

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>WINDLAND, INC.</b>	)	
	)	<b>CASE NO. PAC-E-10-05</b>
<b>COMPLAINANT,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>PACIFICORP DBA ROCKY MOUNTAIN</b>	)	
<b>POWER,</b>	)	
	)	
<b>DEFENDANT.</b>	)	
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<b>IN THE MATTER OF THE APPLICATION</b>	)	
<b>OF PACIFICORP DBA ROCKY MOUNTAIN</b>	)	<b>ORDER NO. 32084</b>
<b>POWER FOR APPROVAL OF POWER</b>	)	
<b>PURCHASE AGREEMENTS BETWEEN</b>	)	
<b>PACIFICORP AND POWER COUNTY WIND</b>	)	
<b>NORTH LLC AND POWER COUNTY WIND</b>	)	
<b>SOUTH LLC</b>	)	

**Complaint**

On April 6, 2010, Windland, Inc. (Windland) filed a complaint with the Idaho Public Utilities Commission (Commission) against PacifiCorp dba Rocky Mountain Power. Windland claimed entitlement to and requested that PacifiCorp be required to execute two standard PURPA Power Purchase Agreements for Windland’s Power County Wind Park North and Power County Wind Park South small power generation projects at the published PURPA avoided cost rates in effect prior to March 12, 2009, i.e., the higher grandfathered rates of Order No. 30744.

On April 28, 2010, a Summons was issued by the Commission directing PacifiCorp to file an answer within 21 days. On April 29, 2010, PacifiCorp filed an answer with the Commission requesting a Commission determination that Windland’s Power County wind projects are not entitled to grandfathered rates.

**POWER PURCHASE AGREEMENTS  
(and Contingent Motion to Dismiss Complaint, Application ¶ 3)**

On August 20, 2010, PacifiCorp filed an Application with the Commission requesting approval of two Power Purchase Agreements (PPAs; Agreements) entered into between PacifiCorp dba Rocky Mountain Power and Power County Wind Park North LLC and Power

County Wind Park South LLC dated August 18, 2010 (the LLCs). The locations of the two wind facilities are described as follows:

North: T8S, R31E, Section 13 and T8S, R32E, Sections 6, 7, 8, 17, 18, Power County, Idaho

South: T8S, R32E, Sections 19, 20, 29 and 30, Power County, Idaho

Agreements, Exh. A.

The total nameplate capacity for each of the two small power wind generation facilities (QFs) is 21.780 MW. Agreements, Recital A. Average monthly output for each facility will be below 10 MW. Agreements, Exh. D. The estimated average annual net output of each facility is 67,311,441 kWh (North) and 60,523,733 kWh (South). Agreements, Recital D. The QFs have elected December 31, 2011 as the scheduled commercial operation date for their facilities.

Windland and the LLCs have waived their claims to grandfathered rights to the avoided cost rates contained in Order No. 30744. Application, ¶ 7. The Power Purchase Agreements contain the current non-levelized published avoided cost rates established in Order No. 31025. The \$6.50/MWh wind integration charge approved by the Commission (Order No. 31021) and all other applicable interconnection charges and monthly O&M charges under the generation interconnection agreement with PacifiCorp transmission will be assessed to the LLCs. Agreements, Section 5.1.

Section 11.1 of the PPAs provides for Delay Security of \$25 multiplied by the Maximum Facilities' Delivery Rate measured in kilowatts. This results in delay security of \$544,500 under each PPA. Pursuant to Section 11.1.4 one-quarter of the Delay Security amount is to be refunded to the QFs as each of four milestones are achieved. The approach to delay security has been agreed to by the parties in compromise of Windland's pending complaint in Case No. PAC-E-10-05 and is not intended to establish any precedent.

As reflected in Section 2.1 of the Agreements, the Agreements will not become effective until the Commission has approved all the Agreements' terms and conditions and declares that all payments that PacifiCorp makes to the wind projects for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes.

On September 2, 2010, the Commission issued Notices of Complaint (and Contingent Motion to Dismiss), Application, and Modified Procedure in Case No. PAC-E-10-05. The deadline for filing written comments was September 30, 2010. Commission Staff was the only party to file comments.

***Staff Comments***

Staff recommends that the Commission approve all of the Agreements' terms and conditions. Staff notes that Windland and the LLCs pursuant to negotiation have waived their claims to grandfathered rights to the higher avoided cost rates contained in Order No. 30744 (Application ¶ 7). The filed Power Purchase Agreements contain the current, lower non-levelized published avoided cost rates established in Order No. 31025. As noted by Staff, and represented by the Company, the approach to Delay Security set forth in the Agreements is part of a negotiated settlement and compromise of Windland's pending complaint in Case No. PAC-E-10-05 and is not intended to establish any precedent. Application ¶ 8.

**COMMISSION FINDINGS**

The Commission has reviewed the filings of record in Case No. PAC-E-10-05, including the complaint, the two Power Purchase Agreements and the Contingent Motion to Dismiss. We have also reviewed the comments and recommendations of Commission Staff. We continue to find it reasonable to process the Company's Application under Modified Procedure, IDAPA 31.01.01.204.

PacifiCorp has presented two Firm Energy Sales Agreements for wind facilities in Power County, Idaho. As represented and pursuant to agreement, under normal and/or average conditions the individual projects will not exceed 10 aMW on a monthly basis. We thus find the projects are qualified to receive the published avoided cost rates approved by the Commission.

The Commission finds that the Agreements submitted in this case contain acceptable contract provisions and include the current non-levelized published rates approved by the Commission in Order No. 31025. We find it reasonable that the submitted Agreements be approved without further notice or procedure. We further find it reasonable to allow payments made under the Agreements as prudently incurred expenses for ratemaking purposes.

Inasmuch as we have found it reasonable in this case to approve the two Power Purchase Agreements, we further find it reasonable to grant the request of the parties to dismiss the underlying complaint of Windland with prejudice.

## 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 from qualified facilities (QFs) and to implement FERC rules.

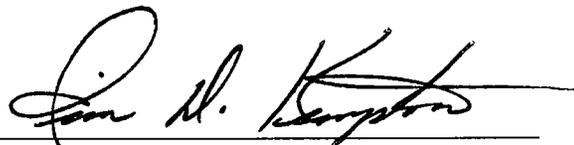
## ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby approve the August 18, 2010, Power Purchase Agreements entered into between PacifiCorp dba Rocky Mountain Power and Power County Wind Park North LLC and Power County Wind Park South LLC.

IT IS FURTHER ORDERED and pursuant to agreement of the parties (Application ¶ 3) that the underlying complaint of Windland Inc. against PacifiCorp dba Rocky Mountain Power is dismissed with prejudice.

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 6<sup>th</sup>  
day of October 2010.



JIM D. KEMPTON, PRESIDENT



MARSHA H. SMITH, COMMISSIONER



MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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