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UTILITIES COMMISSION

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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF AMENDMENTS TO THE)
FIRM ENERGY SALES AGREEMENT) CASE NO. IPC-E-10-19
BETWEEN IDAHO POWER COMPANY AND)
GRAND VIEW SOLAR ONE PV, LLC.) COMMENTS OF THE
) COMMISSION STAFF
)**

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Kristine A. Sasser, Deputy Attorney General, and in response to the Notice of Proposed Amendments to FESA and Notice of Modified Procedure issued in Order No. 32535 on April 24, 2012, in Case No. IPC-E-10-19, submits the following comments.

BACKGROUND

On April 11, 2012, Idaho Power Company (Idaho Power; Company) filed a Letter of Understanding and Agreement Relating to Contract Default, Scheduled Operation Date, and Generator Interconnection Agreement ("Letter" or "Letter of Agreement") with the Commission (*see* Attachment A). The Letter is dated April 3, 2012, and memorializes an agreement reached between Idaho Power and Grand View Solar PV One (Grand View) regarding Grand View's required security and scheduled operation date. Grand View is a 20 MW proposed solar photovoltaic PURPA Qualifying Facility to be located in Elmore County, Idaho. Idaho Power requested that the Commission "file the enclosed letter in the contract file for this matter." After

reviewing the filing, Staff recommended that the Commission process the Letter through the use of Modified Procedure because the amendments pertained to material terms of the Firm Energy Sales Agreement (FESA).

Idaho Power deemed Grand View in material breach of its FESA for failing to maintain the required security and failing to meet its scheduled operation date. Grand View disputed Idaho Power's interpretation of the FESA and asserted that it had a "rolling" scheduled operation date for which a deadline had not expired.

As a result of negotiations, Idaho Power and Grand View Solar One agreed to the following:

1. A (scheduled) commercial operation date of no later than January 12, 2013;
2. The commercially reasonable time period granted to Grand View Solar One to achieve its operation date is fair and reasonable;
3. Grand View Solar One shall post security in the amount of \$810,000 no later than April 6, 2012, to secure the scheduled operation date. If Grand View Solar One fails to achieve a January 12, 2013, operation date Idaho Power has the right to immediately draw funds from the Project's posted security and terminate the Project's FESA without further action or notice;
4. In the event that Grand View Solar One achieves its operation date by or before January 12, 2013, Idaho Power shall release the posted security;
5. If Grand View Solar One does not post the required security by April 6, 2012, the FESA will be terminated without further notice;
6. If Grand View Solar One does not achieve commercial operation on or before January 12, 2013, the FESA will be terminated without further notice;
7. Grand View Solar One shall pay \$475,000 no later than April 6, 2012, representing the required construction deposit pursuant to the Generator Interconnection Agreement (GIA). If the payment is not made the FESA will be terminated without further notice; and
8. If it could be reasonably demonstrated that Idaho Power was the cause of any delays that would prevent Grand View Solar One from achieving its operation date of January 12, 2013, then the operation date shall be extended by the length of such delays or to a reasonable date mutually agreed upon by Idaho Power and the Project.

Paragraph 22.1 of the FESA states that, “[n]o modification to this Agreement shall be valid unless it is in writing and signed by both Parties and subsequently approved by the Commission.” Agreement, ¶ 22.1.

STAFF ANALYSIS

The central question in this case is whether the Commission should approve the Letter of Agreement effectively establishing a revised Scheduled Operation Date of January 12, 2013 for the Grand View Solar One PV Facility. Ancillary questions are whether Grand View has defaulted on the original Agreement, and if so, whether Liquidated Damages are due to Idaho Power.

The underlying issue for all of these questions is an apparent disagreement between Idaho Power and Grand View as to the Scheduled Operation Date specified in the FESA. The Scheduled Operation Date is most directly addressed in Appendix B of the FESA. Other portions of the FESA define relevant terms, specify operational criteria, and lay out the terms for default and liquidated damages. A copy of Appendix B and other pertinent portions of the FESA are attached for reference (*see* Attachment B).

Appendix B of the FESA states the following with respect to the Scheduled First Energy Date and the Scheduled Operation Date:

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected December 31, 2010 as the Scheduled First Energy Date. Seller has selected 1.) 90 days past the date identified within the final Facility Study report in which Idaho Power shall have completed installation of the Idaho Power interconnection equipment as the Scheduled Operation Date or 2.) If by Seller action or inaction, a final Facility Study is not completed or the installation of Idaho Power interconnection equipment is delayed, January 30, 2011 shall be the Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date.

Appendix B at pp. 33-34.

Idaho Power's PURPA contracts normally specify both a "Scheduled First Energy Date" and a "Scheduled Operation Date." The Scheduled First Energy Date represents the date on which

the Facility is expected to first begin delivering energy to Idaho Power. The Scheduled Operation Date is the date on which the Facility is able to provide power in a consistent, reliable, ongoing manner. Typically, the Scheduled Operation Date succeeds the First Energy Date by several weeks or possibly months because of an expectation that the Facility will require testing, commissioning and adjustment before it is capable of consistent, reliable, ongoing operation. Penalties are always tied to meeting the Scheduled Operation Date, not the Scheduled First Energy Date.

As shown above, ¶ B-3 of Appendix B to the FESA clearly specifies December 31, 2010 as the Scheduled First Energy Date. Grand View has clearly failed to meet the Scheduled First Energy Date, but despite that, neither party disputes the failure because no penalty is tied to meeting the Scheduled First Energy Date.

