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IDAHO PUBLIC  
UTILITIES COMMISSION

*Attorney for the Snake River Alliance*

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

IN THE MATTER OF IDAHO POWER COMPANY'S  
PETITION TO MODIFY TERMS AND CONDITIONS  
OF PURPA PURCHASE AGREEMENTS

CASE NO. IPC-E-15-01

IN THE MATTER OF AVISTA CORPORATION'S  
PETITION TO MODIFY TERMS AND CONDITIONS  
OF PURPA PURCHASE AGREEMENTS

CASE NO. AVU-E-15-01

IN THE MATTER OF ROCKY MOUNTAIN POWER  
COMPANY'S PETITION TO MODIFY TERMS AND  
CONDITIONS OF PURPA PURCHASE AGREEMENTS

CASE NO. PAC-E-15-03

**Snake River Alliance  
Direct Testimony of Ken Miller**

1 **Introduction and Background**

2 **Q. Please state your name and business address.**

3 A. My name is Ken Miller and my business address is 223 N. 6<sup>th</sup> Street, Boise, Idaho.

4 **Q. By whom are you employed and in what capacity?**

5 A. I am employed by the Snake River Alliance as its Clean Energy Program Director.

6 **Q. Please describe your educational background.**

7 A. I graduated from Kansas State University in 1977 with bachelor degrees in journalism  
8 and in political science. I have also attended multiple extended education programs in the  
9 journalism and energy fields.

10 **Q. Please describe your professional work experience.**

11 A. I worked as a journalist from 1977-2002 at newspapers and news services in Oklahoma,  
12 Washington, D.C., Kansas, Nevada, Hawaii and Idaho. My assignments in my journalism career  
13 ranged from covering state, local and federal government affairs, including Congress and  
14 national politics. As the national energy and environment correspondent for Gannett News  
15 Service in Washington, D.C., my assignment included the U.S. Environmental Protection  
16 Agency and the Department of Energy.

17 Upon leaving journalism to work in the nonprofit community, I worked from 2002-2004  
18 as the Education and Outreach Coordinator and the Public Policy Coordinator for the Winter  
19 Wildlands Alliance in Boise and from 2004-2005 as a nonprofit grant writer for Idaho Public  
20 Television and other entities. I was hired in 2005 as the first Idaho Energy Advocate for the  
21 Seattle-based NW Energy Coalition, and in May 2007 my position was shifted from the  
22 Coalition to one of its Idaho members, the Snake River Alliance, where I became the Alliance's  
23 first Clean Energy Program director and where I am currently employed. I have served as Idaho

1 Caucus Chair for the NW Energy Coalition and also served on the NWECE Executive Board and  
2 as NWECE Board Chair from 2008-2010. In that capacity, I worked with Coalition staff, Board  
3 members, and NWECE members in the Pacific Northwest on state, regional, and national energy  
4 policy issues in which the NW Energy Coalition and its members are involved, including in  
5 Idaho. I have served on the Idaho state wind, geothermal, and solar PV working groups; I  
6 participated in the development of the 2007 and 2012 Idaho Energy Plans. In my capacity with  
7 the Alliance and with the NW Energy Coalition, I regularly attend energy conferences and  
8 workshops in Idaho, the Northwest, and nationally.

9 **Q. Do you have experience working with Idaho electric utilities and before the Idaho**  
10 **Public Utilities Commission?**

11 A. Yes. I have served for several years on the Idaho Power Integrated Resource Plan  
12 Advisory Council and the Idaho Power Magic Valley Electrical Plan Community Action  
13 Committee and other Idaho Power planning initiatives. As Clean Energy Program Director, I  
14 have represented the Snake River Alliance in multiple electric utility dockets before the Idaho  
15 PUC, and I have participated in and provided comments to the Idaho PUC on a variety of  
16 regulatory matters on behalf of the NW Energy Coalition and the Snake River Alliance for the  
17 past 11 years, beginning in 2004. In addition, the Snake River Alliance successfully partnered  
18 with Idaho Power and local planning entities in various jurisdictions, such as McCall, Twin  
19 Falls, and Driggs, Idaho, to conduct workshops on how local governments can improve their  
20 energy efficiency and reduce their energy consumption.

