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IDAHO PUBLIC
UTILITIES COMMISSION

ORIGINAL

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF
IDAHO POWER COMPANY FOR AN
ORDER TEMPORARILY SUSPENDING
IDAHO POWER'S PURPA OBLIGATION TO
ENTER INTO CONTRACTS TO PURCHASE
ENERGY GENERATED BY WIND-
POWERED SMALL POWER PRODUCTION
FACILITIES.

Case No. IPC-E-05-22

**ANSWER TO PETITIONS OF
IDAHO POWER COMPANY FOR
RECONSIDERATION AND FOR
STAY**

COME NOW, Magic Wind LLC, Cassia Wind Park LLC, Cassia Wind LLC (collectively
"Magic and Cassia"), pursuant to IPUCRP 331.05, and Answer the Petitions of Idaho Power
Company ("Idaho Power", "IPCo") for Reconsideration and for Stay as follows, to wit:

Petition for Reconsideration.

Idaho Power's Petition does not add any thing to the record with respect to the legal
issues associated with exemption standards, but merely concurs in the views expressed in the
Staff Petition for Reconsideration dated August 31, 2005. "Idaho Power will not repeat in this
Petition all of the legal citations already presented in the Staff's Petitions." (Petition, pg. 3).

Accordingly, Magic and Cassia will not repeat here their demonstration of the error in Staff's reasoning. In their Answers to the Windland Petition and the Staff Petition, Magic and Cassia demonstrated that the exemption standard employed in change-of-rate cases was legally permissible in those circumstances, but is not legally required in this case involving change-of-eligibility criteria.

As a regulatory body, the Commission is not bound by the doctrine of *stare decisis* in the same way courts of law are:

Because regulatory bodies perform legislative as well as judicial functions in their proceedings, they are not so rigorously bound by the doctrine of *stare decisis* that they must decide all future cases in the same way as they have decided similar cases in the past. *Intermountain Gas Co. v. Idaho Pub. Util. Comm'n*, 97 Idaho 113, 119, 540 P.2d 775, 781 (1975). *Rosebud Enterprises v. Idaho pub. Util. Comm'n*, 128 Idaho 609, 917 P.2d 766 (1996).

Where good reasons exist, the Commission has the flexibility to adopt different policies for different circumstances. And, as also demonstrated in Magic and Cassia's Answers to the Windland and Staff Petitions, good reasons exist for the adoption of a different standard from that applicable to change-of-rate cases.

With respect to the threshold criteria of submission of an interconnection application, the Idaho Power Petition makes an assertion of fact that is not supported by and is contradicted by the record. The Petition states, "Submittal of a request for an interconnection study is only the first step in the interconnection process." (IPCo Petition, pg. 5). In fact, submission of an interconnection application is not just the "first step" in the interconnection process. It has greater significance. Exhibit 605, received in evidence at the evidentiary hearing, is an Idaho Power Company publication that provides information to potential interconnectors. It describes the interconnection application this way:

“Receipt of the completed application and the associated fee will be considered the *official notification to Idaho Power Company* of your intention to interconnect.” (Emphasis added).

Idaho Power publishes on its website, in summary form, a list of projects that have submitted interconnection applications, presumably so that other potential interconnectors can know where they stand “in the queue” of projects seeking to interconnect. (Tr., pg. 78).

Thus, submission of an interconnection application is not simply an incidental “first step” in the interconnection process. It is considered by IPCo as the *official notification* of intent to interconnect. It becomes the basis for notification to the public of the amount of capacity IPCo considers being committed for supply to IPCo.

And, in Exhibit 603, IPCo’s Answer to Magic and Cassia Discovery Requests, Idaho Power indicated that the amount of capacity represented by interconnection applications for projects less than 20 mw, as of the date of IPCo’s Petition, was 79.07 mw. This is hardly a “deluge” when compared to IPCo’s plans to add 940 mw over a ten year period or when compared to IPCo’s system name plate capacity of 3,000 mw. (Exhibit 604, Tr., Pg. 78-79).

Finally, submission of an interconnection application must be accompanied by payment of a substantial fee, providing further indication of a project’s serious intent to proceed. (Exhibit 605).

For these reasons, the Commission’s selection of submission of an interconnection application as a threshold criterion is reasonable and should be retained. Submission of an application is not just a “first step”. It is an official notification of intent. It becomes the basis for public notification of the amount of committed capacity. It would produce a class of exempt projects that is not large. It is strong evidence of serious intent to proceed.

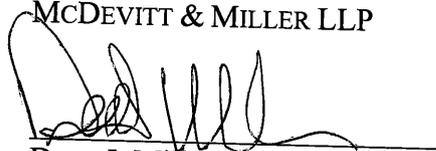
Petition to Stay

Because, as demonstrated above, IPCo's Petition for Reconsideration is without merit, it follows that the Petition to Stay should also be denied.

DATED this 12 day of September, 2005.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of September, 2005, I caused to be served, via the method(s) indicated below, true and correct copies of the foregoing document, upon:

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