

Peter J. Richardson
ISB No. 3195
Richardson & O'Leary
515 N. 27th Street
P.O. Box 7218
Boise, Idaho 83702
Telephone: (208) 938-7901
Fax: (208) 938-7904
peter@richardsonandoleary.com

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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Exergy Development Group of Idaho, Inc.

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
PACIFICORP FOR APPROVAL OF A POWER)
PURCHASE AGREEMENT FOR THE SALE)
AND PURCHASE OF ELECTRIC ENERGY)
BETWEEN PACIFICORP AND)
SCHWENDIMAN WIND LLC)
_____)

CASE NO. PAC-E-05-9

REPLY COMMENTS OF EXERGY
DEVELOPMENT GROUP OF IDAHO,
INC.

COMES NOW, Exergy Development Group of Idaho, Inc. ("Exergy") and hereby lodges its reply comments to the comments filed by the Staff of the Idaho Public Utilities Commission ("Staff").

Staff recommends that the Commission not approve the contract between PacifiCorp and the Schwendiman Wind LLC because it "does not comply with the required 90-110 percent performance band criteria established in Order No. 29632." Staff Comments p. 8. However, before the conclusion can be reached that the contract must be rejected for failure to comply with the 90/110 band, the Staff must show that the band actually applies to PacifiCorp. They have not done so.

The 90/110 band is a concept adopted by this Commission in Case No. IPC-E-04-08 by Order No. 29632. To support its assumption that Order No. 29632 is applicable to PacifiCorp, staff recites, in a footnote:

Although Case No. IPC-E-04-08 arose from a complaint case against Idaho Power, all three electric utilities, including PacifiCorp, participated because the proceeding involved generic issues related to the methodology for computing published rates and the refining eligibility criteria for them.

To further support its contention that Order No. 29632 has generic applicability Staff observed that:

In fact, PacifiCorp offered a witness in the case who agreed with Idaho Power that QFs should be required to commit to monthly (as opposed to daily or hourly) delivery schedules in order to obtain firm energy prices. Tr. at 510-511.

While it may be interesting to note that PacifiCorp intervened, and in fact participated, in a complaint case brought against Idaho Power by a third party, that fact alone does not expand the scope of that complaint case to encompass all utilities operating under Commission jurisdiction.

Even if Order No. 29632 were generic, the mechanical availability provision in the Schwendimen contract is a reasonable alternative to the 90/110 band concept that this Commission is free to adopt for general applicability as well. In fact, a mechanical availability requirement is a more accurate means to the end result - which is assurance of firm production. With the 90/110 band concept, the developer is stuck trying to *predict* weather, which can, as we all know, be fickle. While with a mechanical availability requirement, the developer is responsible to insure the facility is on line and available to produce power a certain percentage of the time. Thus, the mechanical availability concept is both more workable and more productive in terms of firming up the production from a QF.

The Commission is respectfully requested to approve the Schwendimen contract without the requirement of complying with a burdensome and unworkable 90/110 band.

Respectfully submitted this 14th day of September, 2005.

Richardson & O'Leary, LLP

By 

Peter J. Richardson

Attorneys Exergy Development Group of Idaho, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September, 2005, the REPLY COMMENTS OF EXERGY DEVELOPMENT GROUP, INC. was sent to the following parties as shown:

Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
472 West Washington
Boise, Idaho 83702
jjewell@puc.state.id.us

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Electronic Mail

Bruce Griswold
Manager Origination
PacifiCorp
825 NE Multnomah Ste 1800
Portland OR 97232

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Electronic Mail

Data Request Response Ctr
PacifiCorp
825 NE Multnomah, Suite 800
Portland, OR 97232

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Electronic Mail

Lisa Nordstrom
PacifiCorp
825 NE Multnomah, Suite 1800
Portland, Oregon 97232
lisa.nordstrom@pacificorp.com

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Electronic Mail

Brian D. Jackson
7800 Alfalfa Lane
Melba, ID 83641

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Electronic Mail

Signed



Nina M. Curtis