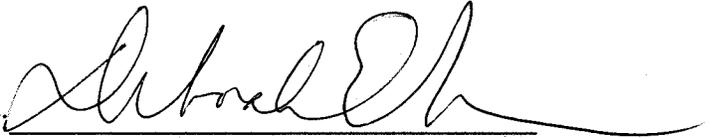
that the Commission’s finding that curtailment under 18 C.F.R. § 304(f) “was not reasonably contemplated when the parties entered into their agreements” refers only to the factual, operation circumstances that exist today, that may not have existed at the time of contracting, and specifically does not mean that the parties did not contemplate the application of FERC regulations or federal law to the PURPA contracts when entering into those agreement, including 18 C.F.R. § 304(f).

Petition at 9 (emphasis added). It is inaccurate to suggest that the parties “only did not contemplate the factual, operation circumstances that exist today.” The parties *also* did not contemplate or intend, for example, that the contract’s general reference to a range of FERC regulations equated to a mutual agreement to allow low-loading (i.e. Section 304(f)) curtailment. There is no evidence in the record that Idaho Wind Partners, or any other similarly-situated party, intended such agreement in fact when entering into the contracts. Instead, as the Commission found, despite that reference, “curtailment under this section was not reasonably contemplated when the parties entered into their agreements. The apparent need for such authority to curtail under these circumstances has only presented itself within the last several years in Idaho – and, as evidenced by the testimony, seems to be a problem only on Idaho Power’s system.” Order at 36.

For these reasons, Idaho Wind Partners respectfully requests the Commission to deny Idaho Power's request for clarification and/or reconsideration of the Order's curtailment language.

DATED this 15th day of January 2013.

GIVENS PURSLEY LLP

By: 

Deborah E. Nelson

Attorneys for Idaho Wind Partners 1, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of January 2013 the foregoing was served upon the following individuals by the means indicated.

Original plus 7 copies:

Jean Jewell	<input type="checkbox"/>	U.S. Mail, postage prepaid
Secretary	<input type="checkbox"/>	Express Mail
Idaho Public Utilities Commission	<input checked="" type="checkbox"/>	Hand Delivery
472 W. Washington	<input type="checkbox"/>	Facsimile
P.O. Box 83720	<input type="checkbox"/>	E-Mail
Boise, ID 83720-0074		
<u>jean.jewell@puc.idaho.gov</u>		

Service copies:

Donovan E. Walker	<input type="checkbox"/>	U.S. Mail, postage prepaid
Idaho Power Company	<input type="checkbox"/>	Express Mail
PO Box 70	<input type="checkbox"/>	Hand Delivery
Boise, ID 83707-0070	<input type="checkbox"/>	Facsimile
E-mail: <u>dwalker@idahopower.com</u>	<input checked="" type="checkbox"/>	E-Mail
<i>Idaho Power Company</i>		

Michael G. Andrea	<input type="checkbox"/>	U.S. Mail, postage prepaid
Avista Corporation	<input type="checkbox"/>	Express Mail
1411 E. Mission Ave.	<input type="checkbox"/>	Hand Delivery
Spokane, WA 99202	<input type="checkbox"/>	Facsimile
E-mail: <u>michael.andrea@avistacorp.com</u>	<input checked="" type="checkbox"/>	E-Mail
<i>Avista Corporation</i>		

Daniel Solander	<input type="checkbox"/>	U.S. Mail, postage prepaid
PacifiCorp / dba Rocky Mountain Power	<input type="checkbox"/>	Express Mail
201 S. Main St., Suite 2300	<input type="checkbox"/>	Hand Delivery
Salt Lake City, UT 84111	<input type="checkbox"/>	Facsimile
E-mail: <u>daniel.solander@pacificorp.com</u>	<input checked="" type="checkbox"/>	E-Mail
<i>Pacificorp, dba Rocky Mountain Power</i>		

Kristine A. Sasser	<input type="checkbox"/>	U.S. Mail, postage prepaid
Deputy Attorneys General	<input type="checkbox"/>	Express Mail
Idaho Public Utilities Commission	<input type="checkbox"/>	Hand Delivery
472 W. Washington (83702)	<input type="checkbox"/>	Facsimile
PO Box 83720	<input checked="" type="checkbox"/>	E-Mail
Boise, ID 83720-0074		
E-mail: <u>kris.sasser@puc.idaho.gov</u>		
<u>don.howell@puc.idaho.gov</u>		

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

*The Northwest and Intermountain Power
Producers Coalition
J.R. Simplot Company
Grand View Solar II
Exergy Development Group of Idaho, LLC
The Board of County Commissioners of
Adams County
Clearwater Paper Corporation*

