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August 14, 2012

**VIA HAND DELIVERY**

Jean D. Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
Boise, Idaho 83702

Re: Case Nos. IPC-E-12-20, IPC-E-12-22, and IPC-E-12-23  
Complaint and Petition of Idaho Power Company for Declaratory Order –  
Joint Motion for Approval of Settlement Stipulation and Settlement  
Stipulation

Dear Ms. Jewell:

Enclosed for filing in the above matter are an original and seven (7) copies each of the Joint Motion for Approval of Settlement Stipulation and Settlement Stipulation.

The Settlement Stipulation is **confidential** and is provided in a sealed envelope. Please handle the confidential information in accordance with the Protective Agreement executed in this matter.

Very truly yours,

Donovan E. Walker

DEW:csb  
Enclosures

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Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMPLAINT )  
AND PETITION OF IDAHO POWER )  
COMPANY FOR A DECLARATORY )  
ORDER REGARDING THE FIRM ENERGY )  
SALES AGREEMENTS AND GENERATOR )  
INTERCONNECTION AGREEMENTS WITH )  
COTTONWOOD WIND PARK, LLC; DEEP )  
CREEK WIND PARK , LLC; ROGERSON )  
FLATS WIND PARK, LLC; AND SALMON )  
CREEK WIND PARK, LLC. )  
\_\_\_\_\_ )

CASE NO. IPC-E-12-20

JOINT MOTION FOR APPROVAL  
OF SETTLEMENT STIPULATION

IN THE MATTER OF THE COMPLAINT )  
AND PETITION OF IDAHO POWER )  
COMPANY FOR A DECLARATORY )  
ORDER REGARDING THE FIRM ENERGY )  
SALES AGREEMENT AND GENERATOR )  
INTERCONNECTION AGREEMENT WITH )  
NOTCH BUTTE WIND PARK, LLC. )  
\_\_\_\_\_ )

CASE NO. IPC-E-12-22

IN THE MATTER OF THE COMPLAINT )  
AND PETITION OF IDAHO POWER )  
COMPANY FOR A DECLARATORY )  
ORDER REGARDING THE FIRM ENERGY )  
SALES AGREEMENT AND GENERATOR )  
INTERCONNECTION AGREEMENT WITH )  
LAVA BEDS WIND PARK, LLC. )  
\_\_\_\_\_ )

CASE NO. IPC-E-12-23

COMES NOW, Cottonwood Wind Park, LLC, (“Cottonwood”); Salmon Creek Wind Park, LLC (“Salmon Creek”); Deep Creek Wind Park, LLC (“Deep Creek”); Rogerson Flats Wind Park, LLC (“Rogerson Flats”); Notch Butte Wind Park, LLC (“Notch Butte”); Lava Beds Wind Park, LLC (“Lava Beds”) (collectively referred to as the “Exergy Projects”); and the Exergy Development Group of Idaho, LLC (“Exergy”) and Idaho Power Company (“Idaho Power” or “Company”) (hereinafter referred to as the “Parties”), by and through their undersigned attorneys, and hereby move the Idaho Public Utilities Commission (“Commission”) for an order accepting the confidential settlement stipulation (“Settlement Stipulation”). The Settlement Stipulation is being submitted as a confidential agreement in this proceeding and will be provided to those parties that have executed the Protective Agreement in this proceeding. This Motion is based on the following:

**I. BACKGROUND**

1. On October 14, 2005 Idaho Power and Lava Beds entered into a Firm Energy Sales Agreement ("FESA") pursuant to the Public Utility Regulatory Policies Act of 1978 ("PURPA"), which provides that Lava Beds will design, construct, own, maintain and operate an electric wind generation facility and that Idaho Power will buy firm electric energy produced by the facility. The Commission approved the FESA by Order No. 29949 in Case No. IPC-E-05-31.

3. On October 14, 2005 Idaho Power and Notch Butte entered into a FESA pursuant to PURPA, which provides that Notch Butte will design, construct, own, maintain and operate an electric wind generation facility and that Idaho Power will buy firm electric energy produced by the facility. The Commission approved the FESA by Order No. 29950 in Case No. IPC-E-05-32.