1 **Q. Do you have experience working with Idaho Power with respect to the operation of**  
2 **its coal fleet?**

3 A. Yes. In addition to my participation in the past five Idaho Power Integrated Resource  
4 Plans, I have met on multiple occasions with Idaho Power representatives to discuss the  
5 company's coal plant operations. I have also prepared multiple reports for the Snake River  
6 Alliance, including its September 2011 report, "Idaho's Dangerous Dalliance with King Coal";  
7 its August 2012 report, "Kicking Idaho's Coal Habit, Charting a Cleaner Energy Future"; and its  
8 September 2013 white paper, "Putting Down a Coal Plant: Retiring a Utility Asset", which we  
9 presented at the 2013 Western Energy Policy Research Conference in September 2013.

10 **Q. Have you participated in cases before the Commission involving setting rates for**  
11 **electric utilities?**

12 A. Yes. I represented the Alliance in cases IPC-E-11-08 (Application of Idaho Power  
13 Company for Authority to Increase Its Rates an Charges for Electric Service in Idaho) and IPC-  
14 09-30 (Application of Idaho Power Company For An Accounting Order to Amortize Additional  
15 Accumulated Deferral Income Tax Credits and An Order Approving a Rate Case Moratorium).  
16 The Alliance participated in all discussions in both cases. We signed the settlement agreement in  
17 the first, and declined to sign the agreement in the second. We also fully litigated IPC-E-13-16  
18 (Application of Idaho Power Company for a Certificate of Public Convenience for the  
19 Investment in Selective Catalytic Reduction Controls on Jim Bridger Units 3 and 4). I have also  
20 represented the Alliance in Idaho Power Cost Adjustments, Efficiency Tariff Rider Adjustments,  
21 the treatment of Renewable Energy Credits and Sulfur Dioxide Emissions Allowances, and many  
22 other dockets before the Commission.

1 **Interest of Snake River Alliance**

2 **Q. On whose behalf are you testifying?**

3 A. I am testifying on behalf of the Snake River Alliance and its members, most of whom are  
4 customers of Idaho Power.

5 **Q. Please describe the Snake River Alliance's interest in this case.**

6 A. The Snake River Alliance was formed in 1979 to monitor activities at what is now known  
7 as the U.S. Department of Energy's Idaho National Laboratory. Ten years ago, with my arrival  
8 at the Alliance, the Alliance became Idaho's first public advocacy organization to address energy  
9 issues on a full-time basis. As an environmental advocate, the Alliance promotes clean energy  
10 resources such as energy efficiency and other demand-side resources and renewable energy  
11 development, while also working to reduce utility reliance on traditional fossil fuel supply-side  
12 resources. The Alliance is interested in this case because of the serious policy implications  
13 raised by the Petitioners' requests and the consequences to environmental quality and the  
14 growing renewable energy industry in Idaho, should Petitioners prevail.

15 **Testimony and Recommendations**

16 **Q. Please summarize your testimony in this case.**

17 A. The Alliance and its members are concerned that, should the Commission grant Idaho  
18 Power's Application in IPC-E-15-01 and the subsequent applications by PacifiCorp (PAC-E-15-  
19 03) and by Avista Utilities (AVU-E-15-01), the future of utility-scale solar power development  
20 in Idaho will be impaired and that customers of each of these utilities may face increased  
21 electricity rates in the future as a result.

