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IDAHO PUBLIC UTILITIES COMMISSION

**DONOVAN E. WALKER**  
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February 25, 2014

**VIA HAND DELIVERY**

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

Re: Case No. IPC-E-13-19  
Idaho Wind Partners I, LLC, v. Idaho Power Company – 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.

Very truly yours,

Donovan E. Walker

DEW:csb  
Enclosures

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IDAHO WIND PARTNERS I, LLC	)	CASE NO. IPC-E-13-19
	)	
Complainant and Petitioner,	)	JOINT MOTION FOR APPROVAL
	)	OF SETTLEMENT STIPULATION
vs.	)	
	)	
IDAHO POWER COMPANY,	)	
	)	
Respondent.	)	
	)	

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**I. MOTION**

Idaho Power Company (“Idaho Power” or “Company”) and Idaho Wind Partners I, LLC (“Idaho Wind Partners” or “IWP”), referred to herein individually as a “Party” and

collectively as the “Parties”, hereby respectfully move the Idaho Public Utilities Commission (“Commission”) pursuant to *Idaho Code* § 61-502, RP 56, and RP 274 for an Order approving the Settlement Stipulation executed between Idaho Power and Idaho Wind Partners. This Motion is based on the following:

### **I. INTRODUCTION**

1. The terms and conditions of the Settlement Stipulation are summarized in this Motion and fully set forth in the accompanying Settlement Stipulation filed herewith. The Parties agree that the Settlement Stipulation represents a fair, just, and reasonable compromise of the dispute(s) between the Parties and that this Settlement Stipulation is in the public interest. The Parties maintain that the Settlement Stipulation as a whole and its acceptance by the Commission represent a reasonable resolution of all issues between the Parties identified herein. Therefore, the Parties request that the Commission, in accordance with RP 274-76, approve the Settlement Stipulation and all of its terms and conditions without material change or condition.

### **II. BACKGROUND**

2. On October 29, 2013, Idaho Wind Partners filed a Complaint and Petition for Declaratory Order (IPUC Case No. IPC-E-13-19) with the Commission against Idaho Power alleging that Idaho Power had failed to properly calculate Market Energy Costs pursuant to the Firm Energy Sales Agreements (“FESA”) between Idaho Power and several of IWP’s wind generation projects. On November 29, 2013, Idaho Power filed an Answer and Cross-Complaint in this matter asking that the relief requested in IWP’s Complaint be denied and seeking an order directing the use of the Platts non-firm Mid-C index. On December 20, 2013, Idaho Wind Partners filed an Answer to Idaho Power’s Cross-Complaint.

3. Idaho Wind Partners has eleven Public Utility Regulatory Policies Act of 1978 ("PURPA") Qualifying Facility ("QF") wind generation projects that have contracts to sell their generation to Idaho Power ("Projects"). Eight of the Projects have FESAs that contain published, non-levelized, avoided cost rates. Three of the Projects have FESAs that contain published, levelized, avoided cost rates. The eight non-levelized contracts are the subject of Idaho Wind Partners' Complaint. Those projects are: Thousand Springs Wind Park, LLC – Case No. IPC-E-05-06; Pilgrim Stage Station Wind Park, LLC – Case No. IPC-E-05-07; Oregon Trail Wind Park, LLC – Case No. IPC-E-05-08; Tuana Gulch Wind Park, LLC – Case No. IPC-E-05-09; Golden Valley Wind Park, LLC – Case No. IPC-E-05-17; Burley Butte Wind Park, LLC – Case No. IPC-E-05-18; Milner Dam Wind Park LLC – Case No. IPC-E-05-30; and Salmon Falls Wind Park, LLC – Case No. IPC-E-05-33 ("eight non-levelized contracts"). The three levelized contracts are: Camp Reed Wind Park, LLC – Case No. IPC-E-09-18; Yahoo Creek Wind Park, LLC – Case No. IPC-E-09-19; and Payne's Ferry Wind Park, LLC – Case No. IPC-E-09-20 ("three levelized contracts"). All eleven contracts were approved by the Commission in each project's respective Case No. listed above.

4. The eight non-levelized contracts were entered into and approved by the Commission prior to the implementation of a wind integration charge in the state of Idaho. Consequently, those wind contracts pay no wind integration charge or wind forecasting fees and contain provisions for a 90%/110% performance requirement. The three levelized contracts contain wind integration charges and forecasting fees as well as provisions for Mechanical Availability Guarantee ("MAG").

