

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>IDAHO POWER COMPANY FOR A</b>	)	<b>SUPREME COURT</b>
<b>DETERMINATION REGARDING THE FIRM</b>	)	<b>DOCKET NO. 39151-2011</b>
<b>ENERGY SALES AGREEMENT FOR THE</b>	)	
<b>SALE AND PURCHASE OF ELECTRIC</b>	)	
<b>ENERGY BETWEEN IDAHO POWER</b>	)	<b>IPUC CASE NOS. IPC-E-10-61</b>
<b>COMPANY AND GROUSE CREEK WIND</b>	)	<b>IPC-E-10-62</b>
<b>PARK, LLC (10-61) AND GROUSE CREEK</b>	)	
<b>WIND PARK II, LLC (10-62).</b>	)	
<hr/>	)	
<b>GROUSE CREEK WIND PARK, LLC, and</b>	)	
<b>GROUSE CREEK WIND PARK II, LLC,</b>	)	
	)	
<b>Petitioners/Appellants,</b>	)	<b>NOTICE OF SCHEDULING</b>
	)	
<b>v.</b>	)	<b>NOTICE OF ORAL ARGUMENT</b>
	)	
<b>IDAHO PUBLIC UTILITIES COMMISSION,</b>	)	<b>ORDER NO. 32430</b>
	)	
<b>Respondent, Respondent on Appeal,</b>	)	
	)	
<b>and</b>	)	
	)	
<b>IDAHO POWER COMPANY,</b>	)	
	)	
<b>Respondent-Intervenor/Respondent</b>	)	
<b>on Appeal.</b>	)	
<hr/>	)	

On July 27, 2011, the Commission issued a Final Order on Reconsideration affirming its prior decision to not approve two Power Purchase Agreements (PPAs or Agreements) entered into between the Grouse Creek projects and Idaho Power pursuant to the federal Public Utility Regulatory Policies Act of 1978 (PURPA). Order No. 32299. Based upon the express terms of the Agreements, the Commission found that the PPAs were not effective prior to December 14, 2010 – the date on which the eligibility for PURPA published avoided cost rates in Idaho changed from 10 average megawatts (aMW) to 100 kilowatts (kW) for wind and solar qualifying facilities (QFs). Because each of the PPAs requested published avoided cost rates but the

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projects were in excess of 100 kW, the Commission found that the published rates were no longer available to the projects.

On September 7, 2011, the Grouse Creek projects appealed the Commission's Order to the Idaho Supreme Court. On October 4, 2011, the Federal Energy Regulatory Commission (FERC) issued an Order in a similarly situated case that the IPUC's decision to not approve the PPAs was inconsistent with PURPA and FERC's regulations implementing PURPA. *Notice of Intent Not to Act and Declaratory Order*, 137 FERC ¶ 61,006 (Oct. 4, 2011). On November 3, 2011, in response to FERC's Order, the Grouse Creek Projects, the Idaho Public Utilities Commission and Idaho Power Company (collectively "the Parties") filed a Stipulated Motion to Suspend Appeal and Remand to the Administrative Agency with the Idaho Supreme Court. The Parties maintained that there "is good cause for the Court to grant this Motion in order for the Parties to consider a recent decision issued by the Federal Energy Regulatory Commission ("FERC") regarding the subject matter of the appeal." Motion at 2. Moreover, *Idaho Code* § 61-624 provides that the Commission "may at any time, upon notice to the public utility affected, and after opportunity to be heard . . ., rescind, alter or amend any order or decision made by it." The Court granted the Parties' Motion on November 22, 2011.

As indicated in the Stipulated Motion, the Parties request that they be permitted an opportunity to engage in settlement negotiations. Consistent with procedural Rule 352, Staff is authorized to participate in the settlement negotiations and the settlement negotiations are confidential unless all Parties agree to the contrary. Given the agreement among the Parties, we find that settlement discussions are reasonable and in the public interest. The Commission invites settlement of the entire appeal pursuant to Rule 353. The Parties have already convened settlement discussions on December 9, 2011, and December 22, 2011. We encourage the Parties to continue to actively participate in settlement negotiations.

The Commission also finds that it is appropriate to grant a further rehearing so that the Commission may reconsider its Order No. 32299 issued July 27, 2011. *Idaho Code* § 61-624; Rule 332; *Consumers' Company v. Idaho PUC*, 40 Idaho 772, 236 P. 732 (1925); Order No. 29491. Consequently, the Commission finds it is appropriate to issue this Scheduling Order.

### NOTICE OF SCHEDULING

YOU ARE HEREBY NOTIFIED that, if the parties are unable to reach settlement in this matter, the Commission adopts the following procedural schedule to determine whether/when a “legally enforceable obligation” arose:

February 6, 2012	Idaho Power and Staff initial legal briefing
February 27, 2012	Grouse Creek reply briefing
March 7, 2012	Oral argument

### NOTICE OF ORAL ARGUMENT

YOU ARE FURTHER NOTIFIED that the Commission will convene a hearing for oral argument in this case on **WEDNESDAY, MARCH 7, 2012, AT 9:30 A.M. IN THE COMMISSION HEARING ROOM, 472 WEST WASHINGTON STREET, BOISE, IDAHO.**

YOU ARE FURTHER NOTIFIED that all hearings will be conducted pursuant to the Commission’s Rules of Procedure. IDAPA 31.01.01.000, *et seq.*

YOU ARE FURTHER NOTIFIED that all hearings and oral arguments in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074  
(208) 334-0338 (Telephone)  
(208) 334-3762 (FAX)  
E-Mail: [secretary@puc.idaho.gov](mailto:secretary@puc.idaho.gov)


### ORDER

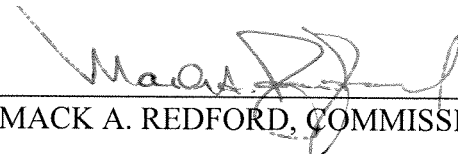
IT IS HEREBY ORDERED that the Parties continue to engage in settlement negotiations.

IT IS FURTHER ORDERED that, absent settlement, the Parties comply with the procedural schedule as set out in the body of this Order.

IT IS FURTHER ORDERED that an oral argument be held on Wednesday, March 7, 2012, at 9:30 a.m. in the Commission Hearing Room.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 5<sup>th</sup> day of January 2012.

  
PAUL KJELLANDER, PRESIDENT

  
MACK A. REDFORD, COMMISSIONER

  
MARSHA H. SMITH, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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