Appendix B is much less clear with regard to the Scheduled Operation Date. Paragraph B-3 provides for two alternative ways of defining the Scheduled Operation Date. The first option ties the Scheduled Operation Date to 90 days past the date identified in the Facility Study¹ report in which Idaho Power shall have completed installation of the necessary interconnection equipment. The second option seems to contemplate delays caused by Grand View, but clearly sets January 30, 2011 as the Scheduled Operation Date. The first option that ties the Scheduled Operation Date to the Facility Study could conceivably imply a date either prior to or after January 30, 2011.

Based on the language contained in ¶ B-3 of Appendix B, Staff believes that the original intent of the parties was that the Scheduled Operation Date be no later than January 30, 2011, approximately one month after the Scheduled First Energy Date. That appears to have been Idaho Power's intent because it stated in its Application to the Commission seeking approval of the original FESA "Grand View has elected a Scheduled Operation Date of January 30, 2011, for the Facility." Original Application at p. 3. Grand View, in response to Staff's production requests, admits that development and funding challenges have caused the Project's operation date to be pushed later in time than originally hoped and anticipated. However, notwithstanding the original intent of the parties, Grand View now relies on its interpretation that the first option of ¶ B-3 is

¹ The normal process for securing transmission and interconnection for a PURPA facility is a series of three studies—a Feasibility Study, a System Impact Study, and a Facility Study. The last study, the Facility Study, identifies the specific facilities and equipment necessary to interconnect the project, and includes an estimate of costs and milestones for completion of the interconnection facilities. The Facility Study is used to prepare a Generator Interconnection Agreement which commits both parties to payment and construction of the necessary transmission and interconnection facilities.

controlling—that the Scheduled Operation Date shall be 90 days after the date specified in the Facility Study and therefore that Grand View is not in default.

Staff believes that ¶ B-3 is ambiguous, and it is impossible to discern, based upon a plain reading of ¶ B-3 alone, whether the parties ever did reach common understanding of the Scheduled Operation Date. Nevertheless, based on the assertions of each party today, there is no agreement with regard to the Scheduled Operation Date.

Because the FESA language itself is unclear, Staff turns next to correspondence that was exchanged between the parties. In response to Staff production requests, Grand View submitted a letter from Idaho Power dated December 7, 2010 (*see* Attachment C) in which Idaho Power seems to agree to a request from Grand View to delay Idaho Power's pursuit of construction of interconnection facilities. In the letter, Idaho Power agrees to modify the milestones specified in the Facility Study to provide a rolling timescale rather than specific dates (*see* Section 2 "Milestones" of the Facility Study included as Attachment D). The Facility Study appears to leave the timing for commencement of interconnection construction by Idaho Power up to receiving a go-ahead from Grand View.

Staff believes it is inappropriate to allow any PURPA facility to have a rolling Scheduled Operation Date, where it, in effect, can unilaterally dictate when it wishes to come online. In this particular case, Idaho Power and its ratepayers have not necessarily been harmed by Grand View's delay because Idaho Power has been able to purchase or produce power from another source at less cost than it would have paid Grand View. That will not always be the case, however. If the circumstances were reversed and Idaho Power wanted to delay a project's online date for its own benefit, it is likely that the PURPA facility would object. In Staff's opinion, both parties to a FESA should agree to a specific, unambiguous Scheduled Operating Date, that date should be rigorously enforced, and should be changed only when it benefits all parties (including ratepayers) and is approved by the Commission. It is reasonable to expect that both parties to a FESA be strictly held to the terms of the Agreement.

Given the ambiguity of ¶ B-3 of Appendix B of the FESA and the apparent consent by Idaho Power to provide a rolling timescale for construction of interconnection facilities, Staff believes that it would not be appropriate to consider Grand View in default. Staff recognizes that the consent to provide a rolling timescale for interconnection was given by transmission staff of Idaho Power, not by staff charged with administering the FESA. Better coordination and communication could have averted problems in administering the FESA. Idaho Power should

work to ensure that there are no conflicts between requirements contained in FESAs and Generator Interconnection Agreements when each is administered by separate divisions of Idaho Power.

Reasonableness of the Letter Agreement

The Letter Agreement requires a Scheduled Operating Date no later than January 12, 2013, approximately two years later than Idaho Power's understanding of the original Scheduled Operating Date. Grand View and Idaho Power have agreed that the revised Scheduled Operating Date provides Grand View a "commercially reasonable" time to bring the facility online.

In response to Staff production requests, Grand View reports that it has acquired all of the PV panels necessary for the project that the panels are onsite, and that site preparation is underway including completion of perimeter fencing and access roads. Grand View also reports that it expects to complete the final phase of the project's financing by June 1, 2012. Grand View estimates that the time required to install the solar panels and associated equipment is approximately 100 days, or October 12, 2012. The additional 90 days beyond the anticipated construction completion, Grand View states, allows for unexpected delays in construction due to weather or other factors.

It is Staff's understanding that the \$810,000 security deposit and the \$475,000 construction deposit as required by the Letter Agreement have already been posted by Grand View. Given the progress of the project to date and the fact that all required deposits have been made, Staff agrees that a revised Scheduled Operation date of January 12, 2013 is reasonable. If no equipment had yet been procured and no construction started, Staff would feel otherwise, but in this case, it appears substantial progress has been made.