5. The Parties met on December 19, 2013, for confidential settlement discussions and reached agreement resolving all issues between the Parties identified

herein. Based upon the settlement discussions, as a compromise of the respective positions of the parties, and for other consideration as set forth below, the Parties agreed to the following terms set forth more fully in the Settlement Stipulation filed herewith:

### **III. TERMS OF THE SETTLEMENT STIPULATION**

6. Performance Requirements of the FESAs. The Parties agreed that the eight non-levelized contracts shall be amended to remove the 90%/110% performance requirement and to replace such requirement and provisions with provisions for a MAG. All eight contracts contain identical language and provisions and thus will all be amended in the same way. Attached as Attachment 1 to the Settlement Stipulation are the eight Amendments to each of the eight non-levelized contracts. Also attached as Attachment 2 to the Settlement Stipulation is a red-lined version of one of the identical eight non-levelized contracts showing the insertions and deletions in red-line format for everyone's convenience. With this Motion the Parties seek Commission approval of the Settlement Stipulation and each of the eight Amendments to the FESAs as submitted with the Settlement Stipulation.

7. Wind Integration Charge and Wind Forecasting Fees. The Parties agreed that the eight non-levelized contracts will be amended to include a \$6.50 Mills/kWh wind integration charge and the current wind forecasting fees for the remaining term of those contracts. See Attachment 1 and 2.

8. Idaho Wind Partners' Complaint. The Parties agreed to dismiss Idaho Wind Partners' pending Complaint and Idaho Power's pending Cross-Complaint in IPUC Case No. IPC-E-13-19, and to fully, finally, and forever release, discharge, and not sue each other for any and all claims and causes of action arising from or relating to

the allegations in the Complaint and Cross-Complaint in IPUC Case No. IPC-E-13-19 as more fully set forth in the Settlement Stipulation.

9. Change in the Wind Integration Charges. Idaho Power agreed not to seek, support, or take any action that would change or impose any similar such wind integration charge to be assessed to the eight non-levelized contracts pursuant to this Settlement Stipulation or to the currently assessed wind integration charge for the three levelized contracts, either as part of the current case seeking to update Idaho Power's wind integration rates and charges, IPUC Case No. IPC-E-13-22, or any other subsequent case or proceeding. The Parties agreed that the current and stated wind integration charge for IWP's eleven existing and amended contracts remain fixed for the remaining term of those respective agreements.

10. Effective Date. The Parties agreed that the effective date for the Settlement Stipulation and for the amended eight non-levelized contracts shall be January 1, 2014. Unless and until the Commission approves the Settlement Stipulation and the amendments to each contract, the Parties agreed to continue operating and abiding by the terms and conditions contained in the FESAs without the proposed amended terms and conditions, however, such agreement is merely for the convenience of the Parties pending approval of this Settlement Stipulation and shall not be deemed acceptance of, or a waiver of any rights or arguments as to, the payments due or other terms related to the FESAs. Within thirty (30) days of Commission approval and the expiration of any appeal period or resolution of any appeal, the Parties will make any accounting adjustments and payments necessary to have the amended terms and conditions take effect on January 1, 2014.

11. The Settlement Stipulation contains a provision stating that all terms and conditions of the Settlement Agreement are subject to approval by this Commission and that only after such approval, without material change or modification, has been received shall the Settlement Agreement be valid.

12. The Settlement Stipulation is a fair, equitable, and final resolution to this matter, and others between the Parties, and is in the public interest. The Parties respectfully requests that the Commission grant this Motion and approve the Settlement Stipulation in its entirety, without material change or condition, pursuant to RP 274.

### **III. PROCEDURE**

13. Pursuant to RP 274, the Commission has discretion to determine the manner with which it considers a proposed settlement. In this matter, the two Parties to the FESA have reached agreement on how to resolve their private dispute. The Settlement Stipulation is reasonable and in the public interest. The Parties request that the Commission approve the Settlement Stipulation without further proceedings.

14. In the alternative, should the Commission determine that further proceedings are required to consider the Settlement Stipulation, pursuant to RP 201, the parties believe the public interest does not require a hearing to consider the issues presented by this Motion and request it be processed as expeditiously as possible by Modified Procedure.

### **IV. REQUESTED RELIEF**

NOW, THEREFORE, the Parties respectfully request that the Commission enter its Order approving the Settlement Stipulation without material change or condition, and without further proceedings.

Respectfully submitted this 21<sup>st</sup> day of February 2014.



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DONOVAN E. WALKER  
Attorney for Idaho Power Company



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DEBORAH E. NELSON  
Attorney for Idaho Wind Partners I, LLC

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 25<sup>th</sup> day of February 2014 I served a true and correct copy of the JOINT MOTION FOR APPROVAL OF SETTLEMENT STIPULATION upon the following named parties by the method indicated below, and addressed to the following:

**Commission Staff**

Kristine A. Sasser  
Deputy Attorney General  
Idaho Public Utilities Commission  
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Christa Bearry, Legal Assistant