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IDAHO PUBLIC
UTILITIES COMMISSION

November 28, 2005

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074

Please consider these comments as applicable to each of the following four open cases:

IN THE MATTER OF THE APPLICATION)	
OF IDAHO POWER COMPANY FOR)	
APPROVAL OF A FIRM ENERGY SALES)	
AGREEMENT FOR THE SALE AND)	
PURCHASE OF ELECTRIC ENERGY)	
BETWEEN IDAHO POWER COMPANY)	
AND MILNER DAM WIND PARK, LLC)	CASE NO. IPC-E-05-30
AND LAVA BEDS WIND PARK, LLC)	CASE NO. IPC-E-05-31
AND NOTCH BUTTE WIND PARK, LLC)	CASE NO. IPC-E-05-32
AND SALMON FALLS WIND PARK, LLC)	CASE NO. IPC-E-05-33

Dear Commissioners:

The existing PURPA contract terms, developed over the last two decades, are inadequate to address the risks to Idaho ratepayers associated with the four referenced cases. If approved the Milner Dam, Lava Beds, Notch Butte and Salmon Falls wind parks would bring to 147MW the total size of proposed but not yet built Exergy Development Group QF wind parks. The presence of "signed but not yet built" wind PURPA contracts limits Idaho Power Company's options to procure other wind energy resources. If these four projects are approved but not built on schedule there is a significant financial risk to Idaho ratepayers.

Windland is not suggesting that these four additional wind parks not be approved. Rather we request that the Commission examine the totality of facts associated with these four contracts and only approve them if their common developer provides adequate assurances that the projects will be timely built.

Federal Production Tax Credits dramatically effect wind energy pricing

Idaho Power Company seeks some, but not too much, wind powered electric energy. The company's 2004 Integrated Resource Plan established the need for wind energy in IPC's generation mix and in January of this year the company released an RFP for 200MWs of wind generation. Before reaching any resolution of that RFP process, IPC petitioned the Commission

on June 17th to temporarily suspend its obligation to procure energy from intermittent wind powered QFs lest the company be forced to acquire wind energy that was “too much, too soon”.

A workshop based review by parties effected by case IPC-E-05-22 and a wind integration study are underway to determine how much wind generation would be “too much” for the Idaho Power system. What has not been as clearly addressed is how variations in federal tax law effect the calculation of when is “too soon” for IPC to acquire wind energy resources.

The cost structure of a commercial wind generation facility in the United States varies enormously with the absence or availability of a federal Production Tax Credit or PTC. As a consequence, so does the price that market forces require be paid for the electric energy the facility produces. At 1.9¢ of federal income tax credit for each kilowatt-hour of electricity the facility generates during the first ten years of its operation, access to the PTC can lower a wind project’s break-even power price by 20-25%. When the PTC is available the ratepayers do not have to pay almost 2¢/kWh that the federal government effectively pays.

The effect of variations in PTC availability can be seen in the chart below. During years when the PTC expired (see 1998, 2000, 2002 & 2004 below) wind projects stop being cost effective. When the tax credits were available (1999, 2001 and 2003), large amounts of wind generation were brought on-line. Eligibility under the PTC was re-extended in August of 2005 for projects that will be in commercial operation before December 31, 2007. As the chart shows, record levels of wind project development are expected to continue through the end of 2007. Part of the reason for this expected record build out rate is the widespread belief that current federal fiscal realities will preclude the PTC being extended beyond December 2007.

