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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-05-32
OF A FIRM ENERGY SALES AGREEMENT)
FOR THE SALE AND PURCHASE OF)
ELECTRIC ENERGY BETWEEN IDAHO)
POWER COMPANY AND NOTCH BUTTE)
WIND PARK LLC.) COMMENTS OF THE
) COMMISSION STAFF
)
_____)**

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 November 7, 2005, submits the following comments.

BACKGROUND

On October 20, 2005, Idaho Power Company (Idaho Power; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting approval of a 20-year Firm Energy Sales Agreement (Agreement) between Idaho Power and Notch Butte Wind Park LLC (Notch Butte) dated October 14, 2005. Under the Agreement, Notch Butte will sell and Idaho Power will purchase electric energy generated by Notch Butte, a project located near Notch Butte, Idaho, which is between Twin Falls and Shoshone, Idaho, in an area more particularly described as Section 36, Township 6 S, Range 16 E, Boise Meridian, Jerome

County, Idaho; Sections 3, 4, 5, 6, 8 and 9, Township 7 S, Range 17 E, Boise Meridian, Jerome County, Idaho; and Section 3, 4, 5, 8 and 9, Township 7 S, Range 17 E, Boise Meridian, Lincoln County, Idaho. The project will consist of twelve 1.5 MW GE wind turbines. The nameplate rating of the project is 18.0 MW. Under normal and/or average conditions, the project will not exceed 10 aMW on a monthly basis. If energy in excess of this amount (Inadvertent Energy) is accidentally generated, Idaho Power will accept Inadvertent Energy that does not exceed the 19.2 MW Maximum Capacity Amount, but will not purchase or pay for it. Agreement ¶ 7.3.2; Appendix B-4.

The Notch Butte project will be a qualified small power production facility (QF) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). As represented by Idaho Power, the Agreement comports 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 Agreement is for a 20-year term and contains the non-levelized published avoided cost rates set forth in Order No. 29646.

Notch Butte has selected November 2006 as the scheduled first energy date and May 2007 as the scheduled operation date. As reflected in Agreement Section 24, the Agreement will not become effective until the Commission has approved all the Agreement's terms and conditions and declares that all payments that Idaho Power makes to Notch Butte for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

STAFF ANALYSIS

The Notch Butte Project is one of four nearly identical projects with contracts now pending before the Commission. Attachment A shows the location of these four projects. The Agreement is similar to several other recent agreements for wind projects entered into by Idaho Power and approved by the Commission (Thousand Springs Wind Park – Order No. 29770; Pilgrim Stage Wind Park – Order No. 29771; Oregon Trail Wind Park – Order No. 29772; Tuana Gulch Wind Park – Order No. 29773; Burley Butte Wind Park – Order No. 29813; and the Golden Valley Wind Park – Order No. 29814). Attachment A also shows the locations of these projects with existing approved power sales agreements.

The locations of each of the four projects with pending contracts are widely spread as shown on Attachment A, such that none could reasonably be considered associated with the others. Furthermore, Staff does not believe any of the four could be considered additions to any existing facilities or part of a larger “wind farm.” Consequently, Staff does not believe that the issue of disaggregation of a larger project into smaller 10 MW pieces is relevant in this case. The issue of disaggregation of larger projects is one of the issues being considered in ongoing workshops ordered by the Commission in Case No. IPC-E-02-22.

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.

According to information provided by Idaho Power with its Application, Milner provided a signed power purchase Agreement on June 17, 2005. However, it appears that neither the Milner, Lava Beds, Notch Butte nor Salmon Falls projects have submitted a completed Application for Interconnection Study and paid the required fees. Nevertheless, by having a signed power purchase Agreement, one of the two initial criteria necessary for entitlement to published rates has been met.

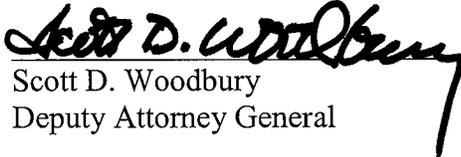
With regard to additional criteria identified by the Commission in Order No. 29839, Notch Butte has filed with the FERC for a QF certificate, completed a wind study demonstrating the viability of the site, and signed a contract for wind turbines. Considering and weighing all of the Commission-identified criteria, Idaho Power believes that the Notch Butte project is sufficiently far enough along the development path that it should be "grandfathered" to the published rates. Staff agrees.

Staff has reviewed the Agreement between Idaho Power and Notch Butte and finds that it comports 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 Agreement is for a 20-year term and contains the non-levelized published avoided cost rates set forth in Order No. 29646.

RECOMMENDATION

Staff recommends approval of the Agreement with an effective date of October 14, 2005.