Amendment to Article VII of the FESA

Article VII of the FESA lists the rates to be paid by year by Idaho Power for purchases from Grand View. As stated previously, Staff believes that the original FESA contemplated a Scheduled Operation Date of January 30, 2011 and a 20-year contract term. Consequently, rates in the FESA are only listed through the year 2031. If the Commission agrees to a revised Scheduled Operation Date of January 12, 2013, the FESA would need to display rates through 2033 in order to accommodate a 20-year contract term. Alternatively, the Commission could choose to require the parties to terminate the Agreement in 2031 as originally planned, effectively making it an 18-year Agreement. The FESA, at ¶ 5.1 specifies a contract term of 20 years from

the Operation Date; consequently, it would need to be modified if the Commission determines that an 18-year contract term is appropriate.

Although Staff believes either option is reasonable, Staff recommends maintaining the 20-year contract term because financing for an 18-year term could prove problematic for Grand View.

RECOMMENDATIONS

Staff recommends that the Commission approve the Letter of Understanding and Agreement relating to Contract Default, Scheduled Operation Date and Generator Interconnection Agreement as submitted by Idaho Power. Staff further recommends that a 20-year contract term be maintained and Idaho Power be directed to modify the payment schedule in the FESA accordingly.

Respectfully submitted this 31ST day of May 2012.


Kristine A. Sasser
Deputy Attorney General

Technical Staff: Rick Sterling

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JASON B. WILLIAMS
Corporate Counsel
jwilliams@idahopower.com

April 3, 2012

VIA E-MAIL: sstocker@coronacapitalpartners.com

Sean Stocker
Corona Capital Partners
300 Great Oaks Boulevard, Suite 320
Albany, New York 12203

Re: Grand View Solar One PV -Letter of Understanding and Agreement Relating to Contract Default, Scheduled Operation Date, and Generator Interconnection Agreement-IPUC Case No. IPC-E-10-19

Mr. Stocker:

As Idaho Power Company's ("Idaho Power") Randy Allphin explained in his phone call with you on March 28, 2012, this Letter of Understanding and Agreement is meant to express, in writing, the mutual agreement and understandings reached between Idaho Power and Grand View Solar One PV, LLC ("Grand View One") for its qualifying facility generation project ("Project") regarding the Material Breach for failing to maintain the required security and for failing to meet the Scheduled Operation Date required in Grand View One's Idaho Public Utilities Commission-approved Firm Energy Sales Agreement dated June 8, 2010 ("FESA").

Paragraph 5.7 of the FESA requires the Project to post security in the amount of \$900,000. This amount may be reduced by ten percent (10%) if the Project evidences that the interconnection is progressing and will enable the Project to meet the Scheduled Operation Date. Idaho Power received a Standby Letter of Credit in the amount of \$900,000 which was subsequently reduced to \$810,000 pursuant to the terms of the FESA.

The Standby Letter of Credit expired on March 1, 2012 and was not otherwise extended, updated or replaced. Thus, the Project was in Material Breach effective March 1, 2012.

The FESA also contains a provision which Idaho Power has interpreted to mean that the Project's Scheduled Operation Date was January 30, 2011. The Project did not achieve its Operation Date by January 30, 2011. Grand View One disputes Idaho Power's interpretation of the FESA that the Scheduled Operation Date was January 30, 2011, and, instead, asserts that the FESA has a "rolling" Scheduled Operation Date and the deadline for such Operation Date has not yet expired.

Letter of Understanding and Agreement
April 3, 2012 Page 1 of 3

Attachment A
Case No. IPC-E-10-19
Staff Comments
05/31/12 Page 1 of 3

On March 22, 2012, Idaho Power sent Grand View Solar One a Notice of Material Breach of the Firm Energy Sales Agreement and Notice of Termination ("Notice") for failing to maintain the required security; and (2) failing to meet the Scheduled Operation Date. Pursuant to the Section 5.3.2 of the FESA, the Notice also sought collection of Delay Liquidated Damages in the amount of \$900,000 for the Project's failure to achieve its Scheduled Operation Date

On March 23, 2012, Idaho Power received a response to the Notice from Grand View One wherein Grand View One disputed Idaho Power's claim that it failed to meet the Scheduled Operation Date. In addition, Grand View One's response claimed it had immediately available funds in the amount of \$475,000 to pay the obligation associated with its Generator Interconnection Agreement ("GIA") as well as a letter of credit necessary to meet its security obligations. Grand View One indicated it would be willing to make the GIA payment as well as post the letter of credit if Idaho Power would agree to not pursue its Delay Liquidated Damages claim.

Pursuant to Mr. Allphin's March 28, 2012, telephone call with you, the Notice, and Grand View One's response to the Notice, the parties' mutual understanding and agreement, having the benefit of consultation with their own respective counsel, is as follows:

The parties hereby agree as follows:

