SCOTT WOODBURY
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0320
IDAHO BAR NO. 1895

Street Address for Express Mail:
472 W. WASHINGTON
BOISE, IDAHO 83702-5983

Attorney for the Commission Staff

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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, CASSIA GULCH WIND PARK LLC AND TUANA SPRINGS ENERGY LLC.	)	**CASE NO. IPC-E-09-24** **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 of Comment/Protest Deadline issued on August 25, 2009, submits the following comments.

BACKGROUND

On August 11, 2009, 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 between Idaho Power and Cassia Gulch Wind Park LLC (Cassia Gulch) and Tuana Springs Energy LLC (Tuana Springs) dated August 5, 2009, (Agreement).

Cassia Gulch currently owns, maintains and operates an existing 18.9 MW wind generating facility located near Hagerman, Idaho approximately 4.3 miles west of Idaho Power's lower Malad substation. Reference Case No. IPC-E-06-11, Order No. 30087.

Tuana Springs proposes to design, construct, own, operate and maintain a new 16.8 MW wind generating facility adjacent to and as an expansion of the Cassia Gulch facility (Tuana Springs Expansion). Idaho Power, Cassia Gulch and Tuana Springs propose a new Agreement that encompasses both the existing Cassia Gulch facility and the Tuana Springs Expansion. It is the contract parties' intent that the existing Cassia Gulch agreement remain in full force and effect until such time as the Tuana Springs Expansion facilities have achieved their operation date of June 30, 2010. At such time the Cassia Gulch agreement is proposed to automatically terminate and be replaced by this new Agreement. The net energy from the Cassia Gulch and Tuana Springs Expansion will be combined into a single qualifying facility (QF) with a nameplate rating of 35.7 MW.

STAFF ANALYSIS

Purchase Prices

This Agreement is unusual because it proposes to combine an existing project (Cassia Gulch) with a yet-to-be-constructed expansion (Tuana Springs) into a single contract that will exceed 10 aMW. In accordance with prior Commission Orders, projects smaller than 10 aMW are eligible for "published" avoided cost rates; projects 10 aMW and larger are eligible for project-specific rates computed using a prescribed IRP-based methodology. Individually, both Cassia Gulch and Tuana Springs are less than 10 aMW, however, collectively they exceed 10 aMW.

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Staff acknowledges the unusual proposal to combine an existing project with a new expansion and believes that a unique approach to determining purchase prices is justified under the circumstances. Staff believes that the blended rates proposed in the Agreement are reasonable and in the best interests of Idaho Power and its ratepayers.

New Wind Contract Provisions

Staff comments on this Agreement are being submitted only one day following comments, which were submitted regarding three other Idaho Power PURPA wind contracts.[1] Because certain terms in this Agreement are identical to terms contained in the three previous agreements, yet are still "new" compared to previously approved contracts, some comments on those new contract terms will be repeated here.

Like the three other wind contracts now pending before the Commission, this is one of the first PURPA wind agreements executed since the issuance of Commission Order No. 30488, which requires the inclusion of the Mechanical Availability Guarantee (¶ 6.4), wind integration cost reduction (¶ 7.1), and wind forecasting cost sharing (Appendix E). The Commission approved these provisions for future wind contracts as an acceptable substitute for the "90/110" requirements in earlier contracts. The "90/110" provisions required facilities to predict future monthly generation with a fairly high degree of certainty in order to justify payment of "firm" energy rates. For resource technologies with intermittent generation (like wind), the "90/110" requirements were difficult to meet.

[1] IPC-E-09-18, IPC-E-09-19, and IPC-E-09-20.

Under the MAG provisions in this Agreement, the project is required to achieve a minimum monthly mechanical availability of 85 percent. In other words, the project must be able to operate at least 85 percent of the hours in the month, not counting hours when wind speeds are too low or too high, force majeure events, forced outages, and scheduled maintenance periods. Failure to achieve an 85 percent mechanical availability results in damages being assessed equal to the difference in the per kWh price between the contract rates and corresponding market energy prices, subject to a minimum price penalty of 15 mills per kWh. The 15 mills per kWh minimum price penalty is intended to recognize that Idaho Power will incur transaction and administrative costs to acquire replacement power even if market prices are less than contract rates.

Staff believes that the MAG provisions in the Agreement are reasonable, but recognizes that this will be one of Idaho Power's first contracts to include them. Consequently, Staff recommends that the MAG provisions be approved, but that they not be viewed as precedential should they later need to be modified or prove to be unworkable.

As specified in Order No. 30488, Idaho Power shall make use of a wind energy production forecasting model to forecast the energy production from this facility and other QF wind generation resources. Idaho Power will share the cost of wind energy production forecasting equally with the project owner. The facility's share of wind energy production forecasting will be prorated based on its generation in relation to all other QF wind projects providing energy to Idaho Power. The project's share will not be greater than 0.1 percent of the total energy payments made to the project by Idaho Power during the previous contract year.

Delay Liquidated Damages and Security Provisions

The Agreement contains provisions for delay liquidated damages (¶ 5.3) and associated delay security (¶ 5.7) to secure the established scheduled operation date of November 1, 2009 for the Tuana Springs Expansion portion of the facility. Delay liquidated damages have been included in contracts since July 2007; however, this will be one of the first contracts to require delay security.

