

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION OF )</b>	
<b>PACIFICORP FOR APPROVAL OF A POWER )</b>	<b>CASE NO. PAC-E-05-09</b>
<b>PURCHASE AGREEMENT FOR THE SALE )</b>	
<b>AND PURCHASE OF ELECTRIC ENERGY )</b>	
<b>BETWEEN PACIFICORP AND )</b>	
<b>SCHWENDIMAN WIND LLC )</b>	<b>ORDER NO. 30472</b>
<b>)</b>	

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On March 31, 2006, the Idaho Public Utilities Commission (Commission) in Case No. PAC-E-05-09, Order No. 30000, approved a January 27, 2006 Amended Power Purchase Agreement between Schwendiman Wind LLC and PacifiCorp dba Utah Power & Light (PacifiCorp; Company). As reflected in the underlying Second Amended Agreement, Schwendiman proposes to design, construct, install, own, operate and maintain a wind generating facility with a nameplate capacity rating of 20 MW to be located in Bonneville County, Idaho at a location more particularly described as Sections 3 and 4, Township 2 North, Range 39 East and Sections 33 and 34, Township 3 North, Range 39 East, Boise Meridian. Pursuant to the First Amended Agreement, PacifiCorp was to purchase the net output of 7.15 aMW from the 82.5 MW clipper wind generators comprising the QF. The Amended Agreement approved by the Commission contemplated an estimated annual sale and purchase of 62,723,088 kWh. The scheduled commercial operation date in the Amended Agreement was changed to July 31, 2007.

On September 24, 2007, PacifiCorp dba Rocky Mountain Power and Schwendiman Wind LLC filed a Joint Motion with the Commission for approval of a Second Amended Power Purchase Agreement (Second Amended Agreement) dated September 7, 2007. Prior to the Commission's consideration of the Second Amended Agreement, the parties notified the Commission that minor changes to the contract were required. The Company requested that the Commission refrain from considering the Second Amended Agreement. On November 19, 2007, a Third Amended Agreement dated October 16, 2007 incorporating all changes included in the Second Amended Agreement was submitted for approval.

Rocky Mountain Power and Schwendiman Wind entered into a 20-year Power Purchase Agreement on July 19, 2005 (the Original Agreement) and submitted it to the Commission for approval in this docket on August 15, 2005. Pursuant to Order Nos. 29880 and

29921, the parties submitted an Amended Agreement (September 26, 2006 Agreement) which was subsequently approved by the Commission on March 31, 2006 in Order No. 30000.

As set forth in the January 27, 2006 Agreement, Schwendiman Wind proposes to design, construct, install, own, operate and maintain a wind generating facility with a nameplate capacity of 20 MW to be located in Bonneville County, Idaho (the facility). Schwendiman Wind would sell approximately 7.15 aMW of electric energy generated by the facility to the Company. As previously described in the Application and exhibits filed August 15, 2005, the facility has been self-certified with FERC as a qualified small power production facility (QF) under the Public Utility Regulatory Policies Act of 1978 (PURPA), and would interconnect with the Company's system on the Sugar Mill/Goshen-Rigby 69 kV line, 11 miles northeast of Idaho Falls, Idaho.

#### **Changes to the January 27, 2006 Agreement**

The Third Amended Agreement includes the following changes to the January 27, 2006 Agreement:

- (a) Replace Exhibits A, B, D, and F-2 with new exhibits reflecting Schwendiman Wind's substitution of Nordic wind turbines for Clipper wind turbines;
- (b) Update the Recitals to reflect the Nordic wind turbine output (average annual Net Output reduced from 62,723,088 to 53,923,276 kilowatt hours (kWh));
- (c) Move forward in time on the Scheduled Commercial Operation Date (from July 31, 2007 to November 1, 2008) and other intermediate milestones in Section 2;
- (d) Stipulate (in Section 2.3) to Schwendiman Wind's liability for Delay Liquidated Damages, from August 1, 2007, until the Commercial Operation Date;
- (e) Update the capacity factor table in Section 4.2.1 to reflect the substitution of turbines; and
- (f) Add a new Section 22 containing security provisions applicable to Schwendiman Wind. "Default Security" (\$275,000) amount identified as the estimated value of Delay Liquidated Damages (replacement power) from August 1, 2007 to the new Commercial Operation Date, November 1, 2008.

The Third Amended Agreement also adds pricing for the year 2028 in Section 5 and updates obsolete contract information in Section 21. Otherwise, PacifiCorp contends no substantive changes to the January 27, 2006 Agreement are contemplated.

PacifiCorp requests a Commission Order approving the Third Amended Power Purchase Agreement without change or condition; and reaffirming that prices to be paid for energy and capacity are just and reasonable, in the public interest, and that the costs incurred by the Company for purchasing capacity and energy from Schwendiman Wind are legitimate expenses, all of which the Commission will allow the Company to recover from rates in Idaho in the event other jurisdictions deny recovery of their proportionate share of said expenses.

### **COMMISSION FINDINGS**

The Commission has reviewed and considered the filings of record in Case No. PAC-E-05-09 including our prior Order No. 30000 and the submitted Third Amendment dated October 16, 2007. We note that Commission Staff has reviewed the Third Amendment and recommends approval without further notice or procedure. We find that the changes set forth in the Third Amended Agreement have been negotiated and agreed to by the contracting parties. We find the proposed changes to be just and reasonable.

The Commission further finds it reasonable that the submitted Agreement be approved without further notice or procedure. We also find it reasonable to allow payments made under the Agreement as prudently incurred expenses for ratemaking purposes. In the event that other jurisdictions deny PacifiCorp recovery of their proportionate share of said purchase expenses, those costs may be assigned on a situs basis to PacifiCorp's Idaho jurisdiction in accordance with the terms of the Revised Protocol adopted in Case No. PAC-E-02-3, Order No. 29708.

### **CONCLUSIONS OF LAW**

The Idaho Public Utilities Commission has jurisdiction over PacifiCorp dba Rocky Mountain Power, an electric utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy and capacity from qualified facilities (QFs) and to implement FERC rules.

## ORDER

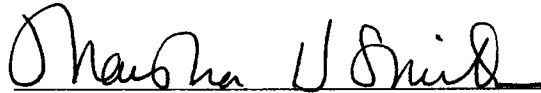
In consideration of the foregoing, IT IS HEREBY ORDERED and the Commission does hereby approve the October 16, 2007 Third Amended Power Purchase Agreement between Schwendiman Wind LLC and PacifiCorp dba Rocky Mountain Power.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this <sup>December</sup>~~November~~ 5<sup>th</sup> day of ~~November~~ 2007.



MACK A. REDFORD, PRESIDENT

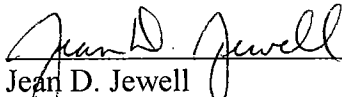


MARSHA H. SMITH, COMMISSIONER



JIM KEMPTON, COMMISSIONER

ATTEST:



Jean D. Jewell  
Commission Secretary

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