22 //

1 **Q: The U.S. Environmental Protection Agency (EPA) has proposed rules that may impact**  
2 **the ongoing operations of existing coal-fired power plants. Can you briefly explain?**

3 A: The EPA coal plant rule, also known as the “Clean Power Plan” and “Rule 111(d)” is still  
4 under development and may be in draft form through the remainder of this year. In the draft,  
5 EPA assigned states greenhouse gas reduction targets, and assigned Idaho a 30% reduction by  
6 2030. While I do not know precisely what the final rule will require, I do know that the  
7 prospects of approval have, in some form, already triggered the closures of dozens of coal plants  
8 nationwide. I believe that the number of coal plants scheduled for closure will increase as a  
9 direct result of this rule, even before adjudication is complete. And, I should note that the  
10 Alliance has discussed the likelihood of more stringent federal regulations for coal plants for  
11 many years and is not surprised by the proposed rule.

12 **Q: Could Rule 111(d) affect the parties in this case?**

13 A: Yes. Rule 111(d)’s impacts on Idaho utilities’ portfolios, while not certain, are predictable.  
14 We are fairly certain that these near-future mandates will require Idaho utilities to burn less coal  
15 or suffer regulatory penalties. The needs analysis espoused by the Petitioners could very well  
16 change significantly as regulations increase the restrictions on coal-fired power plants and the  
17 expenses associated with these increasingly risky investments.

18 **Q. How might that affect customers?**

19 A. In short, as long as our utilities burn coal, customers will be on the hook for the inevitable  
20 associated regulatory costs and increased rates.

21 **Q. Are you aware of any actions being taken by the Petitioners to address these risks?**

22 A. My understanding is that Petitioners are modeling a variety of compliance scenarios relating  
23 to potential Rule 111(d) changes. The Alliance encourages continued analysis of portfolios that

1 model reduced and eliminated coal burning and discourages actions that would serve to stymie  
2 accelerated development and integration of renewable energy resources such as the PURPA  
3 projects at issue in this case.

4 **Q. Has the Commission expressed concern about the impacts of coal on the environment**  
5 **and human health?**

6 A. Yes. In IPC-E-13-16, the Commission granted in part and denied in part Idaho Power's  
7 application for approval of a Certificate of Public Convenience and Necessity regarding its  
8 investment in Selective Catalytic Reduction controls in Jim Bridger Units 3 and 4. While the  
9 Alliance did not prevail on all of its arguments, the Commission did acknowledge that "[t]he  
10 detrimental effects of long-term coal use on human health, the climate, wildlife, land, and water  
11 are well-documented." Order No. 32929 at 10.

12 **Q. Has the Commission expressed concern about the impacts of future environmental**  
13 **regulations on Idaho's coal fleet?**

14 A. Yes. Also in IPC-E-13-16, the Commission stated, "we recognize that the future of coal-  
15 fired generation in the United States is uncertain at best." *Id.* at 11. The Commission addressed  
16 the economic consequences of this uncertainty: "Additional future environmental regulations are  
17 likely. It is not inconceivable that, during the installation of the SCRs, a tipping point could be  
18 reached making them uneconomic." *Id.* In a clarifying order, the Commission restated its  
19 concern about "the possibility of more stringent environmental regulations that could make the  
20 Bridger upgrades, and thus the Company's investment, uneconomic." Order No. 32996 at 3.

21 It is important to note that the SCR upgrades at Bridger were not intended to reduce  
22 greenhouse gas emissions, which will be required if and when proposed Rule 111(d), or  
23 something like it, is implemented.

1 **Q. You stated that the Alliance did not prevail on all of its arguments in IPC-E-13-16. Can**  
2 **you elaborate?**

3 A. In that case, the Commission held, based upon short-term reliability concerns in existence at  
4 the time, that upgrades to the units were in the public interest but did not warrant ratemaking  
5 treatment. Order No. 32929. The Alliance and others argued about the risk of future  
6 environmental regulations and disagreed that the upgrades were in the public interest. I believe  
7 that much progress has been made during the 2015 IRP process towards addressing those then-  
8 stated concerns.

