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IDAHO PUBLIC UTILITIES COMMISSION

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

April 15, 2010

*IPC-E-10-13*

***Via Hand Delivery***

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

**RE: *The New Energy Company LLC and Western States Equipment Company v. Idaho Power Company***

Dear Ms. Jewell:

Enclosed for filing please find:

- An original and seven (7) copies of a Complaint;
- Nine (9) copies of the Direct Testimonies of Leslie White, Laura Knothe and Jay Kesting, with one (1) copy designated as the reporter's copy;
- A computer readable disc containing the above referenced Direct Testimonies.

Kindly return file stamped copies to me.

Very truly yours,

McDEVITT & MILLER LLP



Dean J. Miller

DJM/hh  
Enclosures

ORIGINAL

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2010 APR 15 AM 10:03  
IDAHO PUBLIC  
UTILITIES COMMISSION

*Attorneys for The New Energy Company LLC  
and Western States Equipment Company, Inc.*

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

The New Energy Company LLC,  
An Idaho Limited Liability Company, and  
Western States Equipment Company, Inc.,  
An Idaho Corporation,

Complainants

v.

Idaho Power Company,  
A Regulated Public Utility,

Respondent.

**Case No. IPC-E-10-13**

**COMPLAINT**

COMES NOW The New Energy Company LLC (“New Energy”) and Western Sates Equipment Company Inc. (“Western States”) pursuant to IPUCRP 54, and for a claim against the Respondent upon which relief can be granted complain and allege as follows, to wit:

I.

New Energy is an Idaho Limited Liability Company organized under the laws of the State of Idaho in 2008. Western States is an Idaho Corporation organized and existing under the laws of the State of Idaho.

**COMPLAINT-1**

II.

Respondent (“Idaho Power” or “IPCo”) is an electrical corporation within the meaning of the Idaho Public Utilities Law and is subject to the jurisdiction of the Idaho Public Utilities Commission (“Commission”).

III.

This Complaint arises under the Idaho Public Utilities Law and the Public Utilities Regulatory Practices Act of 1978 (PURPA) and the Commission has jurisdiction to consider the Complaint and to decide the Complaint in favor of New Energy.

IV.

New Energy is a women-owned business engaged in the development of renewable energy and energy conservation. Western States, among other things, is in the business of selling, installing and operating industrial engines and electric power generation equipment.

V.

On March 16, 2010, in Case No. GNR-E-10-01, the Commission, without notice to New Energy, Western States or any third parties except public utility companies, issued Order No. 31025. That Order adopts published avoided cost rates for the purchase by Idaho Power of capacity and energy from Qualifying Facilities (QF). The rates adopted in Order No. 31025 are approximately 12% lower than rates previously adopted in Case No. GNR-E-09-01, Order No. 30744. By its terms, Order No. 31025 applies to new PURPA contracts executed on and after March 16, 2010.

VI.

New Energy and Western Sates are in the process of developing three Qualifying Facility projects located in Idaho Power’s retail service territory (“Projects”). Fuel for the projects will be

provided by dairy waste which will be converted to combustible fuel by an anaerobic digestion process. The projects will be located at the Rock Creek Dairy in Filer, Idaho, the Double B Dairy in Wendell, Idaho and Swager Farms in Buhl, Idaho. The expected nameplate capacities for the Projects are: Rock Creek—4.0 MW, Double B—1.2 MW, and Swager Farms— 1.2 MW.

VII.

As established by the Direct Pre-Filed Testimony of Ms. Laura Knothe, filed herewith, commencing in July of 2009, New Energy diligently pursued efforts to obtain electrical interconnection and power purchase agreements with Idaho Power Company.

Were it not for delays imposed by Idaho Power, purchase power agreements for the Projects would have been executed prior to March 16, 2010.

VIII.

As established by the Direct Pre-Filed Testimony of Ms. Leslie White, filed herewith, New Energy has made substantial progress toward project completion in other areas, and there is substantial evidence of project maturity.

IX.

As established by the Direct Pre-Filed Testimony of Jay Kesting, filed herewith, Western States has committed to supply engines capable of converting methane gas to mechanical energy for the purpose of operating electric generators. In addition, Western States has committed to provide equity financing.

X.

Based on the foregoing, New Energy, through counsel, made request upon Idaho Power Company that Idaho Power Company execute purchase power agreements for each of the Projects containing rates adopted in Order No. 30744. Idaho Power has refused to agree to New Energy's

request and a dispute therefore exists between New Energy, and Western States and Idaho Power Company which is within the jurisdiction of the Commission to determine.

XI.

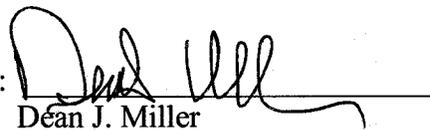
For the reasons set for in the Direct Pre-Filed Testimony of Ms. Laura Knothe, New Energy and Western States request expedited consideration of this Complaint. New Energy and Western States request that the matter be considered based on the pleadings and testimony filed herewith, and any responses thereto. If, however, an evidentiary hearing is necessary, New Energy and Western States stand ready for immediate hearing.

WHEREFORE, New Energy and Western States respectfully prays as follows:

1. That the Commission determines that New Energy is entitled to receive from Idaho Power Company power purchase agreements for the Projects containing rates adopted in Order No. 30744.
2. That the Commission enter its Order requiring Idaho Power Company to execute power purchase agreements for the Projects containing rates adopted in Order No. 30744.
3. That the Commission grant such other and further relief as is appropriate in the circumstance.

DATED this 17 day of April, 2010

**THE NEW ENERGY COMPANY LLC  
WESTERN STATES EQUIPMENT COMPANY, INC.**

By:   
Dean J. Miller  
*Attorney for The New Energy Company LLC  
and Western States Equipment Company, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15<sup>th</sup> day of April, 2010, I caused to be served, via the method(s) indicated below, true and correct copies of the foregoing document, upon:

Jean Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
P.O. Box 83720  
Boise, ID 83720-0074  
[jjewell@puc.state.id.us](mailto:jjewell@puc.state.id.us)

Hand Delivered   
U.S. Mail   
Fax   
Fed. Express   
Email

Bart Kline, Esq.  
Idaho Power  
P.O. Box 70  
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BY: Heather Houle  
MCDEVITT & MILLER LLP