

IDAHO POWERS REFUSAL TO RESPOND VIOLATES THIS COMMISSION'S
RULES RELATING TO CONFIDENTIAL INFORMATION

Exergy served production requests and requests for answers to written interrogatories on Idaho Power in the above captioned docket on June 30, 2005. In response, Idaho Power timely filed an objection to the following requests for production of documents and written interrogatories:

Request for Production of Documents No. 2: Please provide all workpapers and other supporting documents used to support the statement that "Idaho power has received contacts from developers to pursue new QF projects with a nameplate capacity of 267.5 MW including 193 MW of new wind-powered projects." For each project please provide a copy of its QF certification and any other documentation that may be used to identify said project.

Request for Production of Documents No. 3: Please provide all supporting documents and workpapers used to support the statement in the Petition at pages 5-6 that "Idaho Power has recently reviewed the bid responses received in the 2005 RFP. The bids received, on average, propose purchase rates of approximately \$55.00 per MWh".

Interrogatory No. 9: How many MW of wind-generation were bid to Idaho Power in response to its 2005 RFP?

Interrogatory No. 10: Please describe the process yet to be completed in the 2005 RFP, for example, is there a short list? How many MW are on the short list? Have the "unsuccessful bidders" reference at the top of page 7 of the Petition been notified of their status? How many unsuccessful bidders are there?; How many MW did the unsuccessful bidders bid into the 2005 RFP?

Idaho Power claims the above requests are "protected by a duly authorized confidentiality agreement between Idaho Power Company and certain third parties . . .or by confidential inquiries from potential qualifying power production facilities." That assertion is insufficient to support an objection to respond to discovery. According to Rule 233 of this Commission's

Rules of Procedure:

Whenever any party to a request for discovery believes that material otherwise discoverable is protected by statute or rule of law from inspection, examination or copying by the general public, the attorney for the party asserting the material is

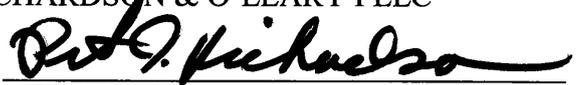
protected by law from inspection, examination or copying must state that the answer or some portion of it is protected, citing the specific statute or other legal authority for that position.

Idaho Power made no such assertion in its objection. The Company cited to no statute or other legal authority supporting its claim to be excused from responding based on confidentiality. Had it cited this Commission to a specific statute or other legal authority, it would likely have cited Rule 67 of the Commission's Rules of Procedure which provides a specific procedure for keeping said confidential information from public exposure. It does not excuse Idaho Power from providing that information, however.

Exergy respectfully requests this Commission issue its order compelling Idaho Power to Comply with Rule 67 by responding fully to Exergy's discovery and following the well established procedures for doing so with respect to confidential information. Exergy stands ready to execute a protective agreement as provided for in Rule 67(04).

DATED this 18th day of July 2005. RICHARDSON & O'LEARY PLLC

By


Peter J. Richardson

Attorneys for Exergy Development Group

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day, July 18, 2005, I caused a true and correct copy of the foregoing **MOTION TO COMPEL OF EXERGY DEVELOPMENT GROUP OF IDAHO LLC** to be served by the method indicated below, and addressed to the following:

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