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IDAHO PUBLIC
UTILITIES COMMISSION

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Attorney for the Commission Staff

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) ANSWER OF COMMISSION
PARK II, LLC) STAFF TO MOTIONS FOR
ORAL ARGUMENT FILED BY
GROUSE CREEK WIND PARK,
LLC AND GROUSE CREEK
WIND PARK II, LLC)**

COMES NOW Commission Staff (Staff), pursuant to Commission Rule of Procedure 57, and hereby answers the Motions to Set Time for Oral Argument filed on April 7, 2011, by Grouse Creek Wind Park, LLC and Grouse Creek Wind Park II, LLC (the Projects).

On December 29, 2010, Idaho Power Company filed Applications requesting acceptance or rejection of two 20-year Firm Energy Sales Agreements (Agreements) between

ANSWER OF COMMISSION STAFF TO
MOTIONS FOR ORAL ARGUMENT
FILED BY GROUSE CREEK WIND PARK, LLC AND
GROUSE CREEK WIND PARK II, LLC

Idaho Power and Grouse Creek Wind Park, LLC and Grouse Creek Wind Park II, LLC. 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.¹ 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." Motion 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[ly] than the 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.

The Projects represent that they consulted with Commission Staff prior to filing their Motions and "Commission Staff expressed no support or opposition" to a request for oral argument. *Id.* at 2. Unfortunately, the Projects did not have express or implied permission to represent Staff's position on this matter. In fact, Staff opposes the Motion for Oral Argument. As stated by the Projects in their Motion, the records are lengthy in these cases. All parties have had an opportunity to file initial and reply comments. Any concern that the Projects had about Idaho Power's misrepresentations on reply were adequately addressed in the clearly enunciated exceptions set forth by the Projects in their Motions for Oral Argument. Staff sees no need for additional, redundant process.

¹ 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, Petitions to Intervene were unnecessary to obtain party status in the case before the Commission. *Id.* at 1.

In a recent Commission Order, issued March 28, 2011, the Commission cited a Ninth Circuit decision stating that the Commission “in its discretion may deny an oral hearing even where material facts are disputed so long as the disputes may be adequately resolved by the written submissions.” Order No. 32212 citing *Amador Stage Lines, Inc. v. United States and Interstate Commerce Comm.*, 685 F.2d 333, 335 (9th Cir. 1982). The Projects do not argue that their dispute cannot be adequately resolved with written submissions. Indeed, the Projects go to great lengths to lay out each element of disagreement with Idaho Power within the Projects’ Motions for Oral Argument. Furthermore, the Commission is not obligated to schedule oral argument simply because a party requests it. The Commission, in its discretion, “may decide the matter and issue its order on the basis of the written positions before it.” Rule 204, IDAPA 31.01.01.204.

Wherefore, Commission Staff respectfully urges the Commission to deny the Motions for Oral Argument filed by Grouse Creek Wind Park and Grouse Creek Wind Park II.

Respectfully submitted this 21st day of April 2011.



Kristine A. Sasser
Deputy Attorney General
for Commission Staff

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ANSWER OF COMMISSION STAFF TO
MOTIONS FOR ORAL ARGUMENT
FILED BY GROUSE CREEK WIND PARK, LLC AND
GROUSE CREEK WIND PARK II, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 21ST DAY OF APRIL 2011, SERVED THE FOREGOING ANSWER OF COMMISSION STAFF TO MOTIONS FOR ORAL ARGUMENT, IN CASE NOS. IPC-E-10-61_IPC-E-10-62, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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