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October 15, 2010

VIA FEDERAL EXPRESS OVERNIGHT DELIVERY

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 W Washington Street
PO Box 83720
Boise, ID 83720-0074

RECEIVED
2010 OCT 18 AM 10:31
IDAHO PUBLIC UTILITIES COMMISSION

Re: Case No. IPC-E-10-22

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR
APPROVAL OF A FIRM ENERGY SALES AGREEMENT WITH YELLOWSTONE
POWER, INC. FOR THE SALE AND PURCHASE OF ELECTRIC ENERGY

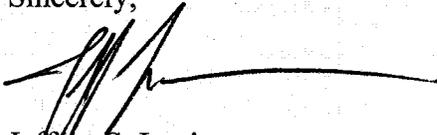
Dear Ms. Jewell:

Enclosed for filing in the above-captioned docket are an original and seven (7) copies of *ROCKY MOUNTAIN POWER'S COMMENTS*.

An extra copy of this cover letter is enclosed. Please date stamp the extra copy and return it to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,



Jeffrey S. Lovinger

cc: IPC-E-10-22 Service List

Enclosures

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Attorneys for PacifiCorp dba Rocky Mountain Power

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
IDAHO POWER COMPANY FOR APPROVAL)	CASE NO. IPC-E-10-22
OF A FIRM ENERGY SALES AGREEMENT)	
WITH YELLOWSTONE POWER, INC. FOR)	COMMENTS OF ROCKY
THE SALE AND PURCHASE OF ELECTRIC)	MOUNTAIN POWER
ENERGY)	
)	
)	
)	

COMES NOW, PacifiCorp, d/b/a Rocky Mountain Power (“Rocky Mountain Power”), and in response to the Notice of Reply Comment Deadline issued in the above-captioned proceeding on October 5, 2010, submits the following comments.

Under PURPA, Rocky Mountain Power is required to purchase qualifying facility (QF) output at avoided cost rates established by the Commission. Rocky Mountain Power is also currently defending a complaint by a QF developer who alleges that the Commission should allow for grandfathered treatment of avoided cost rates. Rocky

Mountain Power therefore has an interest in how the Commission applies its grandfathering criteria.

Commission Staff has summarized the Commission's treatment of grandfathered rates as follows:

[T]he Commission [has] determined and the Idaho Supreme Court [has] affirmed, certain criteria that a QF developer must satisfy in order to establish an entitlement to sell energy at a rate other than the current published avoided cost rate. The first criteria that would qualify a particular generating facility to receive a superseded rate requires that the developer have executed a power sales agreement with the utility at the rate in question before a successor rate becomes effective. If the QF cannot meet the first criteria, the second criteria requires that prior to the new rates' effective date, the QF developer must have filed a meritorious complaint alleging that the project was sufficiently mature and far enough along in the contracting process that but for the conduct of the utility company, the developer would have been able to sign a contract with the utility containing the superseded rates.

Staff Comments at 3.

Rocky Mountain Power agrees with Staff's characterization of the Commission's grandfathering criteria. In order to qualify for grandfathered rates under these criteria, a QF must (a) obtain a fully executed power sales agreement *before* the rate change; or (b) *before* the rate changes, file with the Commission a meritorious complaint alleging that but for the utility's improper conduct the QF would have secured a power sales contract before the rate changed. Rocky Mountain Power supports these criteria and urges the Commission to retain them. The Commission's grandfathering criteria establish a clear and easily understood test for when a QF is entitled to grandfathered rates. Such a "bright line" test benefits ratepayers, QF developers, and regulated utilities by setting clear standards and expectations. This allows all parties to make decisions about QF contracts with confidence that they can accurately determine whether a QF

qualifies for a rate other than the current published avoided cost rate and therefore allows parties to avoid costly litigation. The existing criteria for grandfathering also ensure compliance with PURPA by ensuring that Idaho's regulated electric utilities and their ratepayers do not pay more than avoided cost for QF output.

Commission Staff has suggested that the facts of the Yellowstone case may justify an exception to the grandfathering criteria:

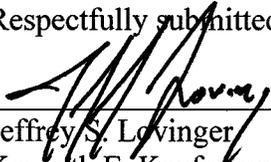
Staff believes that this case presents a unique set of facts that permit the Commission to look beyond the established criteria applied in other recent requests to grandfather the rates of Order No. 30744 and consider other aspects such as the strong public interest and impact of allowing a grandfathered rate.

Staff Comments at 6.

Rocky Mountain Power expresses no opinion whether, under the facts of this case, the Commission should look beyond the established criteria and create an exception to the general grandfathering rule. If the Commission decides to establish an exception to its existing grandfathering criteria, Rocky Mountain Power urges the Commission to carefully limit any such exception to prevent it from superseding the rule. Specifically, the Commission could refuse to entertain an exception to the basic grandfathering criteria unless the utility and the QF developer agree that they settled all material terms of their power purchase agreement prior to the rate change. Satisfying this prerequisite would be necessary but not sufficient to justify an exception. If the prerequisite is satisfied, the Commission could then consider whether the unique facts of a given case justify an exception to the basic grandfathering rule. Without such a prerequisite, any exception seems likely, in PacifiCorp's judgment, to undercut the clarity and settled expectations established by the Commission's prior orders.

DATED this 15th day of October, 2010.

Respectfully submitted,



Jeffrey S. Lovinger
Kenneth E. Kaufmann

Mark C. Moench
Daniel Solander
Attorneys for Rocky Mountain
Power

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 15th day of October, 2010, I served a true and correct copy of the foregoing *ROCKY MOUNTAIN POWER'S COMMENTS* in Case No. IPC-E-10-22 on the following named persons/entities by Federal Express Overnight Delivery, properly addressed with postage prepaid, and electronic mail:

<p>Mark C. Moench Daniel E. Solander Rocky Mountain Power 201 South Main Street, Suite 2300 Salt Lake City, UT 84111 mark.moench@pacificorp.com daniel.solander@pacificorp.com (FedEx Overnight Delivery)</p> <p>Jean Jewell Commission Secretary Idaho Public Utilities Commission 472 West Washington Street Boise, ID 83702 jean.jewell@puc.idaho.gov (FedEx Overnight Delivery)</p> <p>Kristine Sasser Deputy Attorney General Idaho Public Utilities Commission 472 West Washington Street Boise, ID 83702 kristine.sasser@puc.idaho.gov (FedEx Overnight Delivery)</p>	<p>Donovan E. Walker, Senior Counsel Lisa Nordstrom, Lead Counsel Idaho Power Company 1221 West Idaho Street Boise, ID 83707 dwalker@idahopower.com lnordstrom@idahopower.com (FedEx Overnight Delivery)</p> <p>Randy C. Allphin Energy Contract Administrator Idaho Power Company 1221 West Idaho Street Boise, Idaho 83707 rallphin@idahopower.com (FedEx Overnight Delivery)</p> <p>Dean J. Miller Chas F. McDevitt McDevitt & Miller LLP 420 West Bannock Street Boise, ID 83702 joe@mcdevitt-miller.com (FedEx Overnight Delivery)</p> <p>Dick Vinson Yellowstone Power, Inc. 115 Broad Street Thompson Falls, MT 59873 dick@blackfoot.net (FedEx Overnight Delivery)</p>
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DATED this 15th day of October, 2010.

LOVINGER KAUFMANN LLP



Jeffrey S. Lovinger
Attorney for Rocky Mountain Power