

GROUSE CREEK'S MOTION

In its Motion, Grouse Creek indicates it will “suffer severe and irreversible economic harm” if it has not started construction on its two wind farms before January 1, 2014. Motion at ¶ 4. The subject of this appeal is the Idaho PUC’s Orders disapproving the two proposed power purchase agreements for each wind farm. *Id.* at ¶ 1. In its Motion, Grouse Creek asserts that absent expedited oral argument, there would not be sufficient time if it were to prevail for the Commission to address the Court’s opinion on remand and “adjust key contract terms and conditions” so that Grouse Creek could then seek financing for “the [two wind farms] and start construction” prior to the scheduled expiration of the federal production tax credits (PTCs) on December 31, 2013. *Id.* at ¶ 5. In other words, Grouse Creek is not willing to “start construction” until it first obtains and “close[s] construction financing.” *Affd.* at ¶ 6.

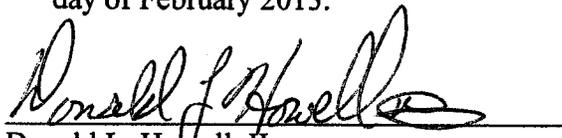
IDAHO PUC STATEMENT

While the Idaho PUC does not dispute that “Grouse Creek ‘must start construction’ before January 1, 2014” to be eligible for federal PTCs under the American Taxpayer Relief Act of 2012 (the “fiscal cliff legislation”)², there is and has been no legal impediment to Grouse Creek “starting construction” on its two wind farms prior to January 1, 2014. For example, Grouse Creek could have started construction on its wind farms at any time after it filed its initial Notice of Appeal in this matter on September 7, 2011, or after it filed its Amended Notice of Appeal on October 19, 2012. *R.* at 536, 885. Moreover, Grouse Creek’s Motion does not disclose the amount it calculates to be 5% of the construction costs it suggests is necessary to satisfy the IRS “safe harbor” requirement that construction has begun.

For the reasons set forth above, the Idaho PUC is not convinced that an expedited hearing is required in this matter. Nevertheless, the Idaho PUC does not oppose Grouse Creek’s Motion to Expedite and set oral argument during the Supreme Court’s August 2013 term.

² H.R. 8, § 407(a)(3) at p. 70-71 (January 1, 2013) (providing for extension and modification of the production tax credit for qualifying facilities “the construction of which begins before January 1, 2014”). Last viewed, www.gpo.gov/fdsys/pkg/BILLS-112hr8eas/pdf/BILLS-112hr8eas.pdf.

Respectfully submitted this 4th day of February 2013.

A handwritten signature in black ink, appearing to read "Donald L. Howell, II", written over a horizontal line.

Donald L. Howell, II
Deputy Attorney General

Attorney for the
Idaho Public Utilities Commission

O:Supreme Court:Response Grouse Creek Motion to Expedite_dh

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 4th DAY OF FEBRUARY 2013, SERVED THE FOREGOING **RESPONSE TO GROUSE CREEK WIND'S MOTION FOR EXPEDITED ORAL ARGUMENT**, IN SUPREME COURT DOCKET NO. 39134-2011, IPUC CASE NOS. IPC-E-10-61 AND IPC-E-10-62 BY E-MAILING A COPY THEREOF TO THE FOLLOWING:

DONOVAN E. WALKER
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070
E-MAIL: dwalker@idahopower.com

RONALD L. WILLIAMS
WILLIAMS BRADBURY, P.C.
1015 W. HAYS STREET
BOISE, ID 83702
E-MAIL: ron@williamsbradbury.com



SECRETARY