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IDAHO PUBLIC UTILITIES COMMISSION

September 7, 2011

SUP-E-11-03

Ms. Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702

RE: NOTICE OF APPEAL IN CASE NOS. IPC-E-10-61 AND IPC-E-10-62

Dear Ms. Jewell:

Enclosed please find the **NOTICE OF APPEAL** for filing in the above-referenced dockets. An additional copy is enclosed for you to stamp for our records.

We are also providing: (1) a check to the Idaho Supreme Court for the appellate filing fee of \$86.00, and (2) a check to the Idaho Public Utilities Commission in the estimated amount of \$100.00 for a copy of the agency's record.

Please contact me with any questions.

Sincerely,

Gregory M. Adams
Richardson & O'Leary PLLC

encl.



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Gregory M. Adams (ISB No: 7454)
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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Grouse Creek Wind Park, LLC
and Grouse Creek Wind Park II, LLC

BEFORE THE IDAHO

PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE) CASE NO. IPC-E-10-61
APPLICATION OF IDAHO POWER)
COMPANY FOR A DETERMINATION) NOTICE OF APPEAL
REGARDING THE FIRM ENERGY)
SALES AGREEMENT FOR THE SALE)
AND PURCHASE OF ELECTRIC)
ENERGY BETWEEN IDAHO POWER)
COMPANY AND GROUSE CREEK)
WIND PARK, LLC)

IN THE MATTER OF THE) CASE NO. IPC-E-10-62
APPLICATION OF IDAHO POWER)
COMPANY FOR A DETERMINATION) NOTICE OF APPEAL
REGARDING THE FIRM ENERGY)
SALES AGREEMENT FOR THE SALE)
AND PURCHASE OF ELECTRIC)
ENERGY BETWEEN IDAHO POWER)
COMPANY AND GROUSE CREEK)
WIND PARK II, LLC)

**TO: THE IDAHO PUBLIC UTILITIES COMMISSION, THE PARTIES IN THIS
MATTER AND THE RESPECTIVE COUNSEL OF RECORD**

NOTICE IS HEREBY GIVEN THAT:

1. The Appellants, Grouse Creek Wind Park, LLC and Grouse Creek Wind Park II, LLC, appeal to the Idaho Supreme Court from the Idaho Public Utilities Commission's ("Commission's") Final Order No. 32257, and Final Reconsideration Order No. 32299.

2. Appellants have a right to appeal to the Idaho Supreme Court pursuant to I.C. § 61-627, and the orders described in paragraph 1 above are appealable orders pursuant to I.C. § 61-627 and I.A.R. 11(e).

3. Appellants presently intend to assert the following issues on appeal, although Appellants reserve the right to modify and develop these issues as appropriate and/or assert other issues on appeal as appropriate:

- a) Whether the Commission's Orders are arbitrary and capricious and in violation of controlling federal law, the Public Utility Regulatory Policies Act of 1978 ("PURPA") and the Federal Energy Regulatory Commission's regulations, because the Commission's Orders held that a qualifying facility ("QF") must obtain a bilaterally executed contract with a purchasing utility, in determining when Appellants created a legally enforceable obligation for purposes of calculating avoided cost rates;
- b) Whether the Commission's "bright line rule," established in the Orders, that a firm energy sales agreement ("FESA") is not enforceable until it is executed by both parties is in violation of Idaho case law regarding contract formation;
- c) Whether the Commission's Orders are arbitrary and capricious, or otherwise not in accordance with law, because the Commission failed to apply or distinguish its own prior precedent regarding grandfathered entitlement to pre-existing avoided cost rates to the Appellants' FESAs; and
- d) Whether the Commission's "bright line rule," established in the Orders, is in violation of the rulemaking requirements of the Idaho Administrative Procedures Act and is therefore void.