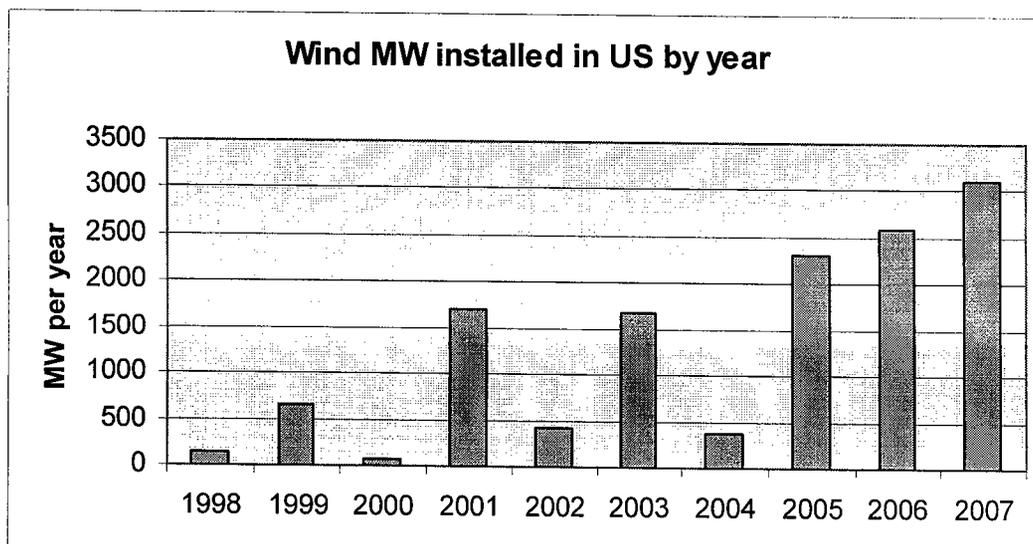


Chart #1 – PTC availability dramatically effects wind project economics
PTC not available: 1998, 2000, 2002 & 2004
PTC available 1999, 2001, 2003, 2005, 2006 & 2007

The terms of the current “wind” PURPA contracts are not sufficient to effectively compel a QF company to actually build wind generation

Over the last twenty-two years Idaho Power Company has entered into more than 50 separate contracts with Hydro powered QFs and 10 more contracts with Thermal Co-generation QFs. The current backlog of 11 Exergy Development Group QF’s wind contracts (including these four cases pending PUC approval) signed by IPC but not yet built represent more annual energy production than all the hydro or all the co-gen QFs signed to date (see list in Attachment #1).

If a utility relies on an independent power producer to supply needed power and the power producer fails to supply the power as promised, the utility and its ratepayers may be injured. Consequently, large-scale commercial contracts between utilities and independent power producers almost always contain terms requiring the power producer to pay damages if the producer is late in delivering power from the project. Damage clauses in the commercial power purchase agreements protect the utility and its ratepayers against this form of non-performance.

Section 22 of the standard PURPA wind contract imposes requirements on the QF company to perform after the project is built but not before. If Exergy’s eleven QF projects are developed their LLCs will become active ownership vehicles containing substantial assets. But before each wind park is built the project company is an empty corporate shell with no significant assets. While IPC theoretically has the ability to sue a QF company that does not deliver wind energy on schedule, before the construction process starts the QF company is an empty LLC shell and as such is judgment proof.

The presence of “signed but not yet built” wind PURPA contracts limits IPC options to procure additional or alternative wind energy sources

IPC, as it prudently should, refrains from signing contracts to procure more wind generation than it needs and can reliably integrate to its system. However, if IPC does not receive contracted wind energy before the PTC expires IPC ratepayers will be harmed.

Historically IPC has purchased power from many small QF developers. QF facilities were developed by multiple parties, in relatively small increments and came on-line over a period of decades. The contract terms that were developed for these small projects do not adequately protect ratepayers from the risk of non-performance presented by a single large developer.

Never before have the quantity of QF contracts been large enough to displace one of IPC’s planned generation procurement activities. Now, the Exergy QF contracts have contributed to IPC scaling back its planned competitive procurement of wind energy from 200MWs to 100MWs. A mere potential that a QF project will be developed should not allow displacement of IPC’s opportunity to procure wind power during the current PTC window.

The economic reality is that Exergy Development Group has cleverly used a dozen separate QF companies to encompass a 157.5MW wind farm development. The Commission should look through the veil of a dozen separate QF LLC agreements and recognize that the current cases need not be viewed as four small power producers.

