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IDAHO PUBLIC  
UTILITIES COMMISSION

Chas. F. McDevitt  
Dean J. (Joe) Miller

February 5, 2007

*VIA HAND DELIVERY*

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

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 **REPLY COMMENTS OF IDAHO WINDFARMS LLC IN REPLY TO THE INITIAL COMMENTS OF THE COMMISSION STAFF.**

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.

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UTILITIES COMMISSION

*Attorneys for Idaho Windfarms*

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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 HOT SPRINGS WINDFARM )  
LLC. )  
)  
)  
)  
\_\_\_\_\_ )

**CASE NO. IPC-E-06-34**  
**REPLY COMMENTS OF IDAHO**  
**WINDFARMS LLC IN REPLY**  
**TO THE INITIAL COMMENTS**  
**OF COMMISSION STAFF**

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 BENNETT CREEK )  
WINDFARM LLC. )  
)  
)  
)  
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**CASE NO. IPC-E-06-35**

COMES NOW Idaho Windfarms LLC ("Idaho Windfarms"), and pursuant to the Commission's Notice of Application, Notice of Modified Procedure and Notice of Comments/Protest Deadline issued on January 4, 2007, replies to the Comments of the Commission Staff dated January 26, 2007 ("Staff Comments").

## **Interest of Idaho Windfarms**

Idaho Windfarms LLC is the sole member of Bennett Creek Windfarm LLC and Hot Springs LLC, and makes these Reply Comments on behalf of its affiliates, Bennett Creek and Hot Springs.

## **Introduction**

Idaho Windfarms wishes to thank the Staff for its recommendation to approve the Bennett Creek and Hot Springs Windfarms' (the "Projects") power purchase agreements ("PPAs"). Idaho Windfarms, however, disagrees with portions of the Staff Comments that recommend inclusion of conditions related to transmission services. While Idaho Windfarms recognizes the implicit linkage between avoided cost calculations and firm transmission services, this is not the proper proceeding to deal with transmission-related issues.

Idaho Windfarms' objection is based on the following:

- A record for transmission related decisions has not been developed.
- A decision on such issues is not currently required.
- Adding transmission considerations now is inconsistent with grandfathering.

## **No Record**

Idaho Windfarms is aware that most of the PURPA wind projects with approved PPAs are currently negotiating their interconnection arrangements. This has been complicated by a lack of existing policies related to the cost responsibilities associated with system upgrades. The parties face many complex issues, such as:

- The lack of explicit system upgrade costs in the current avoided cost calculation.
- The FERC requirement for reimbursement of system upgrade costs which produce network benefits.

- The quantification of network benefits.
- The reasonableness of the load and resource scenario used in the N-1 study.
- The reasonableness of the system upgrade plan.
- The appropriateness of various full or partial funding and reimbursement mechanisms.

These issues are presently being addressed through discussions and negotiations between the parties. While Idaho Windfarms' Projects are not in the transmission constrained area near Twin Falls, some of the issues faced by the other projects will, however, impact Idaho Windfarms' transmission negotiations. There has been no information placed in the record of this proceeding which would allow for an informed Commission decision on any of these matters.

Conditioning the approval of Idaho Windfarms' PPA on transmission matters in this proceeding would require the Commission to prejudge the outcome of the ongoing negotiations and make at least a partial policy decision. Such decisions should wait until a comprehensive proposal is submitted and a fully developed record is available.

### **Premature Decision**

Regardless of the manner in which the issues noted above are resolved with regard to the Projects, they will almost certainly be brought to the Commission for approval. That will be the appropriate time to make decisions related to transmission services and establish the Commission's policies on these matters.

Staff Comments speculate that the Projects may not have firm transmission service from Idaho Power and recommend conditioning approval of the PPA on the execution of a final Interconnection Agreement. Staff Comments further recommend that the Commission retain the ability to adjust rates in the PPAs in the event the Projects do not obtain firm transmission

service. (Staff Comments pgs. 7—8). The Projects, however, have requested firm transmission service and the completed Transmission Feasibility Studies have preliminarily identified the costs associated with such service. There is no reason, in the context of this case, to assume the Projects and Idaho Power will fail to achieve an appropriate agreement regarding transmission cost responsibility. Nor is there any reason in this proceeding to predetermine the substance of, or limits on, the Interconnection Agreement.

As noted, the Projects have requested, and the Transmission Feasibility Studies identify, firm transmission service. Idaho Power and Idaho Windfarms must now structure an Interconnection Agreement that both deals with the uncertainties surrounding this service and allows the Projects to proceed to construction. Idaho Windfarms believes that transmission service consistent with Idaho's avoided cost calculation is achievable, but it is too early to determine the form the Interconnection Agreement will take. That work will begin after the approval of the PPAs.

Likewise, Idaho Power believes appropriate transmission arrangements are achievable. Staff Comments quote from Idaho Power's response to a Staff Production Request as follows:

“Idaho Power states it has no reason to believe that a Uniform Interconnection Agreement will not be signed for this project, and further, that if there are no cluster or queue issues that arise requiring additional studies, it is anticipated that the Uniform Interconnection Agreement could be signed by year-end 2007.” (Staff Comments Pg. 7).

### **Inconsistent With Grandfathering**

At its core, a grandfathering proceeding is about fairness. Idaho Windfarms has spent, and continues to spend, substantial resources developing these Projects. The issue here is whether it is fair to change the rules which Idaho Windfarms relied on in its project investment

decisions. Both Idaho Power and Staff agree that the Projects have met the grandfathering criteria established by the Commission and should be allowed to proceed under the rules that existed on August 4, 2005.

It is now recognized that the policies related to the ultimate funding of transmission system upgrades were not yet established on that date. As noted above, the process for establishing those policies is presently ongoing. It is unfair to force Idaho Windfarms to accept restrictions which have not been applied to the rest of the PURPA projects as a condition of its PPA approvals. That would be unreasonably prejudicial to Idaho Windfarms' upcoming interconnection negotiation. Idaho Windfarms' Projects should have the same rights and obligations that are ultimately applied to the other PURPA projects.

Staff Comments correctly note that Idaho Windfarms' PPAs are the first to separate transmission services and power purchasing obligations, in compliance with the Commission's Order No. 30179. Those changes, however, were essentially ministerial and did not address any of the issues related to firm transmission services and cost responsibility. Those changes do not provide the basis for restricting the Project's transmission options before the establishment of the Commission's ultimate transmission policies.

### **Conclusion**

Regardless of PPA approval, the Projects cannot proceed without agreeing to transmission services which are acceptable to Idaho Power and the Commission. Therefore, the Commission does not need to place transmission related conditions on the approval of Idaho Windfarms' PPAs.

DATED this 5 day of February, 2007

By:



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*Attorney for Idaho Windfarms*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 5<sup>th</sup> day of February, 2007, I caused to be served, via the method(s) indicated below, true and correct copies of the foregoing document, upon:

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