

## **DECISION MEMORANDUM**

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

**FROM:       CECELIA GASSNER**

**DATE:       JANUARY 12, 2007**

**SUBJECT:   FIRM ENERGY SALES AGREEMENT BETWEEN IDAHO POWER**  
**COMPANY AND IDAHO WINDS LLC, CASE NO. IPC-E-06-36**

On December 26, 2006, Idaho Power Company (“Idaho Power” or “Company”) filed an Application with the Commission requesting approval of a 20-year Firm Energy Sales Agreement between Idaho Power and Idaho Winds LLC dated December 12, 2006 (“Agreement”).

### **BACKGROUND**

On August 4, 2005, the Idaho Public Utilities Commission (“Commission”) in Case No. IPC-E-05-22, Order No. 29839, reduced the eligibility cap for avoided cost published rates for non-firm wind projects from 10 aMW to 100 kW, required individual negotiation for larger wind qualifying facilities (QFs), and established criteria for assessing QF contract entitlement. Reference Public Utility Regulatory Policies Act of 1978 (PURPA). By Commission Order No. 29872 the date for grandfathering eligibility was changed from July 1, 2004, the Notice of Petition date, to August 4, 2005, the date of Interlocutory Order No. 29839.

### **AGREEMENT**

The wind generating facility is known as the Alkali Wind Farm Facility and will be located approximately six miles northwest of Glens Ferry in Elmore County, Idaho (“Facility”). Idaho Winds warrants the Facility will be a qualified small power production facility (QF) under the applicable provisions of the Public Utility Regulatory Policies Act of 1978 (PURPA). The facility will consist of 12 GE wind turbines with individual generator ratings of 1.5 MW for each unit, for a total facility nameplate generator rating of 18 MW. The Agreement contains the non-levelized, published avoided cost rates set forth in Order No. 29391. Under normal and/or

average operating conditions, Idaho Winds will not generate more than 10 aMW on a monthly basis. Energy delivered in excess of this monthly amount is Inadvertent Energy. Idaho Power will accept Inadvertent Energy that does not exceed the maximum capacity amount (18 MW) but will not purchase or pay for Inadvertent Energy. Agreement ¶ 7.3.2.

Based on Idaho Power's review of the information provided by the developer and in light of the procedure the Commission accepted in Cassia Wind Order No. 29954, Case No. IPC-E-05-35, Idaho Power has determined that it would be reasonable to grandfather the Facility based on satisfaction of the criteria identified by the Commission in Order No. 29839, Case No. IPC-E-05-22. In Order No. 29839, the Commission stated that the primary criteria it would consider are either: (1) submittal of a signed power purchase agreement prior to August 5, 2005, or (2) submittal to the utility of a completed Application for Interconnection Study and payment of a fee. Order No 29839 at 10. According to the subject Application, Idaho Winds submitted a signed Firm Energy Sales Agreement to Idaho Power for the facility. In addition, Idaho Winds submitted a generation interconnection study for the Facility on January 31, 2005 for a 10 MW project along with a \$2,000 initial feasibility analysis fee. Idaho Power asserts that this threshold criteria is, therefore, satisfied.

The secondary criteria is that the QF demonstrate other indicia of substantial progress or maturity, usually by showing: (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 license path. *Id.* The Application states that Idaho Winds wrote a letter to Idaho Power on August 15, 2005 describing the status of the Facility. As of August 4, 2005, Idaho Winds had obtained firm commitments to finance the Facility. Idaho Winds also had made substantial progress on the other criteria, except for the acquisition of turbines. At this time, Idaho Winds has obtained a firm commitment for turbines for the Facility.

According to the Application, there are three provisions the Commission should be aware of in its consideration of the Agreement:

1. In the negotiations of this project, Idaho Power and Idaho Winds agreed that an on-line date of December 2007 is crucial. This Agreement contains delay damage provisions that require the project pay Idaho Power damages if the project comes on-line after December 31, 2007. The delay damages will accrue for a period of up to 90 days.

2. The Agreement reflects the changes to Idaho Power's Schedule 72 [Uniform Interconnection Agreement] approved in Order No. 30179 issued on November 17, 2006 in Case No. IPC-E-06-18.

Idaho Winds has selected December 30, 2007 as the Scheduled First Energy Date and December 31, 2007 as the Scheduled Operation Date. Section 24 of the Agreement provides that the Agreement will not become effective until the Commission has approved all of the Agreement's terms and conditions and declared that all payments Idaho Power makes to Idaho Winds for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

#### **COMMISSION RECOMMENDATION**

Staff recommends that the Application in Case No. IPC-E-06-36 be processed pursuant to Modified Procedure, i.e., by written submission rather than by hearing, with a 21-day comment period. Reference IDAPA 31.01.01.201-204.

#### **COMMISSION DECISION**

Does the Commission preliminarily find that the public interest may not require a hearing to consider the issues presented in this case, and that this case is appropriate for Modified Procedure pursuant to Commission Rules of Procedure 201 through 204?

Does the Commission approve of the recommended comment period?



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Cecelia Gassner

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