Unless the Commission addresses the risk of Exergy not timely constructing the projects envisioned in the four cases referenced above, Idaho Power's petition (case no. IPC-E-05-22) decrying the possibility the company may be forced to acquire an amount of intermittent wind generated electric energy that was "...too much, too soon..." may ironically result in Idaho ratepayers getting wind generation too late to benefit from the PTC.

Exergy Development Group has been late meeting target dates for all three projects to date

Exergy's QF projects have been late meeting scheduled milestones. As is detailed in Attachment #2, the United Materials project is now almost a year late in meeting its scheduled on-line date. The Fossil Gulch project is on-line but did not achieve that status by its January 1st, 2005 milestone target. The Burley Butte project did not meet its Oct 30th, 2005 first energy delivery. We do not expect the Thousand Springs, Pilgrim Stage, Oregon Trail and Tuana Gulch projects to all meet their December 31, 2005 scheduled operations date.

The four current cases (Milner Dam, Lava Beds, Notch Butte and Salmon Falls) are not scheduled to be in full operations until May 2007. If Exergy fails to bring those wind parks on line by that time it will be too late for IPC to procure alternate wind resources from another source before the PTC expires at the end of 2007.

The Commission should not approve these four PURPA contracts, or any other intermittent wind PURPA project, without adding terms to incentivize project completion

The Commission can view IPC-E-05-30 through 33 as four separate cases and narrowly review whether each of the four meet the requirements for grandfathering. Alternatively the Commission might pierce through these four and the related eight LLC entities and see behind them a single controlling developer in Exergy Development Group. IPC has effectively taken this broader perspective (see Attachment # 3 where information requests for the four projects are all directed to Exergy Development Group).

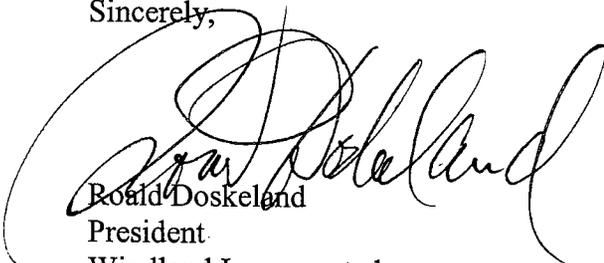
Exergy has used a clever form of corporate engineering creating multiple subordinate limited liability companies to meet the legal requirements of multiple "small power producers". In reality the twelve projects aggregate to more than 150MW and will likely cost more than \$200 million. Unlike the conditions that may have prevailed in earlier QF negotiations, Exergy and IPC negotiations are not a case where a "little guy" needs to be protected from the superior bargaining power of the "big utility". For that matter, any QF project of 20MW nameplate capacity will cost more than \$25 million to build. Modern wind projects are not financed and built like the small power producers of the past.

With these four cases, the IPC ratepayers need to be protected from the possible non-performance of the QF companies and their parent. The current PURPA contract terms do not impose a strong financial incentive for the developer to actually complete timely building of the project. The contracts never had to in the past for they did not displace other opportunities for the utility to acquire similar generation resources.

These four PURPA contracts do displace other wind resource acquisition. My company has been headquartered in Idaho for more than a decade. We have invested very large amounts of money developing wind resources in this state. We've done that with our eyes open and we recognize that those funds have been spent "at risk". If IPC were to acquire wind energy supplies from a Windland project or another wind project under the IPC wind RFP the power purchase agreement would contain clauses to protect Idaho ratepayers from the project developer's non-performance. These four wind PURPA projects are large enough resource commitments that their developer should provide similar protections.

