## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF	)
IDAHO POWER COMPANY FOR A	) CASE NO. IPC-E-10-61
DETERMINATION REGARDING A FIRM	)
ENERGY SALES AGREEMENT BETWEEN	)
IDAHO POWER AND GROUSE CREEK WIND	)
PARK, LLC	)
	)
IN THE MATTER OF THE APPLICATION OF	)
IDAHO POWER COMPANY FOR A	) CASE NO. IPC-E-10-62
DETERMINATION REGARDING A FIRM	)
ENERGY SALES AGREEMENT BETWEEN	)
IDAHO POWER AND GROUSE CREEK WIND	) ORDER NO. 32236
PARK II, LLC	)

On December 29, 2010, Idaho Power Company filed Applications requesting acceptance or rejection of two 20-year Firm Energy Sales Agreements (Agreements) between Idaho Power and Grouse Creek Wind Park, LLC and Grouse Creek Wind Park II, LLC (Projects). On February 24, 2011, the Commission issued a combined Notice of Applications and Notice of Modified Procedure setting a comment deadline of March 24, 2011, and a reply comment deadline of March 31, 2011. Order No. 32191. The Projects filed comments on March 24, 2011, urging the Commission to approve the Agreements. On the same day, the Projects also filed Petitions to Intervene. On March 31, 2011, Idaho Power filed reply comments outlining the Company's processes for responding to requests, negotiating, and executing power purchase agreements.

On April 7, 2011, the Projects each filed a Motion to Set Time for Oral Argument. In support of its Motion, the Projects contend that Idaho Power's reply comments contain "statements of fact that are materially inconsistent with evidence in the record." Motions at 3. The Motion goes on to state, in some detail, each element of Idaho Power's reply comments that the Projects find materially inconsistent. The Projects maintain that, "[b]ecause the records in these cases are lengthy and Idaho Power appears to interpret the evidence different than the

**ORDER NO. 32236** 

<sup>&</sup>lt;sup>1</sup> On April 13, 2011, the Commission issued an Order denying the Projects' Petitions to Intervene. Order No. 32222. The Commission recognized that, as counterparties to the Firm Energy Sales Agreements with Idaho Power, each Project is an actual party with a direct interest in the Agreements submitted to the Commission. As such, the Petitions to Intervene were unnecessary to obtain party status in the case before the Commission. *Id.* at 1.

Grouse Creek QFs, the Grouse Creek QFs submit that it would [be] beneficial for the Commission to hold oral argument in these cases." *Id.* at 5. The Projects contend that, because the relevant facts for each case are substantially similar, a single oral argument could be scheduled to address both cases. *Id.* at 2.

On April 21, 2011, Commission Staff and Idaho Power filed Answers opposing the Projects' Motions for Oral Argument. Commission Staff maintains that the Projects' concerns have been adequately presented and argued through written submissions. Idaho Power states that the Projects have not alleged a sufficient basis to justify oral argument in these proceedings. Idaho Power also contends that, if the Projects wanted an opportunity for oral argument, they should have made their request within their written comments as required by Commission Rule of Procedure 203.

## **COMMISSION FINDINGS**

The Commission's Rules of Procedure allow for the use of Modified Procedure, i.e., the consideration of issues based on written submissions (comments) rather than by hearing. Rule 201, IDAPA 31.01.01.201. If a hearing is requested, the Commission, in its discretion, may deny the request for hearing and issue its Order on the basis of the written positions before it so long as the disputes may be adequately resolved by the written submissions. *See* Rule 204, IDAPA 31.01.01.204; *Amador Stage Lines, Inc. v. United States and Interstate Commerce Comm.*, 685 F.2d 333, 335 (9<sup>th</sup> Cir. 1982); *American Public Gas Asso. v. Federal Power Comm.*, 162 U.S.App.D.C. 176, 498 F.2d 718 (1974).

In this case, the Projects not only provided initial comments but also submitted detailed, additional information and argument with their Motions for Oral Argument. As stated by the Projects in their Motions, the record in this case is lengthy. The Commission finds the evidentiary record sufficiently reflects the positions of all parties. Moreover, the Projects have not alleged that their position is not adequately presented through written submissions. Additional process in the form of oral argument to clarify the issues is unnecessary. Consequently, the Projects' Motions for Oral Argument are denied.

## ORDER

IT IS HEREBY ORDERED that the Motions to Set Time for Oral Argument filed by Grouse Creek Wind Park, LLC and Grouse Creek Wind Park II, LLC are denied.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this  $27^{th}$  day of April 2011.

PAUL KJELLANDER, PRESIDENT

MACK A. REDFORD, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Jean D. Jewell

Commission Secretary

O:IPC-E-10-6\_IPC-E-10-62\_ks3