Respectfully submitted this 28th day of November 2005.

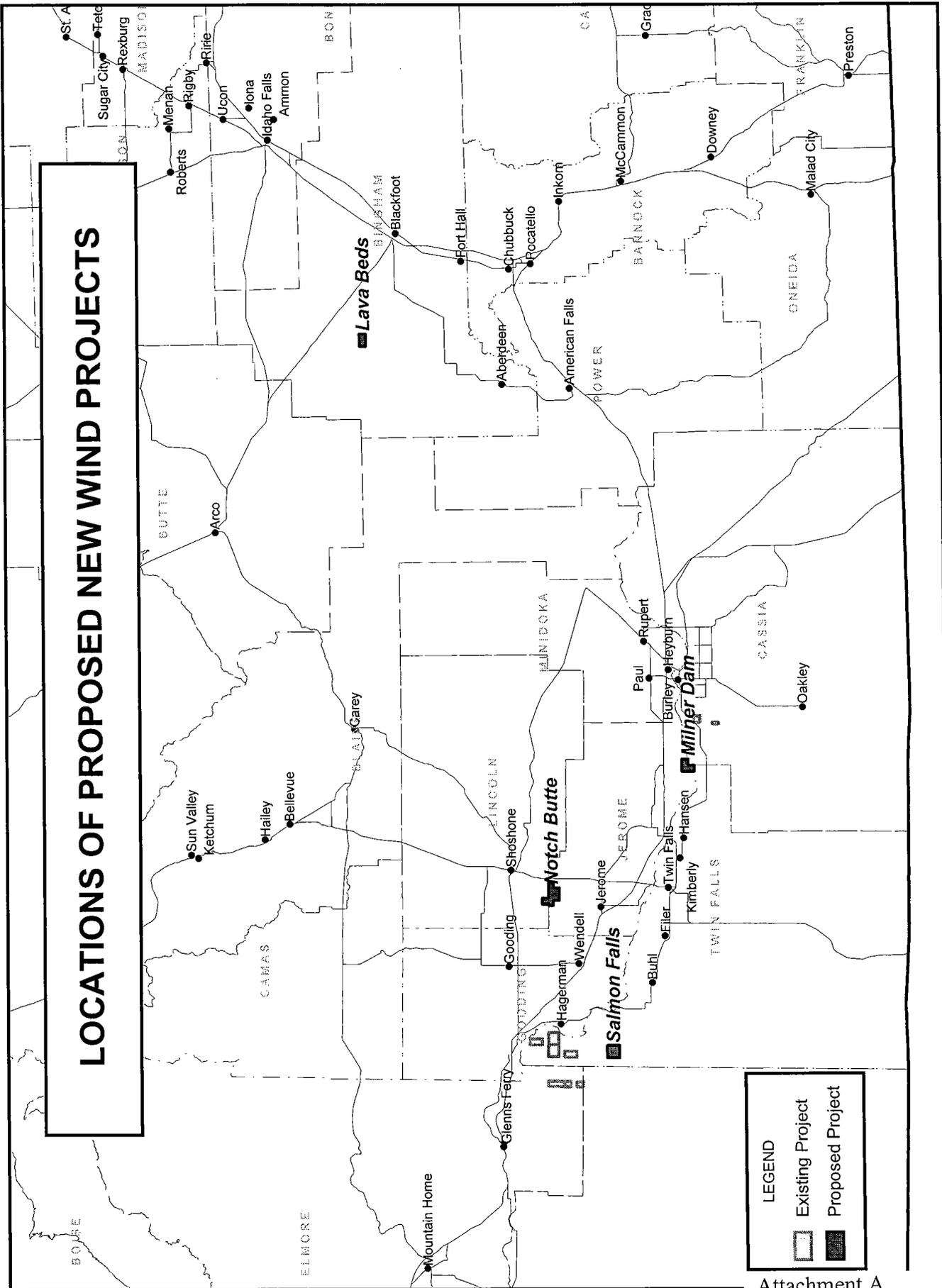


Scott D. Woodbury
Deputy Attorney General

Technical Staff: Rick Sterling

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LOCATIONS OF PROPOSED NEW WIND PROJECTS



LEGEND

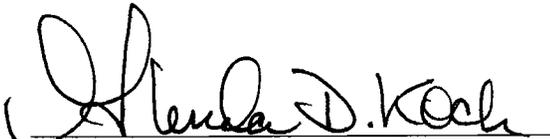
- Existing Project (represented by a square symbol)
- Proposed Project (represented by a rectangle symbol)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 28TH DAY OF NOVEMBER 2005, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-05-32, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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