4. No order has been entered sealing any portion of the record.

5. Appellants are aware of no proceedings in these two cases (IPC-E-10-61 and IPC-E-10-62) where a reporter was present because the two cases were processed by modified procedure pursuant to Commission Rule of Procedure 201 *et seq.*

6. Appellants request preparation of a standard agency record on appeal pursuant to I.A.R. 28. Appellants also request that the following documents be included in the agency's record pursuant to I.A.R. 28(c):

Date	Description
4/25/11	The Commission's Approved Decision Meeting Minutes of the April 25, 2011 Decision Meeting
11/8/10	Complaint of Grouse Creek Wind Park LLC, Case No. IPC-E-10-29
11/8/10	Complaint of Grouse Creek Wind Park II LLC, Case No. IPC-E-10-30
11/8/10 to present date	All documents in the Commission's files relating to stay of proceedings in Case No. IPC-E-10-29
11/8/10 to present date	All documents in the Commission's files relating to stay of proceedings in Case No. IPC-E-10-30
Various	All Orders and Notices in Commission Case No. GNR-E-10-04
11/8/10	Joint Petition of Utilities in Commission Case No. GNR-E-10-04
11/8/10	Answer of Northwest and Intermountain Power Producers Coalition in Commission Case No. GNR-E-10-04
12/22/10	Comments of Northwest and Intermountain Power Producers Coalition in Commission Case No. GNR-E-10-04
1/20/11	Reply Comments of Northwest and Intermountain Power Producers Coalition in Commission Case No. GNR-E-10-04
1/21/11	Motion to Strike of Northwest and Intermountain Power Producers Coalition in Commission Case No. GNR-E-10-04
2/28/11	Petition for Reconsideration of Northwest and Intermountain Power Producers Coalition in Commission Case No. GNR-E-10-04
Various	All Orders and Notices in Commission Case No. GNR-E-11-01
3/17/11	Rocky Mountain Power Motions for Clarification and Protective Order in Commission Case No. GNR-E-11-01
3/18/11	Answer of Northwest and Intermountain Power Producers Coalition in Commission Case No. GNR-E-11-01
4/14/11	Motion to Strike of Northwest and Intermountain Power Producers Coalition in Commission Case No. GNR-E-11-01
4/22/11	Reading Rebuttal Testimony of Northwest and Intermountain Power Producers Coalition in Commission Case No. GNR-E-11-01

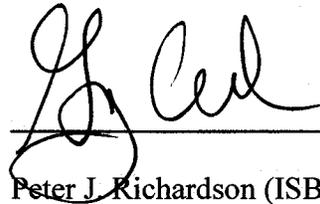
7. I certify:

- a) That there is no transcript fee and no reporter on whom to serve this notice because Appellant is aware of no transcript available from these matters.
- b) That the estimated fee for preparation of the clerk's record has been paid.
- c) That the appellate filing fee of \$86.00 has been paid to the Secretary of the Commission.
- d) That service has been made upon all parties required to be served pursuant to I.A.R. 20, and the Attorney General of Idaho pursuant to I.C. § 67-1401(1).

DATED THIS 7th day of September 2011.

RICHARDSON AND O'LEARY, PLLC

By



Peter J. Richardson (ISB No: 3195)
Gregory M. Adams (ISB No: 7454)
Attorneys for Grouse Creek Wind Park,
LLC and Grouse Creek Wind Park II, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of September 2011, a true and correct copy of the within and foregoing **NOTICE OF APPEAL** was served in the manner shown to:

Jean Jewell
Commission Secretary
IDAHO PUBLIC UTILITIES COMMISSION
472 W Washington
Boise ID 83702

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Kristine Sasser
IDAHO PUBLIC UTILITIES COMMISSION
472 W Washington
Boise ID 83702

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail

Donovan E. Walker
Lisa Nordstrom
Randy Allphin
IDAHO POWER COMPANY
PO Box 70
Boise ID 83707-0070

Hand Delivery
 U.S. Mail, postage pre-paid
 Facsimile
 Electronic Mail



Gregory M. Adams