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IDAHO PUBLIC UTILITIES COMMISSION

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Attorney for Alternative Power Development, Northwest, LLC

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF IDAHO POWER)
COMPANY'S PETITION TO TEMPORARILY) **CASE NO. IPC-E-14-09**
SUSPEND ITS PURPA OBLIGATION TO)
PURCHASE ENERGY GENERATED BY) **COMMENTS IN OPPOSITION BY**
SOLAR-POWERED QUALIFYING) **ALTERNATE POWER**
FACILITIES (QFs)) **DEVELOPMENT, NORTHWEST, LLC**
) **AND**
) **PETITION TO INTERVENE**
)
)
)

COMES NOW, Alternate Power Development, LLC and pursuant to that Notice of Notice of Public Hearing issued on May 19, 2014, by the Idaho Public Utilities Commission (the "Commission") and hereby provides its Comments in Opposition to the requested suspension of Idaho Power Company's ("Idaho Power" or the "Company") PURPA obligations.

**NEITHER PURPA NOR THE FERC's REGULATIONS (18 C.F.R. PART 292)
AUTHORIZE A STATE TO SUSPEND ELECTRIC UTILITY PURCHASE
OBLIGATIONS UNDER PURPA SECTION 210**

Idaho Power's Petition asks the Commission to issue an order temporarily suspending its obligation under §§ 201 and 210 of the Public Utility Regulatory Policies Act of 1978 ("PURPA"). While charged with implementing PURPA, this Commission cannot repeal it, nor

can it suspend it. The federal government has completely preempted the field with respect to mandating utilities' purchase of power under PURPA. *FERC v. Mississippi* 456 U.S. 742 (1982). Idaho Power's petition requests relief not authorized under federal law and this Commission lacks jurisdiction to even entertain such a request.

THE COMMISSION CANNOT ORDER AN "APPROPRIATE" SOLAR INTEGRATION CHARGE BECAUSE THERE IS NO RECORD TO SUPPORT SUCH AN ORDER

While FERC preempts this Commission's authority with respect to a utility's obligation to purchase, PURPA specifically delegated to the states the power to implement that obligation by administratively determining avoided cost rates. Those rates must be just and reasonable and in the public interest. 18 C.F.R. § 292.304(a)(i). Idaho Power has not proposed a solar integration rate in this docket. The Company makes assertions in its Petition and the unsworn and unexamined testimony of its witnesses that need to be thoroughly vetted by the Commission and other parties. Such unsworn and unexamined factual assertions do not constitute a record upon which the Commission can make a fair, just and reasonable finding.

A SUSPENSION OF IDAHO POWER'S PURPA OBLIGATION TO PURCHASE SOLAR QF ENERGY IS CONTRARY TO THE IDAHO GOVERNOR'S ASSERTED POLICY OF PROMOTING THE DEVELOPMENT OF THE SAME

At this web address, <http://www.youtube.com/watch?v=sZvlgOHipr4>

is a recording may by Idaho Governor C.L. 'Butch' Otter explaining why renewable projects such as solar and wind are beneficial to Idaho's economy. Suspending Idaho Power's obligation to purchase solar energy under PURPA runs counter to that policy enunciated by the State's chief executive.

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PETITION TO INTERVENE

Alternate Power Development, Northwest, LLC, is an Idaho limited liability company in the business of, inter alia, developing solar, and other renewable resource electric generating projects for sale to electric utilities under PURPA. As such it is interested in the outcome of this proceeding and seeks an order from the Commission granting it status as a party with all of the rights appurtenant thereto.

Correspondence and pleadings relating to Alternate Power Developments' participation in this matter should be addressed to Mr. Richardson and Mr. Robert Paul at the address noted above.

Wherefore it is respectfully requested that this Petition to Intervene by Alternate Power Development, Northwest, LLC be granted and that Idaho Power's Petition to Suspend be denied and its request to add a solar charge provision in contracts be denied until and unless such a charge can be determined to be fair, just and reasonable.

Respectfully submitted this 21st day of May 2014.

RICHARDSON AND O'LEARY, PLLC



Peter J. Richardson (ISB No: 3195)
Attorney for Alternate Power Development,
Northwest, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of May 2014, a true and correct copy of the within and foregoing **COMMENTS IN OPPOSITION BY ALTERNATE POWER DEVELOPMENT, NORTHWEST, LLC** was served by ELECTRONIC MAIL and HAND DELIVERY, to:

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