Under the terms of the Agreement, for online delays of up to 90 days, liquidated damages are assessed if Idaho Power must pay more to acquire replacement power than it would have otherwise paid to purchase power under the contract. If a delay in the project's online date extends beyond 90 days, liquidated damages of $20 per kW will be assessed ($336,000 based on a capacity of 16.8 MW for the Tuana Springs Expansion). In addition, Idaho Power can choose to terminate the Agreement if the delay in meeting the scheduled operation date extends beyond 90 days. In order to insure that the project will be able to pay delay liquidated damages should they be incurred, the project is required to post liquid security in an amount equal to $20 per kW of project capacity.

Staff believes that these provisions are necessary and reasonable. Many PURPA wind projects with existing contracts have experienced delays in meeting their scheduled online dates,. When new contracts are signed, Idaho Power plans accordingly. But when projects are delayed, Idaho Power must sometimes incur higher costs to acquire replacement power. Staff believes that these provisions will help to protect Idaho Power and its ratepayers if higher costs are incurred due to project delays.

Generator Interconnection and Transmission

The Cassia Gulch and Tuana Springs projects are located in an area west of Hagerman, adjacent to each other and in close proximity to several other proposed and existing projects. Projects in this vicinity were studied as a cluster in connection with Case No. IPC-E-06-21 ("Cassia Case"). One outcome of that case was a Settlement Stipulation that determined the transmission system improvements necessary in order to accommodate all of the proposed projects in the cluster, and devised a method for allocating costs amongst Idaho Power and each of the projects. The Cassia Gulch and Tuana Springs projects were included in the Settlement Stipulation.

In addition to the Power Sales Agreement, it will be necessary for a Generator Interconnection Agreement to be signed before the Tuana Springs expansion can proceed. The terms and costs to be included in the Generator Interconnection Agreement will be in accordance with the "Cassia Formula" as included in the Stipulation in Case No. IPC-E-06-21. These cost estimates are the projects' prorata share of upgrades for the cluster of proposed projects in the Twin Falls area based on their position in the generator interconnection queue and MW value. The upgrade costs are the same whether Cassia Gulch and Tuana Springs are considered separate projects or combined under one power sales agreement. The transmission interconnection costs to be assigned to the projects will be based on "redispatch" as described in the Stipulation in the Cassia Case.

The Agreement provides that all applicable interconnection charges and monthly operation and maintenance charges under Schedule 72 will be assessed to Cassia Gulch and Tuana Springs. The Cassia Gulch portion of the project is already complete, interconnected to Idaho Power's system, and operational. The facility study portion of the generator interconnection process for the expansion phase of the facility — the last in the series of three transmission studies — has been completed, and the execution of the generation interconnection agreement is the next step of that process. Idaho Power's Delivery business unit is continuing its design work under the facility study agreement and, in that process, has undertaken discussions with Cassia Gulch and Tuana Springs. Based on the studies to date and the discussions with Cassia Gulch and Tuana Springs, Idaho Power has concluded that, assuming the developer continues to provide necessary technical information and pay for long lead time materials in a timely manner, the Company will have sufficient time and available resources to construct the interconnection facilities in time to allow the expansion facilities to meet the scheduled operation date.

Staff would prefer that a signed Generator Interconnection Agreement be presented at the same time as Idaho Power seeks Commission approval of the Power Sales Agreement. Scheduled operation dates for other projects (many of which are being developed by Exergy) have sometimes not been achieved due to delays in completing interconnection studies, delays in completing a Generator Interconnection Agreement, delays in procuring interconnection or substation equipment, or delays in completing construction of transmission interconnection or substation facilities. Staff stated its preference for concurrent submittal of Power Sales Agreements and Generator Interconnection Agreements in the Commission's approval of two of Idaho Power's most recent PURPA wind contracts (Hot Springs - IPC-E-08-34 and Bennett Creek - IPC-E-08-35). While stopping short of agreeing to require a signed GIA before signing a power sales agreement, Idaho Power stated in reply comments in those cases that it would be the Company's policy in the future not to sign any power sales agreements until the QF project developer can demonstrate that it has completed its interconnection application to the extent that the scheduled operation date is unlikely to be modified due to delays in the interconnection study and transmission construction process. Reference Order No. 30398 at p. 3. Idaho Power appears satisfied in this case that transmission and generator interconnection issues are unlikely to cause a delay in the project's scheduled operation date.

STAFF RECOMMENDATION

Staff recommends that the Commission issue an Order approving the Firm Energy Sales Agreement with Cassia Gulch and Tuana Springs without change or condition and declaring that all payments for purchases of energy under the Firm Energy Sales Agreement be allowed as prudently incurred expenses for ratemaking purposes.

Respectfully submitted this 23rd day of September 2009.

Scott Woodbury
Deputy Attorney General

Technical Staff: Rick Sterling

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 23rd DAY OF SEPTEMBER 2009, SERVED THE FOREGOING **NON-CONFIDENTIAL COMMENTS OF THE COMMISSION STAFF,** IN CASE NO. IPC-E-09-24, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

DONOVAN WALKER
BARTON L KLINE
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070
E-MAIL: dwalker@idahopower.com
bkline@idahopower.com
CONFIDENTIAL COPY

DEAN J MILLER
McDEVITT & MILLER LLP
PO BOX 2564
BOISE ID 83701
E-MAIL: joe@mcdevitt-miller.com
CONFIDENTIAL COPY

RANDY C ALLPHIN
CONTRACT ADMINISTRATOR
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070
E-MAIL: rallphin@idahopower.com
CONFIDENTIAL COPY

RICHARD S. FREE
ASSISTANT SECRETARY
JOHN DEER RENEWABLES, LLC
% JOHN DEER CREDIT
6400 NW 86TH STREET
JOHNSTON, IA 50131
CONFIDENTIAL COPY

Glenda D. Koch
SECRETARY