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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
IDAHO POWER COMPANY FOR APPROVAL) CASE NO. IPC-E-05-24
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND ARROW ROCK)
WIND, INC.) COMMENTS OF THE
) COMMISSION STAFF
)
)
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COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Scott Woodbury, Deputy Attorney General, and in response to the Notice of Application, Notice of Modified Procedure and Notice on Comment/Protest Deadline issued on August 19, 2005, submits the following comments.

BACKGROUND

On July 28, 2005, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a Firm Energy Sales Agreement (Agreement) between Idaho Power and Arrow Rock Wind, Inc. (Arrow Rock) dated July 28, 2005. Under the Agreement, Arrow Rock will sell and Idaho Power will purchase electric energy generated by the Arrow Rock Wind Generating Project, located near Billings, Montana, in an area more particularly described as located approximately 100 miles northwest of

Billings, Montana in Wheatland County on the west side of Highway 191 in the NW 1/4 of Section 36, Township 10 N, Range 15 E. The nameplate rating of the wind facility is 19.5 MW. Under normal and/or average conditions, the project will not exceed 10 aMW on a monthly basis.

As represented, Arrow Rock will be a qualified small power production facility (QF) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). Idaho Power contends that the Agreement comports with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal et al v. Idaho Power*) and avoided cost Order No. 29646. The Agreement is for a 20-year term and contains the published non-levelized avoided cost rates set forth in Order No. 29646. Arrow Rock has selected December 1, 2005 as the scheduled Operation Date for this facility.

Arrow Rock has made arrangements with NorthWestern Energy to deliver the net energy from its Montana facility to the Idaho Power electrical system. The transmission arrangement with NorthWestern Energy means that the Company will receive firm energy from the facility rather than the intermittent energy generally associated with a wind-generating project. Energy deliveries from the Arrow Rock project are for nine months out of the year and exclude deliveries during the spring months of March, April and May when the value of energy on the Company's system is the lowest.

Idaho Power acknowledges the Company's Petition in Case No. IPC-E-05-22 and represents that Arrow Rock was in the final stages of negotiations with Idaho Power immediately prior to the Petition filing and that prior to that date Arrow Rock had submitted an executed Agreement to the Company. It is Idaho Power's contention that Arrow Rock provides a firm energy product and is appropriate for exempting from the temporary suspension requested by the Company in Case No. IPC-E-05-22.

Section 22 of the Agreement provides that the Agreement will not become effective until the Commission has approved all the Agreement's terms and conditions and declared that all payments that Idaho Power makes to Arrow Rock for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

ANALYSIS

The general location of the Arrow Rock project is shown on Attachment A. The Project is located in central Montana within the service territory of NorthWestern Energy. Arrow Rock will comprise 13 wind turbines of the total 90 turbines that constitute a larger project termed the Judith Gap Project. Attachment B shows the location of the Arrow Rock Project in relation to the Judith Gap Project. Each of the small, square numbered dots on the map represents a separate wind turbine. It is Staff's understanding that the entire Judith Gap Project is currently under construction, including those turbines yet to be purchased by Arrow Rock from Invenergy, the owner and developer of the Judith Gap Project. If the Agreement is approved, the Arrow Rock Project will be the third project located in Montana selling its output to Idaho Power under a PURPA agreement.

The Judith Gap Project was the successful bidder in a recent Request for Proposals (RFP) issued by NorthWestern Energy. Under the agreement between Judith Gap and NorthWestern, NorthWestern will purchase 135-150 MW of generation from Judith Gap at a price of \$31.71 per MWh and will bear whatever costs must be incurred to integrate the project's generation into its system. Presently, these costs remain unknown.

Arrow Rock has an agreement to lease the land on which the turbines are being erected and to lease the transmission interconnection facilities needed to deliver output to NorthWestern Energy's system. Arrow Rock has also agreed to purchase 13 of Judith Gap's wind turbines. At the present time, Arrow Rock does not yet own the turbines, but it is trying to obtain a letter of intent with Invenergy to purchase them. As of the filing date of these comments, a signed letter of intent has not been obtained. Because Arrow Rock does not yet have either an ownership agreement or a signed letter of intent to purchase the turbines, Staff has concern about Arrow Rock's ability to have control of the generation facilities. Despite these concerns, however, there are no Commission rules requiring or specifying ownership or lease arrangements.

