

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>XRG-DP-7, XRG-DP-8, XRG-DP-9,</b>	)	
<b>XRG-DP-10, LLCs,</b>	)	<b>CASE NO. PAC-E-10-08</b>
	)	
<b>Complainants,</b>	)	
	)	
<b>vs.</b>	)	
	)	<b>NOTICE OF HEARING</b>
<b>PACIFICORP DBA ROCKY MOUNTAIN</b>	)	<b>FOR ORAL ARGUMENT</b>
<b>POWER,</b>	)	
	)	<b>ORDER NO. 32246</b>
<b>Respondent.</b>	)	
	)	

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XRG filed a complaint with the Commission against PacifiCorp dba Rocky Mountain Power on July 29, 2010, alleging that Rocky Mountain Power is in violation of the Public Utility Regulatory Policies Act (PURPA), Federal Energy Regulatory Commission (FERC) regulations and orders, and this Commission’s Orders by failing to provide XRG with a power purchase agreement including pre-March 16, 2010, published avoided cost rates.<sup>1</sup> On August 23, 2010, Rocky Mountain Power filed its Answer. Rocky Mountain Power maintains that XRG is not entitled to pre-March 16, 2010, published avoided cost rates because the parties had not executed any power purchase agreements (PPAs) at that point in time. Protracted discovery ensued.

**THE MOTIONS**

On February 7, 2011, Rocky Mountain Power filed a Motion for a Protective Order to Stay Discovery and a Motion for Summary Judgment with the Commission. Rocky Mountain Power requests a protective order partially staying discovery pending the resolution of the Company’s Motion for Summary Judgment. Rocky Mountain Power alleges that XRG’s production requests are unduly burdensome and not relevant to resolving any of the issues raised in the Company’s Motion for Summary Judgment. With its Motion for Summary Judgment, Rocky Mountain Power asks the Commission to deny the relief XRG requests in its complaint as

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<sup>1</sup> XRG seeks published avoided cost rates contained in Order No. 30744 – rates superseded on March 16, 2010, by the lower rates of Order No. 31025.

a matter of law because XRG has failed to raise a genuine issue of material fact demonstrating that XRG is entitled to pre-March 16, 2010, published avoided cost rates.

On February 22, 2011, XRG filed its Answer to Rocky Mountain Power's Motions. XRG opposes the Company's Motions. XRG contends that the outstanding discovery requests pertain to crucial issues in the case – i.e., PacifiCorp's bad faith investigation into available transmission capacity. XRG further maintains there are genuine issues of material facts that are in dispute. XRG argues that it would be patently unfair and not in the public interest to decide this case by summary judgment. To the extent that the facts differ between the parties, XRG suggests an evidentiary hearing. XRG also filed a Motion to Complete Discovery pursuant to I.R.C.P. 56(f), asking the Commission to compel Rocky Mountain Power to answer XRG's remaining discovery requests.

**NOTICE OF HEARING FOR ORAL ARGUMENT**

YOU ARE HEREBY NOTIFIED that the Commission will convene a hearing for oral argument in this case on **THURSDAY, JUNE 9, 2011, AT 9:30 A.M. IN THE COMMISSION HEARING ROOM, 472 WEST WASHINGTON STREET, BOISE, IDAHO.** The Commission will hear oral argument on Rocky Mountain Power's Motion for a Protective Order to Stay Discovery and Motion for Summary Judgment. Specifically, the Commission seeks argument on whether there is a genuine issue as to any material fact regarding XRG's complaint. See I.R.C.P. 56(c). The Commission will also hear oral argument on XRG's Motion to Complete Discovery.

YOU ARE FURTHER NOTIFIED that all hearings will be conducted pursuant to the Commission's Rules of Procedure. IDAPA 31.01.01.000, *et seq.*

YOU ARE FURTHER NOTIFIED that all hearings and oral arguments in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074  
(208) 334-0338 (Telephone)  
(208) 334-3762 (FAX)  
E-Mail: [secretary@puc.idaho.gov](mailto:secretary@puc.idaho.gov)

**ORDER**

IT IS HEREBY ORDERED that, in response to Rocky Mountain Power's Motion for a Protective Order to Stay Discovery and Motion for Summary Judgment and XRG's Motion to Complete Discovery, an oral argument take place on June 9, 2011, at 9:30 a.m. in the Commission Hearing Room.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this *18th* day of May 2011.



PAUL KJELLANDER, PRESIDENT

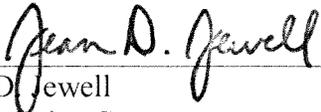


MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell  
Commission Secretary

O:PAC-E-10-08\_ks\_Oral Argument

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