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IDAHO PUBLIC UTILITIES COMMISSION

Peter J. Richardson ISB No. 3195
Gregory M. Adams ISB No. 7454
Richardson Adams, PLLC
515 N. 27th Street
Boise, Idaho 83702
Telephone: (208) 938-7900
Fax: (208) 938-7904
peter@richardsonadams.com
greg@richardsonadams.com

Attorneys for the Black Mesa Energy, LLC

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

BLACK MESA ENERGY, LLC)	
Complainant,)	CASE NO. IPC-E-20-17
)	
Vs.)	SUPPLEMENTAL DECLARATION
)	OF BRIAN LYNCH IN SUPPORT OF
IDAHO POWER COMPANY,)	BLACK MESA ENERGY, LLC'S
Defendant.)	MOTION FOR SUMMARY
)	JUDGMENT

I, Brian Lynch, declare under the penalty of perjury as follows:

1. This supplemental declaration is based on my personal knowledge and, if called to testify to the following facts, I could and would competently do so.
2. I submit this supplemental declaration in support of Black Mesa Energy, LLC's ("Black Mesa") Motion for Summary Judgment before the Idaho Public Utilities Commission ("Commission") requesting that the Commission find that Black Mesa has formed two legally enforceable obligations committing Idaho Power Company ("Idaho Power") to purchase the net output of the Black Mesa Energy 1 storage qualifying facility and the Black Mesa Energy 2 energy storage qualifying facility as more fully explained in its Motion for Summary Judgment filed in this docket.

3. I incorporate herein by reference all of the factual assertions made in my original declaration dated as of December 11, 2020.

4. In its brief in this matter ("Commission Brief") the Staff of the Idaho Public Utilities Commission ("Staff") stated that:

In summary, the Company did not provide an indicative pricing proposal. Instead, Idaho Power alleged deficiencies and petitioned the Commission to prospectively establish an energy storage category of QFs within Idaho's implementation of PURPA. Black Mesa responded to the deficiencies (the contents of the response not appearing on the record at this time), but didn't subsequently receive confirmation from the company that the deficiencies were addressed.


Commission Staff's Brief at p. 13.

5. Attached hereto is a true and correct copy of Black Mesa's response referenced by the Commission Staff which is dated February 4, 2020 and which was emailed to Idaho Power on that date. Also attached is a true and correct copy of the transmittal email that accompanied the February 4, 2020, response referenced in the Staff's Brief.

6. Idaho Power has never responded to Black Mesa's correction to Idaho Power's assertion that there was an alleged deficiency in its Schedule 73 Applications.

I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED this 20 day of January 2021.



By: Brian Lynch
RICHARDSON ADAMS, PLLC

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Peter J. Richardson (ISB No. 3195)
Gregory M. Adams (ISB No. 7454)
Richardson Adams, PLLC
515 N. 27th Street
Boise, Idaho 83702
Telephone: (208) 938-7900
peter@richardsonadams.com
greg@richardsonadams.com

Attorneys for Complainant Black Mesa Energy, LLC

**BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION**

BLACK MESA ENERGY, LLC, Complainant,)	Case No. IPC-E-20-17
vs.)	
IDAHO POWER COMPANY, Defendant.)	SUPPLEMENTAL DECLARATION OF BRIAN LYNCH IN SUPPORT OF BLACK MESA ENERGY, LLC'S MOTION FOR SUMMARY JUDGMENT
_____)	

EXHIBIT 1

Subject: Re: Black Mesa
Date: Wednesday, February 5, 2020 at 8:25:22 AM Mountain Standard Time
From: Brian Lynch
To: Darrington, Michael
CC: Walker, Donovan, Polito, Michael, Wilson, Toby, Matt Garlinghouse
Attachments: Schedule 73 Response 2.5.20.pdf, image001.jpg

Michael-

Attached please find our response to your letter.

Brian

From: "Darrington, Michael" <MDarrington@idahopower.com>
Date: Monday, February 3, 2020 at 7:44 AM
To: Brian Lynch <blynch@redwoodenergy.com>
Cc: "Walker, Donovan" <DWalker@Idahopower.com>, "Polito, Michael" <MPolito@idahopower.com>, "Wilson, Toby" <TWilson@idahopower.com>
Subject: RE: Black Mesa

Brian,

Please see Idaho Power's letter, attached to this email, in response to your Schedule 73 Applications and your letter received on January 27, 2020.