4. On December 10, 2010, Idaho Power and each of Cottonwood, Deep Creek, Rogerson Flats, and Salmon Creek entered into FESAs pursuant to PURPA (the "Jack Ranch FESAs") which provide that each of Deep Creek, Cottonwood, Rogerson Flats, and Salmon Creek will design, construct, own, maintain and operate an electric wind generation facility and that Idaho Power will buy firm electric energy produced by the facility. The Commission approved each of the FESAs by Order Nos. 32182, 32183, 32184, and 32185 in Case Nos. IPC-E-10-47, IPC-E-10-48, IPC-E-10-49, and IPC-E-10-50, respectively.

5. Pursuant to the terms of the Jack Ranch FESAs, each of Deep Creek, Cottonwood, Rogerson Flats and Salmon Creek were required to post with Idaho Power Delay Security (as that term is defined in the FESAs), which they did.

6. Numerous disputes related to the FESAs as well as the generator interconnection processes and agreements and transmission service arrangements

("Interconnection and Transmission Agreements") between the Exergy Projects and Idaho Power ensued, which ultimately led to Idaho Power submitting a Complaint and Petition for Declaratory Order ("Complaints") in each of Case Nos. IPC-E-12-20, IPC-E-12-22, and IPC-E-12-23. As of the date of this Joint Motion, none of the FESAs are in Material Breach (as that term is defined in the FESAs) nor has Idaho Power drawn on any of the Delay Security.

7. After Idaho Power submitted the Complaints, the Parties engaged in settlement negotiations. This Settlement Stipulation is the result of those settlement negotiations. The Settlement Stipulation provides that Idaho Power shall return to Exergy the Letters of Credit it holds as Delay Security. In addition, the Settlement Stipulation provides that the FESAs for the Exergy Projects shall be terminated.

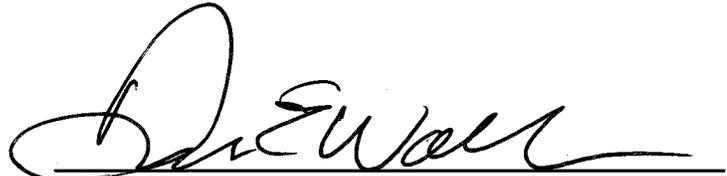
8. The Parties recommend that the Commission grant this Motion and approve the Settlement Stipulation in its entirety, without material change or condition, pursuant to RP 274.

## **II. REQUEST FOR MODIFIED PROCEDURE**

9. Pursuant to RP 201, the Parties believe the public interest does not require a hearing to consider the issues presented by this Motion and the Parties request it be processed by Modified Procedure.

NOW, THEREFORE, the Parties respectfully request that the Commission enter its Order (1) directing that consideration of the Settlement Stipulation be conducted by Modified Procedure and (2) approving the Settlement Stipulation without material condition or modification.

Respectfully submitted this 14<sup>th</sup> day of August 2012.



DONOVAN E. WALKER  
Attorney for Idaho Power Company



ROY EIGUREN  
Attorney for:  
Rogerson Flats Wind Park, LLC  
Cottonwood Wind Park, LLC  
Deep Creek Wind Park, LLC  
Salmon Falls Wind Park, LLC  
Notch Butte Wind Park, LLC  
Lava Beds Wind Park, LLC  
Exergy Development Group of Idaho, LLC

**BEFORE THE  
IDAHO PUBLIC UTILITIES COMMISSION**

**CASE NO. IPC-E-12-20  
CASE NO. IPC-E-12-22  
CASE NO. IPC-E-12-23**

**ATTACHMENT NO. 1**

**CONFIDENTIAL SETTLEMENT STIPULATION**

**THE SETTLEMENT  
STIPULATION IS  
CONFIDENTIAL  
AND WILL BE PROVIDED  
TO THOSE PARTIES THAT  
HAVE SIGNED THE  
PROTECTIVE  
AGREEMENT**