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DONOVAN E. WALKER
Lead Counsel
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October 8, 2014

VIA HAND DELIVERY

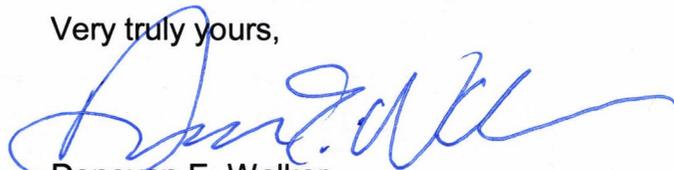
Jean D. Jewell, Secretary
Idaho Public Utilities Commission
472 West Washington Street
Boise, Idaho 83702

Re: Case Nos. IPC-E-12-25 and IPC-E-12-26
Complaints and Petitions of Idaho Power Company for Declaratory Order
New Energy Two, LLC (Swager Farms) and New Energy Three, LLC
(Double B Dairy) – Motion and Stipulation to Terminate Contracts and to
Dismiss the Complaints and Petitions

Dear Ms. Jewell:

Enclosed for filing in the above matter are an original and seven (7) copies of a
Motion and Stipulation to Terminate Contracts and to Dismiss the Complaints and
Petitions.

Very truly yours,



Donovan E. Walker

DEW:csb
Enclosures

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMPLAINT)
AND PETITION OF IDAHO POWER) CASE NO. IPC-E-12-25
COMPANY FOR A DECLARATORY)
ORDER REGARDING THE FIRM ENERGY)
SALES AGREEMENT AND GENERATOR)
INTERCONNECTION AGREEMENT WITH)
NEW ENERGY TWO, LLC.)

IN THE MATTER OF THE COMPLAINT)
AND PETITION OF IDAHO POWER) CASE NO. IPC-E-12-26
COMPANY FOR A DECLARATORY)
ORDER REGARDING THE FIRM ENERGY) MOTION AND STIPULATION TO
SALES AGREEMENT AND GENERATOR) TERMINATE CONTRACTS AND
INTERCONNECTION AGREEMENT WITH) TO DISMISS THE COMPLAINTS
NEW ENERGY THREE, LLC.) AND PETITIONS.

I. MOTION

1. The Petitioner/Complainant, Idaho Power Company ("Idaho Power"), and New Energy Two, LLC and New Energy Three, LLC ("New Energy") (Idaho Power and New Energy collectively referred to as "Parties") pursuant to the Idaho Public Utilities Commission's ("Commission") Rules of Procedure, including, but not limited to, RP 56,

hereby file this Motion and Stipulation to Terminate Contracts and to Dismiss the Complaints and Petitions in these matters.

II. SUMMARY

2. Idaho Power filed Complaints and Petitions for Declaratory Orders in the above-captioned cases seeking termination of the contracts for failure to meet the Scheduled Operation Dates. New Energy asserted claims of *force majeure*, alleging that its required performance was suspended, and filed a Motion to Dismiss challenging the Commission's jurisdiction to hear these matters. The Commission denied New Energy's Motion to Dismiss, and directed New Energy to answer the Complaints. New Energy subsequently sought and was granted permission to file an interlocutory appeal with the Idaho Supreme Court, challenging the Commission's decision that it has the jurisdiction to resolve the dispute between the parties.

3. On June 17, 2014, the Idaho Supreme Court issued its opinion in *Idaho Power Company v. New Energy Two*, 156 Idaho 462, 328 P.3d 442 (2014). In its opinion, the Supreme Court held that the Commission has jurisdiction to determine whether events of force majeure have occurred that excuse New Energy's performance under its power purchase agreements with Idaho Power. On July 9, 2014, the Court issued its remittitur and remanded the matter to the Commission. On September 12, 2014, the Commission issued Order No. 33126 directing New Energy to answer the Complaints and Petitions, and encouraging the parties to "explore whether settlement is possible." Order No. 33126, p. 3.

III. STIPULATION

4. With consideration to the date of these contracts, the passage of time and circumstances, and the Commission's direction noted above, the Parties hereby agree

to a final resolution to these matters. THEREFORE, the Parties hereby stipulate that: the contract between Idaho Power and New Energy Two, LLC, dated May 24, 2010, is hereby terminated; the contract between Idaho Power and New Energy Three, LLC, dated May 24, 2010, is hereby terminated; Case No. IPC-E-12-25 and Case No. IPC-E-12-26 shall hereby be dismissed; and any Delay Security shall hereby be forfeit as Delay Liquidated Damages pursuant to sections 5.3, 5.4, 5.5, 5.6, and 5.8 of the contracts and directed to customers pursuant to Order No. 32625.

5. The Parties agree that this Stipulation and this disposition of these matters is in the public interest and that all of the terms and conditions are fair, just, and reasonable. Both Parties, along with their current and former partners, joint venturers, representatives, successors, assigns, affiliates, subsidiaries, parents, divisions, departments, lenders, investors, shareholders, officers, directors, employees, managers, agents, insurers, and predecessors (“Releasing Parties”) fully, finally, and forever release, discharge, and covenant not to sue the other Party and its current and former partners, joint venturers, representatives, successors, assigns, affiliates, subsidiaries, parents, divisions, departments, investors, lenders, shareholders, officers, directors, employees, managers, agents, insurers, and predecessors (“Released Parties”) to the broadest extent allowed by law from and for any and all claims, actions, causes of action, debts, damages, demands, offsets, payments, costs, rights, liabilities, charges, and expenses, direct or indirect, regardless of the legal or equitable theory on which they are based, whether known or unknown, liquidated or unliquidated, accrued or unaccrued, asserted or unasserted, arising from or relating to the Firm Energy Sales Agreements, and Case Nos. IPC-E-12-25 and IPC-E-12-26.

6. All terms and conditions of this Stipulation are subject to approval by the

Commission, and only after such approval, without material change or modification, has been received shall the Stipulation be valid. The Parties hereby submit this Stipulation to the Commission and recommend approval in its entirety pursuant to RP 274-76. The Parties shall support this Settlement Stipulation before the Commission and shall not appeal a Commission order approving the Stipulation or an issue resolved by the Stipulation.

IV. RELIEF REQUESTED

7. The Parties respectfully request that the Commission approve the Stipulation and dismiss Case Nos. IPC-E-12-25 and IPC-E-12-26.

DATED this 7th day of October 2014.

Idaho Power Company

New Energy Two, LLC
New Energy Three, LLC

By 

By 

Donovan E. Walker
Attorney for Idaho Power Company.

Peter J. Richardson
Attorney for New Energy Two, LLC and
New Energy Three, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of October 2014 I served a true and correct copy of this MOTION AND STIPULATION TO TERMINATE CONTRACTS AND TO DISMISS THE COMPLAINTS AND PETITIONS upon the following named parties by the method indicated below, and addressed to the following:

Commission Staff

Donald L. Howell, II
Deputy Attorney General
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New Energy Two, LLC, and New Energy Three, LLC

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Christa Beary, Legal Assistant