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IDAHO PUBLIC
UTILITIES COMMISSION

March 18, 2004

Jean Jewell, Commission Secretary
Idaho Public Utilities Commission
472 W. Washington St.
Boise, ID 83702-5983

Re: Comments on IPC-E-04-02 (ownership of environmental attributes)

Dear Ms. Jewell:

NW Energy Coalition and Advocates for the West¹ submit these comments on Idaho Power Company's request for a declaratory ruling on ownership of environmental attributes ("green tags") associated with qualifying facilities under PURPA.

We concur with the thoughtful comments of Bonneville Environmental Foundation ("BEF") in this proceeding. BEF's comments deserve careful consideration in no small part because BEF markets and sells green tags in Idaho for Idaho Power's Green Power Program.

We also appreciate and agree with the general position taken by Idaho Power Company (that green tag ownership should stay with project owners), which reflects an understanding by the Company of the value of the environmental benefits of renewable resources.

Ownership of Green Tags

Two fundamental reasons underlie our position that green tags should stay with owners of qualifying facilities:

First, PURPA requires utilities to pay at least their avoided cost for power from qualifying facilities. If Idaho Power were deemed to own the green tags associated with these projects, the Company effectively could pay less than avoided cost for that power, in violation of PURPA. Of course, this concern potentially could be addressed via contract negotiations between Idaho Power and the independent developer. But such a system would put developers of qualifying facilities (particularly small facilities) at a distinct disadvantage, considering that Idaho Power is largely a monopsony (single buyer) of small power production in southern Idaho. The market for their green tags, which is potentially national in scope, would shrink to just one buyer.

¹ The NW Energy Coalition is a multi-state association of energy efficiency, clean energy, environmental, and other public interest organizations engaged in promoting a clean, reliable, and economic energy future for the Pacific Northwest. Advocates for the West is a nonprofit conservation law and advocacy center, which supports renewable energy resources and energy efficiency improvements.

Second, green tags are just one collateral value that PURPA qualifying facilities can have, apart from the production of electrons. For example, methane digesters installed at dairies can improve overall waste management, including by producing a more marketable compost product; and digesters could help resolve local odor problems. Canal-drop hydro systems can have independent value to their owners for channel maintenance, water flow management or other reasons. These values are real and separate from the production of electricity at qualifying facilities, but a utility could not possibly claim ownership of them.

Right of First Refusal

We join BEF's position that Idaho Power also should not enjoy a right of first refusal (ROFR) to purchase green tags from qualifying facilities. Quite simply, we do not believe the Company has presented any legal or other compelling basis to obtain such a right. Furthermore, as BEF noted, a ROFR could reduce the market value of the tags. Green tag marketers such as BEF would tend to avoid investing time and money in helping new qualifying facilities get off the ground, when those efforts could be thwarted by Idaho Power's exercise of its ROFR. In the end, a ROFR held by Idaho Power would unnecessarily hurt small power producers interested in creating an environmentally friendly energy product.

Conclusion

The Commission should encourage and support a robust market for green tags, which fosters development of new clean forms of energy production in Idaho. The Commission should confirm that qualifying facility developers own the environmental attributes associated with their projects, free from rights of first refusal.

Sincerely,



William M. Eddie, Attorney

On behalf of NW Energy Coalition, and
Advocates for the West

cc:

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