## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

AGPOWER JEROME, LLC,	)
COMPLAINANT,	) CASE NO. IPC-E-10-11
<b>V</b> .	) )
IDAHO POWER COMPANY,	) ORDER NO. 32161 )
RESPONDENT.	)

On March 16, 2010, the Commission in Order No. 31025 (Case No. GNR-E-10-01) lowered the published avoided cost rates available to eligible qualifying small power production facilities under the Public Utility Regulatory Policies Act of 1978 (PURPA).

On April 9, 2010, AgPower Jerome, LLC (AgPower) filed a complaint against Idaho Power Company requesting grandfathered treatment and the higher rates of Order No. 30744 for its PURPA qualified anaerobic digester project.

On November 23, 2010, AgPower filed a Contingent Motion to Dismiss in Case No. IPC-E-10-11. The stated contingency was Commission approval of a Firm Energy Sales Agreement for the AgPower proposed Double A Dairy Digester project in Case No. IPC-E-10-26.

## **COMMISSION FINDINGS**

The Commission has reviewed the filings of record in Case No. IPC-E-10-11 including the Contingent Motion to Dismiss filed by AgPower. We have also reviewed the filings of record in Case No. IPC-E-10-26.

On December 16, 2010, the Commission approved the Firm Energy Sales Agreement which forms the basis of the Contingent Motion to Dismiss, i.e., Case No. IPC-E-10-26, Order No. 32138.

The Commission finding that the condition of AgPower's Contingent Motion to Dismiss has been satisfied, finds it reasonable to grant the Motion to Dismiss and to dismiss (with prejudice) the complaint in Case No. IPC-E-10-11.

## **CONCLUSIONS OF LAW**

The Idaho Public Utilities Commission has jurisdiction over Idaho Power, an electric utility, and the issues raised in this matter pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed-term obligations for the purchase of energy from qualified facilities (QFs), and to implement FERC rules.

## ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby grant the Motion to Dismiss filed by AgPower and dismisses (with prejudice) the complaint in Case No. IPC-E-10-11.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this  $18^{+4}$  day of January 2011.

JIM-D. KEMPTON, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

MACK A. REDFORD, COMMISSIONER

ATTEST:

Jean D. Jewell/ Commission Secretary

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