The generation produced by Arrow Rock will be delivered to NorthWestern, who in turn will "firm" the energy and deliver a flat 10 MW product to Idaho Power. Under the power sales Agreement between Arrow Rock and Idaho Power, Arrow Rock will only sell its output to Idaho Power in nine months of the year. In March, April and May, Arrow Rock will sell its output to NorthWestern under a separate agreement. The terms of that separate agreement have not been provided to Staff or to Idaho Power.

As understood by Staff, Arrow Rock will not assume responsibility for operation and maintenance of the project, but will instead contract with Invenergy to insure operation and maintenance, either under one of the various agreements discussed above or under a separate agreement.

Under its Agreement with Idaho Power, Arrow Rock will sell its output to Idaho Power at the published non-levelized avoided cost rates. For purposes of comparison, these non-levelized rates are equal to approximately \$59.62 per MWh on a levelized basis. Notably, the price Arrow Rock will be paid by Idaho Power is substantially higher than the \$31.71 per MWh price NorthWestern Energy is paying to the adjacent Judith Gap project for its generation. Admittedly, NorthWestern will have to incur additional costs beyond the \$31.71 per MWh paid to Judith Gap in order to integrate the generation into its system. Nevertheless, the \$59.62 per MWh to be paid by Idaho Power to Arrow Rock is apparently high enough to entice Arrow Rock, Invenergy and NorthWestern Energy to structure this Agreement with Idaho Power, rather than include generation from the 13 turbines in the Judith Gap generation sold to NorthWestern. Even with the additional transmission and firming costs Arrow Rock must incur in order to sell to Idaho Power, it presumably generates more revenue than it would if it sold directly to NorthWestern Energy as a part of the overall Judith Gap Project.

Certainly, one view of this Agreement could be that 13 turbines have been “carved off” from the Judith Gap Project so that 10 aMW of project output could be sold to Idaho Power at a higher price than would otherwise have been received. This arrangement, Staff believes, illustrates some of the problems of wind projects still being debated in Case No. IPC-E-05-22. The disparity between Idaho’s published avoided cost rates for QFs and the prices bid in wind RFPs create incentive for larger projects, both within and outside the state, to disaggregate 10 aMW portions in order to seek higher rates.

However, even with the apparent price differential, this Agreement represents a better deal to Idaho Power and its ratepayers than other PURPA contracts. The rate being paid by Idaho Power is the same as the rate paid under any other PURPA contract, but Idaho Power is receiving a completely firm, thus more valuable product in return. Moreover, unlike other contracts, Idaho Power is not required to accept output from the project during March, April and May when it normally is not seeking to acquire power. When viewed from this perspective, the Agreement appears to be a good deal for Idaho Power and its ratepayers.

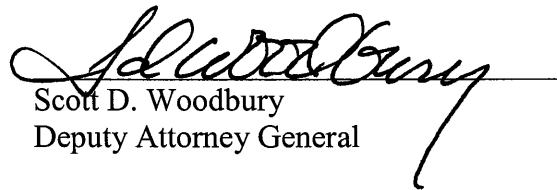
In the final analysis, Staff sees nothing about the Agreement that either violates PURPA or that is not in compliance with prior Commission orders. As a result, Staff recommends that the Commission approve the Agreement. Those aspects of the Arrow Rock Project that cause concern, such as the disparity between Idaho's avoided cost rates paid for 10 aMW of Arrow Rock output and the prices paid for the remaining Judith Gap output, ownership status, and the disaggregation of large projects into 10 aMW pieces, can perhaps be addressed and remedied in the context of Case No. IPC-E-05-22.

Staff believes that the Arrow Rock Project is unaffected by Order No. 29839 concerning wind project eligibility. Under the Order, wind projects that are firmed, as the Arrow Rock project is, are not subject to the change in published rate eligibility and grandfathering criteria. Consequently, Staff believes that the Company's Application should be approved without delay due to ongoing proceedings in Case No. IPC-E-05-22.

RECOMMENDATION

Staff recommends approval of the Agreement.

RESPECTFULLY submitted this 9th day of September 2005.


Scott D. Woodbury
Deputy Attorney General

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Location of the Arrow Rock Wind Project