--
Michael Darrington
Idaho Power | Power Supply
Work 208-388-5946
Email mdarrington@idahopower.com

From: Brian Lynch <blynch@redwoodenergy.com>
Sent: Monday, January 27, 2020 6:11 AM
To: Energy Contracts <LOC_EnergyContracts@idahopower.com>
Cc: Darrington, Michael <MDarrington@idahopower.com>; Walker, Donovan <DWalker@Idahopower.com>
Subject: [EXTERNAL]Black Mesa

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Please see the attached.

Brian Lynch
Managing Principal



Redwood Energy

blynch@redwoodenergy.com

310.750.7796

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BLACK MESA ENERGY, LLC
MB MEZZDEV, LLC
PO BOX 2731
PALOS VERDES, CA 90274
blynch@redwoodenergy.com

February 4, 2020

Re: Black Mesa Energy 1, LLC
Black Mesa Energy, 2, LLC
Frederic Energy, 1, LLC
Frederic Energy 2, LLC

Michael Darrington:

This is in response to your letter of February 3, 2020, in which you state that the Schedule 73 Applications for the above referenced QFs are deficient.

As you know, Idaho Power is obligated, pursuant to Schedule 73, to provide indicative pricing and proposed contract terms and conditions within ten business days from the date on which the QF has provided all of the information requested in section 1.a of Schedule 73. Conversely, if Idaho Power determines that the QF has not “provided sufficient information as required in Section 1.a,” then the Company is obligated to provide written notice of said deficiency – also within a ten-business day timeframe.

According to your letter, the above referenced QFs submitted “deficient” Schedule 73 requests. The first paragraph in your letter under the heading “Applications’ Deficiency” concluded with this sentence: “The schedule of estimated deliveries provided with your application appear to have the same output shape as that of a solar project.” Although your observation in this regard may be accurate, it does not allege (nor even infer) a deficiency. Therefore, we have no choice but to treat this observation for what it is, a mere observation and not an assertion of a deficiency.

The second (and only other) paragraph under the heading of “Applications’ Deficiency” points out several minor discrepancies between the output spreadsheet provided to Idaho Power pursuant to Schedule 73 and the output described in the projects’ Form 556. You conclude this second paragraph with the request that the projects “provide an hourly generation profile consistent with the capability of your proposed battery storage facility that represents the generation output you intend to deliver.” Your request suggests that you have rejected (or at best, ignored) our submission of the 8,760 hourly spreadsheets submitted with our Schedule 73 applications. Those spreadsheets do contain our “hourly generation profiles that are consistent with the capability of our proposed battery storage facilities that we intend to deliver.”¹ Your

¹ It may be helpful for Idaho Power to understand that Schedule 73 only requests an “estimate” of the hourly output, and that FERC Form 556 only requests a “nominal” description of the electrical output of the proposed facility.

classification of our estimated hourly deliveries as a deficiency in the Schedule 73 Applications is therefore misplaced.

Because you have not, in fact, even alleged a deficiency in our Schedule 73 Applications, we expect the Company to promptly acknowledge its intent to comply with the letter, as well as the intent, of Schedule 73 and to tender terms, conditions and rates for our four proposed contracts within five business days from today.

Your letter also discusses various court orders and alleged legal precedents that appear to be well beyond the immediate scope of our interaction with Idaho Power – which of course has to do with the Company's failure to comply with its Schedule 73 requirement to tender terms, conditions and contract rates within ten business days of receipt of our competed application. With regard to these other issues you raise, we are confident the Idaho PUC will abide by both its federal and state legal obligations with respect to its duties under PURPA.

Sincerely,




Brian Lynch
Managing Member

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st of January 2021, a true and correct copy of the within and foregoing SUPPLEMENTAL DECLARATION OF BRIAN LYNCH in Docket No. IPC-E-20-17 was served, pursuant to Commission Order No. 34602, exclusively via electronic mail to:

Idaho Public Utilities Commission
Jan Noriyuki, Secretary
Edward J. Jewell, Deputy Attorney General
jan.noriyuki@puc.idaho.gov
Edward.jewell@puc.idaho.gov

Idaho Power Company
Donovan Walker, Lead Counsel, Idaho Power Company
dwalker@idahopower.com
dockets@idahopower.com
caschenbrenner@idahopower.com

By: 
Peter Richardson, (ISB # 3195)
RICHARDSON ADAMS, PLLC