

McDevitt & Miller LLP

Lawyers

(208) 343-7500
(208) 336-6912 (Fax)

420 W. Bannock Street
P.O. Box 2564-83701
Boise, Idaho 83702

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2010 MAY 26 PM 2:35

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

May 26, 2010

IDAHO PUBLIC
UTILITIES COMMISSION

Via Hand Delivery

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

IPC-E-10-13

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 Contingent Motion to Dismiss regarding the above entitled matter.

Kindly return file stamped copies to me.

Very truly yours,

McDEVITT & MILLER LLP



Dean J. Miller

DJM/hh
Enclosures

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2010 MAY 26 PM 2: 35

IDAHO PUBLIC UTILITIES COMMISSION

Dean J. Miller (*ISB No. 1968*)
Chas. F. McDevitt (*ISB No. 835*)
McDEVITT & MILLER LLP
420 West Bannock Street
P.O. Box 2564-83701
Boise, ID 83702
Tel: 208.343.7500
Fax: 208.336.6912
joe@mcdevitt-miller.com
chas@mcdevitt-miller.com

*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

**CONTINGENT MOTION TO
DISMISS**

COME NOW the Complainants, by and through their attorney of record, and, subject to a contingency, move the Commission, pursuant to IPUCRP 56, for an Order dismissing this matter, and in support therefore, respectfully show as follows, to wit:

I.

Subsequent to the filing of the Complaint herein, Complainants and representatives of Idaho Power Company entered into good faith settlement discussions as a result of which Idaho

Power Company has executed Firm Energy Sales Agreements with respect to the projects which are the subject of the Complaint. Those agreements contain published avoided cost rates in effect prior to March 16, 2010.

II.

Idaho Power Company has filed with the Commission three Applications for approval of the Firm Energy Sales Agreements, Case Nos. IPC-E-10-16 (Rock Creek), IPC-E-10-17 (Swager Farms) and IPC-E-10-18 (Double B).

III.

Complainants support the Applications and urge the Commission to approve them. This Motion to Dismiss is contingent upon Commission approval of the Applications without change.

IV.

If, after due consideration, the Commission enters Orders approving the Applications, Complainants respectfully request that at the same time the Commission enter its Order dismissing this matter.

WHEREFORE, subject to the contingency identified herein, Complainants respectfully move the Commission for an Order dismissing this matter.

DATED this 21st day of May, 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 26th day of May, 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

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

Donovan Walker, Esq.
Idaho Power
P.O. Box 70
Boise, ID 83702
dwalker@idahopower.com

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

BY: Heather Hule
MCDEVITT & MILLER LLP