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July 29, 2010

Ms. Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
P O Box 83720
Boise ID 83720-0074

RE: Case No. PAC-E-10-08

Dear Ms. Jewell:

Enclosed please find an original and seven (7) copies of the COMPLAINT ON BEHALF OF XRG-DP-7, LLC; XRG-DP-8, LLC; XRG-DP-9, LLC AND XRG-DP-10, LLC against PacifiCorp, doing business in Idaho as Rocky Mountain Power.

I have also enclosed an extra copy to be service-dated and returned to us for our files. Thank you.

Sincerely,

Nina Curtis
Administrative Assistant

encl.

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Attorneys for Complainants XRG-DP-7, XRG-DP-8, XRG-DP-9, XRG-DP-10, LLCs

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION**

XRG-DP-7, XRG-DP-8, XRG-DP-9, XRG-DP-10, LLCs,)
Complainants,)
vs.)
PACIFICORP, DBA ROCKY MOUNTAIN)
POWER,)
Defendant.)

Case No. PAC-E-10-08
FORMAL COMPLAINT

INTRODUCTION

1
2 This is a formal complaint filed by XRG-DP-7, XRG-DP-8, XRG-DP-
3 9, XRG-DP-10, LLCs (collectively "XRG") with the Idaho Public Utilities Commission (the
4 "Commission") pursuant to Idaho Administrative Rules 31.01.01.054. Prior to March 16, 2010,
5 XRG requested, that PacifiCorp, DBA Rocky Mountain Energy ("PacifiCorp" or the
6 "Company"), execute standard Public Utility Regulatory Policies Act of 1978 ("PURPA")
7 power purchase agreements ("PPAs") for qualifying facilities ("QFs") under 10 average monthly
8 mega-watts ("aMW) for XRG's wind energy QFs near Malta, Idaho. Because PacifiCorp has
9 rejected XRG's attempt to obligate itself to the terms of a standard PPA at the published avoided

1 cost rates effective prior to March 12, 2010, XRG respectfully requests that the Commission
2 issue a declaratory judgment that XRG is entitled to such PPAs and further requests that the
3 Commission order PacifiCorp to enter into PPAs at the rates in effect prior to March 12, 2010.

4 **PRELIMINARY MATTERS**

5 Copies of all pleadings and other correspondence in this matter should be served upon
6 counsel for XRG at:

7 Peter J. Richardson
8 Gregory M. Adams
9 Richardson & O’Leary, PLLC
10 515 N. 27th Street
11 P.O. Box 7218
12 Boise, Idaho 83702
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15 peter@richardsonandoleary.com
16 greg@richardsonandoleary.com

17 **In support of this Complaint, XRG alleges as follows:**

18 **IDENTITY OF PARTIES**

19 1. PacifiCorp does business in Idaho as Rocky Mountain Energy. PacifiCorp
20 Company is an electric company and a public utility subject to the jurisdiction and regulation of
21 the Idaho Public Utilities Commission pursuant to I.C. § 61-129. PacifiCorp is subject to the
22 jurisdiction of the Commission, the Public Utility Commission of Oregon, and the Federal
23 Energy Regulatory Commission (“FERC”).

24 2. XRG are Idaho limited liability companies, and the address of its principle place
25 of business is XRG 802 West Bannock Street, Boise, Idaho.

26 **JURISDICTION**

1 7. XRG must secure a power purchase agreements with PacifiCorp – the nearest
2 utility, and XRG therefore initiated contact with PacifiCorp in 2007.

3 8. Over the three years since initiating contact with PacifiCorp, XRG has incurred
4 substantial expenses. PacifiCorp has indicated that interconnection and transmission capacity
5 may be an issue, but XRG does not believe it is insurmountable.

6 9. XRG has also had extensive contact with PacifiCorp regarding PPAs for the
7 project, and in response to XRG's request, PacifiCorp delivered one draft PPA to XRG in May
8 2009, containing the avoided cost rates contained in Order No. 30744. But PacifiCorp has not
9 delivered any of the other three contracts to XRG.

10 10. In part in reliance on the rate structure contained in that draft PPA, XRG has
11 made substantial investments in development of the project, including finalizing site control, and
12 indentifying potential equity and debt financing opportunities.

13 11. Nevertheless, before the service date of Order No. 31025 and the new rates
14 contained therein, XRG provided PacifiCorp with the essential elements regarding the four
15 projects to complete the PPAs with the rates contained in Order No. 30744. XRG obligated itself
16 to enter into four draft PPAs for the projects.

17 12. On March 9, 2010, PacifiCorp received a letter from the Commission's Staff,
18 stating that the published avoided cost rates would be recalculated. The letter included Staff's
19 recalculation of the avoided cost rates, which were substantially lower than those in Order No.
20 30744 and included in the draft PPA PacifiCorp sent to XRG.

21 13. PacifiCorp concurred in Staff's recalculation on March 12, 2010, without
22 providing XRG with notice of Staff's recalculated rates or PacifiCorp's concurrence.

- 1 1. Declaring that PacifiCorp is in violation of PURPA, FERC's implementing
2 regulations, and the Commission's orders.
- 3 2. Requiring PacifiCorp to execute standard PURPA power purchase agreements for
4 XRG's four QF projects at PacifiCorp's avoided cost rates on file for QFs under 10 aMW prior
5 to March 12, 2010.
- 6 3. Granting any other relief that the Commission deems necessary.

Respectfully submitted this 29th day of July 2010,



Peter J. Richardson
Attorney for XRG
ISB No: 3195

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