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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Complainant

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION**

PV SOLAR TWO, LLC, Complainant,)	Case No. <u>IPC-E-11-15</u>
vs.)	FORMAL COMPLAINT
IDAHO POWER COMPANY, Defendant.)	OF GRAND VIEW PV SOLAR TWO, LLC

INTRODUCTION

1
2 This is a formal complaint filed by Grand View PV Solar Two, LLC with the Idaho
3 Public Utilities Commission (the "Commission") pursuant to Idaho Administrative Rule
4 31.01.01.054. Grand View PV Solar Two, LLC ("Grand View") requested that Idaho Power
5 Company ("Idaho Power") execute a standard Public Utility Regulatory Policies Act of 1978
6 ("PURPA") power purchase agreement ("PPA") for qualifying facilities ("QFs"). Grand View is
7 a proposed twenty megawatt solar project located in Elmore County, Idaho. It has pricing
8 according to Idaho Power's IRP methodology. It has an anticipated on line date in the summer
9 of 2012. Idaho Power has not negotiated in good faith in response to Grand View's attempt to
10 include terms in the standard PPA to the effect that Idaho Power does not own the environmental

1 attributes associated with the electrical production from Grand View’s proposed solar electric
2 PURPA project.¹ Grand View respectfully requests the Commission issue a declaratory judgment
3 that it is entitled to a PPA with a clause in which Idaho Power explicitly disclaims ownership of
4 the environmental attributes.

5 **PRELIMINARY MATTERS**

6 Copies of all pleadings and other correspondence in this matter should be served upon
7 counsel for Grand View PV Solar Two, LLC at:

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18 **In support of this Complaint, Grand View PV Solar Two, LLC alleges as follows:**

19 **IDENTITY OF PARTIES**

20 1. Idaho Power is an Idaho Corporation with its principal place of business at 1221
21 West Idaho Street, Boise, Idaho 83702. Idaho Power Company is an electric company and a
22 public utility subject to the jurisdiction and regulation of the Idaho Public Utilities Commission
23 pursuant to I.C. § 61-129. Idaho Power is subject to the jurisdiction of this Commission, the
24 Public Utility Commission of Oregon, and the Federal Energy Regulatory Commission
25 (“FERC”).

26 2. Grand View PV Solar Two, LLC is an Idaho limited liability company, duly
27 registered to conduct business in the State of Idaho. Grand View has the rights to develop and

¹ Commonly Referred to in the electric utility industry as “Green Tags” or RECs (“Renewable Energy Credits”).

1 dispose of the output of the Grand View PV Solar Two project, which is a qualifying facility
2 under the Public Utility Regulatory Policies Act of 1978.

3 JURISDICTION

4 3. This case involves PURPA's avoided cost provisions and FERC's implementing
5 regulations thereto, which PURPA directs states to implement. *See* 16 U.S.C. § 824a-3 (a)-(g);
6 *FERC v. Mississippi*, 456 U.S. 742, 751 (1982). In Idaho, the Commission possesses jurisdiction
7 over complaints regarding rates of public utilities, including PURPA rates. I.C. §§ 61-129, -501.
8 -502, -503, -612; *see also Afton Energy Inc. v. Idaho Power Co.*, 111 Idaho 925, 929, 729 P.2d
9 400, 404 (1986). The Commission has jurisdiction to issue declaratory judgments regarding
10 utility contracts pursuant Idaho's Declaratory Judgment Act, I.C. § 10-1203. *See Utah Power
11 and Light v. Idaho Pub. Utilities Commission*, 112 Idaho 10, 12, 730 P.2d 930, 932 (1986).

12 FACTUAL BACKGROUND

13
14 5. Grand View PV Solar Two, LLC, has been actively engaged in the development
15 of a solar electric generating project near to Grand View, Idaho that is designed to generate 20
16 MW of nameplate capacity.

17 6. Grand View PV Solar Two, LLC, has made substantial investments in
18 development of the project. The project is mature and entitled to obligate itself to a long-term
19 PPA for a PURPA QF pursuant to Idaho Power's IRP calculated avoided cost rates.

20 7. Grand View has been in contact with Idaho Power for several months discussing
21 contract terms and conditions.

22 8. Grand View PV Solar Two is ready and willing to enter into the standard PURPA
23 PPA with IRP calculated rates that disclaims REC ownership by Idaho Power.

1 9. Idaho Power refuses to enter into the standard PURPA PPA that disclaims REC
2 ownership by Idaho Power.

3 10. Historically Idaho Power has routinely executed, and this Commission has
4 routinely approved, PURPA PPAs in which Idaho Power disclaims REC ownership.

5 11. Idaho Power has offered, and Grand View PV Solar Two has refused, to split
6 REC ownership between Idaho Power and Grand View PV Solar Two on a fifty/fifty percent
7 basis.

8 12. Idaho Power has offered, and Grand View PV Solar Two has refused, to split
9 REC ownership wholly to Grand View PV Solar Two for years one through ten of the PPA and
10 then wholly to Idaho Power in years eleven through twenty of the PPA.

11 13. Grand View PV Solar Two seeks a contract in which REC ownership is
12 disclaimed by Idaho Power.

13 14. Idaho Power has offered Grand View PV Solar Two a PPA with alternative
14 language for the Commission's consideration to the effect that the REC ownership question will
15 be determined subsequent to the execution of the agreement pursuant to future law and/or
16 regulatory edict.

17 15. A PPA with the uncertainty surrounding the contract term reopener identified in ¶
18 14 above makes it commercially impossible to market the RECs as there will remain a cloud as
19 to the project's long term rights to own, and hence sell, the RECs.

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1 Respectfully submitted this 2nd day of August, 2011

2 RICHARDSON AND O'LEARY, PLLC

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A handwritten signature in black ink, appearing to read "P. J. Richardson", with a long, sweeping horizontal flourish extending to the right.

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