- (1) An Operation Date of no later than January 12, 2013, is a commercially reasonable time period in which to allow Grand View One to have its project commercially operational;
- (2) The commercially reasonable time period granted to Grand View One to achieve its Operation Date is a fair and reasonable time for Grand View One to achieve its Operation Date, and Grand View One shall not bring any legal or equitable challenge to the same, and by this agreement knowingly and intelligently waives its rights to bring any possible legal claim related thereto;
- (3) Grand View One shall post security as required by the FESA in the amount of Eight-Hundred Ten Thousand Dollars (\$810,000) to secure the Operation Date commitment ("Delay Security"). This Delay Security shall be posted no later than Friday, April 6, 2012 by 5:00 p.m. Mountain Time in a form as described in Appendix A attached hereto. If Grand View One fails to achieve a January 12, 2013, Operation Date, Idaho Power shall have the right to immediately draw the funds from the Delay Security and the FESA will terminate without any further action or notice required by Idaho Power. The parties agree that the damages Idaho Power and its customers incur due to Grand View One's failure to achieve its Operation Date are difficult or impossible to calculate with certainty, and that the Delay Security is an appropriate approximation of such damages. The stated Delay Liquidated Damages and Delay Security for such are reasonable, and Grand View One shall not bring any legal or equitable challenges to the same, and by this agreement knowingly and intelligently waives its rights to bring any possible legal claim related thereto;
- (4) In the event Grand View One achieves its Operation Date by or before January 12, 2013, Idaho Power shall release the Delay Security posted hereunder thirty (30) days after the Operation Date has been achieved;

(5) If Grand View One does not post the required Delay Security by the date certain of Friday, April 6, 2012 by 5:00 p.m. Mountain Time, the FESA will be terminated with no further notice required or legal challenges to the termination thereof;

(6) If Grand View One does not achieve the Operation Date on or before January 12, 2013, by 5:00 p.m. Mountain Time, the FESA will be terminated with no further notice required or legal challenges to the termination thereof; and

(7) Grand View One shall pay Four-Hundred Seventy Five Thousand Dollars (\$475,000) representing the required construction deposit pursuant to the GIA, which payment shall be made by no later than Friday, April 6, 2012. If Grand View One does not pay the required construction deposit by Friday, April 6, 2012, by 5:00p.m. Mountain Time, the FESA will be terminated with no further notice required or legal challenges to the termination thereof.

(8) If it can be reasonably demonstrated that Idaho Power was the cause of any delays that would prevent Grand View One from achieving the Operation Date of January 12, 2013, then the Operation Date shall be extended by the length of such delays or to some other reasonable date as mutually agreed. It is hereby stipulated by both parties that no such claim that Idaho Power was or is the cause of any such delays exists as of the date of execution of this Agreement.

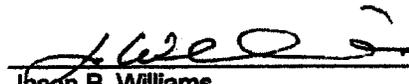
Capitalized terms uses in this agreement that are not defined herein shall have the meaning set forth in the FESA.

Each party's signature below indicates that party's acceptance of this Letter of Understanding and Agreement and the averments and contents thereof. DATED this 3 day of April 2012.

Agreed to and Accepted on behalf of Idaho Power Company:

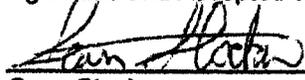


Lisa Grow
Senior Vice President, Power Supply
Idaho Power Company

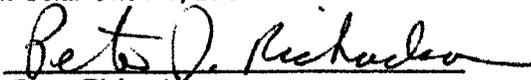


Jason B. Williams
Corporate Counsel
Idaho Power Company

Agreed to and Accepted on behalf of Grand View Solar One PV, LLC



Sean Stocker
Grand View Solar One PV, LLC



Peter Richardson
Attorney for Grand View Solar One PV, LLC

- 1.5 "Delay Period" – All days past the Scheduled Operation Date until the Seller's Facility achieves the Operation Date.
- 1.6 "Delay Price" - The current month's Mid-Columbia Market Energy Cost minus the current month's All Hours Energy Price specified in paragraph 7.3 of this Agreement. If this calculation results in a value less than 0, the result of this calculation will be 0.
- 1.7 "Designated Dispatch Facility" - Idaho Power's Systems Operations Group, or any subsequent group designated by Idaho Power.
- 1.8 "Facility" - That electric generation facility described in Appendix B of this Agreement.
- 1.9 "First Energy Date" - The day commencing at 00:01 hours, Mountain Time, following the day that Seller has satisfied the requirements of Article IV and the Seller begins delivering energy to Idaho Power's system at the Point of Delivery.
- 1.10 "Heavy Load Hours" – The daily hours beginning at 7:00 am, ending at 11:00 pm Mountain Time, (16 hours) excluding all hours on all Sundays, New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas.
- 1.11 "Inadvertent Energy" – Electric energy Seller does not intend to generate. Inadvertent energy is more particularly described in paragraph 7.5 of this Agreement.
- 1.12 "Interconnection Facilities" - All equipment specified in Schedule 72.
- 1.13 "Initial Capacity Determination" – The process by which Idaho Power confirms that under normal or average design conditions the Facility will generate at no more than 10 average MW per month and is therefore eligible to be paid the published rates in accordance with Commission Order No. 29632.
- 1.14 "Light Load Hours" – The daily hours beginning at 11:00 pm, ending at 7:00 am Mountain Time (8 hours), plus all other hours on all Sundays, New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas.
- 1.15 "Losses" – The loss of electrical energy expressed in kilowatt hours (kWh) occurring as a result of the transformation and transmission of energy between the point where the Facility's energy is

metered and the point the Facility's energy is delivered to the Idaho Power electrical system. The loss calculation formula will be as specified in Appendix B of this Agreement.

