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February 8, 2007

**VIA HAND DELIVERY**

Jean Jewell, Secretary  
Idaho Public Utilities Commission  
472 W. Washington St.  
Boise, Idaho 83720

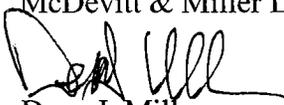
RECEIVED  
2007 FEB - 8 AM 10:48  
IDAHO PUBLIC  
UTILITIES COMMISSION

Re: IPC-E-06-34 Hot Springs Windfarm, LLC.  
IPC-E-06-35 Bennett Creek Windfarm, LLC.

Dear Ms. Jewell:

Enclosed for filing in the above matters please find the original and seven (7) copies of **SUR-REPLY COMMENTS OF IDAHO WINDFARMS**.

An additional copy of the documents and this letter is included for return to me with your file stamp thereon.

Very Truly Yours,  
McDevitt & Miller LLP  
  
Dean J. Miller

DJM/hh  
Encls.



At Page 4 of its Comments, Idaho Power is concerned that Idaho Windfarms might subsequently claim that by leaving transmission issues un-addressed in these dockets the projects “would argue that the issue was presented in these dockets, the Commission Order was silent and the matter is now *res judicata* and immune from attack”.

Idaho Windfarms states, for the record, that it will not assert such a claim in any subsequent transmission proceeding. Idaho Windfarms would not seek to prevent a full and fair hearing of the issues by reliance on technicalities, like *res judicata*. Likewise, the Commission should not establish a precedent on transmission issues in a case which has not directly involved a full and fair hearing of those issues.

Any order on transmission issues may have a substantial impact on other QF’s. They have not been notified that transmission issues would be addressed in this proceeding and therefore, have not been given a fair opportunity to make their case. As Idaho Windfarm’s noted in its Reply Comments, it is unnecessary and unwise to address transmission issues in this case—there is not a fully developed record, a decision would be premature in the absence of a dispute between the parties, it would be unfair to impose conditions regarding transmission on these projects when they have not been imposed on previously approved purchase power agreements.

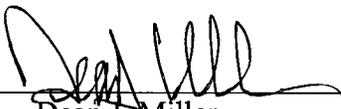
In light of Idaho Windfarm’s waiver of procedural objections, set forth above, the Commission may safely defer consideration of transmission issues to a proper proceeding.

### **Conclusion**

The Commission should not adopt broad propositions of regulatory policy when the issues have not been fully identified, a record has not been adequately developed and parties with contrary views have not participated. In the unlikely event that future disagreements between the Projects and Idaho Power arise concerning transmission issues, the Commission will have every

opportunity to address them. Idaho Windfarms respectfully requests that the subject Power Purchase Agreements be approved without new conditions. Transmission issues can wait for a transmission proceeding.

DATED this 8 day of February, 2007

By:   
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*Attorney for Idaho Windfarms*

CERTIFICATE OF SERVICE

I hereby certify that on the \_\_\_\_ day of February, 2007, I caused to be served, via the method(s) indicated below, true and correct copies of the foregoing document, upon:

Jean Jewell, Secretary	Hand Delivered	<input checked="" type="checkbox"/>
Idaho Public Utilities Commission	U.S. Mail	<input type="checkbox"/>
472 West Washington Street	Fax	<input type="checkbox"/>
P.O. Box 83720	Fed. Express	<input type="checkbox"/>
Boise, ID 83720-0074	Email	<input type="checkbox"/>
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Scott Woodbury	Hand Delivered	<input checked="" type="checkbox"/>
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BY: \_\_\_\_\_  
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