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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE

IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR A DETERMINATION REGARDING THE FIRM ENERGY SALES AGREEMENT FOR THE SALE AND PURCHASE OF ELECTRIC ENERGY BETWEEN IDAHO POWER COMPANY AND DEEP CREEK WIND PARK, LLC	CASE NO. IPC-E-10-47 COMMENTS BY J. R. SIMPLOT COMPANY IN SUPPORT OF IDAHO POWER'S APPLICATION FOR APPROVAL OF ITS POWER PURCHASE AGREEMENT WITH DEEP CREEK WIND PARK, LLC
IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR A DETERMINATION REGARDING THE FIRM ENERGY SALES AGREEMENT FOR THE SALE AND PURCHASE OF ELECTRIC ENERGY BETWEEN IDAHO POWER COMPANY AND COTTONWOOD WIND PARK, LLC	CASE NO. IPC-E-10-48 COMMENTS BY J. R. SIMPLOT COMPANY IN SUPPORT OF IDAHO POWER'S APPLICATION FOR APPROVAL OF ITS POWER PURCHASE AGREEMENT WITH COTTONWOOD WIND PARK, LLC

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR A DETERMINATION REGARDING THE FIRM ENERGY SALES AGREEMENT FOR THE SALE AND PURCHASE OF ELECTRIC ENERGY BETWEEN IDAHO POWER COMPANY AND ROGERSON FLATS WIND PARK, LLC	CASE NO. IPC-E-10-49 COMMENTS BY J. R. SIMPLOT COMPANY IN SUPPORT OF IDAHO POWER'S APPLICATION FOR APPROVAL OF ITS POWER PURCHASE AGREEMENT WITH ROGERSON FLATS WIND PARK, LLC

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY FOR A DETERMINATION REGARDING THE FIRM ENERGY SALES AGREEMENT FOR THE SALE AND PURCHASE OF ELECTRIC ENERGY BETWEEN IDAHO POWER COMPANY AND SALMON CREEK WIND PARK, LLC	CASE NO. IPC-E-10-50 COMMENTS BY J. R. SIMPLOT COMPANY IN SUPPORT OF IDAHO POWER'S APPLICATION FOR APPROVAL OF ITS POWER PURCHASE AGREEMENT WITH SALMON CREEK WIND PARK, LLC

COMES NOW, the J. R. Simplot Company ("Simplot") pursuant to that Notice of Application(s) and Notice of Modified Procedure issued by the Idaho Public Utilities Commission ("Commission") in the above captioned docket and files these Comments in support of the Applications by Idaho Power Company ("Idaho Power") for approval of the Power Purchase Agreements ("PPAs") between Deep Creek Wind Park, LLC; Cottonwood Wind Park, LLC; Rogerson Flats Wind Park, LLC; and Salmon Creek Wind Park, LLC (collectively the "Projects") and Idaho Power.

I

INTRODUCTION AND STATEMENT OF INTEREST

The J. R. Simplot Company is interested in this matter because it is the land owner upon whose property the above referenced Projects will be constructed and operated. As such,

Simplot has an important interest in the prompt approval of the four PPAs at issue. However, Idaho Power's Application, and dicta in the Commission's notice, both make reference to IPUC Case No. GNR-E-10-04. In that docket, which is separate and distinct from the instant case, the Commission is being asked to eliminate entitlement to publish avoided cost rates for certain QF projects. Simplot is concerned by Idaho Power's and the Commission's reference to that docket because the above referenced Projects are NOT among those projects that are the object of Case No. GNR-E-10-04.

II

THE PPA IS IN FULL COMPLIANCE WITH ALL OF THE PUC'S REQUIREMENTS FOR APPROVAL

As pointed out in Idaho Power's application, the Agreements between the above referenced Projects and Idaho Power are in full compliance with all of the of the provisions previously deemed reasonable and/or necessary by this Commission in a PURPA QF contract with Idaho Power. The PPAs contain the necessary Mechanical Availability Guarantee, Wind Integration Cost reduction, and Wind Forecasting cost sharing as required by the Commission in Order No. 30488. Additionally, as pointed out by Idaho Power, all four Projects have agreed to Delay Liquidated Damages and associated Delay Security provisions of $45 per kW of nameplate capacity, which provisions in the PPAs have been in PPAs recently approved by this Commission. In short, the PPAs are identical in all material respects to all other PPAs that have been routinely approved by the Commission over the past year.