- 1.16 "Market Energy Reference Price" – Eighty-five percent (85%) of the Mid-Columbia Market Energy Cost.
- 1.17 "Material Breach" – A Default (paragraph 18.2.1) subject to paragraph 18.2.2.
- 1.18 "Maximum Capacity Amount" – The maximum capacity (MW) of the Facility will be as specified in Appendix B of this Agreement.
- 1.19 "Metering Equipment" - All equipment specified in Schedule 72, this Agreement and any additional equipment specified in Appendix B required to measure, record and telemeter bi directional power flows between the Seller's electric generation plant and Idaho Power's system.
- 1.20 "Mid- Columbia Market Energy Cost" – The monthly weighted average of the daily on-peak and off-peak Dow Jones Mid-Columbia Index (Dow Jones Mid-C Index) prices for non-firm energy. If the Dow Jones Mid-Columbia Index price is discontinued by the reporting agency, both Parties will mutually agree upon a replacement index, which is similar to the Dow Jones Mid-Columbia Index. The selected replacement index will be consistent with other similar agreements and a commonly used index by the electrical industry.
- 1.21 "Nameplate Capacity" –The full-load electrical quantities assigned by the designer to a generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovolt-amperers, kilowatts, volts or other appropriate units. Usually indicated on a nameplate attached to the individual machine or device.
- 1.22 "Net Energy" – All of the electric energy produced by the Facility, less Station Use, less Losses, expressed in kilowatt hours (kWh). Subject to the terms of this Agreement, Seller commits to deliver all Net Energy to Idaho Power at the Point of Delivery for the full term of the Agreement. Net Energy does not include Inadvertent Energy.
- 1.23 "Operation Date" – The day commencing at 00:01 hours, Mountain Time, following the day that all requirements of paragraph 5.2 have been completed.

- 1.24 **"Point of Delivery"** – The location specified in Appendix B, where Idaho Power's and the Seller's electrical facilities are interconnected and the energy from this Facility is delivered to the Idaho Power electrical system.
- 1.25 **"Prudent Electrical Practices"** – Those practices, methods and equipment that are commonly and ordinarily used in electrical engineering and operations to operate electric equipment lawfully, safely, dependably, efficiently and economically.
- 1.26 **"Scheduled Operation Date"** – The date specified in Appendix B when Seller anticipates achieving the Operation Date. It is expected that the Scheduled Operation Date provided by the Seller shall be a reasonable estimate of the date that the Seller anticipates that the Seller's Facility shall achieve the Operation Date.
- 1.27 **"Schedule 72"** – Idaho Power's Tariff No 101, Schedule 72 or its successor schedules as approved by the Commission. The Seller shall be responsible to pay all costs of interconnection and integration of this Facility into the Idaho Power electrical system as specified within Schedule 72.
- 1.28 **"Season"** – The three periods identified in paragraph 6.2.1 of this Agreement.
- 1.29 **"Special Facilities"** - Additions or alterations of transmission and/or distribution lines and transformers as described in Schedule 72.
- 1.30 **"Station Use"** – Electric energy that is used to operate equipment that is auxiliary or otherwise related to the production of electricity by the Facility.
- 1.31 **"Surplus Energy"** – Is (1) Net Energy produced by the Seller's Facility and delivered to the Idaho Power electrical system during the month which exceeds 110% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2. or (2) If the Net Energy produced by the Seller's Facility and delivered to the Idaho Power electrical system during the month is less than 90% of the monthly Net Energy Amount for the corresponding month specified in paragraph 6.2, then all Net Energy delivered by the Facility to the Idaho Power electrical system for that given month or (3) All Net Energy produced by the Seller's Facility and delivered by the Facility to the Idaho Power electrical system prior to the Operation Date.

ARTICLE V: TERM AND OPERATION DATE

5.1 Term - Subject to the provisions of paragraph 5.2 below, this Agreement shall become effective on the date first written and shall continue in full force and effect for a period of twenty (20) Contract Years from the Operation Date.

5.2 Operation Date - The Operation Date may occur only after the Facility has achieved all of the following:

- a) Achieved the First Energy Date.
- b) Commission approval of this Agreement in a form acceptable to Idaho Power has been received.
- c) Seller has demonstrated to Idaho Power's satisfaction that the Facility is complete and able to provide energy in a consistent, reliable and safe manner.
- d) Seller has requested an Operation Date from Idaho Power in a written format.
- e) Seller has received written confirmation from Idaho Power of the Operation Date.

This confirmation will not be unreasonably withheld by Idaho Power.

5.3 Operation Date Delay - Seller shall cause the Facility to achieve the Operation Date on or before the Scheduled Operation Date. Delays in the interconnection and transmission network upgrade study, design and construction process that **are not** Force Majeure events accepted by both Parties **shall not** prevent Delay Damages being calculated as specified in this Agreement.

5.3.1 If the Operation Date occurs after the Scheduled Operation Date but on or prior to 90 days following the Scheduled Operation Date, Seller shall pay Idaho Power Delay Liquidated Damages calculated at the end of each calendar month after the Scheduled Operation Date as follows:

Delay Liquidated Damages are equal to ((Current month's Initial Year Net Energy Amount as specified in paragraph 6.2.1 divided by the number of days in the current month) multiplied by the number of days in the Delay Period in the current month) multiplied by the current month's Delay Price.

5.3.2 If the Operation Date does not occur within ninety (90) days following the Scheduled Operation Date the Seller shall pay Idaho Power Delay Liquidated Damages, in addition to those provided in paragraph 5.3.1, calculated as follows:

Forty five dollars (\$45) multiplied by the Maximum Capacity with the Maximum Capacity being measured in KW.

