

# WILLIAMS · BRADBURY

A T T O R N E Y S   A T   L A W

August 3, 2011

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IDAHO PUBLIC  
UTILITIES COMMISSION

Ms. Jean Jewell  
Commission Secretary  
Idaho Public Utilities Commission  
472 W. Washington  
Boise, ID 83702

Re: IPC-E-11-10

Dear Ms. Jewell:

Please find enclosed an original and seven copies of Interconnect Solar Development, LLC's Answer to Staff's Motion for Extension of Time for filing in the above referenced case.

Thank you for your assistance in this matter. Please feel free to give me a call should you have any questions.

Sincerely,



Ronald L. Williams

RLW/jr  
Enclosures

Ronald L. Williams, ISB No. 3034  
Williams Bradbury, P.C.  
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Boise, ID 83702  
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IDAHO PUBLIC  
UTILITIES COMMISSION

Attorneys for Interconnect Solar

**BEFORE THE IDAHO PUBLIC UTILITES COMMISSION**

IN THE MATTER OF THE APPLICATION OF )  
IDAHO POWER COMPANY FOR A )  
DETERMINATION REGARDING THE FIRM )  
ENERGY SALES AGREEMENT WITH )  
INTERCONNECT SOLAR DEVELOPMENT, )  
LLC, FOR THE SALE AND PURCHASE OF )  
ELECTRIC ENERGY. )  
\_\_\_\_\_ )

Case No. IPC-E-11-10

**ANSWER TO STAFF'S MOTION  
TO EXTEND DEADLINE FOR  
FILING COMMENTS**

COMES NOW, Interconnect Solar Development, LLC, by and through its counsel of record, Williams Bradbury, PC, and files this Answer in response to Staff's Motion to Extend Deadline for Filing Comments in the above referenced docket.

1. Interconnect Solar Development (ISD) received a copy of Staff's Motion on Friday, July 29, by regular mail. Counsel for ISD was out of town on Friday July 29 through Monday, August 1, and not able to review Staff's Motion until Tuesday, August 2. The Commission granted Staff's Motion on Monday, August 1, two days after the Motion was filed and without the opportunity for ISD to respond thereto.

2. ISD does not object to Staff's need for a limited amount of additional time to review the Murphy Flats Solar Firm Energy Sales Agreement ("FESA"); recognizing

that the Application filed in this case was filed on June 17, 2010, approximately 45 days ago. ISD does object however to the schedule laid out by the Staff's Motion and Commission Order No. 32308 for the reason that if the schedule is followed, the Murphy Flats Solar Project ("Project"): (i) will no longer be commercial viable and (ii) will be forced into default in its contractual obligation to Idaho Power.

3. In order for ISD to meet its contractual Scheduled First Energy Date of June 1, 2012, and to comply with the Section 1603 renewable energy tax credit requirements that construction commencement prior to year end 2011<sup>1</sup>, it is imperative that ISD commence construction in the fall of 2011 before the ground freezes.

4. Over 1,000 steel poles necessary to support the solar panels must be driven into the ground prior to the ground freezing, so that follow-on solar panel installation activities can proceed during the 2011-2012 winter. In addition, certain concrete pours will be necessary in advance of the winter months. These are the construction activities that must occur in 2011 in order for the Project to qualify for the Section 1603 tax credits.

5. Prior to commencing construction ISD needs to close construction financing on the Project. Construction financial closing cannot occur until after a Commission Order approving the contract, plus 21 days. For scheduling purposes, this means ISD needs, if at all possible, a Commission Order approving its contract in early September.

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<sup>1</sup> Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 (Section 1603), Public Law 111-5; as extended by Section 707 of the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010. In order to be eligible for the direct Treasury Department payments in lieu of tax credits a renewable energy facility must either be placed in service by year end 2011, or placed in service before year end 2012, provided construction of the property has commenced in 2011.

6. Order No. 32308 extends the date for comments due by Staff and other interested parties until September 29, 2011, with reply comments by Idaho Power and ISD on October 6, 2011. ISD assumes that a Commission Order will follow, at the earliest, approximately one month later.

7. Such a schedule is fatal to the Project. If Commission approval does not occur by approximately October 1, 2011, Project construction cannot likely commence until the ground thaws the following spring. This would mean that ISD would lose access to section 1603 tax credits. Without the section 1603 tax credits the project is not economically viable.

8. Even more critical – ISD could not hope to complete Project construction by June 1, 2012<sup>2</sup> if it could not start construction until March, 2012. In essence, the Project would be in contract default on its FESA with Idaho Power.

9. ISD has discussed the proposed schedule with Idaho Power and Idaho Power has informed ISD that it is willing to expedite responses to Staff's additional discovery requests. ISD makes the same commitment to the Staff – should Staff have any questions of ISD, it will immediately respond thereto.

WHEREFORE, ISD requests that Staff, Idaho Power and ISD discuss and agree among themselves on a schedule that can accommodate both Staff's need for additional discovery and ISD's need to commence Project construction on or before October 1, 2011. Such a proposed schedule revision – agreed to by these three parties – can be submitted to the Commission by stipulation for approval and form the basis for a subsequent amendment or errata to Order No. 32308.

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<sup>2</sup> The project's Scheduled First Energy Date.

DATED: This 3 day of August, 2011.



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Ronald L. Williams  
Williams Bradbury P.C.  
Attorneys for Interconnect Solar  
Development, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3 day of August, 2011, a true and correct copy of the foregoing was served by the method indicated below, and addressed to the following:

Donovan E. Walker	<input type="checkbox"/>	US Mail
Lead Counsel	<input type="checkbox"/>	Facsimile
<b>Idaho Power Company</b>	<input type="checkbox"/>	Hand Delivery
PO Box 70	<input type="checkbox"/>	Overnight Mail
Boise, ID 83707-0070	<input checked="" type="checkbox"/>	E-Mail Address
E-Mail: <a href="mailto:dwalker@idahopower.com">dwalker@idahopower.com</a>		

Randy C. Allphin	<input type="checkbox"/>	US Mail
Energy Contract Admin.	<input type="checkbox"/>	Facsimile
<b>Idaho Power Company</b>	<input type="checkbox"/>	Hand Delivery
PO Box 70	<input type="checkbox"/>	Overnight Mail
Boise, ID 83707-0070	<input checked="" type="checkbox"/>	E-Mail Address
E-Mail: <a href="mailto:rallphin@idahopower.com">rallphin@idahopower.com</a>		

Kristine A. Sasser	<input type="checkbox"/>	US Mail
Deputy Attorney General	<input type="checkbox"/>	Facsimile
<b>Idaho Public Utilities Commission</b>	<input type="checkbox"/>	Hand Delivery
PO Box 83720	<input type="checkbox"/>	Overnight Mail
Boise, ID 83720-0074	<input checked="" type="checkbox"/>	E-Mail Address
E-Mail: <a href="mailto:kris.sasser@puc.idaho.gov">kris.sasser@puc.idaho.gov</a>		

Randy Hemmer, Manager	<input type="checkbox"/>	US Mail
<b>Interconnect Solar Development, LLC</b>	<input type="checkbox"/>	Facsimile
3777 Twilight Drive	<input type="checkbox"/>	Hand Delivery
Boise, ID 83703	<input type="checkbox"/>	Overnight Mail
E-Mail: <a href="mailto:randyhemmer@clearwire.net">randyhemmer@clearwire.net</a>	<input checked="" type="checkbox"/>	E-Mail Address



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Ronald L. Williams