III

THE REACH OF CASE NO. GRN-E-10-04 DOES NOT EXTEND TO THE FOUR PROJECTS AT ISSUE AND HENCE THE COMMISSION'S DECISION HERE SHOULD NOT BE INFLUENCED BY AVERMENTS AND ACTIONS IN THAT DOCKET

On December 3, 2010, in Order No. 32131 in Case No. GNR-E-10-04, the Commission found:

> After reviewing the Joint Petition and the Answers, the Commission will first take up the request to reduce the eligibility cap. As set out in the schedule below, the Commission will process the Petitioner's request to reduce the eligibility cap via Modified Procedure and schedule an oral argument. In particular, the Commission is interested in receiving comments regarding: (1) the advisability of reducing the published avoided cost eligibility cap...

Order No. 32131, p 5.

In establishing the GNR-E-10-04 schedule, the Commission explicitly ruled that, "Finally, it is our intent that our decision regarding the 'Joint Motion' to reduce the eligibility cap shall become effective on December 14, 2010." *Id.*

The four PPAs at issue were executed by the project developer on December 9, 2010, and were executed and filed with the Commission for approval by Idaho Power Company on December 10, 2010. There can be no doubt the parties to the agreements were relying, in good faith, on the Commission explicit declaration that the effective date of the Commission's decision on the eligibility cap would be no earlier than December 14 -- hence, Simplot questions why the eligibility cap docket is even referenced in Idaho Power's Applications and the Commission's Notice of Application for the four PPAs.

Further troubling is Idaho Power's prayer for relief in its Applications wherein Idaho Power states:

> Idaho Power Company respectfully requests that the Commission issue an Order: (1) authorizing that this matter may be processed by Modified Procedure; (2) accepting or rejecting the Firm Energy Sales Agreement between Idaho Power Company and [the specific project's], LLC

Application p. 8, emphasis provided.

Never, prior to the filing of the Joint Motion requesting a reduction in the eligibility cap, has Idaho Power filed for approval of a PPA, such as the four PPAs at issue, with a request that the Commission either accept or reject its filing. Prior to the filing of the Joint Motion on November 5, 2010, the standard, routine request for approval of a PPA by Idaho Power was just that, a request for approval. Clearly, this Commission will approve or reject an application based on the evidence and law before it -- regardless of whether a party invites it to approve or reject said application. Since the effective date of the Commission's eligibility cap decision (whenever that decision is made) will be no earlier than December 14[1], and the applications for approval of the four PPAs were lodged on December 10, the four PPA's clearly should be approved in the same Commission sanctioned process as any other "pre-December 14" contract -- which means it should be approved.

Idaho Power's obligations, as a party to the contract, include the obligation to perform and not to improperly hinder the ability of its counter party to perform. By inviting the Commission to "accept or reject" it's Applications, Idaho Power should not be deemed by the Commission to be opposed to approval of the PPAs. In all probability, Idaho Power's insertion of the words "or reject" was done due to an overabundance of caution in light of the pending GNR-E-10-04 docket.

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[1] Simplot notes that several parties to GNR-E-10-04 contest the legal and policy implications of the Commission's December 14 date.

Simplot appreciates the opportunity to comment favorably on the pending applications for approval of the Deep Creek Wind Park, LLC PPA, the Cottonwood Wind Park, LLC PPA, the Rogerson Flats Wind Park, LLC, PPA and the Salmon Creek Wind Park, LLC PPA and urges the Commission to do so expeditiously.

Respectfully submitted this 31st day of January, 2011.

RICHARDSON & O'LEARY PLLC

By _____
Peter J. Richardson
Gregory Adams
Attorneys for J. R. Simplot Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 31st DAY OF JANUARY 2011, SERVED THE FOREGOING COMMENTS OF THE J. R. SIMPLOT COMPANY, IN CASE NOS. IPC-E-47 -48 -49 -50, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING.

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