5.4 If Seller fails to achieve the Operation Date within ninety (90) days following the Scheduled Operation Date, such failure will be a Material Breach and Idaho Power may terminate this Agreement at any time until the Seller cures the Material Breach. Additional Delay Damages beyond those calculated in 5.3.1 and 5.3.2 will be calculated and payable using the Delay Damage calculation described in 5.3.1 above for all days exceeding 90 days past the Scheduled Operation Date until such time as the Seller cures this Material Breach or Idaho Power terminates this Agreement.

5.5 Seller shall pay Idaho Power any calculated Delay Damages or Delay Liquidated Damages within 7 days of when Idaho Power calculates and presents any Delay Damages or Delay Liquidated Damages billings to the Seller. Seller's failure to pay these damages within the specified time will be a Material Breach of this Agreement and Idaho Power shall draw funds from the Delay Security provided by the Seller in an amount equal to the calculated Delay Damages or Delay Liquidated Damages.

5.6 The Parties agree that the damages Idaho Power would incur due to delay in the Facility achieving the Operation Date on or before the Scheduled Operation Date would be difficult or impossible to predict with certainty, and that the Delay Liquidated Damages are an appropriate approximation of such damages.

5.7 The Seller shall; 1) submit evidence acceptable to Idaho Power that the Seller has obtained a favorable feasibility study report from the interconnection provider at the time the Seller executes this Agreement and 2) within thirty (30) days of the date of a Commission Order as specified in

Article XX approving this Agreement the Seller shall post liquid security ("Delay Security") in a form as described in Appendix D equal to or exceeding the amount calculated in paragraph 5.7.1.

5.7.1 Delay Security The greater of forty five (\$45) multiplied by the Maximum Capacity with the Maximum Capacity being measured in KW or the sum of three month's estimated revenue. Where the estimated three months of revenue is the estimated revenue associated with the first three full months following the estimated Scheduled Operation Date, the estimated kWh of energy production as specified in paragraph 6.2.1 for those three months multiplied by the All Hours Energy Price specified in paragraph 7.3 for each of those three months.

5.7.1.1 In the event (a) Seller provides Idaho Power with certification that (1) a generation interconnection agreement specifying a schedule that will enable this Facility to achieve the Operation Date no later than the Scheduled Operation Date has been completed and the Seller has paid all required interconnection costs or (2) a generation interconnection agreement is substantially complete and all material costs of interconnection have been identified and agreed upon and the Seller is in compliance with all terms and conditions of the generation interconnection agreement, the Delay Security calculated in accordance with paragraph 5.7.1 will be reduced by ten percent (10%).

5.7.1.2 If the Seller has received a reduction in the calculated Delay Security as specified in paragraph 5.7.1.1 and subsequently (1) at Seller's request, the generation interconnection agreement specified in paragraph 5.7.1.1 is revised and as a result the Facility will not achieve its Operation Date by the Scheduled Operation Date or (2) if the Seller does not maintain compliance with the generation interconnection agreement, the full amount of the Delay Security as calculated in paragraph 5.7.1 will be subject to reinstatement and will be due and owing within 5 business days from the date Idaho Power requests reinstatement. Failure to timely reinstate the Delay Security will be a Material Breach of this Agreement.

5.7.2 Idaho Power shall release any remaining security posted hereunder after all calculated Delay Damages and/or Delay Liquidated Damages are paid in full to Idaho Power and the earlier of (1) 30 days after the Operation Date has been achieved or (2) 60 days after the Agreement has been terminated.

ARTICLE VI: PURCHASE AND SALE OF NET ENERGY

6.1 **Delivery and Acceptance of Net Energy** - Except when either Party's performance is excused as provided herein, Idaho Power will purchase and Seller will sell all of the Net Energy to Idaho Power at the Point of Delivery. All Inadvertent Energy produced by the Facility will also be delivered by the Seller to Idaho Power at the Point of Delivery. At no time will the total amount of Net Energy and/or Inadvertent Energy produced by the Facility and delivered by the Seller to the Point of Delivery exceed the Maximum Capacity Amount.

6.2 **Net Energy Amounts** - Seller intends to produce and deliver Net Energy in the following monthly amounts:

6.2.1 **Initial Year Monthly Net Energy Amounts:**

	<u>Month</u>	<u>kWh</u>
Season 1	March	3,250,000
	April	3,192,000
	May	4,298,000
Season 2	July	4,816,000
	August	4,310,000
	November	2,166,000
	December	1,814,000
Season 3	June	4,334,000
	September	3,758,000
	October	3,264,000
	January	1,326,000
	February	2,028,000

6.2.2 **Ongoing Monthly Net Energy Amounts** - Seller shall initially provide Idaho Power with one year of monthly generation estimates (Initial Year Monthly Net Energy Amounts)

APPENDIX B

FACILITY AND POINT OF DELIVERY

Project Name: Grand View Solar PV One

Project Number: 21615150

B-1 DESCRIPTION OF FACILITY

(Must include the Nameplate Capacity rating and VAR capability (both leading and lagging) of all generation units to be included in the Facility.)

The system will have a Nameplate Capacity rating of 24 DC and 20 MW AC. It will operate at a VAR capability of 0.95 or better and will be configured to meet Idaho Power's requirements. It will consist of mounted solar panels covering approximately 180 acres of land using manufactured thin film and/or crystalline panels.