9 **Q. Do you have an opinion about Petitioners' assertions that they lack a "need" for the**  
10 **types of PURPA projects at issue in this case?**

11 A. Yes. My main concern is how "need" is defined and in what context and time frame need is  
12 analyzed. The Alliance and our members, for instance, see a strong need to accelerate the  
13 reduction of toxic and damaging air pollution, including greenhouse gases, caused by mining for,  
14 transporting, and burning coal. The Alliance and our members also see a strong need to  
15 strengthen Idaho's economy with increased opportunities for entrepreneurs and more jobs in the  
16 growing clean energy sector. The increase in proposed solar developments is, from our  
17 perspective, an opportunity to meet these needs and one that should be embraced. Idaho is  
18 nowhere near having "too much" renewable energy. We also believe that the challenges relating  
19 to integration are surmountable and support greater efforts by the utilities to remove the barriers  
20 to renewable energy as opposed to efforts that inhibit development of renewable energy.

1 **Q: Do you believe the requests by the utilities in this case comport with the goals set forth**  
2 **in the 2012 Idaho Energy Plan, which was approved by the Idaho Legislature and which**  
3 **currently serves as the primary energy policy of the state of Idaho?**

4 A: No. The Idaho Legislature adopted an Energy Plan in 2012 – which remains in effect today –  
5 that states, when seeking to meet new electricity demands in Idaho, we should turn first to energy  
6 efficiency and other “demand-side” resources normally considered to be on the customer’s side  
7 of the meter, then to renewable resources such as solar power and other resources we are  
8 discussing in this case. Only then, and only if absolutely necessary, should we turn to resources  
9 such as fossil fuel generation like natural gas or coal-fired generation. In my opinion, Petitioners  
10 have not established that it is “absolutely necessary” to prioritize fossil fuel generation over  
11 renewable sources of generation for our future energy demands.

12 **Q. As noted in Idaho Power’s Petition, the Commission ordered a PURPA contract length**  
13 **of 20 years in 2002, which remains in effect to date. What was the stated reason for that**  
14 **change?**

15 A. In Order No. 29029, the final order in GNR-E-02-01, the Commission stated,

16 This Commission also cannot ignore the fact that since reducing the eligibility threshold  
17 to 1 MW and contract term to 5 years, there has been only one PURPA contract signed in  
18 Idaho. A longer contract, we find, better coincides with the amortization period or  
19 planned resource life of the renewable or cogeneration resources being offered, better  
20 reflects the amortization period of generation projects constructed by the utilities  
21 themselves and will coincidentally provide a revenue stream that will facilitate the  
22 financing of QF projects.

23 Order No. 29029 (page number uncertain in online database).

1 **Q. Do you think that logic still applies today?**

2 A. Yes, yet I must defer to QF developers for analysis of exactly how short contract lengths  
3 affect their projects based upon their individual circumstances.

4 **Q: How do you think this application, if approved, will affect the future of solar power in**  
5 **Idaho?**

6 A: I think this application, if approved, will cause further migration of solar developers away  
7 from Idaho, as the proposed reduction in contract terms to two years is tantamount to a freeze on  
8 future solar PURPA projects. I know that some solar generators are considering or have already  
9 left our state, and multiple cases involving the state of solar power development in Idaho have  
10 demonstrated an ongoing migration of solar power developers that have come to Idaho but then  
11 taken their jobs and dollars to more welcoming jurisdictions, most of which are directly across  
12 our state boundaries. This case is not just crucial to the future of solar generation in Idaho, it is  
13 enormously important as we as a state determine where our energy will come from, who will  
14 produce it, and who will pay for it. The use of coal as a supply side generation resource is no  
15 longer practical and should be measured alongside the costs, benefits, and risks of other supply  
16 side and demand side resources.

17 **Q. Does this conclude your testimony?**

18 A. Yes it does.