History shows Exergy has missed milestones in the past. If Exergy fails to timely build and operate the four project currently presented for Commission approval the IPC ratepayers will be harmed. Windland requests that as a condition to approving these, or any future PURPA wind contracts, the Commission require adequate financial assurances that the projects will be available to produce energy on their scheduled completion dates. While not an exhaustive list, cash performance bonds tied to project completion, enhanced monitoring and penalties for not meeting project development/construction milestones, and/or liquidated damages from a solvent parent entity are possible additional terms.

Sincerely,



Ronald Doskeland
President
Windland Incorporated

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ATTACHMENT # 1

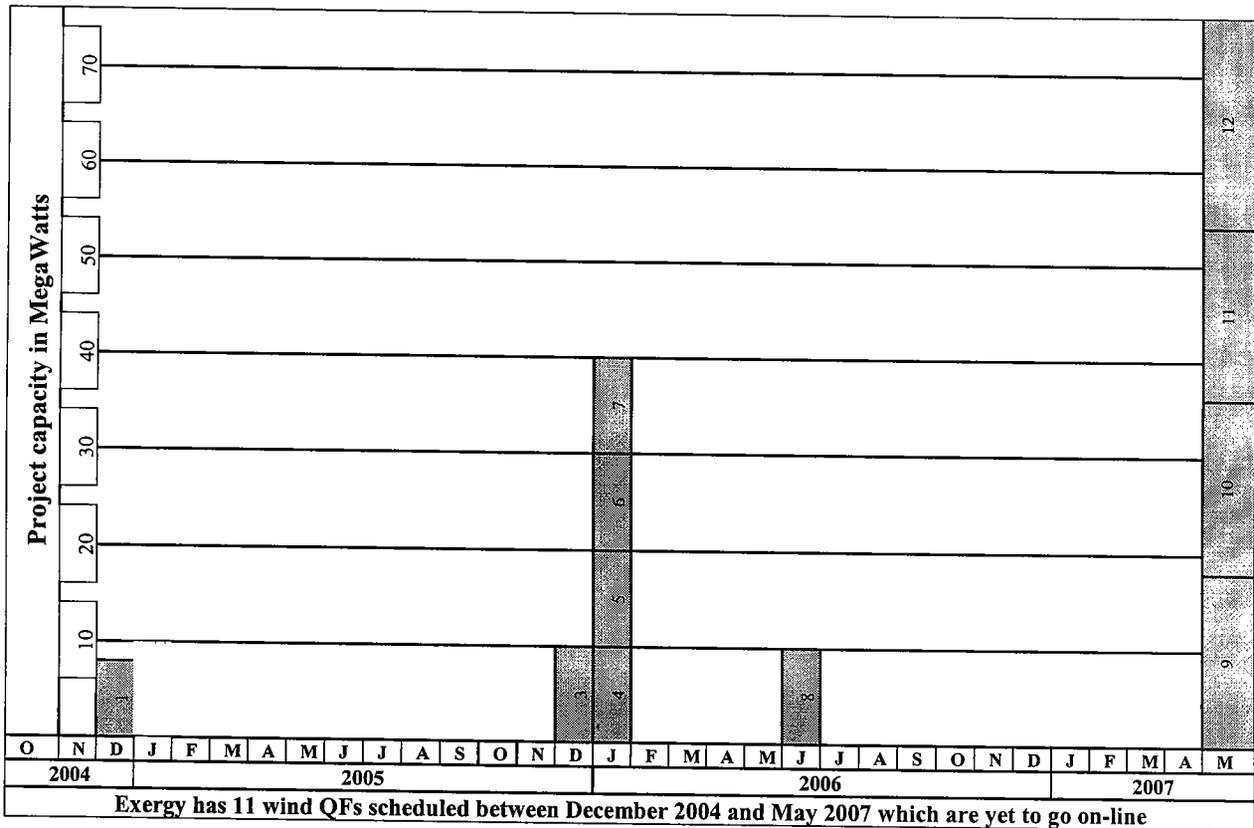
Exergy's eleven proposed, but not yet built, Wind QF projects will produce more annual energy than all the existing Hydro or Thermal QFs developed over the last 20 years combined.
 (147MW @ 30% capacity factor = 44.1 average annual MW) .

