

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

FROM: SCOTT WOODBURY

DATE: OCTOBER 27, 2005

**SUBJECT: CASE NOS. IPC-E-05-30; 05-31; 05-32; 05-33 (Idaho Power)
FIRM ENERGY SALES AGREEMENTS – MILNER DAM (05-30); LAVA
BEDS (05-31); NOTCH BUTTE (05-32); SALMON FALLS (05-33)**

On October 20, 2005, Idaho Power Company (Idaho Power; Company) filed four Applications with the Idaho Public Utilities Commission (Commission) requesting approval of Firm Energy Sales Agreements (Agreements) between Idaho Power and Milner Dam Wind Park LLC (Milner Dam); Lava Beds Wind Park LLC (Lava Beds); Notch Butte Wind Park LLC (Notch Butte); and Salmon Falls Wind Park LLC (Salmon Falls), collectively the Wind Projects. The Agreements are dated October 14, 2005. The Wind Projects, as represented, are qualified small power production facilities (QFs) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Milner Dam project is located approximately 2,000 yards west of the Milner Dam in Cassia County, Idaho. The Lava Beds project is located near Taber, Idaho which is between Blackfoot and Atomic City. The Notch Butte project is located between Twin Falls and Shoshone, Idaho. The Salmon Falls project is located near Hagerman, Idaho, south of the Bell Rapids area.

The Notch Butte, Lava Beds and Milner Dam projects will consist of twelve (12) 1.5 MW GE wind turbines, the facility generator rating for each project being 18 MW. The Salmon Falls project will consist of fourteen (14) 1.5 MW GE turbines for a total facility generator rating of 21 MW. Under normal and/or average conditions the Wind Projects will not exceed 10 aMW on a monthly basis. If energy in excess of this amount (inadvertent energy) is accidentally

generated, Idaho Power will except inadvertent energy that does not exceed the 10.5 MW maximum capacity amount, but will not purchase or pay for it. Agreement ¶ 7.3.2.

As represented by Idaho Power, the Agreements comport with the terms and conditions of Commission Order No. 29632 (*U.S. Geothermal et al v. Idaho Power*), avoided cost Order No. 29646 and Commission Order Nos. 29839, 29851 and 29872 in Case No. IPC-E-05-22. The Agreements are for a 20-year term and contain the non-levelized published avoided cost rates set forth in Order No. 29646.

In interlocutory Order No. 29839 issued in Case No. IPC-E-05-22 the Commission reduced the size cap for QF wind generation facilities entitled to receive the published avoided cost rates from 10 aMW to 100 kW. In its Order, the Commission further identified several criteria that it would consider to determine whether a particular QF wind generation facility in the negotiation queue was sufficiently mature so as to justify “grandfathering” the project to entitlement to the published rates. These criteria are as follows:

- (1) Submittal of a signed power purchase agreement to the utility, or
- (2) Submittal to the utility of a completed Application for 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.

Order No. 29839, p. 10, August 4, 2005; final Order No. 29851. In reconsideration Order No. 29872 issued on September 21, 2005 in the same case, the Commission reaffirmed the grandfathering criteria and changed the “grandfathering” eligibility deadline from the previously-ordered July 1, 2005, to August 4, 2005, the date of interlocutory Order No. 29839.

Considering and weighing all of the Commission-identified criteria, Idaho Power believes that the four Wind Projects are sufficiently far enough along the development path that they should be “grandfathered” to the published rates. The projects have each selected November 2006 as the scheduled first energy date and May 2007 as the scheduled operation date.

As reflected in Section 24 of the Agreements, the Agreements will not become effective until the Commission has approved all the Agreements' terms and conditions and declares that all payments that Idaho Power makes to the Wind Projects for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

COMMISSION DECISION

Idaho Power requests Commission approval of Firm Energy Sales Agreements with Milner Dam, Lava Beds, Notch Butte and Salmon Falls. The contracts are for 20-year terms and contain the non-levelized published avoided cost rates for energy deliveries not exceeding 10 aMW on a monthly basis. The Commission Staff recommends that the Company's Applications be processed pursuant to Modified Procedure, i.e., by written submission rather than by hearing. Reference Commission Rules of Procedure, IDAPA 31.01.01.201-204. Does the Commission agree with Staff's recommended procedure?

Scott D. Woodbury

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