Var Capability (Both leading and lagging) .95

B-2 LOCATION OF FACILITY

Near: Grand View Highway, 16 miles west of Mountain Home, Idaho

Sections: 4 and 5 Township: S5 Range: E4 County: Elmore ID.

Description of Interconnection Location: At the site

Nearest Idaho Power Substation: Canyon Creek substation (Approximately one half mile from the site)

B-3 SCHEDULED FIRST ENERGY AND OPERATION DATE

Seller has selected December 31, 2010 as the Scheduled First Energy Date.

Seller has selected 1.) 90 days past the date identified within the final Facility Study report in which Idaho Power shall have completed installation of the Idaho Power interconnection equipment as the Scheduled Operation Date or 2.) If by Seller action or inaction, a final Facility

Study is not completed or the installation of Idaho Power interconnection equipment is delayed, January 30, 2011 shall be the Scheduled Operation Date.

In making these selections, Seller recognizes that adequate testing of the Facility and completion of all requirements in paragraph 5.2 of this Agreement must be completed prior to the project being granted an Operation Date.

B-4 MAXIMUM CAPACITY AMOUNT: This value will be 20 MW which is consistent with the value provided by the Seller to Idaho Power in accordance with Schedule 72. This value is the maximum energy (MW) that potentially could be delivered by the Seller's Facility to the Idaho Power electrical system at any moment in time.

B-5 POINT OF DELIVERY

"Point of Delivery" means, unless otherwise agreed by both Parties, the point of where the Sellers Facility's energy is delivered to the Idaho Power electrical system. Schedule 72 will determine the specific Point of Delivery for this Facility. The Point of Delivery identified by Schedule 72 will become an integral part of this Agreement.

B-6 LOSSES

If the Idaho Power Metering equipment is capable of measuring the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, no Losses will be calculated for this Facility. If the Idaho Power Metering is unable to measure the exact energy deliveries by the Seller to the Idaho Power electrical system at the Point of Delivery, a Losses calculation will be established to measure the energy losses (kWh) between the Seller's Facility and the Idaho Power Point of Delivery. This loss calculation will be initially set at 2% of the kWh energy production recorded on the Facility generation metering equipment. At such time as Seller provides Idaho Power with the electrical equipment specifications (transformer loss specifications, conductor sizes, etc) of all of the electrical equipment between the Facility and the

Exhibit A



December 7, 2010

Peter Richardson
Richardson and O'Leary
515. N 27th. Street
Boise, ID 83702

Re: Grand View Solar PV One – Project #312

Dear Mr. Richardson:

Attached please find the Final Facility Study Report (FSR) for the subject project. I modified Section 2 Milestones to better reflect the changes to the on-line date as described in your letter dated December 1, 2010 and provided a rolling timescale rather than specific dates. I understand that you would prefer to be on-line September 1, 2011. Additionally, language has been added regarding Generator Output Limit Control.

This report will be used to prepare a Generator Interconnection Agreement in preparation for construction. Rowena Bishop will be working with you to finalize the Interconnection Agreement.

Before we can begin construction or order materials, you are responsible for contacting Idaho Power's credit department to discuss credit requirements for construction funding. Please contact Aubrae Sloan (208-388-5697) at your earliest convenience. Once we receive funding, or the credit requirement is met, we can proceed with construction of the project.

The actual construction and labor charges will be finalized approximately 90 days subsequent to project completion. We will reconcile any over- or underpayment at that time.

I look forward to hearing from you soon.

Sincerely,

A handwritten signature in cursive script that reads "Eric Hackett".

Eric Hackett
Project Leader

Attachment: Grand View Solar PV One Project Facility Study Report with Drawings

Cc: R Bishop/IPC
A Sloan/IPC

Attachment C
Case No. IPC-E-10-19
Staff Comments
05/31/12

Exhibit A



**Generator Interconnection
Facility Study Report**

for the

Grand View Solar PV One Project – Project #312

for

Grand View Solar PV One, LLC

in

Elmore County, ID

December 7, 2010

FACILITY STUDY REPORT (FSR)

Grand View Solar PV One Project

Project #312

December 7, 2010

1. General Facility Description

The proposed project consists of 185 solar barns, Sharp TF (128-BEW) thin film solar panels in Elmore County, Idaho and connects to the 34.5 kV system on Idaho Power Company's Canyon Creek (CACK-042) distribution line. The total project output is 20 MW.

Interconnection Customer:

Peter Richardson
Richardson and O'Leary
515. N 27th. Street
Boise, ID 83702

A Standard Generator Interconnection Agreement under Idaho Power Company's Open Access Transmission Tariff (OATT) or Schedule 72 between Interconnection Customer and Idaho Power Company – Delivery (Transmission Owner) for the Grand View Solar PV One Project, specifically Generator Interconnection Project # 312, will be prepared for this project.

1.1 Interconnection Point

The Interconnection Point for the Grand View Solar PV One Project will be the spade located on the Interconnection Customer side of the disconnect switch (defined as X_ _ on the work order map) on the Interconnection Customer side of the interconnection package. The project's location is in Elmore County, ID and in T05S, R04E, and Section 05 in relation to the Boise Meridian. A drawing identifying the Interconnection Point is attached.

1.2 Point of Change of Ownership

The Point of Change of Ownership for the Grand View Solar PV One Project is the same as the Interconnection Point.

1.3 Customer's Interconnection Facilities

The Interconnection Customer will install generators, step-up transformers, distribution collector system, appropriate grounding devices, and associated auxiliary equipment. Interconnection customer will build facilities to the Point of Change of Ownership for the generator facility and will connect to the Interconnection Point via overhead line at a tension not to exceed the design tension specified by Idaho Power.