Idaho Power Company Qualifying Facilities Cogeneration and Small Power Production Projects					
Project	Contract On-line Date	Contract End Date	Project	Contract On-line Date	Contract End Date
<u>Hydro Projects</u>					
Barber Dam	Apr-1989	Apr-2024	Low Line Canal	May-1985	May-2020
Birch Creek	Nov-1984	Oct-2019	Lowline #2	Apr-1988	Apr-2023
Black Canyon #3	Apr-1984	Apr-2019	Magic Reservoir	Jun-1989	May-2024
Blind Canyon	Feb-1995	Feb-2015	Malad River	May-1984	Apr-2019
Box Canyon	Feb-1984	Feb-2019	Marco Ranches	Aug-1985	Jul-2020
Briggs Creek	Oct-1985	Oct-2020	Mile 28	Jun-1994	May-2029
Bypass	Jun-1988	Jun-2023	Mitchell Butte	May-1989	Dec-2023
Canyon Springs	Oct-1984	Sep-2004	Mud Creek/S & S	Mar-1982	Mar-2017
Cedar Draw	Jun-1984	May-2019	Mud Creek/White	Jan-1986	Jan-2021
Clear Springs Trout	Nov-1983	Nov-2018	Owyhee Dam Cspp	Apr-1984	Apr-2014
Crystal Springs	Apr-1986	Mar-2021	Pigeon Cove	Oct-1984	Oct-2019
Curry Cattle Company	Jun-1983	Jun-2018	Pristine Springs	Mar-1995	Mar-2005
Dietrich Drop	Aug-1988	Aug-2023	Pristine Springs #3		Non Firm
Elk Creek	May-1986	May-2021	Reynolds Irrigation	May-1986	May-2021
Falls River	Aug-1993	Aug-2028	Rim View		Non Firm
Faulkner Ranch	Aug-1987	Aug-2022	Rock Creek #1	Sep-1983	Jan-2018
Fisheries Dev.		Non Firm	Rock Creek #2	Apr-1989	Apr-2024
Geo-Bon #2	Nov-1986	Nov-2021	Sagebrush	Sep-1985	Aug-2020
Hailey Cspp	Jun-1985	Jun-2020	Schaffner	Aug-1986	Aug-2021
Hazelton A	Jun-1990	Jun-2010	Shingle Creek	Aug-1983	Jul-2018
Hazelton B	May-1993	May-2028	Shoshone #2	May-1996	Apr-2031
Horseshoe Bend	Sep-1995	Sep-2030	Shoshone Cspp	Jun-1982	Jun-2017
Jim Knight	Jun-1985	Jun-2020	Snake River Pottery	Nov-1984	Nov-2019
Kasel & Witherspoon	Mar-1984	Mar-2019	Snedigar	Jan-1985	Dec-2019
Koyle Small Hydro	Apr-1984	Apr-2019	Sunshine Power # 2		Non Firm
Lateral # 10	May-1985	May-2020	Tiber Dam	Jun-2004	Jun-2024
Lemoyne	Jun-1985	Jun-2020	Trout-Co	Dec-1986	Nov-2021
Little Wood Rvr Res	Feb-1985	Feb-2020	Tunnel #1	Jun-1993	Dec-2027
Littlewood / Arkoosh	Aug-1986	Aug-2021	White Water Ranch	Aug-1985	Jul-2020
			Wilson Lake Hydro	May-1993	May-2028
Total Hydro Average Annual Mw			41.78		
<u>Thermal Projects</u>					
Emmett Facility	Jun-2005	Estimated	Tamarack Cspp	Jun-1983	May-2018
Magic Valley	Nov-1996	Nov-2016	Tasco - Nampa	Oct-1998	Sep-2003
Magic West	Dec-1996	Dec-2016	Tasco - Twin Falls	Aug-2001	Jul-2006
Pocatello Waste	Dec-1985	Dec-2020	Vaagen Brothers	Sep-1995	Sep-2010
Simplot Pocatello	Feb-1991	Dec-2001	West Boise Waste	Dec-1991	Dec-2006
Total Thermal Average Annual Mw			41.15		