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Robert D. Kahn
Executive Director
Northwest and Intermountain Power
Producers Coalition
1117 Minor Ave., Suite 300
Seattle, WA 98101
E-mail: rkahn@nippc.org
*The Northwest and Intermountain Power
Producers Coalition*

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

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

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Robert A. Paul
Grand View Solar II
15690 Vista Circle
Desert Hot Springs, CA 92241
E-mail: robertapau108@gmail.com
Grand View Solar II

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

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

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Dr. Don Reading
6070 Hill Road
Boise, ID 83703
E-mail: dreading@mindspring.com
dr@benjohnsonassociates.com
Exergy Development Group of Idaho, LLC

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Ronald Williams
Williams Bradbury, P.C.
1015 W. Hays St.
Boise, ID 83702
E-mail: ron@williamsbradbury.com
Renewable Energy Coalition
Dynamis Energy, LLC

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

John R. Lowe, Consultant
12050 SW Tremont St.
Portland, OR 97225
E-mail: jravenousanmarcos@yahoo.com
Renewable Energy Coalition

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

R. Greg Ferney
Mimura Law Offices, PLLC
2176 East Franklin Road, Suite 120
Meridian, ID 83642
greg@mimuralaw.com
Interconnect Solar Development, LLC

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

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

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

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

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

C. Thomas Arkoosh
Arkoosh Eiguren LLC
802 West Bannock, 9th Floor
P.O. Box 2900
Boise, ID 83701
E-mail: tom.arkoosh@aelawlobby.com
North Side Canal Company
Twin Falls Canal Company
Big Wood Canal Company
America Falls Reservoir Dist No. 2

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

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

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

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

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Don Schoenbeck
RCS
900 Washington Street, Suite 780
Vancouver, WA 98660
E-mail: dws@r-c-s-inc.com

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Bill Brown, Chair
Brd of Commissioners of Adams County, ID
PO Box 48
Council, ID 83612
E-mail: bdbrown@frontiernet.net
*The Board of County Commissioners of
Adams County, Idaho*

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Ted S. Sorenson, P.E.
Birch Power Company
5203 South 11th East
Idaho Falls, ID 83404
E-mail: ted@tsorenson.net
Birch Power Company

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Glenn Ikemoto
Margaret Rueger
Idaho Windfarms, LLC
672 Blair Avenue
Piedmont, CA 94611
E-mail: glenni@envisionwind.com
margaret@envisionwind.com
Idaho Windfarms, LLC

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Dean J. Miller
Chas F. McDevitt
McDevitt & Miller, LLP
420 W. Bannock St. (83702)
PO Box 2564
Boise, ID 83701
E-mail: joe@mcdevitt-miller.com
*Idaho Windfarms, LLC
Ridgeline Energy, LLC
Renewable Northwest Project*

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

M.J. Humphries
Blue Ribbon Energy LLC
4515 S. Ammon Road
Ammon, ID 83406
E-mail: blueribbonenergy@gmail.com
Blue Ribbon Energy LLC

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Arron F. Jepson
Blue Ribbon Energy LLC
10660 South 540 East
Sandy, UT 84070
E-mail: arronesq@ao.com

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Megan Walseth Decker
Senior Staff Counsel
Renewable Northwest Project
421 SW 6th Avenue, Suite 1125
Portland, OR 97204
E-mail: megan@mp.org
Renewable Northwest Project

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Benjamin J. Otto
Idaho Conservation League
710 N. Sixth Street (83702)
PO Box 844
Boise, ID 83701
E-mail: botto@idahoconservation.org
Idaho Conservation League

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Liz Woodruff, Executive Director
Ken Miller, Clean Energy Program Director
Snake River Alliance
PO Box 1731
Boise, ID 83701
Email: lwoodruff@snakeriveralliance.org
kmiller@snakeriveralliance.org
Snake River Alliance

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Marv Lewallen
Clearwater Paper Corporation
601 W. Riverside Ave., Suite 1100
Spokane, WA 99201
E-mail: marv.lewallen@clearwaterpaper.com
Clearwater Paper Corporation

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Tauna Christensen
Energy Integrity Project
769 N 1100 E
Shelley, ID 83274
E-mail: tauna@energyintegrityproject.org
Energy Integrity Project

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

J. Kahle Becker
The Alaska Center
1020 W. Main St, Suite 400
Boise, ID 83702
E-mail: kahle@hahlebeckerlaw.com
Mountain Air Projects, LLC

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail

Michael J. Uda
Uda Law Firm, P.C.
7 W. 6th Avenue, Suite 4E
Helena, MT 59601
E-mail: muda@mthelena.com
Mountain Air Projects, LLC

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- E-Mail



Deborah E. Nelson