1.4 Other Facilities Provided by Interconnection Customer

1.4.1 Telecommunications

The Interconnection Customer will provide two communication circuits between the generation interconnection site and a location, or locations, specified by Idaho Power. One of the circuits will be a dedicated 4-wire leased analog circuit connected to the SEL 311C relay and the other will be a POTS dial-up circuit to the revenue meter. The Interconnection Customer is responsible for supplying and coordinating the installation of the phone lines and paying the monthly service charges. The communication circuits will need to be installed and operational prior to generating into the Idaho Power system.

1.4.2 Ground Fault Equipment

The Interconnection Customer will install transformer configurations that will limit the contribution of ground fault current to 20 amps or less at the Interconnection Point. Additionally, the high side of the step-up transformers must be grounded-wye.

1.4.3 Generator Output Limit Control

The Interconnection Customer will install equipment to receive signals from Idaho Power Grid Operations for Generation Output Limit Control ("GOLC") - see Section 3 Operating Requirements.

1.4.4 Easements

The Interconnection Customer will secure appropriate easements with the land owner for the upgrades and interconnection facilities. Idaho Power will provide the documentation.

1.4.5 Monitoring Information

If the Interconnection Customer requires the ability to monitor information related to the Idaho Power recloser in the generation interconnection package they are required to supply their own communications circuit to the control box.

1.5 Idaho Power Company's Interconnection Facilities

Idaho Power will install a standard generation interconnection package on the existing distribution feeder (CACK-042). If desired, Idaho Power can install a pole riser if the Interconnection Customer would like to install underground cable to make the final connection to the Interconnection Point.

The new interconnection package will include four distribution poles to mount a local service transformer, solid blade disconnects, primary metering package, recloser, relays, fuses and riser necessary for the package. The interconnection will be controlled by a SEL-311C line protection relay located in a pole mounted box.

1.6 Interconnection Facilities Cost Estimate

The following good faith estimates are provided in 2010 dollars:

<i>Interconnection Facilities:</i>		
Four-Pole Interconnection Package	IPC	\$225,000.00
	SUBTOTAL	\$225,000.00

See Section 6 for Project Grand Total

2. Milestones

TBD	<i>Construction Funds Received by Idaho Power</i>
5 Months after Construction Funds Received by IPCO	<i>IPCO Construction Complete</i>
1 Month after IPCO Construction Complete	<i>IPCO Commissioning Complete</i>
	<i>Commercial Operation Date [tbd by seller]</i>

Milestone dates are approximate and are subject to material and resource availability.

3. Operating Requirements

Voltage flicker at startup and during operation will be limited to less than 5% as measured at the Interconnection Point. It is preferable to bring each generating unit online separately to minimize voltage flicker on the distribution system. The project is required to comply with the applicable Voltage and Current Distortion Limits found in IEEE Standard 519-1992 *IEEE Recommended Practices and requirements for harmonic Control in Electrical Power Systems*.

The Project will be allowed to deliver the net output of 20 MW at the Interconnection Point subject to reductions directed by Idaho Power Grid Operations during system contingencies. When outages occur, the Project will be subject to Generator Output Limit Control ("GOLC") and will have equipment capable of receiving signals from Idaho Power for GOLC. Generator Output Limit Control will be a signal from Idaho Power to the Project indicating maximum output allowed during contingencies.

Interconnection Customer will be able to modify power plant facilities on the Interconnection Customer side of the Interconnection Point with no impact upon the operation of the transmission or distribution system whenever the generation facilities are electrically isolated from the system via the X __ switch.

4. Reactive Power

The project must be controlled to operate at unity power factor or meet the voltage schedule provided by Idaho Power. If this requirement cannot be met, further voltage studies will be necessary.

5. Upgrades

5.1 Distribution Upgrades

Idaho Power will upgrade approximately 1.5 miles of the existing distribution feeder to accommodate the new Grand View Solar PV One project. The existing conductor will be upgraded to 336.4 AAC conductor with a 2/0 neutral. The associated support structures will be rebuilt as necessary to accommodate the larger conductor. The feeder will be rebuilt from the Interconnection Point back to the northwest.

6. Total Estimated Costs

The following good faith estimates are provided in 2010 dollars:

[REDACTED]		
<i>Interconnection Facilities:</i>		
Four-Pole Interconnection Package (from Sec 1.6)	IPC	\$225,000.00
	<i>SUBTOTAL</i>	\$225,000.00
<i>Upgrades to Distribution:</i>		
1.5 Mile CACK-042 Line Reconductor	IPC	\$250,000.00
	<i>SUBTOTAL</i>	\$250,000.00
	<i>GRAND TOTAL</i>	\$475,000.00

Note Regarding Transmission Service:

Transmission system improvements and associated costs outside the scope of this Generator Interconnection Facility Study Report may be required for the delivery of energy from this project. Generator interconnection service does not in any way convey transmission rights nor determine other transmission system improvements to deliver your project energy to any specific customer or point of delivery in our system. A separate transmission service request is required to procure transmission rights.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 31ST DAY OF MAY 2012, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-10-19, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

DONOVAN E WALKER
LISA D NORDSTROM
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RANDY C ALLPHIN
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PETER RICHARDSON
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SECRETARY

CERTIFICATE OF SERVICE