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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

**MOTION TO DETERMINE
EXEMPTION STATUS**

COMES NOW Magic Wind LLC, ("Magic Wind") by and through its counsel of record and respectfully moves the Commission for an Order determining that Magic Wind is exempt from the reduction of published rate cap eligibility for published avoided costs from 10 aMW to 100 kw contained in Order No. 29839, and in support thereof respectfully shows as follows:

1. On August 4, 2005 the Commission issued Order No. 29839 reducing the eligibility standard for published avoided cost from 10 aMW to 100 kw. In the same Order the Commission created an exemption from the new eligibility requirement, defined as follows:

For purposes of determining eligibility we find it reasonable to use the date of the Commission's Notice in this case, i.e., July 1, 2005. For those QF projects in the negotiation queue on that date, the criteria that we will look at to determine project eligibility are: (1) submittal of a signed power purchase agreement to the utility, or (2) submittal to the utility of a completed Application for the Interconnection Study and payment of fee. In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g., (1) a

wind study demonstrating a viable site for the project, (2) a signed contract for wind turbines, (3) arranged financing for the project, and/or (4) related progress on the facility permitting and licensing path.

2. Thereafter, on September 21, 2005, in response to Petitions for Reconsideration, the Commission affirmed the exemption standard above set forth, although the eligibility date was changed from July 1, 2005 to August 4, 2005. *See Order No. 29872*, pg 12.

3. As established by the Affidavit of Armand Eckert, filed contemporaneously herewith, Magic Wind, meets at least one of the threshold eligibility requirements and at least one of the secondary requirements and is therefore exempt from the new eligibility cap. The Affidavit of Mr. Eckert refers to documents which Magic Wind considers to be confidential or trade secrets. Said documents will be made available to Staff and Idaho Power Company upon execution of an appropriate Protective Agreement.

WHEREFORE Magic Wind respectfully requests that the Commission enter its Order determining that Magic Wind is exempt from the eligibility cap established by Order No. 29839.

DATED this 10 day of October, 2005.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of October, 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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A handwritten signature in cursive script, appearing to read "William M. Eddie", is written over a horizontal line.