Attachment #2

Of the twelve Exergy QF contracts signed with IPC, only Fossil Gulch (project #2 in the table below) is currently operating and it was late coming on-line. Windland believes projects 1, 3, 4, 5, 6 & 7 are now or will be late meeting their scheduled operation dates / first energy dates of Dec 2004, Dec 2005 and Jan 2006 as shown on the schedule below.

Proj #	QF party entering contract with IPC	Capacity (MW)	First energy date	Scheduled Operation date	Case number
1	United Materials of Great Falls, Inc.	9MW	not specified	Dec 31, 2004	04-01
2	Fossil Gulch Wind Park, LLC.	10.5MW	Dec 15, 2004	Jan 1, 2005	04-19
3	Burley Butte Wind Park, LLC.	10.5MW	Oct 30, 2005	Dec 1, 2005	05-18
4	Thousand Springs Wind Park, LLC	10.5MW	Jan 15, 2006 (sic)	Dec 31, 2005	05-06
5	Pilgrim Stage Wind Park, LLC.	10.5MW	Jan 15, 2006 (sic)	Dec 31, 2005	05-07
6	Oregon Trail Wind Park, LLC.	10.5MW	Jan 15, 2006 (sic)	Dec 31, 2005	05-08
7	Tuana Gulch Wind Park, LLC.	10.5MW	Jan 15, 2006 (sic)	Dec 31, 2005	05-09
8	Golden Valley Wind Park, LLC.	10.5MW	Apr 31, 2006 (sic)	Jun 1, 2006	05-17
Total Approved 82.5MW					
9	Milner Dam Wind Park, LLC.	18MW	Nov , 2006	May , 2007	05-30
10	Lava Beds Wind Park, LLC.	18MW	Nov , 2006	May , 2007	05-31
11	Notch Butte Wind Park, LLC.	18MW	Nov , 2006	May , 2007	05-32
12	Salmon Falls Wind Park, LLC.	21MW	Nov , 2006	May , 2007	05-33
Total pending PUC approval 75MW					
Total Exergy QF contracts 157.5 MW		157.5MW			



ATTACHMENT # 3

Idaho Power looks through the QF companies when requesting additional PURPA application information for Milner Dam Wind Park, Lava Beds Wind Park, Notch Butte Wind Park and Salmon Falls Wind Park. The requests were not sent to the individual project LLCs, rather they were all forwarded to the common controlling entity, Exergy Development Group, LLC. The complete letters, from which these salutations are excerpts, are included under Attachment 1 to the application for contract approval for each of the four cases.


An IDACORP Company

Randy C. Allphin
Contract Administrator

August 8, 2005

James Carkulis
Exergy Development Group, LLC
P O Box 5212
Helena, MT 59601

E-mail Copy: mtli@in-tch.com

Original: US Mail

RE: Lava Beds Wind Park
Request for a PURPA contract for a proposed Wind Generation Facility.


An IDACORP Company

Randy C. Allphin
Contract Administrator

August 8, 2005

James Carkulis
Exergy Development Group, LLC
P O Box 5212
Helena, MT 59601

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Original: US Mail

RE: Milner Dam Wind Park
Request for a PURPA contract for a proposed Wind Generation Facility.


An IDACORP Company

Randy C. Allphin
Contract Administrator

August 8, 2005

James Carkulis
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Helena, MT 59601

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RE: Notch Butte Wind Park
Request for a PURPA contract for a proposed Wind Generation Facility.


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Randy C. Allphin
Contract Administrator

August 8, 2005

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Original: US Mail

RE: Salmon Falls Wind Park
Request for a PURPA contract for a proposed Wind Generation Facility.